

(ii) Notification G.S.R. No. 1330, dated the 5th November, 1960.

[Placed in Library. See No. LT-2457/ 60 for (i) and (ii).]

**THE CENTRAL EXCISE (AMENDMENT) RULES, 1960**

THE MINISTER OF REVENUE AND CIVIL EXPENDITURE (DR. B. GOPALA REDDI): Mr. Chairman, I beg to lay on the Table, under section 38 of the Central Excises and Salt Act, 1944, a copy of the Ministry of Finance (Department of Revenue) Notification G.S.R. No. 1381, dated the 26th November, 1960, publishing the Central Excise (Amendment) Rules, 1960. [Placed in Library. See No. LT-2506/60.]

**THE CUSTOMS AND CENTRAL EXCISE DUTIES EXPORT DRAWBACK (GENERAL) AMENDMENT RULES, 1960**

DR. B. GOPALA REDDI: Sir, I also beg to lay on the Table, under subsection (4) of section 43B of the Sea Customs Act, 1878, and section 38 of the Central Excises and Salt Act, 1944, a copy of the Ministry of Finance (Department of Revenue) Notification G.S.R. No. 1375, dated the 8th November, 1960, publishing the Customs and Central Excise Duties Export Drawback (General) Amendment Rules, 1960. [Placed in Library. See No. LT-2504/60.]

**NOTIFICATION UNDER THE SEA CUSTOMS ACT, 1878**

DR. B. GOPALA REDDI: Sir, I also beg to lay on the Table, under subsection (4) of section 43B of the Sea Customs Act, 1878, a copy of the Ministry of Finance (Department of Revenue) Notification G.S.R. No. 1377, dated the 26th November, 1960, publishing an amendment in Government Notification G.S.R. No. 575, dated the 28th May, 1960. [Placed in Library. See No. LT-2505/60.]

**HE CHILDREN BILL, 1959—contd.**

MR. CHAIRMAN: Shri J. H. Joshi. There is only one other speaker, Shah Mohamad Umair. After that, the Minister will reply.

SHRI J. H. JOSHI (Gujarat): Mr. Chairman, while speaking on the Children Bill last evening, I was making a few observations on delinquency. I feel that this type of delinquency is on the increase. There may be a number of external factors responsible for this but to my mind, what is most important and what I consider as the internal factor is the atmosphere of the house. If that atmosphere is good and healthy, no other external factor would lead the children astray. Therefore, I suggested last evening that in order to check the rise in delinquency, some responsibility should be cast on the parent\* or the guardians and for that purpose, I suggested also that where the child did some wrong or committed some offence, heavy fine should be imposed on the parents or the guardians so that they might learn to discharge their duties properly towards their children and there might be a check on the rise of the incidence of the delinquency.

Then there is a provision for the establishment of special schools and observation homes. In this connection, I may offer a suggestion that these schools should be separate both for the girls and the boys.

Now, as regards the neglected child, I have to say a few words about the definition. Clause 2(1) says—

"(1) 'neglected child' means a child who—

(i) is found begging; or

(ii) is found without having any home or settled place of abode or any ostensible means of subsistence or is found destitute,".

Now, Sir, -when we read this definition with clause 13 which says . . .

SHRI SHEEL BHADRA YAJEE (Bihar): What about the children of the prostitutes? Are they not neglected and abandoned children?

SHRI J. H. JOSHI: The Minister will reply to that.

Clause 13 says that if any police officer is of opinion that a person is apparently a neglected child, such police officer may take charge of that person. That means if children are found begging, then those children would be torn away from the custody of their parents. Then clause 42 (i) says: —

"Whoever employs or uses any child for the purposes of begging or causes any child to beg shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both."

In this case, the father or the guardian would be taken away and would be punished for a term of one year. That will mean that the children are taken away from their parents and that the parents or the guardians are sent behind prison bars for the same offence. I think this definition of a neglected child is very vague and wide enough and it would place very wide powers in the hands of the police officers. The object of the Bill is to correct the children, reform them by way of education, and not to put them at the mercy of the police officers. In this respect, I may say that it would be very easy to legislate but it would be difficult to implement the law because there are special reasons for that. This country is teeming with millions of people who are poor, who maintain themselves by begging and who have no other ostensible means of subsistence. They have no houses to live, they live in hovels. There are thousands who live on the pavements under the open sky. Under such conditions, may I ask whether it is possible to enforce this legislation? If it is not so, then I suggest that suitable amendments should be made in the definition so that the law may be effectively enforced. I do

not suggest thereby that begging or beggary should be encouraged. It is a curse on the society. It takes away even the smallest fibre of self-respect and the spirit of conscience out of the person who begs. It humiliates the person who gives and also the person or the society which takes. But poverty is so rampant in this country and unemployment also is so wide and deep that the problem of begging or beggary is connected with that larger economic problem of this country. As soon as that bigger problem is solved, there would be no necessity of using any other means or methods for eradicating beggary from this country. I suggest therefore, Sir, that suitable occupations should be given or shown to those people who live on beggary. To their mind begging is an honest or innocent type of profession; they carry it on for decades, and the children who see their parents carry on the profession of begging, say, by singing or by dancing, naturally imitate their parents. They follow them, and that too for a few paise, they go on like this. Sir, in this country we have seen small children following or pursuing the tourists or the pilgrims in places of tourism or pilgrimage, or we find them collecting at important railway stations. They beg for alms; they sing, they dance. Now, if it is simple singing or begging . . .

SHRI SHEEL BHADRA YAJEE: We Brahmins have got the hereditary and sacred right to *bhikshavritti*, that is, to beg.

