18

* 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, as reported by the Select Committee, be taken into consideration."

The principles which underlie this Bill have already been explained by me at the last time when the Bill was before the House and it is unnecessary for me therefore to traverse the same ground over again. I would briefly like to point out to the House the changes of principle which the Select Committee have made in the original Bill. The House must have noticed that although there are very many changes which the Select Committee has made, there are really four which are matters of principle. In the first place there has been an enlargement of the category of workmen to which this Bill is made applicable ; we have now included workmen employed in plantations. The second change made relates to the rate of the first contribution which is to be made to the insurance fund. The Bill as it originally stood permitted Government to levy a rate of annas eight per Rs. 100 of the wage bill of an employer; the Select Committee has reduced the rate from eight annas to four annas. The third change made relates to the use of the unspent balances in the insurance fund. The original proposal in the Bill was that the balance left in the fund should be merged in the general revenue and should be used for the general purposes of Governmental expenditure. The Select Committee has made a change and provided that the blance should be returned to the employer who have made the contribution in proportion to the contributions made by them. The fourth change relates to contract labour. It is now provided that in cases

* Legislative Assembly Debates (Central), Vol. III, 13th August 1943, p. 701.

where the employer engages a contractor who in his turn engages workmen to carry out the work he has taken on contract, the employer who employs the contractor will nonetheless remain responsible for the payment of the compensation.

These are the principles which have been touched by the Select Committee in the changes which have been made. As the house will see, there are several amendments on the agenda to the Bill. Some of the amendments are matters of procedure and they have been put forth by Government largely for the purpose of meeting such criticism as was levelled against the Bill after it emerged from the Select Committee, and I hope there will not be much contention on these amendments.

Sir, I do not think it is necessary for me to say anything further on this Bill. I move.

Mr. President (The Honourable Sir Abdur Rahim): Motion moved.

> " 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, as reported by the Select Committee, be taken into consideration."

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***The Honourable Dr. B. R. Ambedkar :** Sir, I do not think anything has emerged from the speeches which have been delivered by Honourable Members who have taken part in this debate which calls, for any detailed reply. As I scrutinise the points made, I find that there were certain points which could have been relevant only at the time when the Bill was read for the first time. I remember that they were raised and I also remember that I attempted to give what reply I could at that stage. I do not wish, therefore, to spend any more time in discussing the thing over again.

With regard to the point that has been made with regard to certain specific clauses in the Bill as well as the amendments that are on the agenda paper, I think it would be best in the interests of economy of time that I should not devote any part of my speech to them at this stage. It would be germane, proper and relevant if the matter was taken up at the time when the amendments were moved.

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* Legislative Assembly Debates (Central), Vol. Ill, 13th August 1943, p. 708.

***Mr. President** (The Honourable Sir Abdur Rahim) : Amendment moved:

" That for clause 6 of the Bill the following be substituted :—

' 6 This Act shall apply to all those workmen to whom the Workmen's Compensation Act, 1923, applies ' ".

The Honourable Dr. B. R. Ambedkar : Sir, I am afraid I have to oppose this amendment. I think my Honourable friend Mr. Joshi will realise that my opposition is not based upon any want of sympathy for workmen.

Mr. N. M. Joshi: I did not say that.

The Honourable Dr. B. R. Ambedkar: I think my Honourable friend Mr. Joshi will realise that if his amendment is adopted, practically there would be a serious limitation imposed upon the number of workmen who would be entitled to the benefit of this Bill. First of all, Sir, as Mr. Joshi said, we must go rather cautiously in this matter because his Act presupposes that there is a body of organised employers on which this liability can be imposed. It is a question of collecting premia, and you cannot collect premia from people who are merely walking in the streets. You must have some organisation on which you can fasten this liability and one has therefore to go very cautiously in including the number of workmen that could be included in this Bill. The second difficulty that I feel is this, that really speaking the acceptance of the amendment of Mr. Joshi would not enlarge the category of workmen which are included at present in this Bill. Sir, I have very carefully examined the Workmen's Compensation Act and I find that there are altogether nine different categories of workmen to which that Act applies. Comparing the categories of workmen to which we propose to apply this Act with the categories of workmen to which the Workmen's Compensation Act applies, I find that there is only one difference. The Workmen's Compensation Act applies to buildings and public works. That is the only category of workmen to which the present Bill does not apply. On others, both the Bills—the Workmen's Compensation Act as well as this Bill—are on a parity. Then the other difference is this. If we apply the Workmen's Compensation Act, as it stands, obviously that will bring in with it the definition of workmen which is given in the Workmen's Compensation

* Legislative Assembly Debates (Central), Vol. III, 13th August 1943, p. 710.

