

[Shri P. C. Bhanj Deo.]

मैं यहाँ तक सहमत हूँ कि हमारे देश के अन्दर इस समय जो "पार्ट सी स्टेट्स" (Part C States) हैं, उनकी कोई जरूरत नहीं है। मेरा तो यहाँ तक कहना है कि सारे भारतवर्ष के लिये एक ही स्टेट होनी चाहिये। मेरे कहने का मतलब यह है कि जब सरकार ने एक नियम को मान लिया है, उसी के आधार पर उसने एक आयोग की नियुक्ति की है तो फिर वह नियम के अनुसार क्यों नहीं चलती, आयोग की सिफारिशों पर ही उसको चलना चाहिये।

मैं इस आखिरी रीडिंग (reading) में माननीय गृह मंत्री महोदय से और इस भव्य सदन से प्रार्थना कर रहा हूँ कि वह निष्पक्ष होकर इस बात पर विचार करें और अपनी राय इस हैसियत से दें कि गृह मंत्री महोदय इस विधेयक पर पुनः विचार करें और आयोग के सामने उपस्थित करें। आयोग जब इस पर अपनी सिफारिश संसद् के पास भेज देगा तो उस पर निष्पक्ष रूप से पुनः विचार किया जाना चाहिये और अन्तिम रूप से कानून बना दिया जाना चाहिये।

इतना ही मेरा कहना है। इन शब्दों के साथ मैं अपना आसन ग्रहण करता हूँ।

[For English translation, see Appendix VII, Annexure No. 196.]

DR. K. N. KATJU: Mr. Deputy Chairman, I can only inform my hon. friend that every aspect which he has just now urged before the House has already been taken into consideration. It is up to the Commission to say whatever they like. But the administrative difficulties

have really prompted us to take this measure at an early date and as I have said, the decision was taken long before the Commission was appointed or even thought of.

श्री प्र० च० भंजदेव : मेरा कहना यह है कि जब कानूनी तौर पर यह विधेयक पास हो जायेगा तो फिर आयोग की सिफारिश की क्या जरूरत है ?

t[SHRI P. C. BHANJ DEO: I say that when this Bill is passed where will be the necessity of the recommendations of the Commission.]

MR. DEPUTY CHAIRMAN: No further speech, please.

The question is:

"That the Bill be passed."

The motion was adopted.

5 P.M.

THE CHILDREN BILL, 1953

THE PARLIAMENTARY SECRETARY TO THE MINISTER FOR EDUCATION (DR. K. L. SHRIMALI): Sir, I beg to move:

"That the Bill to provide for the care, protection, maintenance, welfare, training, education and rehabilitation of neglected children and juvenile delinquents in Part C States, as reported by the Select Committee, be taken into consideration."

Sir, while moving this motion, I beg to place before the House some of the important considerations which the Select Committee had before it. One of the important principles which guided the Select Committee in making amendments to this Bill was that the juvenile courts should be distinguished from the criminal courts.

[THE VICE-CHAIRMAN (SHRI AKHTAR HUSAIN in the Chair.)

The child who commits an offence is not responsible for his conduct whereas an adult criminal who commits aa

t English translation.

offence is responsible. The child is a victim of certain circumstances and social situations and, therefore, a juvenile court while dealing with a child cannot deal with it in the same manner as an ordinary criminal court would act. In an ordinary criminal court there is all the paraphernalia of legal procedure the cold, calculating way of prosecuting a person, an attempt to be completely impartial and deal with law in a calculating way. The juvenile court, on the other hand, adopts a different procedure. It assumes the responsibility not only for administering law but also the responsibility for the welfare and the treatment of the juvenile offender. Recently law has made progress not only in dealing with juvenile offenders but also in dealing with ordinary criminals. Law is no more considered in isolation. It is felt that for legal justice certain other factors have also to be taken into account. All the social sciences such as psychology, medicine and sociology come to the aid of law in dealing with justice fairly. Ordinary law, however, has not advanced enough to take into account all the factors of social sciences but there is no difference of opinion as regards the treatment of juvenile offenders. There is an unanimity of opinion that a juvenile offender is not responsible for the crime that he commits; it is the circumstances which lead him to commit crimes. If the child is placed in a more healthy environment and under better social and economic conditions, he improves and responds to that environment. The aim of the juvenile court should, therefore, be not to punish the child for the offences that he has committed but to treat him in a psychological way.

These are some of the considerations which the Select Committee had in view in making certain amendments. The amendments that have been proposed are not of a formal or a consequential nature but they merely amplify or clarify the principles which the framers of the Bill had in view. For example, I may draw the attention of the House to re-numbered clause 11(?* This sub-

clause has been amended. The amendment is that when a neglected child is taken charge of either by a police officer or by an authorised person, the child should not be kept either in a police station or in jail but that he should be kept in an observation home pending his production before a competent court unless he is allowed to remain with his parents or guardians. A new sub-clause (4) has accordingly been inserted. It is very important that while the court is making an enquiry the child should not by any means feel that he is a criminal by associating with other criminals. The Committee felt that it should be very clearly and specifically laid down that the child should not be put in a police station or in jail but that he should be placed in an observation home where the child would be kept under observation, his reactions studied and further investigation made about his mental make up which might help the court in arriving at a decision.

Similarly, it will be found in re-numbered clause 20 (original clause 19) that the Committee has considered that under no circumstances should a child be sent to a jail. Now, the Committee had very weighty reasons for making this recommendation. This is supported by various progressive measures which are adopted in different countries for the treatment of juvenile delinquents. As I have already indicated, the child when it commits a crime is not responsible for his actions; he is driven to anti-social activities and delinquent acts because he is forced into certain situations. He may suffer from emotional tension or he may be living in a broken home or under poor economic conditions. There may be various factors which lead to delinquency. But if a child is sent to jail he is a confirmed criminal when he comes out of it. Sending a child to jail is no treatment; the child should be placed in an atmosphere which 'trill be congenial to his proper emotional development.

In clause 36, it has been laid down that the court should always record the evidence placed before it because the ordinary Code, the Code of

[Dr. K. L. Shrimali.] Criminal Procedure, is rather inadequate for this purpose. It is very important that proper records are kept of the proceedings of the courts. The usual practice in some of the courts is that a stenographer sits in a corner, unnoticed by the child, and the child does not know that his evidence is being recorded but all the same some report is being prepared. This report is not only helpful for the Probation Officer but it is helpful for the future guidance and education of the child.

As one looks at the report of the Select Committee, it would be noticed that, on the whole, the Select Committee has endorsed the Bill and a few amendments, here and there, have been made which clarify or amplify certain principles governing the Bill.

I, therefore, move that the Report of the Select Committee be taken into consideration.

THE VICE-CHAIRMAN (SHRI AKHXAR HUSAIN): Motion moved:

"That the Bill to provide for the care, protection, maintenance, Welfare, training, education and rehabilitation of neglected children and juvenile delinquents in Part C States, as reported by the Select Committee, be taken into consideration."

The motion is now open for discussion by the House.

SHRI B. GUPTA (West Bengal): Mr. Vice-Chairman, there cannot be two opinions that measures such as this for social reforms or for dealing with our social ills are absolutely essential, but I find that this Bill which deals with the cases of neglected children and delinquent children is not a sound one. The approach seems to be one of a procedural nature and the outlook is not even quite helpful.

Sir, in our country the delinquency on the part of the children arises from certain social disequilibrium, from social injustices, from the inhuman conditions in which an overwhelming majority of our people are condemned to live. It is in these surroundings that

our humanity grows and it is there they find all the avenues of full expression of life closed to them and some of them take to paths which normally one would call anti-social. Now that process, Sir, continues and we feel that until and unless certain basic changes are made in the very social structure itself which breeds such delinquency, which leads even children to commit, crime, nothing much will have come.

As you know, Sir, in many of the western countries with a high order of capitalistic civilization they have tried to tackle this problem and they have not quite succeeded. In France and in England and more especially in the United States of America of whose democracy we hear so much, you get a great deal of cases of child delinquency. Now in the final analysis, all these things emanate from the social disorder, social anarchy and social injustice. Therefore, Sir, I feel that not much will have been done here in our country until we go to the roots of the problem. Yet I would say that our civilization is such that it does not usually drive our children to the path of delinquent acts. On the contrary they try to lead a peaceful life although the society takes unkindly to them. The number of cases that arise are the product and progeny of a peculiar set of circumstances which might easily be checkmated and easily fought, but the Government so far has done nothing to frontally attack these circumstances and eliminate them.

Take, for instance, the working class. They are condemned to live in subhuman conditions, in surroundings which would be a shame for any civilization and there the children grow bereft of all amenities of life, of all cultural activities and driven at a very early age to toil for earning a livelihood for the family. In that want and starvation they grow and naturally some of them are easily enticed into doing wrong things. We find, Sir, the social pressure is so great on them that they take to such paths and until and unless we consider that aspect of the matter I do not see how we can stop this. The matter is one of prevention.

