

SHRI GANGA SHARAN SINHA: Does the reply given by the Chinese authorities tally with our facts? Is it true that our people have encroached or infiltrated into their territory or something like that?

SHRI JAWAHARLAL NEHRU: It does not tally with our version of the facts. Obviously that is why we are arguing and we are having this detailed reply and they have mentioned many things in it—names of places about which we have no information. We are trying to get information. In the next two or three days we will probably get more information so as to be able to reply to them as we propose to do in the course of a few days. May I mention to this House that we are preparing a kind of a White Paper which will contain the correspondence between the Government of India and the Government of China in the last 4 or 5 years, ever since our Tibetan Treaty. That may not be cent. per cent. up-to-date in the sense that if I get a message today, it may not be in it but it will be fairly up-to-date till the last ten days or so. As soon as it is ready, I hope before the Parliament adjourns, it will be placed on the Table of the House.

SHRI GANGA SHARAN SINHA: Regarding the information that is being collected, may I request him to place before this House as soon as the information is available because we do not know how many Chinese have come there. Just now he gave some information that in that place there is no habitation.

SHRI JAWAHARLAL NEHRU: Yes, but I am afraid I cannot do so because I cannot get any information. It is totally—I will not say totally—but it is not within our reach. It will take, if I sent a party of explorers with exploring kit, about a month to get there.

SHRI JASWANT SINGH (Rajasthan): Sir, there are also reports in the press that along our Ladakh and Tibetan borders, the Chinese are esta-

blishing some bases. Is there any truth in them? Has the Government got any information in regard to that aspect of the matter?

SHRI JAWAHARLAL NEHRU: In Tibet?

MR. CHAIRMAN: On Ladakh and Tibetan borders, he says.

SHRI JAWAHARLAL NEHRU: Which side of the border? In their territory or our territory?

SHRI JASWANT SINGH: In our territory.

SHRI JAWAHARLAL NEHRU: Certainly not, there is no truth in them.

SHRI V. K. DHAGE: I welcome the move of the Prime Minister to have a White Paper published on this matter and placed on the Table of the House. Would he also consider the possibility of having a discussion on that White Paper before Parliament adjourns?

SHRI JAWAHARLAL NEHRU: I don't know; it depends on many factors, on the time available and on the desirability of it. I don't know. Once the House sees the White Paper and knows what we are doing, then it will be time enough to consider what further steps should be taken.

THE ORPHANAGES AND OTHER CHARITABLE HOMES (SUPERVISION AND CONTROL) BILL, 1959— continued

MR. CHAIRMAN: Now we go back to the discussion on Mr. Kailash Bihari Lal's Bill on which a point of order was raised and the Law Minister will speak on the point of order.

THE MINISTER OF LAW (SHRI A. K. SEN): Sir, I do not think there is much substance in the point of order raised, I must say, with due respect to the hon. Member. The point raised

was that the Bill required the recommendation of the President under article 117 clause (3) of the Constitution I may read out that clause which is as follows:

"A Bill which, if enacted and brought into operation, would involve expenditure from the Consolidated Fund of India shall not be passed by either House of Parliament unless the President has recommended to the House the consideration of the Bill."

So, the condition is that if enacted and brought into operation, it should involve expenditure from the Consolidated Fund of India. That means that the moment the Bill is enacted, it must involve expenditure from the Consolidated Fund of India. I don't think this Bill anywhere contains any provision which, if passed, would involve expenditure from the Consolidated Fund. It is a question of reading the Bill itself. Therefore, I say, Sir, that that point of order should fail.

MR. CHAIRMAN: Does any other Member wish to speak on this?

(No hon. Member stood up.)

MR. CHAIRMAN: You want to reply to the debate?

SHRI A. K. SEN: I will just make the point of view of the Government clear on this Bill, that is to say, that the Government does not oppose the Bill.

SHRI AKBAR ALI KHAN (Andhra Pradesh): Am I right in saying that it was brought forward in consultation with the Government?

SHRI A. K. SEN: That is not quite right, and I don't know who has given that impression. But unofficial help might have been given to Mr. Lall in the matter of drafting. But that has nothing to do with the official attitude on the matter.

RAJKUMARI AMRIT KAUR (Punjab): Sir, may I ask whether it is within our right to pass a Bill which

will involve expenditure on the States without having consulted the State Governments?

SHRI A. K. SEN: That is the whole point why the original Bill, as it was then framed, was not proceeded with. The original Bill involved an obligation on the part of the State Governments to bring the measure into force and to incur expenditure. That was the main reason why we opposed it, on the ground that when the States were consulted, they did not want a financial obligation being imposed upon them in this matter by the Centre, unless the matter was left rather flexible so far as they were concerned. That is why the present Bill leaves it entirely to the States to bring into operation the provisions of the Act or not. Honourable Members will see the operative clause in clause 5 which says that the State Government may by notification in the Official Gazette put it into force. So, that is for the State Government concerned, and if the State Governments do not want to incur the obligation under the Act, they would not issue a notification at all. But if they think that it should be brought into operation, then they will issue it. So, it entirely depends on their own volition.

