

[Shri D. P. Karmarkar.]

(i) Report (1953) of the Tariff Commission on the continuance of protection to the Calcium Lactate Industry.

(ii) Government Resolution No. 8(5)-T.B./53, dated the 31st October 1953.

(iii) Corrigendum No. 8(5)-T.B./53, dated the 7th November, 1953, to the Resolution referred to in item (ii) above.

[Placed in Library, see No. S-157/53 for (i), (ii) and (iii).]

NOTIFICATION UNDER THE INDIAN TARIFF ACT, 1934.

SHRI D. P. KARMARKAR: I beg to lay on the Table a copy of the Ministry of Commerce and Industry Notification No. S.R.O. 1904, dated the 10th October 1953, under sub-section (2) of section 4A of the Indian Tariff Act, 1934. [Placed in Library, see No. 156/53.]

ORDINANCES UNDER ARTICLE 123 (2)

(A) OF THE CONSTITUTION

THE MINISTER FOR PARLIAMENTARY AFFAIRS (SHRI SATYANARAYAN SINHA): I beg to lay on the Table a copy of each of the following Ordinances under sub-clause (a) of clause (2) of article 123 of the Constitution:—

(i) The Employees' Provident Funds (Amendment) Ordinance, 1953 (No. 1 of 1953). [Placed in Library, see No. S-143/53.]

(ii) The Rehabilitation Finance Administration (Amendment) Ordinance, 1953 (No. 2 of 1953). [Placed in Library, see No. S-144/53.]

(iii) The Sea Customs (Amendment) Ordinance, 1953 (No. 3 of 1953). [Placed in Library, see No. S-145/53.]

(iv) The Banking Companies (Amendment) Ordinance, 1953 (No. 4 of 1953). [Placed in Library, see No. S-146/53.]

Bill, 1953

(v) The Industrial Disputes (Amendment) Ordinance, 1953 (No. 5 of 1953). [Placed in Library, see No. S-147/53.]

(vi) The Dhooties (Additional Excise Duty) Ordinance, 1953 (No. 6 of 1953). [Placed in Library, see No. S-148/53.]

PAPERS UNDER THE TARIFF COMMISSION ACT, 1951

SHRI D. P. KARMARKAR: Sir, I beg to lay on the Table a copy of each of the following papers under sub-section (2) of section 16 of the Tariff Commission Act, 1951:—

(i) Report of the Tariff Commission on the continuance of protection to the Fountain Pen Ink Industry.

(ii) Government Resolution No. 42(1)-T.B./53, dated the 14th November 1953. [Placed in Library, see No. S-167/53 for (i) and (ii).]

THE EMPLOYEES' PROVIDENT FUNDS (AMENDMENT) BILL, 1953

THE DEPUTY MINISTER FOR LABOUR (SHRI ABID ALI): Sir, I move that the Bill to amend the Employees' Provident Funds Act, 1952, be taken into consideration.

The Employees' Provident Funds Act, 1952, which is sought to be amended by this Bill, fixes the principles and broad essentials of a provident fund for workers and leaves the details to be worked out under a scheme. A scheme was accordingly framed for the establishment and administration of the Employees' Provident Fund and brought into operation by stages. It has been enforced in its entirety with effect from the 1st November 1952. The working of the Act and the Scheme has brought out certain defects and deficiencies in the legislation. Legislation in respect of an entirely new activity covering large numbers of workers in

Bill, 1953

several industries scattered throughout the country can never be perfect in the very first stage itself and requires constant improvement based on actual experience. A period of trial and error is inevitable. The defects noticed are primarily administrative in character and require early rectification.

The Act applies in the first instance, to certain factories engaged in the six industries specified in Schedule I. The Central Government have power to add other industries to the Schedule, but unless a whole industry is added to the Schedule, it is not possible to apply the Act to any particular factory of that industry even though both the employer and the workers of the factory are agreed on the need to be covered by the Scheme. Several instances have come to notice in which employers and employees of factories, not covered by the Act, have expressed their desire to participate in the Scheme. It is embarrassing to Government to have to reject such requests. The proposed sub-section (4) to section 1 makes provision for applying the Act to any factory where the employer and a majority of the employees desire to join the Fund. Section 5 of the Act requires that the Central Government should specify the factories or class of factories to which the Scheme shall apply. The factories or class of factories were not specified in the Scheme on the assumption that it would apply to all factories engaged in industries covered by the Act. This view is not free from doubt and it has been considered desirable that the factories or class of factories covered by the Scheme should be specified therein. The amendment of the Scheme is under consideration and a suitable provision will be incorporated therein. Such a provision will not however, be sufficient by itself, it is necessary that such provision should have effect from the date of commencement of the Scheme. Retrospective operation may be necessary also for the provisions regarding collection of arrear contributions and administrative charges from factories.

It is necessary to impose conditions retrospectively in cases where individual employees have opted out under the provisions of the Scheme. The amendment, to section 5, therefore, authorises the Central Government to provide that any provisions of the Scheme may come into force either retrospectively or prospectively.

Under section 8 of the Act, the appropriate Government has power to recover, as arrears of land revenue, contributions or administrative charges payable by the employer in respect of a factory to which the Scheme applies. They have, however, no power to recover any damage or arrears or accumulations of previous provident funds from the owners of factories. There is also no power to recover any arrears relating to provident fund from employers whose factories or employees have been exempted from the operation of the Scheme. It is necessary that the appropriate Government should have power for recovering all such arrears through summary process. Section 8 has been recast with a view to securing such powers of recovery for the appropriate Government.

The Employees' Provident Fund constituted under the Scheme is deemed to be a recognised provident fund under the Income Tax law. A recognised provident fund has certain concessions in the matter of payment of income-tax. Sub-section (2) of section 58C of the Income-Tax Act provides that if there be any repugnance between the provisions of the Income Tax Act and rules thereunder and those of a recognised provident fund, the provisions of the recognised provident fund shall be void to the extent of repugnance. There are certain provisions in the Scheme which are repugnant to those of the Income Tax law. There is some doubt whether the provisions of section 58C(2) of the Income Tax Act will affect the Scheme and whether the repugnant provisions of the Scheme will be rendered infructuous. It has been considered de-

[Shri Abid Ali]

sirable that the doubt should be set at rest by protecting the Scheme against the effects of repugnance. Section 9 of the Act is proposed to be amended so as to specify that such repugnance will be of no avail and that the provisions of the Scheme will prevail.

- Employees subscribing to the Employees' Provident Fund are eligible for certain benefits under sections 10 and 11. Under section 10 any amount standing to the credit of a member cannot be assigned, charged or attached for any debt of the member. Any amount standing to the credit of a nominee of the member is free from all liabilities incurred by the member or the nominee before the death of the member. Under section 11 the provident fund dues under the Scheme have a prior claim on the property of an insolvent employer or the assets of a company which is being wound up. Such benefits are not available to employees of factories exempted under section 17(a). It would be fair to extend these benefits to exempted employees also. The amendments proposed to sections 10 and 11 of the Act seek to achieve this object.

Inspection of factories is essential for the proper implementation of the Scheme. It is necessary to inspect not only factories covered by the Scheme but factories that are exempted and others that are likely to come under the Scheme. An Inspector should also have powers to inspect factories in order to find out whether it comes under the purview of the Act and has evaded inclusion or whether an exempted factory is abiding by the conditions imposed thereon. There is no provision under the Act for inspecting exempted factories or for inspecting factories with a view to ascertaining whether the Act applies. Some employers have taken advantage of this lacuna and are challenging the right of Inspectors to visit their factories. The amendments to section 13 aim at removing this lacuna.

Statutory obligations should no doubt entail statutory penalties in serious cases, but not in every case. Moreover, the penal provisions of the Act are neither comprehensive nor adequate. There is no punishment for an employee who in contravention of the provisions of section 12, reduces wages or benefits. There is no provision for punishing a company if it is guilty of violation of the provisions of the Act or of the Scheme. There is also no punishment except prosecution for wilful delay in payment of provident fund dues. The penalty of prosecution is no doubt a drastic one and should be resorted to only in exceptional cases. At the same time, the State must have other measures of compulsion in order to be able to run the Scheme in a proper manner. It is considered desirable to impose a suitable pecuniary penalty on employers who default in payment of provident fund dues. A sub-section is proposed to be added to section 14 to penalise offences for which no specific penalty has been prescribed. A new section has been proposed for dealing with offences committed by companies. Another new section is proposed to be added for authorising the appropriate Government to recover damages for delay in payment up to 25 per cent of the amount of arrears.

There is no provision in the Act or the Scheme for excluding from the Scheme any particular factory in an industry covered by the Scheme. The Act provides that while framing a Scheme any class of factories covered by the Act could be kept out of the purview of the Scheme. But after a factory comes under a Scheme, it can be exempted under section 17 only if it confers on its employees equal or superior benefits. In other words, once a Scheme is applicable to a factory, it has to provide for provident fund or similar benefits. During the course of implementation of the Scheme it has been found that some of the factories are economically too weak to bear the liabilities of the Act.

Exemption from liability under social legislation is generally undesirable but where the alternative is closure of the establishment for economic reasons, the question of exemption must take on a different aspect. It is, therefore, necessary that the Central Government should have power to grant temporary exemptions to any class of factories from the operation of the Act. A sub-section has been added to section 16 for vesting such power in the Central Government.

Exemption provisions under the Act call for elaboration and some rearrangement. The Act provides for exemption of a factory only if it has a suitable provident fund scheme. It provides for exemption of a class of employees if they are in enjoyment of benefits in the nature of old age pension or gratuity. Under the Scheme an individual employee can be exempted if he is in enjoyment of provident fund benefits of a certain type. The basis of exemption need not be one benefit or the other but the totality of all provision for old age. Exemption of a class of employees is appropriately a matter for the Scheme. There is no provision for safeguarding the interests of an employee or class of employees after exemption is granted. Section 17 has been redrafted to remove these lacunæ.

Four changes have been made in section 17. Firstly, a new sub-section has been added for allowing exemption to a factory even if it has gratuity or pension schemes. Secondly, the provision for grant of exemption to a class of employees has been assigned to the Scheme. Thirdly, provision has been made for exempting an individual employee or a class of employees on the basis of total old age benefits. Fourthly, the rights of employees or class of employees exempted under the Scheme have been protected. An employer cannot without the leave of the Central Government reduce the total quantum of benefits. The Central Government may impose conditions regarding maintenance of accounts, submission of returns, inspec-

tion facilities, investment and inspection charges on employers whose employees are granted exemption individually or as a class.

The main difficulty in implementing the Act and the scheme rests on the question of applicability. Questions have frequently arisen as to whether a factory comes under the purview of any of the industries specified in Schedule 1 of the Act. These arose, for instance, on account of doubts regarding the scope and meaning of terms like 'Iron and Steel', 'electrical, mechanical or general engineering products', 'textiles' and 'paper'. It is difficult to define these expressions but not so difficult to explain them. Statutory explanation of these expressions is calculated to help in removing doubts.

Disputes have also arisen whether 50 or more persons are employed in a factory or whether it has completed three years of existence from the date of its establishment. In the absence of any provision regarding the deciding authority, these matters have to be decided by a Court of Law. Besides being expensive it takes a long time to get such doubtful points decided by a Court of Law. While simple points remain undecided, the working of the Scheme gets held up. It is essential to designate an authority that can decide such questions of fact. Schedule I is proposed to be amended with a view to explaining the doubtful points. A new section is proposed to be added to authorise the Central Government to decide certain questions of fact.

This, in brief, is the purport of the amending Bill. There are a few drafting or minor changes which I have not touched upon. They are common to many enactments and call for no special explanation.

I request the House to take the Bill into consideration.

MR CHAIRMAN: Motion moved.

"That the Bill to amend the Employees' Provident Fund Act,

[Mr Chairman.]

1953, be taken into consideration."

SHRI C G K REDDY (Mysore): The hon. Minister said by amendment of section 17, exemption may be granted to a factory which was in doldrums. But, so far as I can see, the substitution of a new section, No 17, does not say that. Is there any other section that does that?

MR. CHAIRMAN: Shri S N Mazumdar

SHRI S N MAZUMDAR (West Bengal): Mr. Chairman, this is an amending Bill and the hon the Minister for Labour, while moving this Bill has just said that the Government have come forward with this amending Bill in the light of the experience gathered in the functioning of the Act. In his opinion, the defects found out are only administrative. I do not subscribe to this view. But before I proceed to elaborate my own views on this Bill, I should like to say that the Government could have come forward while moving this Bill, with a report of the actual working of the Employees' Provident Funds Act. Because, it is one year after the Act was brought into operation that we have met to discuss the amending Bill.

According to the reports of the Labour Ministry, the Act applies only to 1,500 factories and its benefits extend to only 12 lakhs of workers, and the approximate amount of general contribution is about Rs 10 to 12 crores a year. Apart from the fact that the Act was very restrictive in nature, it restricted its operations only to the six large industries mentioned in Schedule I. That restriction has no justification. I shall come to it later on.

Firstly, the Act was itself very restricted in character, secondly it was restrictive in its operation. The tendency has been to grant more exemptions because in those six industries which are included in the first Schedule, the total number of factories will be nearly 7,000. And leaving a

wide margin for factories which employ only less than 50 workers, still, there is left a very large number of factories outside the application of this Act—whether due to the grant of exemptions or whatever reasons, I do not know. As regards the number of workers in those groups of factories, the six industries referred to, their number will be far more than 12 lakhs because, according to information supplied by the Labour Ministry, the Textile Industry alone employs nearly 12 lakhs of labourers. So, it seems that in the very scope of the Act there was the necessity for the application of the Act to a large number of labourers, and this has not been done.

As regards exemptions I submit that exemptions were granted without a proper enquiry into the conditions, whether the exemption was justified or not. In jute and other industries in West Bengal with British capital for example, exemptions were granted without any proper enquiry into whether any proper provident fund scheme is in operation there or whether there are any properly constituted Board of Trustees. This fact, namely, that exemptions were granted without any proper enquiry was practically admitted in the last sitting of the Board of Trustees for these provident funds. There, this question was raised by the employees' representatives, irrespective of any political or party affiliations, and it was admitted from the side of Government and the Chairman that there was scope for enquiry which is, in fact a tacit admission that without proper enquiry exemptions were granted.

Secondly, one of the amendments which has been brought forward in this Bill provides for the provision of inspection of the factories. This is a welcome amendment, no doubt, that was not there before. That also proves that there was no proper enquiry before exemptions were granted. Now, I shall come to another aspect of the matter.