MR. CHAIRMAN: We have every right to do what we want here.

SHRI J. H. JOSHI: Now if it is simple begging or singing alone unattended by any other act of omission or commission, I suppose such a child should not be included in the definition of "neglected child".

MR. DEPUTY CHAIRMAN in the Chair.]

A neglected child may be a child which is thrown out in the streets, a child which finds his home broken, a

child in whose house there are quarrels, there is the habit of over-drinking and such other things wherein it does not find itself comfortable. Therefore, Sir, I think this legislation, even if it be passed, will land sometimes poor people in very great hardship. As I suggested, I quite agree with the other two parts of the definition of "neglected child"—the third and the fourth parts of the definition. My suggestions were confined only to those parts wherein begging is only for the purpose of eking out a bare livelihood, and if a person has no house or a home, it should not be considered as one of the offences.

With these few remarks, Sir, I conclude.

SHAH MOHAMAD UMAIR (Bihar): Sir, I shall be very brief; I have not much to say about this Bill. I consider it is a life-giving Bill. It is *not* only a useful legislation but it is a life-giving legislation which is going to be enacted, life-giving in the sense that it aims at building the lives of so many children, so many boys and so many girls who are supposed to be neglected and delinquent. It is a fact, Sir, that children in various parts of the country, and in the remotest corners of the village parts are found in conditions like these, but the legislation is kept confined only to the limited areas of Delhi and other Union territories. I say, Sir, that such delinquent and neglected children are imported from the villageside, and it is known that in the villageside mostly they are poor and the parents themselves are in such a pitiable condition as to leave their own children in negligence and in bad conditions. They cannot maintain themselves and, therefore, they cannot maintain their children too. In such circumstances, Sir, I believe that the Bill that is being discussed just now on the floor of this House requires many more amendments; I submit to the Education Minister that the various provision's of the Bill require to be thoroughly amended and revised. I may even go to the extent of saying

that the Bill has not been properly drafted. The Bill seems to be emanating more from the Home Department than from the Education Department; the conditions, the restrictions and the penal clauses which fill all these pages of the Bill go to show that all these things are not very much suitable for the legislation which is just before this House and which is intended for the correction and for the reform of the neglected and delinquent children. It seems as though this Bill is going to be applied to the criminals, is aiming at removing the various sorts of crimes that are creeping in the society, is going to arrest the criminal actions and to reform the criminals. But are they criminals, the poor boys and poor girls? Those boys who have got their parents helpless, whose mothers and fathers have got no means to provide them with even the bare necessities of life, of course, such boys cannot be anything but delinquent; such children, Sir, such girls cannot be anything but neglected. Their homes and hearths are in such a condition that they cannot maintain their children, and, therefore, their children have to go astray and become delinquent and neglected children. In such circumstances, Sir, the provisions of the Bill, particularly those in clauses 40, 41 and 42, which are brimming with penalties or penal actions for begging, this and that, I do not think, will take our children any further and raise them to that moral stature which the Education Minister and the Education Ministry aim at in this particular Bill. Of course, the children are the hopes of the nation, and particularly these children, whose number runs into crores, are in need of very serious and strict care.

THE MINISTER OF EDUCATION (DR. K. L. SHRIMALI): May I know, Sir, what is objectionable in clauses 41 and 42?

SHAH MOHAMAD UMAIR: Legal conditions like imprisonment, arrest, penalties and fines.

DR. K. L. SHRIMALI: For whom? It is for the people who keep these children in such conditions. Does the hon. Member want cruelty to be perpetuated?

SHAH MOHAMAD UMAIR: How are we going to remedy that by these causes?

DR. SHRIMATI SEETA PARMA-NAND (Madhya Pradesh): What is the remedy that you suggest?

SHAH MOHAMAD UMAIR: I am coming to that. Whatever limited commonsense I have got, I will suggest to the House and to the hon. Minister to have a survey of local institutions which are doing useful work. You should first make an assessment of these little and small institutions which are giving such training to these delinquent and neglected poor children of limited areas, limited quarters or limited mohallas. We have not got such a survey with us which would tell us what these poor people in their own poor way, within their limited means, are doing for these delinquent and neglected children. Sir, only yesterday I saw an institution—the Jain Happy School. I can say without exaggeration that I was simply amazed to see the disciplined mode of teaching, the mode of working of these poor boys. Children from the ages of 2½ to 3 years right up to 6 or 7 years were sitting in their Glasses, in different sections, in such a mannerly and disciplined way in the Jain Mandir area. I was simply struck. I saw that sort of picture in Moscow. The children were very well dressed, very neat and clean. Even a child of three years was reading something with the help of some toys placed before him. It was a wonder to me that such a unique institution was going on in the premises of the Jain Mandir. But, Sir, what is the fate of such an institution? Such nice Institutions, which are working in the heart of the capital, are not being encouraged. Far from giving any help, I came to know that the Land Department of the Central Government has

issued notice to its management to close down the school and demolish the structure which they have made for this sort of thing.

Therefore, Sir, simply the single-handed effort of the Government, the single-handed effort of the Education Department, will not be able to manage the whole affair, and particularly that sort of institutions which you contemplate in your Bill will be unmanageable. Therefore, I tell my sister, Dr. Shrimati Seeta Parmanand, and the Education Minister that we should provide for the setting up of an institution which will take a survey of these small but good private institutions. Your work of reforming these delinquent and poor children will become very very light, and you will be helping the Government if you help institutions like the Jain Happy School. It is in a pitiable condition. I still feel, Sir, and I cannot control myself when I say that such a useful institution in which about 300 delinquent and neglected children are working

DR. K. L. SHRIMALI: The hon. Member's suggestion is very valuable indeed, but I am afraid, this has no relevance to the present Bill.

