

[Shri B. P. Basappa Shetty.] further production of coffee will hamper the prices. To keep up the stability of the coffee prices I do not think the Government encourage this because the world production of coffee is on the increase and they are throwing the surplus coffee into the sea or are burning it. When that is the state of affairs, when the cost of production is going up, unless they restrict the further growth of coffee in our country, there is no bright future for our coffee. We must also find a home market for our coffee. All the coffee is being exported. Our Coffee Houses are closed. We must depend on our home market for our coffee. That way the Government must encourage. Now the right of franchise must be given to every State. Let them allot to the different States a certain number of seats.

SHRI N. KANUNGO: I have nothing more to reply than what I have already done.

MR. DEPUTY CHAIRMAN: The question is:

"That the Bill be passed."

*The motion was adopted.*

The House stands adjourned till 2-30.

The House then adjourned for lunch at one of the clock.

The House reassembled after lunch at half-past two of the clock. MR. DEPUTY CHAIRMAN in the Chair.

# THE MATERNITY BENEFIT BILL, 1961

THE DEPUTY MINISTER OF LABOUR (SHRI ASID ALI): Sir, I beg to move:

"That the Bill to regulate the employment of women in certain establishments, for certain periods

before and after child-birth and to provide for maternity benefit and certain other benefits, as passed by the Lok Sabha, be taken into consideration."

Sir, hon. Members will recall that the provisions of the original Bill were discussed in this House in December last year and then it was remitted to a Joint Committee. The points made in that debate were considered by that Committee and its report was placed before the House in February of this year. Hon. Members would have noticed that the Joint Committee made a number of improvements in the Bill. Its scope has been enlarged and the rate of minimum benefit raised. The inclusion of incentive bonus in the definition of wages would also add to the quantum of benefit. Again, the average daily wage would now be calculated on the basis of three months instead of twelve, as was originally proposed. This is also to the advantage of the beneficiaries. The qualifying period has been brought down from 240 days of employment to 160 days of actual work.

An attempt has also been made to provide some protection to the child in the event of the mother's death in child-birth and the provision regarding the protection of employment during pregnancy has also been strengthened. Sir, I am sure the House will appreciate that the changes made are all progressive and I commend the Bill as passed by the Lok Sabha, for consideration.

*The question was put and the motion was adopted.*

MR. DEPUTY CHAIRMAN: We shall now take up the clause by clause consideration of the Bill. There are no amendments.

*Clause 2 to 30 were added to the Bill.*

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

SHRI ABID ALI: Sir, I beg to move:

"That the Bill be passed."

*The question was proposed.*

DIWAN CHAMAN LALL (Punjab). Sir, with your permission, I would like to say a few words regarding this Bill. I would first of all like to congratulate my hon. friend, the Deputy Minister of Labour, on bringing this measure before this House, it having passed through the Lok Sabha. It is a measure which in effect, carries important provisions for the benefit of women employed in industries. The provisions are obviously a little more modern than the provisions of any measure previously passed by us and the compensation that is permitted or the payments that are permitted or the maternity benefit, that are given have been liberalised, and I am indeed very happy to note that they have been liberalised.

As you are aware, Sir, there has been a tendency to restrict the employment of women, particularly as it was found that the employment of women in mines was detrimental to their health. Therefore, an attempt was made very successfully to see that no woman was any longer employed underground. The obvious reason behind it was not merely because of the damage done to the health of the woman, but the possible effects on and damage which would be done to the future generations that are born to that woman. Therefore, when we talk about the grant of maternity benefits to women employees and workers in industries, we also keep the very same principle in view, namely, that the future generations that are born to the working classes among women should be healthy and their lives and the health

of the women employed in industries should be protected. Now, there may be a tendency on the part of certain unenlightened employers to restrict the employment of married women, women who are likely to be affected by this measure, because of the slight financial strain that may be experienced by such unenlightened employers. But I do hope, Sir, that no such attempt would be made by any employer against women employed in industries and that a patriotic view would be taken by all employers and that no restrictions would be placed upon the employment of women.

In regard to the provisions of this measure, Sir, as you will notice, penalties have been imposed in respect of any violations of its provisions. Inspectors have to be obviously employed and those who are guilty of any obstruction of any Inspector shall, according to clause 22,

"be punishable with imprisonment which may extend to three months, or with fine which may extend to five hundred rupees, or with both."

But no cognisance of an offence can be taken under this Act—

"after the expiry of one year from the date on which the offence is alleged to have been committed and no such prosecution shall be instituted except by, or with the previous sanction of, the Inspector."

The Central Government has been given power under clause 25 of this measure to give such directions as it may deem necessary to the State Governments regarding the carrying into execution of the provisions of this measure and the State Governments are called upon to comply with such directions. This principle is a healthy sign, namely, that the control over the effectiveness of this measure will rest in the hands of the

[Diwan Chaman Lall.]

Central Government at all stages and I am very happy to find that this provision has been made available in this measure. Under clause 26 power is given to Government to exempt certain establishments if it is satisfied that those certain establishments are giving concessions or benefits to the working women which are not less favourable than those provided in this Act. If the Government finds it necessary to so exempt, it may, by notification in the Official Gazette, exempt such establishments from the conditions and restrictions that have been laid down in this particular measure.