The hon Minister has stated that there were certain lacunæ in the original Act and employers have taken

advantage of them. Not only that, Sir, it is a well-known fact that employers all over India are resorting to various devices to defeat the purpose of this labour Act and others which give some benefit to the labourers. As for example, one of the conditions which are there seem to apply to an employee who is in continuous service. By continuous service is meant one who has put in such and such number of days' of service. It is well-known that employers resort to various measures like arbitrary discharge and arbitrary transfer of permanent workers to the list of temporary workers and thus see that the benefits are not actually given to them. So, this fact is not unknown. This question was raised by labour representatives in various conferences in the session of Standing Committees. So, I should have expected the Government to come forward with a report of these measures and tell us what exactly is at the back of the mind of Government to find out ways and means of stopping this device of the employers, but this has not been done.

As regards the original Act, Sir, as I have already said, it was a very restricted measure in its character. There are 29½ lakhs of factory workers according to the information provided by the Labour Ministry; but by restricting the operation of this Act only to the six industries detailed in the Schedule, a large number of factories has been left outside the scope of the Act.

Secondly, Sir, I do not find any reason why other industries should be left out of this Schedule. There are large industries like chemicals, plantations, etc. Lakhs of workers are employed there. There are other large factories which employ more than 50 labourers. Even in the coir industry there are factories which employ 100 labourers or more. So, Sir, I do not at all understand why other industries are to be left out of this Schedule. Then, Sir, factories owned by Government or local authorities are also exempted from the operation of this Act. I do not find any justification for this.

There are several reasons for this statement of mine. When in 1951 the Employees Provident Fund Ordinance was promulgated, there was no provision in that ordinance for exempting Government factories. It was later on included. The reason given by the Government spokesman was that in Government factories there were already schemes of provident fund working. In this connection I should like to quote from the report of the Labour Ministry for the year 1951-52. There it has been said "that in many factories....". "Many" does not mean all. Mr. Kapoor and Mr. Khandubhai Desai also raised this point in the Provisional Parliament.

Now, Sir, I shall come to other aspects as regards the working of this Act itself. The workers have many grievances. The scheme which has been drawn up is very defective. In the original Act "an employee" has been defined as one who is employed either directly by the employer or through contractors. But in the scheme workers employed by or through contractors have been excluded from the benefits of this Act. Sir, the workers employed by contractors are the worst sufferers in India today. And then we talk of decasualisation of labour schemes etc. I cannot understand, Sir, why these employees should be deprived of the benefits given by this Act. Then, Sir, we find that an injustice has been perpetrated on the employees because in the case of premature withdrawal, in the case of premature retirement, retrenchment and unemployment for one year etc., the employer's portion of the contribution is forfeited. I submit, Sir, that this is absolutely unjustified, because according to the concept of social security—provision for old age pensions is a part of social security—it is the right of the labourers to be secured against the hazards arising out of disability, out of illness, out of unemployment, and out of infirmity in old age. The two basic principles of social security are that the employees will not pay any contribution and that the funds will be administered by the representatives of labourers at all levels. It is not a boon nor a gift of

Bill, 1953

[Shri S. N. Mazumdar.]

mercy to them either by the Government or the employers. The labourers after long struggles have got at least those rights recognised. I shall not go into the details, but anticipating the arguments of the hon. Minister that on economic grounds—the economic situation of India—it would not be possible to accept this principle or translate this principle into practice, I am going to reply to that point, although I am not sure whether he will accept my principles. In Peoples' China, in 1949, only two years after the Peoples' Republic was established, the Labour Insurance Regulations were brought into force. In those Regulations there is no provision for employees' contribution and the funds are administered at all levels by labourers' representatives. Sir, it is true that I do not expect this principle to be accepted by the Congress Government, let alone their translating this into practice. But at least I expect that what they have passed as a law, should work to the benefit of the labourers. Sir, I am not going to criticise simply from the point of view of criticism, because you will find that many of the amendments we are going to support. But some of them which are definitely going to work to the detriment of the labourers we are going to oppose very strongly. Sir, this withdrawal of employers' contribution has no justification. It has been provided in the Scheme that this will not be returned to the employer but will be retained in the fund. If that is so, then I would like to know for what purposes that sum which is thus retained will be utilised. Why should not that amount or the sum which was paid for the worker's benefit be handed over to him? Then, Sir, there should be some provision for withdrawals, for small loans, for short periods which may be refunded later on. And actually I have got this report from many unions. Sir, that in many factories formerly there were provisions—though not written or legally recognised—for the employers advancing certain small

loans to the labourers. But now that this Act has been put into operation, the employers are trying to defeat the very purpose of this Act and they have stopped all loans on the count that now there is a Provident Fund Act.

Now, Sir, lastly, as regards the amendments, I shall speak on them in detail. But one of the amendments we are going to oppose very strongly. That is the amendment which seeks to give the Government powers to exempt factories on grounds of financial difficulties. This is a very vague and wide power and a very wide provision, advantages of which would be taken by the employers to avoid the putting into practice of provident funds schemes in their own factories.

As I said, if a factory is in financial difficulties, then the labourers who belong to that factory will be the worst sufferers, and this was the barest minimum benefit provided for them for certain contingencies. So, there is no justification to deprive them of these. I do not admit that any employer will be unable to make his contribution, because this is one of the minimum things which a factory should do if it is to justify its existence; so there should be no justification for not applying this scheme to any factory on grounds of financial difficulties, because the contributions are not going to be very much. Secondly, assuming that there are certain cases where due to genuine difficulties it is not possible for the employer to pay his contributions, then the Government should pay the employers' share so that the labourers may not be deprived of the benefits to which they are entitled according to this Act.

As regards the other provisions of the Act, I think I shall discuss them in the course of the discussion on the amendments.

SHRI RAJENDRA PRATAP SINHA (Bihar): Mr. Chairman, I need hardly emphasise the necessity of strengthening the social security measures in the interests of stabilising our economy and increasing production. Labour must have a sense of security before

they can give their best to the cause of production. If the workers' minds are to move in new lines, new hopes and assurances must be given to them. Awareness of change of its obvious unfolding, is necessary to import the needed drive. This psychological change can only take place if we provide social security measures, enlarge their benefits to all the workers of the land, and administer them with vigour and efficiency. We have several social security legislations in our country like the Workmen's Compensation Act, the Maternity Benefit Acts, the Employees' State Insurance Act, etc. All these legislations give benefit to the worker while he is in employment or when he is disabled or dies as a result of injury during employment. Then the other class of social security legislations are the Employees' Provident Fund Act and the Coalmines Provident Fund Act. Now, this set of Acts provide benefit at the time of the retirement of the worker or to his dependents when he meets a natural or premature death. Sir, I would like to emphasise that in the absence of old age pension or unemployment insurance, we must strengthen these Provident Fund Acts by converting them into insurance or insurance-cum-provident fund schemes. What happens today is this: If a worker meets with premature death, his dependents get only the accumulated money in his provident fund account, but if we can convert this provident fund scheme into an insurance-cum-provident fund scheme, every member of this scheme can be insured so that, when he meets with premature death, his dependents can get an extra amount, if he is insured, say for Rs. 1,000 or Rs. 5,000, depending on his earning capacity. There is a scheme known as the group insurance scheme, and the premium for group insurance is practically half the premium for individual insurance. Today if a worker gets his life insured, he has to pay double premium, but if we have group insurance under these Provident Fund Acts, he will be required to pay only half the premium or he can be insured for double the amount. I would like to draw the attention of

the hon. Minister to this proposition, and I would urge upon him to investigate the possibilities of converting these provident fund schemes into insurance-cum-provident fund schemes.

Another point which was being emphasised by my friend Mr. Mazumdar is that the workers should be allowed to withdraw money from the provident fund in case they are unemployed. Now, if some kind of insurance scheme is drawn up and the premium can be paid from the provident fund collected from each member of the scheme, after a period of, say, five, seven or ten years, if a worker is unemployed, he can be given half the wages or half the salary that he was drawing for the rest of the period of his unemployment. This scheme can work both as an insurance against death and also as insurance against unemployment, if the Government converts this provident fund scheme into an insurance-cum-provident fund scheme.

The other point which strikes me is that the Government has set apart the money, which is coming by way of these contributions to the provident fund, for the labour housing scheme. I understand that the annual contribution to the provident fund scheme comes to about Rs. 12 crores. Under the Coalmines Provident Fund Scheme up to the end of December 1952, they have collected about Rs. 3 crores. Under the Five Year Plan all this money has been set apart for the labour housing scheme. I understand that the Provident Fund administration invests all this money in Government securities which go to improve the ways and means position of the Government, and which amount goes for the housing schemes. Now if the Provident Fund Scheme suggested by me is converted into an insurance-cum-provident fund scheme, the insurance would be handled by a State Corporation created to handle these schemes. This State Corporation too would invest all their incomes in the Government Securities and the allocations made by the Government for

Bill, 1953

[Shri Rajendra Pratap Sinha.]
the housing schemes need not be disturbed. I say this because the Government may think that if an insurance scheme is taken up, their housing scheme may be disturbed. Therefore I have made this submission.

Now what I feel is that we must evolve a unified machinery for the administration of all the social security legislations and the labour welfare funds. At present we have several administrations for each of these social security legislation like the State Insurance, the Coalmines Provident Fund Scheme and the Employees' Provident Fund Scheme and then we have the different administrations for the labour welfare funds. We have several Commissioners and Inspectors for the different funds and different legislations and I often find that there is duplication of work and all these inspectors and Commissioners work in the same area and practically they all visit the same factory for different work. And then there are old-time factory Inspectors. So we find that there are several inspectors, several commissioners working in the same place and in the same area. We should find out whether we could evolve a machinery which could administer all these labour legislations and welfare funds so that we could avoid duplication of work and effect some economy in the administration.

Now, we have had so far no annual reports published by the Government on the administration of the Employees' Provident Fund Scheme probably because the time that they have been working this scheme has been very short and they have not found it feasible to bring out any report. As such, I am in the dark as to how this scheme has been working. My hon friend who is in charge of this Bill has not also given us any indication of the way in which this scheme has been working. We are not sure how many workers have been brought under the purview of this Act, how many of them who are entitled to come under this Act have been exempted, and also what powers the Government have

exercised to bring under this Act other factories or industries which are not included in Schedule I; because they have powers, if they so desire to bring certain other classes of factories or industries under the purview of this Act. I understand that they have brought certain groups of workers who are not included in Schedule I—I am not aware of the figures—but I would like to emphasise that all the organized workers in whatever factory or industry they may be employed must be brought under the purview of this Act. There are large groups of workers which are well-organized and are employed by factories which are paying good profits and there is no justification why these workers should not be brought under this scheme. In the absence of any report or any indication from the hon. Minister, I am at a loss to know how far the Government have utilized their powers in granting the benefits of this scheme to other workers in other industries to which it ought to be given. In the plantations we have about 10,82,700 workers who are permanently employed. By plantation I mean tea, coffee and rubber. Then I find that in the mining industry other than coal, about 1,50,000 workers are employed. There are other industries like leather, rubber, beverage, petroleum, and food industries like sugar and Vanaspati, which are very well-organized and to which this scheme ought to be applied. I would have very much welcomed it if these industries were included in Schedule I so that it would have been easy for the administration to bring the workers engaged in those industries under the purview of this Act but in the absence of their inclusion in the Schedule, the Government should examine each industry and particularly the factories of these industries and see whether they are enjoying the benefits of provident fund and if not, they should be included in the scheme.

Then a point has been made by my friend, Mr. Mozumdar, for the inclusion of workers engaged in Government factories. He has said that there

are factories and I also know that there are Government Factories where we have not got all the provident fund facilities which are provided in this Act. There are other classes of Government factories which need our attention and I don't know what is the attitude of Government with regard to that class of Government factories. Now we have State Corporations like DVC and others who are large employers of labour. They are statutory bodies. What will be the fate of such employees with regard to this Provident Fund Act? Then there are private limited companies floated by Government, there are other classes of factories in which Government owns 49 or 51 per cent. shares. What would be the fate of workers employed in such concerns? I would like my hon. friend to throw some light. Will they be included in the Government Factories or will they be classed as non-Government factories and brought under the purview of this Act? I feel there is no justification in excluding them from the benefit of this Act and the sooner the Government makes up its mind to bring them under this Scheme, the better it is.

Now with regard to the working of the scheme, I have got to make a few criticisms and suggestions. In the scheme it was provided that every member employee will be provided with an account number and every member will be allotted a Provident Fund card on which is noted his entire account, i.e., the employer's contribution, the employee's contribution and the amount standing in his name at a particular time. The worker is entitled to inspect these cards every two months. I, however, find that the workers have a complaint that their cards have not yet been made and they cannot know the position of their accounts, although deductions have been going on from their wages and salaries. Naturally, therefore, they are apprehensive. They are ignorant people and they would like to see that their cards are made up as quickly as possible so that they might know the position of their ac-

counts whenever they want to. I understand that there have been difficulties in making up-to-date these cards for all the members. There have also been difficulties in getting calculating machines from abroad and in getting the stationery necessary for completing these cards. I appreciate that. All that I want to do here is to draw the attention of the hon. Minister to the utter necessity of expediting this work so that the workers may gain confidence in the scheme. In the long absence of any such cards, they feel apprehensive and their confidence in the scheme is shaken.

As regards the exempted factories and the excluded employees, I have to make an observation.

[MR. DEPUTY CHAIRMAN in the Chair.]

I agree with my hon. friend Mr. Mazumdar that there should be vigorous and strict control and check and examination of the books of the exempted factories. I say that besides that, there should also be a proper control and check of the excluded employees in the factories which are included in this scheme. I know there are instances where employers have taken advantage of the ignorance of the workers and they have deliberately not put the workers on the permanent roll, although they work permanently in the factories. I also know of instances where the same persons work under different names in different years. And this the employers do in order to defraud the worker and the Government and to avoid having to pay their share of the provident fund contribution. The workers also readily agree to this because they are ignorant and they are not aware of the benefits of the scheme. They prefer to have no deductions from their salaries or wages and they give their ready consent to the manoeuvrings of the employer.

