

ment here. On the basis of those recommendations or suggestions which are at best partial and which by no means represent the other points of view that may be there, the Government here would develop its own case and formulate its measures. This is a very very harmful practice. In such cases, I think the Government should direct the State Governments that they should take into confidence at least the major Opposition parties in those States, so that mutual discussion can take place and the common experience of the people and the problems that they are facing may be taken into consideration. Otherwise, the consultation with the States becomes a farce and a misnomer—to say the least. Therefore, this should be done. They should consult not only the Opposition parties in the local legislatures but also those outside in the country. Some of them may not be there in the local legislature. They should also be consulted, so that the wisdom of various parties and groups may be pooled. That is the practice that we should adopt.

As far as the Law Minister is concerned, he said he would not be affected, whatever happened to the Act. He feels he is very secure. He is a very likeable person, all the more likeable when he gets excited. But he should not think of his own security as the only test. There are many others who feel insecure in such matters. He should have sympathy and consideration for them and see that their interests also are safeguarded.

MR. CHAIRMAN: Has the Law Minister anything to say?

SHRI C. C. BISWAS: No.

MR CHAIRMAN: The question is:

"That the Bill be passed."

The motion was adopted.

THE CHILDREN BILL, 1953—
continued.

MR. CHAIRMAN: Mr. Kishen Chand to speak on the Children Bill.

SHRI KISHEN CHAND (Hyderabad): Mr. Chairman, it is several days back that we were discussing the Children Bill and I was pointing out that the objection raised by hon. Members was based on an insufficient study of this Bill. I maintain that the Select Committee made every effort to make this a model Bill and I will specially recommend the various clauses therein. Here I will say that the Chairman of the Select Committee and other Members of the Congress Party showed a co-operative spirit, so that every good suggestion was accepted by them and I do hope that in this House also if every Bill is referred to the Select Committee and the matter is thrashed out, it will be far better and far easier for the passage of Bills. In this Bill, every effort has been made that a juvenile delinquent is not made into a confirmed criminal, that from the first stage, though he is taken into custody by the policeman, it should not amount to an arrest, that he should not be kept in the police lock-up and he should not be sent to jail, that he should not be tried in the ordinary criminal court. All these steps have been taken to give him a feeling that it is a psychological mistake and if proper precautions are taken, he can be reformed and made into a good citizen.

An hon. Member raised the objection that if a juvenile delinquent is helped in escaping from the special school, no punishment has been provided for in this Bill to that person who is helping that delinquent child. I may point out that there is a common law of the land and under the Criminal Procedure Code due punishment can be awarded to the abettor of that crime. Similarly, objection was raised that the parents who ill-treat their children are not liable to

[Shri Kishen Chand.]
punishment. For that also, there is the common law of the land. In this Bill every precaution has been taken that in the case of the neglected children, the parents are not harassed unnecessarily by the neighbours, and the child lives in a proper atmosphere which is different from the atmosphere prevailing in the orphanages. These children's homes will be the best type of boarding schools or the best type of hostels where a child will be brought up in a proper atmosphere and thereby made into a useful citizen of the country. I don't want to go into all the various clauses of the Bill wherein every precaution has been taken for improvement and reform. I support this Bill.

SHRIMATI LILAVATI MUNSHI (Bombay): Mr. Chairman, I rise to support this Bill and also welcome it. Children are the sacred assets of every nation and I am glad that the Government has begun to think in this direction of promoting the welfare of the children. I am interested in the subject of children because of my long association with the Bombay Children's Aid Society. It was a Government nominated committee and I was associated on behalf of the Bombay Municipal Corporation. I remained its chairman for four years and, in that capacity, I had many opportunities to come across many such problems. In the Children's Aid Society, in my time, we had 1,200 children under our care. I think the Bombay Children's Aid Society is one of the biggest societies, and I don't think in any part of India such a big society for the children exists. It was divided into three institutions. One was a remand home, one was an industrial school and one was an open colony. To the remand home the police brought children, who were committing various offences. There was a juvenile court too in the same compound which was trying cases of the children. In the industrial school—it was a kind of a vocational train-

ing school—we were teaching arts and crafts and the Chembur Home, which was the open colony and a kind of a basic school, was run with an agricultural bias. There was a primary school and craft teaching and there was agricultural teaching. The time was divided half and half—half for primary teaching and crafts training and the other half for agriculture—three hours for the first half and three hours for work on the land. There was a separate mentally deficient home too which the association had established on the same ground but in a separate compound. So, as I said, my long association with these institutions has given me some knowledge about these problems. I had some experience as an honorary magistrate in a juvenile court too and I had to listen to many stories of the children who were brought there. Those were mostly the runaway children or neglected children, destitute and delinquent.

