

**THE CHILD LABOUR (PROHIBITION
AND REGULATION) Bill 1986—contd.**

THE VICE-CHAIRMAN (SHRI PAWAN KUMAR BANSAL)-. We will now resume discussion on the Child Labour (Prohibition and Regulation) Bill, 1986. Yes, Mr Kamalendu Bhattacharjee.

SHRI KAMALENDU BHATTACHARJEE (Assam): Respected Vice-Chairman, Sir, I stand here to support this Bill. Broadly speaking, this Bill has got two objectives. Firstly, it seeks to prohibit engagement of children in certain employments. Secondly, it seeks to regulate the conditions of work of children in certain other employments. These are the two main objectives of this Bill introduced here.

Sir, there is no denying the fact that the problem of child labour has already assumed menacing proportions. The condition itself is far from satisfactory. While agreeing with the hon. Members of the Opposition, the hon. Member from the CPI(M) and the hon. Member from the BJP, while sharing their views and concern about this problem of child labour in India, I would like to appeal to them to take the approach of constructive criticism towards this problem and not to go in for destructive criticism. I do believe that they are as much concerned about this problem as I am, I believe in their sincerity of approach. I also have full faith in their honesty of purpose. But I would like to beseech them to cooperate with the Government because I for one believe that this problem of child labour in India is going from bad to worse.

Sir, it is true that there are already 15 Acts in this regard and Mrs. Mukherjee has very lightly pointed out and has drawn the attention of the Government to the fact that there are already 15 Acts on this matter and why should there be necessity of having one more and instead there should be some comprehensive legislation on the subject. This sort of catchword business and umbrella coverage will not do. We must appreciate the fact that this is the right step taken at the right time.

As we all are aware, the condition of

child labour is really alarming and we all must appreciate the effort put in by the Government the sincere effort made by the Government at the right time to fight this growing menace of child labour. The Minister himself has while piloting the Bill yesterday given the House information that the number of child labour in India, which was about 10 million in the year 1971, has already gone up to more than 17 million. You knew, child labour are at present working in different sectors. He Minister has tried to bring them under the purview of the new Act which we are going to pass. There are certain laudable provisions contained in Part 3, which is contained on page 3, clause number (vi) one to six. These are certain new additions to these rules which will help the child labourers and which will also help strengthen the hands of the State Government to fight this menace of child labour. But I would like to caution our hon. Labour Minister on this score. Yesterday, he himself admitted on the floor of this House that—though he did not use the language that I am using, but the purport was almost similar—laws are honoured more in a breach than in adherence, because most of the exploiters, the employers, prefer to pay the fine rather than adhering to the law. And that is why he has proposed to introduce some deterrent and stringent punishment to bring such

employers to book.

1-00 i?M.

While I was visiting Punjab, I went to Husainiwalla and by the side of the tomb of the famous martyr, Shaheed Bhagat Singh, I saw one message: SAR FAROSHI KI TAMANNA AB HAMARE DEL MEN HAI; DEKHANA HAI ZOR KITNA, BAZU-E QATIL MEN HAI'. I am not so much good in Hindi or Urdu but as I understood, the meaning is, the urge of freedom is burning in my heart; let me see how strong is our enemy. So, I really appreciate the efforts of the Labour Ministry to emancipate the child labour. But the Labour Minister must realise how strong the exploiters are. He must have a pure and clear assessment of the situation. These exploiters of the situation deprive the labour by not giving their due wage, not giving limited hours of work and are treating them as beasts, which is very much the reminis-

[Shri Kamalendu Bhattacharjee]

cent of the black workers as has been depicted in Sidney Sheldon's Bloodline. We must know how powerful these operators are; he must have a clear understanding of the situation and only then he will be able to realise the problem of child labour, India being a poor country, we cannot afford the luxury of banning child labour altogether but we must try to understand and realise how we can go in for an overhaul of the situation. We must change our outlook. Unless and until there is awareness of the problem, and until the whole structure, the economic and social structure of the country is changed, this problem will remain. If you go to a military academy, you will notice that as we say and believe that child is father of the nation, the child tomorrow will become soldier of the nation and he has to believe in the principles of a soldier, and it is written there: Safety, honour and welfare of the country comes first, always and everytime; safety, honour and welfare of the man comes next, always and everytime; safety, honor and welfare of your own self comes last, always and everytime. So, we have to imbibe a child with this spirit of patriotism and if we have to imbibe a child with this spirit of nationalism, we must give him a sense of social security. What does he do when his father dies? You write for the department; his mother has become helpless and they show you rules and regulations that they cannot just employ the mother, and the child has to go and work, and become a menace for the whole country. We must look at the problem from a pragmatic view; we must take a pragmatic approach towards the problem and try to solve it.

I believe this is a very laudable Bill. I would appeal to our friends in the Opposition to extend their cooperation so that this Bill is passed. With these words, I conclude. Thank you.

श्री सुरज प्रसाद (बिहार) : महोदय, बाल श्रमिकों श्रमिकों के संबंध में जो यह बिल सरकार लाई है, पहले के कानून से इस मायने में बेहतर है कि इसमें कुछ ऐसी चीजों का समावेश किया गया है जिससे

कुछ उद्योगों में बालक श्रमिक के रूप में अब काम नहीं कर सकेंगे और साथ ही साथ जहाँ पहले काम के घंटे सत थे उसको घटाकर सरकार ने 6 घंटे किया है। लेकिन यह कानून कई मायनों में दोषपूर्ण है और लोग जैसी उम्मीद करते थे उस उम्मीद के मुताबिक यह बिल नहीं बनाया गया है। दुनिया में जो सर्वेक्षण किया गया है उसके अनुसार 55 मिलियन बाल श्रमिक हैं। भारत कई बातों में फस्ट है और बाल श्रमिकों के मामले में भी भारत फस्ट निकल रहा है। दुनिया में जितने भी बाल श्रमिक हैं करीब करीब उसके एक तिहाई बाल श्रमिक इस देश के अंदर हैं और करीब-करीब 20 मिलियन बाल श्रमिक हमारे देश में जो अध्ययन किया गया है उसमें पाये गये हैं। बाल श्रमिकों के बारे में जो सबसे प्रमुख प्रश्न है वह यह है कि बाल श्रमिकों का 79 प्रतिशत खेतों में इस्तेमाल किया जाता है। यहाँ भी सरकार का कानून बहुत ही कमजोर है। यह जो कानून बनाया गया है इस कानून के दायरे के अंदर भी जो साढ़े पांच लाख गांव हैं, जिन गांवों में यह बाल श्रमिक खेतों और खाल-हानों में काम करते हैं या चरावाहों के रूप में काम करते हैं, या घरेलू नौकर के रूप में काम करते हैं उनको किस तरह से नियंत्रित किया जायेगा, इस कानून के दायरे के अंदर में कोई खास तरह की बात देखने की नहीं मिलती है। शहरों में बीड़ी बनाने के काम में, दरी की बुनाई के काम में, लकड़ी उद्योग होटलों में, दुकानों में और घरेलू नौकरों के रूप में बाल श्रमिकों का इस्तेमाल होता है और न सिर्फ उनका शोषण मजदूरी के रूप में होता है बल्कि उनका सैक्सुअल एक्सप्लोइटेशन भी होता है। ये बाल श्रमिक आखिर क्यों पैदा हो रहे हैं? सरकार की चाहिए था कि वह इस तरह का कानून लाती जिससे बाल श्रमिकों पर प्रतिबंध लग सकता, उनके अप्वाइन्टमेंट पर रोक लग सकती। लेकिन सरकार ने ऐसा कोई काम नहीं किया जिससे इसमें रोक लग सके। सरकार ने केवल बाल श्रमिकों को रेगुलेट करने के लिये इस बिल में प्रावधान किया है। जहाँ तक मेरी समझ है बाल श्रमिकों के पैदा होने का प्रधान