SHAH MOHAMAD UMAIR: By my observation I want to draw the attention of the Education Minister to the existence of a good number of such institutions in the heart of the capital.

MR. DEPUTY CHAIRMAN: This Bill has now come back from the Select Committee and we are almost at the fag-end of the debate. Please finish.

SHAH MOHAMAD UMAIR: This was only by way of reference. I have not much to say about them. I certainly congratulate the Education Minister. He has taken a very laudable step; his object is very laudable. It will certainly help those boys and girls who loiter in the streets and nobody takes care of them. I will only

suggest to the Education Minister to please lighten his Clauses providing penal action. The penal action provided therein takes away the grace from the Bill, it takes away the grace of its aims and objects. Certainly, what will those children do whose parents are unable to maintain them? They will be penalised for no fault of theirs. They will be arrested by the police and proceeded against. But what about their natural inability which faces them in the shape of poverty, in the shape of hunger? Therefore, it is but proper that you lighten your provision. At least this sort of penalties and legal actions should not be there. With the existence of these provisions I do not think the Bill will be at all successful. Sir, the clauses which prohibit beggary by these delinquents and neglected children cannot be successful unless the Government establish poor houses here and there, not on a very elaborate, big scale, but small poor houses as they have in other countries which will accommodate these boys and impart to them teaching and training.

Sir, my friend, Mr. Sapru was indifferent about religion and religious teaching. I wish to submit to the Home Minister very respectfully . . .

DR. K. L. SHRIMALI: Sir, the Home Minister is not here and the Home Minister has nothing to do with this Bill.

SHAH MOHAMAD UMAIR: I mean both the Home Minister and the Education Minister. Although he is not here, my voice will reach him through the Education Minister. Sir, by my observation I am just trying to draw your attention to the fact that unless there is some moral teaching and religious teaching to these children, they cannot be expected to go high. Of course, our secularism has been very rigidly interpreted. Because of this sort of secularism we are not giving any religious teaching, and therefore, the morality in our children is not going up very much. I will submit

that the Education Minister may find out some ways and means of putting the idea of God into the hearts and minds of our children so that they may go high in morality. They may go high in material achievements but some godliness must also be given to them in the form of religious teaching and training.

SHRI H. P. SAKSENA (Uttar Pradesh): Sir, I am the only fit person to say something about the neglected and delinquent children and on this Children Bill because I have dealt with children for a very long period of my life. I humbly submit that there is nothing ever wrong with the children. The mistake lies elsewhere. The mistake lies with the guardians. But they are also helpless because they require rehabilitation. Therefore, the bringing forward of this Bill is putting the cart before the horse. We should first find out the necessary measures of rehabilitating the guardians before we bring forward such a Bill. Therefore, Sir, I again humbly emphasise that there is nothing wrong with the children. The child does not beg of his liking. He begs because he is forced to beg.

PANDIT S. S. N. TANKHA (Uttar Pradesh): He begs because he is asked by his parents to beg.

SHRI H. P. SAKSENA: Parents ask them to beg for certain reasons.

SHAH MOHAMAD UMAIR: What about the children of beggars?

SHRI H. P. SAKSENA: They have been trained in that environment. So there is nothing wrong about them. Therefore, I say that this Bill should be reintroduced in a modified form. I question the suggestion in the Bill that police action should be taken at each and every step.

\*DR. SHRIMATI SEETA PARMA-NAND: For the second time this Bill has come here.

SHRI H. P. (SAKSENA: I do not like the State of mine to be turned into a Police State.

DR. K. L. SHRIMALI: Mr. Deputy Chairman, Sir, I am afraid I have not been very much enlightened by the last two speakers in this debate and one gets the impression that they have not carefully looked through the Bill. If one reads the Bill, one would find that the whole approach is educative. It is not to punish children put to reform them. It is with that object that this whole Bill has been prepared. I think the gentleman who spoke before was referring to clauses 41 and 42. These are penal clauses to which he objected. I cannot understand him. This is punishment for cruelty to a child. Somebody who is being cruel to a child is being punished. I do not know how he can object to some punishment to such people.

SHRI J. H. JOSHI: Not 41.

DR. K. L. SHRIMALI: Clause 42 also, which refers to those who employ children for begging. It is a very serious social crime and I cannot understand how one can defend such a thing. I am, however, grateful to the various other Members who have made very valuable suggestions. Dr. Bose is not here but he made a reference to the question of administering this Bill. I know that there are difficulties. There is a big gulf between the ideal and the reality. As imperfect human beings we can always strive towards the ideal, though we may not be able to reach it. The administrative difficulties are there and I agree with the various Members that the whole approach will have to be made in a human way. It is not a work which can be done in a mechanical way. The administrators of this Bill will have to make a human approach. Dr. Kunzru drew our attention to the question of the training of the personnel. This is an important suggestion and it has been constantly before us. In fact the Government have already taken various measures to prepare the per-

sonnel for various kinds of services. We have at present 20 schools of social work and 500 students are coming out of these schools every year after post-graduate work. Many of these people are being trained as child psychologists, as probation officers, as counsellors, etc. and I have no doubt that some of these people who are being trained in the schools of social work will be able to do admirable jobs in these homes and children's institutions which will be set up under this Bill. I do not in any way wish to underrate the importance of training. In order to make this measure successful, training is of the greatest importance, and we need people who would understand the psychology of children, who would be sympathetic towards them and who would have the attitude to rehabilitate them. That is a big problem and we do require trained personnel. We shall continue to keep the suggestion in view. I am afraid I do not agree with Dr. Bose when he says that the definition of neglected child is too wide. He wanted to suggest that the last two sub-clauses (iii) and (iv), should be deleted. Sub-clause (iii) says:

"has a parent or guardian who is unfit to exercise or does not exercise proper care and control over the child;"

Do we not have parents who may be either addicted to alcohol or due to some reasons become unfit to exercise any kind of control and supervision over children? I think it is the duty of the State to take care of such children. When the parents cannot look after them, when they become completely unfit to exercise any kind of proper care and control, the State has a duty and the State must discharge that duty by exercising control over those children. He also objected to having this clause saying:

"lives in a brothel or with a prostitute or frequently goes to any place used for the purpose of prostitution, or is found to associate with

any prostitute or any other person who leads an immoral, drunken or depraved life."

