

## COMMITTEE ON PUBLIC UNDERTAKINGS

### SIXTEENTH REPORT

**SHRI JYOTIRMOY BOSU** (Diamond Harbour): Sir, I beg to present the Sixteenth Report of the Committee on Public Undertakings on Jute Corporation of India—Economic Offences committed by Jute Trade and Jute Industry.

[**SHRI N. K. SHEJWALKER** in the Chair]

### INDUSTRIAL RELATIONS BILL\*

**THE MINISTER OF PARLIAMENTARY AFFAIRS AND LABOUR (SHRI RAVINDRA VARMA)**: Sir, I beg to move for leave to introduce a Bill to consolidate and amend the law relating to the registration of trade unions of employees and employers, the rights and liabilities of registered trade unions and settlement of trade union disputes, the conditions of employment of employees and the investigation and settlement of disputes between employees and employed in industrial establishments or undertakings and their employers, and for matters connected therewith or incidental thereto, with a view to promoting healthy industrial relations leading to accelerated economic development and social justice.

SOME HON. MEMBERS rose—

**MR. CHAIRMAN**: Motion moved:

"That leave be granted to introduce a Bill to consolidate and amend the law relating to the registration of trade unions of employees and employers, the rights and liabilities of registered trade unions and settlement of trade union disputes, the conditions of employment of employees and the investigation and settlement of disputes between employees employed in industrial establishments or undertaking and

their employers, and for matters connected therewith or incidental thereto, with a view to promoting healthy industrial relations leading to accelerated economic development and social justice."

There are twelve Members who have given their names to oppose the introduction of this Bill. Out of that I am told that two Members have said that it is not legal, that is, about competence. **Mr. Jyotirmoy Bosu**, are you on that point?

**SHRI JYOTIRMOY BOSU** (Diamond Harbour): Yes, Sir.

**MR. CHAIRMAN**: **Mr. Limaye** also?

**SHRI MADHU LIMAYE** (Banka): Yes. I am going to make a submission about the competence.

**SHRI DINEN BHATTACHARYA** (Serampore): My point is also that it is beyond the purview of the Constitution.

**MR. CHAIRMAN**: Then I will call you one by one. I will call the Members in the order in which the names have come regarding this point.

**Mr. Dinen Bhattacharya.**

**SHRI DINEN BHATTACHARYA**: **Mr. Chairman**, Sir, this Industrial Relations Bill is nothing but an anti-working class Bill. The rights that the workers got after long struggle are being sought to be snatched away by this Bill. It is an affront to the Government's own Committee that was set up, the constituents of which were the representatives of all the Central trade unions, including the Chambers and other organizations, and also Government representatives. They made certain recommendations and they have been totally...

**MR. CHAIRMAN**: You have simply to say regarding the competence first and not on other points.

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**SHRI DINEN BHATTACHARYA:**  
I am coming to that. As per the Constitution...

**MR. CHAIRMAN:** Please confine yourself to that only and not other points.

**SHRI DINEN BHATTACHARYA:**  
As per the Constitution, the Government has to ascertain the views of the Central Trade Unions. And the Central Trade Unions have unanimously made certain suggestions which have been totally overlooked and not taken care of by the Minister. And the constitutional right and also the fundamental right which is there, to strike work, has been taken away by this Bill. The Constitution gives the workers the right to organize themselves in trade unions. Now they will have to depend on the bureaucrats and the officers to get a Union registered. This way the provisions that have been made here are all meant to see that the trade unions completely come under the control and whims of the bureaucrat as well as the ruling party.

So I emphatically and earnestly request the Minister not to introduce this Bill, take it back and come again with a fresh Bill.

**श्री अशु निषये (बांरा) :** महापति महोदय, मैं दो वक्ता नहीं बोलने वाला हूँ इसलिए मैं जहाँ मैग्जिस्ट्रेटिव काम्पिटिंग के बारे में बोलूंगा वही उस के बाद मेरे जो दो तीन मद्द हैं वह भी सामने रखूंगा। पहले मुझे इस बात पर रोय प्रकट करना है कि हमारी सरकार के द्वारा जिस ढंग से विधेयकों के बारे में जल्दबाजी की जा रही है और नियमों के विपरीत काम किया जा रहा है, यह मैं मानता हूँ कि संसद की गरिमा और परम्परा के लिए अच्छा नहीं है। इसको घायप देखिए एक मेमोरेण्डम का परिचालित किया गया। यह मेमोरेण्डम इस प्रकार है—

"Government have repeatedly announced on the floor of the House that the Industrial Relations Bill

would be introduced in the current session of Lok Sabha. As the Bill is of a complex nature, it has been possible to draft and print the Bill only now. As Government is keen to introduce the Bill during the current session it has not been possible to circulate it to members two days in advance of the date of introduction as required under Direction 19B."

इस में केवल दो कारण दिए गए हैं कि यह एक बहुत पेचीदा उलझन वाला बिल है, इस में समय लगा और चूंकि इसी सत्र में इस को पेश करना था। इसलिए जो नियम हैं या अध्याय का जो निर्देश है उस का पालन नहीं हो सका। मैं यह जानना चाहता हूँ इतने महीने से इस बिल के बारे में चर्चा हो रही थी, ऐसी स्थिति में इस को पहले क्यों नहीं किया गया? इस का कारण मैं घायप के मामले स्पष्ट रखना चाहता हूँ। हमारे मिन श्री रवीन्द्र वर्मा इस समय दो महत्त्व में संभाल रहे हैं। एक तो संसद कार्य मंत्री का भार वह संभाल रहे हैं और एक मजदूर विभाग का। तो मजदूर विभाग का काम इतना मुश्किल है और घायप का औद्योगिक रिजर्जों की जो स्थिति है इस को देखते हुए फुल टाइम मिनिस्टर की जरूरत है। लेकिन यह राज्य सभा में ही वह जो मामला आया था उस में ही इतने उलझे हुए थे कि इनको समय ही नहीं था मजदूर विभाग को देखने के लिए। इसलिए मेरी पहली प्रार्थना यह रहेगी, प्रधान मंत्री रहते तो अच्छा होता, कि मजदूर विभाग के लिए एक फुल टाइम मिनिस्टर होना चाहिए जो पूरा समय दे सके। संसद कार्य विभाग जिस ढंग से चल रहा है उस को देखते हुए उस के लिए भी जैसे पहले होता था, पूरा समय देने वाला मंत्री होना चाहिए। यह तो कोई अन्दरूनी बात नहीं है, सदन के कार्य पर इस का असर हो रहा है, इसलिए मैं ऐसा कह रहा हूँ, नहीं तो ऊनीकुण्ण या कोई और यह कहेंगे कि अन्दरूनी मामला ला रहे हैं। इन का अन्दरूनी मामलों के बारे में क्या दिमाग है, यही सवाल मैं नहीं घाता।

[श्री मधु लिमये]

You have a very wrong notion of internal matters. I will not fall into your trap, Mr. Ravi. (ब्यबधान) तो मैं कह रहा था, धापकी मार्फत प्रधान मंत्री जी से प्रार्थना कर रहा हूँ कि मजदूर विभाग और संस्तरकाय विभाग—दोनों के लिए अलग अलग मंत्री हों और पूरा समय देने वाले हों।

श्री श्यामनन्दन मिश्र (बेगूसराय) : बर्मा जी, इन दोनों विभागों में से किसके लिए उपयुक्त है ?

श्री मधु लिमये : वह तो प्रधान मंत्री का अधिकार है—ऐसा मैं मानता हूँ। मुझ से पूछेंगे तो मैं सलाह दे सकता हूँ लेकिन अनाहत तरीके से सलाह देने वाला मैं नहीं हूँ। अनाइन्वाइटेड सलाह देने वाला मैं नहीं हूँ।

अब धाप डायरेक्शन (19B) देखें :

"Provided further that in other cases, where the Minister desires that the Bill may be introduced earlier than two days after the circulation of copies or even without prior circulation, he shall give full reasons in a memorandum for the consideration of the Speaker explaining as to why the Bill is sought to be introduced without making available to members copies thereof...."

