

हैं और काबिल हैं, कोई न कोई रास्ता निकालेंगे ताकि हजारों आदमी हज़ की अदायगी से रह न जाएं। इस तरीके से उनको गम और मुश्किल का सामना करना पड़े। इन अलफ़ाज़ के साथ, मैं इस स्पेशल मेशन के साथ एस्सोसिएट करता हूँ।

श्री संघ प्रिय गोंतम (उत्तर प्रदेश) : मैं भी अपने आप को इस स्पेशल मेशन से संबद्ध करते हुए यह कहना चाहता हूँ कि उत्तर प्रदेश की सरकार ने यह तज़वीज़ भारत सरकार द्वारा कमेंट मांगने पर की है।

श्रीमती सत्या बहिन (उत्तर प्रदेश) : मैं भी इस स्पेशल मेशन से अपने आप को संबद्ध करती हूँ।

SHRI T. A. MOHAMMED SAQHY (Tamil Nadu) : I associate myself with the special mention made by Shri Mohammed Afzal. The ship should be made available to the Haj pilgrims immediately.

श्री चतुरानन मिश्र : मंत्री महोदय, बैठे बैठे कह रहे हैं, ज़रा उठ कर के कह दीजिये तो अच्छी बात होगी।

उपसभाध्यक्ष (श्री शंकर बयल सिंह) : ऐसा है मिश्रा जी, स्पेशल मेशन के बाद मंत्री महोदय इंटरवीन करें या नहीं करें, इस संबंध में सदन में काफी बहस हो चुकी है। मैं अपने ओर से नहीं कह रहा हूँ लेकिन यह कई बार बातें उठी हैं ऐसा हुआ है। अगर इस संबंध में कुछ कहना चाहें तो रोकूंगा नहीं। मैं अपनी ओर से कुछ नहीं कह रहा हूँ।

THE MINISTER OF STATE OF THE MINISTRY OF SURFACE TRANSPORT (SHRI JAGDISH TYTLER) : Sir, since this is a serious matter, we are equally concerned. We are working towards some kind of a solution because it is not concerned with one community but it concerns the whole of India and we are all part of it.

STATUTORY RESOLUTION SEEKING DISAPPROVAL OF PUBLIC LIABILITY INSURANCE (AMENDMENT) ORDINANCE, 1992

AND THE PUBLIC LIABILITY INSURANCE (AMENDMENT) BILL, 1992

THE VICE-CHAIRMAN (SHRI SHANKAR DAYAL SINGH) : Now, we are taking up the Public Liability Insurance (Amendment) Bill, 1992 and the statutory resolution thereon by Shri Chaturanan Mishra.

SHRI CHATURANAN MISHRA (Bihar) : Sir, I move:

That this House disapproves of the Public Liability Insurance (Amendment) Ordinance, 1992 (No. 6 of 1992), promulgated by the President on the 31st January, 1992.

उपसभाध्यक्ष महोदय, यह थोड़ा सा आश्चर्य लग सकता है कि कम्युनिस्ट हो करके इस बिल का हम क्यों विरोध करते हैं जबकि हम ही लोग इसके पक्ष में रहे हैं। इसका कारण यह है कि हम आपके आर्डिनंस के सेक्शन 2(ए) की तरफ जिसमें एक्सीडेंट को डिफाइन किया गया है कि तरफ ध्यान आकर्षित करना चाहते हैं।

“(a) “accident” means an accident involving a fortuitous or sudden or unintended occurrence while handling any hazardous substance resulting in continuous or intermittent or repeated exposure to death of, or injury to, any person or damage to any property but does not include an accident by reason only of war or radio-activity.”

यहीं से हमारा मतभेद शुरू होता है। प्रोपर्टी शब्द की कहीं डेफिनिशन नहीं दी गई है कि प्रोपर्टी क्या है। आर्डिनैरली प्रोपर्टी को हम जिस ढंग से लेते हैं उसमें पानी, हवा या दूसरी जो पर्यावरण की चीज़ें हैं वह प्रोपर्टी में नहीं आती हैं। हम लोगों का सब का अनुभव

[Shri Chaturanan Mishra]

है जो भोपाल गैस कांड के बाद बहुत क्लियोरली आपके सामने आया । जब इस तरह दुर्घटना घटती है तो उस इलाके की पूरी हवा तथा दूसरी इन्वायरनमेंट की चीजों की भारी क्षति होती है । क्षति के मुआवजे का इसमें कोई प्रावधान नहीं है । इसलिए मैं मंत्री महोदय से अनुरोध करूंगा कि उस डिफिनिशन को स्पष्ट कर दें जिसमें हवा, पानी या दूसरी इन्वायरमेंटल चीज आ जाए । तब यह विल लाये तो यह कहीं ज्यादा अच्छा होगा ।

दूसरा, मेरा अनुभव यह भी है भोपाल गैस कांड के बाद कि जो बच्चे अभी जन्मे नहीं हैं, गर्भ में भी नहीं हैं, वे भी कुप्रभावित होते हैं । ये आने वाली सतान को भी कुप्रभावित करते हैं । अतः इसको भी डिफिनेशन में दीजिए । एक अनुभव तो इस राष्ट्र को हो चुका है जो अत्यंत भयानक अनुभव था । इसलिए सिर्फ प्रापर्टी से काम नहीं चलेगा । इसको भी आपको इन्क्लूड करना चाहिए ताकि इसके अंदर हम यह ला सकें ।