His main objection was that it would not be possible to have any objective criterion with regard to drunkenness or depravity or immorality. We all understand fully the meanings of these words. Nobody objects to drinking moderately but we always make a distinction between that man and a person who is habitually drunken and who exhibits in his behaviour that he is a drunkard and I think it is harmful for a child to be associated with persons like that. Persons who are depraved or drunkards or immoral can always be found out by their outward behaviour. Therefore, there should be no difficulty. Dr. Bose says that all of us sometimes become immoral. It may be true but I do not think that all of us do become drunkards or depraved all the time. It is a question of habitual depravity or drunkenness.

Dr. Kunzru suggested that foster-care should be provided for. I would draw his attention to clause 16(1) which makes provision for foster-care. It is true that under Chapter II there is no provision. We have purposely not kept any because we felt that in this country it would take some time before this experiment could be successful. There are a number of children who are being looked after by foster-parents in Western countries and they are looking after very well. In fact some of foster-parents treat their children better than they treat their own and they give them all the care and facilities but in our country, unfortunately, we neglect our own children. There are not many people who understand the psychology of children. There are not many who will have that attitude and outlook. I do not rule out the possibility of having some foster-parents. In fact clause 16(1) does make a provision that some may be entrusted to an individual if the Court is satisfied but I do think that in course of time, if

people are coming forward and if the administration is satisfied that these people will not exploit but will really serve these children, then there will be no difficulty to entrust them to the care of these people.

Shri K. Santhanam raised the question with regard to adoption that there is no provision made in this Bill. This does not fall within the purview of the Bill and a separate legislation will be necessary and we are examining at present whether that could be done.

Dr. Kunzru also raised the point whether the Government had at their disposal adequate resources to implement the Bill in all respects, when it becomes law. I cannot say that we have all the resources but we must make a beginning. If we wait for the time when we may have ideal conditions and all the trained personnel as well as all the possible resources, material and human, I am afraid we may have to wait for an indefinite period. In my opinion the situation is urgent and a large number of children are being neglected, who on account of certain circumstances, become delinquent and it is our duty to make an effort here and now. We cannot postpone this measure for an indefinite period. In spite of our limited resources, we must make a beginning.

DR. SHRIMATI SEETA PARMA-NAND: It has been postponed since 1953.

Da. K. L. SHMMALI: Yes.

DR. H. N. KUNZRU: My desire was not to have the Bill postponed but to press the Government to have adequate resources for this purpose provided in connection with the third Five Year Plan.

DR K. L. SHRIMALI: I fully understood the point which Dr. Kunzru made and I may assure him that it will be our endeavour to get the resources. Already we have in

[Dr. K. L. Shrimali.] Delhi a Directorate of Social Welfare with a person of long experience not only in this country but with training abroad and we are also going to place more resources at the disposal of this Directorate so that this business can be properly managed and properly looked after.

Shri Santhanam raised the point that there was no provision made for the exchange of inmates of the children's homes and the special schools. I may invite his attention to clause 45 in Chapter VTI where the Administrator has been given some powers for such exchanges. I can very well imagine that sometimes when a neglected child is sent to a home, he may become a delinquent and may have to be transferred for institutional care. Similarly children who are delinquent with nobody to look after them they may have to be looked after by other institutions and so that provision has been made in clause 45.

Another point made by the hon. Member was with reference to the disregard of the relevant denomination of the child in the case of children homes. While there is provision for it in the case of special schools, he said there was no such provision when admitting neglected children into children's homes. I would, however, invite his attention to clause 33, sub-clause (d) in which it has been stated that a competent authority shall take into consideration the religious persuasion of the child, before making any order under this Act. This is a provision of general application and will apply to children's homes also. Sub-clause 21(4) merely lays emphasis on this aspect so far as delinquent children are concerned. In any case, I can assure him that while framing rules, this point will be borne in mind.

Shrimati Nallamuthu Ramamurti suggested that while appointing persons on the Child Welfare Board we should not go merely by degrees.

That was never our idea. It is not proposed to appoint persons on account of their qualifications in degrees only, but on the basis of their knowledge and experience.

One hon. Member also stated that it was wrong to have made this distinction between the neglected child and the delinquent child. There was a great deal of discussion in the Select Committee on this point and it was after considerable discussion that we decided that separate arrangements should be made for the neglected children and the delinquent child, *en. A delinquent child is \* delinquent. He has committed some kind of a crime. A neglected child has been neglected not because of any fault of his own, but because of certain circumstances in which he was placed. The neglected child may become a delinquent if proper care\* is not taken of him and it was with that in mind that separate arrangements were visualised. It was also felt that it would be wrong to put all these two categories of children together. Sometimes by association a neglected child may become a delinquent and he will unnecessarily get that stigma by going with a delinquent child.*

SHRI B. N. BHARGAVA (Uttar Pradesh): Why should they be tried by two different bodies?