First of all, I should be permitted to say that very few people have any idea of what the children's problem is. There are many problems of the normal, healthy children who are borne in the normal and good families, but today we are not talking about them. We are today thinking of the problem of those children who run away from their homes and become waifs or who have nobody to look after them. Let us think of those children who run away from homes and why do they do it. There are various reasons for their escapade. Some children run away from home just in search of fun, but there are many who want to escape the misery and drabness of the home. In cases there are too many children in one family and not enough to eat, the child is neglected and he runs away to find out something better for himself. Then there is the bad treatment by a step-mother or a drunken father and that makes the children leave their homes. Then, strangely enough, but that is true,

once they see a cinema, they come to the city, just run away to see the cinemas in the city because there is a kind of glamour about it.

SHRI PRITHVIRAJ KAPOOR (Nominated): Does the hon. Member condemn the cinemas outright?

SHRIMATI LILAVATI MUNSHI: I don't condemn them outright, but these children are attracted to them just like a moth before a light. They see the cinemas and get attracted. These are the reasons which I came to know in my capacity as a magistrate of the juvenile court as well as in the capacity of the Chairman of the Children's Aid Society.

SHRI PRITHVIRAJ KAPOOR: The hon. Member probably means bad pictures. There are always two kinds—the good and the bad.

SHRIMATI LILAVATI MUNSHI: There are always two sides, and there are good pictures and there are bad pictures also, but these children cannot discriminate between the good and the bad ones, and when they happen to see a bad picture, they want to see more of it. And some of them, when asked where they learnt to commit this kind of crime, answer:

“ सिनेमा में देखा है ”

(*cinema men dekha hai*). Such kind of an answer I have received more than once. This category of children, come to the cities and then they find that life in the city is not all a bed of roses. They come in search of adventure, or to better their condition, to earn a living. And what do the majority of them find in the city? Most of them are ignorant children, illiterate children and they, as I said, learn from the cinemas how to commit offences. They commit small thefts and in many cases they are employed in docks as small labourers or they are employed by unscrupulous persons to commit thefts, to smuggle liquor and that is how they are brought to the court. They are also employed in hotels

and restaurants, by the Champiwalas on Chowpaty sands. They also become the victims of unscrupulous people and unnatural offences are committed against these children.

Sir, many things could be said with regard to these children and how they are treated. But I feel that the passing of a law and the establishing of one or two homes is no solution of this problem. We are just passing this Act for the Part C States. But how many of the Part A and Part B States have this law? Or I would like to know how many homes have been established by the Centre itself? Even when a law is passed for the States of Part C, sometimes they give effect to it and sometimes they do not. So, when making schemes for them, we should see that we ourselves follow those schemes, as also the major States of the country. Otherwise, passing such laws for the Part C States many of which have very limited resources will not be very helpful.

[MR. DEPUTY CHAIRMAN in the Chair.]

10 A.M.

As I was saying, the passing of a law or the starting of one or two homes is no solution of this problem. The problem is a very vast one. Even when a home is established, there are difficulties in the actual running of it. I can speak from my own experience in the Umarchadi Remand Home. The accommodation was hardly sufficient for 200 children, but in my time there were as many as 400 children there. When we complained to the Government, for some time the police stopped arresting these children. But that did not lessen the over-crowding because the disposal of the pending cases was very slow, that again being due to the fact that there was only one magistrate to dispose them of. The same thing happens in the industrial schools. They also were over-crowded. There is another evil connected with this over-crowding. Even innocent children learn a lot of very

[Shrimati Lilavati Munshi.]

bad habits and crimes through their association with other children of a worse criminal type.

