

THE INDIAN SALE OF GOODS (AMENDMENT) BILL, 1960

THE MINISTER OF LAW (SHRI A. K. SEN): Sir, I move:

"That leave be granted to introduce a Bill further to amend the Indian Sale of Goods Act, 1930."

The question was put and the motion was adopted.

SHRI A. K. SEN: Sir, I introduce the Bill.

THE CHILDREN BILL, 1959

THE MINISTER OF EDUCATION (DR. K. L. SHRIMALI): Sir, I move:

"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 be referred to a Joint Committee of the Houses consisting of 45 members; 15 members from this House, namely:

1. Shri S. V. Krishnamoorthy Rao
2. Shri T. S. Avinashilingam Chettiar
3. Dr. Shrimati Seeta Parmanand
4. Shrimati Maya Devi Chettry
5. Dr. Dharam Prakash
6. Shri V. C. Kesava Rao
7. Shri A. Dharam Das
8. Shri G. R. Kulkarni
9. Shrimati Lila Devi
10. Shri Abdul Latif
11. Shri B. V. (Mama) Warerkar
12. Shri D. P. Singh
13. Shri P. A. Solomon
14. Mirza Ahmad Ali
15. Dr. K. L. Shrimali (Mover).

and 30 Members from the Lok Sabha;

that in order to constitute a meeting of the Joint Committee the quorum shall be one third of the total number of members of the Joint Committee;

that in other respects, the Rules of Procedure of this House relating to Select Committee shall apply with such variations and modifications as the Chairman may make;

that the Committee shall make a report to this House by the Last day of the first week of the next session; and

that this House recommends to the Lok Sabha that the Lok Sabha do join in the said Joint Committee and communicate to this House the names of members to be appointed by the Lok Sabha to the Joint Committee."

Sir, the House is aware that this Bill was introduced in 1954 and also passed by the Rajya Sabha for Part 'C' States, by the time it went to the Lok Sabha the reorganization of the States took place and Part 'C' States like Vindhya Pradesh, Bhopal and Ajmer had disappeared. Therefore, at that time the Lok Sabha Select Committee, to which the Bill was referred, was of the opinion that there was no need to pursue this Bill any further. We have further examined this matter very carefully and we have found that the present law "The Bombay Children Act", which is in force in Delhi at present, is outmoded in many respects and more punitive rather than promotive.

Now as far as this Bill is concerned, the general approach that we have taken is that most of the problems and difficulties arise because of maladjustment in the social environment. If children are placed in healthy environments many of the difficulties would be resolved. Most of the emotional maladjustment arises because the children do not get proper outlet for their creative energies. It is on that account that they suffer from a sense of insecurity which leads to frustration and which ultimately leads to social maladjustment. Therefore, our general approach in this Bill is that we propose to adopt various mea-

[Dr. K. L. Shrimali.]

sures which would change the environment of the child and change the unfavourable conditions under which he is living so that he may get over the problems which he has to face and he may develop into a normally healthy and responsible citizen.

Sir, in this Bill we have tried to combine the best features of the Bombay Children Act of 1948 and the East Punjab Act of 1953 and the Madras Children Act of 1959.

Sir, I would not like to take the time of the House in going into the various details because this House had fully discussed this Bill in 1954. I would only draw the attention of the House to some of the salient features of the present Bill.

Now, the age of the child is fixed as 16 for the boys and 18 for the girls. We have kept a higher age for girls because they need protection for a longer period. By our experience in Bombay and other places we have found that girls normally require protection for a longer period though they attain puberty and maturity earlier, due to our social conditions they require protection for a longer period. Therefore, we have kept the age limit for girls as 18.

Sir, in this Bill we have also made a provision for the care of neglected children. Neglected children have been defined as those who—

- (i) are found begging; or
- (ii) are found without having any homes or settled place of abode; or
- (iii) have a parent or guardian who is unfit to exercise or does not exercise proper care and control over the child; or
- (iv) are living in a brothel or with a prostitute or in some kind of undesirable environment.

Now in the present Act which is at present in force in Delhi there is no provision for these categories of children. As I said the most important thing is that we must try to change the environment of the child at an early age. As soon as it is found that a child is being neglected, that he is not being properly looked after, that he is living in unhealthy circumstances and environment, the Bill proposes to remove him or her from those conditions and place him under more favourable conditions.

There is also provision in 12 NOON this Bill saying that no child will be sent to prison, whatever be the offence. In the earlier, 1954 Bill, the children who had committed offences, that were punishable with death or imprisonment for life, were excluded from the purview of the Bill but on second thought and after more careful consideration, we came to the conclusion that whatever be the offence of the child, he should not be sent to prison because no child is an inborn criminal. It is only certain social environments, certain social conditions which lead him to commit some kind of offence or crime and if he is given proper education, not only he becomes a good citizen but also makes a positive contribution to the development of the society. On the other hand, if we send him to prison, as we send other criminals, then he becomes a hardened criminal. Therefore, in this Bill we have ruled out the punishment of sending a child to prison under any circumstances.

It will also be found that we have made provision in this Bill for the opening of homes and special schools and observation homes and also for 'after-care organization'. When these children are put in homes under proper care and when proper facilities are provided in special schools, it has been found that they do respond and they do become normal citizens in course of time. We have also made

provision for 'after-care organizations' because sometimes even after the children are released from these homes, they do need some kind of care and they need to be looked after. This Bill also makes provision for children's courts and in this Bill we have suggested that the children should not be sent to ordinary courts but there should be special courts—children's courts—and there will be no joint trials of adults and children. The Bill also enjoins that as far as practicable, one of the magistrates of the Bench should be a woman. We know that a woman with an understanding of the psychology of the child is more helpful than an ordinary man-magistrate and we have made a provision that no lawyer will be allowed in Children's Courts and Probation Officers who understand the psychology of children and who make a sympathetic approach to them will be the persons who will present the cases to the courts. The whole purpose is that juvenile delinquents should not be treated on a par with adult criminals.

Another provision which we have made is with regard to children's homes for neglected children and special schools for juvenile delinquents. There is also provision that the child may be given to the custody of a fit person if it is found that a certain person is fit to take care of him and if the Administrator is satisfied that under his care and protection, the child would grow as a normal person. The probation officer will also be in constant touch with the fit person and make sure that the child is not exploited in any way.

In order that no stigma is attached to the child because he has committed the offence, we have ensured that the reports of the probation officers should be treated as confidential and the names of children who have committed offences should not be given out and the proceedings of the court should not be published.

There is one important chapter which we have added to this Bill which

was not in the previous Bill. Recently, as the House is aware, there have been reports that some children are being kidnapped for begging and there are many people who exploit children in that way. Therefore, to prevent that social malady, we have proposed that any person who is found ill-treating children and employing children for begging or who is found exploiting a child employee, would be deemed to have committed an offence. We hope that by making this provision we would be able to prevent those people who are exploiting children and who use them to earn their own income.

In this Bill there is also provision for appointment of probation officers because the probation officers have a very important role to play in dealing with children. He is the friend, philosopher and guide and by making the proper approach he sometimes changes the whole attitude of the child. We have also ensured that the institutions in which the children would be kept need not be necessarily Government institutions. They can also be voluntary organisations provided they are recognized by the administration. These are some of the salient features of this Bill.

I need not dilate for a longer period on the necessity for this Bill. During recent years, a good deal of research has been done and various methods and techniques have been developed to bring about the removal of some of the mental and emotional diseases from which the children suffer and it is generally believed that it is only the environment which is mostly responsible for many of the social maladjustments among children. Our whole approach is to provide for proper care, proper training and proper maintenance of these children so that they might become healthy and creative citizens and make their own contributions to the development of the society. They should not be considered as criminals. The children are mostly in a formative stage and

[Dr. K. L. Shrimali.] many of the difficulties arise because they are living under poor conditions. The environment in which they live does not provide them proper outlet for their abundant energies and on account of frustration, they are led into this kind of difficulty. Therefore we have to have special arrangements for these children. In fact this Bill should have come to this House long before but unfortunately due to certain circumstances it was withdrawn from the Lok Sabha after it was passed by the Rajya Sabha because of the States' reorganisation, but I do hope that the House would support this measure and in course of time we would be able to have this Act, not only for Delhi but for all the Union Territories.

The question was proposed.

SHRI ROHIT M. DAVE (Bombay): Mr. Chairman, as the hon. Minister has pointed out, the purpose of this Bill is a very important one, because it tries to deal with one of the major problems of modern civilization. Sir, as industrialization grows and with it the urbanization of the country, the problem of neglected and delinquent children assumes a particular significance. Even in rural areas the problem of neglected and delinquent children is serious enough, but because the communities are small, perhaps social pressures are sufficient there to deal with the problem in these small communities. However, when people move to cities under the impact of industrialization, because of the fact that they have to adjust themselves to new situations and to new environments, because also of the fact that many of these families move to the urban areas in search of employment and as such are generally under some special anxiety or care since they have to search for such employment, and also because of the fact that when large numbers of families move to urban areas, they have to live under slum conditions which create some special difficulties

or problems and which cannot be adjusted or solved by the idea of a community pressure or neighbourly help, since these families are unknown to other families living in the same locality or area, especially in the initial stages, it has become very necessary that in big cities and in industrial areas, the Government itself should undertake the responsibility of protecting the neglected children and the delinquent children. Sir, this Bill is going to a Select Committee and it will come back from there and so a fuller discussion will be possible then. It is, however, necessary to draw the attention of the Joint Select Committee to some of the provisions or clauses that are incorporated in this particular Bill so that the Members of that Committee may be able to apply their mind to those clauses and may try to improve them if in their wisdom they think it necessary to do so.

Sir, the first clause to which I would like to draw the attention of the Joint Select Committee is clause 1, sub-clause (2), where it is stated:

"It extends to all the Union territories."

This particular provision has to be read with the last paragraph of the Statement of Objects and Reasons in which it has been clearly stated:

"The Bombay Children Act, 1948 or any other State Act for that matter would not fully meet the needs of the Union territories."

Sir, I had expected the hon. Minister to throw some light on this particular remark and to convince the House that it is sufficient if the comprehensive Bill that he has brought before the House is extended only to the Union territory and not to the whole of India. I do not know, Sir, what is the constitutional position. It will be for the Joint Select Committee to find out whether it is within the jurisdiction of Parliament to enact a

law of this nature for the whole of India or not. But if it is possible, the Joint Select Committee should consider the advisability of extending this law to the whole of India, because there are many cities growing up in the country today at a very fast rate. Sir, it is well-known that our population is increasing at the rate of 2 per cent. per annum and our urbanization is going on increasing at the rate of 4 per cent. per annum. A large number of other industrial centres are coming into being and urban centres are, therefore, coming into being and, therefore, it is desirable that the children in those territories or areas also should be looked after either by the Union Government or by the State Government as the case may be. I would, therefore, suggest that the Joint Select Committee might examine the possibility of extending this particular law to the whole of India.

Secondly, Sir, I would like to draw the attention of the Joint Select Committee to clause 11 in this Bill which prescribes a particular pattern for dealing with this problem. Clause 11 begins thus:

"If any police officer or other person authorised by the Administrator in this behalf, by general or special order . . ."

Therefore, the initiative of finding the neglected child or the delinquent child has been concentrated only in the hands of the Administrator or some of the officers who may be empowered or a police officer. I do realize that in sub-clause (2) of clause 11 there is also a provision for any citizen going to the police station and making a complaint which has to be registered. But ultimately, it is for the police officer to decide whether a particular proceeding should be initiated or not. Sir, I believe when one looks at a big city like Bombay, and what is going on there, one feels that in spite of a special law existing in that city there are various difficulties

there which this particular Bill tries to overcome and they are quite apparent to anyone to see. That is because there also the power is vested only in the police officers or in certain categories of officers and the public is not allowed to take the initiative, except to the extent of complaining to the police officer regarding the behaviour of certain children or certain guardians or parents of children. It has almost become impossible in the city of Bombay to deal with the problems which are sought to be solved by this particular Bill. It is, therefore, again for the Joint Select Committee to consider the advantages and disadvantages of giving certain powers, at least to the courts, to initiate a particular discussion on a complaint that might be made by any citizen and to see if certain proceedings should not be undertaken under the initiative of the court. Similarly, Sir, I would also like to draw the attention of the Joint Committee to clause 26 wherein it is stated that no person shall be present at any sitting of a competent court except any officer of the competent court or the parties to the inquiry before the competent court, the parent or guardian of the child and other persons directly concerned in the inquiry including police officers and such other persons as the competent court may permit to be present.

[MR. DEPUTY CHAIRMAN in the Chair]

There is already a provision in the Bill which says that the proceedings before the children's courts should not be given publicity and this should be sufficient. Any person who is interested in seeing that a particular neglected child or a delinquent child is properly taken care of by the State should be allowed to remain present so that all the advantages of a public trial without any of the disadvantages of such a public trial—it has already been said that the proceedings before the children's courts should not be given publicity—will be available when these proceedings take place. Otherwise, it is likely

[Shri Rohit M. Dave.]

that at least in certain cases, collision might take place between the officers and even the competent court. It is not something unimaginable and just as in the other cases where the presence of the public is considered to have a salutary effect, likewise, the presence of the public in the proceedings before the children's courts will have a salutary effect.

Then I come to clause 39(2) which states as follows:

"No court shall take cognizance of an offence punishable under subsection (1) unless the complaint is filed with the previous sanction of the Administrator or an officer authorised by him in this behalf".

Sir, my earlier remarks apply here also; the courts should also have the power to take the initiative in this matter when there is a complaint before it. This should be something like the *habeas corpus* where one could move the court and where the court could take proceedings.

Lastly, Sir, I come to clause 41. The clause reads as follows:

"Whosoever gives, or causes to be given to any child any intoxicating liquor or dangerous drug in any public place, except upon the order of . . ."

I do not understand why only the "public place" is mentioned here. Would it be all right, for instance, to give intoxicating liquor or dangerous drugs to a child in private? Would that not be considered as an offence? Would that not be considered injurious to a child? Sir, whatever it is, the child is not competent enough to decide whether this type of liquor or this type of drug is good for him or necessary for his health, and therefore it is only under medical advice that such things have to be administered. If there is a habitual administering of this type of liquor or drug, whether in a public place or in a private place, this should be pro-

ceeded against and should be prohibited.

These are some of the points that occurred to me as I went through the Bill, and I hope the Joint Select Committee will give due attention to them.

Sir, I thank you.

श्रीमती चन्द्रावती लखनपाल (उत्तर प्रदेश) : उपसभापति महोदय, यह बिल हमारे सामने एक बहुत ही राष्ट्रीय महत्व के प्रश्न की ओर ध्यान आकर्षित करता है। यह प्रश्न एक बड़ा ही आवश्यक प्रश्न है। राष्ट्र की दृष्टि से और सभी दृष्टियों से यह एक ऐसा प्रश्न है जिसको दुनिया के उन्नत, प्रगतिशील देशों ने बहुत सफलतापूर्वक हल किया है, किन्तु इस दिशा में हम अभी तक बहुत ही कम आगे बढ़ पाये हैं। जो साधारण बच्चे होते हैं वे तो कोई समस्या पैदा करते ही नहीं हैं। वे तो अपने घर में ही संभले रहते हैं। लेकिन जो ऐवनार्मल, असाधारण, बच्चे होते हैं, वे समाज के लिए एक समस्या बन जाते हैं। असाधारण बच्चों में एक तो हैं उपेक्षित अर्थात् निगलेक्टेड बच्चे और दूसरे हैं डेलिक्वेन्ट अर्थात् वे बच्चे जिनकी प्रवृत्ति अपराध करने की दिशा में ज्यादातर लगी रहती है। यह उपेक्षित या डेलिक्वेन्ट—दोनों प्रकार के बच्चे ऐसे कामों में लगे रहते हैं जिनको ऐंटी-सोशल या समाज-विरोधी कहा जा सकता है। छोटी छोटी चीजों की चोरी करना, बात-बात पर झगड़ा करना, मारकाट करना, खून खराबा करना और ऐसे ही कामों में ये बच्चे लग जाते हैं; और उनसे समाज की व्यवस्था और शांति हर समय खतरे में बनी रहती है और समाज का नैतिक वातावरण भी कभी कभी दूषित होने का डर बना रहता है। इस दृष्टि से जब यह बिल उपेक्षित और डेलिक्वेन्ट बच्चों की समस्याएं लेकर चलता है, तो वास्तव में यह एक बड़े ही संतोष की बात है। ऐसे उपेक्षित और डेलिक्वेन्ट बच्चों के बारे में अभी तक हमारे देश में जो प्रचलित

दृष्टिकोण है वह यह है कि यह उनके जन्म का दोष है, उनके पूर्व जन्म के ऐसे कर्म हैं कि वे ऐसे होते हैं। लेकिन यह बात सही नहीं है। जो आधुनिक, प्रगतिशील मनोवैज्ञानिक दृष्टिकोण है वह यह है कि अगर कोई बच्चा उपेक्षित है, अगर कोई बच्चा अपराधी है, डेलिक्वेंट है, तो वह उसका अपना दोष नहीं है। वह डेलिक्वेंट इसलिए है, वह अपराध की ओर प्रवृत्त इसलिए होता है कि उसके चारों ओर जो वातावरण है वह उसके अनुकूल नहीं है, उसकी जो सामाजिक परिस्थितियाँ हैं वे उसके समुचित विकास में बाधक हैं और वे उसको अव्यक्तित्व दिशा में प्रवृत्त करती हैं। जब हम इस दृष्टिकोण से देखते हैं तो हमें यह बिल्कुल सही लगता है कि यह बिल अपराधी और उपेक्षित बच्चों की समस्या को हल करने के जिस इरादे से चला है वह वास्तव में एक सराहनीय कदम है; क्योंकि हमारे वर्तमान समाज में ऐसी चीजों की कमी नहीं है जो कि हमारे देश में बच्चों के समुचित विकास में हर कदम पर बाधक होती है। हमारे देश के अन्दर बढ़ती हुई गरीबी, बेकारी और महंगाई तो इस बात की सब से मुख्य कारण हैं ही, लेकिन इनके अलावा एक और भी कारण हमारे देश में है जो कि बच्चों के उचित विकास में बाधक होता है और वह है शिक्षा का अभाव और विशेषकर स्त्री-शिक्षा का अभाव। बच्चे के ऊपर जो सब से ज्यादा असर होता है वह माता का असर होता है, घर का असर होता है। जैसा कि मंत्री महोदय ने अभी बतलाया कि निर्माण की दृष्टि से जो सब से महत्वपूर्ण समय बच्चे का है वह उसका बचपन होता है और बचपन का बनाना माता के हाथ है, लेकिन दुर्भाग्यपूर्ण बात यह है कि अपने देश की माताएं ज्यादातर अशिक्षित हैं। हमारे घरों का वातावरण बच्चों के विकास के लिए ज़रा भी अनुकूल नहीं है। हमारे यहां की मातायें बच्चों की देख रेख और उनका उचित लालन-पालन करने में असमर्थ रहती हैं और यही कारण है कि हमारे यहां

