

भारत का राजपत्र
The Gazette of India

असाधारण
EXTRAORDINARY

भाग II—खण्ड 2
PART II—Section 2

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं० 54] नई दिल्ली, शुक्रवार, अक्टूबर 22, 1982/ आश्विन 30, 1904
No. 54] NEW DELHI, FRIDAY, OCTOBER 22, 1982/ASVINA 30, 1904

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन
के रूप में रखा जा सके ।

Separate paging is given to this Part in order that it may be filed
as a separate compilation

LOK SABHA

The following Bills were introduced in Lok Sabha on the 22nd October, 1982:—

BILL No. 109 OF 1982

A Bill further to amend the Hindu Marriage Act, 1955.

BE it enacted by Parliament in the Thirty-third Year of the Republic of India as follows:—

1. This Act may be called the Hindu Marriage (Amendment) Act, 1982,

Short
title.

25 of 1955.

2. In the Hindu Marriage Act, 1955 (hereinafter referred to as the principal Act), for section 8, the following section shall be substituted, namely:—

Substi-
tution
of sec-
tion 8.

“8. (1) Every marriage solemnised or celebrated under section 7 of the Act after the commencement of the Hindu Marriage (Amendment) Act, 1982, shall be registered in a Hindu Marriage Register kept for the purpose, within one month from the date of solemnisation or celebration of marriage.

Registra-
tion of
Hindu
marriages.

(2) The marriage under sub-section (1) shall be jointly got registered by the husband and the wife.

(3) At the time of the registration of the marriage, the parties to the marriage shall also enter in the Hindu Marriage Register the particulars and details of all property, movable and immovable, presents received by the bride and the expenses incurred on the marriage.

(4) A Registrar of Marriages shall be appointed for each district by the appropriate State Governments who shall register all marriages taking place within that district.

(5) The appropriate Government shall make rules for the appointment of Registrar of Marriages and for providing Hindu Marriage Register in such manner and subject to such conditions as may be prescribed for the parties to marriage to make the necessary entries as mentioned in sub-sections (1) and (2).

(6) Any person contravening the provisions of sub-section (1) or giving incorrect information required to be furnished under sub-section (1) shall be punished with fine which may extend to five thousand rupees.

(7) Any person contravening the provisions of sub-section (2) or giving incorrect information required to be furnished under sub-section (2) shall be punished with imprisonment which may extend to six months or with fine which may extend to five thousand rupees, or with both.

(8) All rules made under this section shall be laid before Parliament or the appropriate legislature, as the case may be, as soon as may be, after they are made.

(9) The Hindu Marriage Register shall at all reasonable times be open for inspection and shall be admissible as evidence of the statements therein contained and certified extracts therefrom shall, on application, be given by the Registrar on payment to him of the prescribed fee.

(10) Notwithstanding anything contained in this section, the validity of any Hindu marriage shall in no way be affected for contravention of the provisions of sub-sections (1) and (2)."

Amend-
ment
of sec-
tion 13.

3. In section 13 of the principal Act,—

(i) In sub-section (1), after clause (vii), the following clause shall be inserted, namely:—

"(viii) has such physical or mental defects which make the matrimonial life incompatible.";

(ii) in sub-section (2), after clause (iv), the following clause shall be inserted, namely:—

"(v) that the husband has contravened any of the provisions of the Dowry Prohibition Act, 1961."

4. Section 27 of the principal Act shall be numbered as sub-section (1) of that section and after sub-section (1) as so numbered, the following sub-section shall be inserted, namely:—

Amendment of section 27.

“(2) All the property of the wife as entered in the Hindu Marriage Register under section 8, sub-section (3), and all property received by her after the marriage shall be returned to the wife at the time of passing the decree of divorce or nullity of marriage.”

5. After section 27 of the principal Act, the following sections shall be inserted, namely:—

Insertion of new sections 27A and 27B.

“27A. At the time of passing a decree of divorce or of a nullity of marriage, the Court shall grant equal share to the wife in the self-acquired property of the husband.

Share of wife in the self-acquired property of husband.

27B. No decree for divorce shall be passed against the wife if it will result in great financial hardship to her and to the children born out of the lawful wedlock and if no suitable residential accommodation is made available to her and children.

Decree of divorce not to be granted in certain cases.

Explanation.—Provisions of sections 27, 27A and 27B shall not apply when the decree of divorce or nullity of marriage is passed on the ground of any fault of the wife.”

STATEMENT OF OBJECTS AND REASONS

In view of the demand from various quarters that the marriage solemnised under section 7 of the Hindu Marriage Act, 1955, should be made compulsorily registrable, this Bill is being brought forward. Many a time and especially in cases of maintenance and bigamy, proof of marriage is very difficult.

In cases of divorce the court faces difficulty in passing an order for return of wife's property to her for want of sufficient proof. The Bill, therefore, provides for the registration of all the property given or presented to the wife at the time of marriage and also the amount spent on marriage. It also provides for framing of rules for the appointment of Registrar of Marriages and for providing Marriage Register. The omission to register the marriage and property has been made penal.

The Bill also seeks to provide divorce on the ground of physical or mental incompatibility. There are many grounds which make the married life impossible but people are unable to get divorce on these grounds as these have not been included in the grounds on which a person can apply for divorce. It, thus, provides for divorce where the marriage is broken *de facto* but only subsists *de jure*.

This Bill also provides divorce to wife if the husband contravenes any provision, of the Dowry Prohibition Act, 1961. Unless such a provision is made and relief given to wife, no wife would be in a position to take any steps under the Dowry Prohibition Act, 1961.

It is necessary that the wife and children should be provided with residence and the wife should also get half of the self acquired property of the husband. This Bill provides safeguards to wife and children in case of divorce.

The Bill seeks to achieve the above objectives.

NEW DELHI;

BAPUSAHEB PARULEKAR

July 8, 1982.

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for the appointment of Registrar of Marriages for each district by the appropriate State Governments. The Registrar of Marriages shall also be appointed for Union territories. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India.

It is likely to involve a recurring expenditure of about rupees fifty lakhs per annum and non-recurring expenditure of rupees ten lakhs.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 2 of the Bill provides for the State Governments to frame rules for the appointment of Registrar of Marriages and for the maintenance of Hindu Marriage Register. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL No. 113 OF 1982

A Bill to provide for a ban on the exposure of woman's body for advertising purposes.

BE it enacted by Parliament in the Thirty-third Year of the Republic of India as follows:—

Short
title
and
com-
mence-
ment,

1. (1) This Act may be called the Ban on Exposure of Woman's Body in Advertisements Act, 1982.

(2) It shall come into force at once.

Definition.

