

The Lok Sabha re-assembled after lunch at ten minutes past Fourteen of the Clock.

[MR. DEPUTY-SPEAKER in the Chair]

EMPLOYMENT OF CHILDREN
 (AMENDMENT) BILL—Contd.

MR. DEPUTY-SPEAKER: The House will now take up further consideration of the following motion moved by Shri Ravindra Varma on the 22nd November, 1978, namely:—

“That the Bill further to amend the Employment of Children Act, 1938, as passed by Rajya Sabha, be taken into consideration.”

SHRI GAWAI—not here, Shri Kamble.

SHRI B. C. KAMBLE (Bombay South-Central): Sir, so far as the provisions of the Bill are concerned, there is no quarrel about them, but I am afraid that the hon. Minister has not taken an integrated view of child labour. At the outset I must say that the policy should be changed: the policy should be that of learning while earning. Therefore, what I submit is that the provision made in the Bill in this regard is merely negative: there is no provision with regard to education of children. If children above the age of 15 years may be employed, what is going to be the place of those below 15 years? My submission is that they should be in schools. They should be either in primary schools or in secondary schools: that is the place where they should be. But this has not been taken note of.

According to the report of the National Labour Commission, it seems that the percentage of child labour is increasing. It was 4 per cent in 1951, 7 per cent in 1956 and, in 1961 it has gone up to 8 per cent which means that 8 per cent of the children are almost illiterate.

In so far as the provisions are concerned, there is a provision made for punishment so far as the employer is

concerned. But even if you punish the employer, what happens to the child? Whether the children will be sent to school and he will receive any education has not been mentioned. Therefore, it seems to me that only the provisions of Art. 24 have been taken note of, and Articles 39(f) and 45 have not been taken note of at all.

So far as Art. 39(f) is concerned, we are happy to note that the Janata Government as well as the Indira Congress are agreed as far as the provisions of Art. 39(f) go. But so far the provisions of this Bill are concerned, there is no provision which provides for opportunities and facilities to develop the children in a healthy manner, with freedom and dignity. Where has that been mentioned? It becomes illusory if a child is taken out of employment but no education is received by him.

Similarly, with regard to primary education, compulsory education is up to the age of 14. Now it seems to me that the children are losing education fast. It is in the report of the National Labour Commission that, out of pity, certain children are allowed to continue in service. So, I would suggest that such of the children who are likely to be retained should be given some training as apprentices in certain centres. There should be a special provision made for them. Therefore, I would plead with the Government that they should follow a policy of ‘earning while learning’. They should make a provision for learning also while a child make a provision or learning also while a child above the age of 15 can earn.

With these words, I support the Bill.

SHRI KUSUMA KRISHNA MURTHY (Amalapuram): At the outset, I would say, the Minister deserves congratulations for having brought this Bill because the Bill is a step in the right direction as it is meant to cover the area of protection for the children who seek employment. But unfortunately the Bill is confined to the employment

[Shri Kusana Krishna Murthy]

of children in certain specified jobs in the organized sector only. It has completely left untouched the unorganized sector where the majority of the children are employed. In fact we expected a comprehensive Bill prohibiting child labour below certain age and also providing punitive measures in the Bill against those who seek to exploit child labour.

The Employment of Children Act was enacted exactly 40 years ago that is in 1938, covering a very limited area. Besides, there are several other Acts, namely, the Factories Act, the Shops and Establishment Act, the Plantation Labour Act, etc., specifying minimum age for children for employment and also providing regulatory measures in their working conditions. But, in spite of all these existing regulatory measures, the number of children seeking employment for livelihood in our country, as per the census report of 1971, is as high as 10.7 million, and I believe that this figure is absolutely incorrect because the quantum of child labour cannot be identified in rural areas where they work as domestic servants for a throwaway food and a little clothing and for nothing else. If this part of the child labour is also taken into consideration, the figure will go up substantially. Besides this, the Census Report of 1971 clearly emphasizes the fact that 87 per cent of our nation's child labour is existing in rural areas and that too in the unorganized sector of our industry. We know the unorganized sector, pretty well that covers agricultural operations, live-stock tending, plantations, stone-breaking, fisheries, etc. As per the National Labour Commission's report the condition of the child labour in the rural areas is absolutely miserable. This Bill has not touched this very important aspect. Apart from this, there is another field where the children are being misused. Children are extensively utilised for organized begging in places like Bombay and other metropolitan cities. The children are also