बगैरह बगैरह। तो फूल रीजन्स देने चाहिए। यह तो आपात काल के लिए प्रावधान है। क्या हर दिन इसका इस्तेमाल होगा ? मैं जानता हूँ अधिकतर लोगों ने इसका अध्ययन नहीं किया होगा। आज जो दूसरे दो विधेयक आये हैं उनको मुझे भी देखने का मौका नहीं मिला है। (ब्यबधान) मंत्री महोदय ने कल कहा था कि दो दिन आने वाले हैं लेकिन मैं अभी उन पर नहीं आ रहा हूँ क्योंकि मैंने देखा ही नहीं है। बिना अध्ययन किए मैं अपनी जवान नहीं खोलूंगा। (ब्यबधान) मैं इस बात

को लेकर परेशान हूँ कि फिर सबेरे उठकर बाइंडर पेपर देखो, तैयारी करो—यह सब मैं नहीं करना चाहता। मैं चाहता हूँ इस काम से मुझे छुट्टी मिले लेकिन दुर्भाग्य है कि यह करना पड़ रहा है।

तो मैं कह रहा था कि फूल रीजन्स नहीं दिए गए—एक आक्षेप मेरा यह है।

दूसरे जहाँ तक लेजिस्लेटिव कांफिडेंस का सवाल है, मैं धापका ध्यान क्लाज 90(4) की ओर दिलाना चाहता हूँ। यह नया है, पुराने इंडस्ट्रियल डिसप्यूट्स ऐक्ट में यह नहीं था। यह इस प्रकार है :

"The Registrar shall have general power of supervision and superintendence over the conduct of strike ballot and he shall also decide, in such manner as may be prescribed, any dispute pertaining to a strike ballot and he may exercise such powers either on his own motion or on a request made in that behalf by any employee or the employer."

एम्प्लायर भी जोड़ दिया है। अब हमको जो बूनियादी अधिकार मिला है वह क्या है ? मैं 19(1) (सी) की ओर ध्यान दिलाना चाहता हूँ। वह है : the right to form associations and unions. अब धाप सोचें कि यह जो बूनियादी मौलिक अधिकार है इसकी व्याप्ति क्या है, इसकी मर्यादायें क्या हैं—इसको भी हम समझ लें। जहाँ तक इंग्लैंड का सवाल है, हम हमेशा इंग्लैंड की बात करते हैं (ब्यबधान) मैं मानता हूँ हमारे संसद की गरिमा भी उतनी ही बड़ी क्या, उस से भी ज्यादा हो सकती है। उसकी अलक आपने परसों दिखा दी। मैं गुलाम बनोबूति का नहीं हूँ, मैं मानता हूँ कि हिन्दुस्तान की संसद नया नकशा प्रस्तुत कर सकती है।

मैं बितले ऐंड राव का भाष्य पढ़ रहा हूँ। 19(1) (सी) में अधिकार की व्याप्ति

क्या है, मर्यादा क्या है, उसके इन्प्लीकैशन्स क्या हैं।

इस में वे कहते हैं—

"Right to Strike:—In Halsbury's Laws of England, 2nd Edn., Vol. VI, p. 392, the right to strike, or the right of the subject to withhold his labour, so long as he commits no breach of contract or tort or crime, is enumerated as one of the important liberties of a British subject which may be regarded as of a fundamental character."

मतलब केवल ट्रेड यूनियन बनाने के अधिकार को ही नहीं, ब्रिटेन में हड़ताल करने के अधिकार को भी एक मौलिक अधिकार माना गया है। लेकिन हमारे संविधान के तहत उच्च न्यायालयों के जो निर्णय हैं, उन निर्णयों में हम दूरी तक तो सुप्रीम कोर्ट नहीं गया है— क्योंकि जो सच्ची बात है, उस को ही मैं प्राप के सामने रखना चाहता हूँ— लेकिन मैं पूछता चाहता हूँ—क्या संघ बनाने, ट्रेड यूनियन बनाने के अधिकार में घपने ढंग से ट्रेड यूनियन चलाने और उस में घनड्यू इंटरफेअरेंस (हस्तक्षेप) न होने देना—मालिक के द्वारा या सरकार के द्वारा— क्या यह अधिकार अन्तर्भूत नहीं है ?

इस लिए मैं कहता हूँ—मैं हड़ताल करने के अधिकार पर नहीं धरा रहा हूँ— but the right to form associations and allow them to run their own affairs without interference from the Government and from the employers. यह मेरा प्रश्न है। मेरा हड़ताल का प्रश्न नहीं है। मैं यह नहीं कह रहा हूँ कि हड़ताल का बुनियादी अधिकार है, मैं यह कह रहा हूँ कि यूनियन बनाना, उस के कार्य को चलाना और उस में हस्तक्षेप न होना देना, मालिक या

सरकार के नियन्त्रण से उस को मुक्त रखना—

यह अधिकार इस में व्याप्त है। इस लिए मेरा यह कहना है कि जो क्लॉज 90(4) है—

यह संविधान द्वारा दिए गए अधिकार का हनन करता है। इसलिए—

This Clause is beyond the legislative competence of this House.

सभापति महोदय, जब लेजिस्लेटिव काम्पिटेंस का मामला आता है—तो अध्यक्ष महोदय भी उस में घपना निर्णय नहीं देते हैं— यह अक्षयन का अधिकार है। लेकिन यह मामला इस लिये यहां पर उठाया जाता है ताकि सदन में इस पर पूरी बहस हो सके। प्राप नियम 72 को देखिये—यह नियम इस प्रकार है—

"If a motion for leave to introduce a Bill is opposed, the Speaker, after permitting if he thinks fit, a brief explanatory statement from the member who moves and from the member who opposes the motion may, without further debate, put the questions:

Provided that where a motion is opposed on the ground that the Bill initiates legislation outside the legislative competence of the House, the Speaker may permit a full discussion thereon."

इसलिये मैं चाहता हूँ कि जिन्होंने नोटिस दिया है, उन को ही नहीं, बल्कि इस सदन के दूसरे ऐसे सदस्य जो ट्रेड यूनियन आन्दोलन से सम्बन्धित हैं, वे भी यदि कुछ बोलना चाहें तो उन को भी प्राप जरूर सुनें।

मैंने दूसरा निवेदन यह करना है—

Clause 90(1), Chapter VIII: Strikes and Lockouts—

"No employee employed in any essential service shall go on strike in breach of contract."

यानी पूरा ब्लैकट अधिकार प्राप के पास है। मैंने पुराने इण्डस्ट्रियल डिस्प्यूट एक्ट

### [श्री मधु लिमये]

ते जो निकाला है—वह आप के सामने रखना चाहता हूँ। उस में कुछ कम्प्लेगज ही हैं—

"Section 22(1): No person employed in a public utility service shall go on strike in breach of contract--

श्रीर आने हण्डरेशन दी है—

(a) without giving to the employer notice of strike, as hereinafter provided, within six weeks before striking;

(b) within 14 days of giving such notice;

(c) before the expiry of the date of strike specified in any such notice as aforesaid;

(d) during the pendency of any conciliation proceedings before a conciliation officer and seven days after the conclusion of such proceedings."