दूसरा कारण जिसके चलते हमने इसका विरोध किया है वह यह है कि प्रापर्टी में लोग जो जानवर पालते हैं वह है या नहीं है । क्योंकि डिक्शनरी में इसके बारे में स्पष्ट बात नहीं है । जब हम लां बता रहे हैं तो स्पष्ट हो जाना जरूर है क्योंकि लोग गाय, भैंस, सुअर, भेड़, बकरियां मृगियां आदि पालते हैं । अगर ये इन्क्लूड हैं तो इनको स्पष्ट कर दीजिए कि ये इन्क्लूड हैं तब तो स्पष्ट बात हो जाएगी बरना अगर ये इसमें कवर नहीं होते हैं तो उनको इनकी अतिरिक्ति नहीं होगी ।

दूसरा बिंदू जिसके कारण मैं विरोध करता हूँ वह यह है कि सुप्रीम कोर्ट में एक रूलिंग हुई थी । दिल्ली स्थित जो श्रीराम फटिलाइजर में एक्सीडेंट हुआ था ओलियम गैस लीक आउट में तो उसमें सुप्रीम कोर्ट ने कहा था कि जो कम्पनी है उसकी एन्साल्यूट लाएबिलिटी होगी कि वह पूरा कम्पेनसेशन दे । इसमें आप इम्पॉरिस के जरिये इस काम को कर रहे हैं । इसमें उस कम्पनी के बारे में पूरी,

एन्साल्यूट लाएबिलिटी नहीं होती है । सुप्रीम कोर्ट ने भी जो बात कही थी उसकी भी इसमें पूर्ति नहीं हो रही है । इसलिए यह जरूरी है कि इसको स्पष्ट किया जाए और मंत्री महोदय को इसको करना चाहिए ।

दूसरा यह है कि छोटी भी कम्पनियां हैं और बड़ी भी कम्पनियां हैं । इसलिए मुआवजे की रकम एक तो बहुत कम है जिसकी मैं बाद में चर्चा करूंगा लेकिन कोई मल्टीनेशनल कम्पनी भी है, मान लीजिए कि यूनिटन कारबाइड तो 25 हजार रुपए देकर छूट जाए जो मैक्सिमम है तो यह उचित नहीं है । यह तो कोई छोटी कम्पनी भी दे सकती है इसलिए कम्पेनसेशन का अमाउंट जो है सबके लिए बराबर तो रखते हैं यह उचित नहीं है । कुछ एक्सीडेंट ऐसे हो सकते हैं जो बहुत बड़े इलाके को प्रभावित कर सकते हैं और कुछ ऐसे जो कुछ ही सीमित जगह में कर सकते हैं । इसलिए इसको आपको बढ़ाना चाहिए मैं आखिरी विषय यह कहना चाहूंगा कि जो एकट पहले बना था उसके शंडयूल के मुताबिक जो डेथ होने पर ज्यादा से ज्यादा 25 हजार रुपये के हर्जाने का प्रावधान किया गया है यह 25 हजार रुपये की रकम मरने पर देना बहुत ही कम है बकि हमको लगता है कि घाव पर नमक छिड़कने जैसा है । आजकल तो यह हो रहा है कि अगर हिंदू मुस्लिम रायट में कोई मर जाता है तो हम लोग एक लाख रुपया देते हैं या रेलवे वाले भी एक लाख देने लगे हैं । अन्य प्रतिष्ठान में भी एक लाख रुपये का हर्जाना देते हैं । इसलिए आप इनको कैसे 25 हजार देते हैं इस तरह की घटना होने पर । यह एक अत्यंत ही लज्जाजनक बात है । वर्कमेन कम्पेनसेशन एक्ट मजदूर का जो है उसमें भी इसे ज्यादा का प्रावधान होता है । इसलिए हमको समझ में नहीं आता है कि इतनी कम रकम आप क्यों रखते हैं ।

जहां तक इंजरी की बात है । गान लोगों के लिए मात्र एक हजार रुपये तक

प्रावधान है। यह तो हास्यास्पद है। मत कुछ देना चाहते हैं तो मत दीजिए। सभी कम्पनियों को फ्री कर दीजिए लेकिन बायल हो जाए इस तरह से बिना कंटेराइज्ड किये हुए किस तरह से बायल को देंगे। किसी के नख में कुछ हो हो जाये एक हजार रुपये दे दीजिए हमको कुछ नहीं कहना है। लेकिन आपने डिफाइन भी नहीं किया है कि किस स्टेज के बायल के लिए कितनी रकम देंगे। इन्हीं बिंदुओं के कारण मैंने यह पेश किया है कि इन अध्यादेश को यह सदन नामंजूर कर दे। धन्यवाद।

THE MINISTER OF STATE OF
THE MINISTRY OF ENVIRONMENT
AND FORESTS (SHRI KAMAL
NATH): Sir, I move:

That the Bill to amend the Public Liability Insurance Act, 1991, as passed by Lok Sabha, be taken into consideration.

As the Members are aware the Public Liability Insurance Act, 1991, was enacted with the object of providing immediate relief to the victims other than workmen of the factory in respect of accidents that might occur while handling hazardous substances. The Act provides for the owner who has control over handling hazardous substances to pay specified amounts to the victims as interim relief by taking insurance policy for this purpose. The interim relief would be based on no-fault-liability which means that the claimant for relief shall not be required to plead and establish that the disaster, injury or damage in respect to which the claim has been made was due to any wrongful act, neglect or default of any person. The Act relieves the victims of approaching the courts and involving themselves in legislation to obtain relief.