Now, as you know, in the countries of the socialist world more especially in the Soviet Union and people's democracies where I had the privilege of going, I found that utmost care is being given to the treatment of children not merely at the institutions where they are brought for education or for their cultural activities but also at home. The whole social surrounding is such where you cannot even dream of the children taking to the path of committing crimes. Now that sort of thing has produced very great results and any objective study of the development there, I am sure, will help us to understand as to how one could fight such problems.

Now, I come to the cases of neglected children. Why should children be neglected in a country? Why on earth in our civilization should young children be found in the streets begging and lying on the streets and living in conditions which one even shudders to think of? Now again there you get poverty, you find want and you find suffering which drive them to such a position. Now it is not the parents which neglect the children. It is the society which neglects the children. It is the society which does not know how to look after these children. Therefore we find the children of poverty are driven to the streets for begging and for doing things which nobody would like them to do. Here again one must so approach the problem that we can tackle it at the roots of it. Unfortunately this Bill does not make that approach.

Now in the Five Year Plan itself there are some references to this problem. There it has been admitted that poverty, neglect, slum life and frustration are the causes of child delinquency. In this Bill that approach, even that limited approach, is missing. Therefore the Bill has tended to become one of procedure rather than a measure of fundamental social reform. I understand, Sir, that the procedure is necessary. I do not wish to say that such procedure is not necessary. Some such procedure must be found but the procedures get

vitiating until and unless they are balanced by a humane and social approach, and that approach, I regret to say, is somewhat wanting in this measure. It is not my suggestion at all that the Government do not intend to do something good but mere intentions are not enough. If you intend to do a good thing you must face the situation bravely and take such measures as are warranted by the realities of life. The Bill fails on that account.

Let me take the question of neglected children. Undoubtedly a place is to be found for them. We like to see the day when there shall not be any child in the streets so neglected that they have to beg or they have to go on doing things which society would not approve. Now, Sir, these children should be taken care of and for that it is not just enough to have certain homes here and there. The State must so organise this affair that everyone of these children is tackled; everyone of them is taken care of, so that the children are not driven to the streets for begging or for doing things that are generally enumerated in this Bill. For that we need certain measures. One of the things would be to ensure better life for the poorer sections of the people. I come from Calcutta which is an important industrial centre and if you go round the streets of Calcutta you will find, to your eternal shame, many children in the streets. Nobody knows where they come from; nobody knows what will happen to them. We see a great many of them just dying in the streets for want of care and nursing. Sir, that is something which is abominable in a society like ours, but no step is being taken. Some people may throw a little money to them; some people may feel sympathy towards them, but they continue to remain in the streets. It is possible within the resources of this present State to take care of these children and to nurse them. It is quite possible to do that, but nothing of that sort is being done. That is why I say that mere passage of this Bill is not enough. It should be supported by

[Shri B. Gupta.] actions which become very essential in the context of these realities. If you go deep into the matter, you will find neglected children amongst the poorer sections. The children of the rich are not neglected. They get pampered and they may become something not to be much liked, but they are never neglected. They also commit crimes, but they are dealt with in a different way. You come across the use of these measures only when one deals with children of the poor. The poverty and these things are interlinked and until and unless you take measures to remove poverty, it is not possible to eliminate this social evil.

Then, take the question of slum areas. You go to Calcutta and you will find one-fourth of Calcutta's population living in slum conditions. If you go and live there for 10 months or 12 months you will yourself become delinquent. Adult delinquency will grow if you are forced to live in those conditions. We have been told that these slums should be abolished and replaced by proper housing but no step whatever has been taken in regard to that either. Things remain as they are. You can see in the by-lanes in the slum areas children and animals moving about almost in the same way as if there is no difference between the two, as if there is no one to look after the human beings. The earnings of the families are not adequate enough to arrange for their education, even to arrange for their clothing. It is not enough to give them even the minimum nourishment that a child requires to grow. And they are thrown in the streets at the mercy of society and the society unfortunately takes unkindly towards them. That is the position and that has got to be altered.

As regards crimes, we see they commit certain types of crimes. Here again the mover of the Bill has very rightly pointed out that they are not to be treated as if they are adults. Surroundings compel them towards the commission of crime. But the surroundings have got to be gone into.

They have to be carefully studied; the circumstances in which they are placed have to be carefully examined because ultimately it is these surroundings and circumstances which drive them along the path of crime. If you go into the crimes item by item, you will find that most of them are crimes that can be traced to their poverty. It is their poverty that drives them on to crime. I do not say that pernicious social influences do not play upon them; they certainly do. From the United States you get certain types of films—gangster films—showing all kinds of things. They train our younger generation in the art of committing dacoity, murder and other gangster things. You see, American civilization as it stands today, produces such sort of things; but in our own country we do not have so much of such things. It is good that we do not have them. But even so there are certain things, certain literature, which develop a kind of unhealthy mentality amongst our children. Detective stories and other things written with an utter sense of irresponsibility by people who want to make money are distributed and these are read by children. And they develop certain evil instincts in the children. It is necessary therefore to prohibit such literature from being circulated amongst the children. I know that when they will be taken into the observation homes, probably such things will not be given to them, but that is not enough. You will have to see that no child can get hold of such literature. In some of our papers and some of our journals sometimes certain articles appear which are very unhelpful to the growth of healthy children and this also has to be looked into.

Then there is the question of family. Now, the family is a very important factor. It is no use trying to penalise them. There is a provision in the Bill which says that for an offence of a child, in certain cases the parents may be penalised or made to pay a fine. I think that is not right. This measure is not in-

tended to be of a penal character. I do not see why you should introduce an element of penalty here. No normal parents would like their children to become criminals; no parents like their children to become delinquents; no parents would like their children to be neglected. If the children become delinquent or get neglected, it is because the parents, with all their kindness, sympathy and love for their children, are not in a position to look after them. Now, that fact should be recognised; all other considerations are of a minor nature. Therefore I do not see any reason as to why for the delinquency of a child, for certain commissions on the part of a child, the parent should be called to account and penalised. That is not fair.

Let me come to children's homes. I agree that children's homes have to be set up but I think there should be many such homes. -As they are, they are few and far between. I think the Government should encourage the establishment of non-official homes on a larger scale than it is at one. At present there are many social organisations and institutions which can be helped financially and otherwise to set up such homes. People interested in such social work should be given every possible encouragement so that such homes become numerous to tackle the neglected children. That is very important. Now, it seems to me that the Government is not directing its attention to the necessity of having a much larger number of homes for the children than we have at present. Then, about the children who are delinquent, it is very right that they should not be sent to jail. I can understand hon. Members on that side sending us to jail. We are confirmed "political criminals" according to them. We do not mind going to jail and coming out. We remain what we are; we get only confirmed in our politics. But if you send the children to jail, naturally they get associated with criminals there and they get corrupted. So it is very right that they should not be sent to jail.

But there is a tendency on the part of the Government, and that tendency is by no means to be ignored. Many children are being arrested for very minor offences. I can cite a number of cases. In Calcutta, for instance, children are arrested for what they call "smuggling rice". At times some children do bring some rice to the city to sell it and to earn some money for their families which are perhaps starving. Now, they are arrested and sent to jail. In prison I came across some of these little kids. In a way they felt quite happy for having been sent there in this sense that at least they have got some place to live in and some regular food to eat. Now simultaneously they are placed in a surrounding which is absolutely unhelpful for the growth of a child's mind and which exerts an undoubtedly evil influence on him. Sir, I have seen that they are given imprisonment for say, 15 days or one month. I do not see why it should be so. I am citing the case of West Bengal. I suppose the position is much the same elsewhere. I think the whole system has got to be revised and the whole thing has to be so conducted that no child is sent to prison, whether he is a delinquent or for any other reason.

Then, Sir, I come to the question of education. It is provided in the Bill that it will not be the concern of the homes or the schools merely to provide food and clothing to the children or to maintain the children, but they are also to educate them and train their minds. That is very important. That is very good. But here again, I think the approach should be broad and realistic. Now education is a very important subject, and therefore, I think that the matter should not be left to the officials only. People who are engaged in social service should be associated with this work and the standard of education should be of such order as would help the unfolding of a child's mind; the growth of a child's mind. Now, Sir, it depends very much on how you begin to train the children under your custody.

[Shri B. Gupta.]

I find here that the courts that will be set up will all consist of officials. I am not against officials as such. There may by all means be officials in such courts, but at the same time the social workers should also be given a place in such courts. It is very essential that when you tackle with such a problem, you should associate with such work the social workers, no matter which organisations they belong to. They have got the necessary experience; they have got human sympathy, and they have got a public approach to such matters of social importance. Therefore I think they should also be brought in and given a place in the courts that will be set up.