इस तरह से पहले यह था।

श्री दीनेन मट्टाचार्य (सीरमपूर) :  
अब 14 दिन हैं।

श्री मधु लिमये : वह नीचे है। यहीं संश्लेषित होता है। अब आप बताइए कि पहले सेक्शन 22 (1) में था और अब (2) ही गया। यह इतना मोटा बिग है कि इसकी पहले संश्लेषित करना चाहिए था।

तो मैं यह कह रहा था कि पहले के ऐक्ट में, ग्रामे चन कर देखिए, यह था कि नोटिफिकेशन निहायना पड़ना था सरकार को और छ महीने तक यह लागू रहता था और फिर उस वकत को बढ़ाया जाता था लेकिन अब यह सिमिटेशन तो है नहीं यानी मेरा मुद्दा यह है कि जो तात्कालिक बात थी, उस तात्कालिक बात को स्थायी बनाया जा रहा है। अब यह अस्थायी बात को स्थायी बनाने की जो बात हमारी सरकार ने शुरू कर दी है, उसके प्रति मैं अपनी असहमति प्रकट करना चाहता हूँ। पिछली बार कज था कि क्रिमिनल प्रोसीजर कोड में संशोधन करने के लिए एक विधेयक लाया गया और

उस में प्रिवेंटिव डिटेनन की जो धारा थी, उस को स्थायी बनाने का प्रयास किया गया। हम ही लोगों के विरोध के चलते उस विधेयक को सरकार ने वापस ले लिया और वह अफ़ा ही किया बेरी राय में लेकिन पहले क्या होता था, 1989 में पहले प्रिवेंटिव डिटेनन का कानून एक साल के लिए रहता था और जब अल्पमत में श्रीमती इन्दिरा गांधी हो गईं तो उस कानून को इन सदन में हम ने पास नहीं होने दिया। यह बात श्री लखर मुशर्री जानते हैं और दूसरे सदस्य जानते हैं और जब 1971 में उनका दो-तिहाई बहुमत हो गया और श्रीमती पार्वती मेनन की पार्टी ने उनका साथ दिया।

(स्वबोधान)... श्रीमती पार्वती गृहणन घाई एम मोरी। मैं तो उनका नाम पार्वती ही जानता हूँ। तो मैं यह कह रहा था कि जब इनके दल का समर्थन मिल गया और दो-तिहाई बहुमत उनको मिल गया, तो मीसा भी परमिनेट हो गया, यह सब आप जानते हैं। जब तक श्रीमती इन्दिरा गांधी अल्पमत में थी, हम लोगों ने प्रिवेंटिव डिटेनन बिल पास नहीं होने दिया और उसमें आप ने भी मदद की थी लेकिन 1971 में क्या हुआ कि जब आप लोग उनके साथ हो गये, तो परमिनेट मीसा घा गया और मीसा भी उसको परमिनेट बनाने चाहते थे लेकिन धार्मिक विरोध के कारण वैसा नहीं हुआ। ... (स्वबोधान) ... फक यह है कि उनको पार्टी में विरोध नहीं हुआ।

SHRI C. K. CHANDRAPPA (Cannanore): You are now speaking about all this after your mediation efforts in the Janata Party have failed.

SHRI MADHU LIMAYE: It was a docile party and our party is an alive party.

SHRI C. K. CHANDRAPPA: I have got my own doubts.

श्री मधु लिमये : यह इन्टरनल मामला नहीं होता है। हम लोगों ने सविनय कर दिया है कि हमारी पार्टी गुलामों की पार्टी नहीं है जैसी

समय की घाटी है या कांग्रेस घाटी है . . .  
(अवधान)

**समाप्ततः श्रीश्री :** नमू लिमये जी, समय का ध्यान रखते हुए आप टू वि प्वाइंट बात करें तो अच्छा है। प्वाइन्ट-ऑर्डर आप कहें।

**श्री नमू लिमये :** मैं समाप्त कर रहा हूँ। तीसरा मामला है बेरोजगारी का। ट्रेड यूनियन के द्वारा यह सुझाव दिया गया था कि बिलेट के जरिये तय किया जाए कि कौन प्राथमिक यूनियन है, लेकिन इसमें दो सिद्धान्तों की खिचड़ी का गढ़ है। तो मैं इसका विरोध करना चाहता हूँ? केवल बिलेट से यह हो, यह फंडामेंटल प्रिंसिपल है। प्रौर चौथी बात यह है कि उद्योग प्रौर इंडस्ट्री की जो परिभाषा की गयी है, उस को सत्रिम कोर्ट ने बढ़ाया है, इन्होंने कम किया है। केवल इन्होंने कहा कि— Two more Bills are being introduced. प्रौर उन के जो अधिकार हैं उन की तरफ भी हम ध्यान दे रहे हैं। मैं इन का अध्ययन किया है। (अवधान) आगे भी पढ़ूंगा।

अन्त में मजदूर यंत्री से मेरी प्रार्थना है कि भविष्य में वे बहुत जल्दी से शिफों का बना कर परिचालित करें प्रौर मेम्बरों को उठने का मौका दिया जाए। मैंने इस विधेयक में बहुत सारी प्रवृत्तियाँ बालें हैं। इसलिए जब लोगों ने पूछा कि डिबीजन होगा तो मैंने उन से यही कहा कि डिबीजन नहीं होगा। पार्लो जी ने भी मान लिया है कि डिबीजन नहीं होगा।

**SHRIMATI PARVATHI KRISHNAN (Coimbatore):** I suppose he does not speak for me. Why does he attack me?

**SHRI MADHU LIMAYE:** I am not attacking you. I am speaking only on MISA.

**SHRIMATI PARVATHI KRISHNAN:** I will speak for myself.

**श्री नमू लिमये :** समाप्ततः श्रीश्री,  
अवधान।

**SHRI JYOTIRMOY BOSU (Diamond Harbour):** Mr. Chairman, Sir, as far as this Bill is concerned, I do not wish to lose sight of the fact that this is at the introduction stage and we are not debating in the first reading stage.

Sir, I oppose this Bill, because, it not only violates all democratic norms and fundamental rights which are enjoyed by the people of this country, but, because, it is anti-working class, it is anti-trade union and so on and so forth.

Besides that, it offends and it violates the various Articles of the Indian Constitution. I will give you examples.

**MR. CHAIRMAN:** Which are those?

**SHRI JYOTIRMOY BOSU:** I am just coming to it, Sir. If you come to clause 1(3) you will see this. It provides that the Central Government may apply the provision of the Bill to different States on different dates. The Bill does not lay down any guidelines and it does not say on what consideration such different treatment can be made. For people in the different States there can be differential treatments and that will be violative of Article 14 of the Constitution.

Therefore, this Bill cannot be introduced here.

Then, May I proceed, Sir?

Clause 24(3) gives power to the Registrars of Trade Unions to compulsorily amalgamate with another Trade Union. This appears to be absolutely violative of Article 19 of the Constitution.

Therefore, this Bill cannot be introduced here.

My third objection is this:

Clause 33 provides that a person shall be qualified for being chosen or

[Shri Jyotirmoy Bosu]

for being an office-bearer of a registered trade union if he is already office-bearer of not less than four Trade Unions.

This also appears to me to be violative of Article 19 of the Constitution.

Then, Sir, Chapter IV contemplates certification of one union as a sole negotiating body if it has the support of not less than 65 persons of the employees and there are similar provisions. They also appear to substantially curtail the fundamental rights as guaranteed under Article 19 of a trade union to act as a negotiating body.

MR. CHAIRMAN: What are the provisions you are referring to?

SHRI JYOTIRMOY BOSU: Chapter IV, Sir. Then, please see Clause 56. Clause 56 may be said to have put unreasonable restrictions on the rights of trade unions.

Then, Sir, Chapter X deals with unfair practices. The particulars of unfair practices have been set out in the Fourth Schedule. Part II of the Schedule restricts various rights which are the fundamental rights of the employers. It is doubtful whether such restrictions are valid restrictions.

Therefore, Sir, Constitutionally and otherwise, this Bill cannot be introduced in this House. This is my respectful submission, Sir.

MR. CHAIRMAN: Does anybody want to say anything on 'competence' Mr. Chitta Basu, do you want to say?

SHRI CHITTA Basu *rose*.

MR. CHAIRMAN: I hope the same points will not be repeated.

THE MINISTER OF PARLIAMENTARY AFFAIRS AND LABOUR (SHRI RAVINDRA VARMA): Sir, let them speak and then I will reply.

Otherwise there will be two innings and there will be need for two replies.

MR. CHAIRMAN: Same points on competence will not be repeated. I have said that.

SHRIMATI PARVATHI KRISHNAN: You may give a composite and comprehensive reply, just like the comprehensive legislation.

SHRI CHITTA BASU (Barasat): Sir, I do not wish to refer to those clauses which have already been mentioned by Shri Madhu Limaye and Shri Jyotirmoy Bosu. I shall refer to Clauses 22 and 34 only. These are in addition to those clauses which have already been mentioned by them. These clauses are violative of Article 19(1)(c) of the Constitution which means a person shall be disqualified for being chosen or for being an office bearer for a registered trade union. There are certain conditions which are against the independent functioning of the trade union guaranteed under Article 19(1)(c).