As per the provisions of the Act, the units handling hazardous substances have to take insurance policies

by 31st March, 1992. However, the Act could not be implemented on account of the General Insurance Corporation expressing difficulty in giving insurance policies for unlimited liability cover as provided in the Act. Moreover, they wanted that the insurance should only cover chemical accidents and not any incident occurring in a factory as a result of which some persons suffer physical harm. It was suggested that there should be a monetary limit on the policy so that the insurance policy is within the acceptable norms of commercial and financial prudence in respect of limits and financial cover. Inter-Departmental consultation were held to overcome this problem. It was the consensus that the liability of the insurance companies should be limited to facilitate the issuing of the insurance policies to the hazardous units. This was possible only by an amendment of the Act. Therefore, we have proposed to amend the Public Liability Insurance Act, 1991.

The most important feature of the amendment is limiting the liability of the insurance companies and creating an Environmental Relief Fund to meet the residual liability for the relief of the victims at the time of an accident. It is proposed that the owner shall take insurance policy which shall not be less than the paid-up capital of the company handling hazardous substances. Rs. Fifty crores has been prescribed as the maximum limit.

Sir, in order to expedite payment of relief to the victims, a time-frame for depositing the amount by the insurance companies is proposed to be fixed by the proposed amendment. This period has been limited to 30 days for the money to be deposited with the Collector of the district where accident takes place, by the insurance company. The Collector will ensure that the insurance company's maximum liability does not exceed the limit prescribed in the insurance policy.

[Shri Kamal Nath]

Sir, we have visualised an eventuality when the claim amount is more than the insurance cover. For this purpose, I am proposing to create an Environmental Relief Fund which shall be administered by my Ministry. Every owner holding a policy shall credit a sum not exceeding the amount of its premium to this fund. This amount would be paid to the insurance company along with the insurance premium and the insurance company in turn will deposit it in the Fund. However, this would be only an immediate relief measure. The ultimate liability for meeting the total compensation shall be with the owner.

Another eventuality, which we have visualised, is the removal of transfer of property by the owner with a view to evading payment by him. We have proposed to restrict such a pre-emptive action by the firm.

Some changes in the definitions have also been proposed to make them more explicit. "Occurrences" or "incidents" have now been excluded from the purview of accidents" which is defined as any sudden, unintentional occurrence. It was felt that the partners of any firm, members of an association and all or any of the directors, managers, secretaries or other officials, of the company responsible for handling hazardous chemicals should be treated as owner. The same is proposed in these amendments.

Sir, to make the implementation of the amendment effective, we have framed rules in respect of the same and have framed a draft outline of a scheme for the Environmental Relief Fund which would be notified shortly after consultation with all concerned.

As the House is aware, the Lok Sabha passed the Bill on 11th March, 1992. It is now placed before the Members of this august House for their valued opinion and support for this measure. With these words, Sir,

I move the motion.

The questions were proposed.

SHRI SUNIL BASU RAY (West Bengal): Sir, I rise to oppose this Bill and support the Resolution moved by Shri Chaturanan Mishra. I oppose this Bill because it does not give any relief to the victims of hazardous substances, for it excludes out of the purview of the Act those who may be victims of radio-activity. For example, Cathoderays affect the health of the persons who are exposed to it, especially of the pregnant women at work. The trade unions of advanced countries are opposed to such dangerous practices. Why should we not do so? It excludes, by implication, the transporters of hazardous substances, by rail, by road or physically. Sir, it often happens that by road transport toxic chemicals are transported and they leak; as a result, the villagers, the people who live by the roadside, suffer. There is no arrangement for taking action against them. It limits the upper limit of the amount payable to Rs. 750 crores only. Therefore, the per capita compensation would be very little.

Instead of setting up one consolidated fund, it has split it into two. The "insurer", the GIC, may fail to deposit the additional premium to be transferred to the Relief Fund. It is strange that the General Insurance Company which is a Government company has obstructed the operation of the Bill in the past and the present Bill also does not take any steps to overcome that obstruction because the GIC has something in its hands because it may or may not do that. Even if the collectors apply the land revenue clause to collect those dues, it will take much more time. So the payment of compensation to the injured persons should be assured irrespective of the fact whether the GIC pays or not.

The question of temporary injunction is another clause to which our Minister should pay more attention.

This injunction which is a civil procedure will take much more time to be settled. Unless this injunction problem is settled, there will be no avenue to get that money. There should be a ban in the Act itself that such transfers cannot be allowed because we know with the advent of liberalisation, with the incoming foreign capital and the obsolete technologies that are coming in, it may be that they will take to surreptitious ways to evade. So we should ensure that they could not do so.

There are more than 8,000 units operating at different places. Thousands of children and women who work there have no protection. Unorganised workers are not covered by this Bill. They should also be covered. The Bill is intended to protect the interests of the monopolists and multi-nationals. Obsolete foreign technologies which are very dangerous and hazardous are being dumped into India and other developing countries. These interests stand to gain from this Bill. It further helps the G. I. C. (General Insurance Company). According to the Chairman of the G. I. C. by 31st March 1992 there will be 1.5 lakhs insurance policy-holders and an annual yield of Rs. 125 crores will be available to the G.I.C. So G.I.Cs income will increase and G.I.C. will be benefited by this. Does it mean that the Relief Fund will have another equivalent amount? How will this huge amount be administered? The limitation is actually in favour of G.I.C.

THE VICE-CHAIRMAN [SHRI M. A. BABY] (in the Chair).

Now, I am concluding by asking one or two questions of the Minister who, I think, in his reply, will give attention to these questions. Who will be the determining authority of the hazardous effects? Will the Fund set up appropriate, competent medical authorities to help the victims without any trouble or further haz-

ard? Are the treatment, subsistence and rehabilitation included? Who will be the members of the authority or committee? There must be full representation of the workers, the affected.