2. "Scantily-dressed" means dressed in a manner which exposes the tender parts of the body of a woman or which attracts the attention of or affords a view to the readers or viewers to the tender parts of the body of a woman.

Ban on
exposure
of
woman's
body
for
advertise-
ments
in
maga-
zines,
etc.

3. Notwithstanding anything contained in any other law, exposure of tender parts of the body of a woman or depiction of a nude or semi-nude or scantily-dressed woman in any manner in a magazine, newspaper, book, pamphlet, poster, banner, cinema or television slides, hoarding or through any other media for the purpose of advertising, publicity, representation, exhibition or for any other purpose, is hereby banned.

Penalty

4. Whoever contravenes the provisions of this Act shall be punishable with imprisonment which may extend to one year, and with fine which may extend to twenty-five thousand rupees.

STATEMENT OF OBJECTS AND REASONS

Advertising media are indulging increasingly in exposing the body of woman in one way or other for giving publicity to any product for sales promotion. In doing so they do not care for the women of India who are considered to be the symbol of modesty. The way the woman-form is exploited in some of the advertisements is very humiliating and disrespectful for our society, particularly for women.

Nude or semi-nude pictures of women in the magazines, posters, etc. leave a harmful effect on the adolescent mind of the young and immature people. It detracts the youngsters from their studies and constructive work. This is a dangerous trend harmful to the progress of the country. It will, in the long run, damage the fibre of Indian culture which is so dear to us.

It is, therefore, time to enact legislation to stop this humiliating and harmful practice of using pictures of nude or semi-nude or scantily dressed women for advertising a product or giving publicity to anything.

Hence this Bill.

NEW DELHI;
August 5, 1982.

MOHANLAL PATEL

BILL NO. 129 OF 1982

A Bill to provide for banning capitation fee charged by educational institutions and for matter connected therewith.

BE it enacted by Parliament in the Thirty-third Year of the Republic of India as follows:—

Short
title.

1. This Act may be called the Prohibition of Capitation Fee Act, 1982.

Defini-
tions.

2. In this Act, unless the context otherwise requires,—

(a) “appropriate Government” means the Central Government in respect of educational institutions which fall within its jurisdiction and the State Government concerned in respect of those educational institutions which fall within the jurisdiction of that Government.

(b) “capitation fee” means and includes a fee or any other consideration charged, in one lump sum or in instalments, directly or indirectly, by an educational institution for giving admission to candidates, exclusive of the prescribed admission or tuition or other fees approved by the educational authorities.

Explanation:—“capitation fee” shall not include donations received by an educational institution from a donor without any condition and the donation is not directly or indirectly related to the admission of any person in that institution.

(c) "educational institution" means and includes any school, college or institute, whether established by the Government or by any citizen or body of citizens, and whether in receipt of aid from the government or not, recognised by the appropriate Government for the award of a certificate, diploma or degree in any general, technical, professional or other course of study, education or training.

3. No educational institution shall charge any capitation fee at the time of granting admission to any course of study, education or training for which it has been established or recognised by the competent authority for award of a certificate, diploma or degree, or at a later date.

Institutions not to charge capitation fee.

4. Admission to an educational institution shall be on the basis of merit save the reservation permitted in accordance with law in favour of persons belonging to the Scheduled Castes, Scheduled Tribes and educationally and socially backward classes and in favour of persons belonging to religious and linguistic minorities in educational institutions of their choice established and administered by them under clause (1) of article 30 of the Constitution:

Criteria for giving admission.

Provided that selection of persons under the reserved quota from among the eligible candidates shall be on the basis of merit.

5. (1) If any educational institution is found to be charging a capitation fee, the appropriate Government shall take over the institution forthwith by an order published in the Official Gazette:

Institutions charging capitation fee to be taken over.

Provided that if the circumstances so require, the appropriate Government may, without taking over the institution as aforesaid, by order published in the Official Gazette, direct that such an institution shall, in the public interest, be closed down forthwith or be administered in such manner as may be prescribed in the order.

(2) Any order made under sub-section (1) may contain all matters which may be necessary for carrying out the provisions of this Act.

(3) Every order made under this section shall be laid on the Table of each House of Parliament or the legislature of a State, as the case may be.

6. Without prejudice to any action which may be taken under section 5, the President and the Secretary of the Managing Committee as well as the head of the educational institution which charges capitation fee shall be punishable with a fine which may extend to rupees fifty thousand or imprisonment for a period of not less than three years or with both.

Punishment for charging capitation fee.

STATEMENT OF OBJECTS AND REASONS

It is now fairly known to everybody that capitation fees are charged for admission of students in institutions of higher learning, particularly in engineering and medical colleges, in States like Bihar, Andhra Pradesh, Karnataka etc. It is alleged that the fees being charged range from Rs. 1.5 lakhs to Rs. 2.5 lakhs. There are reports that private engineering and medical colleges in some States are charging capitation fees of about Rs. 70,000 for a local student and Rs. 1.6 lakhs for outsiders. Many private colleges in some States have been flourishing on the collective income from capitation fees. All measures to stop their evil practice have failed because of patronage enjoyed by the college managements.

The use of large sums of money for securing admissions into any institution of learning, violates the principle of offering equal opportunity to eligible candidates. To guarantee this equal opportunity to all deserving candidates, admissions are to be given on the basis of merit alone, subject to the reservations prescribed by laws.

The capitation fee system provides opportunity of clandestine links between politicians and educational institutions, which largely accounts for mushroom growth of unauthorised educational institutions, and also for siphoning off black money and legalising it.

The Bill proposes to ban the capitation fee and thereby seeks to do away with the evil practice.

NEW DELHI;
September 14, 1982.

CHITTA BASU.

BILL No. 120 OF 1982

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Thirty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 1982. Short
title.

2. In article 19 of the Constitution, for sub-clause (a) of clause (1), the following sub-clause shall be substituted, namely:— Amend-
ment of
article 19.

“(a) to freedom of speech and expression and freedom of the Press;”.

STATEMENT OF OBJECTS AND REASONS

Article 19(1) (a) of the Constitution guarantees the right to freedom of speech and expression but not sufficiently the freedom of Press.

Freedom of Press, is one of the pillars which sustain the democracy. It is generally held that the freedom of Press is now guaranteed in view of the fact that the freedom of expression enjoys the constitutional guarantee.

Despite this, the latest developments in several States have exposed the freedom of Press to open attacks by the powers that be. The trend towards muzzling and gagging the Press is growing as evidenced from the enactment of legislation by several States in the recent past. The latest examples are the passage of Indian Penal Code (Bihar Amendment) Bill, 1982 and the Code of Criminal Procedure (Bihar Amendment) Bill, 1982, which are deliberate assaults on the freedom of Press. The intention is to force the Press to fall in line with the Government's thinking and actions.