As regards schools etc., they are Very inadequate!. Therefore more schools will have to be started and the schools should be multi-purpose schools where there should be facilities available for general education, for sports, for amusement and for cultural development. That is very important. And these schools by no means should¹ be confined to certain specified areas. They should be spread all over the country so that children can come there. I also think, Sir, that such schools would be specially necessary in the working class areas in our country.

Sir, I visited certain factories in Bucharest and in the Soviet Union. Almost in every factory that I visited I came across a creche; I came across a nursery, a place where children were looked after. The working mother was given all the facilities necessary for looking after her children. Now, Sir, I consider that the work of looking after the children should not be left to a third party as far as possible. The mother is the right person to look after her children. And therefore the working mothers should be given opportunities and facilities for looking after their children. It is time that the Government thought over this matter and found reason for : setting up such creches and such nurseries in all our factories so that

the mothers in their off-time—and such off-time should be provided— could look after their children. There-education of children should be a joint concern of the parents on the one band and of the Government and public institutions on the other. Even in the case of delinquent children, it should not be left merely to the public officials or public institutions because if it is left to them only, there is every danger of a distorted growth of a child's mind.

Now, Sir, these are some of the observations that I would like to make. I think that a measure of this sort necessarily deserves support, but the support cannot be absolutely unconditional and without some critical observations, because there is much yet to be done, and I hope the Government will take all the necessary measures to do the needful. It is said that child is the father of man. But I find unfortunately that in our social set up the child is being neglected eternally and nobody is there to look after him. Now, Sir, those people who are highly placed, who run the administration, and who have the resources of our country at their command, should be made to see that until and unless we take care of our children and until and unless we give the fullest measure of our attention to their development, nothing much can be achieved, and it is with that outlook and with that approach that we should sponsor such measures. I hope that the gap that remains' to be filled up will be filled up before it is too late. This is a measure which is very very urgent and the problem is one that needs to be tackled on all fronts and in a manner in which such a big problem should be tackled. Procedure is not enough: the courts are not enough; competent authorities are not enough; some homes and schools are not enough. You have to change the whole social approach and you have to grapple with the problem as it is and fight against all the various manifestations of this evil by going into the root of the problem. That is very important, and I hope the Government will see

the importance of having a broader outlook and also the urgency of vigorous measures with a view -to remedying the social evils that exist today,— the evils that exist for no fault of the children and for no fault of their parents but for the unjust society which dispenses such vices and evils to our people. I hope, Sir, it is with that outlook that this measure will be considered.

PROF. A. R. WADIA (Nominated): Mr. Vice-Chairman. I think the mover of this motion for the passing of this Bill deserves to be congratulated on the very reformatory piece of legislation that has been placed before us. I sympathise very much with my predecessor, Mr. Gupta, when he says that the Bill does not go far enough, but then we must remember that it is not always possible to change the whole society. We have to take the society as it is and do what we can to set right a few of the marked defects that we see in our society today. The children occupy a very important position, and I do not share Mr. Gupta's enthusiasm for the parents. Unfortunately there are many parents who do not realise their responsibilities towards their children. There are parents, I know, cruel enough to make their children utilise their time for purposes of begging, and it is therefore no use saying that such parents should not be penalised. They ought to be penalised to the fullest possible extent. Nor can I agree with him when he says that the children's education should be a joint responsibility between the parents and the Government. Yes, in the normal circumstances it is certainly so, but we do know that where parents are very backward¹, where parents themselves are very illiterate, it is dangerous to leave the children entirely to the care of those parents. And it is the duty of an enlightened State to come in and to do something for the education of these children. While sympathising with the Bill, as far as it goes, it seems to me, Sir, that there is one defect, and that is to be found in the definition of a neglected child. On page 2, it says:

"Neglected child" means a child who is found in any street or place of public resort begging or receiving alms, or for the purpose of so begging or receiving alms, whether or not there is any pretence of singing, playing, performing....."

It seems to me that the addition of these words "whether or not there is any pretence of singing, playing, performing" is rather unfortunate, because after all there are children, as there may be grown-up individuals, who may have particular gifts, and where is the harm if they could make use of these gifts in order to make some money? Some children may have a very fine voice—and many of them do have—and why should they be prevented from singing and earning some money? Or for the matter of that, if they are good acrobats, why should they be prevented from doing acrobatics and earning some money? Ordinarily, I think we should prevent only such children as go begging for money. There may be children who are prepared to exhibit their talents, and they ought not to be classed with beggars.

[MR. DEPUTY CHAIRMAN in the Chair.]

SHRI V. K. DHAGE (Hyderabad): There are the words "there is any pretence of singing, etc."

PROF. A. R. WADIA: The words are "whether or not there is any pretence of singing, etc." If there is any pretension, you can easily find out. It seems to me that this goes rather too far in preventing a child from making an honest effort to earn a little money for the poor family.

There is just one other little point. Suppose there is a blind parent or a crippled parent and the child is made use of to lead such a parent. Should he be regarded as a beggar and removed? This seems to be very unfortunate too. We are thereby preventing not merely the child from helping his crippled or blind parent but as a matter of fact leaving the blind or crippled parent at the mercy

[Prof. A. R. Wadia.] of an unsympathetic society. For these reasons I wish it would be possible for the mover to omit these words "whether or not there is any pretence of singing, playing, performing " etc. He should take into consideration the class of children who are really helping their parents. I agree that in any civilised society there should be no blind person or crippled¹ person left entirely to himself. It should be the responsibility of any civilised society to look after them, but unfortunately we are a poor country and therefore we may not be able to do all that we wish or all that we consider desirable in the interests of the backward portions of our community. If that could not be done, we should at least not deprive blind or crippled parents from any little help that they may be getting from their children. These are the little defects in the Bill which, I think, should be looked into, and with, the correction of these defects. I believe this piece of legislation would be an excellent one. In one of the dissenting minutes it is said that the Bill deals with the problem in a more or less legalistic manner. Perhaps there is some truth in it, but we have to go slowly and steadily towards the path of reform. I fully appreciate the importance of children and our duty to stand by them and to do what we can to make them useful citizens and that, if some of them go astray, it is equally the duty of our society to reclaim them and to make them good citizens.

SHRI H. P. SAKSENA (Uttar Pradesh): Sir, the children of today are the builders of the India of tomorrow. Our Prime Minister is enthused whenever he is in the company of children, but I have not been able to understand why it is that this Bill provides only for taking care of children in Part C States alone. Are not the children of other types of States, viz., Part A and Part B States, entitled to the same treatment?

SHRI V. K. DHAGE: They have got similar Acts.

SHRI H. P. SAKSENA: If so many people speak at one and the same time.....

SHRI V. K. DHAGE: For your information, there are similar Acts in Part A and Part B States. Only Part C States have *not and* therefore Parliament is now passing this Bill.

SHRI H. P. SAKSENA: I wish it had been an all-round Central responsibility, and even if there were any kinds of laws in Part A and B States, they should have been scrapped, and Central legislation should have been passed for the entire country, including Part A, Part B and¹ Part C States. At any rate, if it is the responsibility of the Government to look after neglected children, it should be its responsibility to look after all children whether they reside in Part A, Part B or Part C States.

Now, this Bill has got a very restricted scope. It applies only to a particular type of children and its whole emphasis is laid on those children who are used as instruments of begging. Now, if you make a law only for one type of children, there are persons who, in order to evade the law, will change the form of their trade and adopt some other form which would be a little different from what you are legislating for, and in this way they will try to save themselves from the clutches of the law. So, in my opinion this is a half-hearted measure, and I do not think it will do much good to the society where children are mostly if not universally neglected. The care of the children is and ought to be the first and foremost duty of any civilised State under the sun. If it is true that there are laws in Part A and Part B States, I would be obliged to my hon. friends who have invited my attention to this fact, if they would also let me know what has been their fate. Have they done any good to those children who used to be neglected? Has the evil been put down even to a small extent? I find that the evil of begging, in spite of so many legislations in the Part A and Part B States—at least I belong to one of the

A States—is the same as it used to be before. So, this measure, as I have submitted just now, is a half-hearted measure but with this end in view that after all something is better than nothing, I support the Bill and hope that a comprehensive measure will very soon be brought forward for the purpose of taking substantial care of children. There is no use merely tinkering with the problem.

