

**Shri T. B. Vittal Rao :** Eleven persons were killed and the manager was held responsible by the Court of Enquiry in which there was a Congress M.L.A. The prosecution was deliberately delayed by the Chief Inspector of Mines and the case was dismissed.

What I demand is this. There has been an increase in the productivity of the labour; there has been an increase in the production of national wealth; but, there has not been a corresponding increase in the wages, nor even in the amenities of the workers. When we come and ask for . . . . .

**Shri Abid Ali :** Wait for 10 days; you will get plenty.

**Shri T. B. Vittal Rao :** Even for the small increase recommended by the Tribunal, they have appointed a committee to go into the cost structure and report. If they are going to get anything, it is at the cost of the consumers and the employer's profit will remain. This is the sort of socialist pattern of society that our Government is going to build.

**Mr. Chairman :** The question is :

"That the Bill further to amend the Mines Act, 1952, be taken into consideration."

*The motion was negatived.*

**Mr. Chairman :** The next item stands in the name of Shri V. P. Nayar; he is absent. So, we take up the next item.

#### INDIAN ADOPTION OF CHILDREN BILL

**Shrimati Jayashri (Bombay-Suburban) :** I beg to move :

"That the Bill to provide an adoption procedure to safeguard the interests of adopted children and the rights of their natural and adoptive parents, be taken into consideration."

Last year, there was a news item in the *Statesman*, *Cradle saves babies from dustbin*. The news said that six years ago a new-born baby was found in a dustbin in New Delhi, a little girl, a pretty baby but only barely alive. She was rushed to a hospital and willing nurses cleaned her of the filth of the

dustbin and she was given expert medical attention. The baby lived and was later quietly adopted by a well-to-do couple, who had no children. She is now in foreign country where her parents are posted.

We all know that there are so many institutions where such unwanted children are sent. In some of the juvenile courts also, I know that many destitute children are brought before the courts. It is a difficult question where to send these children. We have not got enough homes and even if we have got homes, the best thing that a child should have is the love of the parents. That is the most natural thing.

At present, I know that in our Hindu law there is adoption procedure. But, there, the object of adoption is two fold, spiritual and secular. The spiritual aspect consists in offering ablutions by the adopted son to the adopter and his ancestors, while the other aims at perpetuation of the family. In my Statement of Objects and Reasons, I have said that there is what they call at present the *Dattakavidhan*. That does not fulfil the present needs of a Welfare State. We should have such legal procedure which will safeguard the interests of the adopted child as well as the parents, natural as well as adoptive. In the Hindu law, only the husband has the right, and if the widow wants to inherit, she must have had the previous consent of her husband. So, the right is not allowed to a woman to adopt. In the Hindu law, only male children are adopted and girls are not adopted. In the Hindu law, they can adopt children of their nearest kith and kin and not of any other community. The Hindu law prevents adoption to parents if they have any children. But according to my view, even if adoptive parents have children, if they want to have a child, they can adopt. In Hindu law the widow adopts the child sometimes much older than herself. It is from the point of view of giving them the hereditary line. But according to this law, I have given more emphasis to the humanitarian point of view. If the parents want to adopt children because they have no children or they feel sympathy for the child who is homeless, who is parentless or who is neglected, they can do so. At present, as I stated, such children come before so many juvenile courts. Through the Indian Council of Child Welfare, I had requested the Director of the Children's Bureau to get the opinion of magistrates

[Shrimati Jayashri]

of juvenile courts and superintendents of orphanages, and I am glad to say that many have given their replies, supporting this measure. Their experience is also given to me. Whereas formerly adoption was resorted to chiefly in the interest of the adoptors, today the sign is unmistakably in the interest of the child. What is adoption? They have explained that adoption is a legal method by which a child becomes part of a family other than that of its natural parents. Guardianship also accomplishes this purpose, but adoption is a more permanent action since it cannot be set aside. The child's surname may be changed and he becomes the legal heir of the adopter. The motive for adoption should be the desire to bring about a happier life for both the child and the adopting parents. The results of adoption are definite and far-reaching for all concerned and determine the course of the child's future.

Therefore, every possible safeguard must be maintained to assure the rightness of the action for all concerned, and that is the reason why our welfare State should assume responsibility for the safeguarding of the propriety of adoption by empowering the probate courts or whatever agency to approve or disapprove of adoptions.