This amounts to attacks on the freedom of the Press.

This Bill seeks to eliminate the danger of such attacks on the freedom of the Press by incorporating the freedom of Press in article 19(1) (a) of the Constitution.

NEW DELHI;
September 14, 1982.

CHITTA BASU.

BILL NO. 134 OF 1982

A Bill to provide for the welfare of agricultural workers and to regulate their employment and conditions of service and for matters connected therewith.

BE it enacted by Parliament in the Thirty-third Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Agricultural Workers Act, 1982.
- (2) It extends to the whole of India.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and specific dates may be appointed for different States and for different provisions of this Act, within six months from the date of its enactment.

Short
title,
extent
and
commence-
ment.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) “adolescent” means a person who has completed his fifteenth year of age but has not completed his eighteenth year of age;

(b) “adult” means a person who has completed eighteenth year of age;

(c) “child” means a person who has not completed his fifteenth year of age;

(d) “agricultural dispute” means any dispute or difference between employers and employees or between employers and agricultural workers or between agricultural workers and agricultural workers or any dispute raised by a trade union or any valid organisation which is connected with the employment or non-employment or the terms of employment or with the conditions of labour of any person.

Explanation.—Where any employer discharges, dismisses, retrenches or otherwise terminates the service of, or denies employment to, an individual agricultural worker, any dispute or difference between that agricultural worker and his employer connected with, or arising out of, such discharge, dismissal, retrenchment, termination or denial of employment shall be deemed to be an agricultural dispute notwithstanding that no other agricultural worker nor any union of agricultural workers is a party to the dispute.

(e) “agricultural land” means any land, used for cultivation or used for—

(i) farming, including the cultivation and tillage of soil, etc.;

(ii) dairy farming;

(iii) production, cultivation, growing and harvesting of any horticultural commodity;

(iv) raising of livestock, bee-keeping or poultry;

(v) any practice performed on a farm as incidental to or in conjunction with the farm operations (including any forestry or timbering operations and the preparation for market and delivery to storage or to market or to carriage for transportation of farm products); or

(vi) reserved or used for fodder or thatching grass or for grazing cattle but does not include any plantation as defined in the Plantations Labour Act, 1951;

(f) “agricultural tribunal” means, in relation to any area, the Agricultural Tribunal constituted under this Act for that area;

(g) “agricultural worker” means a person who shall be treated as agricultural worker if he follows one or more of the following agricultural occupations in the capacity of labourer on hire or in

exchange whether in cash or in kind or partly in cash and partly in kind:—

(i) farming, including the cultivation and tillage of soil, etc.;

(ii) Dairy farming;

(iii) production, cultivation, growing and harvesting of any horticultural commodity;

(iv) raising or livestock, bee-keeping or poultry;

(h) "Fund" means the Agricultural Workers' Welfare Fund established under this Act;

(i) "Inspector" means an inspector appointed under this Act;

(j) "prescribed" means prescribed by rules made under this Act;

(k) "Registering Officer" means a Registering Officer appointed under this Act;

(l) "Scheme" means the Agricultural Workers' Welfare Fund Scheme framed under this Act;

(m) "wages" means payment received in cash or in kind or both in cash and in kind, and shall include payment of share of the produce, where prevalent, and wages in kind shall include perquisites that a person receives customarily for the work performed and the recurring perquisites include food grains, cooked meals, fuel, tobacco, etc. and non-recurring perquisites include housing, clothes, shoes, bonus, etc.

CHAPTER II

AGRICULTURAL TRIBUNAL AND OFFICERS

3. (1) The State Government by notification in the Official Gazette, constitute for any area specified therein an Agricultural Tribunal for the purpose of performing the functions of the Agricultural Tribunal under this Act.

Constitution of Agricultural tribunals.

(2) An Agricultural Tribunal shall consist of one member, who shall be appointed by the State Government.

4. (1) The State Government may by order notified in the Official Gazette—

Appointment of Registering Officers.

(a) appoint such persons, being officers of the State Government, as it thinks fit to be Registering Officers for the purpose of this Act, and

(b) define the local limits, within which a Registering Officer shall exercise the powers conferred on him by or under this Act.

(2) The Registering Officer shall exercise such powers and perform such functions as may be prescribed.

Appoint-
ment of
concilia-
tion
officers.

5. The State Government may, by notification in the Official Gazette, appoint for any area specified therein any officer to be a Conciliation Officer for the purpose of performing the functions entrusted to a Conciliation Officer by or under this Act.

Appoint-
ment of
Inspec-
tors.

6. (1) The State Government may, by notification in the Official Gazette, appoint officers or duly qualified persons, to be Inspectors for the purposes of this Act and define the local limits within which they shall exercise their powers.

(2) Subject to such rules as may be made in this behalf by the State Government, an Inspector may, within the local limits for which he is appointed—

(a) make such examination and inquiry as he thinks fit in order to ascertain whether the provisions of this Act and of the rules made thereunder are being observed in the case of an agricultural land;

(b) with such assistants, if any, being persons in the service of Government or local or other public authority as he thinks fit, enter, inspect, and examine any agricultural land or part thereof at any reasonable time for the purpose of carrying out the objects of this Act;

(c) examine any agricultural worker employed therein or require the production of any register or other document maintained in pursuance of this Act, and take on the spot or otherwise statements of any person which he may consider necessary for carrying out the purposes of this Act;

(d) exercise such other powers as may be prescribed.

Facilities
to be
afforded
to Inspec-
tors.

7. Every employer shall afford an Inspector all reasonable facilities for making an entry, inspection, examination or inquiry under this Act.

CHAPTER III

SECURITY OF EMPLOYMENT AND WELFARE

Prefer-
ence for
employ-
ment
as agri-
cultural
workers.

8. (1) The employer shall not employ a new agricultural worker unless he has employed all the agricultural workers who had worked any time during the previous agricultural season.

(2) In cases of permanent employees, preferences shall be given to those who have worked earlier.

Explanation.—For the purposes of this sub-section, “permanent workers”, in relation to an employer, means an agricultural worker whom that employer is bound to employ by custom or contract or who is otherwise to work in the agricultural land of that employer.

(3) Notwithstanding anything contained in the foregoing provisions of this section, no employer shall be under an obligation to employ any agricultural worker—

- (a) who does not offer himself for employment; or
- (b) who is more than sixty-five years of age; or
- (c) who is incapacitated and is unable to do the work.

9. (1) A trade union of agricultural workers shall be registered and carry on its management and activities in accordance with its constitution and the existing laws applicable to trade unions.

Trade unions of agricultural Workers.