कारण देश में गरीबी है। आज भी 50 प्रतिशत लोग गरीबी की रेखा के नीचे हैं और उन्हीं लोगों के बच्चे बाल श्रमिकों के रूप में आज देश के अंदर इस्तेमाल होते हैं। जिनके हाथों में पढ़ने के लिये किताबें नहीं चाहिए, जिनके हाथों में स्लेट और पेंसिल होनी चाहिए वे आज होटलों में मजदूरों का काम करते हैं, वे आज चीनी बादाम बेचकर अपनी जीविका का उपाजन करते हैं। ये बाल श्रमिक देश की राष्ट्रीय पूंजी हैं और सरकार का कर्तव्य होना चाहिए कि वह बाल श्रमिकों के कल्याण की दिशा में कोई व्यापक योजना बना कर उस पर विचार करे। लेकिन ऐसा तो है नहीं गरीबी की रेखा से लोगों को ऊपर उठाने की सरकार की जो योजना है, अगर वे सफल होती तो ऐसी स्थिति न आती। क्यों होते हैं ये बालक श्रमिक? यह इसलिए क्योंकि उनके परिवार की आमदनी कम है, उस परिवार का भरण-पोषण ठीक से नहीं होता है, इसलिए उन बच्चों के अभिभावक उन बालकों को किसी काम में लगा देते हैं। यह है उनका कारण (अगर गरीबी) रेखा से लोगों को ऊपर उठा दिया जाए तो यह बालक किसी होटल, दुकान या किसी और जगह पर काम करने के लिए नहीं जाएंगे यह बालक स्कूल जाएंगे। यह एक अध्ययन के मतावधि स्कूलों में बालकों की संख्या में ग्रावट का प्रधान कारण यह भी है कि यह बालक स्कूलों में न जाकर कहीं और काम करते हैं। इसलिए इस दिशा में सरकार को सोचना चाहिए। मेरी समझ यह है कि सरकार की जो गरीबी मिटाने की योजना है वह तो महज राहत है रिलीफ है, समस्या का कोई समाधान नहीं है और इसलिए इससे बाल श्रमिकों की संख्या में कोई कमी हो जाएगी यह मेरा अन्दाज नहीं है बल्कि देश के अन्दर दिन प्रति दिन बाल श्रमिकों की संख्या में गुणात्मक विकास होता चला जा रहा है। पूर्व के जो कानून बने हैं उस में इन्स्पेक्टर की व्यवस्था की गई थी जिनका काम यह था कि बाल श्रमिकों के शोषण पर कुछ निगरानी रखें नियंत्रित करें लेकिन जो अध्ययन हुआ है उसके अनुसार यह व्यवस्था भी इनइफेक्टिव साबित हुई है। सरकार ने इस कानून में फिर उसी तरह की व्यवस्था का प्रावधान किया है मुझे यह नहीं लगता है

कि यह इन्स्पेक्टर बाल श्रमिकों के शोषण के खिलाफ कोई प्रभावी कदम उठा पाएंगे इसलिए हमारा सुझाव यह है कि इन्स्पेक्टर रेट का जो इंस्टीट्यूशन सरकार ने तैयार किया है उसको अधिक प्रभावशाली बनाने की दिशा में कदम उठाना चाहिये। काम के घंटे तय किये गये हैं, पहले 8 घंटे थे, उसको घटाकर 7 घंटे तय किये गये और अब सरकार ने उसकी घटाकर 6 घंटे करने का प्रावधान किया है। इस संबंध में मेरा कहना यह है कि काम के तो 6 घंटे हैं यह 6 घंटे काम नहीं करते हैं उनके काम के घंटे सुनिश्चित नहीं हैं वे 12-14 घंटे तक काम करते हैं। अगर किसी होटल में काम करते हैं तो उनको रात को पांच छः घंटे सोने के लिए मिलते हैं। इसलिए काम के घंटे की जो व्यवस्था सरकार ने अपने कानून में की है उसको सख्ती से लागू करने की दिशा में इन्स्पेक्टर की जिम्मेदारी दी जानी चाहिये। सरकार ने आधे मन से यह कानून लाया है। पहले के कानून में तीन महीने की सजा और अधिक से अधिक एक वर्ष की सजा की व्यवस्था है और सरकार ने जो अब कानून बनाया है उस में भी यही व्यवस्था है। सरकार को चाहिये कि इस दण्ड देने वाली व्यवस्था को और अधिक कठोर बनाया जाए ताकि इस्तेमाल करने वाले जो लोग हैं वह कुछ भयभीत हो सकें और इससे डर सकें। लेकिन तीन महीने की सजा खास सजा नहीं है। यह महज एक खेल के समान साबित होगा। एक अध्ययन के अनुसार यह जो कानून पास होते हैं खास कर के सोशल कानून पास होते हैं इनकी जानकारी लोगों को नहीं है। इनका जानकारी कराये जाने की जरूरत है। सोशल कानून को लोगों तक पहुंचाने की जरूरत है। सरकार को इनका प्रचार करना चाहिये। सरकार के पास रेडियो है, टी० वी० है। रेडियो और टी० वी० किस का प्रचार करते हैं, मंत्रियों की खुबसूरती का और मंत्रियों का बखान करते हैं। टी० वी० से चहरे प्रचारित होते हैं। लेकिन जो सोशल कानून हैं जिनको अधिक से अधिक लोगों तक पहुंचाने की जरूरत है इस के लिए इन प्रचार साधनों का इस्तेमाल नहीं हो पाता है। इसलिए मेरा सुझाव होगा, यह कानून तो पारित होगा ही क्योंकि सरकार

[सूरज प्रसाद]

पास ब्रूट मेजोरिटी है इसलिए पास होना ही है, कानून पास होने के बाद जब अमल का पहला आँखों से सरकार को इस कानून के प्रचार के लिए अधिक से अधिक ध्यान देना चाहिए। बाल श्रमिक किसी ट्रेड यूनियन में संगठित नहीं हैं और संगठित न होने के कारण इतना अधिक से अधिक एक्सप्लायटेशन होता है। इसलिए हमारा सुझाव यह होगा कि इस कानून के पारित होने के बाद तमाम ट्रेड यूनियन्स की एक बैठक बुलाई जानी चाहिये जिसमें इस कानून को लागू करने की दिशा में ट्रेड यूनियन्स की क्या भूमिका होगी इस पर विचार किया जाना चाहिये। अंत में मैं यह कहना चाहूंगा कि यह जो बाल श्रमिक हैं अगर इनको भी मौका मिले तो ये भी देश के रतन बन सकते हैं लेकिन अवसर न मिलने के कारण बालकों के रूप में ये जो कलियाँ हैं ये बिना विकसित हुए मुरझा जाती हैं। इन्हें बहुत अधिक पढ़ाने की सुविधा नहीं हो सकती लेकिन मेरा खयाल यह है कि कम से कम इनको साक्षर बनाने के लिए जो इनको इम्प्लाय करने वाले हैं उन पर इसकी जिम्मेदारी होनी चाहिए और सरकार को भी इस दिशा में कदम उठाना चाहिए ताकि इनको कम से कम साक्षर बनाया जा सके। अगर अधिक से अधिक इनको शिक्षित नहीं कर सकते हैं उच्च शिक्षा की सबको सुविधा नहीं दे सकते हैं तो कम से कम इन्हें साक्षर बनाने की दिशा में तो कदम उठाना चाहिए और यह बीमारी देश में सब तक रहेगी जब तक देश के अंदर शिक्षा के अनिवार्य नहीं बना दिया जाता है और सरकार इस दिशा में कोई कदम नहीं उठाती, तब तक ये चोजें खत्म होने वाली नहीं हैं। संविधान में 10 वर्ष के अंदर शिक्षा को अनिवार्य बनाने की बात थी? अब 1990 तक भी शिक्षा अनिवार्य नहीं होने वाली है। इसके बाद ही सरकार सोच रही है। इसलिए मेरा सुझाव है कि आप तो मंत्रिमंडल के आदमी हैं इस पर विचार करें कि शिक्षा को कैसे अनिवार्य बनाया जाये ताकि जो बाल श्रमिक हैं शिक्षा का लाभ इनको देश में मिल सके और ये अपने दिनाग को बितर्कित कर सकें तथा राष्ट्र की निधि के रूप में ये जो अपने को संभार सकें। इन्हीं शब्दों के साथ मैं अपनी बात समाप्त करता हूँ।

श्री केशव प्रसाद शुक्ल (मध्य प्रदेश) :