Then I come to Clause 34. In this clause it has been mentioned as:

"34(1) In the case of a trade union of employees carrying on its activities for the benefit of employees employed in one industrial establishment or undertaking only, the number of office-bearers of such trade union who are not persons actually employed in such industrial establishment or undertaking, shall not be more than two."

Sir, it is my right to elect office-bearers, the number of which might be according to the rules framed by the Union. It might be 2, it might be 3 or it might be 4. It will be according to the rules framed by the Trade Union. Therefore, this provision prevents me from the exercise of the fundamental rights of running my trade union without interference by the Government or by the Employer. There are other instances also which I would not like to mention here. This

proposed Bill is claimed to have been the product of the consensus reached in the tripartite Committee called the Committee on the Comprehensive Industrial Relations Bill. My point is that the claim is pertinent. Why do I say so? Firstly, you accept on one issue and on other issues, as has been mentioned in the long title, it reveals that this was never right, this was never discussed and no consensus was arrived at on those issues which have been raised in the provisions of the Bill. Only one issue was mentioned there. So far I have been repeatedly saying about the need of the comprehensive legislation regarding the industrial relations. Therefore, all other issues which have been brought into the body of the proposed bill were never discussed, no exchange of opinion was there, and there was no consensus on those issues, although it has been claimed that it is the product of the labour of the Committee on Comprehensive Industrial Relations Bill.

Secondly, I am to point out that even those issues where there were consensus have not found place in the body of the Bill. There are some issues about which there was not only unanimity in the Committee but certain State Governments have also supported. Even the employers did not express their difference of opinion. Those issues on which there was general acceptance by the Committee have been left out. Generally speaking, I am in agreement with Mr. Dinen Bhattacharya when he says that this Bill is thoroughly anti-working class. The procedure laid down in the Bill for the settlement of the disputes and conditions stipulated for the resort to strike, which is the only weapon for the workers, the weaker party in the dispute, are such that virtually there would be a statutory ban on the right to strike. Therefore it is thoroughly anti-working class. You have not declared the strikes illegal, but you have made it so impossible that there cannot be any legal strike in this country. The simple meaning is that you are statutorily banning the strike, the

last weapon of the working class, the weaker party in the dispute.

On the other hand, what have you given? You have treated at par the right to declare lock-outs with the right to strike. The right to declare lock-outs is a weapon in the hands of the exploiting class, i.e. the employers and it is used as an aggression on the rights of the workers. It is anti-working class. I hope, Shri Madhu Limaye understands this point that the employers and employees have been put together for the use of these weapons. The employers have been given the right to use the weapon of declaring layouts freely. I, therefore, feel that it is not in the interest of the working class.

Fourthly and lastly this legislation is politically motivated. The motive is to dissolve the militant working class movement. They want to have unions which function under the guidance and supervision either of the Government or of the employer. You want to rob the working class politically, you want to dissolve the working class politically; the object is to have, if you excuse me to say, a captive union, which works at the bidding of the management and the employers. Therefore it cannot be in the interest of the trade union movement; it cannot be in the interest of the solidarity of the trade unions; it cannot be in the interest of healthy employer-employee relations and it cannot improve the deteriorating industrial relations in the country.

I, therefore, oppose the introduction of the Bill at this stage.

SHRIMATI PARVATHI KRISHNAN (Coimbatore): Mr. Chairman, Sir, I would not repeat the points that have been made by other speakers, because I do agree with one or two points that were made by Shri Madhu Limaye and Shri Jyotirmoy Bosu on the constitutional part of it. You have requested me not to repeat the point already made, so I would refrain from repetition. I would like to say only



[Shrimati Parvathi Krishnan]

one thing. Sir, the Statement of Objects and Reasons reads very well, unfortunately the provisions of the Bill are at variance with the philosophy stated here. For instance, what does it say? It says that the National Commission on Labour:

"...came to the conclusion that it was essential to create a climate conducive to industrial harmony and foster proper attitudes, in the minds of employers as well as employees, so that cooperative endeavour might promote rapid economic progress."

Later on, it continues to say:

"The Committee's report indicated that..."

The reference is to the Tripartite Committee. It says:

"The Committee's report indicated that there was a large measure of agreement on some of the basic aspects relating to the industrial relations law but there were divergent views on some details."

Then, the next para:

"In the light of the experience gained, the views expressed by all the interests concerned and the growing expectations of the working class, it is considered necessary to have a comprehensive Industrial Relations Law,

"...which would integrate the 3 Central enactments, incorporate some of the more important provisions of the State enactments and the Code of Discipline and bring about certain improvements to meet the needs of changing socio-economic conditions."

This sounds very very nice. He was referring to the Committee's report. I do not know what report he is referring to. So far as I am aware, certain aspects are there in the Bill; and they refer to the registration of the unions, to the conditions necessary for registration, to the various conciliation

procedures recommended and to the cooling-off period—all these were not agreed to by the major Central organizations in the country. I am prepared to be corrected by the Minister; but so far as I am aware, all the major Central organizations did not agree with these. What is it that they have agreed to? A little bit here and a little bit there. The Minister should not take cover behind certain minor points to which they have agreed, and try and make out that they have agreed to the major points.

I refer particularly to Mr. Madhva Limaye's point about the Registrar's interference with the right to strike, and to the point made by Mr. Chitta Basu with regard to the registration of a union etc. For instance, the question of multiplicity of trade unions has been plaguing the trade union movement. It has been discussed, again and again, over a very long period of time by the trade unions at various levels. After the National Commissioner of Labour published its report, a series of meetings were held with the various trade union organizations. But this question of percentages always plagued them. Therefore, to bring in this percentage means literally to emasculate the trade union movement. When you want 10 per cent in a new industry,—we are trade unionists and he also is a trade-unionist—we know how the employers go all out to threaten the employees against joining a trade union, especially to threaten workers who are on probation and who are temporary; and how they threaten workers against joining trade unions which they do not like. Therefore, you are, *ab initio*, creating conditions by stipulating so high a percentage there, for either a management—or a black-leg union—and not for a free, democratic trade union—to come into being. This is my contention.

I am not going into further details. But there are 1 or 2 things to which I shall refer. For instance, there

is another point, which says that there should be no craft or category-wise union. What about the already recognized National Federation of P&T Employees? It is a federation of unions of workers in different arms of the P&T. Things should have been gone into in detail and discussed. I cannot be asking for clarifications. But these things strike me patently.

In addition, there are these processes where the Category Council comes up. I do not know how this kind of a provision will help the trade union movement or whether it will militate against it.

Then about the negotiating agent. We have been repeatedly saying this in May, 1971 a convention of trade unions was held where unanimously a certain formula was evolved. Let us go forward from it, and not go backward—as this Bill has done.

Now about 'unfair practices'. It is really obnoxious that you put the exploited and the exploiter on par. Labour cannot be responsible for unfair practices. No working class can be accused of it. Take for example the right to picket. Of course, it is couched in such a language—which the Minister may read out to me, probably; before he does it, I will read it out. It speaks about 'intimidation' and so on. We know what intimidation means. Witnesses are always paid by the employers, witnesses who will say 'I was intimidated'. But the right of picketing cannot in this manner be restricted, stopped or prevented. I am not going into all the practices under 'unfair practices'. I think it is unfair that labour should have any 'unfair practices' going to be listed against them—as has been done in this Bill.

Lastly, there is a Chapter 12 which deals with penalties. On account of penalty, the working class will have to face a lot of difficulty; and therefore all these matters are there. That is why I oppose the introduction of

this Bill. The Government has been discussing it. I do not know for how long. The Press has already come out earlier indicating what the bill would be and the working class are going to be landed in great difficulty. I agree with my hon. colleague or comrade. I do not know whether I should call him colleague or comrade.

**SHRI MADHU LIMAYE:** You can say: comrade.

**SHRIMATI PARVATHI KRISHNAN:** I can say my comrade Mr. Madhu Limaye and comrade Minister. He has been overburdened. I say he should pay more attention to the Labour Ministry and the very heavy tasks that are there in the Labour Ministry. There has been a convention and practice in this country that whenever a major piece of legislation comes before the Parliament, the draft legislation, as Government conceives it, is put before the trade union movement also for discussion at the Indian Labour Conference; this procedure had not taken place this time. I think he is going to make a note of it because he is going to talk about it in the committee.