All this means that this scheme needs proper publicity among the workers. The benefits of the scheme

Bill, 1953

[Shri Rajendra Pratap Sinha.] should be properly explained to the workers so that we may win their support in implementing this scheme. This can only be done if we have an efficient administration for implementing this scheme. And efficiency in the administration can come only if the staff employed by the Administration is satisfied and contented. I find that most of the staff employed by the Provident Scheme is on a temporary basis. The sword of Damocles is always hanging over their head and they do not know when they will be re-reached. They also complain that their conditions of service have not yet been announced, and they do not know where they stand. It is common knowledge that you cannot expect efficient work from discontented staff. I would urge upon the Government to expedite decisions on these matters. I know the scheme has been put into operation only a year ago; but even then, I would like to emphasise that this aspect of the question should not be lost sight of, that the staff that is entrusted with the administration of this scheme must be permanent and well satisfied. They are expected to administer a permanent Act and they cannot reconcile themselves to remaining there on a temporary basis. They are expected to administer a provident fund scheme and they feel rather dissatisfied that there is no provision for them to have provident funds. Therefore, I submit that decisions on these matters concerning the staff should be taken as early as possible in order that they may feel satisfied and secure and so give of their best to the administration of this Act.

Next, with regard to the provision for the withdrawal of money from the provident fund, I agree with the hon. Minister that there should be stringent provisions to see that the money is utilised only at the time of retirement or in emergent cases of unemployment, as I have explained earlier. My hon. friend Mr. Mazumdar wanted that there should be other occasions like sickness or disablement when permission should be granted to withdraw

from this fund. I, however, find that there is already provision for meeting the requirements of the workers at such times. We have the workmen's Compensation Act which provides some thing for the worker in the event of disablement, permanent or temporary. Then we have now enacted the State Insurance Act which will give him relief and benefit at the time of sickness.

So, Sir, I would prefer that the withdrawal should be as strict as possible but I would like that one more occasion should be allowed under the Act for the worker to withdraw from the Provident Fund. There is a provision for him to withdraw for payment of insurance premium but, what I feel is this: one or two years before the retirement, if he desires to withdraw money from his Provident Fund for constructing a residential house for himself, provision should be made in the Act for him to withdraw money for this particular work of constructing a house for himself.

SHRI S. GURUSWAMI (Madras): Sir, I rise to welcome generally the provisions contained in the Bill. The Bill is an extremely modest measure designed to set right certain administrative difficulties experienced by the Government. But, while welcoming this measure, I also desire to express my views; I share the views expressed by the two previous speakers who have devoted so much time in going in detail into the provisions of the measure. The present legislation suffers from a serious defect, namely, the large measure of exemptions provided for in clauses 16 and 17 of the Bill. The important principle of the present Bill is that Dearness Allowance shall be treated as part of wages in making contributions to the Provident Fund. By providing for exemptions in clause 16 of the Bill in favour of factories belonging to Government, whether Central or State or any local authority, great injustice has been done to the workers employed in those factories with the result that they have decided to recognise the merger of

only 50% of the Dearness Allowance with pay for purposes of contribution to the Provident Fund. That only shows that if clause 16 had not been there the injustice that has been done to the workers employed in Government factories would not have been there.

Secondly there is the dangerous practice of granting exemptions from the operation of the Act which has no precedent. Take the Factories Act, take the Workmen's Compensation Act, these two important measures do not contain any exemption in favour of factories belonging to a local authority or on the ground that the financial condition of the employer is not satisfactory. Therefore it would have been more appropriate on the part of Government to have set right this serious defect, in the present legislation, by doing away with the practice of giving exemptions provided for under the Act.

I also share the view expressed by the previous speaker that the benefits provided for the contributions made by the workers under this scheme are not equal to the benefits enjoyed in other countries for the same contribution.

In other countries there is provision for a comprehensive social security scheme which gives, in return for a lesser contribution from the workers, greater benefits than those provided for under this Act. Even in China, for a contribution of 2 per cent in the wages bill the return secured by the workers is much greater. I therefore submit that there is a strong case for reconsidering the present system of contributions to the Provident Fund which does not make adequate provision for those who retire or die prematurely while in service. Hence I support the suggestion that the Provident Fund scheme should be converted into an insurance-cum-provident fund scheme which would secure for the families of the workers greater benefits than are provided for under the Act.

There is another serious defect which I note in the present legislation. In accordance with the provisions of clause 6, only 6½% of wages and Dearness Allowances is the amount that an employer could contribute towards the Provident Fund. This is not adequate. There are several companies and undertakings which recognise the necessity of an increased contribution. Even in certain establishments under the Government, a contribution of 8½% is recognised, in the petroleum industry a 10% contribution is recognised, and the provision of 6½% is not adequate for meeting the elementary requirements of the worker. My respectful submission, therefore to the Government is that the present Bill is all right to a great extent but it only touches the fringe of the problem. The serious defects of the Bill relate to the defects of the Government Department itself, namely, the exemption given to the Government factories from the operation of the Act, with the result that instead of providing for a full merger of the Dearness Allowance with basic pay as provided for in the Act, Government have been the greatest defaulters and have provided only for 50 per cent of the Dearness Allowance to be merged with the pay. That defect can only be removed by removing clause 16 and the practice of granting exemptions which does not obtain either in the Factories Act or in the Workmen's Compensation Act. The practice followed in those two cases should also be followed in this case.

The previous speaker has rightly touched upon several difficulties relating to the administration of the Act. I am quite sure that Government will give full consideration to the criticisms made on the working of this Act. I also voice my dissatisfaction with the fact that we have not been favoured with a copy of the report of the working of this Act so that we could speak with greater authority and clarity in regard to the number of persons who have been actually benefited by this Act, the exemptions which have been

[Shri S Guruswami]

actually given under this Act, the actual difficulties which have been experienced in the working of this Act. All we know is the statement made by the Deputy Minister while moving the Bill for consideration in this House That is not a satisfactory way of dealing with the defects in the provisions of the present legislation

I also support the demand that the scope of the Act should cover every possible worker in organised industries not only in the factories but also in the mines, in the plantations and in the industrial undertakings covered by the Shops and Establishments Act. I, therefore feel that the measure that is now before the House is a very timid measure, a very inadequate measure, and is an unsatisfactory approach to the necessities of the situation. While I support mainly the provisions contained in the Bill, I say that they do not meet the minimum requirements of the workers and I hope the Government will bear the criticism in mind and rectify the defects by bringing in another amendment without further delay.

Sir, I give my general support to the provisions contained in this Bill.

SHRI P SUNDARAYYA (Andhra): Mr Deputy Chairman the Bill that has been introduced and that is now being discussed here, just tries to remove some of the defects that have come in the way of implementing the original Act of 1952. The speech made by the Deputy Minister for Labour only tried to point out some of the difficulties that have come up and he said that this Bill has been brought up to remove the particular difficulties. But this is not the way in which the Government which aspires to build a welfare State in India has to tackle these problems. In fact this Bill not only does not try to remove those difficulties which the Government found in the course of its activities but in fact in certain aspects even worsens the situation that actually exists. For instance the Government was trying to give exemptions to various factories under some excuse or

other and a clause with that end in view has been incorporated in this amending Bill.

Sir, before we go to the various detailed provisions I would like to bring to the notice of the House the true facts. I said in one of the memoranda submitted to the Central Board of Trustees that at the end of August 1953 only 1643 factories were covered under this Provident Fund Act, both exempted as well as unexempted factories. Even exempted factories had to supply their figures as for the provident fund scheme. Only 13.6 lakhs of workers have come under this Act.

Now, let us take the total number of factories in India. I find from the latest *Labour Year Book* that there are 30,000 factories in India employing 30 lakhs of workers. This does not cover of course the railways, the transport, the Government employees or the local board employees. It also excludes plantation labour which is a huge labour force, more than 10 lakhs, near about 11½ lakhs of workers. Even in respect of the 30,000 factories employing 30 lakhs of industrial workers, this provident fund scheme covers only 13.6 lakhs. It does not cover the remaining 20 lakhs of workers. Now if the provident fund scheme has to apply to all the workers, not only the factory employees but the transport employees, the Government employees and miscellaneous workers, then the total number of workers as generally estimated in the *Labour Year Book*, given by the Government themselves, will not come to less than 100 lakhs. So, that means that in this country in which the Government wants to build a welfare State, only about 10 per cent of the total workers are covered by the provident fund scheme. The Government does not feel it a disgrace that the existing state of affairs should continue and does not think it necessary to bring in a measure or a new insurance scheme or provident fund scheme which will cover almost all these categories of workers but it just comes with a small amending Bill.

which is to remove a few technical difficulties that came in the way and with that end only it comes with this Bill before this House.

Now, let us examine the provisions of the scheme itself. First of all I accuse the Government of disobeying the law which they themselves have passed. As my colleague Shri S. N. Mazumdar has pointed out already in the original Act the Government has defined that 'an employee' means "any person who is employed for wages in any kind of work, manual or otherwise, in or in connection with the work of a factory and who gets his wages directly or indirectly from the employer and includes any person employed by or through a contractor in or in connection with the work of the factory". Here the intention of the Parliament in passing this Act is to include every employee falling at least in the six categories mentioned in Schedule I, whether they have been recruited directly by the management of a factory or whether they have been recruited by a contractor or through a contractor. But here is an amazing thing and here is the scheme as notified in the *Gazette of India*. Here they bring in a definition of 'excluded employee' and in the 'excluded employee' they conveniently forget the provision of the law itself, and define him as "an employee employed by or through a contractor" and so this category of workers recruited by a contractor does not come under the provident fund scheme itself.

Sir, if this is the way in which the Government of India carries out the Acts of the Parliament setting aside the letter and the spirit of the Act itself, how could we expect this Government to really build any welfare State or a provident fund scheme which will be in the interest of the mass of the workers?

Now let us take the provisions containing the benefits which this provident fund scheme confers on the workers. This Bill is a Bill giving full rights to the Government of India to frame a provident fund scheme and

the kind of scheme they have made is a caricature of a provident fund. Clause 69 of the scheme says what the benefits are which the workers are likely to get. Here they say that of course at the age of superannuation, that is 55 years, if a worker has been working 5 years then he is entitled to draw the benefit. But the next sub-clause (2) says that if he has not been employed in any factory to which the scheme applies for a continuous period of not less than one year immediately preceding the date on which he makes an application for withdrawal then the benefit is cut very drastically; see sub-clause (3) of clause 69 of the scheme. Now we know, in India, because of the great unemployment, because of the various methods of retrenchment which the employer resorts to, it is very difficult for a large number of workers to have continuous employment in any factory which will come under the scheme and since the whole Act itself limits the various categories of industries that can come under the scheme to only six of the major industries, therefore, naturally, a person, if he wants to take advantage of the fund cannot do it without facing the risk of losing most of the benefit which accrues from the fund on the ground that he has not been employed continuously for one year. So it means that an employer can retrench a worker; can dismiss a worker and then if he is not employed in any other factory to which this scheme applies, he continues to be unemployed. When he finds that he cannot go on starving for one year, naturally he has to draw from his funds and the moment he puts in an application for the withdrawal of the fund so that he can meet his difficult conditions, immediately the most barbarous clause comes into operation. He may have been working for five years or so but still how drastically the benefit has been cut can be seen from the fact that the full amount of the employer's contribution and interest thereon shall be forfeited to the fund if the period of his membership of the fund is less than five years. So, for no fault of his he will

Bill, 1953

[Shri P. Sundarayya.]

lose this benefit to which he is entitled, because for one year he could not get any employment in any other factory. He has to eke out his livelihood by some means or other and if he asks for relief from the provident fund, he will forfeit the employer's contribution, because he had not been in service for more than five years. But suppose he has been working for more than five years but less than ten years, even then half of the employer's contribution would be withheld; if he had been working for more than ten years but less than 15 years, then he has to forego 40 per cent. of the employer's contribution; and if he had been working for more than 15 years but less than 20 years, even then he has to forego 25 per cent. of the employer's contribution. Sir, could there be any worse form of victimising the workers than this? A worker may have been working for years and years, even 15 to 20 years. He works and he gets dismissed or retrenched for no fault of his. And the Government says that under the Scheme he cannot get the benefit in full; he will have to lose at least 25% and in some cases even cent. per cent. If this is the way in which the Scheme is going to be worked, it is nothing but a mockery of the Act and not carrying out the provisions of the Act in practice. That is why we should be very careful in allowing the Government to frame its own rules, because we cannot go through them, nor can Parliament change them, because the whole power has been handed over to the Government.

Now, I would like to explain in detail about this 'continuous period'. This 'continuous period' is a mischievous phrase as far as the workers are concerned because they have defined in the Scheme itself that the workers will forfeit all their benefits. There is another clause which says that the employee will forfeit the employer's contribution for misconduct etc. Now, who is to judge whether there has been any misconduct on the part of the employee or whether he has been disobedient? It is the employer. And

in this country we have seen that there are hundreds and thousands of labour disputes. Merely because an employer takes suddenly into his head to dismiss some of the workers who may be some of the leading trade unionists, under this Scheme, since the employee has been dismissed, he cannot get the benefits of the Scheme. Not only this; in the definition itself 'continuous service' is defined. It means uninterrupted service and includes service which is interrupted by sickness, accidents, authorised leave and strike which is not illegal. This is another peculiar thing. This is another weapon in the hands of the employer to keep labour always subdued under him. And they cannot go on strike whatever the employers may do. This is how 'continuous service' has been defined. While trying to give certain benefits, in another way they are strengthening the hold of the employer on the worker; 'if you do not listen to me, if you do not slave for me as much as I like, if you try to go on strike, if you try to misconduct'—and misconduct means nothing but being an active trade unionist—'you will be dismissed and not only will you not get your present wages but you will forfeit even the benefits to which you are entitled under the provident fund scheme'. This is the way the scheme has been framed.

Now, Sir, we know in many factories, and in many government establishments also, there are a large number of temporary workers or substitute workers or *badli* workers—by whatever name you call them. It has been a consistent demand, a constant demand and a long-standing demand on the part of the trade unionists to whichever political ideology they may belong—I think the Deputy Labour Minister also held this view; I do not know whether he holds the same view now, but when he had not become a Minister when he was only a Labour leader, he also at that time held the view that this category of temporary workers should not continue. Any worker who has put in three months' service or in certain cases six months'

service should be compulsorily made permanent and all the benefits which would accrue to a permanent worker should accrue to him also. But in spite of that there is no law in the country which makes it compulsory that anybody who is employed for three consecutive months or six months in any establishment must be treated as a permanent worker. Take any factory. Take even our own Parliament, even our own Secretariat itself just before our eyes and see how workers are kept temporary so that they may be deprived of the benefits that may otherwise accrue. Sir, our Parliament sits from six to eight months in a year. We are having holiday only for three to four months when we go to our constituencies and so on. How is our Parliament staff recruited? Except those people who are already permanent they recruit people temporarily who carry on with their work till 12 o'clock in mid night; all the Parliamentary papers which we see in the morning are prepared by this staff; they recruit them and the moment Parliament adjourns they are sent away to the employment exchange and they are again brought back whenever Parliament is about to meet. This is just what happens in Government service and that is the same everywhere. You take industry after industry. You will find in plantations there are 10.5 lakhs permanent workers while 1.5 lakhs are temporary. Take any factory; you will find at least 10 per cent. of the workers, if not more—in some cases even more—are considered temporary workers. And what is this category of temporary workers? Have they been in service only for six months or one year? No. There are many who have been working for five, six and seven years and still they are all temporary. Now all these people, even in the few industries that have been included in the Schedule cannot claim the benefits of this Scheme. This is the way in which the whole Scheme is vitiated. The spirit of the Act itself is vitiated in the framing of the Scheme.