I now come to the definitions clause which I believe is wide enough as the measure has come out of the Select Committee.

Clause 5(1) says, "Subject to the provisions of this Act, every woman shall be entitled to and her employer shall be liable for, the payment of maternity benefit at the rate of the average daily wage for the period of her actual absence immediately preceding and including the day of her delivery and for the six weeks immediately following the day." At this present stage, Sir, I think it is liberal enough and I hope trade unions throughout the country will take the fullest advantage of this measure to see that the fullest protection is given to the women employed in industry.

Once again, I congratulate the Government for having brought forward this measure.

SHRI MAHESH SARAN (Bihar): Mr. Deputy Chairman, it is really very gratifying to note that there is a lot of improvement in the Maternity Benefit Bill. I would especially refer to clause 5 which says, "Subject to the provisions of this Act, every woman shall be entitled to and her employer

shall be liable for, the payment of maternity benefit at the rate of the average daily wage for the period of her actual absence immediately preceding and including the day of her delivery and for the six weeks immediately following that day".

Sub-clause (5) of clause 6 takes us to the point where it is very beneficial to the employees and that is, "The amount of maternity benefit for the period preceding the date of her expected delivery shall be paid in advance by the employer to the woman on production of such proof as may be prescribed that the woman is pregnant, and the amount due for the subsequent period shall be paid by the employer to the woman within forty-eight hours of production of such proof as may be prescribed that the woman has been delivered of a child." Now, Sir, during such periods hard cash is very necessary for the women and one has come across great difficulties that face women at such times because of lack of funds. Therefore, Sir, the measure which says that money will be paid in advance by the employer to the woman on production of such proof as may be prescribed that the woman is pregnant is very welcome.

Now, Sir, there is one other provision which is very welcome and that is contained in clause 8. It is said here, "Every woman entitled to maternity benefit under this Act shall also be entitled to receive from her employer a medical bonus of twenty-five rupees, if no pre-natal, confinement and post-natal care is provided for by the employer free of charge." We find that in many places no arrangements exist for maternity benefit because there are no hospitals and things of that sort. Therefore, Sir, it is very gratifying to note that a woman will get Rs. 25 if no pre-natal, confinement and post-natal care is provided by the employer.

These are very welcome clauses and I congratulate the Minister for having brought forward such a measure.

SHRIMATI JAHANARA JAIPAL SINGH (Bihar): Mr. Deputy Chairman, limited as the scope of the Bill is, it is to be welcomed in that it is a step in the right direction. While we boast of the status our women have had culturally and socially, in the economic sphere very little thought has been given to improving the conditions of their employment. Women who have to work have the same right, in fact more right, to be protected against exploitation which ignores biological facts. The future destiny of the child is always the work of the mother. All our plans to build dams, factories and the like will become meaningless and futile, if motherhood is neglected. I would even venture to say that our whole future depends upon how we provide for our women, whether they have to work for their living or not.

While I welcome this Bill, I regret I must point out that there are some weaknesses in it. The other House has already approved of the Bill. I hope we shall show there is much room for improvement of the Bill. I do think the scope of the Bill should not have been limited. It is said that the States may extend the scope of the Bill with the approval of the Central Government. Is this not wishful thinking? The employers will resist this Bill. They will say that the burden of this Bill will cripple development. The plantations did the same thing when legislation was enacted to house the workers. The colliery owners have no conscience about employing women. Go to Jamshedpur and you will find women employed at night. If you ask questions, you will be told that the contractors are doing this. Why are the contractors there? In the mines and quarries in Jharkhand you will find Adivasi women doing the work of men, carrying heavy loads. Very often I have seen them going up and down slopes in advanced stages of pregnancy. Every employer will tell you that the Adivasis are hard workers but he is not worried about the health of the worker.

At this stage of the debate, I would look at some of the provisions of the Bill. I find that no provision has been made for miscarriage earlier than four months as very often happens. I am not here interested in the question of legal or illegal aspects but very often a woman does lose a baby before four months. Why have no provisions been made for this?

We have been hearing so much about family planning. This Bill, I thought, would have acknowledged the vital problem of family planning for India. All our Plans are going to break unless we mean business in regard to family planning. My own humble view is that we should decide that these benefits could accrue only in the case of the first three or four children—I myself, having four children, think that four is a very suitable number. We can make all our calculations strictly round whatever figure we agree. The employers also will behave because every employer will know exactly how much of his finances would be involved or he may find that in the long run it is better to employ a man even if initially the women's wages are less. This again will go against women workers.

In clause 5 I find 160 days prescribed as the qualification to make women eligible for these benefits. I would suggest to the hon. Minister to please ensure that this is not circumvented. The employers in this country are adepts and experts in meeting the provisions of law. They will retrench or dismiss women just as they are about quality for the maternity benefit and re-employ them a few days later. This may sound harsh against the employers. Sir, you must believe me when I say that this kind of circumvention is very common in the industrial area from which I come.