taken as bonded labour in our rural India. Besides U.P., Madhya Pradesh and Bihar, Andhra Pradesh happens to be one of the States where the illegal employment of children is existing more. One of the Committee's report has emphasized the fact that one of the black spots of labour conditions in Andhra Pradesh is the large-scale illegal employment of children. Now, I would like to ask a specific question whether this Bill is going to do anything to prevent this situation in Andhra Pradesh. Our children are the most misused and also the exploited lot of our population. We talk much about the future citizens of our country. We know that the future of our country remains in the hands of the children. Out of the 87 per cent of the rural child labour, 90 per cent is drawn from children belonging to the socially disabled sections of our society, and that is the reason why literacy is not at all improving as these children are not taken care of the way in which they should be. We know a nation's progress always depends on the welfare of the children and in this connection I would like to remind this august House that Pandit Jawaharlal Nehru has correctly said that "when a nation moves forward, it marches the feet of her children." But we never take any serious action in this important matter. This piece of legislation, I believe, has far-reaching consequences when compared to your Constitutional amendments. But unless a comprehensive Bill prohibiting the employment of children below certain age is brought forward, in our Indian conditions, it does not serve any purpose at all.

We have a number of Children Welfare Boards at national level as also at State levels but they never take any proper interest to conduct a survey to find out the glaring facts relate to exploitation of children. In this connection the Government should have taken the help of the International Labour Organization to conduct a survey about the realities of the glaring exploitation of children which would have enabled the Government to bring

about a comprehensive. Bill in this regard but I do not know why the Minister is so much in a hurry to bring out this legislation, probably to have a feather in his cap in the ensuing International Children's year. The Minister made a pertinent observation while introducing this Bill that "our social conditions and our social conscience will save our children from the need to work for a living." But the Minister is not unaware of the fact that our existing social conditions which are based on only caste system and as long as that caste system continues to exist, I do not think anybody can expect any change in this social set up and social conditions. We know very well that unless there is a functional mobility in field of employment for a living we cannot expect any change in our social set-up. This is an inter-linked and intricate social problem of our country. Ours is a society where certain sections are meant for exclusively certain kinds of menial works whereas other sections for better works. As long as this goes on we cannot expect any change in our social conscience and conditions.

Therefore, I strongly urge upon the Minister to take up this matter very seriously and bring forward a comprehensive Bill prohibiting employment of children below a certain age and also including specific punitive measures against those who seek to exploit child labour at least in 1979 in which year we are going to celebrate the International Children's Year.

**THE MINISTER OF PARLIAMEN-
TARY AFFAIRS AND LABOUR
(SHRI RAVINDRA VARMA):** I am indeed very grateful to the hon. Members who have participated in the debate on this very important Bill.

You, Sir, must have observed that all sections of the House were unanimous in supporting what the Bill contains. If there were some observations which reflected apprehensions or dissatisfaction, they referred not to what is in the Bill, but what is not in the Bill, and this, Sir, is quite understand-

able because, as many hon. Members pointed out, the children are the wealth of the nation. In any country, at any time, it is incumbent on society to ensure that the children of the country have the fullest opportunities to grow in health, to grow in talents and skills, and grow up as enlightened and able citizens who are competent to contribute to the totality of the economic development, social development and cultural development in the country. It is, therefore, very essential to ensure full protection, full opportunities for development, full opportunities for education, and for self-expression, for the children of our country.

Having said this, I must point out that as far as a piece of legislation is concerned, it may be permissible to excuse that piece of legislation if it is specific and not encyclopaedic in its content. As hon. Members know, the welfare of children is a subject which has to be dealt with by many Ministries, by many voluntary organisations and by everybody in fact. This Bill, as I made clear in the very beginning, is a very modest Bill which tries to deal only with one aspect of the situation as it exists to-day.