Now, the trustees are nominated by the Central Government. There will

be six representatives from the employer's side, six from the employee's side. Here, again, one of the constant demands of progressive trade unions—all trade unions in fact—has been that social legislation must be carried out and supervised by the representatives of workers' representatives elected by the workers and not nominated by the Government, but that elementary demand has been negated.

SHRI ABID ALI: But they are nominated on the recommendations of the workers' organisations. They are elected almost.

SHRI P. SUNDARAYYA: But our demand is that these trustee boards should consist entirely of workers' representatives. There is no business for the employers to be there. Once they have contributed, how that fund is to be managed in the interests of the workers it is for the workers to decide and not for the employers. The employer has no business to come and poke his nose in the affairs of the workers' funds.

4 P.M.

Similarly, Sir, if our Government really wants a welfare State, they must accept that the workers need not contribute anything to the social legislation. It is for the enterprise; and in case the enterprise cannot pay for some financial reason for any particular periods, it is for the welfare State or Government to step in for contribution and not make the worker to contribute because the worker's wage is so low that it is not fair to expect him to bear all the expenses. It will be fantastic to ask him to pay for this when he really cannot make both ends meet. Instead of that, our demand is that Government itself, in those industries—small enterprises or medium-sized enterprises—which cannot for any reason contribute, should come out and contribute, and not make the workers pay.

[Shri P. Sundarayya.]

Coming to the scheme, again, why is it that the Government want to exclude all the factories run by the Government? I find in the *Labour Year Book* for 1950-51—these are published two years after the facts are old, we are at the end of 1953 and at the beginning of 1954, still we get only figures up to 1950-51—that there are about 3 lakhs of workers employed in factories. I am not speaking of the general employees of local bodies or Government employees. I am referring only to those employed in the factories. We do not know whether the provident fund scheme for this category of workers is there. I take it that there is no provident fund scheme for them. I don't understand why Government is so anxious to enact that this scheme shall not apply to those workers who are employed by the Government or the local bodies. It is expected that a Government which aspires to build a welfare State must become the model employer and show how this social legislation should be implemented. It is strange to see that industries managed by Government are not to come under this Act.

Nor can I see the reason why all factories, irrespective of their capital, irrespective of their capacity to make profits, should be exempted on the basis of time, that is, that no factory unless it completes three years shall come under this scheme. I cannot understand the reason for this. Our demand is that every factory after one year, if not immediately, must be provided under this Act itself.

We now come to the Schedule itself, where they have given only six categories of industry. We cannot see any reason why Government have chosen only these six industries and not other industries. There are some peculiarities here. This provident fund scheme applies to cigarette factories, but evidently it does not apply to companies like the I. L. T. D. Company who employ, not 50, but more than 500. I come from a tobacco area; this company fleeces the peasantry and also the workers. I do

not know why the Government wants to exempt the I. L. T. D. Company; for curing the tobacco, for making semi-processed tobacco, etc., there are factories. Why the Government did not bring this category of factories under the provident fund scheme beats my imagination.

Now, the Government cannot argue that the I. L. T. D. are losing concerns. In fact, they are one of the most powerful concerns in the world and they are making huge profits, so much profits that even the Government dare not reveal how much it is. It is not found anywhere, and no book on investment gives it. This concern is registered in England and so Government says it cannot do much. We passed, of course, a legislation to gather statistical data; I do not know whether they will still make it available to us the amount of profits they get after fleecing the peasants and workers.

Similarly, I do not understand why Government have exempted plantations where nearly 11.5 lakhs of workers are employed. According to the Reserve Bank's statistics—which are not fully complete—more than Rs. 50 crores or nearly 80 per cent. of the capital invested are by the foreign capitalists. Even such a huge industry as the plantations is not brought under this scheme. Government have not brought the heavy chemical industries which employ 1½ lakhs of workers and where 70 per cent. of the capital is from the foreign interests. Why is it that the Government does not want to apply this scheme to fertilisers, heavy chemicals and other industries?

Similarly, there are other major industries which come under our Industrial Programme. In that book—a small pamphlet of some 300 pages—they have given 42 industries. I want Government to say why they want to exempt so many industries from coming under the scheme. The industries exempted are plantations, fertilisers, heavy chemicals, drugs, paints and varnishes, soap and toilet, tanning, glass, petroleum products, power

alcohol, matches, sugar, food products, etc. Why is it that Government does not want to bring all these categories into this Provident Fund Scheme? Most of the industries that I have pointed out—except probably the vegetable oils and sugar—are foreign dominated. In the match industry 90 per cent. of the capital is invested by the foreign concerns. In the petroleum products 97 per cent. is the foreign capital. No Government can say that these industries are the losing concerns and they cannot bear the provident fund burden themselves. After one year when they come again to the House, they do not come to expand the Schedule, but they just go on defining the engineering industries and so on. I cannot understand why they should not include all these industries. What prevented the Government for the last one year not to have taken any steps in spite of the provision that was there? There are a number of clauses in the original Act as well as in the present Bill to exempt factories or concerns who it is said have got provident fund schemes or gratuity or pension schemes or some insurance schemes or whatever it may be, which give some benefits to the workers. They say that if these various factories or concerns are giving benefits at least as many as this provident fund scheme hopes to give, then they need not come under the Scheme. I say that this is a very vicious argument. In fact, I can understand if the factories or concerns giving more benefits than what the provident fund scheme as framed by the Government of India allows are left out because otherwise that would mean reducing the benefits to the workers. But I cannot understand why you should exempt those factories which give only as much benefit as this Scheme gives. Why do they want exemption? They are demanding exemptions because they do not want to be under the scrutiny of this Act, because this Act provides certain inspection procedure, because this Act provides that at least the minimum benefit that is guaranteed should not be taken away from the workers and they should

not be cheated of that. My point is this. From the memorandum submitted to the Central Board of Trustees recently we find that 700 factories have applied for exemption. Now, the whole thing has been applied only to 1400 factories and 700 factories have applied for exemption. Except perhaps 115 or so, 585 factories have been granted exemption and the remaining 115 could not be granted exemption because of some technical difficulties being there. I want to know and I want the Government to explain why is it that these 700 factories want exemption from these things. When the employers demand exemption, it means that they have got some purpose behind it. The employer wants to escape and does not want to come under this Scheme.

SHRI ABID ALI: And supported by employees.

SHRI P. SUNDARAYYA: Not at all by employees. In fact you see in the Memorandum submitted by the Government itself to the Members of the Trusteeship Board that it has analysed the position. It has been found why some of the factory owners want an exemption. I would like to give some quotations from the Memorandum to show why they want these exemptions. They do not even want the minimum control that is sought to be exercised. They want to escape from it. It is said here:

“The scrutiny of the provident fund rules of the exempted factories has brought out some issues which called for careful consideration. It has been observed that while the factories had amended the provident fund rules wherever deficient in accordance with the criteria and had agreed to abide by the conditions that govern exemption, there were at the same time certain rules which indirectly affected the benefits of provident fund. For instance, while complying with the statutory provision that in cases of serious and wilful misconduct defaulting member, shall forfeit

[Shri P. Sundarayya.]

the employer's contribution upto a maximum of the employer's contribution in the last two complete years and the current year, there are simultaneously rules in some cases which provide that the company has a first and paramount claim upon the employer's contributions standing to the credit of a member which shall be forfeited in case of insolvency; attachment or any loss, damage or expense to which an employer might be put. Another such instance is the provision that amounts lying to the credit of a member who has left service shall absolutely lapse to the fund in case the amount is not claimed within a certain period."

The Board of Trustees have themselves not properly gone through it and that is why we demand that no exemption should be given to any of these factories merely on the grounds that they provide at least the same benefit as is to be given under this Scheme. I see the Deputy Minister for Labour in a very accommodating mood.

SHRI ABID ALI: I am always accommodating.

SHRI P. SUNDARAYYA: Not always. I have given my amendments where I have said that the exemption could be given only if the benefits are more favourable and not at least as favourable as these. I would like to see whether the Deputy Minister for Labour will accept these amendments and remove one of the suspicions and also one of the ways in which the employers are trying to escape even the minimum benefits. In this connection, Sir, I would like to point out what section 27 of the Scheme says. I would like to read that section of the Scheme. Section 27 says:

"Notwithstanding anything to the contrary contained in paragraph 26, a subscriber, other than an excluded employee, to a Provident Fund recognised under the Indian Income

Tax Act, 1922 (XI of 1922), or to which the Provident Fund Act, 1925 (XIX of 1925) applies, shall become a member of the Fund unless he elects, by an application in Form 1 sent to the Commissioner within three months of the date on which this Scheme comes into force, to continue to subscribe to such Provident Fund and in that case he shall not be required, or be entitled, to become a member of the fund."

Now, even the Board of Trustees have pointed out how this clause has been misused by various employers to see that they do not come into this scheme. What they do is that they force the workers to sign individual applications to them that he does not want to be in the scheme, and the whole factory gets exempted. Even the Government memorandum submitted to the Board of Trustees admits it. But still, in order to prevent this abuse, they say, if the majority of the workers agree not to be included, exemption can be given. This is very unsatisfactory. In fact, they give the figures. In West Bengal, in 27 factories, 21,000 workers have signed this kind of agreement saying that they do not want to be in the provident fund scheme. These are the figures given in their own memorandum. Unfortunately we could not get our own figures because our own organisation, the T. U. organisation.....

SHRI ABID ALI: Our figures are correct.

SHRI P. SUNDARAYYA:has not developed that kind of work, so that we cannot really check the Government figures. But even the Government figures show that 21,000 workers have been forced to sign this kind of agreement.

SHRI ABID ALI: Where is it said that they have been forced?

SHRI P. SUNDARAYYA: But does the hon. Minister really mean to say that the workers do not want this

benefit? I am coming to that. Now, the employers are trying to put the workers against this scheme, because some of the provisions of the scheme are such that the workers feel the immediate pinch. First of all, they have to accept $6\frac{1}{2}$ per cent. reduction immediately in their wages from month to month, but the benefits that they would be getting they do not immediately see. Probably they would come after five, or ten or 20 years. More than that, the workers' wages are so low that they are loath to suffer this immediate reduction. From the working class budgets we see how much they are indebted. They naturally get indebted. They want some loans because they cannot make both ends meet. Now, this provident fund scheme does not enable them to get any loans. They cannot draw from them as even temporary loans. In the scheme itself they say that he is entitled to withdraw after one year's continuous service, which period, I was told, has been reduced to three months, but I could not get hold of any regulation to that effect, and as far as I know, there is only one year there. Naturally the Government will take some time to publish it and by the time they publish it, they would even have changed it to two years. From the published things we find that it is only one year, but I understand on the authority of one of the members of the Central Board of Trustees that the period was reduced to three months' continuous employment. The great difficulty that the workers find in taking even temporary loans from the fund and their inability to find any other source of loans and the employers' own propaganda, "since you have joined the scheme, we cannot give you any loans. You have got to get your loans only from the fund" have set the workers against the scheme. This is only another way of bringing pressure, nothing more than that. This is the way that the workers are being deceived. That is why we say that the employers want to escape even from this limited scheme, even this limited benefit that is guaranteed, even this limited inspection that is guaranteed,

Bill, 1953

and apply for exemption. I am very sorry to hear that the Board of Trustees have decided on a policy of liberal exemptions. (*Laughter*). Here it is on page 2 of their memorandum:

"At its last meeting on the 5th February 1953 the Board decided on a policy of liberal exemptions."

This is the way in which the provident fund is being worked. Instead of restricting these exemptions, they have decided on a policy of liberal exemptions. These exemptions take away whatever little is granted to the workers under the scheme.

Now, we have given many amendments. Of course, when the amendments are taken up, we will explain the reasons for our amendments, but in general we have to speak on some of them because they involve some principles. In the amending Bill which the Government has brought before us, under section 2, the Government takes power to extend this provident fund scheme to other factories or concerns provided the employers and employees both agree. This is fantastic. I can understand if you say that "if the majority of the workers agree". But the Government says that the employer also must agree. Previously the Government was entitled to extend this and add new industries to the schedule and to extend it to various factories by a declaration to that effect in the official gazette, whether the employers agree or not. Of course, the right of the Government is still there, but why is it that the Government wants to bring in this amending clause saying that wherever the employer and the employees agree, they will extend this to a particular factory. Why there should be agreement between the employers and the employees to extend this scheme, we cannot understand at all. Our amendment is to omit the word 'employer'. Agreement of the employer is not necessary while the agreement of the employees alone is necessary.

[Shri P. Sundarayya.]

Similarly, we have an amendment to clause 15 of the amending Bill, which is one of the most dangerous clauses: It is this:

"If the Central Government is of opinion that having regard to the financial position of any class of factories or other circumstances of the case, it is necessary or expedient so to do, it may, by notification in the Official Gazette, and subject to such conditions as may be specified in the notification, exempt that *class of factories from the operation of this Act for such period as may be specified in the notification.*"

This question is going to be decided on the financial condition of the factories. Why does the Government want to scrutinise the account of every factory and then decide whether the provident fund scheme should be applied or not, because we know the various ways in which the different factories try to hide their profits? They calculate the working cost, depreciation and so many other things to show that they are losing. Now, the Government wants on that ground to exempt these factories. That means if the Government really wants to check up the accounts, then the Central Board of Trustees should go to each factory and work out the whole cost or how it is being manufactured and find out and make suggestions and then come to any conclusion that particular factory is losing and then give exemption. Instead of that, if there are such real cases, then we certainly don't want them to be closed if they really cannot make both ends meet. If they are really losing, there should be some other method—not at the cost of workers—to help those industries without hitting the worker. I want the Government, in such hard cases to come forward to contribute to the Provident Fund Scheme and thus the factory need not be exempted or even if exempted, let the Government pay the bill. To ask the workers to foot the bill is something which the working classes cannot accept. So we say

that under this very general clause there is danger. A large number of factories are already saying that their stocks are accumulated and therefore they cannot pay. They say they cannot pay and therefore they wish to close down. Therefore if closing down of factories or the so-called losses of industries are made the argument to exempt them from this scheme then even the little that is given here will be completely taken away. So we don't want this clause at all unless the Government is prepared to accept a proviso that in such cases where it *is prepared to give exemption to factories from contributing to the Provident Fund Scheme* they would come forward and contribute in which case we have no objection. That would be a check on Government also before they can easily give exemptions at the cost of workers. Because then it has to foot the bill. Naturally it will think twice before giving exemption. So I say some of the dangerous clauses are there. Similarly we have moved other amendments to enlarge the scope of the provident fund scheme so that it could apply to various other industries as well as to industries even of one year's standing etc. We will deal with them later on.