श्री सुरेन्द्रजीत सिंह अहलुवालिया (बिहार) : उपसभाध्यक्ष महोदय, मैं लोक दायित्व बीमा संशोधन विधेयक, 1992 का समर्थन करने खड़ा हुआ हूँ।

उपसभाध्यक्ष महोदय, ऐसे एक विधेयक की जरूरत खासकर हमें तब पड़ी जब हमारे सामने यूनिन कार्बाइड की भोपाल यूनिट में गैस का रिसाव हुआ और उसके कारण लाखों लोग प्रभावित हुए। उसके साथ-साथ हमारी दिल्ली में, दिल्ली क्लाय मिक्स के कारखाने में गैस का रिसाव हुआ और उसमें भी हजारों लोग प्रभावित हुए। उपसभाध्यक्ष महोदय, आज तक ऐसे होता रहता था कि बड़े-बड़े मिल मालिकों के कारखानों कई घटनाएँ घट जाती थीं और वहाँ के प्रभावित लोग अपनी जायज कंपेंसेशन की मांग करते रहते थे या मुआवजे की मांग करते रहते थे, लेकिन वह उस समय पर नहीं मिल सकता था और बड़े-बड़े वर्षों तक वहाँ के मजदूर संगठन उस मालिक के खिलाफ या उस कारखाने के खिलाफ एक कचहरी से दूसरी कचहरी के चक्कर लगाते रहते थे। फिर अंत में बड़े नामी-गिरामी वकीलों के चक्कर में पड़कर आर्बिट्रेशन के माध्यम से कोर्ट के बाहर फैसला कर के रफा-दफा कर दिया जाता था। अब इस विधेयक के माध्यम से एक नया कानून बन गया है एक राशि निश्चित हो गयी है कि जिस वक्त ऐसी कोई घटना घटेगी तो तुरंत इतनी राशि उस प्रभावित व्यक्ति के परिवार के नाम पर या उस व्यक्ति के नाम पर वहाँ के कलेक्टर के पास जमा कर दी जाएगी और केवल वहीं से मुआवजे की समाप्ति नहीं होगी वरन् कचहरी से जो फैसला होगा, वह राशि भी उसे मिलेगी।

उपसभाध्यक्ष महोदय, हमारी मा वीमा कंपनियों ने जो अड़चन इतने दिनों लगा

[श्री सुरेन्द्रजीत सिंह ग्रहलुवालिया]

रखी थी जो आज भी अडचन के बीच हम बैठे हैं किश्न-लिमिटेड लायबिलिटीज पर बीमा नहीं करने देते, उन अडचनों को दूर करने के लिए इस विधेयक की मांग थी और यह आज हमारे समक्ष है। इसी के साथ-ही-साथ एनवायरनमेंटल रिलीफ फंड की जो स्थापना की गयी है, उसका हम स्वागत करते हैं। उपसभाध्यक्ष महोदय, इस विधेयक का समर्थन करते हुए और इस रिलीफ फंड को बनाने का स्वागत करते हुए, मुझे जरा-सा संकोच यह है कि विधेयक के क्लॉज-2 में "एक्सप्लोडेंट" की परिभाषा, बिल को वापस करने वाले ने बड़ी चालाकी और बड़ी बारकी से जरा बदल डाली है। उस पर मैं जरा आपत्ति जाहिर जरूर करूंगा। उन्होंने सारी बातें ठीक कही हैं पर अंत में जो बात उन्होंने कही है "किन्तु इसके अंतर्गत ऐसी कोई दुर्घटना नहीं है जो केवल युद्ध या रेडियोधर्मिता के कारण हो।"

उपसभाध्यक्ष महोदय, ऐसे एक विधेयक को पास करते वक्त युद्ध की बात तो मांगी जा सकती है कि युद्ध के माध्यम से अगर कोई व्यक्ति, अगर वहाँ बम्बार्मेंट होता है या गैरलियॉ चलाता है या ग्रेनेड फटते हैं तो वह दूसरी बात है क्योंकि दो देशों का युद्ध हो रहा है, पर रेडियोधर्मिता, जो कि 1962 में हमने एटॉमिक संबंधी जितने भी मामले थे, वह एटॉमिक एनर्जी एक्ट-1962 के तहत केन्द्र सरकार ने अपने हाथों में ले लिए थे। महोदय, जब इस विधेयक के माध्यम से सरकार भारत के लोगों को एक संदेश दे रही है कि ऐसी घटना, जो यूनियन कार्बाइड के कारखाने में हुई थी, ऐसी घटना जो डी०सी०एम० के कारखाने में हुई थी या ऐसी घटना जो सड़क पर चलते हुए टैंक-लाँरी जिसमें हैजाईस केमिक ट्रांसपोर्ट किया जा रहा है, ऐसा कोई दुर्घटना घट जाती है, याणे के पास महाराष्ट्र में कुछ दिन पहले हुई।