Act. My Honourable friend Mr. Joshi will remember that the definition of workmen in the Workmen's Compensation Act is a very circumscribed and limited definition. It excludes from the category of workmen, workmen who are casual employees, and one does not know what would be the number of casual employees that may be employed in any particular industry to which this Bill applies. My Honourable friend Mr. Joshi will also recollect that the Workmen's Compensation Act excludes the category of people who are employed in clerical capacity. Our Bill does not exclude either the casual employee or the people employed in clerical capacity. I think Mr. Joshi will agree that although on an examination he will find that some minor category of workmen has been omitted, the definition of workmen is much larger than what it is under the Workmen's Compensation Act. I hope that my Honourable friend will, on this assurance, withdraw his amendment.

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* **Mr. President** (The Honourable Sir Abdur Rahim) : The question is :

> " That for clause 6 of the Bill the following be substituted :—
>
> ' 6. This Act shall apply to all those workmen to whom the Workmen's Compensation Act, 1923, applies' ".

The motion was negatived.

The Honourable Dr. B. R. Ambedkar : My next amendment No. 5 is dependent upon clause 3 which the House now agreed that it should stand over.

Mr. President (The Honourable Sir Abdur Rahim) **:** Is this in sub-stitution of the other amendment? Do I understand that if this amendment is carried, then in that case, amendment No. 3 to clause 3 will be unnecessary ?

The Honourable Dr. B. R. Ambedkar : No, Sir. It is necessary. Both are necessary.

Mr. President (The Honourable Sir Abdur Rahim): In that case, I do not see why you cannot move this amendment now.

The Honourable Dr. B. R. Ambedkar: I will move this amendment No. 5 now. Sir I move :

> " That sub-clause (2) of clause 6 of the Bill be omitted."

* Legislative Assembly Debates (Central), Vol. III, 13lh August 1943, p. 711.

Not much explanation is necessary in support of this amendment. As the House will recall, the clause as it stands makes the Bill exclude Government employees and railway servants from the application of this Bill. When I moved the first reading of the Bill I told the House that although this Bill did not apply to this category of workmen, Government had made ample provision to pay compensation to their own servants. Unfortunately my speech evidently did not carry conviction to some Members of the House, and they still persisted that instead of taking responsibility in an administrative manner, responsibility should be imposed by statute. Sir, I have thought it fit to accept the suggestion made and therefore I shall be at a later stage moving the amendment which stands in my name to clause 3. Sir, I move.

Mr. President (The Honourable Sir Abdur Rahim): Amendment moved:

> " That sub-clause (2) of clause 6 of the Bill be omitted."

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* **Mr. President** (The Honourable Sir Abdur Rahim) : The question is:

> " That clause 6, as amended, stand part of the Bill."

The motion was adopted.

Clause 6, as amended, was added to the Bill.

The Honourable Dr. B. R. Ambedkar : Sir, I move :

> " That to part (g) of sub-clause (5) of clause 7 of the Bill the following further proviso be added :
>
> ' Provided further that the rate of any periodic payment after the first shall not be higher than the rate estimated to raise the amount in the Fund after repayment of the advances, if any, paid into the Fund by the Central Government under sub-section (*2*) of section 11, to a sum of rupees fifteen lakhs ' ."

This Proviso is again intended to meet the fears of some of the Members representing the class of employers. It was feared by them that we might use the provisions of this clause as it stood originally to raise any amount of fund and to build it up when it was practically not necessary for the purpose for which that was intended. I had originally given an assurance on the floor of the House that it was not the intention of Government to use powers which they have got under this Bill to raise unnecessary fund to build it up and thereby inflict

* Legislative Assembly Debates (Central), Vol. III, 13th August 1943, p. 712.

a sort of injury upon the employers. There again, Sir, my statement did not satisfy them, and I have thought it best to give them the satisfaction by introducing this clause. As will be seen, a limit has been placed of rupees fifteen lakhs upon the balance on the fund, and I think this amendment will be accepted by them in the spirit in which it is intended, namely, to appease those who feel jealous about the Government's power of taxation. Sir, I move.

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* **Mr. President** (The Honourable Sir Abdur Rahim): Amendment moved:

> " That in sub-clause (2) of clause 9 of the Bill after the word 'fails' occurring in the second line the words 'after due notice' be inserted."

The Honourable Dr. B. R. Ambedkar : I appreciate the force of the necessity of giving some notice, but I would like to inform the Honourable Member that there is a provision for notice, although that provision does not appear in the Bill itself. He will realize that the important words in the body of clause 9 are 'in accordance with the scheme'. If my Honourable friend were to turn to clause 9—I am sorry that is the reason why he has moved this amendment—and see the terms of the scheme itself, I assure him that he will find there is a clause—which at present is clause 1 (*viii*) (*a*) of the draft scheme—which provides for 15 days notice. I think my Honourable friend on this information will withdraw his amendment.