उपाध्यक्ष महोदय, मैं बाल श्रम (प्रतिषेध और विनियमन) विधेयक, 1986 का समर्थन करता हूँ। बाल श्रमिकों को विभिन्न प्रतिष्ठानों कारखानों और उद्योगों में मजदूरी करके अपना और अपने कुटुम्ब का भरण-पोषण करना पड़ता है। इसका कारण क्या है? इस पर लोग अगर विचार करें तो यह गरीबी की रेखा से नीचे रहने वाले लोगों के शोषण का एक कार्य है। जो लोग गरीबी की रेखा के नीचे रह रहे हैं वे अपने परिवार के भरण-पोषण के लिए अपने बालकों को छोटे-छोटे कामों में लगात हैं और उनका साथ ही बड़े-बड़े उद्योगों में भी उनको लगाया जाता है जिससे उनका शोषण होता है, इस शोषण को खत्म करने के लिए ही यह विधेयक लाया गया है। इसके पहले भी कई अधिनियम थे लेकिन उनमें एकरूपता नहीं थी, उस एकरूपता को बनाने के लिए जो यह विधेयक लाया गया है उसका मैं स्वागत करता हूँ। इस विधेयक के द्वारा मैं कुछ बातों की ओर मंत्री जी का ध्यान आकर्षित करना चाहता हूँ। इसमें जो ज्यादा से ज्यादा दण्ड की प्रक्रिया की गयी है वह पहले जैसी है। मेरा सुझाव है कि इसमें रिगर्स दण्ड होना चाहिए था जो कि नहीं हुआ है। मैं धारा 14 (1) की ओर आपका ध्यान आकर्षित करना चाहता हूँ जिसमें यह प्रावधान रखा गया है कि : "जो कोई किसी बालक को धारा 3 के उपबंधों के उल्लंघन में कार्य करने के लिए नियोजित करेगा या उसकी अनुज्ञा देगा वह कारावास से, जिसकी अवधि तीन मास से कम नहीं होगी, किन्तु एक वर्ष तक की हो सकेगी, या जुर्माने से, जो दस हजार रुपये से कम का नहीं होगा, किन्तु बीस हजार रुपये तक का हो सकेगा, या दोनों से, दंडनीय होगा।"

इसमें सश्रम कारावास शब्द नहीं रखा गया है। मेरा सुझाव है कि इसमें कठोर कारावास होना चाहिए। जैसे अभी एक वक्ता महोदय ने बताया यह तो पहले ही जैसा प्रावधान था। इसको ज्यादा रिगर्स करना चाहिए था जिससे लोगों को एक भय पैदा हो और बाल श्रमिकों का शोषण न हो सके। इसलिए मेरा सुझाव है कि यहां

पर अगर नहीं तो आगे चलकर इस ओर ध्यान दिया जाये और इसमें ज्यादा कठोर दण्ड का प्रावधान किया जाये, इसको सख्त किया जाये ताकि लोग बालकों का शोषण न कर सकें। यह बड़े दुख की बात है कि हमारी स्वतंत्रता के 39 साल बाद भी आज हमारे देश में करोड़ों लड़के बाल श्रमिक के रूप में कार्य कर रहे हैं। घरेलू उद्योगों से लेकर, घरेलू कामों से लेकर बड़े-बड़े कठोर कामों में, उद्योगों में और यहां तक कि मशीनों में भी उनका नियोजन किया जाता है।

तो यह एक दुर्भाग्य पूर्ण स्थिति है। इसको रोकने के लिए यह जो विधेयक लाया गया है, यह उचित है और मैं इसका स्वागत करता हूँ।

इन्हीं शब्दों के साथ मैं इसका स्वागत करता हूँ।

श्री राम अवध शर्मा (बिहार) : उप-सभाध्यक्ष महोदय, मैं मौजूदा संशोधन विधेयक की भावना का तो आदर करता हूँ, लेकिन जो उद्देश्य इसमें रखे गए हैं, वे कामयाब होने वाले नहीं हैं और मैं समझता हूँ कि यह ऐसा विधेयक है, जैसे कोई गरीब आदमी किसी धनी के घर गया और जाकर देखा कि पाखाना बहुत अच्छा बना है, बैटरीन बहुत अच्छा बना है, तो अपने घर में आकर वह कहना चाहे कि हम भी पाखाना बनायेंगे, लेकिन उसके घर में खाने की व्यवस्था नहीं है।

वैसे ही यह विधेयक है कि यह तो कल्पना की गई है। इसका पहला उद्देश्य है, जो आर्बजैक्ट्स एण्ड रीजंस है, जो आर्बजैक्टिव है इसके, उसका जो पहला आर्बजैक्टिव है, वह भी किसी कीमत पर इस सरकार के बूते के बाहर है प्राप्त करना। यह सरकार नाक रगड़ कर मर जाएगी, तो भी उस आर्बजैक्टिव को प्राप्त नहीं कर सकती क्योंकि वह है कि चौदह साल से नीचे के बच्चों को नौकरी में नहीं जाने देना, उस पर पाबंदी लगाना और यह नहीं हो सकता, किसी कीमत पर इससे होने वाली बात नहीं है। तब इसको बड़ी-बड़ी बात कहने की क्या जरूरत है।

अब दूसरी बात कहो। आप कह सकते हो कि जो लोग काम करेंगे, उनके काम की कंडीशन में हम सुधार कर सकते हैं, लेकिन आप बैन कैसे कर देंगे। गरीबों की पूंजी उनके बच्चे हैं। आठ, दस, बारह साल के जब बच्चे हो जाते हैं, तो उनके मां बाप की पूंजी होते हैं। वह किसी का झूठा बतन मलते हैं, किसी होटल में काम करते हैं, चाय की दुकान में काम करते हैं, किसी की चरवाही करते हैं, जो वहां से उनको मिलता है तो वह खाते हैं।

यह सरकार, ऐसे कम से कम चार करोड़ बच्चे इस देश में हैं, सारे हिन्दुस्तान में, अभी सारे नौकर चाकर, मिलिटरी, रेलवे, पब्लिक अण्डरटेकिंग्स मिलाकर तीन करोड़ से ज्यादा नहीं हैं और यह चार करोड़ बच्चों की यह सरकार क्या पढ़ाई करवा सकती है? नहीं करवा सकती है।

यह शर्म की बात है कि इस सरकार के लिए कि भारत के नीति-निदेशक तत्वों के सिद्धांत में स्पष्ट इसका प्रावधान है कि चौदह साल के बच्चों को अनिवार्य शिक्षा दी जाएगी, और अब उन चालीस वर्षों के बाद, मतलब संविधान लागू होने के आप कह सकते हैं कि 36-37 साल के बावजूद अभी भी कम्पलसरी एजुकेशन की व्यवस्था नहीं की गई है। यह अफसोस के साथ कहना पड़ता है कि इस सरकार के पास न इसनी दृष्टि है और न क्षमता है और क्षमता है भी, तो वह दूसरी डाइरेक्शन में लगाती है, अपनी फेल्योर को यह अब कह कर हमारे सामने, आपके सामने और दुनिया के सामने खोखी मारती है कि यह हम ऐसे लोक-कल्याणकारी काम करने जा रहे हैं, लेकिन यह होने वाला नहीं है। आगे मैं इसके प्रावधान के बारे में बताना चाहता हूँ। इसका जो फाइनलिसियल मैमोरेडम है उसको आप पढ़ लें, उसमें क्या खर्च दिखाया गया है। हमारे यहां कहावत है कि खोदा पहाड़ निकली चुहिया। इसमें एक चाइल्ड लेबर टेक्नीकल एडवाइजरी कमेटी की स्थापना की बात कही गई है। उसका क्या काम है? सारे देश में घूम-घूम कर रिक्रिंग कडीशन का पता लगाना और तमाम चीजों के बारे में सलाह देना। खर्च कितना है उसका खर्च दिखाया गया है। खर्च सब

[श्री राम अवधेश सिंह]

मिलाकर 75 हजार रुपये। 75 हजार रुपये में कोई चाइल्ड लेबर टेक्नीकल एडवाइजरी कमेटी दौरा करेगी, घूमेगी, रिपोर्ट देगी क्या करेगी, ? यह भुजावे की बात है, घोषा देने की बात है। आप कुछ करना चाहते हैं तो ठीक से करें और टेक्नीकल क्या करना है इसमें उसको टेक्नीकल एडवाइज क्या देनी है ? यह उगने वाली बात आपने क्यों कर दी है। इसमें तुम कहो कि बैलकेयर एडवाइजरी कमेटी उसके बैलकेयर के लिए क्या करने जा रही है। क्या-क्या उनको सुविधाएं दी जा सकती हैं ? जो काम करते हैं जिनके लिए आप परमिशन दे चुके हैं कि वे लोग काम कर सकते हैं उनके लिए क्या कर सकते हो ? जो लोग अभी मॅस चरते हैं बकरी चरते हैं, होटलों में काम करते हैं उनके लिए क्या कर सकते हैं जो आपके शैड्यूल ए और बी है उसको जरा ठीक से देखिए। उसमें आपने लिखा है :