It was pointed out that in our country many children are employed. My distinguished friend, Mr. Mavalankar who is not only a professor but a student-cum-professor did his home work, and told the House, that the surveys that had been conducted hardly covered that specific question of the employment of child labour as well as other distinguished members on this side of the House pointed out that nearly 42 million children are employed in various countries of the world, the vast majority of them being in the developing countries of the world. It was also pointed out that in this country of ours about more than 10 million children are employed.

Now, when you say 'they are employed', one is sometimes likely not to understand the full import of the world

[Shri Ravindra Varma]

'employed'. Children can be employed in many senses. They may be employed by an outside employer in a factory or in an undertaking or an occupation. They may be employed in a family undertaking. They may be employed to look after some of the commitments of the family in some industrial activity or industry. All these are covered by the term 'children who are employed' as my distinguished friend pointed out. There is a distinction between children who are employed for wages, or for some kind of recompense in cash or kind, and children who contribute in lightening the labours of the family or their parents. Even so, from the point of view of the growth of the child, the development of the child, and assuring the future of the future citizens of the country, it is absolutely essential that we must ensure that poverty or ignorance or other economic or social disabilities do not compel parents to keep children away from school, do not provide incentives either to the family or to the child to keep away from where he belongs to at that age as my hon. friend, Mr. Krishna Murthy who spoke before me said, namely, the schools. But, as hon. Members pointed out, there are certain realities of the situation which we cannot ignore in our country. In our country, the primary reason why children do not go to school or do not remain in school or parents are compelled to employ children in family occupations or send children to factories or other kinds of employment, is poverty. There is no doubt about this and it will be very difficult for us to say that this poverty can be banished in a day, that conditions can be created where child labour, as it is termed, can be abolished overnight.

My distinguished friend, Mr. Balbir Singh who is unfortunately absent to-day...

SHRI P. VENKATASUBBAIAH:
 Conspicuous by his absence.

SHRI RAVINDRA VARMA: I cannot say 'unfortunately conspicuous by his absence'. So I withdraw the word 'unfortunately' and I gladly subscribe to what my friend, Mr. Venkatasubbaiah has pointed out—'who is conspicuous by his absence...'

SHRIMATI PARVATHI KRISHNAN (Coimbatore): Conspicuous due to turban.

SHRI RAVINDRA VARMA: I do not know what part of what attracts the hon. Member's attention. May be the colour was attractive. It is generally red. Therefore, it delights the eyes of some hon. Members opposite.

SHRIMATI PARVATHI KRISHNAN: You hit the nail on the head.

MR. DEPUTY SPEAKER: The head is protected by the turban

SHRI RAVINDRA VARMA: I have already said that I cannot speak for what attracts different people.

Now, Sir, he suggested a very simple remedy which, other hon. friends, in one way or the other, have echoed, perhaps in a muffled tone, that the Government should bring forward legislation declaring child labour illegal and seeing that child labour ceases to exist. On the fact of it, at least in India, this is so simple a solution that sometimes one forgets that it is a simplistic solution. If one does enact a piece of that kind, it will not be a piece of legislation; it will be adding an Eleventh Commandment to the Ten Commandments:

"Thou shall not employ child labour, And lo and behold: There will be no employment of child labour."

But, Sir, I submit to this House that legislation is not only an expression

of an aspiration or a desire, but it has also to take into account reality. Legislation must be feasible of enforcement, capable of enforcement and it should not result in increasing the hardship that it is meant to remove. My distinguished friend, Mr. Pabitra Mohan Pradhan—Mr. Pabitra Mohan Pradhan with his enormous experience in the field of social work as well as administration—pointed out (*Interruptions*)

I do not know why the hon. Member to-day is so found or names. I take names. The hon. Member wants to call names. What I was saying was that my hon. friend, Shri Pabitra Mohan Pradhan, with his experience in administration as well as in social work pointed out, and my distinguished friend, Shri Mavalankar also quoted from the report of an Institute which said "the abolition by law of this kind of labour in fact lead to this in difficulties in certain areas". The difficulties to which he referred are not necessarily the difficulties in administration but the difficulties to deal with the economic situation of the families of these children. Therefore, it is necessary for us to take into account the social realities of the situation in this country. We have to introduce a legislation, a piece of legislation, which is desirable, which is practicable and which can be enforced.