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†**Mr. President** (The Honourable Sir Abdur Rahim): Amendment moved :

> " That in sub-clause (2) of clause 9 of the Bill after the word ' punishable ' occurring in the fourth line the words ' after thirty days of grace from the due date of payment' be inserted."

The Honourable Dr. B. R. Ambedkar : Sir, I rise to oppose the amendment. I do not see any necessity for conceding the point which my Honourable friend is trying to make. As I pointed out to the House, we have already made a provision for notice, which is a period of 15

* Legislative Assembly Debates (Central), Vol. Ill, 13th August 1943, p. 713.

† *Ibid. p.* 713.

days, and I do not understand why my learned friend should contend for an additional privilege which will extend a further period for a recal citrant employer. If we had not provided for notice in our scheme, I could have well understood the justice of a claim for a period of grace. But if my learned friend will allow me to say so I really see no distinction or it is rather a distinction, without difference, between period of notice and period of grace.

Mr. Hooseinbhoy A. Lalljee : Sir, I think the request which my Honourable friend, Mr. Abdur Rasheed Choudhury, made was a very fair one……. After all is said and done, in business life one has got to make arrangements and when we are bringing in so many people, I do feel that it will not matter very much if 15 days notice and 15 days grace period is allowed. I like the word 'grace' rather than the word 'notice' in all 30 days for the simple reason that grace 15 days is a thing which is absolutely a thing which the Government can give in their grace. Therefore I think in all fairness he will not be led by friends who believe that we in India are more dishonest than others in the world at large.

The Honourable Dr. B. R. Ambedkar: I am prepared to allow them fifteen days grace in the scheme, Sir.

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* **Mr. President** (The Honourable Sir Abdur Rahim): The question is :

> " That to sub-clause (1) of clause 11 of the Bill the following proviso be added :
>
> 'Provided that no payment from the Fund shall be made in discharge of any liability of the Crown to pay compensation to workmen employed by it '."

The motion was adopted.

The Honourable Dr. B. R. Ambcdkar : Sir, I move :

> " That for sub-clause (3) of clause 11 of the Bill, the following be substituted :
>
> '(3) If when all payments which have to be made out of the Fund have been defrayed, any balance remains in the Fund, the balance shall be constituted into a Fund to be utilised and administered by the Central Government for the benefit of workmen '."

As I pointed out, the original position when the Bill was introduced was that the balance was to be utilised for general purposes of Government and was to merge in the general revenues of the

* Legislative Assembly Debates (Central), Vol. Ill, 13th August 1943, pp. 714-15.

Government. The Select Committee altered that clause and provided that the balance, if any, should go to the employers who have contributed to this fund, in proportion to their contribution. The amendment which I am moving is an amendment which is, if I may say so, a midway house between the two positions. It suggests that the fund shall not be utilised by the Government for its general purposes, nor shall it be returned to the employer, but it shall be treated as a sort of trust fund to be utilised and administered by the Central Government for the benefit of workmen. I thought that this was a very reasonable compromise and that the whole House would accept it without demur. But I find that there are still some in the House who are not satisfied with the position outlined in this amendment. The grounds on which I justify the amendment standing in my name are, in the first instance, these. I think it will not be denied that whatever contributions the employers may make to the insurance fund, it will be treated by the Finance Department as revenue which will be revenue for which credit will be given by the Finance Department. It is really revenue which would in the ordinary circumstances go to the Government of India in the form of income-tax and excess profits tax. Therefore I have no hesitation in submitting that a very large bulk of this fund is really intended that they would get and utilise what is theirs, I do not think there was anything very serious to challenge that position. But as I stated, I have receded from that position, and I am prepared to allow this fund to be treated, not as general revenues, but as a credit fund to be utilised for the benefit of workmen. The argument which I have heard in the lobby and which seems to have prevailed upon some Honourable Members who are not satisfied with the position-taken here, appears to me to be this. They seem to think that this is the thin end of the wedge, that the Government is really establishing a precedent for making a levy on the industry for the benefit of labour. I do want to disabuse the minds of Members who entertain that sort of fear. I have assured them before this, that Government has no intention of making unfair use of this clause by taxing an industry with the object of raising a fund for purposes for which it is not mainly required ; and I would also like to assure Honourable Members who entertain that kind of fear that it is unnecessary for Government to seek or to make any clandestine attempt to establish a precedent. Government has ample

power and there are precedents which have been laid down already by laws, both here and in England, whereby it is possible for the State to impose a special cess for the benefit of labour. We have got in this country the coal cess and the coke cess, which is a levy on industry and which is utilised for the purposes of the industry or those who are being served by that industry. In England we have a case in the Coal Mines Act whereby a specific levy is made on the industry ; the fund collected by the levy is kept aside for the purposes of labour welfare. Therefore I do want to assure Honourable Members that there is no intention to attempt in a clandestine manner to establish a precedent. Our intention is to support labour and I do not understand why many employers who have always exhibited such kind interest in supporting schemes for the welfare of workmen serving them should in any way hesitate to accept the amendment which I am moving. Sir, I move.