Finally, I would appeal to the Government and also to the Members concerned. A number of times our Prime Minister has said that it is no use our comparing Indian conditions with either the Soviet Union or America or Britain because America and Britain are very highly industrialised and rich countries and industrialization had taken place 200 years ago. In Soviet Union they had 36 years to develop their country. Therefore there is no use our comparing with Russia unless we are also prepared to wait for 36 years. So I don't want to wait for 35 years more to argue that more things could be done. So I take it—and in fact our Prime Minister and the spokesman of the Government on a number of occasions have been saying that the Chinese conditions are more or less like ours—with huge agrarian population. They

Bill, 1953

have 45 crores and we have 36 crores and so we can compare. If we are to compare our conditions, let us do so with China. So I want the Government really to compete with China and let us in that friendly competition show that we are in all our progressive measures, ahead of the Chinese Government and their people. In that case if the Government stands by that pledge to compete with China, then I would certainly quote in the Provident Fund Scheme what the Chinese Government has done and whether we cannot do also the same. Of course the Chinese Government came into power only 4 years back. Our Government came into power six years back. Now after this period of 6 years, here is this Provident Fund Scheme and here is also the State Insurance Scheme which covers accidents etc. but it is applied only to two places in India—Kanpur and Delhi and recently it was sought to be extended to Madras—that is what I read. Since it applies only in two places we need not take it. It is more or less on paper. Take the provident fund scheme. I know that apart from this the Government of India have got their own provident fund scheme for their own employees in Railways and Coalmines and other industries. I don't know—there may be particular factories which might have their own provident fund schemes. I don't know the total number of workers or employees of all these categories—Government employees, State-Government employees, miners, etc., who all come under the provident fund schemes and how many of them get the benefit of it when they retire or are forced to retire. It is for Government to give it. I searched all the Labour statistics that are available from 1948 to 1951 but I could not get those statistics. I tried to work up from the different Labour Gazettes but I could not get those figures. It is for Government to give a satisfactory answer in that connection.

As for the Chinese Government when it came into power in October 1949—now it is November 1953—in four years, according to the latest

figures as given at the end of 1952 as published in their magazine the number is 3.3 millions—33 lakhs of workers. Of course it is the comprehensive insurance—not only old-age pension; it is Sick Insurance, Dependents, families benefits—all comprehensive. I am not taking all those things. It is for Government to come out with such a comprehensive social insurance covering all aspects. We can make a start and later on we can extend it to other sections of the community. We want to know to how many sections even those by way of better gratuity or other schemes, are applied in India itself. That comparison I want to make first. The second comparison is this. In China—though it is a Government of only 4 years' standing whereas ours is of six years' standing—in the matter of insurance scheme it is the factories or enterprises or Government whoever employs, it is they that contribute the whole amount and not a single pie is asked from the employees whereas none of our schemes is based on that. Everyone of our scheme is based on compulsory contribution from the employees. He may be a Government employee or he may be employed in a private firm. I want to know whether the Government is thinking on those lines and, if not immediately in this Bill, at least in the next session whether they will come forward with a Social Insurance Bill where they don't demand the contribution from the employees and only the Government or the enterprises concerned will bear the whole brunt. That is one point I would like to ask the Government to consider.

Now I would like to compare the benefits which the Chinese Government Insurance gives as far as old-age pensions and old-age provident fund itself. I don't know if they have applied to all the people alike. There are differentiations. For instance they make it universal that all men workers of 60 years of age if they have put in 25 years of service or a minimum of 5 years in any enterprise, then they are entitled to 50% to 70% of the wage till death. Month after month he is entitled to get fifty

[Shri P. Sundarayya.]

to seventy per cent. of the wage. Then women of 50 years of age if they have up to a maximum of 20 years or five years minimum, then they are also entitled to 50 to 70% of wages per month till they die. I have made some calculations to compare the provident fund benefit which one of our workers gets here and the benefit that a Chinese worker gets, on the same basis. Naturally I cannot have all the statistics or the imagination to decide how long the employee survives after retirement. Take the worst case, namely, of a worker retiring and dying immediately in our country. If he had worked for 25 years—I take the maximum period—then he gets as his provident fund 8 months' salary. I mean to say his nominees get it. This is what his family or nominee gets as relief. If the man lives for another two years after his retirement, still he gets only the same 8 months' wage. So the most advantageous thing for the family would be for the man to retire and immediately die. In that case he or rather his family gets this 8 months' salary or wage without any expenditure and the dependents can be happy over it. That is the provision that we have here. But see what is the position in China. There, the longer the retired man lives the greater the benefit that comes to his nominees or family, because every month he is entitled to get 50 or 70 per cent. of the wage. If he lives for one year, then he gets it, if he lives for two years, he gets it for the two years. If he lives for 3 or 4 or 5 years, then he gets more benefit, for he gets this monthly amount for a longer and longer period. So their scheme actually encourages them to live longer. Unfortunately our scheme encourages earlier death. That is the first differentiation that I should like to draw the attention of the hon. Minister to.

Take another case. Suppose a worker works only for five years and then retires. What is the provision that we make here? He gets 3 months' wages. I deduct the contribution of the

worker, because that is only what he himself had paid. The real contribution or benefit that he gets is what the employer pays. So it comes to only 3 months' wages or practically you can say, half the monthly wage per year for the number of years he worked. For every year of his work, he gets half the monthly wage. That is more or less what he gets. But in China it is more. If our worker works for five years, he is entitled as per our scheme at 6½ per cent. to about 3 months' wages. In China if a worker retires after superannuation, whether he had worked for 5 years or 25 years, he is bound to get 50 to 70 per cent. of the wages. So you can see the tremendous difference in the benefits that accrue to the workers here and there.

This much with regard to the general normal workers, men and women. But in the case of workers in mines or in industries where the temperature is below 32 degrees Fahrenheit or more than 100 degrees Fahrenheit, then in either case, the man gets the benefits at the age of 55 and the woman at 45. The man need work only to a maximum of 25 years and the woman 16 years. The minimum is only 4 years and they are all entitled to this benefit of 50 to 70 per cent. of their wages as long as they live.

PROF. G. RANGA (Andhra): That is old-age pension.

SHRI P. SUNDARAYYA: Our provident fund is also another kind of old-age pension. In chemical industries which are considered injurious to health, like those connected with lead, mercury, phosphorus, arsenic, other chemicals and acids, the maximum period of employment is only 17 years for men and 13 years for women and the minimum is 3½ years. And they are all entitled to the same kind of benefit. And they get this benefit as long as they live. Then there is an additional benefit also which they get. If while they live, any dependent of theirs dies, half a month's wage is given. There is no

such provision in our scheme. Then when the worker dies, his nominees get 3 months' average pay, plus six to twelve months' wages depending upon the period that he had worked. So his nominees will get not less than 9 to 15 months' wages when he dies. So while he lives he enjoys the benefit and when he dies, his nominees get 9 to 15 months' wages. Under our scheme, while he lives he does not get anything and when he dies his nominees get only 8 months' wages, not more. I would ask the Government to compete at least in this one respect of providing benefits to the working classes with China and satisfy themselves that their system, their scheme etc. will enable the workers to lead a better life, to have better security in their old age for themselves and their dependents. Then at least the Government can go to the masses and claim that they have tried, at least to some extent, to give relief to our workers.

SHRI ABID ALI: You don't want to go the China way then?

SHRI P. SUNDARAYYA: Yes, you want to go the unemployment way, but the people do not allow you to do that. You don't go the China way, well then, go the Indian way.....

SHRI ABID ALI: Yes.

SHRI P. SUNDARAYYA: Yes, please go the Indian way and beat China in those things.

SHRI ABID ALI: We do not want to beat anybody.

SHRI P. SUNDARAYYA: I am sorry if the Deputy Minister does not follow my language.

SHRI ABID ALI: No, it is the ethics of your philosophy.

SHRI P. SUNDARAYYA: It is not the ethics of my philosophy. If he is not prepared to beat or is not able to beat China it is a different thing. I do not ask the Government of India to beat anybody physically. That they

are capable of doing, even without being asked.

AN HON. MEMBER: They are doing it.

SHRI P. SUNDARAYYA: I am asking you to beat other countries in the race of giving amenities to the people. If you think you have a better way than China, then by all means do adopt it. You have to prove that it is a better way by actually giving better benefits to the people, by giving them to the people quicker. Only then will your bona fides be not questioned.

Sir, these are some of the general observations on this Bill and when the clauses are taken up one by one, then our amendments will be pressed to see how far the hon. Deputy Minister is able to accept them. I wish the hon. Minister for Labour had been present because both the Ministers have once had something to do with trade unions and workers and I would have liked to listen to them and seen how they defend their Bill and oppose our reasonable amendments. In any case I would like to see what he has to say to some of our very modest and reasonable amendments of which I have given notice. Sir, with these observations, I conclude.

SHRI RAMA RAO (Andhra): Mr. Deputy Chairman, I should like to make a few observations on this subject, though I do not command one-tenth of the experience or knowledge of my esteemed friend, Mr. Sundarayya. I can only state my views as a journalist and as one who has escaped being cheated by his employers more than once. Somehow I have been able to teach my employers the elements of law and I have never allowed a pie of my money to escape coming into my pocket.

I have no desire like my friend whom I have already mentioned to go to China for aspiration; I would rather have China come to India, so that there might be a mutual exchange of ideas. I am not opposed to

Bill, 1953

[Shri Rama Rao.]

anything really good that is happening in any country, but let us not forget we are ourselves already committed to the proposition of the welfare State. We should therefore know what steps we are taking to create that State. I know it is not always possible to create an Eden in twenty-four hours but certainly when you are bringing forward certain amending legislation it is necessary that that legislation should embody some of the most prominent elements of experience already acquired.

I refer in particular to the industry, the trade or the profession to which I have the honour to belong—the newspaper. I thought that the wretched conditions of our profession had attracted the attention of the Labour Department of the Government and that it was going to do something for us. It has done nothing yet. There is a newspaper in Madras which makes tons of money but does not have a provident fund for its employees. Is that just? Is it not necessary to make a comprehensive review of the position and to see that every newspaper employee is properly protected at least to this extent?

The scheme of the Bill before the House is somewhat peculiar, I shall not say fantastic. It seems to be the sole intention of some people that the provision of a provident fund is something of a goodwill gesture or an act of benevolence. I do not think so. It must be an essential part of the apparatus of labour welfare that there is in every factory, that calls itself a factory in terms of law, a provision for a provident fund.

I cannot understand these categories of exempted industries or excluded employees. I thought that, even as a modest measure, without our pretending to imitate Russia or China, we could very well begin with a compulsory provident fund system wherever possible. If you start with exemptions, as my hon. friend Mr. Sundarayya, has rightly pointed out, there are bound to be abuses. We must not allow a process

of rot to set in in our labour welfare legislation which gives opportunities to harassed State Ministers to make generous concessions to their newspaper-proprietor friends in whose smiles they want to bask. One great advantage of having a compulsory provident fund would be that the Government would be getting considerable amounts of money into its exchequer. After all, that would not be very bad in these days when there is not much money in the till.

What is the control machinery with regard to the administration of the provident fund from beginning to end? I shall speak from my disillusioning experience. Years ago,—I am sure the Deputy Minister for Labour will correct me,—when a textile mill at Bombay went into liquidation—I believe it was Currimbhoy's Mill.....

SHRI ABID ALI: Yes.

SHRI RAMA RAO: it was found that the provident fund had been used up for the day-to-day administration. What was the protection that the law gave the workers? Nothing. What is the protection you are giving today? Nothing. Has not experience taught you that you should at least ensure this much that once money is deposited by the party in the name of a provident fund, it is fully secured in the same way as gifts to temples are secured?

In the annexure, a part of section 11 is reproduced, it is sought to be modified by clause 9 of the present Bill. These two deal with priorities of payment to beneficiaries of provident funds. It gave me something of an unpleasant shock when I was reading the two together. The Deputy Minister for Labour, I trust, will correct me, but am I to understand that today, where an employer goes into liquidation, the provident fund claimant will have to stand in the queue and can claim only *pro rata* payment? Section 230 of the Indian Companies Act mentions priorities of payment in liquidation, and section 129 of the same Act is governed by

section 230 for purposes of preferential payment in the event of foreclosure of mortgage. Now, claiming my wage which is due is something different from claiming my due from a provident fund in which my money has been already deposited. It is my money and no one else's money. Have I to stand in a queue and claim *pro rata* payment? Should I not get the whole amount straightaway? If I am wrong, correct me.

SHRI C. G. K. REDDY: It is a separate account.

SHRI RAMA RAO: Where is the blessed thing when it is already eaten up? For purposes of clause 9 of the present Bill and section 11 of the original Act, what is exactly the position? I ask again? If any money is due to me from the Provident Fund, can I get the whole amount because it has been deposited or have I to stand in the queue?

SHRI ABID ALI: They have not to stand in the queue. The workers' provident funds have priority over other creditors and the amount is separately kept. It is not as if it was owned by the company but it is owned by the trustees of the funds.

SHRI RAMA RAO: Thank you. I wanted to draw out the Deputy Minister so that I might be assured on that account that the fund is always safe.

Take the three-year limit for service before benefits can accrue. I do not think it is wise to have a time limit. The moment I take up a job in a factory, I should be automatically entitled to the benefits of a provident fund. Also, the right of suspension of a provident fund, in any manner whatever, should not be given to the employee. Recently the management of the 'Leader' of Allahabad took it down in writing from its employees that in view of the financial condition of the concern they would not insist on the employer depositing his part of the provident fund. I think I am correct. They have taken it in writing.

SHRI GOVINDA REDDY (Mysore): It is illegal.

SHRI RAMA RAO: I do not know that, but what is the use of telling me it is illegal when I am not aware of the illegality?

SHRI ABID ALI: Many illegal things can happen in the world.

SHRI RAMA RAO: They do happen and you are here to mend them.

SHRI ABID ALI: Yes, and we are always helpful.

SHRI RAMA RAO: But are you doing it now?