DR. K. L. SHRIMALI: The main reason is that people should not feel that this child has any stigma. Once a child goes to the court, whatever efforts may be made, there is some kind of a stigma and it was to avoid that situation that this was done. We must remember that the neglected child has committed no crime and it will be a wrong thing if he gets any kind of a stigma, that he has been tried by the court, that he has committed a crime. We are really taking care of those children who are neglected. There is the other case where the child has definitely committed a crime. There is definite



delinquency on account of which the court tries him and sends him for institutional care.

Shrimati Rukmini Devi Arundale drew our attention to the need for special knowledge of child psychology. One hon. Member said there was no need for the knowledge of child psychology. I do not agree with that view. I think in dealing with these children special knowledge of child psychology and child welfare is necessary; in fact the more knowledge they have about children and their behaviour and the way in which their minds work and why they indulge in this kind of anti-social activities the better they would be in a position to provide remedial measures. Therefore, it is considered absolutely necessary that persons employed in these homes and institutions should have adequate knowledge of child mind.

SHRI K. SANTHANAM (Madras): May I point out that the hon. Minister has not made such a provision for those who are running these homes but only for those who will be on the Board? For those on the Board he has made the provision that they should know child psychology, only those who admit the children, not those who conduct these homes. It is there for membership of the Board only.

DR. K. L. SHRIMALI: It is really the Board in the case of neglected children which will decide what kind of action should be taken for the child. Of course, these institutions will be staffed by persons who have knowledge of child psychology. I cannot imagine of any institution being run where the persons are without a knowledge of child psychology. Therefore, as far as these institutions are concerned, this is taken for understood and it has been stated that even on the Board there should be people who have adequate knowledge of children and child psychology.

I think Shrimati Rukmini Devi Arundale misunderstood the clause where it is provided that one woman at least should be on the Board. When we made this provision we were of the opinion that it would be desirable to have as many women as possible. In fact, the more qualified women we have for this purpose, the better care will be taken of children, because women have the maternal instinct and they can always look after young children better than men can. The Committee, however, felt that it may not be possible to have all the women we need and, therefore, they insisted that there should be at least one woman on the staff. I think the hon. Member misunderstood that and thought we were not giving sufficient importance to the work of women in this regard.

Another point raised was with regard to the age-limit for boys and girls. It was suggested that there was no reason why there should be a difference in the age limits for boys and girls. In fact, it was said, "boys mature somewhat more slowly than girls and, as such, if any difference was to be made, it should be in favour of boys and not in favour of girls as is the case in the present Bill." Sir, this difference has been kept purposely. I admit that girls attain maturity earlier, but in our society, they also need protection for a longer period. Boys can go out in society and find jobs and even when they have to meet difficult situations sometimes, they can face them. That is not the case with girls, particularly girls who have been neglected or who have been delinquent. They cannot easily find their way in society and they will need greater protection on the part of society. Therefore, this age has been prolonged. In fact, in my opinion, after-care organisations will have to take greater responsibility as far as girls are concerned. Not only should they be in the institutions for a longer period, the after-care organisations will have to take greater care as far as girls are concerned.

[Dr. K. L. Shrimali.] Therefore, I do not agree that there should be the same age limit for boys and girls.

I think it was Kumari Shanta Vasisht who suggested that there should be provision for medical supervision when admitting children for mental treatment and leprosy treatment and it should not be on the basis of the parents' statement only. In this connection, I may invite the hon. Member's attention to the wording of clause 47. This clause makes it very clear that necessary care will be taken. As far as periodical medical supervision is concerned, this will be provided for in the rules. Sir, these are the main points which have been raised, and, I think, I have dealt with most of the important points.

Hon. Members would see that the whole approach of this Bill has been educative. It is not the intention to punish children. These institutions are being set up so that they may work under proper conditions and so that they may be weaned away from unfavourable conditions. It is with this view that this Bill is being introduced. Mr. Saksena and the other speaker vehemently opposed this Bill and they said that the whole needed to be revised. I do not see how it can be done.

1

SHAH MOHAMAD UMAIR: Only certain portions of the Bill, not the entire Bill.

DR. K. L. SHRIMALI: As far as I could see, this is one of the most progressive measures that we have been able to put forward. It would be found that under this Bill no child is being sent to prison. Under no circumstances, even when a child commits murder, will he be sent to prison. He will be treated in an institution and will not be sent to jail. This is a very radical departure from many of the existing Children's Acts.

DR. ISHRIMATI SEETA PARMA-NAND: The trial will also be separate.

DR. K. L. SHRIMALI: Yes, trial will also be separate. This is not being done in many of the countries. If a child commits some serious offence, then he is tried by ordinary courts and he is sent to prison but under this Bill, as long as the child is a child, that is, below the age of 16, he will be treated as a child and however heinous and serious the offence may be, arrangements will be made to reform the child and there is absolutely no provision for any kind of penalty. I do not understand how the hon. Member insisted that it was a penal measure and that there was no effort to rehabilitate and reform the child.

SHAH MOHAMAD UMAIR: What about helping other private institutions which are running such homes? What sort of support and encouragement are they expected to receive from the Government?

DR. K. L. SHRIMALI: That is beside the point.

MR. DEPUTY CHAIRMAN: The question is:

"That the Bill to provide for the care, protection, maintenance, welfare, training, education and rehabilitation of neglected or delinquent children and for the trial of delinquent children in the Union territories, as reported by the Joint Committee of the Houses, be taken into consideration."

*The motion was adopted.*

MR. DEPUTY CHAIRMAN: We shall now take up the clause by clause consideration of the Bill.