श्री अरवि द गणेश कुलकर्णी (महाराष्ट्र) : याणे भिण्डो में।

श्री सुरेन्द्रजीत सिंह ग्रहलुवालिया :
ऐसी घटनाओं में प्रभावित लोगों को कुछ मुआवजा देकर कम से कम कुछ रिलीफ दिलाई जाए, यह एक ऐसा विधेयक है। पर इस विधेयक को पास करते वक्त हम यह क्यों भूल जाते हैं कि राजस्थान में जो हमारा एटॉमिक प्लांट है उसके चारों तरफ सैकड़ों मील दूर तक रेडियोधर्मिता के कारण वहाँके वाशिनदों पर, लोगों पर जो असर पड़ता है, हम उन्हें इतने क्यों वंचित करते हैं? हम उनको क्यों नहीं ये अधिकार देते? उपसभाध्यक्ष महोदय, हो सकता है उसमें कुछ कठिनाइयाँ हों। इंटरनेशनल लाँ बहुत सारे हैं, पर इंटरनेशनल लाँ के साथ में विदेशों की कंडीशन में और हमारे देश की कंडीशन में जमीन-आसमान का फर्क है। इंटरनेशनल लाँ है। इंटरनेशनल लाँ को मानते वक्त हमें देश में जब भी कोई संशोधन करना हो या कोई भी विधेयक लाना हो तो हमें उस पर विचार करना चाहिए कि हम यहां की कंडीशन के अनुसार यहां के लोगों को पूरा न्याय दे रहे हैं या नहीं दे रहे हैं। उपसभाध्यक्ष महोदय, इसलिए यह मेरी मांग है, इस विधेयक का पूरा समर्थन करता हूँ, लेकिन उसके बावजूद यह मांग करता हूँ कि मंत्री महोदय इंटरनेशनल लाँ को भी मद्देनजर रखते हुए, अगर उसमें भी कुछ संशोधन की जरूरत है तो भारत के लोगों को या भारत सरकार को वहाँ रिप्रेजेंटेशन देना चाहिए और बताना चाहिए कि हमारे देश में और अन्य देशों में कितना फर्क है। हमारे देश में अगर हम सोचें, वैसे तो कहा कि चल और अचल सम्पत्ति, चल और अचल संपत्ति में भी जैसे चतुरानन मिश्र जी कह रहे थे, यह तो गैस रिसाव की बात है, पर मैंने देखा है कि कहीं कहीं राइट्स हो जाते हैं, दंगे हो जाते हैं तो एक दूसरे नुकसान पहुंचाने के लिए मेरे पास एक आदमी आया, उसकी डेयरी फार्म में 60 भैंसे थीं। उसकी 60 की 60 जला डाली,। जब 60 भैंसे जला जली तो वह डेयरी फार्म वाला गरीब आदमी आकर मेरे पास रोने लगा कि 60 भैंसे का मुआवजा मेरे को कौन देगा ?

अब राइट्स से अंदर उसको कवर नहीं है। राइट्स के अंदर कवर नहीं होने से उसको मुआवजा नहीं मिलता है और वह मारा जाता है। इसी तरह, दंगों को छोड़कर मैं गैस रिसाव पर आता हूँ, तो जो भी सांस लेने वाले जानवर हैं, सास द्वारा फेंफड़ों में गैस के प्रवेश करने से वे प्रभावित होते हैं, ऐसे हमारे देश में या हम घर के बाहर रहने वाले जितने भी पालतू जानवर हैं, वे भी मारे जाते हैं। उनके लिए भी, क्या-क्या फिक्स किया गया है, आपने जिस तरह एक आदमी के लिए एक मजदूर के लिए या एक चलते आदमी के लिए कॉन्शेसन या मुआवजा मंजूर किया है और जानवरों के लिए, भैंसों के लिए, गाय के लिए, भेड़ के लिए, बकरी के लिए, मछली के लिए, और मृगियों के लिए क्या किया है? क्योंकि ऐसे देहाती इलाकों में, बैकवर्ड एरियाज में जहाँ पर फैक्ट्रीज हैं, उस इलाके के चारों तरफ कहीं आदिवासी रहते हैं या गरीब लोग रहते हैं और उनके घर का भरण-पोषण उनके पालतू जानवरों के माध्यम से होता है और जब ऐसे गैस रिसाव या किसी कैमिकल का रिसाव हो जाए, तो यह सब के सब मारे जाते हैं, इसके लिए भी कोई रेट फिक्स किया गया है, वह रेट बताने की कृपा करेंगे?

उपसभाध्यक्ष महोदय, यह एक अच्छा विधेयक है और मैं समझता हूँ कि पूरे सदन को इसका समर्थन कहना चाहिए और यही कहते हुए मैं इसका समर्थन करता हूँ। धन्यवाद।

SHRI K. G. MAHESWARAPPA (Karnataka): Mr. Vice-Chairman, Sir, while supporting the Bill, I have a few comments to make. The Public Liability Insurance Act, 1991 was a recent enactment and within a short period a number of amendments to the Act have been brought about. The reason as mentioned by the Minister himself is that the Insurance Corporation failed to obey the laws in issuing policies. The industrialists who approached the Corporation were refused policies. The Insurance Corporation refused to issue them

policies. This actually amounts to disobeying the law passed by the Parliament and it may even amount to privilege. Is the Government to help less that it cannot discipline the Corporation? That is one aspect. Apart from that I welcome these amendments because it helps in removing the lacuna that is there in the Act. The Public Liability Insurance Act was enacted with the object of giving immediate relief to the victims. In order to give immediate relief to the victims, an environment fund has to be created and the Minister has not given any categorical assurance to this effect. In fact, he has yet to make rules to create that fund and if he takes longer time the very purpose of the Bill will be defeated. Therefore, I want a categorical assurance from the Minister as to when or within what time the environment relief fund will be created. In the developed countries we have the Law of Torts by which immediate compensation is paid to the victims. In this country the same law does not hold good. Here we will also have to consider whether the industry is capable of paying compensation. Therefore certain provisions become necessary to safeguard the interests of the industries also. I welcome this Bill also because it provides for certain other reliefs. Insurance cover requires substantial amounts to be earmarked for safety purposes and it could be beyond the capacity of an industry. Besides the type of industry, other factors should also be taken into account. With these few words I support the amendments.