Explanation I.—A trade union means any combination, whether temporary or permanent, formed primarily for the purpose of regulating relations between employees and employers or between employees and employees or between employers and employers and includes any association of two or more trade unions.

Explanation II.—For the purposes of Explanation I, an employee includes any agricultural worker as defined in the Act.

(2) The subscription payable by the members of such a trade union shall not be less than twenty five paise per month per member.

10. (1) **The State Government may, by notification in the Official Gazette, frame a scheme to be called the Agricultural Workers' Welfare Fund Scheme for the establishment of a welfare fund under this Act, and there shall be established, as soon as the Scheme is framed, a fund in accordance with the provisions of this Act and the Scheme.**

Establishment of Agricultural Workers' Welfare Fund.

(2) The Fund shall vest in and be administered by, a Board constituted under section 13.

(3) Subject to the provisions of this Act, the scheme framed under sub-section (1) may provide for such matters as may be prescribed.

11. (1) **The State Government shall pay contribution to the Fund at such manner and at such rate as may be prescribed.**

Contribution to the Fund.

(2) The employer shall pay contribution to the Fund in such manner and at such rate as may be prescribed.

(3) Each agricultural worker shall also pay contribution to the Fund in such manner and at such rate as may be prescribed.

12. The State Government may, by notification in the Official Gazette, add to, amend or vary, the Scheme.

Modification of Scheme.

13. (1) **The State Government shall, by notification in the Official Gazette, constitute with effect from such date as may be specified in the notification, a Board to be called the Agricultural Workers' Welfare Fund Board for the administration of the Fund.**

Constitution of Board.

(2) The Board shall be a body corporate by the name aforesaid having perpetual succession and a common seal and shall by the said name sue and be sued.

(3) The Board shall consist of such number of members as the State Government may determine and they shall be chosen in such manner as may be prescribed:

Provided that the number of members representing the State Government, the employers, and the agricultural workers shall be equal.

(4) The State Government shall appoint one of the members of the Board to be its Chairman.

(5) The term of office of, and the manner of filling casual vacancies among, the members of the Board shall be such as may be prescribed.

(6) The names of the members and the Chairman shall be published in the Official Gazette.

(7) The Board shall administer the Fund in such manner as may be specified in the Scheme.

Appoint-
ment of
officers
of the
Board.

14. (1) The State Government may appoint such number of officers as they think fit for assisting the Board in the administration of the Fund.

(2) The officers appointed under sub-section (1) shall exercise such powers and discharge such duties as may be prescribed.

Directions
by the
Govern-
ment.

15. (1) The State Government may give to the Board general directions to be followed by the Board, and such directions may include directions relating to the recruitment, conditions of service and training of its employees and the wages to be paid to the employees.

Protec-
tion
from
attach-
ment.

16. (1) The amount standing to the credit of any member in the Fund shall not in any way be capable of being assigned or charged and shall not be liable to attachment under any decree or order of any court in respect of any debt or liability incurred by the member.

(2) Any amount standing to the credit of a member in the Fund at the time of his death and payable to his nominee under the Scheme shall, subject to any deduction authorised by the Scheme, vest in the nominee and shall be free from any debt or other liability incurred by the deceased or the nominee before the death of the member.

(3) Any amount standing to the credit of a member in the Fund at the time of his ceasing to be an agricultural worker, whether on the ground that he is over sixty-five years of age or on the ground that he is incapacitated and is unable to work or on any other ground, shall, subject to any deduction authorised by the Scheme, be paid to him and shall be free from any debt or other liability incurred by that member before his ceasing to be an agricultural worker.

Employer
not to
reduce
wages,
etc.

17. No employer shall by reason only of his liability for the payment of any contribution to the Fund reduce whether directly or indirectly the wages of any agricultural worker to whom the Scheme applies.

CHAPTER IV

HOURS AND LIMITATIONS OF EMPLOYMENT AND WAGES

Hours of
work.

18. Save as otherwise expressly provided in this Act, no adult agricultural worker shall be required to work for more than eight hours with half an hour rest in any day and no adolescent or child for more than six hours in any day inclusive of half an hour rest.

19. Where an agricultural worker works in any employment for more than nine hours on any day or for more than forty-eight hours in any week, he shall in respect of such overtime work, be entitled to wages at double the ordinary rate of wages.

Extra wages for overtime work.

Explanation.—The expression “ordinary rate of wages” means the basic wage plus such allowances including the cash equivalent of the advantages accruing through the concessional sale to the person employed of foodgrains and other articles as the person employed is for the time being entitled to but does not include a bonus.

20. The period of work on each day shall be so fixed that no period shall exceed four hours and that no agricultural worker shall work for more than four hours before he has had an interval for rest of at least half an hour.

Daily intervals for rest.

21. In States, where harvesting wages are prevalent, the wages shall be paid at the threshing floor on which the threshing takes place and no portion of the produce shall be removed from the threshing floor without payment of the prescribed wages to the agricultural worker concerned.

Harvesting wage.

22. (1) Every employer shall pay to any agricultural worker employed by him for each day of the wages notified by the State Government in the Official Gazette.

Wages payable to agricultural workers.

(2) The State Government may, from time to time, by notification in the Official Gazette, fix the rate of wages of casual workers engaged on daily basis either for the whole State or any part thereof, so as to make distinction between monthly and daily wages.

23. (1) If any employer pays less than the wages notified in the Official Gazette or refuses to pay such wages to any agricultural worker, the agricultural worker or an official of the trade union of which he is a member may make an application to the Conciliation Officer for a direction under sub-section (2).

Enforcement of payment of wages.

(2) On receipt of an application under sub-section (1), the Conciliation Officer shall, after giving the applicant and the employer an opportunity of being heard and after such inquiry, if any, which he may consider necessary direct—

(a) in the case of a claim arising out of the payment of less than the wages notified in the Official Gazette, the payment to the agricultural worker of the amount by which the wages notified in the Official Gazette payable to him exceeds the amount actually paid by the employer;

(b) in the case of a claim arising out of non-payment of the wages notified in the Official Gazette, the payment of that wages to the agricultural worker

(3) If as a result of a direction under sub-section (2), any amount of the wages notified in the Official Gazette becomes payable to an agricultural worker, the Conciliation Officer may recover that amount

from the employer concerned and if such recovery is not possible, the Conciliation Officer shall make a report to the Collector or the Deputy Commissioner, as the case may be, specifying the full particulars regarding the amount due to the agricultural worker concerned and on receipt of such report, the Collector or the Deputy Commissioner, as the case may be, shall proceed to recover the same from the employer concerned as if it were an arrear of public revenue on land and the time element in such cases shall be fixed by the State Government.