Now, Sir, the main purpose of the legislation is to see that we deal with an area where we can enforce what we legislate. As my distinguished friends pointed out, it is known that eighty seven per cent of our children are employed in the rural areas. Is it being seriously suggested that in every village in this country, every household of this country, we can have a machinery for inspection and certification of age and penalties being enforced? Is it possible to do that in this country to-day? Let us not compare the conditions in this country with those obtaining in countries that can be crossed in forty-five minutes, with

countries whose population is less than 200 thousands. Our country is a vast country with all the social conditions that we are familiar with. Therefore, to say that the legislation must be extended to all our rural areas is something which can be said, and should be said, but this is not practicable. Now we know that children are mainly employed in farm labour, flock-tending, in plantations, in domestic services, in shops, handicrafts, small scale industries like biri rolling etc. All these were referred to. My hon. friend, Shri Mavalankar also—I am not referring to him often just because of the geographical position where my eyes fall on him—pointed out that there is lack of information or statistics on the conditions of labour, child labour employed in different sectors.

This is a lacuna; this is a defect in the situation which has to be corrected and I shall come back to it later. If it is not possible overnight to abolish child labour everywhere, with one stroke of the pen or with one piece of legislation, then what are we to do? What we have to do is this. First of all we have to ensure that children are not employed in hazardous occupations. I think there can be not two opinions on this. First priority has to be given to excluding them from realms which are hazardous. So legislation has first of all to deal with hazardous occupations in which children are employed and then other places where children will be employed. You have to regulate their conditions of work—conditions of work include working hours conditions of the environment, opportunities for inspection of condition of health, opportunities for medical attention, etc. Now, Sir, on the one hand we have, therefore, to eliminate child employment from hazardous areas and on the other to regulate the conditions of work in the areas of work which are not hazardous. It is also necessary at the same time to ensure that at this tender age opportunities of education are provided to

[Shri Ravindra Varma]

our children. This is particularly necessary because we cannot eliminate inequality of opportunities without ensuring opportunities for education. The distinguished member who spoke on this referred to the fact that many children do not remain in schools because of poverty, etc. I know that the Education Ministry is concerned with this subject, but as this matter has been referred to, I must say that today in this country, as hon'ble Members are aware, 79 lakh children of school going age receive their mid-day meals. I understand that this number which relates to programmes taken up in co-operation with CARE, is going to be increased to a crore, and in addition there are schemes which the State governments have taken up for the provision of mid-day meals. So, more than one crore of children will be provided with mid-day meals, free uniforms and free textbooks merely to ensure that they remain in school at tender age.

I shall now go to the other aspects of the question which my hon'ble friends referred to, namely, the question of hazards. It was pointed out that the field of agriculture is not without hazards. Actually every kind of occupation today, because of the kinds of materials which we have to deal with or because of the kinds of machinery used or because of the processes that are involved include or involve some kinds of hazards. I do not, therefore, deny for one moment that hazards are making their inroads even into the field of agriculture.

My hon'ble friend, Shri Rajagopal Naidu made reference to the use of threshers and the effects of the use of pesticides in the rural areas. He is right when he says these introduce a new hazard in the rural areas and in the agricultural field but then his suggestion was that we should, therefore include this in this legislation. I wish to point out to him that according to the present Act Section 3 A of the Act clearly lays it down that the power

to include any new employment or occupation with in the purview of the Schedule will be vested in the State governments. It is open to the State governments, therefore, by virtue of Section 3 A of the existing Act to include in the Schedule such new hazardous occupations as the honourable member referred to but if the Centre or the Parliament has to facilitate for inclusion of this in the Schedule then it has to be through an Act of Parliament, and that cannot be brought forward without consultation with the States which have powers in this regard. Therefore, I do hope that my hon'ble friend will understand this and not insist on his amendment in this respect. There are other areas referred to—both urban and semi-urban. Sir, hazardous occupations consist not only of those in which there is risk of accidents and injuries, but also of those in which exposure to a certain environment or the use of certain machineries may result in the erosion of health or affect a certain organ of the child or the employee. That also constitutes a hazard. For example, particles of dust, chemicals, dyes and many other things which were referred to, all of them constitute in some manner or other, hazards to something or the other connected with the health of the child or the employee. Small Scale industries are no exception in this regard. It would be wrong for us to think that only the big mills and the big factories pose threats to the health of the employees. My hon. friend Shrimati Jeyalakshmi pointed this out the other day—I am sorry she is not here; she made a very powerful and cogently argued speech the other day. She spoke in Tamil. I do not know whether in translation the effect of her speech suffered; I don't mean in any way to be derogatory to those who are doing the very difficult task of interpretation. But I had the privilege to hear her on that day. And I must say this, and I must pay a tribute to the sincerity, the authenticity with which she referred to the difficulties and the ha-

zards and the situation of children who are employed in some of the small-scale industries in her area, namely, match manufacture. (*Interruption*) Are you suggesting that I should have said match-making?