#### *Clause 2—Definition*

SHRI K. SANTHANAM: Sir, I move:

1. "That at page 6, lines 12-13, the words 'who has not attained the age of sixteen years' be deleted."

SHRI ROHIT M. DAVE (Gujarat): Sir, I move:

2. "That at page 7, lines 4 and 5 be deleted."

3. "That at page 7, lines 6—9, the words 'or frequently goes to any place used for the purpose of prostitution, or is found to associate with any prostitute or any other person who leads an immoral, drunken or depraved life' be deleted."

*The questions were proposed.*

SHRI K. SANTHANAM: Sir, the hon. Minister answered the point raised by me in my speech but he missed the substance of my argument. I have no objection to the girls being taken care of till 18, 20 or 22. Girls do require protection but my objection is this: If you take a boy, a neglected boy, put him in the children's home and then release him at the age of sixteen, there is great danger of his becoming a beggar or a delinquent. You should not put him on the streets. In clause 15, there is a proviso which says:

"Provided further that the Board may, if it is satisfied that having regard to the circumstances of the case it is expedient so to do, for reasons to be recorded, reduce the period of stay to such period as it thinks fit."

Under this proviso, if a boy is fit for employment before he attains the age of eighteen, he may be sent out. As it is, you are not compelling the boy to remain till he completes the prescribed age. But you will just release him at the age of sixteen whether he is fit enough to earn his livelihood or not. I think this is a great danger and it will undo many of the good points of the Bill.

Secondly, in his speech he gave me another argument which I had not thought of before. Up to the age of sixteen, if a child commits any offence, he will not be sent to jail but to the special school; after sixteen he will be sent to jail, while a girl at the age of eighteen, if she commits a crime, she

is sent to special school. She cannot be sent to jail. This will act as a great hardship. Both boys and girls at the age of sixteen are adolescents and they should be taken very good care of. I think it is not right that this distinction should be made so far as the delinquents are concerned. I, therefore, suggest that he should accept my amendment and use the proviso to clause 15 for releasing boys when they are fit for employment. Till then, I think, the boys like the girls should be kept in these homes till the age of eighteen.

SHRI ROHIT M. DAVE: Sir, the hon. Minister has tried to reply to the arguments that were put forward by my hon. friend, Dr. Bose, and I entirely agree with him that some sort of protection is necessary for a child against undesirable people, drunkards, depraved people or people who lead immoral lives. Our point of view is that the words that have been used *are* not of easy definition and, therefore, they are likely to be misused or might become inoperative. We have, therefore, suggested the deletion of these words not with a view to seeing that the children are kept with such people but with a view to seeing that this law becomes more operative and that it does not create any hardship in genuine cases. It is exactly with this view that we are pressing that these words should be deleted. Shri Sapru has also drawn attention to the fact that these words are more or less rather vague and that they might create difficulties in certain cases. I would urge upon the Minister to consider whether these words are really necessary in the Bill or whether they could be dropped without any harm.

DR. K. L. SHRIMALI: With regard to Mr. Santhanam's amendment, I have already said why we have made this distinction between boys and girls. In addition to that, I would further like to say that it would not be advantageous to keep a child in an institution for a longer period than is necessary. If we do so, then we make him more and more dependent. As soon as a

[Dr. K. L. Shrimali]

child has attained the age, he must be released from the institution so that he can settle down. Our ultimate objective is that he should become a normal citizen in society. The longer he stays in the home the greater the disadvantage. As far as the boys are concerned, it is difficult to keep them longer than sixteen. They attain maturity at that age and by that time they must go to society and must become normal citizens. As far as the girls are concerned, considering the special conditions under which women are placed in our country, girls can be exploited. I think it is very important that this provision should remain.

SHRI P. N. SAPRU (Uttar Pradesh): But the age of majority for boys and girls is eighteen. The law does not make any distinction between boys and girls in this respect.

DR. K. L. SHRIMALI: Whatever the legal provision may be with regard to majority, I am convinced that in our country girls need greater protection. We know how girls are now being exploited. Considering the special conditions under which women live at present, we have to make provision for them. It may be possible that in course of time we may consider it necessary to change this and reduce this age limit but at the present time I am convinced that it is necessary to keep this age limit for girls.

As far as the other points are concerned, I have already said that there should be no difficulty in locating a drunkard. By his behaviour one can find out that he is addicted to drink, that he is a habitual drunkard. We are not here concerned with a person who occasionally takes a drink or some kind of alcohol. In fact, this matter was discussed in the Joint Committee and it felt strongly that these words should remain, that association of children with such kind of people was highly undesirable and that this clause should remain.

SHRI P. N. SAPRU: What about the person whose father is a drunkard? Are you going to deprive the father of his rights to have the child?

DR. K. L. SHRIMALI: If his father is a drunkard, then he is associated with a drunkard and he will have to be weaned away because he is living under undesirable conditions.

SHRI P. N. SAPRU: Then you will have to institute an enquiry into the private life of almost every citizen to find out as to how much drink he consumes every day, what depravities he is indulging in. There is no definition, of depravity.

DR. K. L. "SHRIMALI: The hon. Member presumes that every citizen is a drunkard. It is only one in a thousand that is a drunkard and we know by his behaviour as to whether he is a drunkard or not.

SHRI P. N. SAPRU: It all depends upon what you call a drink. In this country, there are people who would be shocked if a person takes a small peg of brandy or a peg of whisky. They have not tasted it and they do not know what effect it has on one's mind. What is the test which you are going to apply? You are putting difficulties in the way of courts deciding as to whether a person is a drunkard or a depraved man. I think these words should go.

*(Interruption.)*

MR. DEPUTY CHAIRMAN: Order, order. No further speeches now. What about your amendment, Mr. Santhanam?