I may add here that some amount of supervision is necessary in the matter of these orphanages and homes and no State Government has denied that some amount of supervision is necessary. In fact, the personal experience of many hon. Members would justify the allegations made from time to time that some of these homes are not really proper places and in many of these homes widows and helpless women are possibly not treated with the amount of compassion and respect which they deserve, notwithstanding their misfortunes. From my own personal experience I know that in some cases some of these helpless women have been not only exploited, but the fullest advantage has been taken of their helplessness by those who are in charge of these orphanages. I remember a gross case...

SHRI M. H. SAMUEL (Andhra Pradesh): Sir, we were told that it will be open to the State Government to enforce this law or not. Then why should we pass this Bill here? If a State Government desires such a law, then the State can very well pass such a legislation in its own legislature. Why should we do it here?

SHRI AKBAR ALI KHAN: It will be a pattern for all India.

SHRI A. K. SEN: I will answer that a little later.

As I was saying, I know of one case with which I was personally concerned, as I appeared for the prosecution and the matter ended in a conviction for the person in charge of the management of the institution and it involved an offence which was of the grossest nature and the prosecution revealed a state of affairs which was, to say the least, most undesirable.

The point raised by the hon. Member over there is, why should we legislate this Bill? This can be said not only of this Bill but of many Bills that have been sponsored even by the Government with regard to concurrent subjects, even with regard to subjects in which the administration must necessarily be left in the hands of the State. That is so because the legislation passed by Parliament can be followed by all the States concerned. It is for the State to accept it or not to accept it. In fact, if they desire, they can even modify it on receiving the sanction of the President, because with regard to matters covered by the Concurrent List the States are entitled to legislate even after the passing of the Act by the Central Legislature, provided they got the sanction from the President. That is the position.

I personally think that there is nothing in the Bill which should invite opposition from the Government. In fact, I think it is a step in the right direction. Whether we can straightway bring the Bill into operation in all the States or whether the regulation

and supervision provided for in the Bill would be perfect or not, is a matter which can only be revealed or understood after working it for some time. Therefore, I submit that so far as the Government is concerned, we find nothing in the Bill to oppose.

SHRI V. K. DHAGE (Bombay): Sir, to the point of order raised, the hon. Law Minister has given his reply. Whether the point is valid or not, it is for you, Sir, to say and unless that decision is given, I think the matter will remain where it is.

MR. CHAIRMAN: Well, I say, the point of order does not arise.

SHRI JASWANT SINGH (Rajasthan): Sir, there is one thing which I would like to get cleared. The hon. Law Minister has said that the Government is not opposed to this legislation. But I would like to know whether the Government is supporting it or not or whether it would like to be neutral as far as this legislation is concerned.

AN HON. MEMBER: It is supporting it.

SHRI A. K. SEN: As far as a Private Member's Bill is concerned, the usual way of indicating the attitude of the Government is by using the expression which I have used.

SHRI V. K. DHAGE: What was the expression?

MR. CHAIRMAN: Usually Government's attitude is indicated by saying that it does not oppose it, which means that it may support it.

SHRI A. K. SEN: If we officially support it, we may fetter the discretion of individual Members.

MR. CHAIRMAN: They are absolutely at liberty to vote as they please. So, Congress Members have now the liberty to vote as they please.

SHRI JASPAT ROY KAPOOR (Uttar Pradesh): That we always have.

RAJKUMARI AMRIT KAUR: I want to ask one other question, Sir. If the States do not follow what is purported to be referred or suggested to them, then the Act becomes a dead letter. The second point is this: It seems to me that legislation already exists whereby the States can come down on homes whether for refugees or for women that are not properly run. Why then have this further Bill? I just do not understand the rationale of it.

SHRI A. K. SEN: May I just answer Rajkumari's objection from the point of view of Government?

Where there is an Act in a particular State and that is regarded as satisfactory, the State will not bring this law into operation. It is only meant for those States where there is no law to cover the field or where the existing law is not considered enough to look after the interests concerned.