MR. DEPUTY SPEAKER: Not so early in the day.

SHRI RAVINDRA VARMA: For my hon. friend?

MR. DEPUTY SPEAKER: For the children.

SHRI RAVINDRA VARMA: I thought, Sir, you should have said, not too late for my hon. friend. I was talking about match manufacture, manufacture of crackers, printing and dyes...

AN HON. MEMBERS: It is too late...

MR. DEPUTY SPEAKER: Too late. he is right.

SHRI RAVINDRA VARMA: I don't know whether this suggestion arises from my Bill, Sir. In fact, it is only to protect children and not to throw them into the lap of danger. Sir, my hon. friend Shrimati Jeyalakshmi referred to these. Now, Sir, I quite agree with her that these are hazardous occupations and that the conditions of the children who are employed in these are not good.

But, Sir, I would like to point out to her that these are already there in the provisions of the Act. It is not that these are not covered. In the list of occupations and employment referred to in the parent Act you will find that these very things, including crackers, printing, match manufacture etc., are included in Schedule A of the Bill. The responsibility for ensuring the observance of the provisions of the Act, the enforcement of the provisions of the Act rests with the State Government. I am not trying to shirk responsibility. I am only trying to point this out that this is already covered.

And here then I will go to my next point, that is, the necessity to ensure effective inspection, whether it is by

the State or by the Centre. Sir, if you have laws, but do not have an effective machinery for enforcement and inspection, then, the laws will be there only on the statute-book, but the benefits will not reach the beneficiaries for whom you legislate. Therefore, Sir, it is necessary to have a foolproof system of inspection when we legislate on this scale.

Reference was also made to safety. I am very glad that hon. members drew the attention of the House to aspects of safety. I would like to say that safety consists in the many steps that we take to protect the health of employees, and insure against the effects of hazards as far as employees are concerned. This may consist of personal protective equipments, or protective gadgets, for certain machines like the thrashers, to which my hon. friend referred to.

I may also tell the House in this connection that there is a great deal of work being done in this regard—research work and development work—by the Directorate-General of Factories and Labour Institutes under the Ministry of Labour.

Now, I think, I have covered the question of Education to which my hon. friend referred.

Then, my hon. friend Mr. Dave referred to the need for promoting awareness of the law. Sir, he said that a survey in Bombay had disclosed that many persons were unaware of the existence of such laws. On the one hand, we say that ignorance of the law provides no one with any immunity, but on the other hand, it is also true that if there is any large-scale unawareness of the law, both on the part of the beneficiaries and those who are violating the law, then, we have a situation in which laws again do not serve their purpose. Now, I do not think that Bombay is an unenlightened area. May be if my hon. friend, Mr. Swamy, was here and some other hon. Members were here... Mrs. Rangnekar is here. So, I

[Shri Ravindra Varma]

must say that Bombay is one of the most enlightened parts of India. I hope you have no objection.

SHRIMATI AHILYA P. RANGNEKAR (Bombay North-Central): Of course, not.

SHRI RAVINDRA VARMA: In spite of the fact that Bombay is one of the enlightened parts, there is lack of awareness in Bombay.

SHRI P. VENKATASUBBAIAH: Kerala is also very enlightened.

SHRI RAVINDRA VARMA: I think it is not as enlightened as the hon. Member's constituency. I do not think in this respect Kerala can compete with its constituency which is exemplary in awareness. Otherwise, it would not have chosen my distinguished Mr. Pendikonda Venkatasubbaiah as its representative. I mention this only to say that the role of voluntary associations or organisations and trade Unions in promoting awareness and in ensuring the enforcement of the law is something which cannot be overlooked.