"Transport of passengers, goods or mails by railway; Cinder picking, clearing of an ash pit..... Work in a catering establishment at a railway station, involving the movement of a vendor"

इसमें कहीं इस बात का जिक्र नहीं है कि जो होटलों में काम करते हैं, आप बिहार में चले जाइये, आप बंगाल में चले जाइये, वहां छोटे-छोटे होटलों में 18-18 घंटे वे काम करते हैं। सवेरे पांच बजे से जो बच्चे चलते हैं, वे वर्तन साफ करते हैं, उनके हाथ गल जाते हैं। मंत्री महोदय आप कभी चलिए, मैं आपको रांची में दिखाता हूँ। हजारीबाग और पटना में दिखाता हूँ कि उन बच्चों के हाथ पांव कैसे गल सड़ गए हैं। उनको ठीक से देखना है तो आप हनुमदी से देखिए। उसके बारे में कोई जिक्र ही नहीं है, उसको आपने जोड़ा ही नहीं है। कैटरिंग एंड रेलवे स्टेशनज, उससे क्या होगा, कबूतर चिट्ठी लाते हैं, पहले जमाने में हम लोग पढ़ते थे कि कबूतरों का खत है। तो आप कबूतरों का खत मत देखिए, रेलवे स्टेशन पर आप जाते हैं, ये जो गलियां हैं जहरों में और जो छोटी-छोटी चाय की दुकानें हैं उनमें उनकी क्या स्थिति

है उनके बारे में भी आप जरा खयाल करिए इसलिए उनको भी आप इसमें जोड़ दीजिए कि जो छोटे-छोटे होटलों में काम करते हैं। आपने इसको व्यापक किताब बना दिया, रेसनासिबिलिटी किसी को नहीं दी। आप देखिए जो आपने सैक्शन 16 बनाया है, यह बना तो दिया लेकिन बहुत व्यापक बना दिया, बिम्बव्यापी है, आपकी लेंगेज है :

"Any person, police officer or Inspector may file a complaint of the commission of an offence under this Act in any court of competent jurisdiction."

"एनी पर्सन" में जाकर फाइल कर सकता है, यही है। यह बात तो पुलिस के सी०आर० पी० सी० एक्ट में भी रहती है कि कोई फाइल कर सकता है। लेकिन याना में जहां प्रैस क्राइड है फाइल करना वहां भी कोई जाता है एफ० आई० आर० दर्ज कराने तो दरोगा कहता है कि पहले हमको दो सी रुखा दे दो तब तुम्हारी यह एफ० आई० आर० लिखेंगे। लेकिन इन बेगुनाह बच्चों के पक्ष में गवर्नी कौन देगा। गवर्नी के बारे में आप स्पेसिफिक कहिए कि किस तरह के एवीडेंस पर प्रोसीक्यूशन स्टार्ट होगा, कौन लोग विटनेस होंगे ? मान लीजिए खाली वह अपने से कह दे, यही प्राइमफेसी केस माना जायेगा या नहीं ? क्योंकि वे तो कमजोर लोग हैं, वे गरीबी रेखा से नीचे रहने वाले लोगों के अनाथ बच्चे हैं। ऐसे बच्चे जिनको स्कूल में होना चाहिए, ऐसे बच्चे जिनको शिक्षा दी जानी चाहिए, ऐसे राष्ट्र की होनहार कलियों को मसला जा रहा है इस व्यवस्था के क्रूर हाथों के जरिए से, तो मैं यह कहना चाहता हूँ कि आप पैनल्टी का प्रोविजन भले बढ़ा दिए हों। तीन महीने से एक साल कर दें या हजार से दस हजार कर दें, यह कोई मायने नहीं रखता यह मायने तब होगा, जब कि आप यह स्पेसिफिक कहें, इसमें प्रावधान करें, संशोधन कर लीजिए मॅर, कि इसमें जो एवीडेंस की जरूरत होगी, कोई आदमी जाकर रिकार्ड करा दे। अपने ही जाकर रिकार्ड करा दे। इंस्पेक्टर क्या करेगा ?

वह बेचारा अनाथ बच्चा जानता हो नहीं कि कौन इंस्पेक्टर है। उसके दिमाग

में है ही नहीं कि इंस्पेक्टर क्या है। वह नहीं जानता है। इसलिए मेरा आपसे, मंत्री महोदय से अनुरोध है कि इसको आप इफ-किटव बनाना चाहते हैं और अपने पीनल प्रोबीजन को सख्ती से लागू करना चाहते हैं तो मेरा नम्र निवेदन है, अनुरोध है कि आप अपने से भी इसको जोड़ लीजिए... (व्यवधान)।

THE VICE-CHAIRMAN (SHRI PAWAN KUMAR BANSAL): Will you continue after lunch?

SHRI RAM AWADESH SINGH: AU right.

THE VICE-CHAIRMAN (SHRI PAWAN KUMAR BANSAL): Now we will adjourn til 2.30 P.M.

The House then adjourned for lunch) at thirty-one minutes past one of the clock.

The House reassembled after lunch at thirty three minutes past two of the clock. The Vice-Chairman (Shri pawan Kumar Bansal) is the Chair.

श्री राम अवधेश सिंह : महोदय, कल हमारे लायक दोस्त कल्पनाथजी ने जो भाषण किया चाइल्ड लेबर अमेंडमेंट बिल पर उसको सुनकर मुझे बहुत हंसी आ रही है, कहां घाव है, कहां आपरेशन कर रहे हैं। वह समाजवादी रहे हैं, डा० लोहिया के अनुयायी रहे हैं, मैं नहीं समझता था कि वह इस तरह का स्तुतिगान सरकार का करेंगे। संविधान की व्यवस्था को उन्होंने पड़ा। जिसको कहना चाहिये था उसको नहीं कहा। कम्पलसरी एजुकेशन के विषय में कहना चाहिये था कि यह सरकार विफल रही है, उसको योजनायें विफल रही हैं। इस सरकार ने आज तक संविधान की व्यवस्थाओं को लागू नहीं किया। बहुत दर्द के साथ मैं कहना चाहता हूं कि योजनाओं की प्राथमिकता में जरूर गड़बड़ी है, नहीं तो इतनी बड़ी संख्या में बच्चे क्यों मजदूर होते हैं मजदूरी करने के लिये। योजना की प्राथमिकता में बदलाव आना चाहिये मुझे अफसोस के साथ कहना पड़ता है कि आज इस सभा में जब हम लोग चाइल्ड

वैलफेयर की बात कर रहे हैं, बच्चों के कल्याण की बात कर रहे हैं तो उस समय निश्चित तौर पर शिक्षा मंत्री को जो इस समय ह्यूमेन रिसोर्स डेवलपमेंट मंत्री बोले जाते हैं, उनकी भी रहना चाहिये, पर वे नहीं हैं। जो कुछ हम लोग अभी विचार कर रहे हैं इस अमेंडमेंट के तहत उसके कलेवर में यह बात नहीं आती। इसके लिये एक कांफ्रेंस बिल लाना चाहिये ताकि यह जो चार करोड़ बाल मजदूर हैं सारे देश में उनके कल्याण के बारे में कोई योजना बने और योजना मंत्रालय कांफीडेंस में लेकर इस पर विशेष विचार किया जाना चाहिये। केवल दो अमेंडमेंट तो दिये गये कि यह लेबल बैन कर दिया गया और इसको रेगुलेट कर दिया गया, तो केवल रेगुलेशन से और बैन करने से यह बाल मजदूरों की समस्या हल होने वाली नहीं है। इसलिये मैं इस अमेंडमेंट का जोरदार विरोध करता हूं और कहता हूं कि इस बिल को वापस ले लिया जाना चाहिये। इससे कुछ बनने बिगड़ने वाला नहीं है। इस से एक इंच भी, एक फीसदी भी भलाई होने वाली नहीं है। यह केवल बकवास है। इस पर नाहक बहस हो रही है और बहस में जितना पैसा सरकार का और संसद का खर्च हो रहा है वह बेमतलब हो रहा है। जितने पैसे आज इस बहस में खर्च होंगे उतना पैसा भी एडवाइजरी बोर्ड के निर्माण पर खर्च नहीं किया गया। मैं समझता हूं कि माननीय मंत्री जी को मांग करनी चाहिये थी कि संसद इसके लिये ज्यादा पैसा सेशन करे ताकि पूरे बिस्तार के साथ बाल मजदूरों की समस्याओं का आकलन किया जाये और उसको देखा जाये और फिर एक ब्यापक बिल लाया जाये उन बाल मजदूरों के बारे में। यह तो उनकी मजदूरी है। मैं कहना चाहता हूं कि आप कल्पना कीजिये कि उसकी बूढ़ी मां है, बाप है और उसके घर में कोई कमाने वाला नहीं है। उस घर में एक 13 साल का लड़का है, एक 14 साल का लड़का है और एक 11 साल का लड़का है। अगर वह लड़का कमाने नहीं जायगा तो उस की मां जो बीमार है, बाप जो सगंडा है, वह क्या करेगा। क्या आप उसके मजदूरों करने पर बैन लगा देंगे और क्या वह इस