के बच्चों को, माता का जो डाइरेक्शन और गाइडेंस उनको मिलना चाहिये वह नहीं मिल पाता है। इसके अलावा यह भी है कि आज की जो सामाजिक व्यवस्था है वह एक प्रकार से बड़े ट्रांजिशनल पीरियड के अन्दर से गुज़र रही है। पहले हमारे यहां जो संयुक्त परिवार प्रणाली थी, ज्वाइंट फ़ेमिली सिस्टम था, उसके अन्दर बच्चों को हर दशा में सुरक्षा मिल जाती थी। मान लीजिये कि एक बच्चे की माता मर जाती है या रोगिणी हो जाती है तो वह उस वक्त बिल्कुल अरक्षित हो जाता है, लेकिन संयुक्त परिवार प्रथा में ऐसा नहीं था। नानी, चाची, ताई या किसी के भी हाथ में बच्चा आ जाता था और वह किसी भी दशा में, किसी भी अवस्था में अपने आप को अरक्षित नहीं पाता था। खाम तौर से अपने देश में इन १०, १२ सालों से जब से कि देश का विभाजन हुआ, उपेक्षित और डेलिक्वेंट बच्चों की समस्या और भी ज्यादा बढ़ी है—ऐसे बच्चों की संख्या में पर्याप्त वृद्धि हुई है; क्योंकि करोड़ों व्यक्तियों के घर बार उजड़े और लाखों बच्चों के माता-पिता या तो बिल्कुल अशक्त हो गये या हमेशा के लिये इस संसार से विदा ले कर उन्हें अनाथ छोड़ गये। इस प्रकार से हमारे देश में यह राजनैतिक और आकस्मिक दुर्घटना हुई, जिसके कारण उपेक्षित और डेलिक्वेंट बच्चों की संख्या और भी ज्यादा बढ़ी है। तो इस दृष्टि से यह बिल—जैसा कि मंत्री महोदय ने कहा है—अब से बहुत पहले आ जाना चाहिये था और यह ओवरड्यू है।

श्रीमन्, मैं जब इस बिल को देखती हूँ तो मुझे इसको देख कर बहुत खुशी होती है; क्योंकि जैसा कि अभी बताया गया है सन् १९५४ में जब इस इसी प्रकार का एक बिल लाया गया था तो वह बिल काफी दोषों और त्रुटियों से भरा हुआ था। मुझे जहां तक याद है, उसके अन्दर डेलिक्वेंट बच्चों को शामिल नहीं किया था और

[श्रीमती चन्द्रावती लखनपाल]

जब मुझे बोलने का अवसर दिया गया था तब मैंने इस बात पर खास जोर दिया था कि उपेक्षित और हैंडीकेण्ड बच्चों के साथ-साथ डेलिवेंट बच्चों को भी जरूर शामिल किया जाये; क्योंकि वही ऐसे बच्चे हैं जिनकी एक विशेष समस्या हमारे समाज के सामने होती है और जो कि विशेष रूप से समाज के लिए एक सिर-दर्द पैदा करते हैं। इसलिए यह बहुत ही ज्यादा संतोष की बात है कि इस आवश्यक चीज को इस बिल के अन्दर स्थान दिया गया है और एक महत्वपूर्ण स्थान दिया गया है।

इसके अलावा जब हम इस बिल के प्राविजंस को एक एक कर के देखते हैं तब सरसरी तौर पर देखने से तो यह बिल इतनी सुन्दर और इतनी उत्तम व्यवस्थाओं से भरपूर लगता है कि जैसे इसके अन्दर कोई कमी ही न हो।

श्रीमन्, अभी मंत्री महोदय ने कई बातों की ओर ध्यान आकर्षित किया है और बिल का जो उद्देश्य है उसके बारे में तो कोई बात किसी को कहने को रहती ही नहीं है और साथ ही साथ उस उद्देश्य को पूर्ण करने के लिये जो आयोजन किये गये हैं वे भी काफी दूरदर्शिता से भरे हुए, विचार-पूर्ण और सहानुभूतिपूर्ण हैं। सारा एप्रोच, सारा दृष्टिकोण जो कि बच्चों के प्रति और विशेष रूप से अपराधी बच्चों के प्रति लिया गया है वह अत्यंत मनोवैज्ञानिक, स्वास्थ्यप्रद और बहुत ही आधुनिक दृष्टिकोण है। श्रीमन्, मैं विशेष रूप से इन बातों का एक प्रकार से बहुत ज्यादा अभिनन्दन करती हूँ कि जैसा कि मंत्री महोदय ने अभी बताया कि किसी भी हालत में, चाहे बच्चे ने कोई भी किसी प्रकार का भी अपराध किया हो, उसको जेल नहीं भेजा जायेगा। इस सम्बन्ध में मुझे अपना एक पर्सनल, एक निजी, अनुभव है। जब हमें सन् १९३३-३४ में

लखनऊ जेल के अन्दर रहना पड़ा तो उस समय मैंने देखा कि सात-सात, आठ-आठ साल की लड़कियाँ, जिनसे कि खेल खेल में अपने भाई-बहन का मर्डर हो गया था, जिनसे कि खून हो गया था, उनको आजीवन कालेपानी की सजा दे दी गई थी। मुझे उन बच्चों को देख करके बड़ा आश्चर्य होता था कि उनकी सारी जिन्दगी जेल में ही कटने वाली थी। आठ-आठ नौ-नौ साल की बच्चियाँ वहाँ पर थीं। जब हम बात करते थे तो वे बतलाती थीं कि हमने अपने भाइयों की गर्दन के अन्दर रस्सी डाल कर उन्हें घोड़ा बनाया था और यह खेल खेला था और खेल में ही रस्सी को जोर से खींच लिया था और इस वजह से उन्हें काले पानी की सजा हो गई थी। जब यह दुर्घटनायें सामने आती थीं तो हृदय के अन्दर एक बड़ी अजीब वेदना पैदा होती थी। तो यह बिल इस समस्या को भी हल करता है। कोई भी बच्चा किसी भी अवस्था में चाहे वह कैसा भी घोरतम अपराधी क्यों न हो, हर प्रकार से जेल से बाहर रखा जायगा और उसके भविष्य की दृष्टि से ही उसका सारा कैरेक्टर बनाया जायगा। यह एक बहुत ही प्रशंसनीय सुधार इस बिल में किया गया है।

श्रीमन्, इसके अलावा यह बात भी बहुत सुन्दर है कि बच्चा चाहे कितना ही बुरा—कन्विकट क्यों न हो जाय, उसके ऊपर चाहे कोई भी लांछन क्यों न लग जाय, लेकिन उससे उसका भविष्य खराब नहीं होगा और उसके साथ कोई स्टिगमा या लांछन नहीं लगेगा। यह एप्रोच—यह दृष्टिकोण निश्चित रूप से बहुत ही सहानुभूतिपूर्ण है और बच्चों के निर्माण की दृष्टि से बहुत ही सही दृष्टिकोण है।

श्रीमन्, इसके साथ ही साथ इस बिल के अन्दर चिल्ड्रन्स कोर्ट की जो व्यवस्था की गई है वह भी अति उत्तम है और मंत्री

महोदय ने जो यह प्राविजन रखा है कि उसमें एक मैजिस्ट्रेट स्त्री होगी यह भी एक बहुत सराहनीय बात है। परन्तु इस सम्बन्ध में मैं मंत्री महोदय से यह प्रार्थना करना चाहती हूँ कि जब तक एक स्त्री ही प्रेसाइडिंग मैजिस्ट्रेट नहीं होगी तब तक वह अपना ज्यादा प्रभाव नहीं डाल सकेगी। इसलिये मैं यह चाहती हूँ कि बच्चों के कोर्ट में जो प्रेसाइडिंग मैजिस्ट्रेट हो वह स्त्री ही हो। यह ठीक है कि उसमें इस प्रकार की स्त्रियाँ ही ली जायेंगी जो कि विशेष रूप से मनो-विज्ञान में और खास तौर पर चाइल्ड साइकालोजी में प्रशिक्षित होंगी, शिक्षित होंगी, लेकिन प्रेसाइडिंग मैजिस्ट्रेट का स्त्री होना अत्यंत आवश्यक है।

हमें यह नहीं भूल जाना चाहिये और विशेष रूप से इस बिल के जो निर्माता है उन्हें यह बात याद रखनी चाहिये कि बच्चे तभी बिगड़ते हैं और वे तभी अव्यसित दिशा में जाते हैं जब कि उनके घर का जो वातावरण है उसमें कोई कमी आती है। जब कि उनके ऊपर जो होम इन्फ्लुएंस होता है वह दूषित होता है या उनके ऊपर बिल्कुल नहीं होता है या ऐसा होता है जो कि प्रतिकूल है—तभी बच्चे बिगड़ते हैं और होम इन्फ्लुएंस के अन्दर भी जब माता का जो एलिमेंट है, माता का जो प्रभाव है, वह ही घर में नहीं रहता है, तब ही बच्चे डेलिक्वेंसी की ओर, अपराध की ओर प्रवृत्त होते हैं। तो इस बिल के निर्माताओं का जो पहला कर्तव्य है वह यह है कि जो माता का प्रभाव है—जो मदर्स एलिमेंट है, जो होम एटमास्फियर है, उसे विभिन्न स्तरों पर देने की कृपा करें। उन्होंने जो बहुत से आयोजन बच्चों को प्रशिक्षण देने के लिये, बच्चों की शिक्षा के लिये, उनकी देख भाल के लिये, उनको रिहैबिलिटेड करने के लिये किये हैं और इस दिशा में जो स्टेप्स लिये हैं, जो कदम उठाये हैं, वे निश्चय ही सराहनीय कदम हैं; जैसेकि डेलिक्वेंट बच्चों के लिये स्पेशल स्कूल हैं,

नेगेक्टिव बच्चों के लिये चिल्ड्रेंस होम्स हैं, और आपटर केयर होम्स हैं, आपटर केयर ऑर्गेनाइजेशन हैं। ये सभी चीजें हैं, लेकिन इन सभी संस्थाओं के अन्दर यदि आप एक वास्तवपूर्ण वातावरण, जो कि एक स्त्री ही दे सकती है—जो कि एक माता के द्वारा ही दिया जा सकता है, न दे सके तो आपके ये सारे प्रयत्न एक प्रकार से बड़े अधूरे और निष्फल से हो जायेंगे। इसलिए मैं मंत्री महोदय से और साथ ही साथ जो सलेक्ट कमेटी के सदस्य हैं, उनसे भी यह प्रार्थना करूँगी कि जो भी आयोजन किये गये हैं उनको पूर्ण रूप से सफल बनाने के लिए यह आवश्यक है कि हम इन संस्थाओं के द्वारा बच्चों को मदर्स एलिमेंट या जो होम एटमास्फियर होता है वह देने की कोशिश करें तभी हम बच्चे के विकास को एक ठीक दिशा दे सकेंगे।

इसके साथ ही साथ एक बात मैं और भी यह कह देना चाहती हूँ कि जहां इस बिल को देख कर हमें बहुत ज्यादा खुशी हुई है और मैं यह कह सकती हूँ कि यह एक प्रकार से आदर्श बिल कहा जा सकता है, वहां हमें इससे बहुत निराशा सी हुई है कि यह बिल बहुत सीमित क्षेत्र के लिए लाया गया है। यह अभी सिर्फ दिल्ली पर लागू होगा और ज्यादा से ज्यादा अगर लागू होगा तो जो केन्द्र प्रशासित टेरिटरीज हैं—यूनिन टेरिटरीज—उनके लिए। श्रीमन्, यह बड़े ही खेद का विषय है कि मंत्री महोदय ने यह बात ठीक नहीं समझी कि इस प्रकार के सुन्दर बिल को वे सारे देश पर लागू करने के लिए लाते। यह तो आज बतलाने की बात नहीं है कि अपने देश में इस बिल की कितनी ज्यादा जरूरत है। यह कहा जा सकता है, और शायद मंत्री महोदय यह सोचते होंगे, कि हर एक स्टेट में बच्चों के लिए अलग-अलग बिल हैं—उत्तर प्रदेश में अलग है, मद्रास में अलग है, बम्बई में अलग है। लेकिन जो बिल प्रदेशों के अन्दर चालू है वे बिल्कुल ही अधूरे हैं और अधूरा होते हुए उनका जो

[श्रीमती चन्द्रावती गखतपात्र]

इंफ्लेमेटेशन है, उस पर जिस तरह अमल हो रहा है वह इतना दोषपूर्ण है कि मैं उसके बारे में कुछ कह नहीं सकती। श्रीमन्, उत्तर प्रदेश की बात मैं कह सकती हूँ कि वहाँ मुझे कभी अनुभव ही नहीं होता कि चिल्ड्रन बिल जैसी कोई चीज अपने प्रदेश के अन्दर है और जब मैंने काफी छानबीन की तब पता लगा कि वहाँ भी एक चिल्ड्रन बिल चल रहा है। अगर दस, बीस जिलों के लिए एक प्रॉवेशन आफिसर इस काम को करने के लिए रख दिया तो हम सोचते हैं कि हम ने चिल्ड्रन बिल को क्रियान्वित कर दिया। इसलिए श्रीमन्, यह एक गलत सी चीज है और इसी कारण इस प्रकार से जो बिल लाये जायें या तो कोई स्टेप ही न लिया जाय और अगर लिया जाय तो उसमें यह भी देखा जाय कि पूर्णतः अच्छी तरह से उस पर अमल हो रहा है और उसका प्रभाव पड़ रहा है और वह अपने उद्देश्य को पूरा कर रहा है। यह बात ठीक है कि बम्बई या मद्रास जैसे जो उन्नतिशील प्रदेश है उनके अन्दर चिल्ड्रन बिल पर अच्छी तरह अमल हो रहा है और बच्चों की अच्छी देखरेख हो रही है, लेकिन मंत्री महोदय ने अभी स्वीकार किया कि बम्बई तक का बिल भी बहुत ही अधूरा है, त्रुटिपूर्ण है। तो अब इतने तर्जुबों के बाद और इतने प्रयत्नों के बाद—भिन्न भिन्न प्रदेशों का तर्जुबा है, दूसरे देशों की एडवांस्ड नालेज है—उसके बाद यह मौजूदा आदर्श बिल लाया जा रहा है तो इसको तो सारे देश में लागू करना ही चाहिए था। अभी जैसा कि मुझ से पूर्व वक्ता महोदय ने बताया कि यदि आप इसको सारे देश पर लागू न भी कर सकें—क्योंकि शायद इसमें आर्थिक कठिनाई हो—तो कम से कम अपने देश में जो बड़े बड़े इंडस्ट्रियल सिटीज हैं, जहाँ पर यह समस्या उग्र रूप में विद्यमान है, वहाँ पर तथा बार्डर स्टेट्स में जहाँ पार्टीशन की वजह से यह समस्या काफी उग्र रूप धारण किये हुए है, इस बिल को लागू करना ही

चाहिए और बिना किसी विलम्ब के लागू कर देना चाहिए।

श्रीमन्, मैं और ज्यादा इस सम्बन्ध में क्या कहूँ, बहुत कुछ कह भी दिया गया है, जो कुछ भी त्रुटियाँ इसमें हैं वे शायद सलेक्ट कमेटी के जरिये संशोधित हो जायेंगी। मैं इतना ही कह सकती हूँ कि यह बिल बहुत सुन्दर है। बस इतना ही इसका दोष है कि यह केवल दिल्ली पर और केन्द्र प्रशासित टेरिटरीज पर लागू किया गया है। देश के जो दूसरे भाग हैं वे इससे वंचित रखे गये हैं। मैं निश्चय ही एक बार और मंत्री महोदय से बलपूर्वक यह अनुरोध कर देना चाहती हूँ कि इस बिल के इंफ्लेमेटेशन यानी लागू करने की जो बात है कम से कम उत्तर प्रदेश में कानपुर जैसी जगह पर और इसी प्रकार के जो दूसरे इंडस्ट्रियल सिटीज अन्य प्रदेशों में हैं वहाँ भी इस बिल का अमल हो जाना चाहिए, वहाँ भी इसको लागू कर देना चाहिए। इन शब्दों के साथ मैं इस बिल का हार्दिक अभिनन्दन करती हूँ।

RAJKUMARI AMRIT KAUR (Punjab): Mr. Deputy Chairman, I do not think anybody will have anything to say against this measure. As the Minister himself has said it is really long overdue. I wish, however, that the Government had been able to consult all the other States also in India and that we could have had a uniform measure. This has been said also by the speakers who have spoken before me. I was one of those who, in the early days, agitated for children Acts and we had a great deal to do with the Children Acts that came into existence then in the States of Bombay and Madras, and much good has been done by them. Doubtless, anything in regard to any of the clauses in the Bill will be looked into by the Joint Select Committee. The question I want to put to the Minister is that *pari passu* with the need for this Bill have he and his Ministry paid adequate attention to the need

for special people to administer this Bill? There are going to be administrators; there are going to be magistrates; there are going to be observation homes; there are going to be special schools. Who is going to run these schools? Who will be in charge of these observation homes? Who is going to really see to it that the child gets not only the love and affection that he needs to bring him back, if he is delinquent, to normal life, but also the psychological treatment that is more than anything else necessary?