In this Bill there are clauses which help also in finding out whether the termination of parental rights are secured. I will later read out the opinion with regard to this point by Shri D. V. Kulkarni, Inspector of Certified Schools in Bombay. At present I will say that it is a suggestion, but I had invited suggestions from various women's organisations also. The Bombay State Council have sent their suggestions, one of which is about the agency, which should give away the child, that is, that a statutory body or an All-India social welfare agency, with branches in the various parts of the country, or a Government-approved institute or agency should be appointed as an Adoption Council, with the sole function and authority of giving adoption, and investigation and supervision according to the relevant procedure or procedures of adoption. In my Bill, I have mentioned about institutions which will get authority to give away the child, but against that, they have stated that there should be a welfare agency and that institutions should not be allowed. There is the opinion expressed by Shri Kulkarni for this

namely, that we have to be very careful, because according to this Bill, girls also will be given away in adoption. In their case, we have to be very careful because they may be exploited by institutions. We have at present formed the Indian Council of Child Welfare which has branches all over India. I would request the Minister to give this right to the Indian Council of Child Welfare which has got branches all over India and can be the agency for approving of all adoption to those parents who want to adopt children. In case legal provision for termination of parents right is made in the Children's Act, there should be reciprocal provision for restitution of parental rights. In this Act they have got the termination of parental rights and he has suggested that this kind of termination of parental rights should also be included in the Bill. He has said that section 7 of the Act does not in itself provide for termination of parental rights. He has also suggested that some such clause should be added.

The Delhi Magistrate, Mrs. Pahwa, has given this information. She writes :

"I have discussed the present existing Hindu Law of Adoption. From all this it is very clear that for adoption the presence of the natural family and the adoptive parents is very very essential and giving and taking is a part and parcel ceremony of the legal adoption. Where the child is an orphan or abandoned child and where the parents are not traceable these conditions cannot be fulfilled in the present Hindu Law. When such like children are given in adoption in the Court the statements of the adoptive parents is taken to the effect that they shall be responsible for the upbringing, education, maintenance and marriage of the adoptive son and on this statement the child is given in adoption to them through the court. By this method the child is quite safe for his upbringing, maintenance, education and marriage, etc. The difficulty will arise if the adoptive parents die intestate or want to part the property in somebody else's favour. The adoptive child legally cannot claim the immovable property but if the father so wishes he can part his property by gift or by will. In order to legalise all this I have already moved the Government for having a

special adoption Act where the destitute and orphan children can be legally adopted and can have all the rights of a natural son."

Recently we had a symposium arranged by the Indian Council of Child Welfare and Shri Pantji presided. There also, Mr. Shastri of the Planning Commission said that it was very necessary to have proper adoption laws. That is what he has said. Shri V. V. Shastri of the Planning Commission says :

"A comprehensive enabling adoption law was necessary if a large number of destitute children were to be taken care of."

My Bill also aims to help such children. Many parents leave their children on the roads due to poverty. The police have to take such children to the juvenile courts. The difficulty is, keeping such children. We have not got enough orphanages. Even if there are orphanages, the management is not very desirable. We have also brought another Bill for licensing such orphanages. Our idea was to safeguard the interest of the children. So far that Bill has not been passed in this House. Such a law as the one which I envisage is necessary and homes for children are also most necessary. But that cannot provide the natural love that is desirable for such destitute children and that is the main idea for bringing this Bill.

I, therefore, appeal to the Minister to accept my suggestion. I know there may have to be some lengthy processes etc. in the courts. I am willing to accept any amendments which he thinks are necessary and which may be useful in making the procedure more simple and more useful to all the institutions as well as to those parents who desire to adopt children.

There is another thing which I want to point out. In the same article which I read out, there was another example of adoption. In that there is mention of one instance where the parents who had taken the children wanted to return them. In such cases it is very necessary that there should be a procedure by which the interests of the children are safeguarded. If the children are returned back, then who will be responsible for them? There are also cases where the natural parents after some time have claimed their children from the parents who have adopted them. In such cases injustice is done to the parents who have adopted the children. I would,

therefore, appeal that for safeguarding the rights of both natural parents and adoptive parents as also the children, sufficient protection should be provided in our law.

I hope the Minister would give his consent to the passing of this Bill. I know that he has got an idea of bringing another Bill, as a part of the Hindu Code Bill. That will be useful to the Hindu Community. But, when we have an idea of having a uniform law which can govern all the communities, I would say that the Minister should accept this. Along with this, the 'Guardianship Bill' which is pending before the House can also be made applicable to all the communities and not only to Hindus. Therefore, both the Bills—the Adoption Bill and the Guardianship Bill—can be made more broader so that they can apply to all the communities and not to Hindus alone. As I said before, the Hindus have got at present the Adoption Law, but the other communities have no such law. That is why this Bill has been brought. I would, therefore, once again appeal to the Members to pass this Bill.

**Mr. Chairman :** Motion moved :

"That the Bill to provide an adoption procedure to safeguard the interests of adopted children and the rights of their natural and adoptive parents, be taken into consideration."

Before we proceed with further discussion on this Bill, the hon. Minister for Parliamentary Affairs will make a statement regarding the programme of Government business for the next week.

#### BUSINESS OF THE HOUSE

**The Minister of Parliamentary Affairs (Shri Satya Narayan Sinha) :** Sir, with your permission, I rise to announce the order of official business after the passing of the Life Insurance Corporation Bill on or about 22nd May and up to the end of the session on 30th May.

**Shri Kamath (Hoshangabad) :** Not 31st?

**Shri Satya Narayan Sinha :** 30th May, 31st is what the other House has decided.