SHRI EAJENDRA PRATAP SINHA (Bihar): Mr. Deputy Chairman, I share the views expressed by my hon. friend who has just resumed his seat and I consider that this is a very half-hearted measure. I would say that this is only an apology for a comprehensive measure which I expected my hon. friend Shri Shrimali would bring forward before this House. Sir, my learned friend¹ Shri Shrimali said that he had given much thought to this but I do feel he has not given proper thought to the problem that is before us today. Sir, the question of the neglected children or juvenile delinquents in this country is a very vast one and it needs a very comprehensive treatment in order that the problem may be tackled in all its aspects in a proper manner. Sir, it is quite right as, Dr. Wadia has said, that it is not feasible and possible to take all the steps at a time and we have to move gradually but even then, I feel that this measure could have been made more comprehensive under the existing circumstances. This is going to be a model Bill or Act which the other Part A or B States are expected to enact with suitable modifications. This is what has been stated in the Statement of Objects and Reasons. I do not think that the model should be so inaccurate, should be so inadequate and I should say, such a flimsy one. Sir, there are various causes—

- most of which have been enumerated by our friends—which lead to the presence of neglected children or juvenile delinquents. We have tried by this Bill, to deal with the mischief which has already been done. We are not proposing to take any steps to pre-18 C.S.B.

vent the mischief from happening. That aspect of the question should have been tackled in this Bill. If you read through the different clauses of the Bill, you will find that no concrete steps are proposed to be taken to prevent the neglect of children or to prevent delinquency among children. My hon. friend Shri Bhupesh Gupta has enumerated various causes— poverty, unemployment, slums—which lead to such a state of affairs. But without removing altogether poverty, unemployment or slums, we should take steps to prevent the neglect of children and juvenile delinquents. We find that even in richer countries like England and the United States of America, this problem does exist and it is not merely poverty or unemployment which is responsible for this kind of neglect, for the presence of neglected children and juvenile delinquents. Sir, I was reading a report on juvenile delinquency in the U.S.A. and there is a very interesting set of figures given in it with regard to the occurrence of delinquency in the different classes of people, born in different periods. I will give only one quotation from that report. It deals with delinquency and the business cycle in Philadelphia in a twenty-three-year period and has concluded that:

"Delinquency is of only average proportions during reasonably high prosperity.

Delinquency is high during depression periods.

Delinquency is low in periods of fairly normal economic development when there is neither prosperity nor depression.

Delinquency is highest during extreme prosperity."

Sir, this is what has been found in Philadelphia and it has been found in other countries also. There are cases of juvenile delinquents even in prosperous times and in prosperous families. We know from our experience in our own country that sons of rich men are as much liable to be delinquents as the children of poorer men. We have, therefore, to look to some-

[Shri Rajendra Pratap Sinha.] thing else for the causes of such delinquency. It is more a question of education, of up-bringing, heredity, social environment that cause neglect or delinquency. We have to tackle these problems in order to prevent such things happening.

Sir, before proceeding further with this Bill I would like to give another quotation from a book entitled "Cruelty to Children". The book is written about conditions in England and it says:

"During twelve months ended at
28th February 1950 the Society....."

It is the National Society for the prevention of Cruelty to Children.

".....investigated 40,198 cases.

They were classified thus:

"Neglect	...	24,102
Illtreatment and assault	...	4,286
Abandonment	...	36
Exposure and exposure for		
begging	...	49
Beyond control	...	25S
Corruption of morals	...	616
Other classiicauons	...	41
Advice sought	...	io,&io

Sir, I have given the examples from these two countries to show that this problem exists even in fairly prosperous countries and that the causes are quite different from being merely unemployment or poverty. The question is: What steps should we have taken in this Bill in order to prevent the neglect of children and the occurrence of juvenile delinquency. In England Sir, as I have said, there is a society known as "The National Society for the Prevention of Cruelty to Children." We ought to have some association or authority or organisation which would deal with the problem in such a manner that the cruelty or neglect does not take place. Here what we are trying to do in this Bill is to start taking action after the neglect or the delinquency had happened. There is no organisation to help the

parents, to educate the parents so that this evil may not happen.

Then again, there is no deterrent punishment proposed in this measure, we do not propose to give such deterrent punishment to the parent or the one who are responsible for the neglect of children, you may point out to me the clauses dealing with payment of fine. There is clause 21 which gives the power to order parent to pay fine etc. the parent may be ordered to pay the fine.

SHRI V. K. DHAGE: Not "may" but "shall".

SHRI RAJENDRA PRATAP SINHA: Yes, it is "shall". And then there is the other clause—clause 42—which deals with contribution by parents. If the parents are in a position to share the cost of the stay of the child in the special school or the children's home, they would be made to share or pay the full cost of their children's maintenance. But I consider that this is not enough. As a matter of fact, it is quite likely that neglect and delinquency may increase as a result of the enactment of this Bill, for you can go on producing children and if you neglect them, then the State or the Government will take care of them. That is what it amounts to. So far, there was a conscience pricking that you have got to look after and care and provide for your children. Now you need not care for them. You can produce children and neglect them, for the Government will look after them and take care of them.

SHRI V. K. DHAGE: This is for Part C States.

SHRI RAJENDRA PRATAP SINHA: Yes, but Part A and Part B States also will come in, because this is a model, which they are expected to enact. Well, there are various other clauses which I would like to refer to and for which I would like to have some penal sections. There may be persons who encourage children to do acts of delinquency or who may entice or induce the children to run away

from the children's home or special school. No punishment is proposed¹ to be awarded to such persons. I think there should be penal clauses to act as deterrent upon persons who neglect their children or who encourage them to commit acts of delinquency. Sir, I was reading of a similar law which is in England and where they have this provision. It is called the Children and Young Persons Act, 1933. It says:

"If any person who has attained the age of sixteen years and has the custody, charge or care of any child or young person under that age, wilfully assaults, ill-treats, neglects, abandons, or exposes him, or causes or procures him to be assaulted, ill-treated, neglected, abandoned, or exposed, in a manner likely to cause him unnecessary suffering or injury to health (including injury to or loss of sight or hearing, or limb, or organ of the body, and any mental derangement), that person shall be guilty of a misdemeanour, and shall be liable—

(a) on conviction on indictment, to a fine not exceeding one hundred pounds, or alternatively, or in default of payment of such a fine, or in addition thereto, to imprisonment for any term not exceeding two years;

(b) on summary conviction, to a fine not exceeding twenty-five pounds, or alternatively or in default of payment of such a fine, or in addition thereto, to imprisonment for any term not exceeding three months."

Sir, I feel that we must have some such deterrent measure, some such punishment of imprisonment or fine for such persons who are responsible for the neglect of children or who are responsible for encouraging juvenile delinquents. Unless we have that, we cannot prevent such persons from doing things as they are now do-

ing from ill-treating or neglecting their children.

Then, Sir, there is another point that I would like to bring to your notice. I would refer you to the definitions. Some of the points have already been made by my friend Dr. Wadia and I would not repeat them and I agree with them. I would refer you to the definition of a neglected child contained in clause 2(h)(iii): Neglected child means a child who has a parent or guardian who is unfit to exercise or does not exercise proper care and control over the child. Now, such a neglected child will be sent to the special school or a children's home but such a parent will go on producing children and will go on making them neglected children. We must have some such measure either to reform the parent or to stop him from producing such children.

Then, Sir, I will draw your attention to clause 2(h)(iv) which says that a neglected child means a child which 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. I presume, Sir, that the intention of this Bill is to remove all children of prostitutes from the brothel. I would like to have some clarification from my hon. friend Dr. Shrimali on this point because they are covered under this category. Sir, if you make a decision to take away and remove all the children of prostitutes, or illegitimate children and bring them up under proper care in some children's home shall we not think of having some measure which will prevent the multiplication of such children?

SHRI GOVINDA REDDY (Mysore): How could you prevent it?

SHRI RAJENDRA PRATAP SINHA: Then, Sir, I would draw your attention to clauses 7 and 8. My hon. friend has already read out to you, Sir, the explanations for having these two clauses and the main purpose, as he has said,

[Shri Rajendra Pratap Sinha.] is for clarification. The Committee consider that for the sake of clarity, the children's homes and special schools should be separately dealt with. While the children's home should try to protect children from moral dangers and exploitation, a special school should try to reform the character of the child. Let us see, Sir, how these clauses have been worded. "CHILDREN'S HOMES".—The State Government may establish and maintain as many children's homes as may be necessary for the reception of neglected children to be sent there under this Act." Now, with regard to "Special schools", clause 8(1) says that the State Government may establish and maintain as many special schools as may be necessary for the reception of juvenile delinquents to be sent there under this Act. Now, Sir, the enquiry court or the trying court has no option left but to send a juvenile delinquent to a children's home and a neglected child to a special school. A juvenile delinquent will always be sent to a special school and a neglected child to a children's home. Although I have found, later on, under the powers that have been given to the State Governments to frame rules, they may transfer at a later stage a child from one institution to another but the children originally, at the first instance, have got to be sent to the respective ones, for example, a juvenile delinquent to a special school and a neglected child to a children's home. Now, Sir, let us consider the administrative difficulties that might be caused by having these two clauses, 7 and 8. Sir, we all know that our country is poor and particularly the finances of the Part C States are not in a very happy position. Now, what does this mean? This means that every Part C State at one or different places, must have two different sets of institutions.

SHRI V. K. DHAGE: Three.