**MR. CHAIRMAN:** Why are you anticipating a reply?

**SHRIMATI PARVATHI KRISHNAN:** I am anticipating a reply that that Committee he has in mind cannot be equated with the Labour Conference or the Standing Labour Committee. Why do you inflict on the working class a Bill that is going to hand them over as victims of the bureaucrats, because it is going to be a bureaucratic rule over the trade union that will be ushered in? Therefore, it is on this matter of principle that I oppose the Bill at the introduction stage.

**SHRI A. K. ROY (Dhanbad):** The Mountain has produced a mouse. Some of my colleagues have referred that the hon. Minister is over-burdened because he is already Minister of Parliamentary Affairs and Labour. But,

[Shri A. K. Roy]

Mr. Chairman, now-a-days, there is a vacancy of Home Minister in the Janata Party Government; and the way in which the Bill has been presented, I propose that my friend Mr. Ravindra Varma, who is the fittest person, should become the Home Minister instead of the Minister of Parliamentary Affairs and Labour.

I can tell you that this Bill reminds us of that Combination Act of Great Britain of 1799 prohibiting association of workers.

MR. CHAIRMAN: You come to the point.

SHRI A. K. ROY. I am coming to the point. In fact, this is the main point. If you prohibit the working class from every sphere, from association and so on, according to that Combination Act of Great Britain of 1799, we are restarting the whole thing. My colleagues have already pointed out to you that how it has curbed the right to strike, the right of association and all these things. I would like to tell the Chairman—the main purpose of bringing forward the Bill for which I repeatedly insisted on the Minister—that justice delayed is justice denied. So, there must be some provision for this. If you want that the working class should not be intimidated, should not resort to strike and so on, we must provide for it.

Before bringing forward the 45th Amendment Bill, they informally discussed it among all the political parties and had incorporated all the views in the form of a consensus opinion. What prevented him from not doing that thing here? He did not do. Not only that. We all insisted that this Bill should be presented in the early stage so that it could be thoroughly discussed. It could be brought and we could put our mind to that. But he has presented it at the tag end of the session when we have no time to go through it.

14 hrs.

MR. CHAIRMAN: That point has come. Why do you repeat that?

SHRI A. K. ROY: I have one more point to make. I would like to concentrate especially on Chapter VI which deals with how to handle the industrial disputes. You know the biggest lacuna, bottleneck and difficulty which we used to face. I think it is something like a very unjust act. This is against the spirit of the Constitution that man cannot go in for judicial remedy. You know that our Janata Government is very judicial and judicious minded. But here, if some dispute is referred to the Ministry for its reference to adjudication or arbitration, once the executive by way of discretion disqualifies it, there the particular worker has no way to seek any remedy or to seek redressal of his grievance and to go to any court.

Last time also we said that this is something by which we are handicapped. We have got no way to go anywhere. This way of prohibiting the worker, whose case of dispute has been dismissed by the Ministry, from going to any court is somewhat unjust. You have to rectify this. But this has been kept like that.

The basic point is, justice delayed is justice denied, and the Minister on the floor of this House assured us that he would look into that. But he has laid complicated or zig zag way of solving the dispute. By this attitude of the Government, the very spirit with which this Bill has to be brought is lost. Therefore, I would request the Minister to revise or to withdraw this new Indian combination of the British Model of 18th Century and to come back with the modern Bill.

MR. CHAIRMAN: I may remind the hon. members that it is just an introduction stage and, therefore, there should not be a full-fledged speech.

SHRI VAYALAR RAVI (Chirayin-  
kil): I am not repeating the points  
which have already been repeated. I  
am not even referring to the Consti-  
tutional matters.

We all expected the hon. Minister  
to bring a Bill which is an improve-  
ment on the Industrial Disputes Act,  
1947. Unfortunately, it has gone back  
very far behind. That is the objection  
which I have to take. I am not refer-  
ring to the legal competence at this  
moment. Unfortunately, the Minister  
combined recognition and registration  
together in the Bill. These are two  
different aspects. The Constitution  
provides for the freedom of associa-  
tion. But the Parliament is not com-  
petent enough to legislate against the  
registration of the trade unions or  
right of association. You can make  
some norms and rules for recognition,  
that is a different matter. Unfortu-  
nately, you are making this provision  
of registration in certain clauses. I do  
not want to read all these clauses.  
Clause 20 completely denies the right.  
Clause 20 reads:

"No craft or category-wise trade  
union shall be registered under this  
Act."

This is completely to rule out certain  
categories. The problem comes in the  
case of very big enterprises—P&T,  
H.A.L., Hindustan Ship Yard, Electric-  
ity Boards. Some categories have to  
be allowed to function. Otherwise,  
it will lead to some unhealthy rivalry.

There is Clause 23. I do not want  
to read that. There is an arbitrary  
authority to deny registration and  
even the right to the employee to  
form a union. Even to-day we grant  
recognition or registration to the em-  
ployees automatically. I can unde-  
stand the Minister laying down some  
rules for refusing recognition, but  
here you are denying the right of  
registration itself.

Now retrenchment is not at all  
allowed. I am a trade unionist and

we will not allow any law for re-  
trenchment. I cannot find any law  
under which an employer can re-  
trench an employee. Here under  
clause 83 are giving an opportunity to  
the employer to retrench an em-  
ployee by giving one month's notice.  
This clause can be misused. Even  
today the domestic enquiry clause is  
being misused. There are examples  
of employers going up to the Supreme  
Court to defend the retrenchment of  
a single employee. So, in the name  
of surplus or whatever it may be, you  
are giving a chance to the employers  
to retrench the employees. Clause 83  
gives complete authority and power  
to the management to retrench any  
employee. It means, it is arbitrary  
and it is in favour of the employers.  
It will be detrimental to the interests  
of the working class.

Clauses 92 and 93 deal with strikes.  
Right to strike is a fundamental right  
of an employee. But under the con-  
ditions you have laid down like 60  
per cent ballot and all that, in prac-  
tice you are completely banning the  
right of employees to go on strike.  
Clause 93 deals with consequences of  
illegal strike or lockout. If the em-  
ployees go on strike and if the court  
declares it illegal, even the registra-  
tion of the trade union will be  
cancelled. Then you have laid down  
provisions for conciliation, arbitra-  
tion, etc. How much time the arbi-  
trator will take, nobody knows. Any  
employer can retrench an employee  
and then he has to go to a Concilia-  
tion Officer, next to another man and  
then thirdly to an arbitrator. Valuable  
time will be lost in all these proces-  
ses. All the provisions are very much  
detrimental to the interests of the  
working class. The introduction of  
the clause providing for arbitrator is  
particularly harmful. When the Con-  
stitution Amendment Bill was being  
discussed, when the question of tribu-  
nals to decide the case of Government  
employees was being discussed, we  
saw how the Law Minister, Shri  
Shanti Bhushan, was very vocal and  
defeated all our amendments. The

[Shri Vayalar Ravi]

same persons have now come with this provision for imposing an arbitrator upon the working class. In a nut-shell, this is compulsory adjudication. For bonus, the working class has to go on fighting in court for one year. It creates more tension. The cat is out of the bag when I read the intention of the Government as stated in the Statement of Objects and Reasons. In para 5, page 101, it says:

"It is sought to encourage leadership from within the trade unions. The procedure for registration of unions and other connected matters are being streamlined."

So, the whole intention is to discourage anybody coming from outside and also political leadership. Sir, trade unionism has been developed and strengthened for the last fifty years in this country. This will go against the interests of the working class. I am not against a Bill to govern industrial relations, but it must be an advanced stage of legislation. It should not take the country backward, but forward. Unfortunately, my good friend, Mr. Ravindra Varma, is taking back the trade union movement before 1900 and odd. That is why I am opposing this.