SHRI KAILASH BIHARI LALL (Bihar): There were several speeches on the Bill the other day and the majority of the speakers, excepting Rajkumari Amrit Kaur, supported this measure. I am grateful to them for their valuable suggestions—the very valuable suggestions given by them which will be looked into by the Joint Committee. I would have very much liked not to say anything but if I had kept quiet especially in view of the remarks of Rajkumari Amrit Kaur, I would have been mistaken and people would have gone away with a wrong impression. I am sorry she has left the House. She regaled the House with an aphorism, that the best governed State is that which is least governed. That was one thing that she placed before the House. Objecting to some of the provisions in this Bill she said that this would mean interfering too much with individual freedom. I do not know whether she has joined the Swatantra Party or not.

SHRI P. N. RAJABHOJ (Bombay): She is still in the Congress.

SHRI KAILASH BIHARI LALL: Maybe, but she is thinking too much of individual freedom and she said that this Bill would interfere too much with the freedom of the States and with individual freedom.

SHRI P. N. SAPRU (Uttar Pradesh): May I just intervene to say that the question is not whether there should be some regulation or not in respect of these homes but whether the Union Government should interfere in matters which should be the primary responsibility and concern of the States.

SHRI KAILASH BIHARI LALL: I think the hon. Member should have made a speech and enlightened the House. I was rather wondering how the debate came to an end so quickly.

* Of course, the point has been replied to by the Law Minister. I can, however, say that this Bill does not mean any interference in the affairs of anyone. That is my reply to the question raised by my hon. friend.

SHRI B. K. P. SINHA (Bihar): Because it is an item in the Concurrent List, both the Union and the State Governments can legislate.

MR. CHAIRMAN: Do not make interruptions. You should make a speech.

SHRI KAILASH BIHARI LALL: There is another aphorism which Rajkumari Amrit Kaur should remember. It is that one could swallow an elephant but strain at a gnat. I do not know what is individual freedom in the opinion of Rajkumari Amrit Kaur. When she was a Minister she introduced compulsion in respect of B.C.G. vaccination when it was opposed by Shri Rajagopalachari.

MR. CHAIRMAN: Don't bring in compulsory vaccination. Let us come to the orphanages.

SHRI KAILASH BIHARI LALL:
I want only to remind the House about this fact, about how she treated people's desire to have the Ayurvedic and Unani systems of medicine and imposed the Allopathic system on them.

The other thing she said was that the whole thing should be left to the women's organisations. I can tell you, Sir, that a very responsible women's organisation, the Bombay State Women's Council, has sent a letter to me in this regard. The President of the Council is Mrs. Gulestan Billimoria; the Vice-President is Mrs. Sushila D. Joshi and Mrs. Padmavati R. Saraiya is the Honorary Treasurer. Miss Hilla M. Dadina is the Secretary. This is what the letter says:

"The Bombay State Women's Council is a responsible organisation of women with about 36 associations affiliated to it. It is keenly interested in questions coming before Parliament, particularly those affecting women and children."

Its Parliamentary Committee studied the provisions of the above Bill and the Council wholeheartedly supports the principles underlying the same and recommends the accompanying amendments and/or alterations."

There are good many suggestions sent by the Council which I shall place before the Joint Committee. Women are not sleeping as Rajkumari thinks them to be; they are alive and such responsible organisations like the Bombay State Women's Council and others have studied the Bill. Mr. Lingam and Shrimati Nallamuthu Ramamurti also raised this point which was raised with vehemence by Rajkumari Amrit Kaur. There is this impression in the minds of a good many people that this measure will interfere with the working of the State Governments. I say that it does not and there is not even a suggestion of interference in this measure. As the Law Minister said a few minutes ago, it is open to the

States concerned to declare by notification whether they are going to adopt this measure or not and when they issue such a notification, they do so with full knowledge of this fact.

SHRI P. N. SAPRU: If they do not do it, then this Bill will have no purpose to serve.

SHRI KAILASH BIHARI LALL:
Will the Government of India come down upon them? Is that the point?

SHRI P. N. SAPRU: Have the State Governments been consulted in this matter?

SHRI KAILASH BIHARI LALL:
Yes, they have been consulted.

SHRI P. N. SAPRU: What is their opinion?

MR. CHAIRMAN: Mr. Sapru, you should address the Chair and not Mr. Lall.

SHRI P. N. SAPRU: What I want Mr. Kailash Bihari Lall to tell us is whether the State Government have been consulted or not. If they have been consulted, what is the opinion received from those State Governments?

SHRI KAILASH BIHARI LALL:
Only one point more I want to place before this House and that is not only with regard to this Bill but with regard to all laws in general. Our aim is integration of the country. We want to put down disintegrating factors, like parochialism, communalism, separatism, and all these things. Perhaps we only talk about them but do not act. One thing which is required for the integration of the country is that there should be a common law for the whole country. It is by force of necessity—administrative difficulties and other things—that we have divided India into so many administrative units called States. If our leaders really think that there should be complete integration, then we should have as much common laws as possible. Sir, I wonder how seasoned

politicians who are adorning this House always speak in season and out of season about this interference with the States. They always say that we should not interfere too much with the States.