(4) The Conciliation Officer shall have such powers, as may be prescribed, to effect the payment of the wages, notified in the Official Gazette, to the agricultural worker.

CHAPTER V

DISPUTES

Settle-
ment of
agricul-
tural
disputes.

24. (1) Where an agricultural dispute exists or is apprehended, the Conciliation Officer may hold conciliation proceedings and shall, for the purpose of bringing about a settlement of the dispute, without delay investigate the same and all matters affecting the merits and the right settlement thereof and may do all such things, as he thinks fit, for the purpose of inducing the parties to come to a fair and amicable settlement of the dispute.

(2) If a settlement of the dispute or of any of the matters in dispute is arrived at in the course of conciliation proceedings, the Conciliation Officer shall send a report thereof to the Labour Commissioner together with a memorandum of settlement signed by the parties to the dispute.

(3) If no such settlement is arrived at, the Conciliation Officer shall, as soon as practicable after the close of the investigation, send to the District Collector or the Deputy Commissioner as the case may be a full report setting forth the steps taken by him for ascertaining the fact and circumstances, and the reasons on account of which in his opinion, settlement could not be arrived at:

Provided that in a case where the agricultural dispute relates to an agricultural land situated within the local limits of more than one revenue district, the Conciliation Officer shall send the report to the District Collector or the Deputy Commissioner, as the case may be, in whose jurisdiction the major portion of such land is situated.

(4) If on a consideration of the report referred to in sub-section (3), the District Collector or the Deputy Commissioner, as the case may be, is satisfied that there is a case for reference to an Agricultural Tribunal, he may, by order in writing, refer the agricultural dispute to the said Tribunal for adjudication and where the District Collector or the Deputy Commissioner, as the case may be, does not make such a reference, he shall record and communicate to the parties concerned his reasons therefor.

(5) Where an agricultural dispute has been referred to an Agricultural Tribunal under sub-section (4), the Tribunal shall hold its proceedings expeditiously and shall, as soon as practicable after the conclusion of the proceedings, but not later than thirty days from the date

of receipt of the reference by the Tribunal, submit its award to the District Collector or the Deputy Commissioner, as the case may be.

(6) The District Collector or the Deputy Commissioner, as the case may be, shall, within a period of fifteen days from the date of receipt of the award referred to in sub-section (5), cause the same to be published in his office and in the office of the Agricultural Tribunal in such manner as may be prescribed and shall also forward copies of the award to the parties concerned.

(7) An award referred to in sub-section (5) shall, subject to any order of the State Government under section 26, become enforceable on the expiry of ten days from the date of its publication in the manner provided in sub-section (6).

(8) Every memorandum of settlement referred to in sub-section (2) and, subject to any order of the State Government under section 26, every award of an Agricultural Tribunal shall be final and shall be given effect to by the parties to the agricultural dispute.

25. (1) Against any order passed by a Conciliation Officer under section 24, an appeal shall lie to the Agricultural Tribunal within a period of thirty days from the date of the order appealed against, and the decision of the Agricultural Tribunal on such appeal shall be final. Appeal.

26. (1) Notwithstanding anything contained in section 24, where any agricultural dispute exists or is apprehended, the State Government may, by order in writing and for reasons to be stated therein,— Reference or decision of disputes by Government.

(a) refer the dispute to the Agricultural Tribunal constituted for the area in which the dispute exists or is apprehended for adjudication; or

(b) decide the dispute themselves and pass an award.

(2) Where a dispute is referred to an Agricultural Tribunal under clause (a) of sub-section (1), the provisions of sub-sections (5), (6), (7) and (8) of section 24 shall apply as if the reference to the Tribunal were made by the District Collector or the Deputy Commissioner, as the case may be, under sub-section (4) of that section.

(3) The State Government shall cause every award passed by them under clause (b) of sub-section (1) to be published in the Official Gazette and in such other manner as may be prescribed.

(4) An award referred to in sub-section (3) shall be final, shall be given effect to by the parties to the agricultural dispute and shall be enforceable on the expiry of five days from the date of its publication in the Official Gazette.

27. (1) Where the decision of the grievance settlement authority is not acceptable to any of the parties and either party or both the parties to the dispute is or are not agreeable to refer the dispute to a mutually agreed arbitrator, the aggrieved party may apply in the prescribed manner to the Labour Court for adjudication of the dispute. Reference of dispute for adjudication.

(2) Notwithstanding anything contained in sub-section (1), if any individual dispute arises in respect of the termination of the employment of any employee or the discharge or dismissal of such employee by way of punishment, such employee may apply, in the prescribed manner, to the Labour Court for adjudication of the dispute without referring the dispute to the grievance settlement authority or for arbitration.

(3) No application shall be made to the Labour Court after the expiry of one year from the final decision of the grievance settlement authority:

Provided that the Labour Court may entertain an application after the expiry of the aforesaid period—

(a) if the Labour Court is satisfied that the delay in making the application is for sufficient reasons or for reasons beyond the control of the party making the application;

(b) if the parties to the dispute make the application jointly and agree that the application may be entertained notwithstanding the expiry of the aforesaid period of one year.

Reference
of dispute
to
National
Commission
for
Adju-
dication.

28. (1) Where the Central Government is of opinion either on a request made in that behalf by the appropriate Government (being a State Government or otherwise) that any industrial dispute exists or is apprehended and the dispute involves any question of national importance or is of such a nature that industrial establishments or undertakings situated in more than one State are likely to be interested in or affected by such dispute, and that the dispute shall/should be adjudicated by a National Commission, then, the Central Government may, whether or not it is the appropriate Government in relation to that dispute at any time, by order, refer the dispute or any matter appearing to be connected with, or relevant to the dispute to a National Commission for Adjudication.

(2) No dispute shall be referred for adjudication under this section where the parties to the dispute agree to refer the dispute for arbitration

CHAPTER VI

PENALTIES AND PROCEDURE

Penalty.

29. If any person—

(a) contravenes any of the provisions of this Act or any rule made thereunder; or

(b) to whom a direction is given or requisition is made under this Act fails to comply with the direction or requisition; or

(c) knowingly makes or causes to be made any false statement or false representation,

he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to rupees five hundred or with both.

30. (1) If the person committing an offence under this Act is a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Offences
by
compa-
nies.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

*Explanation:—*For the purpose of this section—

(a) “company” means any body corporate and includes a firm or other association of individuals whether incorporated or not; and

(b) “director” in relation to a firm, means a partner in the firm.

31. (1) No court shall take cognizance of any offence punishable under this Act, save on complaint made by or under the authority of the State Government.

Cogni-
zance
of offence.