5 P.M.

I am giving you a few more instances from my experience. I am not an expert. I am speaking as a layman who knows only the facts. Delay in the payment of provident fund is another matter I want to refer to. A colleague of mine in a newspaper office who had worked there for 30 years, retired but his provident fund was not paid promptly and it took two to three years for the employers to complete the payment. I should like to know whether that sort of practice can be prevented hereafter.

With regard to "misconduct" I have got my own personal experience. It is essentially a legal matter, difficult to settle. My friend Shri Govinda Reddy is a lawyer. He knows a lot about the law. I am expected to know a little law. There are others who do not know the law at all. I was working in a newspaper office and my provident fund money had been deducted regularly but when I got the order of the boot and when it came to a question of payment of the employer's part of the provident fund, not a word was mentioned about it. I went through the rules of the fund and discovered that when it was not a case of dismissal for misconduct, I would be entitled to the employer's share of the provident fund as well, even though I had not completed three years. Thus a little

[Shri Rama Rao.]

knowledge of English and a little knowledge of law helped me to get Rs. 1,000 which I would otherwise have lost. What has my friend Shri Govinda Reddy got to say about it?

SHRI GOVINDA REDDY: If an employer refuses to pay his share, then he can be proceeded against.

SHRI RAMA RAO: Who is going to proceed against whom? There is a provision about the amount due from the employers being collected as if it were land revenue. A case is going on in Kanpur against a newspaper. The employees have been whistling for their money after getting an award in their favour, but the money is not coming. Appeals have been made to the Provincial Government. So far as I am aware, no action has been taken. I am just pointing out only this. You may make excellent laws but who is to administer them? Therefore in all this kind of legislation make sure that you not only pass good laws but also that they are administered for the benefit of the persons for whom the laws are created. Sir, I believe that Government have brought forward this measure with a kind heart but I would have welcomed a kinder heart. I do not conceal from the House my sympathy with most of the amendments that have been given notice of.

PROF. G. RANGA: Mr. Chairman, I am wholeheartedly in agreement with what fell from the lips of my hon. friend Mr. Rama Rao. I am afraid that though the hon. the Minister and the Deputy Minister have been well-known not only for their sympathies for our industrial labour but also for their championship of their interests for more than twenty years, it is not possible for me to congratulate them upon their legislative achievements especially in this regard. They have brought forward a Bill to which no one in this House can take any special objection on the face of it because to the extent that it seeks to go it is good. But our real trouble is that it does not seek to go

far enough and it only tries to perpetuate some of the wrongs that have already been there on the statute book. I take special objection to this power that they seek to exempt various concerns from this provident fund for paying their own contributions. Secondly, I am very unhappy that they have not taken even this opportunity at this late hour to extend this institution of provident fund to all those industries which can be said to be fairly well-organized and in which there are a large enough number of concerns providing perennial employment. I do not know why Government has become so lazy both in its legislative aspect and also in its executive aspect. From a legislative point of view they should not have hesitated to come forward with the necessary legislative measure not even now, much earlier, extending the benefits of this provident fund or this institution of provident fund to all the organized industries in this country. As long ago as 1937 when the Motor Vehicles Bill was on the anvil I for one was responsible in moving an amendment for the institution of provident fund for the employees on road transport. The then Government said that it should be taken up when the Provident Fund (Amendment) Bill would be brought up before the Legislature. From 1937 till now 16 years have elapsed until today. All those workers—nearly a lakh of them—may be more than that—have had to live without the benefit of even this institution, this meagre benefit.

Now our friend Mr. Rama Rao has already drawn our attention to the plight of our journalists. There are so many other industries too. The cigar and cigarette manufacturing industries are there in the country. Thousands of workers are employed in each one of the many concerns that are to be found in different parts of our country. They are yet to be given the benefit of this institution and while the Government is so very keen about its anxiety to establish a welfare State in this country, to take

the initiative in establishing a number of institutions in order to achieve that welfare State, I fail to understand why the Labour Ministry in this Union Government, especially when it is headed by these two well-known labour leaders, is fighting shy of the necessary legislative activity. Either the legislative aspect of their own Ministry is inefficient, inactive or unsympathetic towards our workers or our two Ministers have become lazy in regard to their own duties. One or the other must be true. Otherwise there can be no excuse at all for this sort of dereliction of duty. If they have failed to provide old-age pension, unemployment insurance and extension of workmen's compensation benefits to all the industries that are to be found in this country and also provide other protective provisions for our workers, one could have understood it. But this is the bare minimum that can be expected of any civilized Government, and even in this regard our Government has not been active enough and I am extremely sorry for that.

Sir, it is easy for employers who have not yet provided any provident fund benefits at all to their workers to approach their workers and then tell them that they would certainly be prepared to institute this provident fund in their institutions provided they would agree to keep it outside the purview of this Act. It is a natural thing for any of the workers to agree to some such condition because since they do not have anything at all at present and they would be getting something in exchange they would like to put in this petition to the Government and these trustees that they would like to come into a provident fund scheme with their employers and in co-operation with their employers provided they would be given this exemption from the purview of this Act in that way it would be possible for a larger and larger number of our workers who are yet to get the benefit of this to be kept outside the purview of this Act even while they are supposed to be enjoying for a namesake a provident fund. I

am rather suspicious of the new policy that is being instituted, I am told, by the trustees the policy of liberal exemptions. I would like the Government really to set its face against this idea of exemptions and if they are to give exemptions at all, they must be very very unwilling indeed to do this.

Thirdly, there is the question of enforcement. I am very glad that at long last the Government have come forward with this provision to have a kind of an inspectorate to see that the provisions of this fund are enforced and workers are given this benefit. I would like the Government to extend this protection to this other point also that has been raised by my hon friend Mr. Rama Rao, that is, in regard to the collection of the money from out of the resources of any company if and when the company goes into liquidation or if and when the employer fails in his duty to make the payment to the workers.

He has raised another relevant point. Supposing by any chance, because of local politics, any local Government were to be rather slow or unwilling to collect these dues, as if they are arrears of land revenue, what is to happen? Are the employees to suffer? Or will the Union Government take upon itself the responsibility of making those collections independently of the State Government wherever and whenever the State Government fails in its duty in this regard?

Then, Sir, I am prepared to concede this other point that if there are some industries or some concerns whose financial conditions are so bad as to be incapable of making their contribution towards this fund, Government might give some concession in their case. But there is the other consideration—what is to happen to the workers themselves? Are they to be victimised? If they are not to be victimised because of their mistaken choice or of their fate in having to work in these concerns, then some way must be found out in order to help

Bill, 1953

[Prof G Ranga]
 them One method was suggested by my hon friend Mr Sundarayya that the States should come forward to make good the contribution that the employers would otherwise have had to make It might be possible to accept this, it might not be It is quite possible also to argue that you cannot place on the shoulders of the State Governments this indefinite responsibility of having to pay this contribution whenever some of these concerns become rather too weak financially In that case the Government should be prepared to have a scheme by which there would be an over-all charge on the whole of the industry and create a fund from out of which it should be possible for them to *make payment towards their contribution* whenever any employer fails in his duty Now, I would like the Government to give serious thought to this possibility

Lastly, Sir, it is necessary that the Government should look at all these observations that have been made, not in a carping fashion but in a friendly constructive manner and take them all as constructive suggestions in order to induce them and their Ministry to come forward at an early date with a much more comprehensive Bill with the main intention of extending the provident fund to all the organised industries in the country, having themselves the power of exempting here and there certain of the enterprises or even certain of the industries or sections of industries for a temporary period or for a number of years until those industries come into their own Unless you start from the other end of putting every industry on trial and expecting it to prove why it should be given any exemption it would not be possible for our workers really to come to have that much of faith in the professions that our Government is making especially in the light of our determination to march towards a welfare State

SHRI M MANJURAN (Travancore-Cochin) Sir, the original Bill was in-

troduced in Parliament in February 1952 Earlier than that it was promulgated as an ordinance That meant that it was so important and so emergent a measure that it would satisfy if it came into being the entire demands of the Labour with regard to provident fund Again this time before its introduction, it was promulgated as an ordinance Last time the Minister in charge of the Bill said that even if it was not emergent it was a very urgent matter and therefore he could not but obtain the permission of the Cabinet to have an ordinance promulgated earlier than its consideration in Parliament But now what transpires rather surprisingly is that all the objections raised this time against the amending Bill—that it *does not meet the demand of Labour* as the principle involved is not sufficiently covered by the scope of the Bill and so on—were raised at that time This means that a second time the matter was considered by the Government and yet they have not given any consideration to the objections and criticisms raised last time in Parliament I am almost surprised at the veracity of the repetition that the scope of the Bill does not include Government industries That was made practically by every speaker who spoke on this Bill last time Every speaker again stressed that the clause on exemption was rather wide and that it should not be so But the Government have only cared to think that certain aspects of the administrative defects should be cured this time, whereas the major criticisms have been left out of purview It is most surprising that a Bill is brought forward with such urgency when it does not satisfy the earlier criticisms that had been levelled against it

Now many industries have been left out The Schedule consists only of six industries When I look to my own State most of the industries that are there are not covered by this Schedule at all For instance, there is the tile industry, there are the matches, timber and chemical industries Then there is the coir indus-

try None of these industries comes within the ambit of this Bill.

Then how far does it go? It goes only to a certain extent. The next exemption is regarding factories where less than 50 people are working. I believe this is rather an arbitrary distinction. It should not be on the basis of the number of people working under the present mechanised scheme of industries. It is possible for huge industries to work with less than 50 people today, as we are told that mechanisation is advancing at such a pace that a number of people are to be retrenched in every industry. This is an old concept that the less the number of people working the smaller is the industry. That is not the case. In Travancore-Cochin there is the big mineral sand industry and a particular company called the Travancore Mineral Company (TMC) were employing 700 and odd people in the year 1947, but today for a greater output they are only employing about 66 workers. And I was told by the Manager of that concern that he could still further reduce the number of workers to about 35. It is one of the biggest industries so far as capital is concerned and so far as output is concerned. The distinction should not be based on the number of workers but it should be the bigness of the industry that must be considered. But that again will be very arbitrary. So what we should have done is that no exemptions should have been given. For one thing, in organised industries where there are a large number of people working, they have got organised trade unions who can demand provident fund and other amenities. We have got industries where there are people over a 1,000 in number and I think wherever they are represented by trade unions, better conditions of provident fund exist because they are strong enough to grab their demands from the capitalists. In the case of factories where you have got less than 50 people, they are not strong enough to enforce their demands and these weak kind of workers are exempted from the scope of this Bill with the result that they will

not benefit from this provident fund. They should all have been brought into this. I do not think the Factories Act makes that distinction of 50 workers or so. It should be whether they use machinery not the number of people exactly, because one machine can displace one hundred people at one time. What is the meaning in limiting this to 50 people? It should be general. As Prof Ranga also pointed out, the Bill is not general. You actually take away from the worker some right which you are giving otherwise. You actually give the right of obtaining provident fund or use of it from the employer. This right you are taking away from the workers absolutely for no fault of theirs because this country cannot have big industries where they could get employment. The only fault is that. So, I should think they are being victimised for no fault of theirs. The scope of the Bill, therefore, should be general. There should be absolutely no exemption given to a factory under any condition. If a factory is one coming within the definition of the Act—Factories Act—it should be treated as a factory and the employee treated as an employee for purposes of the Provident Fund Act. That is not likely to come up. The objection against the principle of the Bill is that in the guise of trying to give some right to the employees, you are actually giving the right of exemption to the employers. What is actually intended for the employees is being used for the employers. This aspect of the matter is very serious. If this flaw is not removed, the entire concept of labour legislation will always be wrong in this country. We are not speaking of big industries. Our industries are very small, and unless there is some kind of security guaranteed to every worker, irrespective of the bigness or smallness of the industry, our working classes will always be labouring under a sense of insecurity. Are the Government prepared to do it? There should not have been any urgency about the promulgation of the Ordinance but the consideration of the details should have been more important; if so,

[Shri M. Manjuran.]
they would have brought a better amending Bill so that the workers would obtain their right properly.

Again, you are limiting the provident fund. In certain cases where the employers are in financial difficulties. I do not understand why the Government should allow people in financial difficulties to carry on industries like this. That looks rather stupid. A Government should not allow such kind of capitalists because they would be grabbing the workers and a man in financial difficulties cannot conduct the industry properly.

SHRI H. P. SAKSENA (Uttar Pradesh): That would add to unemployment.

SHRI M. MANJURAN: It is not fair for any Government to allow incapable industrialists to continue tottering industries. If you allow people who have not sufficient capital, who have not sufficient knowledge to carry on the industry, the industry will die out; and the more the number of industries that die out, the more will it add to unemployment. Why is it that a contribution of 6½ per cent. of the workers' wages should create further difficulties for the industrialists? This is a point which has to be taken into consideration. I think that if you give that concession, every man will plead financial difficulties and I think that everybody has got some kind of financial difficulties. Every man would naturally like to have as much money as he could. If you give him the concession to cut it off from the worker's provident fund, he will naturally do it. They will be grabbing. The capitalists have been grabbing even in China. So, our purpose is to see that what we give to labour should benefit them. They should work only in such industries which will contribute to their provident funds. Are not Government collecting income-tax from them? Are they not collecting other cesses from them? Give concession on these. Do not collect water rates, do not collect land-tax and other taxes from such

people but give that concession to the workers. What is the harm in doing so. But the Government says: "We will firmly demand and recover the tax dues, but for the extent that the worker is entitled to the provident fund, let him pay it if he has got it." That attitude is not correct. It is because of the workers that this country has scope to improve. Otherwise, this country cannot hope to progress. If our industry is to be well-placed, the worker should be allowed to have his share of the provident fund from the employers. If the employer is not able to contribute his 6½ per cent. of his share of the provident fund, we are prepared to be doomed. We do not want that kind of industry. So, if the capitalist is given the right to be exempted from the payment of his share of the provident fund what is the purpose of this provident fund? You want the worker to contribute half to it. In addition, the object is that we should teach the worker the habit of frugality and thrift. Through them, we want to give this nation also an idea of saving capital. This is essentially the reason underlying this scheme. If you analyse this, there is much meaning in this provident fund. It helps the worker to save; the habit of saving and thrift helps in capital formation. When this spreads to the entire nation, sufficient capital will be forthcoming. Otherwise this country will always be in demand of capital. The worker is also interested in the progress of the capital formation of this country. He is going to contribute his part of it—6½ per cent. of his wages towards that; and therefore, the capitalist who always understands the purpose for which capital is meant, is also asked to contribute a certain amount to it. It is not wasted. If this Government wants the progress of industry, it should go to the root of the matter and see that this is for the formation of capital in this country. In order that this idea may be developed, make the Bill more general and do not limit the scope. It should not be limited to 50 men; it should not be limited to any industry. Now look at

this, that a huge number of people working in different industries which do not come under the purview of this Act are without provident fund. If the idea is not put into their minds that the whole object of this provident fund is to create a sense of frugality and thrift, there will be no capital formation in this country. Everybody has practically misunderstood that point. It is thought that this is some concession to somebody. But no. It is the natural result of one's own efforts. The worker is working and he is paid something. The employer is obtaining out of his work certain amount of profit. The result is that we will have more capital and we firmly establish bigger and bigger industries and thus march forward. This is not to be treated in the childish manner as the Government has treated it so far. It is a much bigger matter. I therefore want to stress the fact that no such restrictions should be permitted in this matter. The basic idea is for the capital formation of the nation. It is for the greater progress of the nation, that we are putting forth our efforts. I do not see any urgency about this. It of course improves matters to a little extent but not sufficiently. We have to see that all the matters relating to labour in this country are taken together. We have to see how the administration of labour is going on. I think I am only knowing how it is done in our State. There we have got a Labour Commissioner. There we have got Regional Labour Commissioners. There are Labour Inspectors—the whole paraphernalia. Now how is this Bill going to be administered by them or by fresh inspectors appointed by the Central Government or by the State Governments? Now what is the work of this labour personnel or Labour Commissioners? It is to find out which factories are working, what is the complement of each factory and how things are going on there.