Sir, a reference was made to I.L.O. Conventions. Most of the I.L.O. Conventions which relate to child labour where they can be validly brought into force in our context have been accepted and ratified by our Government. But my hon. friend, Mr. Mavalankar, who referred to this as well as, I think, Mr. Sheth, and another Member who spoke from this side, referred to the minimum age restriction in the I.L.O. Conventions. Sir, the I.L.O. Conventions themselves do not stipulate a specific age as far as the developing countries are concerned. Because of the difficulties in setting up an administration for inspection, certification of age and providing deterrent punishment, the I.L.O. Conventions themselves referred to certain age-groups say, between 14 and 17, etc. So wherever it

is practicable, except in cases where a new convention has superseded an old convention or an existing convention has become a part of a new system of conventions, we have ratified most of the conventions.

Lastly, I think I should refer to the point made by my hon. friend, Mr. Kamble, and say that there is a distinction between Article 39(f) and Article 24. My hon. friend is very well-informed person. I know he feels for the poor and the down-trodden. I would only submit that we are not behind him, and in a sense, we are behind him in this thought of his. Sir, he knows very well that Article 24 deals with a Fundamental Right. Article 39(f) deals with a Directive Principle. Is it necessary for me to hold forth in this House on the distinction between the Directive Principles and Fundamental Rights? The Directive Principles by their very character and nature are such that an element of gradualness is combined with the delineation of direction. That is why I said 'Directive Principles'... Therefore, Sir, if both are not on the same footing, while formulating a piece of legislation, it is not entirely understandable if we make a distinction between them. Sir, now let me turn to the International Children's Year. It was pointed out by many hon. Members that we are on the eve or on the threshold of the International Children's Year. Sir, in this country, as my hon. friends know, a national Board has been set up to formulate a plan of action for the Children's Year, and the Prime Minister himself is the Chairman of this National Children's Board. I understand that State Children's Boards have been set up in many of the States.

PROF. P. G. MAVALANKAR (Gandhinagar): Not all.

SHRI RAVINDRA VARMA: It is in the process. These Boards are dealt with by the Education Ministry. My

friend knows more about it than I know, being a Professor. But I entirely agree with the suggestion that the International Children's Year should be an occasion for all Ministries to think of what can be done for the children of our country. So, as far as the Ministry of Labour is concerned, it must in this year, pay attention to the condition of children who are employed, and find out means of minimising the employment of child labour and minimising the hardships of children who are employed.

It is also a fact that forty years have elapsed since the parent Act was passed by Parliament—it was passed in 1938—and it is a long time. We have gone through many years and we have come a long way since then. Therefore, it is quite legitimate to say that the Government must have a good look at this entire thing...

SHRI DINEN BHATTACHARYA:
 Broad look...

SHRI RAVINDRA VARMA: I did not say 'good looks'; why do you protest?...and bring forward a legislation which covers the entire area. I would have readily used your phrase, the phrase which many hon. Members used, comprehensive legislation, but I have some trepidation in using the adjective 'comprehensive'. Therefore, you will forgive me if I do not talk of comprehensive legislation, but certainly I do promise that in this year, we will have a thorough look at this field and bring forward such proposals as we can bring forward. I agree with the proposal that was made, that we should set up a Committee. We will set up a national committee to study the conditions of child labour and the problems connected with child labour, to make proposals to the Government on the action that should be taken, both in terms of legislative action and executive action. I would, therefore, like to inform the House that I will take steps immediately to set up a committee of this kind and also set up a special childrens cell as

was demanded by some hon. Members. I think, I have dealt with most of the points...

PROF. P. G. MAVALANKAR:
 Why was the hon Minister not very clear about India not accepting the ILO convention of 1976? Would he kindly spell out his reasons for not doing so so far?

SHRI RAVINDRA VARMA: The last convention on child labour was not actually held in 1976; it was in 1973. I am afraid, there must have been some printer's devil in the booklet that you saw. In any case, I have already explained the factors that determine our ratification of conventions. I can assure the House that wherever it is feasible under India's conditions, we will be the first to ratify such conventions.

I think, I have already dealt with most of the points made by the hon. Members and will appeal to the House to pass this Bill.