There was a new experiment of starting an open colony in Chembur made by the Congress Government in 1949—the Chembur Home. There the system was to have separate hutments and each hutment had 20 children with one matron who was supposed to take the place of the mother for these children. The colony was open on all sides and the time was divided between primary schooling, learning of crafts etc. But the difficulty there was in the finding of suitable personnel for running these homes. The matrons were more like *ayahs* than mothers, because they were getting a small salary and for that sum we could not get more qualified women. The superintendent and the staff were not endowed with that kind of a missionary zeal that is necessary for such work. There were some trained social workers on the staff. Some institutions are training some social workers, I know. But I am sorry to say that these social workers have not that kind of a missionary zeal or spirit inculcated in them. It is most necessary and essential for undertaking such work to have the proper type of personnel to be in charge of such homes. Merely creating an institution is no solution. You must create the people who can take charge of those institutions, not mere career social workers who just are there for their pay and promotion. They should be there for the work itself. I could find the great difference when I saw the work done by the Christian missionaries. One feels admiration when one sees this type of work which they do so well. One sees the difference between the work done by them and that done in the institutions established by the State or by some other agencies. The difference is so very apparent.

There is one point that we should bear in mind in this connection.

Secularism should be there, but secularism does not mean that people should have no faith at all. In such institutions nothing in the nature of religious or spiritual training is given. We must remember that we are here dealing with children who are deserted by their parents, or who left homes in peculiar circumstances; and in the process of knocking about in the city, they lose faith in themselves and also in their fellow-beings. Therefore, we must give them faith in themselves. Each child must be made to have faith in himself and also in his fellow beings. He must be given something higher, something nobler so that we may be able to build him up, to improve him. Merely giving him training and feeding him is not enough. We should rehabilitate him mentally also and we should give him a little of the spiritual or religious strength or training—call it what you will, it makes no difference. But it is absolutely necessary to give them this kind of general background.

Then, the problem of after-care is also very important. In many cases, it happens that as soon as a person is released from the institution, unless he gets an occupation, he becomes part of the underworld. He has nowhere to go, no place to go to, and what will he do? He just does whatever comes his way and he must become either part of the underworld or commit some crime. He has no moorings, no family ties. Sometimes he becomes a mill worker or a mechanic. The detaining Society tries to secure some jobs for him but mostly these jobs are only that of a mill worker or of a mechanic. The Society could not do anything better because there was no other occupation available and if a released child does not get any job he goes into the underworld. He comes out into the world without any ties, which is, as I said, not good for him. In Bombay we had an “after-care organisation” where some released children who had some kind of jobs

used to come and stay. A scheme was formulated by the Congress Government then that after the children were released, colonies should be formed on Government land—there should be a group of fifteen or twenty boys—and these boys should be settled on the land. We were training the children for all sorts of things, for example, smithy, carpentry, agricultural work. It was thought that they would settle down because of companionship and working together on the land and they would be properly rehabilitated. By living together and having this companionship they could become part of the village life, become good citizens, and they could settle there, marry there and till their own land. This scheme was not put into practice because the Ministry resigned in 1939 and there was not sufficient time. Afterwards, the British Government did not do anything. I do not know what the present position is because probably they may be doing something about it but some such scheme should be thought of while thinking of the after-care of the children. It is one thing to promote legislation and it is another to enforce it. To establish children's homes and to rehabilitate the large number of children costs money. If we are really undertaking a scheme very seriously then we must not have only one children's home because that will not help us. There are so many such children who will require our protection.

Let us hope that this Bill will bring a new deal for the children and that a new era will begin after this legislation comes into force.

SHRI PRITHVIRAJ KAPOOR:

श्री पृथ्वी राज कपूर : माननीय उपसभापति महोदय, मैं इस चिल्ड्रेन बिल (Children Bill) का समर्थन करने के लिये खड़ा हुआ हूँ। मैं अपने माननीय शिक्षा मन्त्र को बधाई देता हूँ कि उन्होंने सही वक्त