Now, I have had the privilege of travelling in a great many lands and always I have looked with particular interests at children's homes. Now, the other day only, in New Zealand, I think, I was looking at a special home for children suffering from cerebral palsy and even there they told me that the greatest difficulty they had was to get the right type of women—generally it is women—to look after these children. In regard to delinquent homes also, there was always the same difficulty in all the countries which I have visited and where I saw homes for delinquent children. I have been witness to proceedings in courts and I saw how magistrates were trying children. Always everywhere the difficulty has been trained personnel. I wonder whether, when we pass this Bill and when we bring into being special schools, observation homes and special courts, we are quite sure that we have got specially trained personnel. We shall find that all that we want to do through this Bill, the excellent things that we want to do, the service that we want to give to these children who are in need, will not be possible without proper personnel, and I am a little doubtful as to whether we have taken advantage of the facilities that could be offered to us by special organisations or by the specialized agencies of the United Nations in giving scholarships to our women in particular to go abroad and get special training, so that when they come back, they will be able to work the observation homes properly, they will be able to bring

the correct atmosphere into the courts, that the administrator will not be just a man who says that there are a few children that need a home and says "Oh, well, we have a special home." A special home must be run by specially trained personnel. Observation homes must also have specially trained personnel, trained in psychology, trained very often in medicine, trained in the special needs of children, trained also to understand why the child has become a delinquent, trained to understand what is there in the environment of the home of the child that has made him become a delinquent, trained to look into the economic factors which also very often force the parents of the children to send them to these homes. All these things are necessary. Only the other day, the Minister may be interested to hear, I rescued a small child from being made to beg. Now, I went to the parents. I had to go to his parents' home and saw the terrible conditions under which they lived. Luckily I was able to persuade the father and mother that even if they had to beg, they must not let the child beg. And I think that it is workers of this kind filled not only with the urge, but also with special training, that will be needed if this Bill is to be made a success. So, I would like the Minister, when he is replying, to tell us whether this special personnel is ready to take over these things. If this becomes a model Act and everything that we do for the children in the Union Territories is worthy of being emulated by the States, then I hope the States themselves will even ask to have laws of this kind or have a uniform Act that will apply to the whole of India. But the success of this Bill depends on trained personnel.

DR. A. SUBBA RAO (Kerala): Sir, as pointed out by the previous speaker, I do not think there is anybody in this House who will object to this Bill. Everyone will agree that the future of our nation depends on the future of our children, on how they are brought up to be responsible citizens. But then,

[Dr. A. Subba Rao.]

Sir, as pointed out in the Statement of Objects and Reasons, the children are delinquent or neglected, as the case may be, not due to choice but due to circumstances. There are similar Children Acts in force in all the major States. They have been in force for the past many years. It would have been better if we had an idea of how these Acts had helped in minimizing delinquency in children as well as in tackling this problem of neglected children.

One of the main objects of this Bill, which perhaps other State legislations do not contain in my opinion, is that this Bill proposes to deal with neglected children, that is, to check and minimize the incidence of begging especially by children and utilizing these children by the anti-social elements for this profession. I can say that it has now become practically a profession, this profession of begging. Now, Sir, there are other laws also in other States. I think it is the Criminal Procedure Code by which you can take action on those people who utilize these children for begging or stop begging itself. But I wish to ask: Have the States been able to take proper measures against this anti-social evil? I think, Sir, we will have to tackle this problem at the root. I am not minimizing the importance of this Bill in any way, but the main reasons for the continuance of this anti-social evil, especially this begging, are perhaps the antiquated social customs, the economic disparity and the economic poverty of the huge masses of our people.

Sir, we know that some of our customs actually encourage begging not only by adults but also using these children for this profession of begging. For example, if some person who takes up this profession dons some khadi cloth and then proclaims himself as a big *Sadhu*—I am not attacking the entire group of *Sadhus*, but this has been misused—if some *Sadhus* don some khadi cloth and utilize these

children for the purpose of begging, then I think that according to our social custom, it is not deprecated. On the other hand, it is being encouraged in certain temples, very big temples. They practically encourage this sort of begging by having a regular custom of giving alms once or twice a day in a week, so much so that there is a group of these beggars including many children who are utilized for that purpose eking out their living by going from one place to the other. So, how are you going to stop this? By doing this such institutions practically encourage this type of begging. It might be called philanthropic, but it is degrading the character of those particular children. When it is felt that these institutions are doing a noble work, then naturally you cannot weed out this anti-social, evil habit. You cannot remove that idea from the small child. In this legislation, of course, it is said in clause 40 that whoever employs or uses any child for the purposes of begging or causes any child to beg shall be punishable. Only those people who utilize these children are punishable. But those people or institutions which encourage this type of begging, whether any action can be taken against them, I would like to know.

Then, Sir, unless we remove disparities in income, unless we prove it to the ordinary people that there is no necessity for going to this profession of begging, I do not think we will be able to tackle this problem. I only point this out, as I have already said, not to minimize the importance of this legislation but to show the gravity of the entire situation.

Again, there is a difficulty in enforcing this type of legislation. For example, if I am not wrong, there is a legislation already which prohibits begging in the railway premises, and action can be taken against them. But any passenger coming from Madras to Delhi can find in all these places children, especially small children . . .

AN. HON. MEMBER: All over the country.

DR. A. SUBBA RAO: All over the country, of course. But what I say is that when we come from Madras to Delhi, we find so many children risking even their lives and catching hold of the bus or the train and asking for a few chips and other things, even the remnants of what we eat. To what degradation we have brought these children who ask for the remnants of the food that we have taken? To that extent the whole society allows them to do it, and even we do not have any compunction in handing over those things to them. I am pointing this out just to show the magnitude of our problem.

Now, Sir, as the previous speakers have shown, I think this Bill is an improvement over all the other Acts that are existing in other States. Otherwise we could have replaced this old Act of 1924 with the Bombay Children Act of 1948. As the Minister himself has pointed out, he has taken extracts from the different Children Acts of the different States and has made this Bill a comprehensive one. As the previous speaker, Mr Dave, and other speakers have observed, I think it would have been better if this had been a model legislation with jurisdiction for entire India instead of only for the Union territories. And there also the way in which this legislation is going to be brought into force looks to be very very gradual, as it itself claims that the enforcement of this legislation in other Union territories is expected to be gradual. So, I do not think that it is advisable to bring this into force gradually in the Union territories at least. You can bring it into force in those territories immediately it is passed. What prevents this legislation from being brought into force in all the Union territories, I do not know. Perhaps the objection might be that we have not got at present a sufficient number of children homes and special schools which

this legislation requires. But then we should take the necessary steps now, and at least this should be made applicable immediately to all the Union Territories and it should also be suggested to the respective States that this model legislation might be taken as a guidance for them to renovate their existing legislations.

MR. DEPUTY CHAIRMAN: Will you take more time?

DR. A. SUBBA RAO: I will take five minutes more.

MR. DEPUTY CHAIRMAN: Then you can continue after lunch.

The House stands adjourned till 2 30 P.M.

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

The House reassembled after lunch at half past two of the clock, THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN) in the Chair.

DR. A. SUBBA RAO: Sir, I want to refer to the constitution of the children's courts. My complaint is that due importance has not been given to women even though there is one clause wherein they have been included as magistrates. Under clause 4(2), when a children's court comprises a Bench consisting of two or more magistrates, one of them shall, as far as practicable, be a woman. So the discretion is entirely given to the Administrator to have or not to have a woman magistrate. Sir, in my opinion, in these cases women are more competent to deal with the problem. They, as mothers, can understand the psychology of the children better and can deal with children sympathetically, which is of the utmost importance during the trial of these children. Or, I would suggest that the children's court should be constituted only by

[Dr. Subba Rao.]

woman magistrates or, if it is not practicable at all, at least a lady presiding magistrate should be appointed, as was suggested by Shrimati Lakhanpal. In case sub-clause (5) of this clause comes in the way of appointing women as presiding magistrates, that has to be modified

Again, in the case of appointment of the problem officers, I would suggest that the choice—here that has not been stipulated—as far as practicable, should be in favour of women.

Sir, the probation officers are assigned the duty of inspecting the special children's schools, children's homes etc. They are expected to inspect these institutions from time to time and give their suggestions and draw the attention of the Administrator to the defects and thereby make the administration take the necessary action to remedy them, even to the extent of withdrawing the certificates of those institutions. These probation officers, being appointed by the Government, are only Government servants and when they go and inspect Government institutions, I do not think that they will dare report against a particular officer of a particular Government institution or to bring to the notice of the Administrator the defects of that institution. So, I would prefer appointment of an Advisory Committee for each region, consisting of eminent women social workers who have special knowledge of child delinquency and child welfare. This is very important because, we know that in similar institutions run by the Government, the Government officer does not take a sympathetic attitude towards the children there and thinks that it is a regular routine to be followed; instead of having a sympathetic understanding towards the children and thereby reforming them, he makes them more hardened and ultimately they become criminals. There are a few instances of this. So, in order to boldly bring the defects of these institutions to the notice of

the Administrator, it is of the utmost importance that these Advisory Committees should be constituted and they will go and inspect the different institutions and make recommendations on which the Administrator should take necessary action to improve the institution and also to withdraw the certificate issued to it.

Sir, I have nothing more to add except to say that while I support this Bill whole-heartedly, I would request the Select Committee to go into this question in the light of the discussion here and make this legislation a perfect one. I would also request the Government to bring this legislation effectively into force as early as possible and thereby safeguard the future of our children and thus of our nation.

श्रीमती सावित्री निगम (उत्तर प्रदेश) :

उपसभाध्यक्ष महोदय, इस चिल्ड्रन बिल का मैं भी हार्दिक अभिनन्दन और स्वागत करने के लिए यहां उपस्थित हुई हूं। मैं ही क्यों, देश की अमंख्य माताएं, जिनके कि बच्चे जीवन का आधार होते हैं, और साथ ही साथ वे बिचारशील नागरिक जो यह बात मानते और समझते हैं कि देश की भावी सम्पत्ति और देश का भावी विकास और सुरक्षा हमारे उन नन्हें नागरिकों पर निर्भर है, जिनको कि आज हम बच्चे, बालक तथा शिशु मानते हैं, वे भी मेरे ही साथ इस अभिनन्दन में मेरा पूरा पूरा साथ देंगे—ऐसा मुझे विश्वास है।

इसमें मन्देह नहीं कि यह बहुत ही दुर्भाग्य की बात है और खेद का विषय है कि आज १२ वर्ष के पश्चात् हमारी राष्ट्रीय सरकार ने इस विधेयक को लाने की आवश्यकता समझी। साथ ही साथ मैं शिक्षा मंत्री महोदय से यह भी प्रार्थना करूंगी कि जिन कारणों से पिछली बार यह विधेयक राज्य सभा में आने के पश्चात् भी पारित नहीं हो सका, उनके प्रति वे जागरूक रहें और सतर्क रहें। ऐसा न हो कि फिर कोई ऐसी त्कावट आन पड़े जिसके कारण यह विधेयक, जिसको

बहुत पहले स्वतंत्रता के मिलने के पश्चात् ही तुरन्त लाया जाना चाहिए था, उसे आज वे ला पा रहे हैं। मेरा विश्वास है कि इस बार कोई अटकाव नहीं लगेगा और यह विधेयक अवश्य ही पारित होगा।

इस विधेयक का मुख्य उद्देश्य है बच्चों को शोषण से बचाना और साथ ही साथ वे बच्चे जो कि किसी प्रकार अपराधी प्रवृत्तियों में फँस गये हैं, उनकी रक्षा करना। अच्छा हो कि हम लोग उन कारणों पर विचार करें और विशेष रूप से हमारे शिक्षा मंत्री महोदय, जिनका काम देश का नैतिक, बौद्धिक और मानसिक विकास करना है—केवल शिक्षा संस्थाओं को सुरक्षा देकर शिक्षा का प्रसार करना ही नहीं है—वे भी उन कारणों पर विचार करें और उन कारणों को दूर करने का शीघ्र से शीघ्र बन्दोबस्त करें और आवश्यक साधन जुटाएँ, जिनके द्वारा हमारे बच्चे इन अपराधी प्रवृत्तियों में पाये जाते हैं। श्रीमन्, यह कौन नहीं जानता कि आज दिनों-दिन बच्चों की अपराधी प्रवृत्ति में—चाइल्ड डेलिक्वेंसी में—बराबर बढ़ती ही रही है। एक ओर तो तमाम वैज्ञानिक अनुसन्धानों के जरिये से सब शारीरिक बीमारियों और रोगों के उपचार और रोकथाम की पूरी पूरी व्यवस्था है दूसरी ओर चाइल्ड डेलिक्वेंसी बराबर बढ़ती जाती है। यह बहुत ही गम्भीरतापूर्वक सोचने का विषय है। यह कौन नहीं जानता कि चाइल्ड डेलिक्वेंसी का सब से बड़ा कारण आजकल के हॉरर कॉमिक्स है जो कि इस विषय में विधेयक आने के पश्चात् भी खुले आम बिकते हैं। इसके अलावा वे फिल्में हैं जो कि एक प्रकार से गुनाहों की शिक्षा देती हैं। यदि हमारे शिक्षा मंत्री महोदय ऐसी फिल्मों पर और ऐसे हॉरर कॉमिक्स की बिक्री पर रोक लगाने के लिए एक प्रकार से जोर देने का प्रयत्न करें और कन्सर्न्ड मिनिस्ट्रीज के साथ ऐसा को-ऑर्डिनेशन उत्पन्न करें कि शिक्षा मंत्रालय, होम मिनिस्ट्री तथा ब्राड-कास्टिंग मिनिस्ट्री के सहयोग से इस चीज को

रोका जा सके तो मैं कहूँगी कि यह समस्या बहुत कुछ हल हो जायगी क्योंकि हम सभी जानते हैं कि Prevention is much better than cure.

इस विधेयक के द्वारा जो चिल्ड्रन होम्स और आब्जर्वेशन होम्स आदि की व्यवस्था की गई है उसके सम्बन्ध में मैं इतना कहना चाहती हूँ, जैसा कि राजकुमारी अमृत कौर ने इंगित किया—इशारा किया—कि क्या हमने पर्सनल को ट्रेन करने की व्यवस्था की है सचमुच में यह एक बहुत ही विचारणीय बात है। आप ही बतलाइये, यदि चिल्ड्रन होम्स और आब्जर्वेशन होम्स को बना कर उन में अधिकचरे, अनुभवहीन व्यक्ति ला कर बिठा दिये तो बजाय इसके कि बच्चों को मदद मिले वे उनके शोषण के दूसरे केन्द्र बन जायेंगे। देश में अनेकों चिल्ड्रन होम्स आज भी मौजूद हैं। उन सबको खोलने वालों के उद्देश्य बहुत अच्छे रहे हैं, उनका एक महान् उद्देश्य था, उन्होंने बच्चों की रक्षा के लिए उन होम्स का सृजन किया था, लेकिन जब वे होम्स एक के बाद दूसरे मालिकान के हाथ में आये—मैनेजर्स के हाथ में आये—तो हुआ यह कि आज जो उनकी वास्तविक स्थिति है उसको देख कर हम लोगों के रोंगटे खड़े हो जाते हैं। कौन नहीं जानता कि वही होम्स, जो कि बच्चों की रक्षा के लिए बनाये गये थे, आज बच्चों के शोषण के सबसे बड़े अड्डे बन गये हैं। यदि कोई चीज बाहर होती है तो पुलिस उसके ऊपर निगरानी रखती है और जनमत भी उसके ऊपर विद्रोह करने को तैयार रहता है, लेकिन जब चिल्ड्रन होम्स के नाम पर बच्चों का शोषण होता है तो फिर उसको पूरी तरह से खुली छूट मिली रहती है। इसलिए मैं माननीय शिक्षा मंत्री महोदय का ध्यान इस ओर दिलाऊँगी कि वह इस विधेयक के द्वारा कोई ऐसा लूपहोल नहीं छोड़ें कि इन चिल्ड्रन होम्स का प्रबन्ध, जिनका कि हम देश की महान् सम्पत्ति अपने बच्चों की रक्षा के लिए सृजन करने जा रहे हैं, कहीं ऐसा

[श्रीमती सावित्री निगम]

न हो कि रक्षकों के हाथ में न दे कर तक्षकों के हाथ में सौंपने लगे और वहां उनकी रक्षा के बजाय उनका शोषण होने लगे ।

इस सम्बन्ध में दो तीन बातें बहुत ही ध्यान देने योग्य हैं और दूसरे वक्ताओं ने भी इस ओर ध्यान दिलाया है । पहली चीज यह है कि इन होम्स के जो सुपरवाइजर और जो मैनेजर हैं वे अधिकांशतः स्त्रियां ही हों तो बहुत उचित रहेगा । श्रीमन्, यह कौन नहीं जानता कि स्त्री का जो सब से महान् और सब से प्रभावशाली रूप है वह माता का रूप है और यदि संसार में एक शिशु को—एक बच्चे को—कोई संरक्षण दिला सकता है और सबसे अधिक सहानुभूतिपूर्ण, संवेदनशील संरक्षण कोई दे सकता है तो वह एकमात्र जननी है, मा है । इसलिए यह आवश्यक है कि इसमें रूल्स मेकिंग कमेटी को इतना लैटिट्यूड नहीं दे दें कि वह जिस तरह का रूलस चाहे बनाये । अच्छा हो कि इसमें एक अग्मेंडमेंट ला कर के इस बात को बिल्कुल साफ कर दिया जाय कि ऐसे होम्स का ओवर-आल सुपरविजन स्त्रियों के ही हाथ में रहेगा । अगर यह कर सकें तो हम लोग इन बच्चों के लिए सुरक्षा का एक सबसे बड़ा उपाय ढूँढ सकेंगे ।

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN): You want to exclude men altogether.