MR. DEPUTY-SPEAKER: The question is:

"That the Bill further to amend the Employment of Children Act, 1938, as passed by Rajya Sabha, be taken into consideration."

The Motion was adopted.

MR. DEPUTY-SPEAKER: We will now take up clause-by-clause consideration.

Clause 2—(Amendment of section 3)

SHRI P. RAJAGOPAL NAIDU
 (Chittoor): I beg to move:

Page 1,—

after line 19, insert—

"(dd) connected with the work to drive tractors or earth moving machines; or" (1)

The hon. Minister has sought to insert in Section 3 of the Act sub-clauses

[Shri P. Rajagopal Naidu]

(b), (c) and (d). I want to add my amendment thereafter. The hon. Minister has brought his amendment to include the railways. I have moved my amendment in order to include sugarcane crushers, thrashers etc. These also come under the category of machinery. Why not include them?

SHRI RAVINDRA VARMA: I have already answered this in the course of my speech. I thought, my hon. friend was here, I made a particular reference to this amendment, and I said that this deals with the agricultural areas. The States can easily include them because Section 3(a) empowers the States to do so. If we want to do that, we have to consult the States and it is a long process. Therefore, I hope he will withdraw the amendment.

SHRI P. RAJAGOPAL NAIDU: I seek leave of the House to withdraw my amendment.

The amendment was, by leave, withdrawn.

MR. DEPUTY-SPEAKER: The question is:

"That Clause 2 stand part of the Bill"

The Motion was adopted.

Clause 2 was added to the Bill.

Clause 3 was added to the Bill.

Clause 4—(Amendment of section 4)

MR. DEPUTY SPEAKER: Now clause 4, Mr. Kamble.

SHRI B. C. KAMBLE: I beg to move:—

Page 2,—

after line 2 insert—

'(iii) the following shall be added at the end—

"and the said employer shall be bound to send forthwith the concerned child or children to the

nearest Centre for vocational training or the institute for apprenticeship, and if such Centre or institute is not there then to the nearest primary school for education and being brought in healthy manner and make a report to the nearest Labour Officer accordingly".(2)

I am moving this amendment mainly with the purpose of getting some answer from the Minister on the point that I am raising. This is an amendment to the penal clause where the employer will be penalized. The question is: what will happen to the concerned child or children? Either they will be thrown out of employment or, probably, they will be retained—in certain cases; but most probably they will be thrown out of employment. If they are thrown out of employment, and are not taken either in an educational institution or in any employment, the position will be worse. So, my amendment seeks to suggest that immediately after that, the child or children should be sent—i.e. forthwith—either to a certain educational centre where there is training or apprenticeship given— or to a primary educational institution. The question would be: what provision can be made for their accommodation? I suggest that in consultation with the Ministry of Education, steps should be taken to strictly enforce the provisions with regard to primary education. In case there are such children, who are also employed, there might be night schools opened for them. If it is possible, there should be some residential schools where the children can receive education as well as get accommodated in hostels. If this is not done, and if the provisions of clause 4 are implemented, I am quite sure that a large number of, millions of children will remain illiterate; and again illiteracy will be the curse inflicted on the country, which will be a surer way to the loss of their freedom.

The hon. Minister had made a distinction between Directive Principles and the Fundamental Rights. I would like to tell him that so far as to-day's position of the Constitution is concerned, Directive Principles have precedence over Fundamental Rights. So, I would request the hon. Minister humbly not to make a distinction between the two, as they are to-day, but to see, in consultation with the Education Ministry, that the children thrown out of employment receive training and education. I am not going to press my amendment; but I want to know the views of the Government on this question.

SHRI RAVINDRA VARMA: My hon. friend talked of the supremacy of the Directive Principles over the Fundamental Rights. I do not want to enter into a debate with him on the relative importance of these, either in the Constitution or in theory. But what I will try to tell him is that there is a distinction between the two in this sense, that one is justiciable, while the other is not. As far as Directive Principles are concerned, they signify an attempt to reconcile the necessity for a degree of gradualness with the necessity to delineate the direction. This is what I said. I think this has not been impugned by my hon. friend.