में पार्ट सी स्टेट्स (Part C States) के लिये यह बिल पेश किया है और उन बच्चों की ओर देश का ध्यान आकर्षित किया है जो कि नेगलेक्टेड (neglected) हैं, डेलिक्वेंट (delinquent) हैं। यह बिल ऐसे बच्चों की परवरिश और देख रेख के लिये और उन्हें संभालने के लिये प्रबन्ध करने का एक कदम है और इस रूप में हमारे सामने उन बच्चों का सवाल रखता है। खास तौर से मैं शिक्षा मंत्री जी को इस बात की बधाई देता हूँ कि जहाँ उन्होंने डेलिक्वेंट चिल्ड्रेन का सवाल लिया है उसके साथ ही नेगलेक्टेड चिल्ड्रेन के सवाल को भी लिया है क्योंकि ज्यादा जरूरी समस्या नेगलेक्टेड चिल्ड्रेन की होती है। नेगलेक्टेड चिल्ड्रेन वे बच्चे हैं जिनकी देख रेख नहीं की गई, जिनको संभाला नहीं गया। किसी शायर ने कहा है कि “उलाहना जो देते हैं पहले कहां थे ? किसी ने न गिरते हुये को संभाला।” कहने में तो ऐसे बच्चों को बाद में डेलिक्वेंट चाइल्ड कहते हैं लेकिन असल में ये होते हैं वो जो संभाले नहीं जाते। इसलिये जो यह डेलिक्वेंट और नेगलेक्टेड बच्चों को एक साथ लिया गया है यह एक बड़ी बात है और एक बड़ी बुनियादी बात है। इसीलिये मैं उन्हें बधाई देता हूँ।

हां, इतनी प्रार्थना अवश्य करूंगा कि जिस तरह एक पेड़ में टहनियां होती हैं, पत्तियां होती हैं, मगर अगर उनको कितना ही सींचा जाय और जड़ को छोड़ दें, तो वह पेड़ संभल नहीं सकता है, उसी तरह मां बाप ही जड़ की तरह अपने बच्चों को न सींचें, उन्हें संभालने या परवरिश करने में गफलत करें तो बच्चा संभल नहीं सकता। इसलिये इस बिल में इस बात की भी जरूरत है कि बच्चों के मां बाप को भी संभाला जा सके ताकि उनसे डेलिक्वेंट बच्चों की पैदायश न हो सके। डेलिक्वेंट बच्चों के अन्दर ज्यादातर वे बच्चे भी हो सकते हैं जिनके मां बाप नहीं हैं।

[Shri Prithviraj Kapoor.]

लेकिन ऐसा भी होता है कि मां बाप के होते हुए बच्चे नेप्लेक्टेड रह जाते हैं, उनकी ओर ध्यान नहीं दिया जाता, उनकी सही तौर पर देख रेख नहीं होती और धीरे धीरे ये बच्चे बुरी मोहबत में डूब उधर घूमते हैं और आहिस्ता आहिस्ता डेलिक्वेट हो जाते हैं। लेकिन अगर इन बुराइयों की बनियाद को खोदा जाय और जड़ों को देखा जाय तो हमें मालूम होगा कि हमें बच्चों के मां बापों को परवरिश करने की शिक्षा देनी होगी, तालीम को हमें एक कदम और आगे बढ़ाना होगा, उसमें सुधार करना होगा। । पेश्तर इसके कि मैं आगे कुछ कहूँ, श्रीमान्, मैं यह जानना चाहता हूँ कि मैं कितने मिनट तक यहां बोल सकता हूँ

MR. DEPUTY CHAIRMAN: There is no time limit.

SHRI PRITHVIRAJ KAPOOR:

श्री पृथ्वीराज कपूर : मैंने यह इसलिये पूछा क्योंकि पिछली बार जब मैं बोल रहा था तो मुझे एब्रुप्टली (abruptly) कहा गया था कि मेरा बोलने का मुकुरर वक्त खत्म हो चुका है। इसलिये मैंने पूछा कि मुझे वक्त के बारे में पहले से दुरुस्त कर दिया जाय ताकि मैं उस समय के अन्दर अपनी बात कह सकूँ।

मैं यह अर्ज कर रहा था कि हमारी एडल्ट एजुकेशन (adult education) की जो स्कीम (scheme) है उसमें हम उन लोगों को पढ़ाते हैं जो अनपढ़ हैं, "इन दी वे आफ दी वर्ल्ड" ("in the way of the world") के लिहाज से या "थ्री आर्स" ("three Rs") के लिहाज से। जिनको क, ख, ग नहीं आता जिनको अलिफ बे नहीं आता उनको हम ये चीज पढ़ाते और सिखाते हैं। लेकिन जहां तक बुनियादी तालीम देने की बात है जिसमें बच्चों का

सही मानों में सुधार हो सकता है शायद वह कुछ दिन बाद नहीं बल्कि कुछ वर्षों बाद शुरू की जाय।