श्रीमती सावित्री निगम : ओवरआल सुपरविजन से मेरा मतलब है ओवरआल सुपरविजन उनका हो ।

श्रीमन्, चिल्ड्रन बिल के सम्बन्ध में एक बात और कहना चाहती हूँ । आज हमारे रिसोर्सेज इतने लिमिटेड हैं—हमारे साधन इतने सीमित हैं—फिर भी हमें मिनिस्टीरियल लेवल पर भी कोआर्डिनेशन की इतनी कमी दिखाई देती है । आज यह विधेयक, चिल्ड्रन बिल, हमारे सामने है । अभी थोड़े ही दिन

पूर्व हमारी बहन मिमेज अलवा ने, जो कि गृह-कार्य उपमंत्राणी है, बच्चों की भिक्षा-वृत्ति को रोकने के लिए एक विधेयक यहाँ उपस्थित किया था । अच्छा होता कि ये दोनों ही विधेयक एक साथ ही को आर्डिनेटेड रूप में यहाँ लाये जाते । श्रीमन्, कोआर्डिनेशन की कमी के कारण हम लोगों को कितनी असुविधा उठानी पड़ती है और जब सेंटर में ही, मिनिस्टीरियल लेवल पर ही कोआर्डिनेशन ठीक ढंग से नहीं हो सके तो लिमिटेड रिसोर्सेज के होने हुए हम और आप, असुविधाओं का भ्रंदाजा भली प्रकार से लगा सकते हैं । एक और बात बहन ने भी इस प्रकार बताया था । आप प्रोबेशन आफिसर्स को ही ले लीजिये । उनका काम कितना जिम्मेदारीपूर्ण है और उनको कितनी ट्रेनिंग की, कितने अनुभव की और सहानुभूति की आवश्यकता है लेकिन मेरी समझ में अभी तक प्रोबेशन आफिसर्स को ट्रेन करने के लिए कोई व्यवस्था नहीं हुई है । मुझे शक है, मुझे इसमें अदेश है कि यदि शिक्षा मंत्रालय कोई बहुत अभूतपूर्व प्रगति इस मामले में न दिखा सका और कोई अभूतपूर्व सतर्कता न दिखा सका तो यह विधेयक स्टैट्यूट बुक पर आ जायगा और तब भी न तो इतने ट्रेड प्रोबेशन आफिसर्स तैयार होंगे और न इतने होम्स के लिए ट्रेड सुपरवाइजर्स और मैनेजर्स ही होंगे और उसका नतीजा यह होगा कि इस विधेयक के पास होने के पश्चात् भी इस विधेयक में जो सारी व्यवस्थाएँ की जाने वाली हैं, वे पूरी नहीं हो सकेंगी और इस विधेयक को लाने का जो परपत्र है वह पूरा नहीं हो सकेगा । यहाँ सौभाग्य से गृह मंत्री महोदय उपस्थित है । मैं उनसे अनुरोध करूँगी कि अच्छा होगा कि वह तत्क्षण, जितनी जल्दी से जल्दी हो सके, इस प्रकार के पर्सनल की ट्रेनिंग की व्यवस्था कर दें । इस विधेयक के पास होने का इंतजार न हो और तुरन्त, तत्क्षण, इस काम को शुरू कर दें ताकि जब तक यह विधेयक स्टैट्यूट बुक पर आये तब तक इतने ट्रेड प्रोबेशन आफिसर्स आदि तैयार रहें कि काम चला सके ।

हमारी बात यह है कि क्लॉज़ ५८ में एडमिनिस्ट्रेटर्स को बहुत ज्यादा लैटिट्यूड दिया गया है, उनको बहुत ज्यादा रूल मेकिंग पावर्स दी गई है। इसमें भी बड़ी गड़बड़ी पैदा होने वाली है क्योंकि हर स्टेट को पूरी फ्रीडम रहेगी कि वे जिस प्रकार का रूलस चाहें बनायें। उसका नतीजा यह होगा कि यदि कोई बच्चा जो कि यू० पी० का है वह मध्य प्रदेश में पाया जाता है, वह मध्य प्रदेश में एक गैंग के पास से पकड़ा जाता है, तो ऐसी हालत में मध्य प्रदेश के जो रूलस बनेंगे वे दूसरे होंगे और जो रूलस यू० पी० के होंगे वे दूसरे होंगे . . .

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN): But this measure is for the Union territories only.

श्रीमती सावित्री निगम : उपसभाध्यक्ष महोदय, हमारे शिक्षा मंत्री महोदय ने अपने वक्तव्य में कहा था कि अभी तो यह कानून थोड़े दिन के लिए सिर्फ यूनियन टेरिटरीज में लगाया जायगा लेकिन उसके पश्चात् अन्य प्रान्तों में भी इसको बढ़ाया जायगा। कुछ वक्ताओं ने यह सुझाव दिया है कि इसको पूरे हिन्दुस्तान में लागू किया जाय लेकिन मैं तो यह सोचती हूँ कि इसमें जरा बुद्धिमानी और सतर्कता बरती गई है और इतने एम्बिस हम लोग नहीं बने हैं कि पूरे हिन्दुस्तान में इसको लगायें और हम लोग इसको मैनेज ही नहीं कर सकें। अच्छा है कि one step at a time ले कर के हम लोग चल रहे हैं। पहले यूनियन टेरिटरीज में ही इस कानून को अच्छी तरह से चला लें तो फिर इसको आगे बढ़ाने में, इसको एक्स-टेंड करने में कोई देर नहीं लगेगी। इसके लिए एक बिल अमेन्डमेंट के रूप में लाया जा सकेगा। तो मैं एक मिसाल पेश कर रही हूँ। आप यों ही ले लीजिये कि दिल्ली में कुछ रूलस बने और मनीपुर त्रिपुरा में कुछ रूलस बने और हिमाचल प्रदेश में कुछ दूसरे रूलस बने, तो फिर

ऐसी स्थिति में क्या हो सकता है। इसलिये इस सम्बन्ध में जो गाइडिंग फैक्टर्स हैं, जो मोटी मोटी बातें हैं, इस बिल में उनको डिफाइन कर दिया जाना चाहिये कि उनके आधार पर ये रूलस बनाये जायें, तो इस तरह से को-ऑर्डिनेशन के काम में बड़ी सुविधा होगी और इससे बच्चों के भाग्य का निर्णय करने में बड़ी आसानी हो जायगी।

श्रीमन्, इस के अतिरिक्त मैं यह भी कहना चाहती हूँ कि अभी मैंने थोड़ी देर पहले इस बात का जिक्र किया था कि वे बातें, जो कि बच्चों को डेलिक्वेंट बनाती हैं, उन पर हम लोगों को बहुत जबरदस्त तरीके से रोक लगानी चाहिये और उनको रोकने के लिये जबरदस्त कदम उठाने चाहियें और इस सम्बन्ध में मैं कम्पलसरी एजुकेशन की बात यहां कहना चाहती हूँ। आम तौर पर जो अवारा बच्चे होते हैं वे ही डेलिक्वेंट बच्चे होते हैं। यदि आप पारिवारिक इतिहास की ओर दृष्टि डालें तो आपको यह जानने में देर नहीं लगेगी कि ये डेलिक्वेंट बच्चे वही होते हैं जिनको कि कभी स्कूल जाने का सौभाग्य नहीं मिला। इसलिये कम से कम यदि कम्पलसरी प्राइमरी एजुकेशन देश में तेजी से बढ़ाई जायगी तो मेरा विश्वास है कि इसका चाइल्ड डेलिक्वेंसी पर बहुत बड़ा असर पड़ेगा। श्रीमन्, चेप्टर ३ के क्लॉज़ २ में ऐसे शोषण करने वाले व्यक्ति के खिलाफ मुकदमा चलाने का अधिकार एक ही व्यक्ति को सौंपा गया है वह भी खतरे से खाली नहीं है। पहले तो हमें समझ लेना चाहिये कि जो बेचारे बच्चे आवारा बनते हैं उनका कोई पुरसांहाल, कोई संरक्षक नहीं होता। अगर उनके संरक्षक होते भी हैं तो वे इतने सामर्थ्यहीन होते हैं कि वे उन बच्चों की शिक्षा-दीक्षा की व्यवस्था ही नहीं कर सकते। फिर आप ही बताइये कि ऐसे शोषणकर्त्ताओं के चंगुल से अपने बच्चों को छड़ाने की सामर्थ्य वे कैसे रख सकेंगे। जब ऐसे पिता में या अभिभावक में इतनी सामर्थ्य ही नहीं कि जो आदमी उसके बच्चे का शोषण करता है

[श्रीमती सावित्री निगम]

और अपने गिरोह में ले लेता है और उससे नाजायज किस्म के काम कराता है, उसके चंगुल से छड़ा सके तब फिर कैसे आशा की जा सकती है और कौन सा समाज सेवक आज हमारे समाज में है जो इतने ज्यादा कष्ट और कठिनाइयाँ उठा कर उस बच्चे को छोड़ने के लिये जायगा और उस आदमी को प्रोसीक्यूट करवाना चाहेगा जिसने बच्चे पर नाजायज तौर से कब्जा कर रखा है। अगर वह करेगा भी तो उसके पास कौन अधिकार होगा कि उस आदमी पर मुकदमा चलावे। श्रीमन्, जो व्यक्ति बच्चों का शोषण करते हैं, जो बच्चों से नाजायज किस्म का काम कराते हैं, शराब, गांजा आदि का व्यापार कराते हैं या भिक्षा-वृत्ति कराते हैं वे इतने सम्पन्न होते हैं कि बड़े से बड़े आदमी को रिश्वत दे कर या चालबाजियों से खरीद लेते हैं। फिर आप बतायें कि कोई पुलिस का अफसर भी भला जो ऐसे शोषणकर्त्ता होते हैं, जो बच्चों को एक्सप्लाइट करने वाले होते हैं, उनके करण्ट इन्फ्लुएंस से बच सकेगा। इसलिये एक व्यक्ति के हाथ में ऐसी शक्ति देना कि उसकी मर्जी के बिना बच्चे को प्रोसीक्यूट किया ही न जा सके यह बहुत ही खतरनाक बात है। इसलिये यह संशोधन जरूर होना चाहिये कि कोर्ट को भी पूरी पावर्स दी जानी चाहियें कि वह उस बच्चे को एक्सप्लाइट करने वाले व्यक्ति के खिलाफ कोई भी कार्यवाही कर सके। यह न हो कि एक ही व्यक्ति के हाथ में पूरी यह ताकत दे दी जाय कि वह चाहे तो बच्चे के शोषणकर्त्ता के खिलाफ मुकदमा चलवाये या न चलवाये। इसी तरह हम बच्चों के हित में एक बड़ा प्रभावशाली कदम उठा सकेंगे, अगर यह पूरी ताकत कोर्ट को दी जाय और साथ ही किसी भी व्यक्ति को दी जाय। ऐसा न हो कि सिर्फ एक ही व्यक्ति की मर्जी हो। सिर्फ एक व्यक्ति की मर्जी न हो, एडमिनिस्ट्रेटर की मर्जी न हो या पुलिस अफसर, जिसको एडमिनिस्ट्रेटर एथा-राइज करे, उसकी मर्जी न हो कि बच्चों के

शोषणकर्त्ता के खिलाफ कोई मुकदमा ही न चलाया जाय।

श्रीमन्, चेप्टर ६ में जहां कि यह डिफाइन किया गया है : Special offences in respect of Children उसको देखते हुए भी ऐसा प्रतीत होता है कि इस बिल के ड्राफ्ट करने वालों को न तो समाज की स्थिति का बहुत कुछ ज्ञान है और न शायद उसमें पड़े सामाजिक कार्यकर्त्ताओं से ही कुछ उनका परिचय है या जानकारी है और न उन्हें अपराधियों की साइकोलॉजी का ही कुछ पता है। यदि हम, श्रीमन्, सबसे पहले ही ऑफेंस, जोकि सब से बड़ा और सबसे खतरनाक ऑफेंस है बच्चों के साथ, क्रुअल्टी, एसॉल्ट, किडनेपिंग, वगैरा वगैरा उसको देखें तो उसमें कहा गया है कि सिर्फ सिक्स मंथ्स की सजा और साथ ही साथ फाइन है, या दोनों हैं। जरा आप गौर फरमाएं कि जो लोग बच्चों से तरह तरह के नाजायज व्यापार करवायें—गांजा, चरस, भांग इत्यादि के—उनके लिये यह सजा कहां तक उचित है। भिक्षा-वृत्ति और जेबकटी करने वालों के जो गिरोह होते हैं उनमें एक मालिक होता है और उसके नीचे चालीस-पचास बच्चे काम करते हैं और वह हजारों रुपया रोज कमाता है। तो एक बार अगर कोई गुनाह में फंस कर छः महीने की सजा काट कर आ जायगा तो क्या नुकसान होता है, फिर वापस आकर वही व्यापार शुरू कर देगा। जिस अपराध के लिये डिटेरेंट पनिशमेंट की जरूरत है उसके लिये छः महीने का पनिशमेंट जो रखा गया है वह कोई सुन्दर बात नहीं है।

श्री अमोलख चंद (उत्तर प्रदेश) : ऐसा कोई गिरोह आपके ध्यान में है ?

श्रीमती सावित्री निगम : आपको मालूम होता रहता होगा अगर आप अखबार पढ़ते होंगे।

श्रीमन्, इसके बाद Employment of children for begging पर गौर कीजिए । इसमें कहा गया है : 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:

आप यह देखिये कि जितने अनाथाश्रम वगैरा हैं उनमें बराबर यह होता है कि चन्दा मांगने के लिये बच्चे गिरोह के गिरोह में जाते हैं और दिन भर में आटा वगैरा जो कुछ उन्हें मिल जाता है उससे उन बेचारे बच्चों का पालन पोषण होता है । बहुत मुमकिन है कि इस क्लाइज के अन्दर इस प्रकार के लोग भी आ जायें और उनके ऊपर भी मुकदमा चलाया जा सकता है । लेकिन इस संबंध में मैं यह कहना चाहती हूं कि बेगिंग के विषय में एक बिल गृह मंत्राणी जी लायी हैं और उस बिल पर डिस्कशन के दमियान में यह भी बात कही गयी कि बच्चों से भिक्षा-वृत्ति करवाने के लिये कभी कभी उनके हाथ पैर तोड़ दिये जाते हैं अथवा उनका अंग भंग भी कर दिया जाता है और इस तरह से बिल्कुल अमानवीय तरीके अपनाये जाते हैं, ताकि बच्चों से भीख आसानी से मंगवाई जा सके और उसके लिये जो पनिसमेंट यहां रखा गया है वह मैं समझती हूं नाकाफी ही नहीं है बल्कि साथ ही साथ यह जो पूरा क्लाइज है उसमें जब तक यह बात साफ न की जाय तब तक कुछ लोगों का जो बेचारे इन्ट्रोसेंट होंगे उनका एक्सप्लाइडेशन होने का या उनको जबरदस्ती मुकदमे में फंसाये जाने का भय है और इस प्रकार उनको और जो लोग असली अपराधी होंगे उनको एक ही तरह का दंड मिलने का डर है ।

इसी प्रकार, श्रीमन्, एक सबसे विचित्र बात मुझे क्लाइज ४१ में यह मिली : Whoever gives, or causes to be given to any child any intoxicating liquor or dangerous drug in any public place, except upon the order of a duly qualified medical practitioner or in case of sickness or other urgent cause, shall be punishable with fine which may extend to two hundred rupees.

सबसे पहली बात यह है : 'Drug in any public place' यानी पब्लिक प्लेस में आप न पिलाइये मगर आप प्राइवेटली उसको शराब पिलाइये, जहर पिलाइये, गाजा पिलाइये, अफीम खिलाइये तो कोई ऑफेंस नहीं है । कितनी विचित्र बात है ? किसी बच्चे को, जिसका शरीर कोमल, दिमाग कोमल, हृदय कोमल, उस बच्चे को यदि प्राइवेट प्लेस में कहीं भी इस तरह का दूषित पदार्थ—जहरीला पदार्थ—पिलाया जाय तो वह ऑफेंस नहीं होगा । लेकिन अगर पब्लिक प्लेस में पिलाया गया तो ऑफेंस होगा । इसलिए शिक्षा मंत्री महोदय इन "पब्लिक प्लेस" को हटा दें और उसके स्थान पर "इन एनी प्लेस" कर दें तो बहुत उचित होगा ।

इसके साथ ही, श्रीमन्, इसमें जो सजा रखी गयी है वह रखी गयी है : punishable with fine which may extend to two hundred rupees. अब आप सोच लीजिए कि जो लोग इन बच्चों को पहले नशीली वस्तुओं का प्रयोग कराते हैं, एडमिनिस्टर कराते हैं और जितने पनिशेबल ऑफेंसज वाले व्यापार हैं वह इन अबोध बच्चों द्वारा चलवाते हैं ऐसे अमानवीय व अमानुषिक व्यापार करने वालों को दो सौ रुपये का फाइन करना जोकि उनकी एक दिन की आमदनी होती है, कहां तक यह उचित है ? इसके मानी यह है कि वह एक दो दिन

[श्रीमती सावित्री निगम]

की आमदनी देकर बड़े आनन्द के साथ छूट जायेगा और इस प्रकार से बच्चे इन शोषकों के चंगुल में बराबर फंसे रहेंगे।

इसी तरह से क्लाज ४२ में एक्सप्लाइडेशन आफ चाइल्ड एम्प्लायीज यानी छोटे छोटे बच्चे जो नौकरी करने वाले हैं उनके एक्सप्लाइडेशन के संबंध में है और उसके लिये यह सजा रखी गयी है :
shall be punishable with fine which may extend to one thousand rupees.