He almost made it look as though there was a dilemma. If somebody employes child labour, then he should be punished. If he is punished for it, then the children will not be employed. Therefore what shall we do? This seems to be the dilemma plaguing my hon. friend. When you say that to employ child labour is wrong, then I would like to ask him a question: if you think it is wrong in law, then should it be left without a penalty? There has to be a penalty, if you make something illegal; and if the enforcement of that penalty means the non-employment of child labour by the person who is employing child labour

—which is done illegally—then are we to shed tears over the fact, that he observes the law? but I can understand the human aspect of this question, i.e. it may lead to a situation where those who have some means of income, some additional means of income to the families, may be without them.

15.00 hrs.

That is why earlier on I referred to what my hon. friend Mr. Pradhan said; that there may be occasions where an overnight legislation of this kind may add to the hardships that some people face. Mr. Kamble's solution was to suggest that there must be some way of ensuring that these children are sent either to apprenticeship schools or to regular schools. As far as apprenticeship institutions are concerned, there again is a question of age and the requisite skill. A boy of 10 years or 9 who may be helping in some job and getting Rs. 2 or Rs. 4 a week may not necessarily be qualified or eligible for admission to an apprenticeship school. And as far as sending them compulsorily to primary schools is concerned, he himself referred to the attendance problem, accommodation in hostels, etc. So, these are problems which have to be tackled, but not necessarily included in this piece of legislation. I can tell him that I raised this matter with my hon. friend the Education Minister, and discussed these problems with him. I hope my Hon. friend, Mr. Kamble will not press his amendment.

SHRI B. C. KAMBLE: I do not press my amendment.

MR. DEPUTY SPEAKER: Has the hon. Member leave of the House to withdraw his amendment?

SEVERAL HON. MEMBERS: Yes..

The amendment was by leave, withdrawn.

MR. DEPUTY SPEAKER: The question is:

"That clauses 4 and 5 stand part of the Bill."

The Motion was adopted.

Clauses 4 and 5 were added to the Bill.

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

SHRI RAVINDRA VARMA: I beg to move:

"That the Bill be passed."

MR. DEPUTY SPEAKER: The question is:

"That the Bill be passed."

The Motion was adopted.

15.03 hrs.

MOTOR VEHICLES (AMENDMENT) BILL.

MR. DEPUTY SPEAKER: Then there is the Motor Vehicles (Amendment) Bill. Before the Minister moves it, I must make at least one remark, that is, I had been receiving amendments till this morning which is not good in practice. According to the rules, they should come at least one day before. Otherwise, we just cannot circulate these amendments to the Members, although an attempt has been made today to circulate cyclostyled copies of the amendments. They have been circulated. In any case, in future, we will be very strict in case of amendments and Members should be vigilant about sending their amendments in time. As soon as the Bill is circulated they should send their amendments. Even the Government amendments have come only today. I think both the Government and the Members should be vigilant about it and they should send their amendments in time.

Mr. Minister.

THE MINISTER OF STATE IN-CHARGE OF THE MINISTRY OF SHIPPING AND TRANSPORT (SHRI CHAND RAM): I beg to move:

"That the Bill further to amend the Motor Vehicles Act, 1939, be taken into consideration."

While moving this Bill for consideration before this Honourable House, I wish to say a few things by way of amplification of purposes of this Bill. In the beginning of 1976; the amending Bill was brought before this House to enable the Government to implement the policy regarding national permit. Again in July, 1977, another Bill was brought before this House whereby certain amendments were effected making punishment stringent for drunkard drivers. It also made wearing crash helmets compulsory for drivers of two seater vehicles.

The purpose of this Bill had been explained in the Statement of Objects and Reasons and I do not like to take more time of the House in amplifying that. One promise was made by the Janata Party in the election manifesto in 1977. On page 22 of that; under the heading, 'New deal for weaker sections', it says:

"It is a matter of deep shame that ever after three decades of advent of Independence, the social and economic conditions of the weaker sections of the society, particularly the Scheduled Castes and Tribes, continue to be abject. They are still subject to many forms of discrimination and have been victims of foul atrocities."

In the next para, it says:

"The Janata Party believes that the disparities that separate these members of society from the more educationally and economically advanced sections cannot be radically reduced without a policy of special treatment in their favour. It will accordingly provide preferential opportunities for education and self-employment to these sections."