(2) No court inferior to that of a Magistrate of the First Class shall try any offence punishable under this Act.

32. If any person who has been convicted of any offence punishable under this Act is again found guilty of an offence involving a contravention of the same provisions, he shall be punishable on a subsequent conviction with imprisonment for a term which shall not be less than one month but which may extend to six months and with fine which shall not be less than five hundred rupees, but which may extend to two thousand rupees:

Enhanced
penalty
after
previous
con-
viction.

Provided that for the purpose of this section, no cognizance shall be taken of any conviction made more than five years before the commission of the offence which is being punished.

33. No court shall take cognizance of an offence punishable under this Act unless complaint thereof is made within six months from the date on which the alleged commission of the offence comes to the knowledge of the Government or the Officer authorised.

Limita-
tion of
prose-
cutions.

34. (1) The State may set up an Employment Guarantee Board, tripartite in character, having representatives of the State Government, employers and agricultural workers to supervise Employment Guarantee and Social Security Schemes:—

Consti-
tution of
Employ-
ment
Guaran-
tee
Board.

(2) The Chairman of this Board shall be nominated by the State Government.

(3) The Board shall also plan alternative or part-time employment as well as self employment, particularly during lean seasons and times of natural calamities;

(4) The financing of the programmes under the Board shall be in the manner as may be prescribed.

CHAPTER VII—MISCELLANEOUS

Regis-
ter of
agricul-
tural
workers.

35. Every registering authority shall prepare a register of agricultural workers residing within the jurisdiction of that local authority in such manner and with such particulars as may be prescribed.

Mainte-
nance
of regis-
ters and
records
by the
em-
ployer.

36. Every employer shall maintain such register and records contain- ing such particulars as may be prescribed.

Bar of
jurisdic-
tion of
civil
courts.

37. No civil court shall entertain any suit or other proceedings to set aside or modify any order or decision passed by any tribunal, author- ity or office under this Act in respect of any of the matters falling within its or his scope.

Power
to take
evidence,
oath, etc.

38. Any Tribunal, Authority or officer exercising powers under this Act shall have the same powers as are vested in Civil court under the Code of Civil Procedure, 1908, when trying a suit, in respect of the fol- lowing matters, namely:—

(a) enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence;

(d) issuing commission for the examination of witnesses; and

(e) such other matters as may be prescribed and any proceed- ing before such tribunal, authority or Officer shall be deemed to be a judicial proceedings within the meaning of sections 193 and 228 and for the purposes of section 196 of the Indian Penal Code.

45 of 1860.

Recovery
of money
due from
the
em-
ployer.

39. (1) Where any money is due to an agricultural worker from the employer under this Act the agricultural worker himself or any other person authorised by him in writing in that behalf or in the case of the death of the agricultural worker his assigness or heirs may make an application to the District Collector or Deputy Commissioner as the case may be for the recovery of the money due to him and if the Dis- trict Collector or the Deputy Commissioner is satisfied that any money is so due he shall proceed to recover the same as if it were an arrear of public revenue due on land:

Provided that every such application shall be made within one year from the date on which the money became due to the agricultural wor- ker from the employer.

(2) Any amount due from the employer as contribution to the Fund under this Act or Scheme may, if the amount is in arrear, be recovered as if it were an arrear of public revenue due on land.

40. The provisions of this Act and the Scheme shall have effect notwithstanding anything inconsistent therewith contained in any other law or in the terms of any award, agreement or contract of service, whether made before or after the commencement of this Section:

Act to have effect notwithstanding anything inconsistent, etc.

Provided that where under any such award, agreement, contract of service custom or otherwise, any agricultural worker was enjoying immediately before the commencement of this section benefits in respect of any matter, which are more favourable to him than those to which he would be entitled under this Act, the agricultural workers shall be entitled to the more favourable benefits in respect of that matter, notwithstanding that he receives benefits in respect of other matters under this Act.

41. Nothing contained in this Act other than sections 18, 19, 20, 21, 22, 23, 25, 26 and section 40 shall apply in relation to a marginal farmer who does not hold more than one irrigated hectare or two unirrigated hectares of land.

Act not to apply to marginal farmers.

42. Every member of the Board and every officer appointed under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Members of the Board, etc. to be public servants.

43. No suit prosecution or other legal proceedings shall lie against the State Government or any tribunal, authority or officer in respect of anything which is in good faith done or intended to be done in pursuance of this Act or the Scheme or any rule or order made under this Act:

Protection against action taken in good faith.

44. An employer shall not support or encourage any unfair labour practice such as interference with the right of agricultural workers to enrol or continue as union members, discrimination restraint or coercion against any employer because of recognised activity of trade union, and victimisation of any employee and abuse of authority in any form.

Prohibition of unfair labour practices.

45. (1) The State Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

Power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the form and manner in which application for registering agricultural workers may be made;

(b) the wage rates and overtime rates which an agricultural worker is entitled to under this Act;

(c) the form of registers and records to be maintained;

(d) the powers of the conciliation officer necessary for the effective enforcement of the provisions of this Act;

(e) the procedure to be followed by the Conciliation Officer and the Agricultural Tribunal;

(f) the fees to be paid for applications and appeals under this Act;

(g) the manner of estimating the cash value of the wages paid in kind;

(h) the procedure to be followed by the State Government under sections 24 and 25;

(i) any other matter which has to be, or may be, prescribed under the provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

The problems of agricultural labour have been under consideration of the Government for quite some time. Various All-India agricultural labour enquiries, the Rural Labour Enquiry and the All-India Seminar on Agricultural Labour in 1965 highlighted the problems of agricultural labour—unemployment, under-employment, low wages, lack of amenities, inadequate housing, lack of organisation; all these factors resulting in a low standard of living.

2. Keeping in view the fact that India is a predominantly rural country, with nearly 80 per cent. of its population living in rural areas, the problems of agricultural workers assume greater importance because of the sheer numbers involved.

3. According to the 1971 Census, agricultural labourers in India numbered 47.48 millions against 31.52 millions in 1961. The Rural Labour Enquiry 1974-75, estimated that agricultural labour households form about 86 per cent. of the rural labour households, that the total population covered in the category of agricultural labour was 335 millions, of which about half would constitute wage earners.

4. The average earnings of wages per man-day for agricultural labour households, as revealed by the 25th round of the National Sample Survey, focus the abysmal poverty of the agricultural workers of our country.

5. The following legislation relates to various aspects of organised and unorganised labour applicable throughout India to a limited extent:—

- (1) Minimum Wages Act, 1948.
- (2) Payment of Wages Act, 1936.
- (3) Employees' Provident Funds and Miscellaneous Provisions Act, 1952.
- (4) Payment of Gratuity Act, 1972.
- (5) Industrial Disputes Act, 1947.
- (6) The Trade Union Act, 1926.
- (7) Workmen's Compensation Act, 1923.
- (8) Employees' State Insurance Act, 1948.
- (9) Maternity Benefit Act, 1961.