मैंने खलील इब्राहीम की एक किताब पढ़ी जिसमें उन्होंने एक तसवीर बनाई थी जिसमें मा बाप और उनके तमाम बच्चे दिखाये हैं और उनके बीच में तीर रखा गया है जिसका मतलब था कि मा बाप को अपने बच्चों को आगे बढ़ाना चाहिये, आगे जाने देना चाहिये। बड़े आर्टिस्ट (artist) थे खलील इब्राहीम, मैं अशकर चुका उनके उस थोट (thought) पर, उनके उस विचार पर, और उसके लिये मेरे दिल में बड़ी इज्जत पैदा हुई। पिछले साल, सन् १९५३ की बात है। मुझे अथर्ववेद की पुस्तक के कुछ अनुवाद हिन्दी में मिले। अथर्ववेद की दूसरी सूक्ति में वह थोट मिलता है जो हमारे मुल्क में पाच हजार, दस हजार या इससे भी ज्यादा अर्म पहले था। मेरा सर झुक गया उस किताब के आगे। वे लोग जिन्होंने उसे लिखा होगा, जिनके द्वारा वह प्रकाशित हुआ वे कैसे होंगे ! वे हमसे भी एक कदम आगे बढ़े थे। उसमें मा बाप को अपने बच्चों के लिये क्या कुछ करना चाहिये ये बातें खुली तौर से लिखी हुई हैं। एक सोसाइटी (society) के लिये, राज्य के लिये यह जरूरी है कि वृक्ष की तरह अपनी छाया में बच्चों को पाले और आगे बढ़ाये। अब दो सौ वर्ष की गुलामी में हम बदल गये और अपनी पुरानी बातों को भूल गये। इसलिये मैं शिक्षा मंत्री साहब का ध्यान दिलाना चाहूंगा कि हमें अपनी पुरानी चीजों से विचारों को खोद कर निकालना चाहिये।

MR. DEPUTY CHAIRMAN: Mr. Kapoor, though there is no time limit to your speech at this stage I request you to be relevant. We are not concerned here with the principles of education or administrative details.

We are concerned here with neglected children and juvenile delinquents.

SHRI PRITHVIRAJ KAPOOR: I am not talking about administration. I am only talking about the children and their parents or guardians, and am trying to say how the parents should be taught to look after their children. I am sorry if I have been irrelevant at any place

मैं यह अर्ज कर रहा था कि उस स्वरूप को खोद कर, बाहर निकाल कर लोगों के सामने लाना होगा। आज हम कहते हैं कि इकॉनॉमिक ट्रबुल (economic trouble) की वजह से देश में बच्चे बहक गये हैं। ठीक है, हो सकता है कि कुछ ऐसा भी हो लेकिन मेरा कहना है कि इकॉनॉमिक ट्रबुल की वजह से ही बच्चे नहीं बिगड़ते हैं बल्कि उसकी वजह यह है कि लोग सेल्फ-सेटर्ड (self-centred) हो गये हैं। आज बड़ी से बड़ी, ऊँची से ऊँची सोसाइटी में नेगलेक्टेड चिल्ड्रेन मिलते हैं जो कि आहिस्ता आहिस्ता डेलिक्वेट और क्रिमिनल (criminal) बन जाते हैं। माँ बाप की बच्चों के लिये जो जिम्मेदारियाँ हैं उनको वे भूल जाते हैं और खुद अपनी ही देख रेख में रहने हैं और बच्चे उन से दूर होते जाते हैं। इसलिये मेरा कहना है कि एजुकेशन की बहुत बड़ी जरूरत है। मैं बार बार इस बात को कहा करता हूँ कि हमारी बुनियाद, हमारी जड़ें मजबूत होनी चाहिये। उस दिन भपेरा साहब ने कहा था कि चूँकि इकॉनॉमिक हालत खराब है इसलिये बच्चे बिगड़ते हैं। मैं कहता हूँ कि ऐसा नहीं है। बात यह है कि हमारी जहनी हालत खराब हो गई है। जब हमारी जहनी हालत ठीक होगी तभी चीजों का सही रूप होगा। मेरा कहना है कि यही जरूरी नहीं है कि बच्चों की एजुकेशन ठीक हो बल्कि यह और भी जरूरी है कि मा