श्रीमन्, यह जो मामला है बच्चे-नौकरों—चाइल्ड एम्प्लायीज—के शोषण का इसमें अक्सर ऐसा होता है कि जो छोटे एम्प्लायीज के पेरेंट्स वगैरा होते हैं वे अगर शैतानी पर आमादा हो जाते हैं तो मालिकों को भी हर तरह से परेशान कर डालते हैं, जैसा कि अभी हुआ। हम लोगों के पड़ोस में ही पार्लियामेंट के एक मेम्बर हैं जिनके घर में एक छोटा पहाड़ी बच्चा नौकर था जिसको उन्होंने पूरी तनखाह देकर विदा कर दिया लेकिन उस लड़के ने वह तनखाह जुए में हार दी। उसके बाद उस लड़के के घर वाले उनके घर आ गए, बड़े जोर का शोर-शराबा किया। नतीजा यह हुआ कि वे लोग मूनियन के मेम्बर्स वगैरा को भी ले आये और उनके घर में बाकायदा हमला बोल दिया और पुलिस बुलानी पड़ी। उनको बड़ी मुश्किल और काफी परेशानी उठानी पड़ी हालांकि बाद में उस बच्चे के घरवालों को थोड़ी-बहुत सजा भी मिली। लेकिन मैं यह उदाहरण देकर यह नहीं कहती कि बच्चे नौकरों का शोषण नहीं हुआ करता, उनका बहुत शोषण होता है और उसे रोकने के लिये ही उसको पनिशेबल ऑफेंस बनाना चाहिये। लेकिन यह जरूरी नहीं था कि एक साल या दो साल की सजा रखी जाती क्योंकि आम तौर से जो लोग अपने घर में बच्चे नौकर रखते हैं वे अपनी इज्जत का भी ख्याल रखते हैं और आम तौर से

नौकर रखने वाले लोग सम्पन्न ही होते हैं।

श्री किशोरी राम (बिहार) : बच्ची नौकरानियां ?

श्रीमती सावित्री निगम : वे भी हैं।

इसलिये श्रीमन्, मैं यह कहना चाहती हूँ कि यह जो चैप्टर ६ है उसके बारे में सेलेक्ट कमेटी से भी मेरी गुजारिश है कि ये जो Special offences in respect of children हैं इनमें वह जरूर संशोधन करें वरना यह विधेयक लाने का सम्पूर्ण उद्देश्य डिफोर्ट हो जायगा। लेकिन इसमें कोई शक नहीं है कि जो पहले विधेयक आया था उससे यह विधेयक बहुत ही इम्प्रूव्ड है हर मानी में, और बहुत ही उपयोगी है। इसके जितने भी क्लोजेज हैं बहुत सोच समझ कर रखे गये हैं लेकिन अगर ये छोटी छोटी जो बातें हैं उनको दूर कर दिया गया तो यह बहुत ही इफेक्टिव हो जायगा। अंत में मैं एक बात कहकर अपना भाषण समाप्त कर दूंगी। यह बात, श्रीमन्, एज के संबंध में है कि बच्चे की एज क्या होनी चाहिये। इस संबंध में मेरा कहना यह है कि हमारे सदन में बच्चों के हित के लिए जो विधेयक आये हैं उनमें एक ही तरह का को-आर्डिनेशन होना चाहिये, एक ही तरह के नियम होने चाहिये। बच्चों के संबंध में जो विधेयक यहां पर आये हैं उनमें १४, १५ और १६ वर्ष की एज रखी गई है, यह एक अजीब बात मालूम होती है। जैसा कि मैंने बतलाया कि को-आर्डिनेशन का काम एक अजीब होता है और जब तक केन्द्रीय सरकार के विभिन्न मंत्रालयों में इस संबंध में को-आर्डिनेशन नहीं होगा तब तक हमें काफी सफलता इस कार्य में नहीं मिलेगी। मैं इस बारे में कोई रिजिड नियम बनाने के लिए विचार प्रकट नहीं करना चाहती हूँ। मैं यह भी नहीं कहती कि यह उम्र १८ वर्ष ही रखी जाय। मैं तो यह कहती हूँ कि जो भी नियम इस संबंध में बनाये जायें वह पूरी समझदारी, वैज्ञानिक

दृष्टि से बनाये जायें और अपने समाज में जो प्रचलित रीति रिवाज हैं उनके आधार पर पूरी छानबीन करने के पश्चात् ही बनाये जायें। अगर कोई यूनिफार्म एज बच्चों के लिए नहीं रखी जायेगी तो इससे काफी परेशानी लोगों को उठानी पड़ेगी। इसका नतीजा यह होगा कि इतने ज्यादा लिटिगेशन होंगे कि उनका बचाव यह कह कर किया जायेगा कि बच्चा बच्चा नहीं है, वह एडवर्ट है। इस तरह से लोगों को छुटकारा पाने के लिए काफी गुजायश मिल जायेगी। इसलिए मेरा अनुरोध है कि इन सब बातों को सेलेक्ट कमेटी गौर करे। हमारे शिक्षा मंत्री महोदय इन बातों की ओर अवश्य ध्यान देंगे और इन सुधारों को विधेयक में अवश्य लायेंगे। इसमें संदेह नहीं है कि यह विधेयक बहुत ही उपयोगी है और इससे हमारे देश की जो सबसे बड़ी सम्पत्ति बच्चों की है, उनकी रक्षा हो सकेगी।

श्री दयाल दास कुरें (मध्य प्रदेश) : उपसभाध्यक्ष महोदय, शिक्षा मंत्री जी ने आज जो विधेयक सदन के सामने पेश किया है, उसका मैं हार्दिक स्वागत करता हूँ। यह बिल सचमुच में अभिनंदन करने योग्य है और स्वतंत्रता के बारह वर्ष व्यतीत होने के बाद जिस तरह का बिल यहां पर लाया गया है उसको देखते हुए मैं कह सकता हूँ कि अभी तक हमारे देश में जो बच्चे उपेक्षित थे, निराश्रित थे, जिनकी दशा शोचनीय हो गई थी, इस बिल द्वारा जो सरकार यहां लायी है और यह सचमुच एक अच्छा कदम है, इससे उनकी स्थिति में बहुत कुछ सुधार हो सकता है।

हमारे देश के वे बच्चे जो कल के नागरिक होने वाले हैं और जिनसे हमारे देश का भावी निर्माण होने वाला है, उसमें काफी सुधार हो सकता है। इस विधेयक द्वारा दो प्रकार के उपेक्षित बच्चों के ऊपर ध्यान दिया गया है। एक तो वे बच्चे जो

निराश्रित हैं, जिनका कोई सहारा नहीं है— जैसे ही बच्चा साल भर का हुआ तो दुर्भाग्य से कहो उसके मा-बाप की मृत्यु हो गई और अगर उसका कोई बड़ा भाई नहीं है तो उसकी देखरेख कौन करे इस तरह के बच्चों का जीवन बहुत ही दुःखमय हो जाता है। वैसे तो इस संसार में जब कोई भी बच्चा पैदा होता है तो उसका पालन-पोषण किसी न किसी तरह से हो ही जाता है परन्तु उसका जीवन सचमुच निराश्रित हो जाता है। आज हम देखते हैं कि ऐसे ही बच्चे, ऐसे ही बालक आपको होटलों में काम करते हुए दिखलाई देंगे, जूठी थालियां मांजते हुए, गन्दी चीजें उठाते हुए और गलियों में काम करते हुए देखेंगे। इस तरह की बातें हम आजकल शहरों में देखते हैं और उसने एक तरह से सम्पत्ता का रूप ले लिया है। किन्तु सचमुच में मैं यह देखता हूँ कि इस तरह के बच्चे जो काम करते हैं वे निराश्रित होते हैं, उनका कोई सहारा नहीं होता है और अगर इस तरह के काम किये उनका पालन पोषण भी नहीं हो सकता है।

दूसरे किस्म के बच्चे जो मुझे शहरों में देखने में आये हैं वे अक्सर रिक्शा चलाते मिलते हैं। इस तरह के बच्चों की उम्र १० साल से लेकर १५ साल तक होती है। इस तरह के जो बच्चे होते हैं वे निराश्रित होते हैं, उनका जीवन में कोई सहारा नहीं होता है। अगर वे इस तरह का काम नहीं करे तो किस तरह से अपना जीवन चला सकते हैं।

दूसरा मुझे यह देखने में आया है कि कुछ वे बच्चे हैं जो निराश्रित नहीं हैं, लेकिन ऐसी संगति में आ जाते हैं, ऐसे समाज के चक्करों में पड़ जाते हैं जहां उन्हें जबरदस्ती छोटे छोटे घन्चे करने पड़ते हैं। अगर वे इस तरह के कार्य न करते तो उनका जीवन बहुत ही दुःखमय हो जाता है और कभी कभी तो उन्हें अपने प्राणों का भी नुकसान उठाना पड़ता

[श्री दयाल दास कुरें]

है। इस तरह से हमारे सामने दो प्रकार के बच्चे हैं जिनका कि इस विधेयक में विशेष ध्यान दिया गया है। हमारे शिक्षा मंत्री जी सदन के सामने जो बिल लाये हैं उसमें इन दो प्रकार के बच्चों की भलाई की बातें हैं जो सचमुच में बहुत ही प्रशंसनीय है। इस विधेयक द्वारा जो बच्चे शिक्षा मंत्रालय द्वारा खोले गये आब्जर्वेशन होम्स में लाये जायेंगे उनको वहाँ पर भावी नागरिक बनने की शिक्षा और ट्रेनिंग दी जायेगी ताकि वे आगे चल कर एक अच्छे नागरिक बन सकें। इस विधेयक में इस तरह की जो व्यवस्था की गई है वह बहुत ही प्रशंसनीय है, इसमें कोई दो मत नहीं हो सकते हैं। यह विधेयक बच्चों की भलाई के लिए तो है ही, साथ ही साथ देश के हित के लिए भी बहुत उत्तम है। सरकार इस विधेयक को अभी यूनिनयन टेरिटरीज के अन्तर्गत ही लागू कर रही है और मैं समझता हूँ कि वह केवल एक उदाहरणस्वरूप ही ऐसा कर रही है। इस बिल के संबंध में सदन में बहुत से अनुभवी सदस्यों ने अपने विचार प्रकट किये और श्रीमती निगम ने तो इस संबंध में विशेषकर काफ़ी प्रकाश डाला। मुझे आशा है कि यूनिनयन टेरिटरीज में ही यह जो विधेयक लागू होने जा रहा है वह केवल उदाहरणस्वरूप किया जा रहा है। जब इस विधेयक से काफ़ी अनुभव प्राप्त हो जायेगा तो भविष्य में यह सारे देश में लागू कर दिया जायेगा। इस बात का ध्यान शिक्षा मंत्री जी का सब वक्ताओं ने दिलाया है।

आब्जर्वेशन होम्स में जो लोग ट्रेनिंग देंगे जो ट्रेनर्स होंगे—जो निराश्रित और उपेक्षित बच्चों को भावी नागरिक बनायेंगे, उनका ज्ञान काफ़ी ऊँचा होना चाहिये। वे बच्चों को मनोवैज्ञानिक ढंग की शिक्षा दे सकें, ताकि इस तरह के बच्चों का जीवन आगे चलकर सुखमय हो सके। इसलिए शिक्षा मंत्रालय को यह अवश्य ख्याल रखना होगा कि ऐसे होम्स में जो ट्रेनर रखे जायेंगे शिक्षित

होने चाहियें और उनकी पहले से ही ट्रेनिंग की व्यवस्था की जानी चाहिये ताकि वे वहाँ पर बच्चों को मनोवैज्ञानिक ढंग की शिक्षा दे सकें। हमारे देश में जो कानून और नियम बनते हैं, वे केवल कागज पर ही रहे जाते हैं, उनका उपयोग नहीं हो पाता है। जिस समझदारी से इन विधानों द्वारा सुधार होने चाहियें वे सुधार उतने नहीं हो पाते। शिक्षा मंत्रालय इस ओर भी विशेष ध्यान रखे। आज शिक्षा मंत्रालय जो एक बहुत बड़ा कदम उठाने जा रहा है, उससे समाज में एक नयी लहर पैदा होगी। समाज की इतनी बड़ी बुराई के कारण उनकी हालत इतनी बुरी हो जाती है कि संसार में मनुष्य का जीवन क्या है उसका अनुभव ही उनको नहीं हो पाता है। इसमें सुधार करने के लिए शिक्षा मंत्रालय ने यह एक बहुत बड़ा कदम उठाया है। १९५४ में इस सिलसिले में एक विधेयक बना था और उसका जिक्र इसमें किया गया है, लेकिन दुर्भाग्य की बात है कि मुझे उसको देखने का अवसर नहीं मिला। यह जो विधेयक हमारे सामने रखा गया है, इसका मैंने ठीक तरह से अध्ययन किया है, और इसमें मुझे यह देखने में आया कि यह सचमुच प्रशंसनीय है।

इसमें बहुत से क्लॉजेज बड़े अच्छे हैं और उनकी आलोचना करने की आवश्यकता नहीं है, लेकिन कुछ बातें इसमें ऐसी हैं जिनके सम्बन्ध में कहना आवश्यक है। क्लॉज ४ के सब क्लॉज (५) में बताया गया है कि जो स्पेशल आफिसर होंगे उन्हें special knowledge of child delinquency and child welfare होनी चाहिये यह बहुत ही आवश्यक है। साथ ही साथ इसमें स्पेशल आफिसर्स की पावर उनको भी दी गई है जिनका जिक्र क्लॉज ५ के सब क्लॉज (२) के (ए), (बी) और (सी) में क्रमशः किया गया है:

(a) the district magistrate; or

(b) the sub-divisional magistrate; or

(c) any salaried magistrate of the first class.

मुझे इस सम्बन्ध में यह कहना है कि जो स्पेशल आफिसर होंगे उन्हें special knowledge of child delinquency and child welfare तो होगी, लेकिन क्या हम district magistrate, sub-divisional magistrate, or any salaried magistrate of the first class से यह आशा करे कि उन्हें बच्चों के मनोविज्ञान का अनुभव होगा? मैं आशा करूंगा कि यदि वे आफिसर्स भी इस विषय का ज्ञान रखें तो ज्यादा अच्छा होगा। दूसरी एक चीज इसमें यह बताई गई है कि चिल्ड्रन्स कोर्ट में जो मेम्बर हों उनमें एक महिला भी हो। यह बहुत खुशी की बात है कि इसमें एक महिला को स्थान मिल रहा है। महिलाओं का हृदय बड़ा कोमल होता है। इसलिये जो महिला इसमें होगी वह बच्चों का जो मनोवैज्ञानिक रूप है, उनका पालन-पोषण और उनकी गति आगे क्या हो, उसके बारे में पूरी जानकारी रखेगी।

आब्जर्वेशन होम्स के बारे में इसमें यह कहा गया है कि बच्चे के सिलसिले में यह अपेक्षित है कि उसकी रिपोर्ट पुलिस स्टेशन से, जो कम्पीटेंट कोर्ट हो, उसको दी जायेगी और इसके बाद इसमें एक स्थान पर यह बताया गया है कि जब तक वह बच्चा कम्पीटेंट कोर्ट में पेश नहीं किया जाता तब तक न वह जेल में रखा जा सकता है और न पुलिस की कस्टडी में रखा जा सकता है। अब मेरी समझ में नहीं आता कि इस अवधि में, जब तक कि रिपोर्ट पेश की जाय, वह बच्चा कहा रखा जायगा। इसलिये यह आब्जर्वेशन होम्स हर एक पुलिस स्टेशन में रखने की आवश्यकता यहां पर मालूम पड़ती है जो कि इस विधेयक में दिखाई नहीं देती।

क्लाज १४ में यह बताया गया है कि अगर कोई बच्चा अपराधी साबित हो जाता है और उसके बाद कम्पीटेंट कोर्ट की मर्जी

से वह बच्चा किसी ऐसे व्यक्ति के सुपुर्द कर दिया जाता है जो कि उसका पेरेंट हो, गार्डियन हो या कोई ऐसा व्यक्ति हो जो उसको तीन वर्ष तक अपनी कस्टडी में रखने की जिम्मेदारी ले, और कुछ दिनों के बाद अगर प्रोबेशन आफिसर के द्वारा जांच में यह मालूम हो कि उस व्यक्ति ने ब्रीच किया है, जो शर्तनामा था उसका उसने ठीक तरह से पालन नहीं किया है, तो कम्पीटेंट कोर्ट बिना किसी पूछताछ के उस बच्चे को कोर्ट में बुला सकती है और उसको चाइल्ड होम में भेज सकती है। यहां मेरा एक यह सुझाव है कि उसके पेरेंट या गार्डियन को कोर्ट में फिर से बुलाया जाय और प्रत्यक्ष पूछताछ करने के बाद यदि कम्पीटेंट कोर्ट यह उचित समझे कि वह बच्चा चाइल्ड होम में भेज देने के लायक है तो वह अवश्य भेजा जाय। इस सम्बन्ध में पूछताछ करना और जांच करना बड़ा ही आवश्यक है।