SHRI RAJENDRA PRATAP SINHA : For this purpose, I am ignoring the observation homes and the after care organisation; they are necessary but by the introduction of two separate

clauses and by separating the two—I am just enquiring into that—we shall have to maintain two institutions separately, special schools and children's homes. Because of financial reasons if you have only the children's homes started with first stage—because the Bill provides that by stages the provisions of the Bill could be brought into operation—then you cannot take care of the delinquent children because there are no special schools where they could be sent. If you have only special schools then you cannot take care of the neglected children. Originally, when the Bill was introduced, there was to be one institution which may have two different wings and both the neglected children and the juvenile delinquents could be dealt with simultaneously. This scheme increases the expenditure; this is what I infer.

SHRI V. K. DHAGE: The object here is that a neglected child is not considered as a delinquent child and they want that the delinquent child and the neglected child should not stay together.

SHRI RAJENDRA PRATAP SINHA: What my friend says is quite correct that they should not be mixed but there are bound to be cases of financial difficulties and I am referring to them. In the Statement of Objects and Reasons—in the financial memorandum—they have said that the children's court would cost Rs. 15,000; observation homes Rs. 12,000; children's home and special school Rs. 30,000—these are recurring expenditure—and after care organisation Rs. 5,000. They have given a total estimate of Rs. 62 000 and I would like to know from my friend the sponsor of this Bill as to by how much the expenses will increase by such a provision of having two different sets of institutions? Could they be managed within this Rs. 30,000? If so, I have nothing to say but if they cannot be managed within this Rs. 30,000, probably a separate sanction of the President will have to be obtained; there may be the legal technicalities I cannot say, I am not a lawyer, but my lawyer friends will be able to say

whether that will be required. If you examine the purpose of these two institutions you will find that it is more or less identical. They have been said in different words but the meaning is just the same.

SHRI GOVINDA REDDY: The language is also much the same.

Sura RAJENDRA PRATAP SINHA: 'Every children's home to which a neglected child is sent under this Act shall not only provide the child with accommodation and maintenance but also endeavour to provide him with facilities for education and for developing his character and abilities and to give him necessary training for protecting himself against moral dangers (that is for neglected children and children's homes) or exploitation and shall also perform such other functions as may be prescribed.' Now, let us see about the special schools: "Every special school to which a juvenile delinquent is sent under this Act shall not only provide the child with accommodation—(so far, it is all the same)—* and abilities and to give him necessary training for his reformation and shall also perform such other functions as may be prescribed." I cannot make out, Sir, if there is any difference in purpose. There may be difference in name, but the idea is that they have got to do the same job, namely, that the children have got to be trained to earn their livelihood and their moral character has got to be reformed. So I think, Sir, that two different sections may entail extra expenditure and may not be feasible for the Part C States on grounds of financial difficulties. It is of course for the hon. Minister to see if it is possible in Part C States and have two sets of institutions. If he says that Part C States will have enough finance for the purpose I have nothing to say.

Then there is the provision in respect of escaped children. I do not want to read the whole of it. I will refer

you to the end of the paragraph which says, ".....no proceeding shall be instituted in respect of the child by reason of such escape but the special school, children's home or the person may, after giving the information to the competent court which passed the orders in respect of the child, take such steps against the child as may be deemed- necessary." Why take steps against 'the child alone which has escaped from the home? I was just saying that we must also take steps against the persons who are responsible for him to escape from the children's home.

Sir, one thing more I would say. I would refer you to clause 5(2) which says, "Where no children's court has been constituted for any area, the powers conferred on the children's court by or under this Act shall be exercised in that area, only by the following, namely: —

- (a) the district magistrate; or
- (b) the sub-divisional magistrate; or
- (c) any salaried magistrate of the first class."

I beg to differ from my hon. friend with regard to (c) "any salaried magistrate of the first class". Probably there is a prejudice against honorary magistrates and therefore it has been said that only salaried magistrates can look after the children's courts. **But** there are cases where you may find more suitable persons in the States who could be put in charge of the children's court, for example, the head of any children's institution, the headmaster of a school or the headmistress of a school. He or she may be more competent to deal with the children's court than even the district magistrate or the sub-divisional magistrate. So the words "salaried" should be removed and it should be left to the discretion of the State Governments to appoint any person to preside over the children's courts, if he is found suitable, and by having this clause, Sir, we are fettering the discretion of the State Governments to make use of such

[Shri Rajendra Pratap Sinha.] talents that may be suitable and available for such courts.

Thank you, Sir.

SHRI K. B. LALL (Bihar):

श्री के० बी० लाल (बिहार) :
उपाध्यक्ष महोदय, मैं सबसे पहले यह कह देना चाहता हूँ कि मैं इस बिल का समर्थन करता हूँ, यद्यपि मेरा खयाल है कि यह जितना उम्दा होना चाहिए या उतना नहीं है। फिर भी हमारी गवर्नमेण्ट का लावारिस बच्चों के प्रति जो ध्यान गया है, यह कुछ कम नहीं है। यह भी बात सही है कि अभी जिस किस्म से लोग यहाँ बिल पर दिलचस्पी ले रहे हैं, उसको देखते हूँ ऐसा मालूम पड़ता है कि यह लावारिस बच्चों से ज्यादा, एक लावारिस बिल है क्योंकि इस पर जितना ध्यान देने की जरूरत है उतना ध्यान वे नहीं दे रहे हैं और एक मामूली सी चीज समझते हैं। लेकिन मेरा खयाल है कि यह इतने महत्व का बिल है कि इसके जरिये से हम अपने राष्ट्र को बहुत ज्यादा फायदा पहुंचा सकते हैं।

मेरा अपना खयाल शुरू से यह रहा है कि ये जितने अनाथ बच्चे हैं, लावारिस बच्चे हैं ये ज्यादा हमारी कौम को बनाने वाले हैं बनिस्वत इसके कि हमारे अपने परिवार के बच्चे जिन्हें हम अच्छी तालीम देने, अच्छे इनवाइरनमेंट (environment) में रखने की कोशिश करते हैं। यह एक सिद्ध बात है कि चिल्ड्रेन्स होम्स (children's homes) या अनाथालय ऐसी संस्थाओं में जो बच्चे हैं वे परिवार में पले हुये बच्चों में पाई जाने वाली बुराइयों से वंचित रहेंगे। इस बिल के साथ एक ज्यादा

खुशी की बात यह है कि यह सेक्यूलर बेसिस (secular basis) पर निर्मित किया गया है, जिसमें कि कोई साम्प्रदायिक दृष्टिकोण नहीं है, कोई धार्मिक विषय नहीं है, और यह उम्मीद की जाती है कि इस तरह के सेक्यूलर इंस्टीट्यूशन (secular institution) में जो बच्चे पलेंगे या शिक्षा पायेंगे उनका दृष्टिकोण अवश्य ही राष्ट्रवादी दृष्टिकोण होगा और संकीर्ण साम्प्रदायिक दृष्टिकोण नहीं होगा। इस दृष्टिकोण से हमें इस बिल द्वारा यह मौका मिलता है कि हम राष्ट्र का हित कर सकते हैं।

मालूम नहीं क्यों ऑर्फनेज (orphanage) शब्द से, अर्थात् अनाथालय शब्द से, गवर्नमेण्ट को इंडिफरेंस (indifference) है क्योंकि जब कभी ऑर्फनेज बिल यहां पेश किया गया हम यह सुनते थे कि यह शब्द अच्छा नहीं मालूम होता है। आखिर यह अपने अपने दिमाग की बात है। मुझे मालूम नहीं कि क्यों ऑर्फनेज में और होमलेस चिल्ड्रेन (homeless children) में फर्क समझा जाता है जिसकी वजह से ऑर्फनेज को चिल्ड्रेन्स होम कहा गया है, लेकिन मतलब वही होता है चाहे जिस नाम से पुकारा जाय। खैर यह एक खुशी की बात है कि कम से कम लावारिस बच्चों के हित के लिये यह बिल पेश किया गया है और उम्मीद की जाती है कि जैसे जैसे तजुर्वा हासिल होगा, हमारी गवर्नमेण्ट इसमें सुधार करती रहेगी।

मेरा सम्बन्ध एक अनाथालय के साथ तीस साल से है। अनाथालय को चलाने में व्यावहारिक रूप में जो अड़चनें पाई जाती हैं वे न हम इस बिल द्वारा दूर किये जाने की बात पाते हैं और न कहीं