श्री अनंतरावदेवमकर दबे (गुजरात)
सभापति महोदय, जॉ पब्लिक लैबिलिटी
एम्प्लोयर्स अमेंडमेंट बिल 1002 यहाँ
लाया गया है, वह छोटा सा बिल है
लेकिन इसके पैक्स एंड ओब्जेक्ट्स को
देखते हुए ऐसा लगता है कि हमने कुछ
विचार इस पर किया होता तो जो कुछ
हम गरीब लोगों को देने जा रहे हैं, उनको

[श्री अन्तराय देव शंकरदेव]

और फायदा होता। चूंकि हमारे देश में जो भयंकर घटना घटी थी, हमने वह देवी है। कई परिवार उसमें बरबाद हुए हैं और आने वाली पीढ़ी पर भी उसका असर पड़ने वाला है। इसी तरह से चतुरानन मिश्र जी ने जो बात कही, वह सही बात कही कि हम पहले उस पर सोचें और सोचकर इस पर जो सजेशन उन्होंने दिए हैं, उनको हम मान लें तो मुझे लगता है कि यह परफेक्ट बिल होगा।

हमारे देश में वह कानून नहीं है ना आफ टार्टेस, जो ५० क्रे० में, अमरीका में चल रहा है। उस कानून के माध्यम से जो लोग किसी घटना के शिकार होते हैं वे कोर्ट के पास जाकर अपना हक ले सकते हैं लेकिन हमारे यहां यह नहीं है। इसी वजह से हमें ऐसा कानून बनाकर गरीब लोगों की मदद करनी चाहिए। तो मैं चाहूंगा कि जो मुझाव अन्य मंत्रों ने दिए हैं, गवर्नमेंट उन पर सोचेगी।

एक बात मैं और कहूंगा कि जो कोश आप बनाने जा रहे हैं, उसके कोश का मतलब भी इस एक्ट के अंतर्गत से कुछ अच्छी तरह से समझा नहीं जा सकता। तो मंत्री महोदय जब जवाब देंगे तो उसका सही इस्तेमाल किस तरह से होगा और जो फायदा लोगों को होने वाला है, तात्कालिक जो राहत हम लोगों को देने वाले हैं, वह किस तरह से उनके पास पहुंचेगी, वह बात भी मंत्री महोदय बतायें, इतना ही मेरा नम्र निवेदन है। धन्यवाद।

[The Vice-Chairman (Shri Bhaskar Annaji Masodkar) in the Chair].

DR. NARREDDY THULASI REDDY (Andhra Pradesh): Sir, there is a saying in Telugu, which means, a mother-in-law asked her daughter-in-law, "what are you doing"? The daughter-in-law replied, "I have spilt it on the floor and am collecting it". The present Bill is like this. Actually, last year, that is, in 1991 its-

self, the Public Liability Insurance Act was passed by Parliament. It was enacted keeping in mind the public - to protect the public and to provide immediate relief to the people who are victims of accidents caused due to hazardous substance. Even after the enactment, it has not been implemented. It was never implemented. Now, the Government has come with an amendment. Why has it come to Parliament? The Government says that the GIC had disagreed to implement the Act. It is a very peculiar thing The Act was passed by Parliament. The Finance Ministry is a part and parcel of the Government. The GIC is a part and parcel of the Finance Ministry. So, when Parliament has passed an Act, the GIC has to do it. It can only tell there amplementation. But disagreeing is a very extraordinary thing. It is nothing but flouting the authority of Parliament, insulting Parliament and contempt of the public. The second thing is my apprehension is that this Bill may pave way to the multinationals. So, the Minister should clarify this. The third point is in the original Act the relief in case of a death was Rs. 25,000. As Chaturanan Mishraji said. This is a very meagre amount. In our calculations we are equating death with Rs. 25,000 Twenty years ago or thirty years ago Rs. 25,000 was, of course, a large enough amount. But in the present circumstances Rs. 25,000 is very meagre. So this amount should be raised to at least Rs. 1 lakh.

The fourth point is under the original Act applications can be filed by the person affected or his legal heirs or his duly authorised agents, within five years of the occurrence. Applications can be filed within five years. As a doctor I am doubtful; after 4 years or 4½ years it is very difficult to establish the death and the cause of the death. Five years is too long a period. It should be reduced to one year or 1½ years or 2 years.

My last point is in the original Act there was no provision for an Envi-

ronmental Relief Fund. A provision for that has been brought in now in the present Bill. My doubt is this. Under the original Act the Collector was to award and the owner or the insurer was to pay the amount in thirty days. Now this Environmental Relief Fund has come. Under whose control will this fund be kept? According to the present Bill who is to pass an award and who is to give the award money and what is the role of the Environmental Relief Fund? These are my five questions for clarification from the Minister, (ends)

THE VICE-CHAIRMAN (SHRI BHASKAR ANNAJI MASODKAR): I don't think there are any other Members who want to speak on this. So I call upon the mover of the Resolution if he wants to say something.

श्री चतुरानन मिश्र : उपसभाध्यक्ष महोदय, कहनी तो वही बात है जो पहले कह चुका हूँ क्योंकि मंत्री महोदय जो आए हैं उन्होंने ग्रामोफोनि की तरह जो पहले बात थी वही कही है। हम तो उम्मीद कर रहे थे कि कुछ सवालों का जवाब देंगे। हमने कहा कि प्रापर्टी की डेफिनिशन में कैटल आएगा कि नहीं? उन्होंने कुछ नहीं कहा। बिल में नहीं है तो हम क्या आपकी स्पीच को कोर्ट में लेकर जाएंगे?