मैंने यह बात बताई कि प्रोबेशन आफिसर और पुलिस स्टेशन का आफिसर इंचार्ज, इनके बारे में दो बातें मुझे यहां पर दिखाई देती हैं। बच्चे के सम्बन्ध में कम्पीटेंट कोर्ट को जानकारी देना, यह पुलिस आफिसर करता है, लेकिन साथ ही साथ इस सम्बन्ध में कोर्ट को पूरी जानकारी देने के लिये प्रोबेशन आफिसर काम करता है। तो क्लॉज १७ के अनुसार इसमें दो आफिसर काम करते हैं। यहां पर रिपोर्ट देने का काम पुलिस डिपार्टमेंट का है और उस सम्बन्ध में पूरी जानकारी देने का काम प्रोबेशन आफिसर का है। क्यों न यह अधिकार पुलिस डिपार्टमेंट को ही दे दिया जाय ताकि पूरी जानकारी एक ही महकमे के द्वारा कम्पीटेंट कोर्ट को मिले। इसमें दो अधिकारी हमारे सामने आते हैं। इसलिये सम्भव है कि दो अधिकारी होने के कारण कोर्ट को ठीक तरह से जानकारी न मिल सके। कम्पीटेंट कोर्ट के सामने दो अधिकारियों को बयान देने पड़ेंगे, इसलिये संभव है कि दोनों के विचार अलग

[श्री दयाल दास कुरें]

अलग हो और जो बच्चे की सही नेचर हो जो उसकी गति हो, जो उसकी सही हालत हो, उसकी जानकारी कोर्ट को न मिल सके।

क्लाज १६ (डी) में यह बताया गया है कि यदि बच्चे की उमर १४ साल से ऊपर हो और उसकी आमदनी का भी कुछ जरिया हो तो उसपर जुर्माना किया जाये। यदि कोई बच्चा चाइल्ड की कैंटगरी में आता है और उसकी उमर १४ या १५ वर्ष की है, तो हम यह आशा नहीं कर सकते कि वह कमा कर खाता है, उसके पास कुछ पैसे भी इकट्ठे होंगे और वह कुछ फाइन भी दे सकता है। कॉम्पिटेंट कोर्ट को हम यह पावर देते हैं कि वह उसपर फाइन कर सकती है, लेकिन मेरी समझ में यह नहीं आता है कि फाइन की रकम उससे कैसे वसूल की जायगी। इसको मैं इस विधेयक में से निकालना आवश्यक समझता हूँ।

क्लाज ४२ में यह बताया गया है कि यदि कोई आदमी किसी ऐसे बच्चे को अपने यहां नौकर रखता है और उसके साथ अच्छा व्यवहार नहीं करता है—जैसे उसका वेतन नहीं देता है या अगर वेतन देता है तो फिर उसे वापस लेकर अपने काम में खर्च कर देता है—तो ऐसे व्यक्ति की रिपोर्ट पुलिस स्टेशन में दी जाय, उसके विरुद्ध कॉम्पिटेंट कोर्ट में मुकदमा चलाया जाय और दूसरी कार्यवाहियां की जायें। इस सम्बन्ध में उस पर जुर्माना भी हो सकता है जैसा कि इसमें बताया गया है :

“... punishable with fine which may extend to one thousand rupees.”
अब हमारे सामने यह सवाल आता है, जैसा कि मिसेज निगम ने बताया कि जो आदमी किसी बच्चे को नौकर रखता है वह धनी आदमी होता है, प्रभावशाली आदमी होता है, उसके विरुद्ध रिपोर्ट करे तो करे कौन ? यहां पर जो १४, १५ साल के बच्चे होंगे उनकी यह कि हिम्मत नहीं होगी कि पुलिस

स्टेशन पर जायं और रिपोर्ट करें। इसके अलावा वे जिस वातावरण में हैं उसको देखते हुये मुझे यह भी विश्वास नहीं होता कि दूसरे आदमी पुलिस में रिपोर्ट करेंगे या कॉम्पिटेंट कोर्ट के सामने इसकी सूचना देंगे। यह भी है कि यदि उस बच्चे ने किसी तरह से हिम्मत करके सूचना दी या किसी दूसरे के द्वारा सूचना दी गई तो यह भी हो सकता है कि उसका आगे का जीवन ग्रंथकारमय हो जाय और किसी तरह से उसके पालन पोषण का साधन ही न रहे। साथ ही साथ मुझे इसमें उसके जीवन के खतरे में पड़ने का भी संदेह दिखाई पड़ता है। तो इसके लिये इस विधेयक में कुछ ऐसे साधन रखे जायं कि यदि ऐसी समस्या आये तो उसकी सूचना—यदि वह बात गांव के एरिया में है तो गांव के पटेल या पटवारी करे और यदि दूसरी जगह है तो पुलिस के जो आदमी हैं वे जांच पड़ताल करके उसकी सूचना आगे दें। तो यह बात अधिक क्लीयर हो जानी चाहिये और जो फाइन आदि की व्यवस्था की गई है उसका भी सही उपयोग हो।

इसमें जो सेक्शन्स २५, २६ और ३० हैं वे मुझे बहुत अच्छे मालूम पड़ते हैं और सचमुच में इनकी बड़ी आवश्यकता है। यह बहुत ठीक है कि चिल्ड्रन कोर्ट्स की सिटिंग्स ऐसे स्थान में हो जहां कि दूसरे लोग न जायं, जिनका उससे सम्बन्ध है—जैसे गा-डियन वगैरह—और यदि कोर्ट उचित समझे तो प्लीडर ही वहां जा सके। यह चीज अकेले में होनी चाहिये और उसका प्रोपेगंडा नहीं हो, इस बारे में पत्रकारिता नहीं हो, उसके फोटो आदि न दिये जायें, ये बातें सचमुच में प्रशंसनीय हैं क्योंकि बच्चे का जीवन बहुत नाजुक होता है, वह यदि आज गरीब है तो कल बड़ा आदमी हो सकता है, उसका जीवन आगे को बनाने वाला हो सकता है। और देश का उसमें कल्याण हो सकता है। तो यह जरूरी है कि उसके जीवन के बारे में कोई प्रोपेगंडा वगैरह न हो। यह इसमें ठीक ही रखा गया है।

इसके साथ साथ मैं फिर से मन्त्री महोदय को सहर्ष धन्यवाद देता हूँ कि उन्होंने ऐसा सुन्दर विधेयक सदन के सामने रखा और मैं इस विधेयक का हार्दिक स्वागत करता हूँ ।

SHRIMATI T. NALLAMUTHU RAMA-MURTI (Madras): Mr. Vice-Chairman, Sir, I feel that this Bill—The Children Bill, 1959—has come at the right time but it could have come much earlier to protect the innocent children who have been exploited from various angles in our society and, therefore, I give my wholehearted support to this Bill. I do not want to go into very many details because the Bill is being referred to a Joint Committee and there would be ample scope for discussion when the Bill comes back from the Joint Committee, but coming as I do from a State which has got an Act already to protect the children, and having had something to do not only with the shaping of that Bill but also having been in charge of the juvenile courts there, I want to say this: The children of this nation should belong to the whole of India. This Bill relates only to the Union Territories and there has been opinion expressed that it will be an infringement upon the rights of the States if we were to enact a measure for the whole of India. I request the hon. Minister of Education to elicit opinions from the various States, especially those States which are operating such an enactment and to include them in the Bill for the Union Territories and also to send these suggestions to the States so that the procedure might be more or less uniform throughout India. I find in the homes of Delhi many children from other States especially so because of ticketless travel, beggary, economic distress and so on. Therefore, we simply cannot imagine that simply because we are living in different States, we live in watertight compartments. There is a flow of young delinquents—waifs and strays—throughout India from one

State to another and, therefore, any measure which has to deal in a practical manner with these problems of care and protection of children should be so framed as to take the whole of our country into view and see that procedure is uniform.

There is another important thing. Rajkumari Amrit Kaur has also stressed about the personnel of the homes, the supervisors, keepers of homes, probation officers, magistrates, etc. Having been in charge of the homes, I would like to stress that above all the academic qualifications and the other qualifications, what matters is the spirit of dedication to the cause, devotion and love for the children. This should find the highest place in the selection of personnel for such homes. Dedication to the cause and love for the children are the things that should count not so much the degrees and other things. I say this with knowledge and experience. I do not want the legal aspect to be emphasized with regard to children—the young delinquents. Why are the children delinquent? It is the society that is to blame; the parents and all kinds of background of distorted and perverted ideas that we put before the children are to be blamed. If anybody is to be condemned before the courts of law, it should be the parents, the guardians and the other agencies which have belied their sacred trust and further have perpetrated these atrocities on the young minds of the children. The children are not to be blamed. I say that when the State steps in and stresses the need for the creation of homes, of probation and so on, it should please see to it that the authorities, that are created have knowledge, sympathy and understanding and deal tenderly with the children.

[MR. DEPUTY CHAIRMAN in the Chair]

I have known one or two cases of these children who had been victims

[Shrimati T. Nallamuthu Ramamurti.]

of ill-treatment and who have shaped themselves into very good citizens of our country due to kind and sympathetic approach by a humane management. There was one girl who was brought to the doors of the orphanage. You would not call her a delinquent; she was on the verge of committing suicide but today she is a fully trained nurse and she deals most affectionately with the children in our homes. She is earning her livelihood as a trained nurse. Another girl came who has had experience of parental cruelty and cruelty by relatives because she had become a widow when she was a child. The cruelty was so tremendous that she became a lunatic and only through kind treatment of the authorities in a home was she restored to society. She was trained for the teaching profession and is now a Headmistress of a school. I will not reveal her name but I emphasize all these to show that in any Bill we should stress not merely the legal aspect with regard to magistrates—but also the human, psychological, approach to the children.

I now come to the definitions clause. The children's court is defined as "a court constituted under Section 4" and this is how clause 4 reads:

"4(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, the Administrator may, by notification in the Official Gazette, constitute for any area specified in the notification, one or more children's courts for holding inquiries regarding neglected or delinquent children under this Act.

(2) A children's court shall be presided over by a magistrate or a Bench consisting of two or more magistrates as the Administrator thinks fit to appoint, and where a Bench is so constituted, one of the magistrates shall be designated as the senior magistrate and one of

them shall, as far as practicable, be a woman."

Why this condescension, I want to know of including one woman magistrate. In all countries, more especially in our country where the sanctity of motherhood is an accepted dictum, who has more claim to bring up the children, to train them? It is the mother; and in the lowest school for children classes of Montessori kindergarten, etc. it is the woman teacher who has excelled and who is wanted everywhere. Therefore, for the such work, where for no fault of theirs the children become so-called delinquents, here more than in any other place the magistrate should not be just a man who is only conversant with law, holders of degrees such as B.A., B.L., F.L., etc. Degrees do not matter here; we have known it from experience. The whole Bench should consist of women. There are Benches in Madras where women magistrates preside over juvenile courts. There are women magistrates in every juvenile court and all that they have become conversant with are only a few relevant clauses or items of law which have bearing on delinquent children. And unlike other courts they sit there not according to scheduled hours. Hundreds of children will be brought in by the police as waifs and strays or delinquents of various kinds, connected with illicit liquor traffic for which the young boys are being utilized by adults, connected with the bidding "American cotton market", gambling for which also they are being utilized by adults for betting etc., and these women magistrates go into each case in great details and they sit till very late in the afternoon beyond all scheduled timings. They do so because of their love towards children and many a time a woman from the ordinary household who has the need for proper care and protection for these children at heart has heckled the police officers. The police will prepare a whole case sheet as the whole case is narrated saying that the boy was found committing such and such a thing at such and such a place and

so on. And then we used to ask the child, 'is it true, child'? And the child will say, 'No, Ammah—Madam—I never saw this man; he never caught me'. The police officer will report as if he has seen the act of crime committed on the spot. These are the ways in which we get at the truth. In fact we have insisted that nobody with a rank of less than that of a Sub-Inspector can file a case and so on. These are all details but I may tell that these women magistrates go into the details of each and every case and find in many cases, in a majority of cases, that for no fault of theirs the children had been rounded up. I know of one case where a boy after taking tiffin to his father was returning home when the police heckled him and brought him to the juvenile court. The boy said that all that he did was that he was returning after giving tiffin to his father and he was asked by the police why he was wandering, who his father was and all that and then rounded up. There are so many such cases and so it requires a good deal of psychology and a love and zeal for the cause for a magistrate to preside over juvenile courts.

Next I come to probation officers, and I would request that cent per cent of the probation officers should be women. I would request to have that at least as a goal. The probation officer also has to be trained specially and has to take up the work with zeal and understanding. She has to check the case history, the background of the home etc.; she has to take the vertical account and horizontal account of the psychological, social and economic factors of the child, of parentage, home and environment and very often it has to be a confidential report and I know all this takes time. You cannot pay for such services but very often these women magistrates do honorary service but the probation officers have to be paid as their work is strenuous, continuous and properly qualified personnel is essential to prepare a true record. They are given a certain area and within that area only

they can work and they have to go into such details that sometimes they are handicapped because the parents will not give the information which is required. So I would request that probation officers also should be women and they should be paid well. Of course, this is no reflection on men at all. Because I am now dealing with this problem of juvenile delinquency, I am insisting that these people should be women.

SHRI MAHESWAR NAIK (Orissa): Why not also have women police officers to take charge of delinquent children?

SHRIMATI T. NALLAMUTHU RAMAMURTI: You may suggest that; I do not see why police officers also should not be women.

Another important matter about this is that no stigma should be attached to children who pass through the courts and certified schools. Children are brought to the court and they are kept in remand for further investigation. The remand homes and their supervision here also should be taken care of. They must not be kept huddled in remand as if they are cattle. There must be sufficient accommodation, healthy surroundings etc. for them. Also the remand should not be for a very long time and the investigation should be speedily done. Then what do you do? The child is certified. After the third offence we send them to the certified schools, when everything has become impossible for any direction to be given to the parents or guardians. It is only when things go absolutely wrong that we take to certification. Even that is bad to stigmatise children as criminals. I do not know; we must eliminate it. We must discover ways and means of ending it.

There is another thing I want to suggest. There are very good orphanages where these delinquent children are well looked after and given food and shelter. The rate of grants given by Government per child to orphanages is much less than that for certified

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There is another important thing. In every State, if not in large areas within the State itself, there must be a psychological bureau to deal with juveniles. In the London County Council there is such a department and an expert psychologist is there to find out whether the child had become abnormal. Problem cases present themselves due to mishandling by parents, teachers or society. Sir, children are little tender flowers and they have to be approached in a delicate, though scientific manner. Investigations are carried on without the child coming to know that he is being investigated upon and many of the results that have been achieved would astound some of us when we find out why the child had gone wrong or perverted in a particular direction. So I would plead for the creation of a psychological bureau in every State to deal with juvenile delinquency and to deal with such problem children. It is very necessary. We have got such an institution in Madras but it is on a voluntary basis.

Before I close I would like to stress one more thing. Sir, much work is being done by voluntary organisations and voluntary women workers, who felt the need for such work being done and have come forward to set up homes and to manage them and I would not like the administrative officer who has a little qualification on

paper to go and make an inroad into those homes. They are managed very well and it must be provided somewhere in this Bill that the good work that has already been going on in many directions in the social field should not be impeded or obstructed by the State stepping in and trying to do something but leaving a gap for a long time to come. I am not reflecting on the States, but that has happened. If only, Sir, your free and compulsory education Act had been enforced in all its details, at the lower ages of children; if only the Suppression of Immoral Traffic Act had been thoroughly put into practice, with all the various institutions it demanded, many of the clauses in this Bill could have been avoided and eliminated. We could have dealt with just only a few cases of problem children. As it is, I am giving you a warning: Do not obstruct the work of the good men and women who have dedicated their lives to promote child welfare, child care and protection and for the creation of good citizenship. In your attempt to make the State take over so much of the very necessary work. I hope it will take over only such work as it demands in certain directions. Before I close, I would request that, without infringing the States' rights, you should take the opinion of those States which have given themselves ideal Acts and use that knowledge for framing this Bill and see that the procedure is the same everywhere. Thank you very much.

SHRI GOPIKRISHNA VIJAIVAR-GIYA (Madhya Pradesh): May I request Sir, that she may be included among those who have been selected to serve on the Joint Select Committee? The hon. Minister might not be knowing that she is a great educationist.

SHRI AMOLAKH CHAND: Mr. Deputy Chairman, I am glad that the House has welcomed this Bill and I also welcome the Bill. As a matter of fact, this Bill was introduced in this House in 1953. It was looked into by a Select Committee of the House and later on, in 1954, this House passed

the Bill. When it went to the Lok Sabha, it was again referred to a Select Committee on the 25th August 1956 and was later withdrawn in 1956 because the then Bill was meant for Part 'C' States. After the reorganisation of the States there were no Part 'C' States and so that Bill was dropped. I am glad that the same Bill, as was passed by this House, has been reintroduced with certain modifications. I need not repeat it, but as the hon. Minister has pointed out, a new Chapter VI has been included and a new clause 27 has also been put in. But then, when I went through the Bill, I found that things had changed and rightly changed from what the conception of the welfare of children was in 1953 and what it could be in the year 1960. Now, if we look into the Bill, we find that a new thing has been added in the Title of the Bill which was not there and that is: "for the trial of delinquent children in the Union territories". The words "for the trial of delinquent children" were not in the Bill of 1953, nor in the Report of the Select Committee of this House or the other House. That is all right. But that raises a fundamental question, that is, whether, when you get a delinquent child and you have to determine what action has to be taken against the delinquent child or the neglected child as defined, it is necessary that he should get an idea that, for committing a wrong for reasons beyond his control, he has to be tried before a court of law. If the hon. Minister will recollect, when we were discussing this matter in the Select Committee—I had the privilege of being on the Select Committee in 1953—we were thinking whether the name of police or jail should come or not. That is the reason why in some of the clauses we do not find the word 'jail'. The question I want to raise is a fundamental question on this point. When you get a child who is delinquent, do you want him to participate in the proceedings of the court or not? I find a clause which says that his personal appearance can be dispensed with. That is perfectly right, because in the Criminal Procedure

Code also you find a similar procedure. Where an accused person is charged with committing some offence, it is not necessary that he should always be present during the proceedings. His personal appearance can be dispensed with and he can be represented by a lawyer.