6. There is however no totality of approach to the problems of agricultural labour barring the Kerala Agricultural Workers' Act, 1974 which is a comprehensive legislation for agricultural workers in Kerala. At present, the main Central legislation to safeguard the interests of agricultural workers is the Minimum Wages Act, 1948. States/Union territories responsible for the enforcement of this Act have been urged,

from time to time, to ensure stricter enforcement of the notified minimum wages by strengthening the administrative set up, utilising the staff of other Departments, e.g., Revenue, Agriculture, Rural Development, etc., increasing the number of claims authorities and by giving wide publicity to the notified wages. Though some progress has been made, there are, however, frequent reports about the non-payment of notified minimum wages to agricultural workers.

7. The question of a Central legislation on the conditions of life and work of agricultural workers was under consideration of the Government of India for quite some time. As early as May, 1975, the second meeting of the Standing Committee on Agricultural Labour underlined the need for a Central legislation on the subject. In July, 1975, the 26th Session of the Labour Ministers' Conference commended the Kerala Agricultural Workers' Act, 1974 and suggested adoption of a uniform Central legislation on the subject.

8. In view of the large number of agricultural workers in India, whose conditions are at present not adequately safeguarded by existing legislation, the adoption of a Central legislation would go a long way in ameliorating the problems of agricultural labour to a considerable extent, reduce unemployment and under-employment, guarantee the minimum wages, provide for some sort of organisation to this segment of society so that they can voice their feelings and safeguard their rights and improve their present standard of living.

9. Hence the present Bill, namely, "The Agricultural Workers Bill, 1982" seeks to provide for the welfare of agricultural workers and to regulate their employment and conditions of service and matters connected therewith.

NEW DELHI;

CHITTA BASU.

September 16, 1982.

FINANCIAL MEMORANDUM

Clause 3 of the Bill empowers the State Governments for the constitution of Agricultural Tribunals. Clause 6 provides for appointment of Inspectors; clause 10 empowers the State Governments to frame a scheme called Agricultural Workers' Welfare Fund Scheme; clause 11 provides for contribution by the Government to the Fund; clause 13 for constitution of the Agricultural Workers' Welfare Fund Board; clause 14 for appointment of officers of the Board; and clause 34 empowers the State Government to set up an Employment Guarantee Board. The expenditure involved in this respect will be met from the respective Consolidated Fund of the States. Expenditure from the Consolidated Fund of India will be incurred only in respect of the Union territories. A sum of Rs. 16 lakhs is, therefore, likely to be involved as annual recurring expenditure from the Consolidated Fund of India. And, in addition, a sum of Rs. 5 lakhs is also likely to be involved on account of non-recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 45 empowers the State Government to make rules for carrying out the purposes of this Bill. The delegation of legislative powers is of normal character.

BILL NO. 131 OF 1982

A Bill to provide for the welfare of women employed in various industries and establishments.

BE it enacted by Parliament in the Thirty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Working Women Welfare Act, 1982.
- (2) It extends to the whole of India.

2. In this Act, unless the context otherwise requires,—

tions.

(a) “appropriate Government” means, in relation to the centrally-owned public sector undertakings, the Central Government and in relation to any other public undertakings, the State Governments;

(b) “child” includes a still-born child;

(c) “employer” means—

(i) in relation to an establishment which is under the control of the Government, a person or authority appointed by the

Government, for the supervision and control of employees or where no person or authority is so appointed, the head of the department;

(ii) in relation to an establishment under any local authority, the person appointed by such authority for the supervision and control of employees or where no person is so appointed the chief executive officer of the local authority;

(iii) in any other case, the person who, or the authority which, has the ultimate control over the affairs of the establishment and where the said affairs are entrusted to any other person whether called a manager, managing director, managing agent, or by any other name, such person;

(d) "establishment" means—

(i) a factory;

(ii) a mine;

(iii) a plantation;

(iv) an establishment wherein persons are employed for the exhibition of equestrian, acrobatic and other performances;

63 of 1948.

(e) "factory" means a factory as defined in the Factories Act, 1948;

(f) "Fund" means the Working Women Welfare Fund constituted under section 3 of this Act;

14 of 1947.

(g) "industry" means an industry as defined in the Industrial Disputes Act, 1947;

(h) "women" means and includes a woman employed, whether directly or through any agency, for wages or for similar other consideration in any establishment or industry;

(i) definition of any other term, relating to women employees, for the purpose of this Act, shall be the same as defined in any labour law, applicable in such cases.

3.(1) The Central Government shall constitute a Fund to be called the Working Women Welfare Fund for carrying out the purposes of section 4.

Con-
stitu-
tion
of
Working
Women
Welfare
Fund.

(2) The Government and the employers of women employees each shall contribute separately to the Fund at the rate of ten per cent. of wages payable to each of the women employed by an employer.

(3) The women employees shall not be required to contribute anything to the Fund.

4. The Fund shall be applied by the Central Government to meet the expenditure incurred in connection with the measures which are necessary or expedient to promote the welfare of the women employees employed in various industries and establishments, including Government

Applica-
tion of
Fund.

establishments to defray the cost of measures for the benefit of women employees employed in various industries and establishments and in particular—

- (i) to ensure the right to work for the women employees in any industry or establishment;
- (ii) to ensure equal wages to women employees;
- (iii) to ensure steady and definite increase of the women employees in the total work force;
- (iv) to ensure, after suitable amendments, proper application of the existing labour laws for the benefit of the women employees;
- (v) to ensure child care facilities for the women employees with minimum needs like milk, tiffin, clothes, toys and trained ayahs to look after the children;
- (vi) to ensure mobile child care facilities for agricultural women employees;
- (vii) to ensure retiring rooms with adequate facilities like bath-rooms, latrines, etc. at the work-site for the women employees;
- (viii) to ensure residential accommodation for the women employees nearest to the place of work;
- (ix) to ensure recreational facilities for the kids of the women employees at the child care centres;
- (x) to ensure proper and adequate security arrangements for the women employees at the work site, as well as, to and from their residential places;
- (xi) to ensure improved and conducive working conditions for the women employees;
- (xii) to ensure reservation of beds in the hospitals for women employees;
- (xiii) to ensure proper and adequate maternity facilities for the women employees;
- (xiv) to ensure equality for married and unmarried women employees in the employment as well as in service conditions and wages;
- (xv) to ensure hostel facilities for women employees, both married and unmarried, nearest to the place of work;
- (xvi) to ensure cheap, safe and quick transportation facilities for the women employees;
- (xvii) to ensure protection from health hazards, particularly for those working in industries like cashew, mines, tobacco, construction projects, etc.