और जगहों में इस तरह के जो बिल पेश हुये हैं या पास हुये हैं उनमें पाते हैं क्योंकि हमारी बिहार सरकार ने भी हाल में एक आर्गेनज ऐक्ट पास किया है और उसमें भी एक विचित्र ढंग का खयाल है जैसा कि इस बिल को पढ़ने से मालूम होता है और जिसके बारे में मिसेज़ डा० सीता परमानंद ने भी जिक्र किया है कि लाइसेंस (licence) देना चाहिए किसी अनायालय को चलाने के लिए। मुझे तो इस पर आश्चर्य सा मालूम पड़ता है कि लाइसेंस देकर अनायालयों को चलाना तो एक अजीब तरह की बात है। तो यह खयाल पैदा कहां से होता है? क्योंकि तजुबा किसी को भी नहीं है अनायालय चलाने का, नेग्लेक्टेड (neglected) बच्चों की परवरिश करने का, उनके बारे में सोचने का, उनके बारे में कुछ करने धरने का। ऐसे अनुभवों लोगों का हाथ बिल के बनाने में नहीं है ऐसा मालूम होता है, चाहे यहां हो या और किसी स्टेट असेम्बली (State Assembly) या काउंसिल (Council) में हो। या फिर उनका इस तरह का एक खयाल है कि अनायालय में, विधवा-श्रम में लोग तिजारत करते हैं और वहां लड़कों लड़कियों को ~~चुकी~~ हैं। समझ में नहीं आता कि कैसा सड़ा हुआ दिमाग लोगों का हो सकता है जो ऐसी धारणा करते हैं। आखिर आपके दिमाग में यह बात है कि इनमें रोजगार किया जाता है, इसीलिए तो लाइसेंस देकर आप उसे चलाना चाहते हैं। यह एक शर्म और ताज्जुब की बात है, मेरे सारे बदन का खून खौल जाता है जब मैं यह सोचता हूं कि लाइसेंस देकर के इन संस्थाओं को चलाने की बात कही

जाती है। आखिर आप चाहते हैं कि तिजारत हो, लड़कियां बिकती रहें, लड़कों के साथ दुष्कर्म किया जाय, और उसके लिए लाइसेंस देने की बात सोचते हैं।

अगर आप यह समझते हैं कि इन बच्चों को किस तरह से कंट्रोल (control) किया जाय तो आपके दिमाग में पहले यह बात आनी चाहिये कि किस तरह से इन बच्चों को तरबियत दी जाय, उनको कैसे पाला जाय, क्या क्या दिक्कतें उनको पालने में होती हैं, अगर इस तरह के खयाल आते तो आप लाइसेंस देने की बात नहीं सोचते, आप इस तरह के इन्स्टीट्यूशनों को रिकॉगनाइज (recognise) करने की बात सोचते। जिस तरह से आप एक स्कूल को, एक कॉलेज को रिकॉगनाइज करते हैं, उसी तरह से आप ऐसे ऐसे अनायालयों को, चिल्ड्रेन होम्स को रिकॉगनाइज करते और उनके लिए इस तरह से नियम बनाते, जैसे कि बच्चों के लिए कितनी जगह होनी चाहिये, उनके लिए कितने कपड़े की आवश्यकता होगी, कितने बच्चों के ऊपर एक नर्स होनी चाहिये, देखने वाली होनी चाहिये। इस तरह की बातों का इस बिल में कहीं भी प्राविजन (provision) नहीं है बल्कि यह है कि लाइसेंस किस तरह से लिया जाना चाहिये।

मैं बहुत अदब के साथ अपने दोस्त जो इस बिल को पायलट (pilot) कर रहे हैं कहूंगा कि वे ज्यादातर ध्यान नेग्लेक्टेड चिल्ड्रेन के सुधार के ऊपर दें। इस बिल में ज्यादातर ध्यान डेलिक्वेंट चिल्ड्रेन (delinquent children) के क्रिमिनल आउटलुक (criminal outlook) पर ही दिया

[Shri K. B. Lall.]

गया है। * * * * इस विषय में मेरा दृष्टिकोण भिन्न है। मेरे विचार में यह ध्यान देना आवश्यक था कि हमारे देश में नैगलेक्टेड चिल्ड्रेन पैदा कैसे होते हैं, उनको नैगलेक्टेड होने से कैसे रोका जा सकता है। अगर आप को नैगलेक्टेड चिल्ड्रेन का दृश्य देखना हो तो आप देश के बड़े २ शहरों में जाकर देख सकते हैं। मेरा तो कहना यह है कि—Neglected parents can't bring forth good children. They must bring forth neglected children. आप बड़े २ शहरों में देख सकते हैं कि कितने लोग नैगलेक्टेड हैं, वे किस तरह से बच्चे पैदा करते हैं। अगर उनके बच्चे नैगलेक्टेड नहीं होंगे तो क्या होंगे। फिर भी तुरा यह है कि इस बिल में इस तरह का प्राविजन कहीं नहीं है कि जो नैगलेक्टेड चिल्ड्रेन हैं, जो पैदा कर दिये गये हैं, जो भीख मांगने के लिए छोड़ दिये गये हैं, जो तरह तरह की बुराई करते हैं, उनको किस तरह से सुधारा जा सकता है, उसके लिए तो बहुत कम व्यवस्था इसमें रखी गई है। इसके विपरीत डेलिक्वेंट चिल्ड्रेन हैं, उनके मां बाप को इसमें सजा देने की बात रखी गई है हमको यह सोचना चाहिये कि नैगलेक्टेड चिल्ड्रेन किस तरह से पैदा हो जाते हैं, उसकी जड़ में हमको जाना चाहिये। अगर हम इस मुख्य बात को ध्यान में रख कर कार्य करेंगे तो हम इस देश में नैगलेक्टेड चिल्ड्रेन की समस्या को हल कर सकते हैं। आज हम मुख्य चीज को तो करते नहीं हैं और जो नैगलेक्टेड चिल्ड्रेन हैं, जिनका कोई कसूर नहीं है, उनको जुर्माना

और सजा देते हैं, मां बापों को फाइन करते हैं और डेलिक्वेंट को भी फाइन (Fine) करते हैं। * * * * जब हम इस तरह का कानून बना देंगे तो आप खयाल कर सकते हैं कि किस तरह से हम इसको व्यवहार में ला सकते हैं, इसके द्वारा हम जिन बुराइयों को दूर करना चाहते हैं क्या उनको दूर करने में यह बिल सहायक हो सकता है।

मेरे खयाल में हमारे देश के अन्दर जो नैगलेक्टेड चिल्ड्रेन हैं, जो भीख मांगते हैं, जो कानून के अन्दर जुर्म करते हैं उनको हम पकड़ेंगे, उनको हम सुधारेंगे ताकि वे इस मुल्क के एक यूसफुल सिटिजन (useful citizen) बन सकें, अपना आत्म सम्मान बढ़ा सकें। अगर इस भावना से हम कार्य करेंगे तो हम इस बिल की भावना को पूर्ण कर सकते हैं। मगर मैं यह देखता हूँ कि इस बिल में जितनी भी दफाएं हैं उसम लड़के को जुर्माना किया जाय, उसके मां बाप को जुर्माना किया जाय, इस तरह से क्रिमिनल साइड (criminal side) को रखकर यह बिल बनाया गया है। मगर मेरा खयाल यह है कि हम लोगों का ध्यान ज्यादातर इस बात की ओर आकर्षित होता चाहिये था और सिलेक्ट कमिटी (Select Committee) को भी इस बात पर ही विशेष ध्यान देना चाहिये था कि देश में जो लावारिस बच्चे पैदा हो जाते हैं, उनको कैसे रोका जा सकता है। जो पेरेंट्स (parents) अनकांशसली (unconsciously) अनजाने में बच्चा पैदा करते हैं, वे पैदायश से ही नैगलेक्टेड हो जाते हैं। इस चीज को हमें रोकना चाहिये। यह एक रचनात्मक कार्य है जिसको हमें करना चाहिये। इस तरह के माता पिता जो नैगलेक्टेड बच्चे पैदा

* Expunged as ordered by the Chair.