Similarly about flora and fauna. It is not mentioned. Damage to environment is also not mentioned. Then I said future generations are also affected. That is not there in the definition.

About compensation everybody has spoken. The Minister himself has said that it is a very small amount. Apart from that, coming from the Judiciary you, Sir, know very well that we do not have any Action civil liability. At the time of Bhopal tragedy that was very much discussed in this country. There was and there is a provision for civil liability in other countries. But here we do not have. Therefore, there are so many important things. I request the

honourable Minister to tell us about all these things. Only then can I decide whether to press or not to press for my motion.

SHRI KAMAL NATH: Sir, I am thankful to the Members for giving me their ideas. Of these, I would like to clarify the points raised by Mishraji who moved the Resolution. And I would appeal to him to kindly withdraw it after listening to my clarifications. The question of livestock is an important issue. He has raised a very valid point. In rural areas most of the people do have some cattle. It is, as per the definition; for the Collector to assess the damage to property. And property is movable and immovable. 4.00 P.M. So, it will cover livestock in all circumstances and the Collector, while assessing it; shall estimate the damage to cattle and livestock in each particular case. Now, Sir; I would like to dwell on the intention of this Bill.

Sir, this Bill is for interim relief only.

SHRI CHATURANAN MISHRA: I have raised other points also.

SHRI KAMAL NATH: I will come to that shortly.

Sir, the intention of this Bill is for giving interim relief. The Bill which was passed in 1991, and the amendment with which I have come to this august House now; are for interim relief as distinct from compensation. This is for the relief which is required to be paid immediately after an accident. Now, what happens is that when an accident take place, there is nobody to give any money to the victims who have either been killed or if there is any damage to property. The procedure for compensation is a long drawn-out litigation procedure whereas what the victims at that moment need is minimum relief. So, this Bill is for that minimum relief and it

[Shri Kamal Nath]

is not in the nature of compensation. An impression has been created that this is the nal compensation and also that the liability of the owner has now become limited. This is not correct. The liability of the owner or of the firm remains unlimited. But it is the liability of the insurance company which is being made limited. If we look at what happens, we will find that at the time of accident; the Collector or the local authority looks to the State for some kind of interim relief. There is never any budgetary provision for this and there is never any fund for this purpose. They look to the Chief Minister's Relief Fund or the Prime Minister's Relief Fund and there is a set procedure for that and there is an element of uncertainty and vagueness. In order to do away with all these things, this Bill was passed by this House in 1991. After that, the insurance companies pointed out certain things, expressed their difficulties, and said that unlimited liability could not be accepted by them, especially while taking out reinsurance. Now, we all would like to see insurance companies taking out reinsurance. That would only reassure us that the insurance companies will not pack up, will not go into liquidation, in case there is a very major accident like the Bhopal gas tragedy. This House or the Lok Sabha has not appropriated anything unlimited. It is for this House and the other House to decide whether they would like to have unlimited liability in case of interim relief. There are other provisions for compensation which I am not going to deal with now. Since there is no appropriation for any unlimited amount for anything, coupled with the fact that the insurance companies cannot insure for unlimited liability and also as a condition of reinsurance, it was decided that a ceiling should be put. Therefore, a fair ceiling has been put: the paid-up capital of the company or Rs. 50 crores, whichever is higher.

Here we can also conceive of a situation where it will exceed the amount covered. That is why we have decided to create this Fund, the Environmental Relief Fund. Every owner shall also, together with an amount of premium, pay to the insurer, for being credited to the Relief Fund, such further amount, not exceeding the sum equivalent to the amount of premium. In fact, it amounts to a surcharge on the premium. But the additional amount will be credited to the Relief Fund. A question has been asked as to when this Relief Fund would be created. As soon as the insurance policy is taken, this amount is required to be deposited with the premium. Now, the Ordinance promulgated by the President was necessitated because of the urgency to meet the stipulation of having to take out insurance policies by the 31st of March, 1992. I thought that any delay would give the companies an excuse not to take out this insurance policy. I wanted them to definitely and positively take out this policy by the 31st March, 1992. This is what necessitated the Ordinance.

AN HON. MEMBER: Can the Minister gave the number of policies under the old Act?

SHRI KAMAL NATH: Sir, it would not be possible. I am not keeping track on a daily basis what policies are there. There are about 170 hazardous chemicals. All those handling these hazardous chemicals will be required to take this policy. So, Sir, it was considered necessary that we issue an Ordinance for these purposes.

Sir, a point raised by Mishraji was about environmental degradation. Environmental degradation cannot be included in property as it is common. It is not personal property. It is common to all inhabitants and cannot be quantified. True, Sir, there is ammonia leak or something of the kind. But that is a damage to the community. Here we are talking of interim relief to individuals. And that

is why we could not talk in such generalities where quantification is not possible.

Mishraji's point of livestock I have clarified, and I do hope he is satisfied in this regard. Sir, this point of livestock was made by several other Members also. I would only reiterate that the assessment of the property, moveable and immovable, would be made by the Collector.

Another point made by Basuji was about transportation of hazardous chemicals, why this has not been included. Sir, the transportation of hazardous chemicals is covered by the existing regulations under the Motor Vehicles Act, and a special chapter on hazardous chemicals has been added at the recommendation of my Ministry.