[श्री राम अवधन सिंह]

से रुक जायेगा। नहीं रुकेगा। यहां न तो बुद्ध पेंशन की व्यवस्था है और सोशल सेक्योरिटी का तो बिलकुल अभाव है और ऐसी स्थिति में आप चाहते हैं घाव पर केवल मरहम पट्टी करके आप दिखा दें कि घाव नहीं है। तो इससे काम चलने वाला नहीं है। यह अमेंडमेंट तो जैसे एक सालाना खुजली होती है हर एक विभाग में, वैसा ही है। हर मंत्रालय में एक सालाना खुजली होती है। मंत्री जी को जब खुजली आती है, उनके दिमाग ने तो सिर खुजलाते-खुजलाते जो उन की एक्जीक्यूटिव मशीनरी होती है उसको कहते हैं कि कोई अमेंडमेंट ला दो और वह कोई अमेंडमेंट ला कर इसी तरह से सदन का समय जाया करते हैं, सदन का समय नष्ट करते हैं इसलिये मैं चाहता हूं कि इस बिल को वापस लिया जाय और इसकी जगह एक कॉम्प्रेहेंसिव बिल लाया जाय और इस में प्लानिंग कमीशन को भी इवाल्ब किया जाय और शिक्षा मंत्रालय को भी इवाल्ब किया जाय ताकि जो चार करोड़ बाल मजदूर हैं उनकी सहायता की जा सके और जो बिना मजदूरी किये आबारा की तरह घूमने वाले और भीख मांगते बालक हैं उनकी भी व्यवस्था करने के लिये, उनको रिहैबिलिटेट करने के लिये कोई कार्य सरकार करे। अगर यह नहीं होता तो इस बिल की कोई उपयोगिता नहीं है। मैं जानता हूं कि मेरी यह सलाह सरकार नहीं मानेगी और यह बिल वापस नहीं लेगी। इस सरकार की तो रोड रोलर मेजरिटी है इस लिये यह बिल तो यहां पास हो ही जायगा और इसी लिये मैंने सुझाव के तौर पर मांग की है। वैसे तो मैं इस अमेंडमेंट के खिलाफ हूं और इस बिल को वापस लिये जाने की बात कहता हूं लेकिन एडवाइजरी कमेटी का जो आप का प्रावधान है उस को टेक्निकल एडवाइजरी कमेटी न बना कर वेलफेयर एडवाइजरी कमेटी बनाइये और इस वेलफेयर एडवाइजरी कमेटी के काम को और विस्तृत करे और इसको आप और बढ़ायें। इसके लिये आप चार लाख मांगिये, पांच लाख मांगिये, दस लाख मांगिये। इस पुनीत काम के लिये हम धन देने के लिये तैयार हैं। कांग्रेस पार्टी तो रुपया

बबाद करती है। कांग्रेस सरकार जहां खर्च नहीं करना चाहिये वहां खर्च करती है लेकिन भारत के नौनिहालों के निर्माण का जो काम है, उसमें हम लोग मदद दे सकते हैं, वह आप कीजिये।

दूसरा जो काम है वह यह है कि जो पीनल प्राविजंस है उनको सख्ती के साथ लागू करने के लिये ऐसे प्रावधान उसमें लाइये ताकि उसकी कागनिजंस हो जाय। कागनिजंस न होने पर आप कितना भी पीनल प्राविजन बनाइये, उसका कोई फल निकलने वाला नहीं है। पीनल प्राविजन तो था लेकिन पिछले 10-15 सालों में आपने उनके अन्दर कितनों को सजा दिलाई आप बताइये। सारे देश का रिकार्ड क्या आपके पास है कि आपने 10-15 सालों में कितने लोगों को इस कानून को तोड़ने के लिये सजा दिलाई और कितने लोग कानून के हवाले किये गये? अगर आपके पास फिगरस होतीं तो आप स्वयं बताते। मैं यह स्पैसिफिक डिमांड करता हूं कि आप जवाब देते समय बताइये कि आपने कितने लोगों को कानून के हवाले किया और उसमें कितनों को सजा दी गई। आप यह भी बतायें कि इस कानून में कितनी गड़बड़ियां होती हैं। आप हमारी बात को महसूस की जिये क्योंकि लाचार बच्चों की और से कोई गवाही देने के लिये तैयार नहीं है। जो बच्चे होटलों में काम करते हैं उनकी स्थिति से आप भी अवगत है। एक गिलास टूट गया तो उसके मुंह में तमाचा मारेगे और उसकी कीमत उसकी तनख्वाह में से काट लेंगे। 18 घंटे लोग होटलों में काम करते हैं लेकिन उनकी और आपका ध्यान नहीं गया है। तो मैं अंत में मंत्री महोदय से निवेदन करूंगा कि सबसे पहले तो वह एक काम करें कि इस बिल को वापस ले लें यह रही की टोकरी में फेंकने लायक आपका अमेंडमेंट है। लेकिन आप न मानें तो हमने जो संशोधन आपको दिया है उस का रख लें। मेरी इच्छा व मांग है कि आप इसको वापस करा लें। धन्यवाद।

SHRI MURLIDHAR CHANDRAKANT
BHANDARE (Maharashtra): Mn Vice-
Chairman, I rise in support of the Bill but
with some very serious reserva-

tions. Children are not only the citizens of tomorrow but they are the most precious and proud possessions which a nation has; they are at once the joy and pride of the family in which they are born, in the society in which they grow. I want to emphasise that children are the first charge on any assets of a nation, be it the Consolidated Fund or be it any other thing, but the first charge of the nation are children. We find, and I find it with some regret, that this problem has not been looked at from that angle, and what is sought to be a manner perpetrated is what has been said by someone and has become a popular adage, namely, children are the poor man's riches. This is what we find, that instead of being the joy and pride, instead of blossoming like flowers in those tender years, the picture around is they are driven to a life of destitution, a life of deprivation and a life of suffering beyond the capacity of my expression. And, Sir, so far as the honourable Minister of Labour is concerned, I do not think that there can be a better champion, of the cause of children. But I think that even then he could have thought a little more deeply about this problem because the problem is one of children and it is an integrated problem and I would say, with all humility and with all respect to the honourable Minister and the Government that it should have been tackled as a whole. Why do I say that? I have no objection to its being tackled in parts or patches provided tackling it in patches is going to ensure even a modicum of success in our efforts to improve the lot of the children of our country. But what I find is that today you have tried to tackle the problem in a small area of prohibition and regulation of employment where, as I know, the implementation machinery is not only ineffective, but is also very dismal. What is worse is that like the Ministry of Health who has to depend upon the States for the implementation of its serious measures, the Ministry of Labour also has no implementation machinery of its own. Now, what is there for us to see? We have to see whether, by making these provisions, we can really tackle the disease at all. Other wise, we will only be tackling the symptoms and not the disease itself. After all,