SHRI K. C. CHANDRAPPAN (Cannanore): Sir, my first point is, I agree with those who raised the constitutional competence especially under Article 19(1)(c) of the Constitution. I think it is good that they have done so. The second point is, if you read clauses 91, 92(1)(a), the First Schedule and Clause 95 of this Bill, it gives a glaring picture. That is exactly where I think that the Janata Party is beating a retreat form some of the accepted trade union rights *vis-a-vis* the working class in this country. Mr. Madhu Limaye raised this point. That is, declaring a certain trade union in certain sectors of industry permanently and placing it permanently on the Statute Book. I would like to point out this thing as banned category. There is no strike

possible. No normal trade union activity will be possible. If you see the First Schedule, you will find that No. 2 is: "Any railway service, or any other transport service for the carriage of passengers or goods by air, water or land"; No. 4 is: "Any service in, or any connection with the working of, any major port or dock;"

MR. CHAIRMAN: I don't think you should read all these things.

Mr. Ravindra Varma read out the points.

SHRI C. K. CHANDRAPPAN: What I am saying is that the major section of the working class is in the organised sectors. They are permanently kept as a category of essential services and their normal trade union functioning is not possible and no strike particularly is possible. If you read clause 95, there is a difference in such trade unions which are declared essential. If anybody extends any support, they are punishable. That is why I thought this is one of the most undemocratic provisions introduced in this Bill.

Now, Sir, technically and legally, one can say strike is not bad. I can say there is a *de jure* acceptance of the fact that the working class can go on strike, but if you really want the working class to go on strike according to this Bill, it is almost impossible. There is a *de facto* ban.

MR. CHAIRMAN: I think this point has also been made.

SHRI C. K. CHANDRAPPAN: I don't think this point is made. That is how I look at it. Therefore, Sir, I think a Bill which is seeking to introduce better industrial relations cannot be of this type by which the major sections of the organised working class will have to abdicate their right of trade unionism and the working class will have practically no possibility to go on strike. I think that will not ensure a good trade union relation in the country.

The last point is, again this has shown the strange capacity of the Janata Government to bring forward Bills which everybody wants those Bills not to come. For example, the Anti-Defection Bill. They have brought in a form and got opposition from everybody, and here this Bill was long awaited and when it came, it again found opposition even from Mr. Madhu Limaye. My friend, Mr. Madhu Limaye gave us a piece of advice.

Shri Madhu Limaye told me "you tried to help Indira Gandhi to put the MISA into the statute book. We rectified it." We had the honesty to tell the world that we accept it. But, Shri Madhu Limaye, after such a prolonged effect of mediation, failed and he was crest-fallen and disillusioned.

SHRI MADHU LIMAYE: I opposed the Criminal Procedure Code Bill.

SHRI C. K. CHANDRAPPAN: Of course, it is democratic and constitutional but let us not try to attack each other.

\*SHRI K. RAMAMURTHY (Dharmapuri): Hon. Mr. Chairman, Sir, like the release of a long-awaited film, the long-awaited Industrial Relations Bill is being introduced by the hon. Minister of Labour.

MR. CHAIRMAN: I request the hon. Member to make just points briefly.

SHRI K. RAMAMURTHY: This Bill proves beyond any shadow of doubt that the Janata Government is the stooge of monopoly industrialists of the country. This legislation also swings between two extremes of imposing manifold restrictions on the functioning of the Trade Unions, which would in effect make them infructuous institutions and prescribing a minimum of 10 per cent membership even for registering a Trade Union. As my hon. friend, Shri Chandrappan, pointed out, there may not be *de jure* banning of strike but there

is *de facto* banning of the inalienable right of labour. All the hard-won rights, after ceaseless struggles of centuries, of the labour are being extinguished through this Industrial Relations Bill, and this is the darkest day so far as Trade Union Movement in the country is concerned. I oppose the introduction of the Industrial Relations Bill.

SHRI SAMAR MUKHERJEE

(Howrah): Knowing fully well that all central trade unions have expressed their opinion and declared this Bill to be a black Bill, knowing fully well that this Government is bringing this Bill here without consultation and so it will be bitterly opposed outside, leading to a situation of confrontation between the working class and the Government, it would have been wise on the part of the hon. Minister not to introduce the Bill at this stage. Before that he should consult the central trade unions and seek their advice. Of course, a proposal for reference to the Joint Committee is there. But it is the experience of the working class that when they come out openly against it, then only the Government retreats. This is the experience even during the last sixteen months. Even day before yesterday, in the case of the Anti-Defection Bill the Government had to withdraw. Government should avoid this type of situation of confrontation. All the central trade unions have denounced the new features which have been incorporated. The consensus which was arrived and the recommendations of the 30-Member Committee have been completely rejected and turned down. Now other lobbies are working and putting pressure. In the process, the character of the entire Bill has been completely changed. It is now an anti-working class Bill and the working class will never accept it. That is why I request the Minister to reconsider it.

SHRI RAVINDRA VARMA: Mr. Chairman, Sir, I am very grateful in

\*The original speech was delivered in Tamil.

[Shri Ravindra Varma]

a sense to the hon. Members who have pointed out the various aspects of this very important Bill that I have sought the leave of the House to introduce.

It is true that it is a rare occasion on which hon. Members exercise their right to oppose the introduction of a Bill. Somehow or the other, primarily because of a lack of understanding, some hon. Members have chosen to oppose my motion for leave to introduce this Bill.

I would have liked to start with the objection that my hon. and distinguished friend, Shri Madhu Limaye, raised, but he would perhaps pardon me if I begin by referring to the last words of my friend, Shri Samar Mukherjee. Because, I want to assure him that, as far as this Government is concerned, there is no question of inviting any confrontation with the working class. The hon. Member has chosen to say that this Bill has been introduced without reference to the central trade union organisations and in the face of the opposition of central trade union organisations. I understand the limitations of this debate, that this is not an occasion for me to enter into a discussion on all aspects, or all clauses, of the Bill, but I submit in all modesty and humility that it will be wrong to say that there has been no consultation with the central trade union organisation.

**SHRI R. VENKATARAMAN** (Madras South): May I point out that....

**SHRI RAVINDRA VARMA:** The hon. Member is a very respected colleague and he has every right to ask a question. He himself has been a Minister of Labour. I hold him in high regard. Therefore, I shall never fail to answer any question he asks. But I hope he will permit me to develop my answer and, at the end, if his

question has not been answered, he can raise the question. Therefore, I would in the beginning start by saying that it is totally unfair to say that there was no consultation.

**SHRI SAMAR MUKHERJEE:** What I meant was that very recently all the central trade union organisations have given their reactions. Because, originally, the Committee of 30 members made certain recommendations and we were expecting that the Bill would incorporate those recommendations. Now all those recommendations have been negated. So, the trade union organisations have given their reactions and they have declared this Bill as a black Bill. Despite that, it is being introduced. So, my point is not that they have not been consulted at all, but they were not consulted before introduction.

**SHRI RAVINDRA VARMA:** The hon. Member has repeated his argument, perhaps to remind me to answer it. I am grateful to him for reminding me. But there is no danger of my forgetting the point even without his reminding me.

It is true that there is a difference between consultation and the total acceptance of a consensus that may emerge. But, as far as this particular Bill is concerned, with specific reference to the question that my distinguished friend, Shri Venkataraman has asked, I would like to inform him, if he is not already aware, that the very idea of a comprehensive Bill arose from the discussions in the Labour Conference. He is very familiar with the working of the Labour Conference. In a Labour Conference it is hardly possible, it is impossible in a day or two to deal with a comprehensive Bill of this kind. Therefore, it was suggested that these three Acts should be brought together, and an integrated and comprehensive legislation should be brought before Parliament.

**SHRI R. VENKATARAMAN:** But your predecessor has said.....

**SHRI RAVINDRA VARMA:** I am sorry to inform my hon. friend that this is not the Bill of 1974, to which the hon. Member is referring.

**AN HON. MEMBER:** 1954.

**SHRI RAVINDRA VARMA:** I do not want to go back many decades to show or to imply anything of the kind, which my esteemed friend, Shri Ravi wants to imply.