SHRI K. SANTHANAM: I leave it to the House. If it wants to retain the words, it can do so.

MR. DEPUTY CHAIRMAN: The question is:

1. "That at page 6, lines 12-13, the words 'who has not attained the age of sixteen years' be deleted."

*The motion was negatived.*

MR. DEPUTY CHAIRMAN: The question is:

2. "That at page 7, lines 4 and 5 be deleted."

*The motion was negatived.*

MR. DEPUTY CHAIRMAN: The question is:

3. "That at page 7, lines 6—9, the words 'or frequently goes to any place used for the purpose of prostitution, or is found to associate with any prostitute or any other person who leads an immoral, drunken or depraved life' be deleted."

*The motion was negatived.*

MR. DEPUTY CHAIRMAN: The question is:

"That clause 2 stand part of the Bill."

*The motion was adopted.*

*Clause 2 was added to the Bill.*

*Clauses 3 to 5 were added to the Bill.*

MR. DEPUTY CHAIRMAN: Shall we sit for fifteen minutes more and finish this Bill?

DR. K. L. SHRIMALI: I have got to be in the other House at 3 P.M. Sir, I shall be grateful if this could be finished now.

DR. SHSIMATI SEETA PARMA-NAND: Let us sit through, Sir.

MR. DEPUTY CHAIRMAN: Let us sit for fifteen minutes more.

1 P.M.

Clause 6—*Procedure, etc., in relation to Boards and children's courts.*

SHRI K. SANTHANAM: Sir, I move:

4. "That at page 9, lines 1 to 4 be deleted."

SHRI ROHIT M. DAVE: Sir, I move;

5. "That at page 9, line 3, for the word 'and' the word 'or' be substituted."

*The questions were proposed. 758*

R.S.D.—4.

SHRI K. SANTHANAM: Sir, I want this sub clause (3) to be deleted. Sub-clause (3) says:

"No person shall be appointed as a member of the Board or as a magistrate in the children's court unless he has, in the opinion of the Administrator, special knowledge of child psychology and child welfare."

I think these words will prevent many important public men and women from functioning in these posts. I do not know why the qualification is there. Every parent must be presumed to have some knowledge of child psychology. And especially delinquent and neglected children have got a psychology different from the ordinary children and even the knowledge of ordinary child psychology is not enough. Here it is commonsense, compassion and sympathy that are needed. It is quite different for those people who are conducting the children's homes or the special schools. They must have special qualifications. Here it is responsibility and public spirit that are important and this will be at a discount. If these words are kept, then some cranks with some certificates will be considered to have acquired special qualifications for serving on the Boards.

SHRIMATI T. NALLAMUTHU RAMAMURTI: Sir, I second the amendment.

SHRI ROHIT M. DAVE: Sir, my friend, Mr. Santhanam, has suggested the deletion of the clause to make it very general. We are only trying to make it slightly more general than what it is, by saying that a person should have special knowledge of child psychology or child welfare because as Mr. Sapru has pointed out the expression 'child psychology' is capable of many meanings and it is possible that child psychology might be understood in one sense by the authorities and in another sense by the person who wants to go on this Board. Therefore, it is desirable that we say

[Shri Rohit M. Dave.] here child psychology or child welfare, so that if a person who has undergone a course in one of the educational institutions which deals with child psychology is not taken as a child psychologist by the authorities he may at least come under the other definition because he will have studied some problems of child welfare and thus he will become entitled to be appointed on this Board.

DR. K. L. SHRIMALI: The discussions in this House very clearly indicated that the child is a victim of certain circumstances and it needs to be psychologically approached in order that its defects may be remedied.

SHRI P. N. SAPRU: What is that psychological approach?

DR. K. L. SHRIMALI: The psychological approach is that if he needs affection, you will have to give him affection. If he feels a sense of insecurity, he will have to be provided with a sense of security. Therefore, there must be people who have a proper understanding of the child's mind. There may be plenty of goodwill; I do not deny that. There is plenty of goodwill but goodwill sometimes can do more harm than good unless it is accompanied by a proper understanding of the child's mind. Therefore, in trying to improve these children you will have to face many problems and they are psychological problems. In fact, hon. Members have said here several times that the child is a victim of certain circumstances and the problems are emotional, psychological, which have arisen on account of the circumstances in which he is brought up. Therefore, in order to remedy them, the approach will have to be psychological and a knowledge of child psychology is necessary. Knowledge of both—child psychology and child welfare would be of great advantage. The clause does not say that they should be psychologists; it only says that they should have knowledge of child psychology. I, therefore, do not accept the amendments.

MR. DEPUTY CHAIRMAN: The question is:

4. "That at page 9, lines 1 to 4 be deleted"

*The motion was negated.*

MR. DEPUTY CHAIRMAN: The question is:

5. "That at page 9, line 3, for the word 'and' the word 'or' be substituted."

*The motion was negated.*

MR. DEPUTY CHAIRMAN: The question is:

"That clause 6 stand part of the Bill."

*The motion was adopted.*

*Clause 6 was added to the Bill.*

*Clauses 7 to 20 were added to the Bill.*

*Clause 21—Orders that may be passed regarding delinquent children.*

SHRI ROHIT M. DAVE: Sir, I move:

7. "That at page 15, line 6, after the word 'recorded,' the words 'and having obtained in this regard the opinion of the school concerned,' be inserted."

*The question was proposed.*

DR. K. L. SHRIMALI: Sir: I am not accepting that amendment.

MR. DEPUTY CHAIRMAN: The question is:

7. "That at page 15, line 6, after the word 'recorded,' the words 'and having obtained in this regard the opinion of the school concerned,' be inserted."