Represent-
tation of
women
emplo-
yees in
trade
unions.

5. The Government shall ensure representation of women employees in various committees of trade unions formed for the purposes of working class.

6. (1) The Central Government shall constitute for each area, where industries and establishments are situated, Advisory Committees in respect of the area at the city level, district level and an apex body at State level, consisting of equal number of representatives from the Government, the employers and the trade unions, who shall preferably be women, to advise the Central Government on such matters arising out of the administration of this Act as may be referred to it by the Government including matters relating to the application of the Fund.

Constitution of Advisory Committees.

(2) The members of committees so constituted shall from amongst themselves elect the Chairmen of the committees.

(3) The Central Government shall publish in the Official Gazette the names of the members of all Advisory Committees.

7. The Central Government shall constitute a Central Advisory Committee which shall coordinate the functioning of all the Advisory Committees for their proper functioning and for the adoption of uniform policies.

Central Advisory Committee.

8. The appropriate Government may, by notification in the Official Gazette, appoint as many officers as it may deem necessary for the proper enforcement of the provision of this Act.

Appointment of officers.

9. The district level Advisory Committee shall maintain a register of women employees in its area and the information contained therein shall be checked with the information supplied by each employer of the area regarding women employed by them and their specific needs, if any.

Register of women employees.

10. Each Advisory Committee shall, as soon as may be after the end of each financial year, prepare a comprehensive report of its activities of the last year which were financed from the Fund together with a statement of accounts.

Annual report of Advisory Committees.

11. The appropriate Government may require an employer, who employs women in his industry or establishment, to furnish, for the purposes of this Act, such statistical and other information, in such form and within such period, as may be prescribed.

Employer to furnish information in respect of women employees.

12. The provisions of this Act shall have effect notwithstanding anything inconsistent contained in any other law or in the terms of any award, agreement or contract of employment, whether made before or after the coming into force of this Act, but where under any such award, agreement, contract of employment or otherwise, if a woman employee is entitled to benefits in respect of any matters which are more favourable to her than those to which she would be entitled under this Act, she shall continue to be entitled to the more favourable benefits in respect of that matter, notwithstanding that she is entitled to receive benefits in respect of other matters under this Act.

Overriding effect of the Act.

13. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

STATEMENT OF OBJECTS AND REASONS

The number of working women in industries and establishments is substantial and their living conditions need amelioration. Welfare facilities which are at present being made available to and enjoyed by the working women in various industries and establishments are not adequate and satisfactory. These measures have limited coverage in as much as they prescribe some measures to improve the working conditions of the working women in industrial premises only, such as cleanliness, ventilation, first aid, canteen, working hours, weekly holidays, etc. In so far as the field of labour welfare is concerned, the existing enactments do not provide for proper medical, educational, recreational facilities for them as well as for the children of the working women. Regarding security, transport, accommodation, special facilities for difficult days and some special problems peculiar to women, no enactment has been made. There are enough loopholes for the employers to escape the provisions of the existing enactments. Hence, it is felt that the burden to give reasonable working conditions and other facilities to the working women must fall upon the Government. A common fund for the welfare of the working women in all the industries and establishments will considerably reduce the administrative expenditure as well as the gap between the need and the availability of welfare measures for the working women. This Bill is intended to supplement the efforts of the employers or the Government in ameliorating the living conditions of the working women.

NEW DELHI;
September 15, 1982.

SUSEELA GOPALAN

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the constitution of a Working Women Welfare Fund. The Central Government and employers of women employees shall each contribute separately ten per cent. of the wages paid by them to the women employees. Clause 6 provides for the constitution of Advisory Committees at the city level, district level and State level. Clause 7 provides for the constitution of a Central Advisory Committee. Clause 8 provides for the appointment of officers for the proper enforcement of the Act. Clause 9 provides for the district level committees to maintain a register of women employees in its area. The Bill, therefore, if enacted, will involve expenditure from the Consolidated fund of India. It is likely to involve expenditure of about rupees five crores per annum.

A non-recurring expenditure of about rupees five lakhs is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 13 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. Since the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL No. 122 OF 1982

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Thirty-third Year of the Republic of India as follows:—

Short
title
and com-
mence-
ment.

1. (1) This Act may be called the Constitution (Amendment) Act, 1982.

(2) It shall come into force at once.

Insertion
of new
article
174A.

2. After article 174 of the Constitution, the following article shall be inserted, namely:—

Summon-
ing of
State
Legisla-
tive As-
sembly
on requi-
sition by
majority
of mem-
bers
thereof.

“174A. Notwithstanding anything in clause (1) of article 174, if a requisition to summon the Legislative Assembly of the State, signed by more than one-half of the total number of members of the Assembly, is received by the Speaker of the Assembly, he shall summon the Assembly to meet at such time and place as he thinks fit on any date not later than fifteen days from the date of receipt of such a requisition.”

STATEMENT OF OBJECTS AND REASONS

A controversy has often arisen as to who is competent to convene a meeting of a State Assembly. Conflicting claims have been advanced by Chief Ministers and on behalf of Governors. The continued support of a majority of the members of a State Assembly is the basis of a responsible Government. When this is in doubt the issue should be settled on the floor of the Assembly and hence this Bill.

MADHU DANDAVATE

NEW DELHI;

September 20, 1962.

BILL No. 123 OF 1982

A Bill further to amend the Constitution of India.

Be it enacted by Parliament in the Thirty-third Year of the Republic of India as follows:—

Short
title,

1. (1) This Act may be called the Constitution, (Amendment) Act, 1982.

Amend-
ment of
article
75.

2. In article 75 of the Constitution, in clause (1), for the words "The Prime Minister shall be appointed", the words "The Prime Minister, who shall be an elected member of the House of the People, shall be appointed" shall be substituted.

Amend-
ment of
article
164.

3. In article 164 of the Constitution, in clause (1), for the words "The Chief Minister shall be appointed", the words "The Chief Minister, who shall be an elected member of the Legislative Assembly, shall be appointed" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

The principle of democratic and responsible Government is vitiated if the members of the Upper Houses become Prime Minister and Chief Ministers of States. It is also an unhealthy principle that members or non-members, who are not directly elected by the mandate of the people, should head the popular Governments in the country.

This amendment provides that the Prime Minister and Chief Ministers shall always be elected members of the Lower Houses.

MADHU DANDAVATE

NEW DELHI;
September 21, 1982.

AVTAR SINGH RIKHY,
Secretary.