Now another thing that I would like to point out is this. This subject of labour is really a concurrent subject in the Constitution. And it should

have been left to the States to make these enactments according to me. I feel that when matters are dealt with by the Centre, it sometimes loses the entire perspective. You have got the right to make additions to the schedule, but during the one and a half years this Act has been working, you have not included any single industry to it. Did you not ask the State Governments to report to you about the existence of particular industries? Take for example the tile industry and the coir industry and the rubber plantations. Such things are peculiar to Travancore-Cochin and the adjoining district of Malabar. If, in the case of these industries, the State Government has sponsored a Bill in the State Legislative Assembly, without any prospect of being dubbed parochial, the members of that Legislative Assembly could have discussed that Bill more exhaustively than we could here on an all-Indian plane. Even industries are State-wise in this country. Why should the Central Government do this? Ask the State Governments to pass Bills like this. That would have been better. They would have known everything about it and would have formulated what specifically should have been done in those places. I think that better conditions prevail in some of the factories than is contemplated in the Bill here. The Government is not able to give the best conditions that prevail in some of the industries. Certain industries do have a provident fund system. They give more amenities to the workers than is conceived in this Bill. Then why not the best conditions available to the workers be enacted here? I am afraid that it is only to restrict the rights of the workers that you have brought in the original Bill and also this amending Bill. That is what I fear.

SHRI H. P. SAKSENA: Does not the hon. Member want Central legislation for these purposes?

SHRI M. MANJURAN: You can have it because it is in the Concurrent List, but these matters would have

Bill, 1953

[Shri M. Manjuran:]
 been, with all their local implications, discussed more dispassionately, coolly and understandably in the local Legislatures than here. That is my contention, because there are purely local interests. Supposing one were to be dissatisfied with the industrial conditions in Travancore-Cochin, one could have raised it in the local Legislature and debated it. Recently the High Court of Travancore-Cochin said that they could not understand some Central Act which had been applied to the State. If such a Bill as this had been presented and debated in the local Legislature there, all the details could have been presented to the Members of the Assembly and the Ministers could have at least understood the implications of these matters. Now, they do not. So instead of the Provident Fund Act they might bring in the Essential Goods Act in its place. It has happened like that. We should avoid such things—and this is a serious matter. It has happened and the Supreme Court has decided in a matter like that. The Travancore-Cochin Government in the case of food procurement, applied the Public Safety Ordinance and it was held *ultra vires* by the Supreme Court.

MR. DEPUTY CHAIRMAN: Let us not go to the food procurement. This is an amending Bill.

SHRI M. MANJURAN: I was only saying how these matters when sometimes dealt with at the Centre will not be even understood in the States. Even when it is a concurrent subject, we should give them some rights to go into these matters. The Provident Fund is one of such matters where the States also should be trusted. Industry as such is a State subject, although labour is a concurrent subject. The implication of this Bill is with regard to industries because after all who should pay the provident fund? The two component parts of the industry should pay—on the one side the employers and on the other the employees. Industry is an exclusively State subject. My demand

that the matter should have been first dealt with at the State level only stands to reason because otherwise all these Acts are misapplied in so many cases. I was only citing the case of a prominent misapplication of an Act where food procurement was dealt under the Public Safety Ordinance which the Supreme Court of India held *ultra vires*. So there could be no food procurement in Travancore-Cochin for some time because the Act they applied was a wrong Act. Such things might happen in these days. The greatest administrative difficulty would therefore ensue if the Bills are not properly understood there, and a proper understanding could be there if it is dealt there but these matters never come before the State Legislatures.

MR. DEPUTY CHAIRMAN: You must move the Travancore-Cochin Government or that Legislature.

SHRI M. MANJURAN: They are immovable even with votes of no-confidence. There is obstinacy which is so strong there.

SHRI K. S. HEGDE (Madras): It shows firmness.

SHRI M. MANJURAN: They move us simply out of our places and they themselves try to stick there. If it is for information, the Acts they have passed are of no serious consequence for the last two years. If these matters were shunted on to them, that legislature would not have been a mere farce doing nothing and we would have been relieved of so much unnecessary work. Provident Fund according to me is one of those subjects to be directly dealt with by the States. I don't say that I disagree with the Government of India taking up the matter that the workers should get the provident fund. That is a good thing but I would say that in some places it was existing even 10 years ago and if the Government did a thing like that, they did very rightly. The organized trade unions were demanding provident funds for the workers and even greater things than

Bill, 1953

provident fund as was suggested by so many for a long time but unfortunately in this country even organized trade unions cannot properly function—that is the trouble. We could even have avoided discussing these things. The workers, by their organizations, by their merit, would have taken from the industries all their demands but for the cleavages created by the Government agencies and others even in the ranks of workers—that is the greatest trouble. So you have to give them certain things in the disguise of certain good things. This is not a very good thing. In so many cases even earlier than the Government thought of it, the workers had seized this right themselves. This would have gone on for a long time but now the Government's intention only seems to be to exempt industrialists for one reason, for the second reason, for the third reason and for the fourth reason and remove the workers as far away from provident fund as possible. That attitude has to be changed. It has to be made general. If that is done, all other criticisms will have to go and they will have no validity. If a law is not general, if it is limited in scope, then it is discrimination among the citizens of a country. It militates against the fundamental concept of law. Here is a worker getting provident fund and there is another worker who does not get it. Where is the equality that you have so much consecrated in the Fundamental Rights? It is lost. So, in order to enforce equality among the citizens of a particular category, that is to say, the working class, you have to make it general, to be even consistent with the Constitution. No exemption clause can be there. All exemptions are wrong because every time you exempt, the worker loses his right. You are not stepping into the place of the industrialist to give the worker this right. Nor do you find out any other agency to give him that right. That is the trouble. You have to find out somebody who will pay this 6½ per cent. to the worker if the employer does not do it. I do not say that it should be the Government. You are

finding lot of foreign aid. Let us take some foreign aid for the purpose of this provident fund. That would improve this nation. I say, if the provident fund idea is properly exercised by the workers, if proper savings are accumulated by them, that would improve the nation. So I would ask the Labour Ministry to go more minutely into the whole position and see what it is all for. If the correct attitude is taken, it will be seen that the whole Bill has to be recast. No amendment can work on it. If the original Bill lacks in principle, then whatever amendments you may bring in will also lack in principle. Objections were raised even in 1952 that the Government factories were not included. What right have the Government to ask other people to do things in a particular manner, allowing themselves to be away from the operation of that Act? That policy does not seem to be right. So I would say that Government themselves should take labour matters more seriously and more thoroughly and look into the whole aspect of industry and labour relations and not bring these matters piecemeal and then amend them. As was sometimes suggested, bring a full Labour Code before the Council and then we will be able to look into the whole thing better than in this fashion. Now something is done today for provident fund. Then something will be done later with regard to retrenchment. Something will be done at another date regarding some other matter. This is a stop-gap arrangement and it is not nice for a government to do this sort of thing. I may do it, because it suits my individual taste to have some special stop-gap arrangement. But there should be some permanent texture in the actions of a government and I would call upon Government to seriously get it into their mind that all these are inter-related things and these things ought to be given better consideration than what they are given at present. It is no use passing a Bill in 1952, then bringing in amendments in 1953 and further amendments in 1954 and so on. That would only mean we would

[Shri M. Manjuran.]
be living in an amending world without any permanent structure.

We would rather like that the whole matter is laid before even a Commission which might go into all the details and bring the labour matters all together so that we could have a labour code as was sometime before suggested. That would enhance the prestige of these legislations and that would perhaps make us beat China or some other country. Here, the criticism every time should not be that somebody has done better and we should do the best that we can and tell others that we have done what we can. I hope if not this time at least next time the Labour Ministry will give better consideration to the problems that are confronting labour today in this country.

MR. DEPUTY CHAIRMAN: Mr. Abid Ali.

SHRI KISHEN CHAND (Hyderabad): I wanted to speak on this, Sir.

SHRI S. P. DAVE (Bombay): I also wanted to speak, Sir.

MR. DEPUTY CHAIRMAN: Please be brief

SHRI KISHEN CHAND: Mr. Deputy Chairman, while I wholeheartedly support this Employees' Provident Fund Scheme, and naturally some clauses of this amending Bill, I want to draw the attention of the hon. Minister in charge of the Bill to the fact that it is the birthright of every worker to claim some sort of provision for his old age. Provident Fund is really a provision for his old age. There are countries, very advanced countries which have guaranteed a pension for every worker. We may not be able to give a pension to every worker but we should certainly give a Provident Fund Scheme to every worker whether he is a permanent worker or a tem-

porary worker, whether he is employed in a Government factory or in a private-owned factory. Mr. Sundarayya has pointed out and I suppose others have also pointed out that out of a labour force of 30 lakhs in the organised industry, only 13 lakhs of workers are getting the benefit of the Provident Fund Scheme and even as regards these 13 lakhs, applications for exemption covering 50 per cent. of them are pending before the Government tribunal. If this thing is permitted the number of workers enjoying the benefit of the Provident Fund Scheme may come down to 7 or 8 lakhs while the total number is 30 lakhs for the organised industries.

Then it has been brought to your notice, Sir, that there are a large number of plantations—tea and coffee—and certain other industries which are not included; then there are the Government factories. Of course Government servants get pension and their question does not arise. I suggest that we must have compulsory Provident Fund for every man. It has been pointed out that there are certain industries which cannot bear the burden. If you would make it optional to the worker, you can always get round the worker by threatening him against dismissal to submit an application saying that he does not want the Provident Fund. After all, the poor worker is shortsighted in his policy. He says that as immediately he has got to shell out 6½ per cent. from his meagre salary he cannot afford it. I suggest that, if necessary, even to the extent of 6½ per cent. the wages may be reduced but it should be compulsory on every employee. If you deduct it from the worker naturally he will have an option and he will immediately come round and say that he does not want to join the Provident Fund Scheme. Instead of deducting it, you may reduce his wages by 6½ per cent. and make it compulsory on every employer that he contributes 10 per cent. or 12 per cent. or even 14 per cent. or 15 per cent. of the wages depending upon the profits

that the industry is making, say below 4 per cent or 5 per cent or above 6 per cent. In that way, we can regulate that compulsorily all industries, Government-owned and private-owned, irrespective of the contribution of the employee—who should not be given any option but it should be compulsory—should contribute 10 per cent or 12½ per cent. of the wages or reduced wages, if you like to call them so, and that should form the general welfare Fund for all types of social amenities. Mr Rama Rao has pointed out that in the case of a liquidation, the company may not have enough assets and the poor employee will have to stand in the queue and get his share *pro rata*. I would suggest, Sir, that every month if the employer makes a contribution of 10 per cent. of the salary bill to a State life insurance and provident fund it will be far easier because that money will not be invested in the industry, it will be outside the industry. It will be in the hands of the Government and the Government is giving 4 per cent interest on all sorts of small savings schemes. Similarly, the Government can continue to give 4 per cent interest on that provident fund and therefore that provident fund will be always available. If the worker is discharged from an industry he will be thrown out of employment, it may be for one year or more but his provident fund will remain intact. After one year he may find employment in the same place or he may secure employment in some other place. Again his contribution to provident fund will start and in this way he will accumulate sufficient money to his credit so that when he retires after 30 years he will have some sort of a life pension.

Then I come to the question of the temporary workers. In the case of temporary workers also I would suggest that some sort of insurance scheme in which the employer will have to contribute a certain percentage of his wages in the shape of

insurance premium should be there. Immediately the worker is unemployed the premiums will stop but his policy will remain in force.

The trouble now with our industry is that the Government has got so many charges. They look small individually—1 per cent charge and 2 per cent. charge, this type of compensation and that type of compensation, but the net result is that on account of multiplicity of agencies and multiplicity of taxes the industry feels the burden very much. If you replace it all including provident fund by one levy, say, a 10 per cent or 12 per cent levy for every worker on the basis of his wages, it will be far easier to provide for all benefits. Therefore, Sir this amending Bill in so far as it makes exemptions easier should not be accepted by this House, and we should only accept such amendments in this Bill which are leading us to the ideal of compulsory provident fund scheme. In so far as it does so I will support this amending Bill.

SHRI S P DAVE: Sir, I would not take much time of the House in repeating the arguments that have been put forward already by Members of the House. I may be permitted to make a few general observations.

Sir, while supporting the Bill which tries to remove some of the administrative difficulties experienced during the course of the year I say Government could have waited a little longer to also ascertain the opinions of all concerned in the functioning of this Act so that they may not have to hear some of the criticisms which have been rightly levelled to-day. It appears that really the administrative side has been given a patient hearing. The trade unions should also have had their say in the matter. They have daily contact with the working and functions of this Act. Apart from enlarging the scope of the Act, which is a substantial thing, which may be a matter in dispute in some cases, I

Bill, 1953

[Shri S. P. Dave.]

would rather see that the Act helps the extension of the scheme to more and more industries and to more and more workers than have any clause restricting it. Therefore I do not want to go into the fundamentals of trade unionism but it is known to everybody that you can get things either by trade union action or by legislation. The two should supplement and complement each other. I do not want a law on the statute restricting the functioning of any trade union and preventing it from getting what it can by trade union action on account of the restrictions put in the statute. That is a very bad thing. To-day you do not include all the industries in the list, possibly with the knowledge and information that a particular industry in the State of Travancore-Cochin is not doing well and is not up to the level to be admitted in the Schedule. But let it be at least open to the trade union of Travancore-Cochin to fight its own battle and get a provident fund. To-day the trade unions are at a disadvantage in some cases.