*The motion was negated.*

MR. DEPUTY CHAIRMAN: The question is:

"That clause 21 stand part of the Bill."

*The motion was adopted.*

*Clause 21 was added to the Bill.*

*auses 22 to 40 were added to the Bill.*

*ause 41—Punishment for cruelty to child.*

SHRI K. SANTHANAM: Sir, I love:

9. "That at page 21, line 26, for the word 'unnecessary' the word 'avoidable' be substituted."

Sir, it is purely a verbal amendment, "he word 'unnecessary' is very difficult to determine, while 'unavoidable' is easier to determine. Therefore, I suggest that the hon. Minister may accept my proposed amendment.

*The question was proposed.*

DR. K. L. SHR MALI: It would mean there is some kind of cruelty which may be inflicted. Is that what the hon. Member is suggesting?

SHRI K. SANTHANAM: It is very difficult to define 'unnecessary'. The word 'avoidable' is better.

DR. K. L. SHRIMALI: It is always unnecessary. It reads: —

"Whoever, having the actual charge of, or control over, a child, assaults, abandons, exposes or wilfully neglects the child or causes or procures him to be assaulted, abandoned, exposed or neglected in a manner likely to cause such child unnecessary mental ..."

o, he will cause necessary suffering, would like to know how he thinks so. In fact he seems to suggest that there are certain kinds of mental suffering which are permissible.

SHRI K. SANTHANAM: Yes, Sir, because a child may have to be locked up in a room. It may go and fall into well or in a river. This may have to be prevented forcibly. You may have to apply some kind of force to prevent such things happening. There-

fore, the question is not whether it is necessary or unnecessary, but whether it could have been avoided or it could have been done in a better manner. That would be a better word.

DR. SHRIMATI SEETA PARMA-NAND: Both, seem to be equivalent.

DR. K. L. SHRIMALI: I do not really understand the difference. Therefore, I shall stick to the word which we have used.

SHRI K. SANTHANAM: Sir, I beg leave to withdraw my amendment.

*Amendment No. 9 was, by leave, withdrawn.*

MR. DEPUTY CHAIRMAN: The question is:

"That clause 41 stand part of the Bill".

*The motion was adopted.*

*Clause 41 was added to the Bill.*

*Clause 42—Employment of children for begging*

SHRI K. SANTHANAM: Sir, I move:

10. "That at page 21, line 34, after the words 'causes any child to beg' the words 'or benefits by the beg-ing of any child' be inserted."

This is a more objective test, whether a man has caused a child to beg. What happens to the proceeds of begging? If any person makes use of it and benefits from it, then he should be punished. That is the only objective test. That is the only way of preventing people from using children for begging. Therefore, I suggest that this test may be accepted.

*The question was proposed.*

DR. K. L. SHRIMALI: Sir, I am not accepting this amendment. In fact that would take away the whole effect of this clause.

For text of amendment see col. 1317 *supra*.

SHRI K. SANTHANAM: Will he please explain how?

DR. K. L. SHRIMALI: The purpose of the hon. Member, if I am right, is that he wants to add certain words.

SHRI K. SANTHANAM: I am not taking away any words that are here.

MR. DEPUTY CHAIRMAN: He wants to add the words "or benefits by the begging of any child".

DR. K. L. SHRIMALI: He wants to qualify it, that a person should be punished only if he is benefiting by the alms that are collected by the child. That is his view. As far as I understand, in the hon. Member's opinion there may be some kind of begging which will not be profitable to the person, that may be permissible. I think that is a very retrograde measure.

SHRI K. SANTHANAM: I have put the word "or". It is one of the alternative causes. It does not in any way detract from the effect of the clause.

MR. DEPUTY CHAIRMAN: After the words "causes any child to beg", it is only an additional provision that he does not benefit by the begging of any child. It is only an addition.

DR. K. L. SHRIMALI: This is quite unnecessary.

MR. DEPUTY CHAIRMAN: the question is:

10. "That at page 21, line 34, after the words 'causes any child to beg' the words 'or benefits by the begging of any child' be inserted."

*The motion was negatived.*

MR. DEPUTY CHAIRMAN: The question is:

"That clause 42 stand part of the Bill."

*The motion was adopted.*

*Clause 42 was added to the Bill.*

*Clauses 43 to 60 were added to the Bill*

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

DR. K. L. SHRIMALI: Sir, I move:

"That the Bill be passed."

*The question was put and the motion was adopted.*

MR. DEPUTY CHAIRMAN: There is a Message from the Lok Sabha.

## MESSAGE FROM THE LOK SABHA

### THE APPROPRIATION (RAILWAYS) No. 5 BILL, 1960

SECRETARY: Sir, I have to report to the House the following message received from the Lok Sabha, signed by the Secretary of the Lok Sabha: —

"In accordance with the provisions of Rule 96 of the Rules of Procedure and Conduct of Business in Lok Sabha, I am directed to enclose herewith a copy of the Appropriation (Railways) No. 5 Bill, 1960, as passed by Lok Sabha at its sitting held on the 7th December, 1960.

2. The Speaker has certified that this Bill is a Money Bill within the meaning of article 110 of the Constitution of India."

Sir, I lay the Bill on the Table.

MR. DEPUTY CHAIRMAN: The House stands adjourned till 2.30.

The House then adjourned for lunch at eighteen minutes past one of the clock.

The House reassembled after lunch at half-past two of the clock, MR. DEPUTY CHAIRMAN in the Chair.

SHRI R. S. DOOGAR (West Bengal): Sir, the Minister concerned is not present. I would request you to adjourn