बाप की एजुकेशन ठीक हो ताकि बच्चे नेगलेक्ट न हों और डेलिक्वेट न बने। हमको इन बुनियादी चीजों को लेकर मा बाप की और तमाम जनता की एजुकेशन को बढ़ाना है और द्रुतगति से बढ़ाना है। जब हम अपनी देश की चीजों को बढ़ायेगे तभी कुछ हो सकेगा। मैं यह नहीं कहना कि जो विदेशी है उसे लिया ही न जाय, जैसा कि यह कहा जाय कि माईक्रोफोन (microphone) न हो। मेरा कहना है कि माईक्रोफोन, रेलवे ट्रेन (railway train) रेडियो (radio) सब चीजे अच्छी भी हैं, बुरी भी हैं, हमको बुरे भले का ख्याल करके चीजों को लेना है, हमें देखना है कि उनका सही इस्तेमाल हो।

सिनेमा (Cinema) की बात चली। हमारी मोहतरिमा श्रीमती सुशी ने कहा कि बच्चे जा बर सिनेमा देखते हैं। मैं कहगा कि सिनेमा के फायदे भी हैं और नुकसान भी हैं, तो उसके फायदों की ओर देखा जाय। बच्चों के लिये सिनेमा में आकर्षण होता है, यह मैं मानता हूँ, लेकिन सिनेमा में आकर्षण है दोष नहीं है। बच्चे पढ़ते नहीं हैं लेकिन तस्वीर देखते हैं। अगर आप उनके सामने हिस्ट्री (history) और रामायण रख दें तो वह नहीं पढ़ेंगे लेकिन अगर राम और सीता की कहानी को तस्वीर में दिखाये तो देखने को शौक से तैयार हो जायेंगे। इसी तरह सिकन्दर की कहानी नहीं पढ़ेंगे लेकिन सिनेमा देखने को तैयार होंगे। सिनेमा में एक आकर्षण शक्ति है, जो कि सबको खींचती है, गरीब को, अमीर को, सबको खींचती है। जो एक रुपया रोज़ कमाता है वह भी सिनेमा देखता है और जो एक हजार कमाता है वह भी देखता है। तो फिर हमें देखना है कि उसके जरिये से किस तरह से अच्छी तालीम दी जा सकती है। हमें देखना है कि उससे एजुकेशन हो और मैं तो मानता हूँ कि उससे

[Shri Prithviraaj Kapoor.]

एजुकेशन हो रही है। मैं तो कहना चाहता हूँ कि जो मा का स्वरूप है वह सारे मोसाइटी में होना चाहिये, सब चीज में होना चाहिये। मिनेया बहुत इन्फार्मेशन (information) देने वाली चीज है। यह एक बहुत बड़ी शक्ति है। अगर हम इस शक्ति को देश की सेवा में हारनेस (harness) करते हैं तो हम बहुत कुछ कर सकते हैं। दिल्ली में ही, ओडियन में एक खेल बहुत दिनों तक चला है जो कि नेगलेक्टेड चिल्ड्रेन को डील (deal) कर रहा है। तो आज भी बहुत से काम हो रहे हैं जिसमें कि एजुकेशन मिनिस्ट्री (Education Ministry) बगैर बहुत पैसा खर्च किये, मिर्फ थोड़ी सी इमदाद से, सैकड़ों, लाखों बच्चों तक वह बात पहुंचा सकता है जो कि उनको पहुंचानी चाहिये। मेरा कहना है कि जो इतनी बड़ी देश की शक्ति है उसको नेगलेक्ट न करे नहीं तो वह भी डेलिक्वेट हो जायेगी, वह भी डेलिक्वेट चाइल्ड की तरह बन जायेगी। पिछली गवर्नमेंट (Government) के जमाने में वह कुछ ऐसा बन भी गई थी, उस वक्त अगर गांधी जी की या मौलाना आजाद की या किसी की तस्वीर आ जाती थी तो वह फिल्म (film) बैन (ban) कर दी जाती थी। लेकिन अब ऐसा वक्त आ गया है कि इस तमाम शक्ति को देश के काम के लिये हारनेस कर सकते हैं। अगर रेडियो, फिल्म और स्टेज (stage) की हालत डेलिक्वेट चाइल्ड की तरह हो गई तो फिर वे नेगलेक्टेड चिल्ड्रेन को, उनके मा बाप को, आने वाले बच्चों को और आने वाले बच्चों के मा बाप को डेलिक्वेट बना देगे। इसलिये मेरा कहना है कि उन लोगों को इनकरेज (encourage) करे जो कि इस तरह के कामों की देख रेख कर रहे हैं।