6 P.M.

In some cases they have negotiated agreements even for a higher quantum of provident fund than eight and one-third per cent. Now after the enactment of the Act, no employer is going to give that higher quantum and here there is a clause for exemption. Sir, it goes counter to the spirit of what you call in law, the right of contracting out. It may be a proper right exercised in civil law—the right of contracting out by special agreement. The Payment of Wages Act has done very well in safeguarding the interests of workers by saying that any agreement purporting to break up the right of workers would not be accepted. Here you give the authority to the Government for the time being to accept the agreement between a majority of workers and the employer. Sir, I am in daily contact with trade unions. I was placed in a similar situation a few months back. A proposal was made to me in a spirit of 'take it or reject it'.

There was great responsibility on my shoulders as to whether to accept it or reject it. The company closed down a shift. After two months' negotiations it said: 'The welfare burden of the Government is too heavy. If you can make it a little light, I am thinking of restarting now.' Naturally the workers are in doldrums. They begin to think: 'Is it not better to get a whole wage and sacrifice a small portion of the provident fund rather than be idle?' They may sign an agreement; even the majority may sign an agreement. I remember a case of the workers of four mills giving in writing to the employer denying their right to full dearness allowance and accepting only two-thirds if a shift was restarted, because the workers were unemployed for three months. Such discrimination to my mind is against the accepted principles and notions of trade unionism and therefore I would urge that the power to extend the scope of the Act should be open to trade unions, by negotiated agreements or by adjudication or, wherever they exist, by courts of arbitration, but the power to restrict the scope of the Act wherever it was applied hitherto should not be there.

There are some other lacunae also in the Act which if this opportunity had been taken could have been easily removed. Even a minute point has been taken note of and I am glad of it: that is that simply because a company changes its place and goes from mohalla A to mohalla B, it is not a change. It is good, because some device must have been tried by some employer, but something bigger is there. A company goes into liquidation; it changes hands; and the new managing agents say this is a new company. The Gujerat Spinning Mills Co. became Gujerat Commercial Co. Ltd., and things of that nature. I do not know what the exact law on the subject is. Why should there be any vagueness about it? The company is old; the employees are old employees. The employer is new. Is it a new company? The law sometimes calls it a new factory. We workers are not

supposed to be experts in law. Let the labour legislation be simple, one which can be understood and followed by the workers, and where there will be no room for doubts. Doubts are created by people who are interested in creating doubts and who are paid for creating doubts—these experts in law. Therefore, Sir, I know the reason why things come here in this manner and they say 'We are not responsible for it. We have a legacy of the past. The Britishers left us in a position where there was not even an iota of labour legislation for the welfare of the workers.' The old Trade Union Act of 1926 is the only legislation which is there. It gives no power. It merely says that anybody can sign a declaration and become a trade unionist and he would not be sued for a strike. That was the only protection given. There was no negotiating machinery. Therefore some time will have to be taken to have an integrated scheme for the welfare of workers.

I am glad that some of the hon. Members are giving their thought about it rather than having a separate legislation for State legislation, holidays with wages, and other things, if all these things are taken together they would give a very excellent social scheme just as it obtains now in England and other countries. But we cannot unlive the past. Therefore, I very humbly appeal to the Minister for Labour to carefully study the question of the several welfare schemes for labour and weave a pattern of integrated scheme of social service for the organised workers of India, which will be easy in functioning and which will cut out so much of expenditure in administration. I do not say that everything should be done at the top or the Centre. The Centre may do what is the minimum. If the State is richer, if the State has more resources and if the State can supplement profitably the Central legislation it may be left to the States. What I want is that the minimum must be assured to the citizen of the

State by the Centre. This is my contention of things.

Sir, I want to make only two points. Let the legislation even at this stage be clear enough whether the restriction will come in the way of the Trade Union. If you want to provide for the provident fund of workers without making them go to a court, do it here and now. I know it is very difficult when you are trying to legislate to decide whether to include a particular industry or not, because, take a particular industry—say, plantation, the moment you include plantations the difficulty arises. I know something about it. My friend Mr. Tripathi will tell you more. There are at least two hundred plantations which are so poor. I think our friend Mr. Mazumdar also knows it, that they refused to pay last year even the minimum wage. This industry is again in a dilemma whether to have higher wages and provident fund. But this will destroy the employer. We are gradually going towards that. We should have certain minimum standards evolved for the whole country by trade union action and also by legislation and this will have to be accepted by everybody who wants to remain in the private sector. But let our course be straight and let our thinking be not warped by any other idea. Then it will be an easy thing. In the meantime, Sir, I merely take it as a formal piece of legislation which should not bother us much. Let us look forward to the day when the Government will come forth with an integrated scheme of social services which includes not only provident fund but also gratuity, old-age pensions, sickness allowance and all other things which exist in other countries of the world. Sir, it is not relevant now to discuss the various clauses. That can be done at the proper stage. Therefore, I should say that the amending Bill is necessary. Living in the hope as I do, being an optimist I should like to say that the Ministry of Labour has in its heart the good of the workers and it will do tomorrow what it has failed in doing today.

SHRI ABID ALI: I should, at the outset, thank the hon. Members for having participated in the debate and given us constructive suggestions and I should assure them all that these will receive our earnest and enthusiastic attention.

Sir, it seems that the scope of the Bill which has been discussed the whole day has been misunderstood to some extent. As I had said in my opening observations, the hon. Members would appreciate that because of the working for one year of this Act we found certain difficulties—as I said, administrative difficulties—and also we had been receiving representations from the workers about difficulties which we could not solve to their satisfaction. Because of these difficulties in our way we have brought forward this Bill. It has opened a wide range of arguments about the provident fund, the social security and the provisions of the main Act itself. But almost all these points were thoroughly discussed when the main Act was before the Houses of Parliament. The object of the Bill is limited. It is to ensure that the Provident Fund Act is implemented more effectively. When its objects were being worked, we found difficulties and we want to remove them. Nothing more than that.

Much has been said, Sir, about exemption. It seems Sir, that some hon. Members are under the impression that exemption means complete exemption from the liability of the employer to carry out the requirements of the Provident Fund Act. No, Sir. Exemption means that when a large number of workers in a particular factory represent to Government that their provident fund schemes are satisfactory, are according to the benefits which this Act gives them, or even better managed and give them better benefits, then they apply that such schemes of the local funds in the factory should be exempted, not from the whole Act but from direct control of the Act. Then it is not, as some Members have stated, that immediately the Government of India passes

orders granting the exemption. First, Sir, the Regional Commissioner makes an investigation, then the State Government scrutinises the provisions of their schemes. And finally it comes to the Provident Fund Commissioner here. And again these are scrutinised by the Board of Trustees of the Provident Fund which is established here and in which six representatives of the workers participate. Much has been said about the liberalisation of exemptions, but the fact is that the representatives of the workers themselves on the Board of Trustees emphasised the necessity for liberalising exemptions, and whatever decisions are reached in the Board of Trustees generally are unanimous, and if the workers' representatives oppose anything, it cannot be passed, not that under the constitution of fund it cannot be passed, but they have a sort of convention like that. If all the workers' representatives do not like a thing, generally it cannot go through. The exemption is not of the nature interpreted here. It does not mean that the workers lose the benefit of the provident fund—they retain it fully. Only the management is local and not direct from here.

Another hon. Member—I think it was Mr. Sinha—said that the employees in the provident fund organisation have no heart in the working of this scheme, that their service has no stability, they are retrenched, etc. So far as I am aware, not one person has been retrenched from this organisation.

SHRI RAJENDRA PRATAP SINHA: I did not say that they have been retrenched. I meant that their employment was only temporary and that they should be made permanent.

SHRI ABID ALI: I am happy to know that he made no reference to retrenchment, but I had taken notes, and his fear was that workers were being retrenched. The fact is that forty per cent. of these employees are of the permanent cadre who have been

borrowed from other Departments and sixty per cent. have been employed directly. There is no risk of any retrenchment. Their service conditions are definite and they all are aware of it I do not know from where the hon. Member got his information.

SHRI RAJENDRA PRATAP SINHA: Are the temporary employees aware of their service conditions?

SHRI ABID ALI: They are aware of their service conditions, and I am sure that the information which has been given to the hon. Member in this connection has no substance.

Then there was some complaint that I did not supply the required information, but some hon. Members themselves have quoted figures about the number of units, about the number of employees, about the amount that is being collected every month in the Fund, etc. As I said, this particular Bill has a very limited scope and I did not want to go into details. I thought that they were not very relevant for this discussion, but as the information has been asked for, I would supply it.

The total workers covered at present are:—

Exempted	8,16,000
Unexempted	5,47,000

The number of factories:

Exempted	473
Unexempted	1,170

Amount collected per month approximately:

From exempted	Rs. 75 lakhs.
From unexempted	Rs. 50 lakhs.

With regard to the industries which have not been at present brought within the scope of the Act, it is not that in these industries there is no provident fund, and it does not also mean that the workers in these excluded industries should not have

provident fund. Some of them have got even better provident fund schemes. Wherever the workers know that their industry is progressing, they make their demands, and are given adjudication also if necessary. I cannot understand the argument of Mr. Dave that because of the main Act the workers cannot have any negotiated agreement. In making criticisms, some of the hon. Members have in view the workers who are better organised, who are in happier positions, who are in the industries which are wealthier. They keep only such workers in view and argue. But it is necessary that, when a Bill is brought or an Act of this nature is implemented, the over-all position is considered and keeping in view the requirements and the capacity of the industry, provision is made and only then the intention of the enactment can be fulfilled. Otherwise, as some hon. Members have argued, 'I don't mind whether the factory is closed or it is working, whether the workers are unemployed or they are. ...

SHRI P. SUNDARAYYA: I should like to know which hon. Member argued like that.

SHRI ABID ALI: My friend Mr. Mathai Maniuran.

SHRI M. MANJURAN: But there is a misconception. I only said that the tottering industries should not be allowed to engage workers.

SHRI ABID ALI: The hon. Mr. Manjuran this afternoon says like this but earlier some other hon. Member has said that the Government wants to care too much for such of the employers who may not be able to pay, and some hon. Members also tried to make a point that this payment of provident fund is only to the extent of 6½ per cent. and if an employer cannot pay 6½ per cent. then why should the Government worry to protect such an employer? Another hon. Member said 'Who will make enquiries?'. As I have already said, the enquiry process is rigid. It will not be that the employer comes with an application

[Shri Abid Ali.]

that he is not able to pay and therefore he should be exempted and that he is exempted. That will not be the procedure. It will be a very strict scrutiny and if the Government is satisfied that the factory is closing and their deficit is increasing by working, then only will we use the powers to exempt such factories. I assure the House that it will be very sparingly used and used only in the interest of the industry, of the country and of the workers. If they must get the exemption, then only will the exemption be given with all possible scrutiny and it is not that simply because that an employer says that the factory is working at a loss that we accept his statement and exempt him. All that is humanly possible will be done in this behalf. Government do feel that the workers should get the benefit and also that the factory should not close. Only that will be the criterion. In many cases the workers themselves come forward, as it happened in Hyderabad a few months back when the Taj Glass Factory was closing. There the workers said: 'Reduce our wages but work the factory.' They persuaded their employers to place the cards on the table to this extent and said: 'If you are losing, we will lose some wages but work the factory'. But according to the present Act, we cannot even in such cases, exempt such factories from the operation of the Provident Fund Act. Therefore, we have taken this particular power and, as I have assured the House, it will be very very sparingly used.

Now with regard to delays. There may have been some delays. I do not want to say off-hand that there was no delay in the payment of the amounts or in the matter of getting ready the cards and other things. But, Sir, as the House is aware the scheme has worked not even for full twelve months. In the early stages there were difficulties; but as the months progressed, as the scheme progressed our information is that the

work has been systematised and the complaints have considerably decreased. I can assure hon. Members that every attempt is being made by the Department to see that this particular organisation is put on a commercial basis so that like insurance companies, banks and other good organisations, this organisation too may work well and the workers may have complete satisfaction with regard to its working.

As regards the Government factories, here again there was much criticism. Hon. Members who have criticised have, however, forgotten that the particular industries to which the Act at present applies have not got many Government factories. The paper industry has none, neither cement.

SHRI P. SUNDARAYYA: Why not extend it to others?

SHRI ABID ALI: Textile industry has none. Only in iron and steel somewhere in the engineering side and in the electrical industry there may be a few. Here I have to repeat what I have just now said that it is not as if the workers to whom this Act has not been applied are precluded from having provident fund schemes. It is not so. On the other hand, almost all Government factories, workshops, transport organisations and others have got provident fund schemes or gratuity or old-age pension schemes. Some relief is there for the workers after retirement.

AN HON. MEMBER: Is it voluntary or compulsory?

SHRI ABID ALI: It is compulsory for instance in the Railways.

This question was considered at the time the Act was framed and it was found that in many cases the Government factories had provident funds and other retirement benefits. It is also not desirable to treat some factories of Government differently from some other factories owned by them. Partial application is complicated by

the problem of transfer of employees from one job to another. There might be a case for including all Government factories when it applies to the entire economic sphere. Before that it will be discriminatory to apply the Act to some factories and leave the other workers away. That is so far as the Government is concerned. As I have already submitted, only a very small number of Government employees can be brought under this Act so long as the Act is limited to the six industries to which it is applied at present.

SHRI P. SUNDARAYYA: Why limit it? Why not extend it to others also?

SHRI ABID ALI: That is another question. I was coming to it later on, but the hon. Member has referred to it now. The fact is, this Act has been applied to six industries in the first stage. Gradually as we gain experience, as the working of this Act itself gets stabilised, it will be made to apply to other industries also, and

one after another, in course of time, of course, every industry will come under this Act. Not only this Act but many other social welfare legislation will have to be brought forward and passed and applied for the betterment of the workers.

AN HON. MEMBER: Sir, it is time.

SHRI ABID ALI: I will take a little more time.

MR. DEPUTY CHAIRMAN: Ten minutes?

SHRI ABID ALI: It may be a little more.

MR. DEPUTY CHAIRMAN: Then you may continue tomorrow.

The House stands adjourned to 1-30 P.M. tomorrow.

The Council then adjourned till half past one of the clock on Tuesday, the 24th November, 1953.