In clause 8 I am surprised to see that we have thought that a sum of Rs. 25/- is enough as medical bonus. I would suggest that it should not be

[Shrimati Jahanara Jaipal Singh]  
less than Rs. 50/- or one month's salary, whichever is higher. If this Bill is brought to bear on educational institutions also—as I hope it will be—then a teacher who is earning more should be able to get more than Rs. 25 for her maternity benefit.

Going further we come to clause 11 which deals with 'nursing breaks'. This shows no imagination. Where is the child going to be while the mother is working? Admittedly the larger establishments and bigger factories have creches; but what about smaller factories that employ fewer women? The State must provide creches. This may sound expensive but the problem has to be faced unless women, child-bearing women, are to be debarred from employment in smaller establishments. To digress a bit, this is something which the Central Social Welfare Board with ample funds at its disposal might concentrate on.

Clause 14 deals with inspectors. I do hope that only women inspectors will be appointed and that they will be old enough to command the confidence of the women they have to serve.

When we come to the clause relating to penalty for infringement of these provisions, we find that it is not deterrent enough. The employer should not be allowed only to pay the fine. He should be just sent to jail. Otherwise they will just pay the fine and get out of it.

I am fully aware of the fact that we are far behind in employment standards. Thanks to Air India International, I visited Japan early this year. In the short time I was there, I tried to find out as much as I could about the conditions of employment of Japanese women who were working in nearly every field of activity. I am surprised that the Planning Commission has given little or no thought to the development of ancillary industries which could employ women on a large scale without upsetting their

family responsibilities. We hear much about the cottage industries. Unfortunately, our planners seem to think of textiles only in this context. There is a vast scope for non-textile products in the cottage industries sphere where woman can be gainfully employed.

In concluding I would repeat my support to this Bill though its sphere is limited but I would urge the hon. Minister to come forward with another Bill more comprehensive in scope, ambition and purpose.

Thank you.

SHRI P. C. MITRA (Bihar): Mr. Deputy Chairman, Sir, I am thankful to the Government for bringing forward this progressive piece of legislation, but I want some clarification on certain points.

Firstly in sub-clause (2) of clause 6 there is a provision that in the case of a woman who is . . .

MR. DEPUTY CHAIRMAN: We are in the third reading stage. You cannot go into the details now.

SHRI P. C. MITRA: I only want to know whether the wages for the period six weeks before and six weeks after delivery will be given to the woman worker and I also want to know what will be the case of a woman who gives due notice of an expected delivery but the period of six weeks expires without a delivery taking place. Will she be required to join duty just after six weeks of absence if no delivery takes place within that expected period? There are many women in our country who cannot calculate the date when the delivery will take place. So will it not be possible for a regular medical examination to be made of pregnant workers so that they can know when the delivery will take place. I know there is some such provision already but hardly any aboriginal woman worker can give notice beforehand

and only after delivery she can get whatever benefit is allowed to her by law.

Then there is a provision which says that in case there is no nomination by a pregnant woman worker and in case she dies without receiving the benefits, it shall be paid to her legal representative. Will that legal representative require a succession certificate for the purpose or who will decide it? These are the points on which I would like to have clarification from the hon. Minister.

SHRI ABID ALI: Sir, it is good that some of the hon. Members who have participated in this debate have been able to throw more light with regard to the particular provisions referred to in the discussion. I am thankful to them all.

Only I would like to say a few words with regard to the suggestions made particularly by the Lady Member. I may submit that there is already an Act which covers women workers in the mines. It will be found mentioned in clause 30 on page 11 of the Bill. It is called "The Mines Maternity Benefit Act, 1941". After this Bill is passed and after it comes into force, that Act will be repealed. The women in the mines are already receiving benefits and they will continue to receive benefits on the basis of the provisions which have been made here.

With regard to dismissal from service during the course of pregnancy, they have been given ample protection. So far as family planning is concerned, this particular measure cannot trespass into other fields. It is a subject under the Health Ministry and it is good that the Health Minister is here. This matter was referred to in the other House also and I hope that he will take note of it.

THE MINISTER OF HEALTH (SHRI D. P. KARMARKAR): I shall look after it.

SHRI ABID ALI: Thank you.

Now, miscarriage includes abortion. That is both the medical opinion as well as legal opinion. Miscarriage covers both. The Lady Member from the other House who presided at the Select Committee meeting is also a medical practitioner and she said that this gave sufficient protection both in the matter of miscarriage and in abortion. Therefore no change is necessary with regard to that.

About separate inspectorate, I do not think there will be women employees only. Of course, women are also entitled to be employed as inspectors; they are not debarred but I do not think there will be a separate inspectorate for administering this particular enactment. There are several inspectorates in the States and also at the Centre and one of them may be entrusted with the duties which this Act imposes on the inspectorate.

About the question raised by my friend here, I may submit that all reasonable protection is given to women workers and about the calculation of the period also, examination by medical men will be there. There are already maternity Acts in force in various States and the difficulty which the hon. Member has in mind has not been noticed so far. Certainly, we will be helpful wherever necessary. Thank you, Sir.

MR. DEPUTY CHAIRMAN: The question is:

"That the Bill be passed."

*The motion was adopted.*