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* **The Honourable Dr. B.R. Ambedkar** : Sir, the point made by my Honourable friend, Mr. Chapman-Mortimer seems to be this. He says that we are changing our purpose. Originally the fund was intended to be used for the purpose of paying compensation. We now propose to use the balance of it for welfare. No doubt this is a change of purpose but I still maintain that there is nothing improper in that. If I understood him correctly, the position of Mr. Mortimer seems to be this. He seems to be following what I must concede is a well established principle in the budgetary arrangement, namely, that when money has been sanctioned by the legislature for a particular purpose it ought not to be spent for another service not included within that purpose. I entirely agree but that is a matter which relates to executive action. I do not propose to use the fund by executive action but it is because I do not wish to be guilty of any impropriety that I have come to the house for asking it to be guilty of any impropriety that I have come to the House for asking its sanction for allowing the balance to be used for some other purpose which the House entirely agrees to be a beneficial purpose. I, therefore, submit that there is no impropriety in changing the purpose inasmuch as we are asking for the legislative sanction of this House for the change of purpose.

* Legislative Assembly Debates (Central), Vol. III, 13th August 1943, p. 718.

Then, the point has been raised that the word 'welfare' is an omnibus word, I agree that it is an omnibus word and I do not know if I am in a position to specify items which will be included in the term "welfare" on which there can be expected to be unanimity in this House. I shall, therefore, not venture to particularise what would come under the term "welfare". But I would say this to those Honourable Members who do not know what is meant by "welfare" as well as to those Honourable Members who think that Government ought not to be entrusted with a responsibility for administering this Fund that they will realise that the matter, with all this, is still left in the hands of the House. The House will have many more opportunities on various occasions to raise this question as to how this money is to be utilised and I am sure many Honourable Members who know what is "welfare" or who have ideas on it will use that opportunity to inform Government as to how that money would be utilised. Sir, I think the house will be well advised in accepting my amendment.

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*** Mr. President** (The Honourable Sir Abdur Rahim): The question is:

> " That to sub-clause (1) of clause 3 of the Bill, the following proviso be added :
>
> * Provided that where an employer has taken out a policy of insurance as required by sub-section (*1*) of section 9 and has made all payments by way of premium thereon which are subsequently due from him in accordance with the provisions of the Scheme, or whereby the provisions of the sub-section (2) of section 12 the employer is not required to insure, the Central Government shall assume and discharge on bahalf of the employer the employer's liability to pay compensation under this sub-section '."

The motion was adopted.

The Honourable Dr. B. R. Ambedkar : Sir I move :

> " That to clause 3 of the Bill the following new sub-clause be added :
>
> ' (3) This section shall be binding on the Crown '."

I have already explained that we are now seeking to make the Crown statutorily liable for the provisions of this Bill. With these remarks, I move.

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†Mr. President (The Honourable Sir Abdur Rahim): Amendment moved:

> " That in sub-clause (1) of clause 13 of the Bill, part (b) be omitted."

* Legislative Assembly Debates (Central), Vol. Ill, 13th August 1943, p. 719.

† *Ibid.,* p. 721.

The Honourable Dr. B. R. Ambedkar : Sir, I may not have sufficient amount of culture, but I claim average amount of intelligence. Sir, applying such amount of intelligence as I possess to this clause, I think my Honourable friend has entirely misunderstood the purpose of it and the necessity for it. The purpose of the clause is really not to levy distress or to take a warrant, but the purpose of the clause is to obtain information and search for information. Now, Sir, my Honourable friend has not understood why accurate information in this case is absolutely important. I would like to tell him that information is important not only from the point of view of the Government, but information is important from the point of view of employers themselves. Sir, it is perfectly possible for a fraudulent employer, for instance, to submit faulty information, wrong information, information understating his wages bill, information understating the number of employees who are working under him. The premia shall have to be based upon information that has been submitted. It would be perfectly possible for good employers being penalised and they have to pay more for the fault of fraudulent employers who by passing false information might try to escape liability of the law imposed upon them. Therefore, this clause is absolutely necessary, necessary in the interests of the employers themselves. I cannot understand how there can be any objection merely because the law provides that when there has been a case where it is suspected or where Government have information that accurate information has not been supplied that Government should have the power to get accurate information which, as I submit, is the very rock on which this sytem is founded. Sir, I oppose the amendment.

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