MR. CHAIRMAN: Mr. Kailash Bihari Lall, why are you getting excited?

SHRI KAILASH BIHARI LALL: We are not interfering too much with the States. When we think of India as one country, we should think of having as much common laws as possible because law is one of the bonds of unity. We must have common laws for the whole country. As I said, it is only by force of necessity that the different administrative units have been given the option of having their own laws and very wisely a list of subjects has been provided in the Constitution.

Sir, on a previous occasion also this Bill was widely welcomed and now also it has received general support from all sides of the House. I am sure that the members who are on the Select Committee will take into consideration all the suggestions that were made both on the previous occasions as well as on this occasion as also any other suggestions that might be received from elsewhere. For instance, I have received a letter from a women's organisation. All these will be considered at the Select Committee and I hope that the Bill will emerge in a form that will be acceptable to all people.

About this question of interference

MR. CHAIRMAN: You have already answered that point.

SHRI KAILASH BIHARI LALL: It was said that there are already well administered institutions and this Bill might interfere in the good work that they are doing. This Bill will not affect in any way the development of such institutions and if unfortunately it so happens, then I will be the first

man even at the last stage to withdraw the Bill. We do not want to stand in the way of any institution that is doing good work and no apprehension need be entertained on that ground. Rajkumari Amrit Kaur was not justified in saying that it will give a long rope to the officials to interfere with the affairs of the people. I am surprised that an ex-Minister of the Government of India should possess such ideas about Government interference.

MR. CHAIRMAN: Order, order. You answered her objections in her absence and now that she is here you are again repeating the same old arguments.

SHRI KAILASH BIHARI LALL: I have not repeated those arguments, Sir. I am only saying a new thing that came to my mind.

Sir, I thank my friends who have given their support to this Bill.

SHRI AMOLAKH CHAND (Uttar Pradesh): Sir, I want to put one question which might clear the objection that has been raised by my learned friend, Mr. Sapru. If this Bill is passed by both Houses, may I know whether it would be applicable to the Union Territories or not?

SHRI A. K. SEN: A notification may be necessary.

DR. A. R. MUDALIAR (Madras): On a point of information, may I request the Law Minister to tell us under what item of the Concurrent List this Bill comes?

SHRI A. K. SEN: Under economic and social planning.

DR. A. R. MUDALIAR: With all respect, that is stretching English language to the ultimate limit I can understand the case of infants and girls below 18 which comes under item 5 but not the case of women.

SHRI A. K. SEN: And also under item 28, Charities and charitable institutions.

MR. CHAIRMAN: Item 28—Charities and charitable institutions, charitable and religious endowments and religious institutions.

SHRI A. K. SEN: And also item 20—Economic and social planning. Social planning certainly comprehends this.

SHRI M. H. SAMUEL: Sir, Mr. Sapru asked whether the State Governments have been consulted on this matter and the Mover of the Bill said that they have been consulted. Could we have the views of each of the State Governments on this Bill before we proceed any further in this regard? Because after all it affects them and they have to implement it.

SHRI KAILASH BIHARI LALL: So far as my information goes State Governments have been consulted and their opinions were published. Many of the State Governments have expressed themselves in favour of this Bill

SHRI M. H. SAMUEL: It is very difficult to proceed with this Bill in the absence of the views of the State Governments, for whom we are passing this Bill.

DR. R. P. DUBE (Madhya Pradesh): They are already there. They have been circulated along with other papers.

MR. CHAIRMAN: The question is:

"That the Bill to provide for the supervision and control of orphanages, homes for neglected women or children and other like institutions and for matters connected therewith be referred to a Joint Committee of the Houses consisting of 30 members, 10 members from this House, namely:—

1. Dr. W. S. Barlingay
2. Shri Deokinandan Narayan
3. Shrimati Savitry Devi Nigam

4. Shri Ram Sahai
5. Shri M. H. Samuel
6. Shri D. A. Mirza
7. Shri N. C. Sekhar
8. Shri Kamta Singh
9. Shri V. Venkataramana and
10. Shri Kailash Bihari Lall (the mover)

and 20 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 first day 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."

The motion was adopted.

THE REPRESENTATION OF THE PEOPLE (AMENDMENT) BILL, 1959

SHRI BHUPESH GUPTA (West Bengal): Sir, I beg to move:

"That the Bill further to amend the Representation of the People Act, 1951, be taken into consideration."

[MR. DEPUTY CHAIRMAN in the Chair.]

Sir, by this Bill I want to amend the Representation of the People Act in order to provide for recall of the elected members of the House of the People and of the State Assemblies. Now, Sir, this is a very important political question before us to discuss,