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childhood is the most creative period in life. Children have no prejudices and they have no preconceived ideas and they are just happy as they are; whether they are rich or whether they are poor and it is the bounden duty of the society to keep them healthy, to keep them happy and to provide them with the basic necessities and to provide them not only education, but also joy. But there can be no greater deprivation of children than want of nutrition and, therefore, you have to provide for nutrition and provide them some joy by way of games in life. The millions of under-privileged children do not receive the urgent attention and what is necessary is to have an integrated picture. Look at the child and look at the development of children and see what are the things which are left out of this Bill. It is only a prohibition and regulation Bill. It leaves out a provision for education, maybe even for non-formal education of children; it leaves out a provision for vocational training; it leaves out a provision for career development; it leaves out a provision for nutrition; it leaves out a provision for health care; it leaves out a provision for recreation: and it leaves out a provision for the welfare of children. Now, what I am worried about is that if this measure fails, other measures also will fail. I am saying this because I am not quite confident since these days nobody knows what will succeed after having seen the utter failure of the security system for the Prime Minister. I am not quite confident about what will really succeed. If this measure fails, the other measures which could have taken precedence over this measure are also bound to fail. This is my apprehension and I am only sharing my anxiety, my reservation and my apprehension. The whole problem should have been tackled on a war-footing as a one integrated problem. What was necessary in an important debate like this was that the Minister for Child Welfare also should have been present here because it is an integrated thing. I do think that this is one thing where all the Ministry of Human Resources, of Health and Family Welfare and of Labour are involved. I am glad that to our good

fortune the honourable Minister of State for Health is with us today and she is

[Shri Murlidhar Chandrakant Bhandare]

listening to what I am saying. I know her grave concern for the welfare and the health of the children in the country. Now, the point which I am making is that it is not too late. I take note of whatever has been said by Members of the Opposition. 'Everybody wraps his argument in a package which is convenient to him. The Members of the Opposition put their own covering on what they have to say. But I think this is one subject which should be non-controversial. This is one subject where the House should be united, because we are talking about the future of our country, and there should not be petty distinctions, petty controversies on this issue. And I would like the Minister of Labour to take a very, very pragmatic view, because I have a feeling that these provisions will remain on paper and will be divorced from the realities.

Take the case of Sivakashi. Children leave their places of work at 2 a.m., in the morning, and return late when it is dusk time. He knows that the last Member of Parliament from Sivakashi vowed that child labour would end, and you know what happened: that Member was defeated in the election because of vested interests. I am not talking against the Government. I am only trying to project what a gigantic task they have. Therefore, political will has to be shown. It has to be shown in all fields. I want to have the consensus of the House. I want the Government to look at it in a constructive way and in a very effective way for the benefit of the children. I do not know, but the hon. Minister will certainly spell out how he is going to overnight improve the implementation machinery.

I talked of Sivakashi. Go to Khurja where there is the glass industry. This has come up from generation to generation. Now, there is a loophole that, well, if it is something run by the family it will be outside the scope of this Act. Let him look at the provision of section 3:

"Provided that nothing in this section shall apply to any workshop wherein any process is carried on by the occupier with the aid of his family Or to

any school.....'

I can understand 'school'.

any school established by, or receiving assistance or recognition from, Government."

They will say: this is not our unit, this is a family unit. And this is the surest way of getting out of it. If you go to Khurja or Ferozabad, almost the whole families are under bonded labour. Only the day before yesterday the Minister was giving us the figures about bonded labour. I feel that it is a great mischief. Whereas I am for protecting genuine family occupations, what will happen is that these hazardous occupations will be conveniently dubbed as family occupations.

We must also try to look at the child in a different way. For example, under section 82 of the Indian Penal Code, anything which is done by a child under seven years of age is not an offence. I think it was written by Macanlay over a century earlier. I think it is time for you to raise this age from seven to twelve at least. I thought I would take this opportunity of expressing myself on this issue the section 83. The age of rational formation of understanding should also be changed. There is also another aspect about the number of children who are being detained in jail. I have got a cutting which shows that the All India Institute of Medical Sciences examined 17 children who were in detention in Tihar Jail in 1983. Madam Minister of Health will realise the seriousness of this situation. They found that out of 17 children, 6 suffered from syphilis. This is the position of our children. I think a time has come when you should do away with the practice of detention of children with adult prisoners. Maharashtra has done it in a big way. This has to be done in many other States like U.P., Bihar, Jammu and Kashmir and several other places. Even West Bengal is not free from this. There are many many children put along with adult prisoners.

There is one more thing which shows how we look at the children. There is a juvenile court. If you post a Magistrate

to preside over a juvenile court, he thinks that it is a matter of demotion for him. That is very surprising. I think the juvenile court should be revamped so that it is not placed in the hands of one presiding judicial officer but it is presided by about 3 or 4 people where they will not only be judicial officers. I am glad the "Hon'ble Minister of Child Welfare has come. I am taking of the children who are our future of tomorrow. We want our children to be looked at as the riches of the nation and not as the riches of a poor man. The point which I was making was that juvenile court should be man-ned by a panel consisting of social scientists, parents, representatives and Government officers presided over by judicial officers so that there is a complete understanding. One cannot see under what appalling conditions our remand homes and other places are. Now the Ministry is under the charming and more dynamic Minister. Whosoever has been contributed by this House really surpasses both in charm and in dynamism. I have a note here which has been circulated by the Labour Ministry. I feel that a comprehensive Bill is under consideration of the Ministry of Labour because public debate was invited on this proposal. This is what the note says;

"... in view of the socio-economic realities, a period of 10 years has been suggested. For this period, during which the employment of children is permitted, however, provision will have to be made regarding giving them adequate protection, namely, minimum wages, satisfactory and hygienic conditions of work, prohibition of overtime, prohibition of night work, maximum permissible working hours, weekly rest day, etc. Facilities for certain welfare inputs like non-formal education, vocational training, periodical medical check-up, nutrition coverage, etc. would also be created. There would, however, be practical difficulties in extending the proposed Act to all the sectors of employment at one time....."

It is not as if they are not conscious of it. I think the Minister himself is more conscious about it. But there is no time

to lose. But if there is anything which has to be done on war-footing without losing any time at all, it is to come out with a comprehensive code for children covering every aspect because many have interpreted Article 24 of the Constitution to mean that it is a total ban on employment for children. I do not subscribe to that view for two reasons. Firstly, you are stretching the language too much. Secondly, it will go against the realities of the situation. Look at the provisions on the question of education, career and food. You will give meals where they are working. What does it mean? If a child is not working, he will not 3.00 P.M. get meals. Please make a provision that a child will get meals whether he is working or not working. You know that when the mid-day meals were introduced in schools, the attendance improved. If you make it free meals, children who ought not to work ' will also work. You have to guard against that. I am not dogmatic at all. But I am, merely mentioning in a very constructive spirit. And with all humanity and without meaning any opposition to the Government at all. I am pointing out the pitfalls which, are there because this measure though brought with the loftiest of the ideals, though brought out as a quick step, is a first step in the right direction. If that step falls, even your direction will be lost. Therefore, I have nothing else to say but give a limited support to this Bill. But I want an assurance that before our Budget session is out, we will have not only a look at it but also the enactment of the whole code on child which is the need of the hour. Thank you. Sir.

SHRI GHULAM RASOOL MATTO
(Jammu and Kashmir): Mr. Vice-Chairman. Sir. I would like to bring to the kind attention of this House two provisions in the Constitution of India. One is article 39(f) which stipulates and I quote:

"that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment."

[Shri Ghulam Rasool Matto]

Another provision is article 45 which provides and I quote:

The State shall endeavour to provide, within a period of ten years from the commencement of this Constitution, for free and compulsory education for all children until they complete the age of fourteen years."

These are the provisions in the Constitution of India. But when I look at this Bill, I feel that you are contravening the provisions of this Constitution. But when I look realistically at the matter, I find that if this Bill would not have come, the plight of the children would go further worse.

Sir, my friend, Mr. Ram Awadesh. Singh has mentioned a figure of four crores as the child labour at present. I do not know from where he has got the figure. But the Minister will kindly enlighten us about the approximate figure of child labour as at present. According to my estimate as a student of economics, I feel that by the end of the Eighth Plan, this figure will go to six crores. This will not diminish. I say this because the rate of growth of our population is such that this figure is commensurate with that growth. So, under these circumstances, if some Bill is brought to ameliorate the conditions of the children, it is welcome. Now, it has to be seen whether this Bill meets all these obligations, all these necessities. I can say that there are many provisions in this Bill which, as my friend, Mr. Murlidhar Bhandare said, fall short of the expectations. But right now, I have to see that this Bill must be passed because it is a step in the right direction, and we cannot help. But, Sir, confining myself therefore, to certain provisions of this Bill, I would make certain comments. And I would like the hon. Minister to kindly pay attention to me so that a reply is given to the points made by me. Sir, Part B is the Schedule, it speaks of carpet weaving!. There is absolutely no mention of children employed in handicraft industries. My estimate is that

lakhs and lakhs of children are employed in the handicrafts industries not only in Shaharanpur, not only in Moradabad, not only in Kashmir but in other parts of the country also. I would request the hon. Minister to assure me that the handicrafts will also be included in this Schedule. The next point that I want to speak about is with regard to the child labour technical advisory committee. I think, this word 'technical' ought not to have been there. Even if by mistake the word 'technical' has been written, the Minister should assure that this a child labour advisory committee in a particular State. At a particular point of time there are child labour in a particular industry. At another point-of time another industry gets this child labour. So, this advisory committee should advise this other industry also. This may please be taken note of.