Now, Sir, as the hon. Minister pointed out, in a children's court, lawyers would not be permitted to appear. Quite right. The idea is that the child who is being tried for committing some offence should not have an idea that he is being prosecuted, that he is not to engage lawyers, that he is not going with the police and the like. Only it should be a corrective method to lift him from the plane where he is a delinquent and keep him out of that atmosphere of society. This is a very laudable one and I think the hon. Minister has taken pains and probably has disclosed what he is going to provide in the budget of the year 1960-61 regarding this particular item. I am referring to page 25 of this Bill, where he says:

"The following budget provision has been approved subject to ratification by Parliament under demand No. 57—Delhi Area Grant in the 1960-61 budget of Delhi for continuing and expanding some of the services necessary for implementing this Bill."

I do not know—I am here only to learn things—whether it is desirable that budgets which are to be laid before this House on the 29th February should in part be disclosed on the 15th December, 1959, when this Bill was introduced in this House. I do not know, but that has helped us to understand the scheme where we find that they want to spend about Rs. 9,10,000 in Delhi, to make better provision for the neglected children. Now, Sir, I will deal with the problem later on, but I wanted just to point out whether this inclusion for the trial of delinquent children, which was not provided for previously, is an improvement or not.

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Then, I come to another improvement which has been made in this Bill in the matter of definition. Here I regret that even after passing a similar definition on the 2nd December, 1959, the Law Ministry, I think, or the Education Ministry probably—I do not know—decided that there should be difference in the definition of the word “begging”. Now, Sir, in the Indian Penal Code (Amendment) Bill, 1959 (which became Act No. LXXVII of 1959), which was discussed on the floor of this House, we find on page 2 a definition of “begging”. You will find also, Sir, a definition of “minor” in that Amendment Bill. Now, if you compare the two definitions, in the Bill which I have quoted “begging” means—it is all given in (i), (ii), (iii) and (iv); then we find here in this Bill (i), (ii) and (iii) with some alterations and all that. There is no material difference. But what I want to bring to the notice of this House as well as of the Select Committee to which it would be referred is that, when we are adopting a definition for the purpose of guiding the courts in their decision, we should use a particular language for defining a particular offence. Here you will find, Sir, that the words are the same, but they are quite different from the Bill which was introduced in the year 1953 and referred to a Select Committee, where you will find that “begging” probably has not been defined. I can understand that, Sir, for the very simple reason that till then the Government had no idea as to whether “begging” should be defined or should not be defined. But when the Indian Penal Code (Amendment) Bill came up before this House, they came with a definition of “begging”.

Now, Sir, let us imagine a case of this type of begging. “Begging” here is defined as “soliciting or receiving alms in a public place or entering on any private premises for the purpose of soliciting or receiving alms, whether under the pretence of singing, dancing”—and the following is the wonder-

ful word which has been copied from that definition—“fortune-telling”; and then it says “performing tricks or selling articles or otherwise”. I would like to know from the hon. Minister whether fortune-telling performing tricks by a child in a private place or a public place would amount to soliciting or receiving alms. They are not satisfied with that, and they go on further to say “or selling articles or otherwise”. Selling of articles or receiving of alms or soliciting of alms appears to me to be contradictory in terms.

Another definition which might be relevant at this stage is the definition of the word “child”. “Child” now means “a boy who has not attained the age of sixteen years or a girl who has not attained the age of eighteen years”. Here again, the same argument of mine stands whether the words should be the same words as in the legislation which was passed in December, 1959. Now the point I want to raise is, how are you going to define a “child” when you have no particular notion about it. I have here before me the Suppression of Immoral Traffic in Women and Girls Bill, 1954, which was passed as an Act in 1956, a reference to which is on page 2 of this Bill in definition (c): “‘brothel’, ‘prostitute’, ‘prostitution’ and ‘public place’ shall have the meanings respectively assigned to them in the Suppression of Immoral Traffic in Women and Girls Act, 1956”. Now the point I want to raise is whether the Government of India have decided as to what the proper age of a child should be. That is why I have referred to the 1953 Bill where in the case of both the girl and the boy it was fourteen years. In 1954 when the Suppression of Immoral Traffic in Women and Girls Bill was introduced by the Home Minister—not because of any consideration of the Indian conditions probably but because as the Bill says “To provide in pursuance of the international convention signed at New York on the 9th day of May, 1950 for

the suppression of immoral traffic in women and girls"—and was referred to the Select Committee in 1956. That Select Committee defined the word "girl" as a female who had not completed the age of twenty-one years. So, Sir, the age of a child according to the views of the Ministry of Home Affairs in the year 1956 was twenty-one in the case of a girl. Now when this Bill is introduced here, we are told that a "child" will mean a boy who has not attained the age of sixteen years or a girl who has not attained the age of eighteen years. What I want to make out is, and I would like the Select Committee and the hon. Minister to look into this, that you should have an age for a child which is a uniform one, whether it is in relation to immoral traffic in women and girls or whether it is in relation to delinquent children or whether it is in relation to a case of abduction in connection with a minor etc. as mentioned in section 363 of the Indian Penal Code. I say this because I was recollecting, when this Bill came before me, that we had already said that a minor according to the civil law, if a guardian was appointed, was one who had not attained the age of twenty-one.

SHRI P. D. HIMATSINGKA (West Bengal): Eighteen.

SHRI AMOLAKH CHAND: If a guardian is appointed, twenty-one. If a guardian is not appointed, eighteen. I stand subject to correction.

SHRI P. D. HIMATSINGKA: Yes.

SHRI AMOLAKH CHAND: So, if on the civil side a child is supposed to be a minor at the age of eighteen, if a guardian is not appointed, and equally, in the case of a girl in relation to immoral traffic if you accept the age which is the age of majority, I fail to understand why it should not, now in the year 1960, be looked into as to what the proper age of a child should be who would be considered to be delinquent or otherwise or who may be used for immoral traffic by a man or a woman under the Act of 1956. I

refer to this because there is some mention of medical treatment in clause 29:

"(1) When a child who has been brought before a competent court under this Act is found to be suffering from a disease requiring prolonged medical treatment or physical or mental complaint", etc. etc.

Then sub-clause (3):

"(3) Where a competent court has taken action under sub-section (1) in the case of a child suffering from an infectious or contagious disease, the competent court before restoring the said child to his partner in marriage if there has been such, or to the guardian, as the case may be, shall where it is satisfied that such action will be in the interest of the said child call upon his partner in marriage or the guardian, as the case may be, to satisfy the court, submitting to a medical examination". etc.

It is not that the child is to be put to a medical examination. It is the counterpart, the guardian or the husband or whosoever the person may be, who would be, to satisfy the court, submitting to a medical examination.

"... by submitting to medical examination that such partner or guardian will not re-infect the child in respect of whom the order has been passed."

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This led me to think as to what should be the proper age of the child and I would respectfully submit that this needs to be looked into from an overall picture. If the Education Ministry feels that we are responsible only for the neglected boy up to the age of sixteen or the girl up to the age of eighteen and that we have nothing to do further, I think that there would be complications and there would be fit cases in which proper and prompt action cannot be taken, and probably

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also there would be much difficulty. Anyway, this is the point which struck me and I feel that probably the Select Committee would like to take a decision as to what should be the age—whether it should be 16 or 18 in the case of boys and whether it should be 18 or 21 in the case of girls.

Sir, I was dealing with fortune-telling and selling of articles by these children. If we pass the Bill as it is, what will be the position? The position will be that nobody can employ a child for service up to this age. I think I am right. There is a clause in this Bill which mentions about the exploitation of child employees. I refer to clause 42 which says—

“Whoever ostensibly procures a child for the purpose of menial or other employment and withholds the earnings of the child or uses such earnings for his own purposes shall be punishable with fine which may extend to one thousand rupees.”

I think that the idea has not been very properly expressed in this clause, because suppose somebody employs a boy of fourteen or twelve years and he is not able to pay the boy his salary or the boy has not taken the salary for four or six months. If there is a dispute, well, the person concerned can be hauled up immediately, and the idea would be that he has ostensibly procured a child for the purpose of menial or other employment. What guarantee will be Education Ministry like to give to the young people? When I say ‘young people’, I mean children up to the age of eighteen or sixteen who cannot do without getting some employment. How are you going to decide whether a particular child is being treated properly or not? You have defined a neglected child as one who—

“(iii) has a parent or guardian who is unfit to exercise or does not exercise proper care and control over the child;”

I think that my friend, the hon. Minister, and the other social workers who have participated in this debate must be knowing the slum conditions in the City of Delhi. I would like to know from the hon. Minister whether he would consider those young boys moving about naked, with no clothes on, as neglected children or not, and if they are considered neglected children, whether their guardians or parents would be prosecuted, because the wording is “unfit to exercise or does not exercise proper care and control over the child.” How can a mother, who herself lives upon some menial job in a family, maintain or look after her young offspring? Is it the intention of the Government to provide houses, education, etc. for these boys in the Union Territory? I put these questions for the very simple reason that the money which has been provided or which is likely to be provided, to the tune of Rs. 9 or Rs. 10 lakhs, for this purpose would not be sufficient to meet the serious problem which is before the society.

Now, I am quite sure that the hon. Minister does hope that he would be able to get this Bill passed by both Houses, say, somewhere by December, 1961. I would be very happy if he could do that because the 1953 Bill could only be considered by the other House—and that too in a Select Committee—in the year 1956. It took only three years. What I feel is this: When this Bill is referred to a Joint Select Committee, the reports are laid before both Houses of Parliament, discussions are held and whenever the other House gets time, then only can it be passed. By that time what would be the condition? I remember putting a question to the hon. Minister on this point when there was a news item in one of the leading dailies of Delhi that the Education Ministry was planning to put up a house for fatherless children at a cost of Rs. 4 lakhs in the Third Five Year Plan. When I read that item on the front page, what I felt was this. From the Public Accounts Committee reports we find lakhs and

lakhs of rupees being wasted or not being utilized even by the Education Ministry itself; there were amounts which could not be utilized and if the problem was so urgent, would not the Government find Rs. 4 lakhs and get a home constructed and do a good job?

The point that I want to raise is that the ideals of this Bill are really ideal but I would like to know how far they would be able to implement them. And when you want that you should be able to implement them, do not try to put such language in your Bill that those persons who, to their best ability are looking after their children are prosecuted in a court of law.

I would not like to take much time of the House but to me it seems that there should be a close scrutiny of the whole Bill by the Select Committee.

Again, look at the definition as given in clause 2(k)(iv)—

“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;”

Now, Sir, I very respectfully ask whether such types of things could not be excluded from here and handed over to the persons responsible for the prevention of immoral traffic. Then what happens? The two Acts will coincide or rather will come into conflict with each other, and when there are these children who are neglected, who should be corrected, and you try to correct them, the other Act will come forward and prosecute them. And what would be the position? Certainly you have made a provision that if a child is accused of any offence, notwithstanding anything, the competent court, that is the children's court, will have

jurisdiction. I would like to submit, Sir, that you should not just try to cover the whole field, not being able to do anything in the matter. That is my fear and I wish that all my fears would be belied.

Then, Sir, I come to observation homes and probation officers. I do not know how many probation officers the hon. Minister has under the Act which is applicable to Delhi today, I mean the Bombay Act of 1924, or what provisions there are, but from the questions and answers which we hear in this House and from paper records what we find is that, the state of affairs is not so good as one would expect in the capital of India. Anyway, Sir, I am not concerned with that at the moment. I am only concerned with this, that the idea, the noble idea with which you want your young citizens to grow, is really laudable, and the Education Ministry, if they can do something well, I think they will earn the gratitude of the country and our thanks also. And then the question arises, Sir,—as was pointed out by one of the speakers—what about your compulsory primary education? What facilities are you giving to the poor to develop their children without sending them to these corrective homes? What is the idea? Is it the idea that you will have a census taken of all the boys or the girls within, say, the age of twelve years and find out those parents who are not in a position to educate them, feed them or clothe them properly, and then you will arrange homes for them, or you will try to find out only those cases where delinquency arises and then you will pick up only those cases? The point I want to make is that, if you restrict yourself only to delinquent children, would you not be encouraging other parents of other boys to be delinquent themselves, just to take advantage of your better homes and better amenities? Now it is all a question of economics. As we know, Sir, there is the Contributory Health Scheme which has come before us, and I do not want to make a secret

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of it that, before that, I never bothered about myself to be covered by the Scheme, but now when I have become a beneficiary by paying my contribution, I find that I am taking much more advantage than I ever thought of. The same analogy may not exactly apply here, but what I am telling you is, when a man of my standing can be like that, are you not going to encourage the people, those who are working as labourers, etc. not to look after their children properly in order that the State may come to their help and their children better provided? I find that Mr. Bhupesh Gupta is very much interested in hearing me at this moment since I am also just going to tell the House that one of the aims of the communist countries is to provide equal opportunities of education, etc. etc. for the development of the child. Now, Sir, what I wanted to point out is that you have to guard yourself against unfair advantage being taken by well-to-do parents; you should not open the floodgates to each and every parent, and surely you would not like to provide even for those persons who, but for this legislation, would look after their children tolerably well, but because of such legislations they may neglect their own children. The point I want to make out clearly is this. We know, Sir, we are a poor people; really we are poor; opportunities are not equally given; it is because of the social heritage from which we have not yet been able to free ourselves. So I would like to understand from the hon. Minister very clearly as to what his conception is and to what extent, under the rules or under the law, he will try to find out as to whether a particular guardian or a particular parent is rightly looking after his child or not. To illustrate my point, let me take a case. There is a poor family in which there are four children in the age group of 3—9. Now in the winter you find that those children have no clothes to wear. What would you say? The guardian is not looking

after the children properly, and immediately the child becomes a neglected child, because of the act of the guardian. For his financial position the guardian is not in a position to provide them with those clothes and the children are not getting them and probably the State cannot also come and help. Now what would be the position? So, Sir, what I submit is that, when we use these words, we should use them with an eye on what their proper interpretation would be, so that unnecessarily people may not be harassed. Now take the children who have committed offences. Suppose they have committed the offences at the instigation or at the abetment of someone else who cannot be traced. What will happen in those cases? I have not been able to find, Sir, if a person instigates a child to steal and the child does it and the child is apprehended, what action can be taken against the person who has incited the child because, there, you will not be allowing a lawyer in the court, and I do not know how evidence would be produced, and all that.

Then I come to Chapter II 'Competent Courts and Institutions for Children'. I have not been able to understand why this whole scheme should not be put in the charge of lady magistrates and the I.A.S. lady personnel. I have to say this because of what I find in clause 5, namely that where no children's court has been constituted for any area, there comes the district magistrate, the sub-divisional magistrate or any salaried magistrate of the first class, the same old notion finds favour with us. In 1953 also, in that Select Committee we considered all these points and we then thought that probably the district magistrate, who is the most senior magistrate of the district, would be the proper person to look into this type of cases. But with the experience which we have now, we find that the district magistrates have no time to look into any judicial case whatsoever, and I would not like these

children to be tried by district magistrates since they are more engrossed in other administrative and non-judicial matters than in the trial of cases. Now, why should there be either the district magistrate or the sub-divisional magistrate or, for that matter, any salaried magistrate with I class powers? Any salaried magistrate with I class powers is equally good because the district magistrate or a sub-divisional magistrate is also a salaried magistrate with I class powers. The point that I want to make out is this. Now, as I find, in the Union Territories and even in other States there are I.A.S. lady officers. They should be kept in charge of these courts. It will be much better if the whole organisation regarding the child is put in charge of ladies because they would look after them more sympathetically than anybody else. These remarks would apply to probation officers as well. There should be more and more lady probation officers who can look after these matters. I think the hon. Minister will certainly reply to that point, namely whether he considers the suggestion desirable. I would not like to deal with every clause but I would deal with the general idea.

Here I should like to deal with clause 11, sub-clause (2) which says:—

“When information is given to an officer-in-charge of a police station about any neglected child found within the limits of such station, he shall enter in a book to be kept for the purpose the substance of such information and take such action thereon as he deems fit and if such officer does not propose to take charge of the child, he shall forward a copy of the entry made to the competent court.”

I cannot understand this. Does it mean that you want to give him the option not to take any action but only to report the matter to a competent court? I have not been able to understand this.

Now, Sir, I was thinking that there would be social workers attached to various police stations and a senior one among them may have also the police powers with which you want the police officers to be invested.

I think by my suggestion the very purpose of keeping the child away from the police officers and jail would be served. According to the present scheme of affairs, if a child is found negligent, what happens? I do not want to use the word “arrested” because we had much discussion on that point. He is taken charge of by a police officer who puts him up before a magistrate or a competent court within 24 hours. Meanwhile he can be put in an observation home or the like. Now, is it not possible under the scheme to have a person, who knows the law, invested with police powers for purposes of these offences? His duty on receiving the information by any police officer or any social worker, that such and such a thing has happened, would be to immediately take the child in his care, put him in the observation home or anywhere he likes and thereafter investigate the matter from the psychological point of view with which you want his report. If after all that it is found that he needs some correction, he should be, after some evidence is taken, put in some school or observation home or let out on probation, this, that and the other. The main point is either you want the child to know that he is being prosecuted or you do not want him to know that. After all, what can a child of 6, 9, 12 or 14—which is the maximum—understand of the prosecution evidence when he is not to be defended by a lawyer? What is the utility of his presence, and why should people come and depose in his presence? Every time a witness comes, this boy is reminded that he is speaking against him and probably because of him he is being put there for such a long period. I have given some thought to it and I feel that in the absence of a precedent anywhere, experiment can be done and done very success-

[Shri Amolakh Chand.]

fully with the help of good lady social workers and better probation officers who are very much interested in these matters.