करते हैं उनकी ओर हमको ध्यान देना चाहिये। जब बेवच्चा पैदा करते हैं तो फिर उसके बाद उनको यह परवाह नहीं होती है कि उन्होंने कोई बच्चा पैदा किया है या नहीं। बच्चा भी अपने को लावारिस समझता है, वह यह अनुभव नहीं करता है कि उसके ऊपर कोई माता पिता हैं भी या नहीं। जब वह इस तरह का अनुभव करने लगता है तो उसको राह दिखाने वाला कोई नहीं होता और वह तरह तरह की बुराइयों का शिकार बन जाता है। इसलिए यह अत्यन्त आवश्यक है कि इस तरह के जो पेरेंट्स हैं, उनकी ओर हमको ध्यान देना चाहिये, उनके सेल्फ रेस्पेक्ट (self-respect) को बढ़ाने की कोशिश करनी चाहिये। अगर हमने उनकी ओर ध्यान दिया और इस तरह के नेगलेक्टेड बच्चों को पैदा होने से रोकने की कोशिश की तो हमारे देश में फिर नेगलेक्टेड बच्चे पैदा ही नहीं होंगे। तो मेरा कहना है कि अगर आप पेरेंट्स को इस तरह के नेगलेक्टेड बच्चों को पैदा करने से रोकने के लिए सजा भी दें, जुर्माना भी करें तो इसमें कोई नुकसान की बात नहीं है। हमारे मित्र श्री राजेन्द्र प्रताप जी कहते हैं कि पेरेंट्स को काफी सख्त सजा मिलनी चाहिये। मगर मेरा कहना है कि पेरेंट्स को तो इस में आलरेडी (already) काफी सजा दी हुई है। जहां तक सुधारने की बात है वहां पर आप सजा की बात भी करते हैं। सुधार करना एक अलग बात है और सजा देना दूसरी ही बात है। मैं उन लोगों में से नहीं जो कैपिटल पनिशमेंट (capital punishment) को सपोर्ट (support) करते हैं। मेरा

13 C.S.D.

तो यह खयाल है कि जो कुछ भी सुधार हो सकता है वह कन्स्ट्रक्टिव (constructive) तरीके से ही हो सकता है, सजा से ज्यादा सुधार नहीं हो सकता है।

आप देख रहे हैं हमारे मुल्क में किस कदर कर्प्शन (corruption) बढ़ रहा है और डिटेरेंट पनिशमेंट (deterrent punishment) दे कर भी आप इस चीज को नहीं रोक पा रहे हैं। इस डिटेरेंट पनिशमेंट से आप कितने लोगों को रोक रहे हैं, यह तो सिर्फ कहने सुनने की बात है कि कुछ होता नहीं है, इससे कर्प्शन बढ़ेगा जो गरीब हैं उनपर अधिक जुर्म होगा और नतीजा यह होगा कि वे बढ़ावा देंगे। यह भी हो सकता है कि अच्छा समय आ जाय और मां बाप ऐसे हो जायें कि गलती न करें।

आप लोगों ने यह किस्सा तो सुना ही होगा कि जब देवकी और वासुदेव का पहला लड़का हुआ था तो वह उसको कंस के दरबार में ले गये और कंस ने उसको मारने से छोड़ दिया और उसी समय नारद पहुंच गये और कहने लगे कि यह आप बड़ी भारी गलती कर रहे हैं।

MR. DEPUTY CHAIRMAN: What has this story to do with the Bill?

SHRI K. B. LALL:

श्री के० बी० लाल : मैं इस बात को संक्षेप में कह देता हूँ। नारद ने यह सोचा कि अगर ज्यादा अत्याचार होगा तो जल्दी अवतार हो जायेगा। अगर यही दृष्टिकोण रखा जायेगा तो हम लोगों को और भी ज्यादा सजा देगे।

[Shri K. B. Lall.]

अगर लोगों को यह मालूम हो कि घोर जुल्म करने से अवतार पैदा होता है तो आप सब लोगों को यह बात अच्छी तरह से मालूम है—और कई दफ़ा हाऊस में और बाहर यह शिकायत की जाती है कि देश में घूसखोरी बहुत बढ़ गई है, पुलिस के जुल्म बढ़ गये हैं। मगर मेरा कहना है कि यह दृष्टिकोण गलत है। हमें यह ध्यान रखना चाहिये कि जो भी कानून बनाया जाय वह सजा देने की दृष्टि से न बनाया जाय बल्कि सुधार करने की दृष्टि से बनाया जाय। मेरे खयाल में डिटेन्ड पनिश-मेन्ट की जो बात है वह ठीक नहीं है, वह नहीं होनी चाहिये।

अब दूसरी बात यह है कि इसमें दो तरह के इंस्टीट्यूशंस की बात रखी गई है। एक तो चिल्ड्रेंस होम्स (children's homes) होंगे और दूसरे स्पेशल स्कूल्स (special schools) होंगे। मैं यह बात देना चाहता हूँ कि यह डुपलिकेशन (duplication) होगा क्योंकि चिल्ड्रेंस होम्स में भी स्कूल की ज़रूरत होगी। अगर आप १६ साल के बच्चे को, जिसको कि आप डेलिक्वेंट कहते हैं, कसूरवार कहते हैं, उसमें रखते हैं तो उसके सुधार के लिये एजुकेशन की ज़रूरत होगी तो फिर पढ़ाई के लिये स्कूल रखन होंगे। मेरा कहना है कि बजाय इसके कि चिल्ड्रेंस होम्स भी हों और स्पेशल स्कूल्स भी हों, चिल्ड्रेंस होम्स ही हों और उसमें दो तरह के स्कूल रखें। मैं मानता हूँ कि दो तरह के बच्चे होंगे, एक वे जो कि क्रिमिनल होंगे और दूसरे वे जो कि क्रिमिनल नहीं हैं, गुनहगार नहीं हैं लेकिन लावारिस हैं, नेगलेक्टेड हैं। दोनों तरह के बच्चों के लिये आपको इंतजाम करना है, यह मैं

भी आपको ध्यान रखना है, उनकी मानता हूँ। जो लावारिस हैं उनका पढ़ाई का भी आप को खयाल रखना है, इसलिये चिल्ड्रेंस होम्स के साथ स्कूल का होना भी ज़रूरी है। ऐसी हालत में मेरी समझ में नहीं आता कि स्पेशल स्कूल के क्या माने हैं। मेरा कहना है कि दोनों ही नेगलेक्टेड चिल्ड्रेंस और डेलिक्वेंट चिल्ड्रेंस होम्स में रहें और दोनों तरह के लड़कों के लिये उसमें अलग अलग स्कूल हो जायें। मेरा कहना है कि दोनों के निवास्थान का नाम एक ही रहे, नामेनक्लेचर (nomenclature) एक ही रहे। मुझे तो इस कानून से ऐसा मालूम होता है कि जो बच्चे चिल्ड्रेंस होम में रहेंगे उनकी पढ़ाई की कोई फ़िक्र नहीं की गई है और अगर उनकी पढ़ाई का इंतजाम आप स्पेशल स्कूल्स में करते हैं तो फिर इस तरह से आप क्रिमिनल बच्चे को नॉनक्रिमिनल (non-criminal) बच्चे के साथ मिक्स (mix) कर देंगे। इसलिये मेरा खयाल है कि कैटगरी (category) एक ही रखें लेकिन उनके क्लासेज (classes) अलग अलग हों। एक क्लास में क्रिमिनल बच्चों की पढ़ाई हो और दूसरे में नेगलेक्टेड बच्चों की पढ़ाई हो। आप स्पेशल स्कूल का नाम न दें, क्योंकि इससे एक गन्दगी की बू आती है क्योंकि अगर किसी बच्चे के लिये यह कहा जायेगा कि वह स्पेशल स्कूल में पढ़ता है तो यही समझा जायेगा कि वह क्रिमिनल है। इससे उसके दिमाग पर बहुत बुरा असर पड़ेगा। मेरा खयाल है कि चिल्ड्रेंस होम सब के लिये रहे और उस होम में ऐसा हो कि जो क्रिमिनल्स हैं उनको अलग कर दिया,

सेग्रेगेट (segregate) कर दिया जाय, और जो नानकमिनिटल्स हैं उनको अलग कर दिया जाय और फिर वे अलग अलग बलास में पड़ें। अगर इस तरह से करेंगे तो इस का नतीजा यह होगा कि उनके ऊपर समाज कि बुरी नजर पड़ने से उनको आप बचा सकेंगे और उनका सुधार भी कर सकेंगे और वे बड़े कामयाब बच्चे हो कर निकलेंगे। जहां तक एजुकेशन (education) का सवाल है उसके बारे में आप को सोचना है कि उनको आप कैसी एजुकेशन देंगे और किस तरह से देंगे। मैंने शुरू में ही कहा कि इस वक्त हमारे यहां जरूरत यह है कि सेकुलर एजुकेशन हो और उसके लिये ऐसी संस्थाएँ हों जहां कि बच्चे नानकम्युनल एटमासफेयर (non-communal atmosphere) में पाले जायें। मेरा कहना है कि अगर इस तरह के एजुकेशनल इंस्टीट्यूशंस आप इन चिलड्रेंस होम्स के साथ डेवलप (develop) करते हैं तो इससे बड़ा लाभ होगा और काम अच्छी तरह होगा।

दूसरी बात जो मैं कहना चाहता हूँ वह यह है कि आपने नेगलेक्टेड चिलड्रेंस के लिये १६ साल की उम्र मैक्सिमम (maximum) रखी है लेकिन मिनिमम एज (minimum age) के बारे में आपने कुछ नहीं रखा है। मालुम होता है कि इस बारे में आप ने ध्यान नहीं दिया। मेरा तर्जुबा है कि मेरे अनाथालय में ऐसे बच्चे आये हैं जो कि फौरन ही पैदा हुये हैं। या रोज दो रोज के पैदा हुये थे। ऐसे बच्चों को जो कि रेलवे ट्रेन में छोड़ दिये गये या और कहीं छोड़ दिये गये उन को आकर लोगों ने दाखिल किया।