मैं कहना चाहता हूँ कि मैंने वम्बई में चिल्ड्रेन होम्स (children homes) देखे हैं, वहां छोटे छोटे बच्चों को जिनको कि नेगलेक्टेड चिल्ड्रेन कहा जाता है इकट्ठा करके रखा जाता है। इसी तरह पूना में भी चिल्ड्रेन होम्स हैं। पूना नागरिक समिति ने सैकड़ों बच्चों को इकट्ठा करके रखा है, उनको पढ़ाया लिखाया है, और मा के स्वरूप में देख रेख की है। इसी तरह की संस्थाएँ और जगह भी हैं। तो इस तरह की जो संस्थाएँ काम कर रही हैं उनके स्वरूप को ध्यान में रखा जाय और उनकी सहायता की जाय तो काम बहुत तेजी से आगे बढ़ेगा। मेरा कहना है कि उन लोगों को साथ ले लें और उनकी सहायता करे तो हमारा काम बहुत हल्का हो जायेगा और हमारा काम जल्दी में और आसानी से हो सकेगा। अगर हम अपने तमाम स्कूलों और कालेजों को बता दें कि वह इस सवाल के साइकोलॉजिकल आस्पेक्ट (psychological aspect) में जायें कि क्यों बच्चे नेगलेक्ट किये जाते हैं, क्यों उनकी आदतें बिगड़ती हैं तो भी बहुत काम हो सकता है। एक चीज जो सबसे जरूरी है कि होम्स में जो आदमी हो उनका स्वरूप भी मा का स्वरूप हो। उनको रखते हुये यह न देखा जाय कि वे पढ़े कितने हैं। देखना यह है कि उनके अन्दर सम्यता कितनी है, उनके अन्दर मा बाप बनने की शक्ति कितनी है। ऐसा न हो कि उनकी एप्लीकेशंस (applications) आयें तो यह देख कर रख ले कि वे यह डिग्री (degree) पास है इसलिये उनको रख ले चाहे वह अक्खड़ टाइप (type) के और सख्त टाइप के ही क्यों न हों। जैसे कि "जेलर" फिल्म में कुछ ऐसा था कि उस्ताद लोग ने बहुत ज़ुल्म किया, बच्चों को बहुत सताया। तो हमें उस्तादों को भी पढ़ाना होगा कि वे बच्चों को किस प्रकार पढ़ाये। अब

हम आज़ाद देश हैं, हमें अपनी किस्मत का फ़ैमला खुद करना है और अपने बच्चों को सही तरीके पर मोल्ड (mould) करना है, उन्हें देश का सिपाही बनाना है और देश को ऊपर उठाने वाला बनाना है। तो हमें उस्तादों को और मां बाप को पढ़ाना होगा और तमाम सोसाइटी को पढ़ाना होगा कि बच्चों के साथ कैसा सलूक किया जाय। हमको सिनेमा बनाने वालों को भी पढ़ाना होगा कि वह किस खयाल की तसवीरें बनायें जो कि बच्चों को ऊंचा उठायें, नीचे न गिरावें। इस तरह तमाम सोसाइटी को लेकर अगर हम चलेंगे तभी वह फिजा पैदा हो सकेगी जिसमें कि देश का काम ऑटोमैटिकली (automatically) आगे बढ़े। अगर ऐसी फिजा में बच्चे पलेंगे तो फिर कोई दिक्कत नहीं रहेगी। जो फिजा हमारा महकमा तालीम इस सिलसिले में बच्चों के लिये पैदा कर रहा है वह सिर्फ़ पार्ट सी स्टेट्सके बच्चों के लिये है लेकिन वह एक आदर्श रूप है और मुझे आशा है कि हमारे पार्ट ए (Part A) और पार्ट बी स्टेट्स (Part B States) भी इस आदर्श रूप को अपनायेंगे। इस तरह हमारे देश में एक ऐसी फिजा पैदा होगी कि बच्चे नेगलेक्ट हो ही नहीं सकेंगे और उनकी सही मानों में देख रेख होगी। मैं फिर कहना चाहता हूँ कि हमारे लिये सबसे बड़ा शस्त्र, सबसे बड़ा माध्यम, सबसे बड़ी शक्ति फिल्म और स्टेज हैं। इसलिये इस चीज को चाहे इंफॉर्मेशन (Information) विभाग करे या एजुकेशन विभाग करे, मगर मैं तो यही चाहूंगा कि एजुकेशन मिनिस्ट्री ही इस काम को अपने हाथ में ले तो बहुत ज्यादा बेहतर होगा। यह एक बहुत जिम्मेदारी का काम है। इसके साथ ही साथ जो लोग बच्चों के मुताल्लिक फिल्मों बनाते हैं, उनके उत्थान के लिये फिल्मों बनाते हैं, सरकार की तरफ से उनको भी हर तरह का प्रोत्साहन दिया जाना चाहिये।