Sir, the compensation, the interim relief, will be determined by the Collector by summary inquiry. One of the amendments which we are bringing in today which I propose for the consideration of the House is a 30 days limit. Insurance companies would be required to pay within 30 days, to remit within 30 days, the amount to the Collector. So the Collector would be able to determine this.

Sir, the Environmental Relief Fund is being created, this will be created after the passing of this Bill by this House. The administration of it will be by rules which are being framed. Consultations are on with all concerned.

One of the points raised is why nuclear effects are eliminated. Sir, the nuclear effects have been precluded because that is the common international insurance practice. Insurance companies nowhere in the world take on nuclear accidents. So it has to be done in conformity with the insurance practices.

SOME HON. MEMBERS: All the points are covered.

SHRI KAMAL NATH: One of the points made was how money would reach the people. The money would reach the people through the Collec-

tor. Sir, the Collector is the senior-most authority in the district. He is the man on the spot. He would be the assessing authority and the disbursing authority. One of the purposes of this Bill is immediate interim relief which, I think, will be fulfilled.

Sir, I would appeal to Mishraji to withdraw his Resolution in the light of the explanations given by me, and I do hope that I shall receive the support from all Members in the passing of this Bill.

THE VICE-CHAIRMAN (SHRI BHASKAR ANNAJI MASODKAR): Mr. Mishra, are you withdrawing?

श्री चतुरानन मिश्र : उपसभाध्यक्ष महोदय, इस बिल में जो भी दिया गया है, उसको भी हम नामंजूर नहीं करेंगे, इतनी गलती हम नहीं कर सकते हैं। आखिर, कुछ तो मिला है। लेकिन मंत्री महोदय, से मैं एक बात कहना चाहूंगा। जब हमने कहा कि हवा, पानी को दूषित करता है तो उन्होंने कहा कि कम्प्यूनिटी का डेमेज। तभी हमने कहा कि गर्म जो होता है, गर्म में जब बच्चा मर जाता है तो कम्प्यूनिटी एज ए होल को गर्म नहीं होता है कम से कम इसको आपको करना चाहिए था। हमने सुना कि मंत्री महोदय फाइनंस मिनिस्टर से लडाई लड़ रहे हैं। उनकी..

THE VICE-CHAIRMAN (SHRI BHASKAR ANNAJI MASODKAR): Are you withdrawing?

SHRI CHATURANAN MISHRA: I am not pressing.

The Resolution was by leave, withdrawn.

THE VICE-CHAIRMAN (SHRI BHASKAR ANNAJI MASODKAR): I shall now put the motion moved by Shri Kamal Nath to vote.

The question is:

That the Bill to amend the Public Liability Insurance Act, 1991, as passed by Lok Sabha, be taken into consideration.

The motion was adopted.

THE VICE-CHAIRMAN (SHRI BHASKAR ANNAJI MASODKAR): We shall now take up clause-by-clause consideration of the Bill.

Clause 2 to 8 were added to the Bill.

Clause 1 the Enacting Formula, and the Title were added to the Bill.

SHRI KAMAL NATH: Sir, I beg to move:

That the Bill be passed.

The question was put and the motion was adopted.

THE VICE-CHAIRMAN (SHRI BHASKAR ANNAJI MASODKAR): There is a request by Shri Kalmadi. His Special Mention is there. What is the sense of the House?

SOME HON. MEMBERS: Yes.

THE VICE-CHAIRMAN: All right, the House is in a mood to listen to you, Shri Suresh Kalmadi.

SPECIAL MENTIONS—Contd.

Privatisation of ITDC hotels

SHRI SURESH KALMADI (Maharashtra): Sir, my Special Mention relates to a news item in the press a couple of days back which suggests that 8 of the ITDC hotels are being moved into the private sector with foreign collaboration, and that 6 foreign collaborators have been short-listed and a decision will be taken within one week. Sir, besides this, there is a move for the other 10 ITDC hotels also to go in for foreign collaboration. The *modus operandi* is that 40 per cent would be with the ITDC, 40 per cent would be with the foreign collaborator, and 20 per cent would go to the employees and staff and two financial institutions. Sir, I think, this is a very wise step. The

ITDC hotels have always been starved of funds, and they have not been able to carry out their innovations, and the standard of the hotels has dropped. Now with foreign collaboration, I think, this will also add to a lot of tourism.

Sir, basically the job of the Government and the ITDC is to create infrastructure in the country. And out of Rs. 100 or Rs. 150 crores which will be realised by this transfer to the foreign collaboration, I think, infrastructure all over the country, specially in the coastal areas, should be encouraged. The job of the ITDC is, firstly, to create infrastructure in the country, and secondly to go in for areas where the other 5-star hotels are not stepping in or the others are not coming in to establish Janata Hotels. The ITDC must set up a few Janata Hotels in various places. I think, the ITDC should take it upon themselves to ensure a lot of foreign traffic coming from outside the country to India. They should set up tourist places all over the world and make sure that tourist traffic comes to India. While I welcome this move, I do have the consideration of the employees at heart. The employees of the ITDC should be looked after; they should not be thrown to the wind; they should not be retrenched, and they should continue to remain employed, and if at all they are to be removed, it should be under the golden handshake scheme. I hope the Government will keep it in mind. I welcome this step and feel that this move to privatise ITDC is a step in the right direction.

श्री सच प्रिय गौतम : मैं इस स्पेशल
मेशन से अपने आप को संबद्ध करता हूँ :

SHRI JOHN F. FERNANDES (Goa): While I associate with what the hon. Member has said, I want to say something about Goa. We do not have ITDC hotels in Goa even though it is the second important tourist place in the country. Now that think, this is a very wise step. The