Sir, I feel the scheme could be worked better with ladies. There is no dearth of LL.B. ladies who may be invested—two or three of them—with I class or II class powers.

SHRIMATI T. NALLAMUTHU RAMAMURTI: Honorary magistrates do not need any such qualifications.

SHRI AMOLAKH CHAND: That is all right. What I mean to say is that qualified people know the procedure better and, therefore, may not commit mistakes. I know that honorary magistrates do not need to be law graduates, but a non-lawyer magistrate is not so good as a lawyer magistrate. That is the experience which we have. The honourable lady Member may differ from it.

SHRIMATI T. NALLAMUTHU RAMAMURTI: To deal with delinquent children what is required is not LL.B. or I.A.S. qualification; all that is required is that the person should be a middle-aged person with a sympathetic approach. What is wanted is humane understanding and psychological insight and a working knowledge of law relating to children and juvenile delinquency.

SHRI AMOLAKH CHAND: I am afraid I have not made myself clear to the hon. lady Member. I said I.A.S. qualification when I spoke of lady officers as district magistrate, sub-divisional magistrate or a salaried magistrate. Now, when I refer to honorary lady magistrates, what I say is that, lawyer magistrates would be better. But I will be equally satisfied with such lady magistrates who may be interested in these matters.

I think with my suggestion the whole thing might work better. That is why I am just trying to put it

before the Joint Select Committee whether they would like a regular trial minus the lawyers—the witnesses coming—because what we find is that even in serious offences committed by a child, the procedure should be that of a summons case. Now, what is the procedure of a summons case? That is very simple. The accused is there. The witnesses are brought and the accused is asked whether he would like to put any questions. Certainly, the boy would not say that he has to put any question because if you have the guardian or the probation officer present there, that would mean nothing. What I personally envisage is a scheme where you dispense with the appearance of the child altogether. The moment there is a report against a child he should be sent to the observation home, not through the police, but by one of your probation officers who may have police powers for the very simple reason that his whole act may not be illegal. Thereafter put the child in such a condition that he has not to be reminded that he has committed an offence giving the details of the offence. The complainant comes along with six witnesses, sometimes tutored, sometimes untutored and sometimes they go off the rails. Let the child not face all this. If the magistrate is satisfied that the boy has not committed the offence, then the boy may go to your correction home for 2 or 3 weeks and then he will return as a better boy.

I would not like to take more time on this, but I thought I might put this before the House for such consideration that it may deserve.

I feel that still the idea of a criminal trial is not off from the minds of the draftsman, as will be seen from the second proviso to clause 31 which says:

“Provided further that if no report of the probation officer is received within ten weeks of his being informed under section 17, it shall be open to the competent court to proceed without it.”

Is it proper that your probation officer should not submit his report for ten weeks which means two and a half months? If I recollect rightly, the ordinary period for a conclusive criminal trial is two months and here you want to give two and a half months to the probation officer to look into whether he can report or not. Such things will not help. In criminal cases we do not get cheap, quick justice today. Is that going to be the pattern of these Children's Court cases also? I think that is not the idea. The idea should be that you clear the mind of the child and see that he does not feel that he is an unwanted person in the scheme of the society.

Generally the idea is that we should not give a second appeal to any person who has been dealt with under this Bill. I refer to clause 35(3). Regarding the form to be used, it would be better if we can have the same words as we find in Section 17(4) of the Suppression of Immoral Traffic Act, etc. I feel that the hon. Minister and the Select Committee should take all these into consideration and I would be glad if they would look into these if they find that there is something worth considering in them.

Clause 48 says in the last line :

" . . . take such steps against the child as may be deemed necessary."

I cannot make out anything from it. Such things which are rather of an over-cautious character should not find a place in such social legislations. The very concept of this Bill is to improve our young children.

I hope, with all the good wishes of the Members of this House and the earnestness of the Ministry in bringing this Bill—and I wish them God-speed—the Bill will be passed as early as possible.

SHRI HARIHAR PATEL (Orissa):
Mr. Deputy Chairman, Sir, it is needless to say that the future of our country lies in the hands of our

children and as such, they deserve our best attention. If we desire to be sure of a bright future, we have to ensure all conditions for the proper growth and development of the children. It is a problem of the whole country and I support the suggestion of one hon. Member who said that efforts should be made to persuade all the States to adopt the same legislative measure for the welfare of children. It being a problem of the country as a whole and this Bill being enacted for Union territories, it is very natural that the other States will look up to this enactment as a model and it is but proper that it should be referred to a Select Committee so that the Bill may be faultless and comprehensive as far as possible. I think the United Nations Organisation has also adopted a Charter on the Rights of Children and they have enunciated some ten principles for the welfare of children which I do not find embodied fully in this Bill. I suggest that the Select Committee should take into consideration the Charter adopted by the U.N. and see that all the principles enunciated by them are incorporated in this Bill.

Going through the Statement of Objects and Reasons I find that the Bill is mostly concerned with only one aspect of the welfare of children, that is the material aspect. It speaks about providing for the care, protection maintenance, welfare, training, education and rehabilitation of neglected or delinquent children and for the trial of delinquent children, but it does not say anything regarding the other aspect, that is the intellectual aspect. I plead that steps should also be taken to protect children from the wrong type of education. I say this because I know that many institutions which are engaged in teaching children impart the wrong type of education and make the children grow in a very undesirable way. They become fanatic and dogmatic and they develop all sorts of undesirable vices. The children should be protected from practices which might foster racial, religious or any other kind of discrimi-

[Shri Harihar Patel.]

nation and should be brought up in a spirit of understanding, tolerance, friendship among people, peace and universal brotherhood and in full consciousness that their energy and talent should be devoted to the service of their fellow-men. I know of many instances where this principle is being violated by the teaching institutions. To cite one instance, I would say that I have a friend of mine who is a rich person and he had put his children in a Convent School. He is a Hindu and whenever his children fell ill, generally the priest used to come with *pushpa*, *chandana* and other things as blessings of God and used to advise the child to put some of them near his pillow and used to bless the child for his early recovery. These children who were in the Convent School were given some Cross by the teacher of that school and the teacher had asked them to remove the other things and put only the Cross under the pillow. This was one day detected by the father and he asked the children: Why are you removing the *prasad* *maha prasad*, of God. The children said: Our teacher said that only the Cross will cure and nothing else and so we have removed them. I have no objection to voluntary agencies imparting education to children and I do not propose to stand in their way, but I certainly condemn this sort of education or this sort of injecting wrong ideas into the mind of the child. The mind of a child is in a most sensitive and formative stage and if we do not take care during this stage to give them the proper type of education, then they are sure to be spoilt. They are bound to be spoilt. So I would like to suggest that the Joint Select Committee should examine this aspect also and have some provision in the Bill to prevent such types of institutions from springing up. I say this because this Bill also provides for the recognition of some institutions as after-care homes and as institutions desirable for children and so on. I am most apprehensive that the Government might do necessarily the

wrong thing, because that has been my experience in my own State where in spite of our repeated protests and in spite of a lot of protests and petitions against their actions, the Government have been encouraging religious institutions to bring up primary, secondary and high schools in the precincts of their own institutions. If you go to those schools, you will find nothing but a sort of religious teaching. Students professing other religions are in a very awkward position there. I feel they are more religious institutions than educational institutions. I do not mind adults going to such institutions, to some religious schools and learning other religions, but we should certainly protect children who have not the sense of discrimination developed as yet, who have not developed their reasoning power to that extent that they can distinguish between right and wrong. Children we should protect from this type of teaching which purports to inject wrong ideas.

SHRIMATI T. NALLAMUTHU RAMAMURTI: But what is the home doing? If the home education is on the right lines, such teachings in the school can do no harm to the child. I have been taught in a Lutheran Mission school though I am a staunch Hindu.

SHRI HARIHAR PATEL: I do not object to the parents teaching their own religion to their children, but I object to these teaching institutions injecting wrong ideas into the children—injecting into their minds that such and such religions is superior to some other religion and so on. That is what I object to.

SHRIMATI T. NALLAMUTHU RAMAMURTI: A Christian school might teach the students to respect Christ. A Muslim school similarly would teach the students how to respect Mohammad the Prophet and so on. They are all great saints. What is wrong in such teaching?

SHRI HARIHAR PATEL: I am afraid I have been wrongly understood by the hon. Member. I am not against

religious teaching, but it should not be injected into the minds of children in a wrong way. That is what I am trying to point out and though I may not have been able to express myself properly, I do hope that the Joint Select Committee would take this aspect of the matter into their consideration and keep something in the Bill to prevent such things happening in the country.

Other hon. Members have spoken very elaborately on the provisions of the Bill and I do not want to repeat them here. I am in entire agreement with Shri Amolakh Chand on most of his points. I had only this one suggestion to make and that I have done and I shall conclude my remarks with an expression of my sincere hope that the Joint Select Committee will consider all these points.

DR. K. L. SHRIMALI: Sir, at this stage you would not expect me to go into all the details of the points that have been raised here. The Joint Select Committee will certainly take into consideration the various suggestions that have been made by the hon. Members. There are, however, a few points which are fundamental points, which were raised with regard to the provisions in this Bill and these alone I shall briefly touch on at this stage. I am grateful to hon. Members, for they have generally given warm support to this measure. This is what I had expected. They had rightly desired that this Bill should be extended to the whole country. It is not within our jurisdiction, for there are certain matters like public order, begging, reformatory institutions and things of a like nature which come under the State List. But I would like to inform hon. Members that we are already in touch with the State Governments and when Parliament passes this Bill, I hope the State Governments would also revise their measures and enact new legislations. I expect that this will be a model legislation from many points of view.

I think several hon. Members have rightly pointed out that, as a rule, women should be in charge of the various institutions which look after children and which will perform certain duties in the courts. I am in entire agreement with this and I think as far as possible, it should be our endeavour to have only ladies as magistrates, as social workers and even as police officers, so that the children might feel secure in their presence. This is very important, because ultimately it is the sense of insecurity which makes a child delinquent and it should be our effort to restore that sense of security so that he might become a normal citizen and in this matter I am in entire agreement with those hon. Members. I think provisions are there as far as practicable. The difficulty which is often felt is that women workers cannot be found, they are not available and, I think, it is with that fact in mind that the provisions have been made. But I hope the Joint Select Committee will consider the suggestion sympathetically and make the necessary provisions.

I am also in entire agreement with Rajkumariji when she said that in order to make this measure successful, this legislation effective, it is of the utmost importance that we should have trained personnel. At some places we have already made that provision. For example, it will be noticed that we have said:

"No person shall be appointed to preside over a children's court unless he is a magistrate of the first class and has, in the opinion of the Administrator, special knowledge of child delinquency and child welfare."

I am in entire agreement with the view that this is a subject which needs specialised knowledge and full understanding of child psychology and no person can help a child and guide him in a proper way unless he has this equipment and unless he has this

[Dr K. L. Shrimali.]

training. I do hope that it will be our effort to employ, as far as possible, only trained persons. We have now many institutions, schools of social work and various departments of education, where training is being given in these new methods and new techniques of social work and of dealing with difficult and problem children. I can assure the House that it will always be our endeavour to have only trained persons, as far as possible.

Mr. Amolakh Chand raised various points. I shall not deal with all of them here, as I expect that the Joint Select Committee will go through them. But one fundamental point that he raised was whether the State should take over this responsibility at all for these neglected children. And if I am not mistaken, he went to the extent of saying that it is possible that in that way we might encourage the parents to neglect their children.

Now, Sir, this is a fundamental question. At this stage of our social development, we are convinced that the State also has a responsibility as far as children are concerned. No parent has a right to give birth to a child and then not to make proper provision for its food, not to make proper provision for its shelter and to continue to neglect the child.

SHRI AMOLAKH CHAND: The thing is that our population is going to be five hundred million by the end of 1980.

DR. K. L. SHRIMALI: That does not matter. The neglected child has been defined as follows:

“(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, whether he is an orphan or not; or

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

(iv) lives in a brothel or with a prostitute etc., etc.,”

Now, Sir, the State cannot shut its eyes to a situation where the children are brought up in circumstances and in environments which would naturally make them criminals. In these matters, it is the right of the State to interfere and to protect the children and the State does not perform its duties properly if it does not protect the children. Therefore, in my opinion, this measure will not encourage neglect of children; in fact, no parent would like to neglect his children. It is only an abnormal parent who neglects his children and these people are responsible for bringing up problem children. In fact, there is no problem child but there are only problem parents.

Another point that was raised by **SHRI AMOLAKH CHAND** was with regard to age. I think this point was raised by other hon. Members also. They wanted to know as to why we had kept the age at 16. There are certain well-defined stages of development; there is a stage up to the age of six, the period of infancy. Then the child passes on to the second stage, from the age of six to fourteen and then comes the period of adolescence which begins about the age of sixteen to eighteen years. I think the period between the ages of twelve and sixteen is the time when a child passes through lots of difficulties, emotional disturbances, storms and stresses and it is during this time that a child needs the greatest protection. Therefore, we have purposely kept the age as sixteen in the case of boys and eighteen in the case of girls. I have already explained as to why we have kept the age at eighteen in the case of the girls. The girls need protection for a longer period than the boys. After they have reached the age of sixteen and eighteen, the boys and girls respectively can look after themselves properly. When the boys and girls pass through storm and stress, when they pass through the adole-

scent period, they need protection and from that psychological point of view, we have kept the age at 16 and 18 respectively for boys and girls.

Another point that was raised was with regard to voluntary organisations. Shrimati Ramamurti made some very valuable suggestions and I have no doubt that the Joint Committee will consider all of them. She expressed apprehension over the fact that when the State takes over these institutions, it is possible that voluntary organisations may dwindle and may gradually die out. I think there is that fear but she would notice in the Bill itself that we have taken care to see that if voluntary organisations are available and if they are working in an effective manner, if they can get proper certificates, the State itself supports such organisations. It is my belief that voluntary organisations can do much better work and in the field of social service render more effective service than sometimes the governmental agencies. I can, therefore, assure the House that it would be our endeavour, as far as possible and so far as these institutions are concerned, to try to encourage voluntary organisations. The House need not have any fear. The State cannot be indifferent when the children are neglected, when they have no homes to live, no proper nutrition, and no education. It is the responsibility of the State to protect such children. As I said, our whole approach in this Bill has been to make an effort to improve environmental conditions of the children, the environmental conditions which are detrimental to the proper social and emotional development of the child. It is well known that most of the problems of children are due to the fact that they do not live in a very well-knit environment in the home, an environment which does not release their creative quality, an environment which suppresses their individuality, an environment which

does not give them a sense of security, an environment which is hostile to the proper development of the personality of the child. Now, that is the type of environment from which we would like the child to come out. We would like children to live in proper homes and institutions where they can develop into normal citizens and make an effective contribution to society. I also think that there is nothing like a good home for the children. If the children could get proper care, affection and warmth, there is nothing like it but we also know that there are many homes which do not give that protection to the children. This may be due to economic circumstances or at times due to conflict among the parents themselves. Many delinquencies that we come across are not due to economic difficulties but because of maladjustment among the parents themselves. In such circumstances, it should be the duty of the State to protect children.

I would like to thank the hon. Members who have participated in this debate. I have no doubt that the Joint Committee will take into consideration the various valuable suggestions that have been made on this Bill.

Sir, there is a small amendment that I would like to make in the Motion. I had said,

"that the Committee shall make a report to this House by the last day of the first week of the next session;"

but with your permission, I would like to make it as follows:

"that the Committee shall make a report to this House by the 31st August, 1960;"

SHRIMATI T. NALLAMUTHU RAMAMURTI: What about my suggestion to have experts?

DR. K. L. SHRIMALI: There are various suggestions which will be gone into by the Joint Committee. I have already said that, as far as possible, it will be our endeavour to have experts, trained psychologists, social workers, to look after these institutions.

RAJKUMARI AMRIT KAUR: The Government could get scholarships for the training of our women. I am quite sure that if Government approaches some of these international organisations, we will be able to get scholarships.

DR. K. L. SHRIMALI: That is a very good suggestion and we will certainly take the help of my hon. friend, Rajkumari Amrit Kaur.

SHRIMATI T. NALLAMUTHU RAMAMURTI: What about my suggestion for having a psychological bureau for the testing of children?

DR. K. L. SHRIMALI: There is already a bureau in Delhi and I think the psychological bureau could make its services available to the social workers and the people who are handling children in the institutions.

MR. DEPUTY CHAIRMAN: I shall now put the amended motion.

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 be referred to a Joint Committee of the Houses consisting of 45 members; 15 members from this House, namely:—

1. Shri S. V. Krishnamoorthy Rao

2. Shri T. S. Avinashilingam Chettiar

3. Dr. Shrimati Seeta Parmanand

4. Shrimati Maya Devi Chetty

5. Dr. Dharam Prakash

6. Shri V. C. Kesava Rao

7. Shri A. Dharam Das

8. Shri G. R. Kulkarni

9. Shrimati Lila Devi

10. Shri Abdul Latif

11. Shri B. V. (Mama) Warerkar

12. Shri D. P. Singh

13. Shri P. A. Solomon

13. Mirza Ahmed Ali

15. Dr. K. L. Shrimali

and 30 Members from the Lok Sabha;

that in order to constitute a meeting of the Joint Committee the quorum shall be one-third of the total number of members of the Joint Committee;

that in other respects, the Rules of Procedure of this House relating to Select Committees shall apply with such variations and modifications as the Chairman may make;

that the Committee shall make a report to this House by the 31st August, 1960; and

that this House recommends to the Lok Sabha that the Lok Sabha do join in the said Joint Committee and communicate to this House the names of members to be appointed by the Lok Sabha to the Joint Committee."

The motion was adopted.

MR. DEPUTY CHAIRMAN: The House stands adjourned till 11 A.M. tomorrow.

The House then adjourned at five of the clock till eleven of the clock on Tuesday, the 16th February 1960.