तो वे बच्चे भी नेगलेक्टेड चिलड्रेंस हैं। मेरा तर्जुबा है कि दो, दो दिन के, १५ दिन के एक महीने के या २ महीने के बच्चे अनाथालय में आये हैं और उनको जवान करके २० साल के अन्दर शादी विवाह कर दिया गया है। तो मेरा खयाल है कि ऐसे बच्चों के लिये कोई नर्स (nurse) वगैरह का प्राविजन भी होना चाहिये। इसमें ऐसी बात होनी चाहिये कि कितनी नर्सज रहेंगी और क्या इंतजाम रहेगा। जब वे भी नेगलेक्टेड चिलड्रेंस हैं और नेगलेक्टेड चिलड्रेंस की परिभाषा में आ जाते हैं तो उनका भी पूरा इंतजाम होना चाहिये। जब मां उनको समाज की बुराई की वजह से रेलवे ट्रेन में या और कहीं फेंक देती है तो उनको ला कर भी रखना है और परवरिश करनी है, पालना है, इसलिये मेरा कहना है कि जो वाकई में नेगलेक्टेड चिलड्रेंस हैं उनके लिये इस बिल में क्या प्राविजन किया गया है। मैं तो देखता हूँ कि इस बिल में सिर्फ पुलिस, कोर्ट (court), सजा और बेल (bail) वगैरह की ही बातें हैं और ऐसे बच्चों के लिये कोई खास बात नहीं कही गई है। मेरा कहना है कि आप पुलिस के जरिये से, मैजिस्ट्रेट (Magistrate) के जरिये से सजा दे कर, कैद कर के, फाइन करके, बेल देकर के, सुधार नहीं कर सकते हैं बल्कि जो सुधार आप करना चाहते हैं वह तभी कर सकते हैं जब कि दूसरे तरीके से करें। जब आप सोचेंगे कि इन बच्चों को, जो कि बहुत थोड़ी उम्र में फेंक दिये जाते हैं, किस तरह से पालें तो फिर आपको यह प्राविजन करना होगा कि ऐसे बच्चों के लिये कितनी नर्सज

[SHRI K. B. LALI.]

होनी चाहिये और दूसरी क्या चीजें होनी चाहिये इसके इलावा उनको नर्सों किस तरह से फ़ालेंगी तथा थोड़ी उम्र होने के बाद उनको किस तरह स्कूल में भेजा जाय, किस तरह उनकी पढ़ाई का इंतजाम किया जाय, उनको खिलाने पिलाने का क्या इंतजाम हो और उनको खिलाने वाला कौन हो। ये सब बातें आपको सोचनी पड़ेंगी कि चिल्ड्रेंस होम में कितने और किस तरह के कार्यकर्ता हों और क्या हो या क्या न हो। इन सब बातों पर आपको ध्यान देना होगा और मेरा कहना है कि आप अभी से ध्यान दें। अभी जो मैंने बिल को पढ़ा तो मुझे लगा कि आफिसर के माने यही है कि वह पुलिस का आफिसर हो या कोर्ट का आफिसर हो जो कि बच्चों को पकड़ करके सजा दे दे। यह कुछ नहीं समझ में आया कि चिल्ड्रेंस होम में पढ़ाई कैसे होगी और दूसरे सब इंतजाम कैसे होगा। तो आखीर में मेरा कहना यही है कि जो स्पेशल स्कूल्स की बात है उसको मैं पसन्द नहीं करता हूँ।

मेरा खयाल है कि इस बारे में बहुत से सजेरेंस (suggestions) दिये जा सकते हैं कि जो अनाथालय हैं उनको किस तरह से काम में लाया जाय लेकिन मैं अब ज्यादा नहीं बोलूंगा मैं समझता हूँ कि जो बातें मैंने कही हैं उनको ध्यान में रख कर काम किया जाय तो फिलहाल काफी तरक्की हो सकती है। मुझे विश्वास है कि हमारे दोस्त डा० श्रीमाली उन तरीकों को काम में लायेंगे जिनको कि

मैंने उनके सामने पेश किया है। इन शब्दों के साथ धन्यवाद देते हुए मैं अपनी बात समाप्त करता हूँ।

[For English translation, see Appendix VII, Annexure No. 197.]

SHRI V. K. DHAGE: Mr. Deputy Chairman, I would not 'take more than a minute or two. I would! only draw attention to one or two points in the Bill. Before I do that, I welcome the provisions that are made in the Bill and there has been a departure from Bills of a similar kind by making provision for neglected children.

There is one point which has been pointed out by Mrs. Alva in her minute of dissent, and I think the hon. Minister, when he moved the Bill, made no reference to this point. This is with regard to victimised children, victims of unnatural offences, cruelty, rape, assault, etc. In the Bill there is no provision for them, nor does the definition of neglected children in 2(h) cover this point. Therefore, I would like the hon. Minister to throw some light as to how these children will be covered or will be taken care of under this clause.

Another point which I would like to make is this: Under this Bill, provision has been made for the establishment of children's homes as well as of special schools, observation homes, etc., but it is our experience that even though the law is there, Government does not take any action for the opening of these schools and institutions. I am connected with one such institution in Hyderabad and my hon. friend, Mr. Italia, is the Vice-President of that institution. It is our experience that it is very hard to get the Government to agree to finance the opening of such children's homes or to provide for any after-care hostel. Whenever any request in this regard is made, Government always comes out with the plea that they have no finance. In the absence of any provision in the Bill for making it compulsory for the Government to make some arrangement

for the opening of these institutions I think an Act like this will be merely a pious Act. I do not find it in the Select Committee's Report but in the original Bill it was provided that one children's home and one special school would cost about Rs. 30,000 to open for a State, but I think the expenditure will be much more than that. I therefore feel that the Government should take care to see that provisions are made in the Budget for the opening of such institutions as are necessary. Thank you.

SHRI KISHEN CHAND (Hyderabad): Mr. Deputy Chairman, most of the criticism of this Bill is based on an incomplete study of the Bill. I beg to point out that this Children's Bill is a composite Bill. It covers **two** classes of children, first the delinquent children and the other the neglected children. The whole criticism of this Bill is based on mixing up of these two categories of children, because they happen to appear in one and the same Bill. Delinquent children are in a different class. They have been defined as having committed some sort of offences. A child below twelve is not supposed to have committed any offence and generally delinquent children will be between the ages of twelve and sixteen, while neglected children will almost in all cases be under the age of twelve. The Bill relates to two different categories. It is not that neglected children become delinquents or the other way round. They are quite different categories.

Now, objection has been raised to the fact that there is mention of special schools and children's homes. As I have just pointed out, when we were discussing this matter in the Select Committee, attention was drawn to the fact that we did not want a delinquent child to associate with criminals in the jails. Similarly, we did not want the delinquent child to associate with neglected children in the special school. The special school is meant entirely for delinquent children. It is a very good name and I do not see any reason why objection should

13 C.S.D.

have been raised by the shaker from Bihar to the words 'special school'. The very name denotes that it is a place for the reform of delinquent children and with that object, they are given the necessary training there for their reformation. Naturally, a special school will have to provide for their education also. Here I may point out that in the children's home, the boys and girls can go to normal schools, while 13 delinquent children will not go to normal schools. Therefore, a special school is there only for the delinquent children, while the neglected children who will be lodged in the children's home will be going to normal schools, just like any other children without any distinction. Therefore you will find that in the homes for neglected children there is no provision for schools. Of course, in the Bill it has been clearly stated that a children's home will not only provide maintenance for the child but also facilities for his education, but it only means that the children from the children's home will be sent to normal schools for education.

Then, objection has been taken by several Members to the question of cost. Well, I think the finances of our country are not very excessive and we cannot provide for all the neglected children. In the Committee several Members pointed out that nearly 90 per cent, of the children in this country are neglected children not because of any fault of their parents but because of their poverty. We cannot possibly provide for all the 90 per cent, of children in this country. Naturally, this Bill has only a restricted scope, and therefore we had to define neglected children. I think the definition of a neglected child has been very carefully worded and it has been considered with all possible cases in view. There was a good deal of discussion on whether children "receiving alms, whether or not there is any pretence of singing, playing, performing, etc." or hawking newspapers, etc. or selling sweetmeats should be included in it or not. In these cases, the draft of the Bill clearly states that

[Shri Kishen Chand.] children who are actually earning their living by selling something will not be brought under this category. Therefore, only children who are neglected by their parents or, as one Member pointed out, found without having any home or settled place of abode or any ostensible means of subsistence—any children found in the railway compartments or on the streets—will come under this definition.

MR. DEPUTY CHAIRMAN: The hon. Member will continue tomorrow.

The House stands till 8-15 A.M. tomorrow.

The Council then adjourned till Quarter past eight of the clock on Tuesday, the 20th April 1954.