At the last Tripartite Conference, therefore, a Committee was specifically set up to discuss the major aspects that should go into the comprehensive Industrial Relations Bill, and that Committee met, not for single sitting but for many sittings, and it produced a report. That report itself clearly says that on some aspects of the question there has been an identifiable consensus, and on some other aspects of the questions discussed there could be no consensus. This, again, I would like to submit for the consideration of the House, is inherent in the very nature of a tripartite machinery, because it is quite conceivable that on some major points there might be a difference of opinion between the employers and the employees, and to expect that there should be a Consensus—I do not remember the geometrical phrase for it—total identity or congruity on every aspect, is to wait for eternity with the veto being given to one party or the other.

**SHRIMATI PARVATHI KRISHNAN:** I want to say only one thing. I agree with him about the process that he has gone through. But, normally, the final piece of legislation that is proposed to be introduced is also put before the tripartite body. That he has not done because there are some other things in the Bill.

**MR. CHAIRMAN:** Let him complete the reply.

**SHRIMATI PARVATHI KRISHNAN:** I only wanted to say that, I have been sitting silent....

**SHRI RAVINDRA VARMA:** I know, the hon. Member contributes both by eloquent speech and eloquent silence. But the hon. Member should also contribute by eloquent patience as she does occasionally.

The Report actually says:

"On several occasions, the members expressed a view that consensus or unanimity might not be possible on various issues and that the Government might, therefore, have to take a decision on its own after giving due consideration to different views of the committee."

It is a unanimous report.

I now come back to the questions that my distinguished friend, Mr. Madhu Limaye raised. I want to assure the House that I am not answering the points that he has raised or the points that other hon. members have raised in any spirit of polemics or bellicosity. I want to deal with the subject with the utmost humility and frankness.

The question that he raised about invoking Direction 19B of the Speaker, whether it was really necessary to invoke this Direction to introduce the Bill, as he described, in a hurry, is certainly an important question because he linked it with an apprehension that this is becoming a general practice. On behalf of the Government, I would like to say that it will be the effort of the Government to see that this does not become a general practice.

Now as far as this particular Bill is concerned, the anxiety was that we should not allow more time to elapse without the country, without the House, knowing what the thinking was because, on a Bill like this, the more consultations you have, the greater the possibility of evolving an acceptable consensus and, therefore, we thought that instead of allowing this session to elapse, without introducing the Bill, it will be a better idea to introduce the Bill so that



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there will be further discussion in a joint Committee, there will be further discussion in the trade unions, there will be further discussion in seminars wherever such discussions take place, to mould a national consensus on this issue. Therefore, I can only plead guilty to the fact that we did not want to lose more time. That was the only reason why we invoked Direction 19B and requested for the permission of the Speaker to allow us to introduce the Bill in this fashion.

Then, he made some reference to me. I am always flattered when a person like Mr. Madhu Limaye—he is a good old friend of mine—makes a reference to me. It at least shows that I am not beneath notice. He said, I am over-burdened with two Ministries and, therefore, he did not know how much attention I am able to pay to what. It is a fact that I am in-charge of two portfolios. My good friend who is absent now Mr. Shyamnandan Mishra, asked which one he considered to be fit for me. I know, he avoided an embarrassment for me by choosing not to reply....

**SHRI MADHU LAMAYE :** If you ask my opinion, I will give you privately.

**SHRI RAVINDRA VARMA :** I do not ask your opinion. I only said, he avoided an embarrassment to me by declining to reply and left it to me to surmise what the reply might be. I do not propose to answer on any surmise. The question of opinions about each other are matters, which, I think, should not be the subject matter of discussion in the House, because opinions tend to be mutual. As far as I am concerned, I have the highest respect for the hon. Member.

Then, the main point which I think many hon. Members made about legal competence was in regard to the right to freedom of association. That was the main point. Many aspects of the question were referred to, but the

main point was the right to freedom of association.

Now, there was no question raised about the legal competence of Parliament to legislate on this subject because everybody knows that under Articles 22 and 24, Parliament is competent to deal with this subject.

As far as Art. 19(1)(c) which was referred to, is concerned, about the freedom to form associations or unions, I would humbly beg to submit that there is nothing in this Bill, as it is going to be introduced in the House, which militates against this fundamental right. Nowhere is it said that associations cannot be formed. Hon. Members who are very familiar with the Trade Union movement as well as with the Constitution, know very well that there is a difference between the right to form an association and the right to register an association under a particular Act,—it may be registered under the Charitable Societies Act or some other Act,—, the right to register an association under the Trade Union Act, and thirdly the question of recognition—to which my friend referred—, fourthly the right of collective bargaining, fifthly the identification of the bargaining agent and, sixthly, the right to strike. Now, it is not fair to say that this Bill in any way restricts the right of association. That is a sacred right enshrined in the Constitution under Art. 19 and there will be no effort at all on the part of the Government to inhibit that right. (Interruptions).

Therefore, it will be wrong to say that there is anything in this Bill which inhibits the right of association.

Now, on the question of registration. I am not quite clear. I do not even know whether I should seek your guidance on this subject. It may be embarrassing, if I do so because, in the discussions, not only was legislative competence brought in but many particular clauses of the Bill were also brought in. If I try to deal with all

these clauses, I would be taking much of the time of the House and going to the next stage of the Bill; and if I do not take the time of the House to deal with these, it may look, on the record, as though Government has no answer to these points. Therefore, I seek your protection, and I would like to say that if I do not answer each of these points which I do not relate to legislative competence, in detail, it is not because there are no valid considerations which made us put forward these proposals, but because we believe this is not the stage at which we should enter into a detailed discussion on particular clauses.

Now, as far as the right to strike is concerned, I would like to say that the Government does believe that there is a right to strike, but it should be a peacefully exercised. My hon. friend Mr. Madhu Limaye referred to Chitale's book or something and quoted how the right exists in England as a fundamental right but he himself was very fair and honest in admitting that as far as India is concerned the Supreme Court has not held—perhaps it has not been put to the test and perhaps such a view might be held by the Supreme Court—that the right to strike is a fundamental right. Nevertheless, as far as Government is concerned and the Janata Party is concerned, it does believe that the right to strike is the ultimate weapon of the working class. This was said on the other side and this will be said with equal vehemence on this side, but I would like to point out to the Hon. Members opposite that the Hon. Members opposite also used the adjective 'ultimate weapon'....

**AN HON. MEMBER :** Last weapon.

**SHRI RAVINDRA VARMA :** Last weapon and ultimate weapon perhaps have the same meaning. There is no difference. You can choose a monosyllabic word and I may use a multisyllabic word, but the adjective is the same, whether it is the 'last weapon' or 'ultimate weapon' or 'final weapon'. Would you like to add some other

thing? Then add it. The idea would be the same.

**SHRIMATI PARVATHI KRISHNAN :** The only weapon.

**SHRI RAVINDRA VARMA :** There the cat is really mewing. I would have said that it was peeping out of the bag, but the hon. Member ducked; therefore, I only say that the cat is mewing and not peeping out of the bag.

This Bill does not take away the right to strike. It only says that, before invoking this ultimate weapon, the other steps, the other methods, should be utilised;— there should be negotiations, there should be conciliation, there should be an attempt at arbitration....

**SHRI VAYALAR RAVI :** For how many years?

**SHRI RAVINDRA VARMA :** We can come to that.

If all these fail, then in most cases resort to strike is possible. It is not ruled out. But is it wrong to say that, in the interest of the society, every effort, must be made to settle disputes peacefully? Is it wrong to say that a peaceful effort should be made? That must be your view. But that is not our view. I do not think anybody seriously argues or anybody will have the gumption to say, that no peaceful effort should be made. Whatever might be in one's mind, nobody would say—and I am sure the hon. Member also does not say—that no effort should be made for the peaceful settlement of disputes. What this Bill provides for is only a machinery that will attempt to achieve a peaceful solution of the disputes.