Now, Sir, there is a provision that the period of work on each day shall be so fixed that no period shall - exceed three hours and that no child shall work for more than three hours before he has an interval of rest for at least one hour. Now, Sir, this is a provision that has been made. But it is very difficult to implement it unless and until there are certain provisions provided in this Bill. And, as a practical measure I would suggest that everywhere where an establishment is registered under this Child Labour Act it should have a room, a separate room, maybe a small room but it should be commensurate with the number of children that he is employing where they may have rest or some recreation. This is very important because otherwise I find and I feel and I know that children come to work before dawn and leave for their homes only after dusk. This should be taken into consideration.

Now, Sir, my next point is with regard to section 9(3). It says that nothing in sections 7, 8 and 9 shall apply to any establishment where in any process is carried on by the occupier with the aid of his family or to any school established by or receiving assistance or recognition from, Government. Mr. Minister, Sir, I would request you that in this provision what will you do where you have said that it will not apply to an establishment where

the occupier with the aid of his family or to any school established by or receiving assistance or recognition from the Government, because I know there are establishments everywhere where these stipulations are there that it is a family, that it is done by the occupier and he has also a school but then he has also child labour. How can he be exempted from the provisions of the application of this Act? This should be made clear that where there is a child other than that of the occupier or his family, the provisions of this Act shall apply to him.

Now, Sir, 'with regard to the penalties. Now, how do we get away from these penalties. Now. I would request you that you make a provision to keep a register wherein such and such a record will be maintained. Otherwise, this is the fundamental' Thing that one can evade and get away from the provisions of this Act. You have stated that whoever employs any child or permits any child to work in contravention of the provisions of section 3 shall be punishable with imprisonment for a term which shall not be less than three months but which may extend to one year or -with fine which shall not be less than ten thousand rupees but which may extend to twenty thousand rupees or with both. But with regard to the basic requirements under which you will catch those offenders, you have reduced this punishment to a simple imprisonment which may extend to one month or with fine which may extend to ten thousand rupees or with both. The penalties in both the case -? where the offence is committed and where the requirements are not complied with, under which he can be caught, should be the same as with regard to other provisions.

Now, Sir, Section 16 stipulates that any person, police officer or Inspector may file a complaint of the commission of an offence under this Act in any court of competent jurisdiction. Now, Sir, here I would like the Minister to enlighten me and say that if the word "person" used in this Act means any person from the official labour department then I think it falls short of many things. If need be,

even by a rule, it should be made clear that any person can go to the Labour Court or a court and get a person challan-ed; whosoever he may be, any complainant can go to a court. If in my mohalla there is an establishment contravening these provisions, I should be able to go to a court and say it. It should be within my jurisdiction to go to a court. It should not mean that only a person belonging to Labour Department or the Inspectorate of the Labour Department can complain. Any public man, any person, who detects an establishment where the provisions of the Act are being violated, should be able to go to a court and get it challaned. This may be clarified by the hon. Minister.

Last point is with regard to courts. The procedure. I think, in the labour cases is so cumbersome that it is very difficult for any one to get justice from the labour courts. I feel a provision should be made for summary trial, and summary courts, to hear petitions about violation of the Act. I hope the Minister will kindly look into these few suggestions that I have made. But this is a new measure and if there are any lacunae, those can be rectified. He should assure us that when it is implemented and worked out and if any lacunae are found these will be rectified by bringing in necessary amendments so that the plight of the children can be ameliorated. We know more than 50 per cent of our people live below the poverty line. How can we expect that figure of 4 crores as mentioned by Shri Ram Awadesh Singh can be lesser in ten years when population is going up in rapid strides.

SHRI PRITHIBI MAJHI (Assam); 1 rise to support the Bill. I appreciate and congratulate the Labour Minister for bringing this Bill before the House. Sir, this is for the first time in the country that a step has been taken for the welfare of child labour working in different establishments. This Bill bans appointment of children below the age of 14 and regulates conditions of work of the child labour. This Bill has fulfilled the longstanding demand of our country for making uniform legislation banning employment of child labour below the age of 14. There are

[Shri Prithibi Majhi]

many laws in our country, such as, Factory Act, Plantation Labour Act, Mining Act, and so on; but the age limit varies from Act to Act. No earlier legislation could give protection to child labour. After giving a legal status to child workers, I feel this Bill will improve their conditions.

More important provision in the Bill under section 14 is to impose minimum and maximum punishment to the employer who is found guilty. As such, I think, this provision will certainly compel the employer to keep away from giving employment to children below the age of 14, and would compel them to take care of welfare of the child workers. But I fear about the proper implementation of such legislation in a complex economy and I doubt if this legislation could be properly implemented. In this economy, the rich have become richer and poor the poorer. Under article 24 of our Constitution it is provided that no child below the age of 14 shall be employed to work in any factory or a mine or engaged in any hazardous employment. But who cares for it? No other Constitution in the world contains such a provision, prohibiting employment of children. Yet our country has the highest number of child workers in the world. It is a fact that the number of child workers is not declining. Rather, it is increasing rapidly. There are about 52 million child workers in the world. Out of this, in India, more than 17 million children are working in various establishments. This means, India accounts for one-third of the total child labour. This is really unfortunate. This indicates the real economic condition in our country. This indicates the prevalence still in the society of socio-economic evils.

It is also not unknown that majority of the child labour belongs to the economically backward classes, particularly, the Scheduled Castes and the Scheduled Tribes. Exploitation, deprivation and starvation are the reasons for the prevalence of child labour in India. The children of these backward sections of the population take up work in hazardous places in their

tender age in order to help their parents with their meagre earnings for survival. It is also not unknown that these children are often treated like animals and they are compelled to work in inhuman conditions.

Now, sections 10 and 11 contain provision, in regard to certificate of age and the register to be maintained giving the date of birth of every child, hours and periods of work and so on. I cannot understand how these provisions will be implemented. As you now, most of these children come from illiterate families. No literate person will send his children to work in any establishment at any cost. When these children come from illiterate families and when they are not educated, I do not know how the age of each child worker, his date of birth etc. will be shown and how will the officials be able to maintain this document. Therefore, the question arises as to how will this problem be solved. The late Labour Minister, Shri T. Anjaiah, had rightly said that—in the meeting of the Central Advisory Committee on child labour—the problem of child labour could not be solved only by legislation, but that there was need to generate social awareness and adopting a multi-dimensional approach to the problem.

Now, I would like to say a few words about tea plantation labour. A large number of children are employed in tea plantations in West Bengal, Assam, Tamil Nadu and Kerala. In Assam, not to speak of children, the whole labour community employed in these tea plantations is lagging behind in all spheres, social, economic and educational. Out of 55 lakhs tea and ex-tea labour population, less than 1 per cent, in fact, it is 0.01 per cent—illiterate. Therefore, they are forced to send their children to work in tea gardens and factories instead of sending them to schools. When such conditions prevail, how can you say that they will be able to reap the benefits of democracy? Therefore, I would request the Central Government as well as the Labour Minister to keep an eye on the problem of child labour and not depend on the State Governments only.

Sir, in this connection, I would have been satisfied if a provision for imparting

education had been incorporated in this Bill itself. I find that there is no such provision here. I would suggest that it should be the obligation of the employers to make available facilities for education of the child workers, after working hours. I would request the hon. Labour Minister to consider including such a provision in the Bill, With these words I support the Bill.

SHRI V. GOPALSAMY (Tamil Nadu): Mr. Vice-Chairman, Sir, I rise to stoutly oppose this obnoxious Bill. This Bill is likely to have disastrous consequences for the children. I can say, it is a wolf in sheep's clothing. It is nothing but regularisation of exploitation of children. It is nothing but legitimising the exploitation of children. The regularisation of child labour is, in effect, a cloud-seeding operation to ensure a daily rain of gold coins in the treasury rooms of the employers at a deadly cost of the child employee as well, as the nation.