Another complaint has been that this machinery for the peaceful settlement of disputes takes a long time. My hon. friend, Mr. Vayalar Ravi, referred to it. There are cases where the existing machinery has taken ten

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years. And everybody knows that the worker does not have the staying power. The management may have, the employer may have, but the employee does not have. Therefore, there must be a time-bound method of seeing that an individual or collective dispute is settled peacefully, the labour courts function in such a manner that disputes which are brought before them are settled soon. It is true that a certain suggestion has been made in this Bill. I am here bordering on discussing details. I shall not go further. Certain periods have been mentioned. They can be abridged. But that is no reason to take objection to the whole Bill or to say that it is anti-working class. Today it takes ten years. This Bill suggests two months. I am sure there is some difference between 120 months and two months. Even if two months are supposed to be a long period, if it goes to a Select Committee if the House permits introduction of this Bill, certainly you can bring it down further. It is open to the House to do so. It is open to the Committee to do so. But to say that this is taking industrial relations back to the days of Methuselah or Jambawan, as my hon. friend opposite may like to say, speaks volumes for the imaginative capacity of the hon. Member, but does not speak very much for his perspicacity in understanding the contents of this Bill.

Then the question was raised about the right to strike in certain cases. My hon. friends pointed out to a schedule and said that everything would be put in the schedule. May I try at this stage only to present the rationale of it before you? Because this House has every right to change it. But the rationale is this. Today it is said that, when a strike is about to materialise or when a strike has started, an effort is made to involve certain clauses of the existing Act, declare the undertaking as a public utility service and ban the strike; this is being done today. Think for a moment—I am only asking you to think; you may reject it; but

is it wrong to ask you to think?—whether this is a better alternative. You say, on the other hand, that you must be able to know in advance what is essential for society and what is not essential. May be, supply of drinking water is essential may be, supply of electricity is essential; hospitals may be essential as my distinguished friend, Mr. Ugra Sen, says. There may be certain services which should never be vulnerable for society. It is conceivable. It is arguable. Such a case can be presented. It cannot be dismissed as illogical or anti-working class because electricity is required for the working class as well. Drinking water is required for the working class as well. It is a common need of the society. Therefore, if it is said that a right can be exercised, but it should be exercised in such a manner that there is an effort at reconciliation between the right of an individual or a group and the paramount right of the society or the State to exist, if it is to guarantee those individual rights, I beg to submit that there is nothing illogical, there is nothing ante-diluvian and there is nothing anti-working class in it. Why are you shying away from that consideration? Certainly have a strike. But if the strike should mean that people should die on the operation table and that for days on end, people should be locked up in lifts because lifts do not work since electricity workers have gone on strike, then certainly not only the workers and the employers, but every child, every adult and every citizen is concerned. There must be some protection, therefore, some method of reconciliation between the right... (Interruptions) No, no. I do not yield. You have had your say. I heard you and you will now hear me. There must be some reconciliation between the rights of the individual and the group and the society. There is nothing wrong. It is being said....

**SHRI VAYALAR RAVI:** Is Mr. Madhu Limaye there?

**SHRI MADHU LIMAYE:** I am not called upon to reply.

**SHRI RAVINDRA VARMA** : I hope you will hear me.... (Interruptions)

**SHRI C. K. CHANDRAPPAN** : You look like Indira Gandhi.

**SHRI RAVINDRA VARMA** : Do I? I do not know in what way. Perhaps I look too pretty for your eyes, and perhaps it is your old affection for Indira Gandhi which is asserting itself.... (Interruptions) No, your affection might have changed with opportunism. Mine has been consistent opposition. Please do not provoke me to say things which I do not want to say....

**SHRIMATI PARVATHI KRISHNAN** : Having already said it....

**SHRI RAVINDRA VARMA** : Having said it, I say I may be provoked to say more.

I was told that this Bill is going back and is anti-working class. I do not want to take the time of the House. I just want to point out one or two things. As I submitted earlier, this Bill is not a Bill to be taken in isolation but it should be taken with the other Bills which are also on the Order Paper to-day. If you look at them together, you will see that protection has been extended to many new areas where there was no protection in the past at all. Now, in regard to security of service, in regard to service conditions, in regard to the machinery for settlement of individual grievances, direct reference to the Labour Courts in individual cases, the time-frame to avoid inordinate delays in the disposal of suits, larger quantum of lay-off compensation to a larger sector of the working class, more powers to the Labour Tribunals including the power to summon and to grant interim relief, liberalised provisions for subsistence allowance—in every respect you will see that there is an advance from the past and you cannot deny it, if you have read the Bill. I agree with my hon. friend, Shri Madhu Limaye, that if the Government had circulated the Bill earlier, there would have been

more time, and perhaps some of these apprehensions might not have been voiced. I plead guilty to that.

Now, I do not think I should refer to many other individual points that have been raised. I think I have said enough to say that this is not outside the legislative competence and this is not anti-working class....

**SHRI MADHU LIMAYE** : You have not even referred to it. When the point of legislative competence is taken, it can be taken on the ground that it is violative of Art. 13(2) or on the ground that it is violative of Art. 246. The point here is that the clause which I read out and the clause which my friend, Shri Chitta Basu read out is violative of the fundamental rights. You have not met that point at all.

**SHRI RAVINDRA VARMA** : 19—I have said.

**SHRI MADHU LIMAYE** : This is undue interference by the Registrar in the conduct of the strike ballot or choosing of the office-bearers of the Union. You answer that. This is not a reasonable restriction at all.

**SHRI CHITTA BASU** : You take away the right of conducting the business of the Union without interference.

**SHRI RAVINDRA VARMA** : Sir, I do not think my hon. friend is right when he says that the provision, as it exists, takes away the right of that kind. If there is any and, if we find on examination or if the Committee finds on examination that there is such a restriction, surely, it can be altered. But, our own study along with legal experts whose services the Government can command, has not led us to any such conclusion. But, if it is found, on examination, that there is any such restriction, if the Bill is introduced and if it is referred to a select Committee, of course, the Committee can consider that and remove anything which it regards as obnoxious or unsatisfactory. That is always possible.

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Therefore, with these words, I would once again beg of the House not to oppose the introduction of a Bill of this kind but to amend it wherever they find that there is something wrong, something objectionable. That can be done in the Select Committee.

Therefore, I will pray of the House not to oppose the introduction of the Bill.

MR. CHAIRMAN: Now, it is the accepted practice, as pointed out by the hon. Members that the Speaker does not give any ruling on the point of order or on whether the Bill is constitutionally within the legislative competence of the House or not. The House also does not take a decision on the specific issue on *vires* of a Bill. It is open to Members to express their views in matters and address arguments for or against the *vires*, the consideration of it by the House. This has been done. The Members take this aspect into account in voting on the motion for leave to the introduction of the Bill or on the subsequent motion on the Bills.

So I shall put the motion for leave to the introduction of the Bill. The Motion reads like this.

The question is :

"That leave be granted to introduce a Bill to consolidate and amend the law relating to the registration of trade unions of employees and employers, the rights and liabilities of registered trade unions and settlement of trade union disputes, the conditions of employment of employees and the investigation and settlement of disputes between employees employed in industrial establishment or undertakings and their employers, and for matters connected therewith or incidental thereto, with a view to promoting healthy

industrial relations leading to accelerated economic development and social justice."

*The motion was adopted.*

SHRI RAVINDRA VARMA: Sir, I introduce the Bill.

14.50 hours.

HOSPITALS AND EDUCATIONAL INSTITUTIONS (CONDITIONS OF SERVICE OF EMPLOYEES AND SETTLEMENT OF EMPLOYMENT DISPUTES) BILL\*

THE MINISTER OF PARLIAMENTARY AFFAIRS AND LABOUR (SHRI RAVINDRA VARMA): I move for leave to introduce a Bill to consolidate and amend the law relating to the conditions of service of employees employed in hospitals and educational institutions with a view to securing the welfare of such employees and for the investigation and settlement of disputes between such employees and their employers, and for matters connected therewith or incidental thereto.

MR. CHAIRMAN: Motion moved:

"That leave be granted to introduce a Bill to consolidate and amend the law relating to the conditions of service of employees employed in hospitals and educational institutions with a view to securing the welfare of such employees, and for the investigation and settlement of disputes between such employees and their employers, and for matters connected therewith or incidental thereto."

SHRI DINEN BHATTACHARYYA (Serampore): Sir, this Bill has been circulated only today. How will you expect that the House will accept it?

\*Published in Gazette of India Extraordinary Part II, section 2, dated 30-8-78.