What has happened to the Directive Principles of the State Policy enshrined in the Constitution? Those provisions have now, due to this legislation, been thrown to the dustbin. Why do you still keep these provisions in the Constitution? Article 39 of the Constitution says:

"(e) that the health and strength of workers, men and women, and the tender age of children, are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength."

So, you cannot justify regularisation of child labour because of economic necessity of poverty. That is why, when they framed the Constitution, they realised this fact and emphasized that they should not be forced by economic necessity. Again part (f) of the same article says:

"that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment."

You are telling that our country has prospered. Prosperity has dawned on millions, and at the same time you are trying to regularise the child labour. I do not think anywhere in the world, in any developed or democratic country such a legislation would have been introduced.

I am surprised and shocked to go through certain provisions in the Bill. In Part II of the Bill, clause 3, a proviso has been added which says;

"Provided that nothing in this section shall apply to any workshop wherein any process is carried on by the occupier with the aid of his family or to any school established, by, or receiving assistance or recognition from, Government."

On the one hand you have prohibited or banned employment of children in certain occupations and processes. You have notified the processes and occupations. You have put a ban on private factories to employ children in certain occupations and processes. And on the other, you are permitting the Government, you are permitting the schools where they are getting financial assistance from Government, to employ children in these hazardous processes. Is it justifiable? I would beg of the Minister to apply his mind to this aspect. There should not be exemption. If you exempt schools, they will exploit the children. The children will be exposed to the same hazardous processes. There can be no justification or explanation for this provision.

Then you have notified certain 11 processes manufacturing of matches, explosives and fire works. What about carrying of explosives and fireworks? Even in godowns children are employed to carry cement; they have to inhale the dust. According to one report, 75 per cent of the employees in carpet-making are children. Particularly in the Maharashtra area, in the case of powerlooms children are employed. An interesting article appeared in November, 1985 in the *Indian Express* which is worth quoting:

"The thousands of children who inhale cotton dust and fibres and acquire permanent health disabilities while working

[Shri V. Gopalsamy]

on the powerlooms in Bhiwandi, Maharashtra, are in the last analysis, labouring for the millionaire *pedhi* owners or the rich millowners of Bombay and Ahmedabad. Among the giants who get their cloth made in Bhiwandi are Gar-ware, Raymonds, Bombay Dyeing, Mafat-lal, Santsogen, Fabina, Reliance (Vimal) Textiles and the Great Rajasthan Spinning Mills, according to top sources in the state government. An official of the textile department clarifies that the Khatau Mills were the first to get their cloth made in Bhiwandi. The powerloom owners in Bhiwandi confirm these facts and state that the Bhiwandi powerlooms thrive on the assured business from the big mills... The powerloom owners who undertake the assignments to manufacture cloth for the big business houses calculate that the latter save at least 30 per cent in costs by not manufacturing their products in their own mills where they would have to pay legal wages and provide statutory facilities and protections to the workers. They certainly would not be able to employ children".

I would like to ask the Minister how many Labour Inspectors you could appoint and how you would strengthen the resolve of the Inspectors to file honest reports against the employers who save crores of rupees by employing child labour? It is not an easy task. You have notified the processes. But is it possible unless you totally ban it? What will happen now? Take the case of match factories and fireworks industry in Tamil Nadu. They are virtually slaves in the match factories. I come from the area. The children have to go before 3 O'clock in the morning. The Minister himself knows it. He has visited this area.

THE MINISTER OF STATE OF THE MINISTRY OF LABOUR (SHRI P. A. SANGMA): Of course.

SHRI V. GOPALSAMY: Before 3 O'clock in the morning. And they will come back only after 7 or 8 O'clock in the night. Before dawn they have to go to work. After the fall of dusk, they could return to (heir homes. They are virtually

slaves. Due to poverty, they have to go there. This is the country you have created after 40 years of Independence. Millions of children have to go to the factories and they have to work there for more than 15 hours.

SHRI P. A. SANGMA: What did you do when you were in power?

SHRIMATI MARGARET ALVA: Did the DMK Government ban it when it was in power?

SHRI V. GOPALSAMY: We tried.

THE MINISTER OF STATE IN THE DEPARTMENTS OF YOUTH AFFAIRS AND SPORTS AND WOMEN AND CHILD DEVELOPMENT IN THE MINISTRY OF HUMAN RESOURCE DEVELOPMENT (SHRIMATI MARGARET ALVA): No, none of you.

SHRI V. GOPALSAMY: You are asking me while you are running the affairs.

SHRIMATI MARGARET ALVA: We are not running your Government. Have you banned it?

SHRI V. GOPALSAMY: We have. We have tried to, with all means. We have tried, by all means. Madam, you say that because we had not taken any steps, your Government also has not taken any steps.

SHRIMATI MARGARET ALVA: That is why they are doing it.

SHRI V. GOPALSAMY: What steps have you taken?

SHRIMATI MARGARET ALVA: We have launched a whole programme for the children.

SHRI V. GOPALSAMY: You are now regularizing the exploitation. That is why you have brought this Bill.

SHRIMATI MARGARET ALVA: No.

SHRI V. GOPALSAMY: Then you admit, "Yes, we have failed; because you had failed in the State, in India we have failed." You are admitting that. The Union

Government has totally failed. What prosperity have you brought to this country? Now you say that because of poverty they have to go and work and that is why you are regularizing child labour.

Now, Sir, you are infringing the Fundamental Right guaranteed in the Constitution under article 21. Therefore, Sir, I oppose this Bill. I would request the Minister to apply his mind even at this moment and do away with the exemption which, has been given to the schools run by the Government to employ the children even in the processes that have been banned. Thank you.

**ANNOUNCEMENT RE. STATEMENT
TO BE MADE BY THE MINISTER OF
STATE FOR HOME AFFAIRS**

THE VICE-CHAIRMAN (SHRI PAWAN KUMAR BANSAL); I have to inform honourable Members, that Shri P-Chidambaram, Minister of State in the Ministry of Home Affairs, would make a statement in the House today at 4 p.m. on a query made yesterday during the discussion on the Calling Attention Notice regarding the security lapses at Rajghat on 2nd October, 1986.

SHRIMATI BIJOYA CHAKRAVARTY (Assam): Sir, I have given my name.

THE VICE-CHAIRMAN (SHRI PAWAN KUMAR BANSAL): I will be calling you. We are not concluding the discussion. I just made an announcement.

SHRIMATI BIJOYA CHAKRAVARTY: I am sorry.

**THE CHILD LABOUR (PROHIBITION
AND REGULATION) BILL, 1986—
*contd.***

SHRIMATI ELA RAMESH BHATT, (Nominated): Mr. Vice-Chairman, Sir, I deeply appreciate the good intention of the Ministry in bringing this Bill. However, with great regret I have to oppose this Bill.

I oppose this Bill because it is unconstitutional, because it is unreal, because it is inadequate, insufficient, incomplete because it touches only ten per cent of the children while more than eighty per cent of the children who are engaged in agriculture and who are rural are almost untouched by this Bill and also because it is against the development policies of the Government.

Sir, my first point is that article 24 forbids the employment of any child below 14 years in any factory or mine or other hazardous jobs. Article 45, which is a Directive Principle, states that the State shall endeavour to provide, within a period of ten years, free and compulsory education for all children until they complete the age of 14 years. We also have article 23, which comes under the heading "Right against Exploitation" prohibiting traffic in human beings and *begar* and other similar forms of forced labour. In the well-known *Asiad* case, forced labour was interpreted to mean any labour offered for wages below the minimum wages. The logic of the judgment was that no person would offer oneself for labour below the minimum wage unless forced by compulsion of economic circumstances. If this is true for adult workers, then is it not true for a child worker? "Child labour" by definition is forced labour and, therefore, it violates article 23. So, the Bill that we are discussing now is basically unconstitutional and it is also against the spirit of the Constitution. It also fails to fulfil the promises given by the Constitution. My second point is that the Bill has been watered down. It has watered down the definition of 'hazardous'. The definition is inadequate. Only fourteen occupations and processes are listed in the Schedule. Industries like glass, brass and many others are not included in it. Moreover, the Constitution speaks of hazardous employment, while the Bill speaks of hazardous processes, which is against the Constitution again, because it will allow a child to work inside a hazardous factory on the plea that the process in which the child is working is not hazardous.

The other watering down is, although the Constitution says nothing of the kind,