अगर इस तरह का प्रोत्साहन उनको दिया गया तो देश के अन्दर बच्चों की भलाई की ज्यादा फिल्में तैयार हो सकती हैं। अगर सरकार उन लोगों को जो बच्चों की फिल्में बनाते हैं, किसी तरह के टैक्स (tax) में एक्जेम्पशन (exemption) कर दे तो उन लोगों को बहुत प्रोत्साहन मिलेगा, यह मेरी प्रार्थना है। अगर एजुकेशन मिनिस्ट्री इस तरह की सहायता फिल्म बनाने वालों को देगी तो देश में बहुत अच्छी बच्चों की फिल्में तैयार हो जायेंगी।

जब हमारा देश आज़ाद नहीं हुआ था तो उस जमाने की गवर्नमेंट ने बच्चों की भलाई की ओर बिल्कुल लापरवाही बरत रखी थी। वह एक तरह से सौतेली मां की तरह व्यवहार करती थी मगर आज हमारा देश स्वतंत्र हो गया है, यह हमारी सरकार का कर्तव्य हो जाता है कि वह बच्चों की भलाई के लिये हर तरह का प्रयत्न करे। पहले जब बच्चे सिनेमा देखने जाते थे तो यह कहा जाता था कि बच्चा खराब हो जायेगा। मगर आज इन्फॉर्मेशन विभाग द्वारा देश के विभिन्न भागों के बारे में अच्छी फिल्में तैयार की जा रही हैं। अगर इस तरह की फिल्में बच्चों को दिखलायी जायेंगी तो वे अपने देश के इतिहास और सम्यता के बारे में जानकारी रख सकेंगे। अगर इसी रूप में फिल्में बच्चों के लिये बनाई जायेंगी तो हमारे देश के बच्चे जो पहले सिनेमा देखने से चरित्र खराब कर लेते थे, ज्यादा देखना पसन्द करेंगे और उनकी हर प्रकार से उन्नति ही होगी। यह तभी हो सकता है जब सरकार की ओर से इस तरह की फिल्में तैयार की जायें जिससे कि बच्चों के उत्थान में हर प्रकार की सहायता मिले। इसलिये मैं आशा करता हूँ कि सरकार इस ओर विशेष ध्यान देगी और बच्चों की भलाई के लिये जो भी

[Shri Prithviraj Kapoor.]

उचित होगा करेगी। इन शब्दों के साथ मैं इस बिल का समर्थन करता हूँ।

[For English translation, see Appendix VII, Annexure No. 220.]

SHRI TAJAMUL HUSAIN (Bihar): Mr. Deputy Chairman, the main object, it appears to me, of this Bill is to protect, look after and reform those children who should be protected, looked after and reformed by the Government by giving them educational, social and other opportunities. I, therefore, support the Bill in its entirety. I do not wish to make a speech; I wish to make only one or two suggestions for the improvement of the Bill.

Sir, "juvenile delinquent" has been defined in sub-clause (g) of clause (2) as follows: "juvenile delinquent" means a child who has been found to have committed an offence,....." To my mind the word "delinquent" itself gives the impression that the person or the child has committed more than one offence—and not one offence—and that he is a habitual offender. This is the impression the word "delinquent" gives me. I may be wrong, but if I am right, then I think a better word would be "juvenile offender" because the word "offender" means a person who has committed one offence and not necessarily more than one offence. So it would be better to use the word "offender". Then the clause would read—"juvenile offender" means a child who has been found to have committed an offence,....." This is a very minor suggestion that I have made.

Another suggestion that I wish to make is about the neglected child. Neglected child has been defined in clause 2(h). It means a child who is found in any street or place of public resort begging or receiving alms etc. Suppose there is an old man who has no source of livelihood and he is blind. He is incapable of serving anybody and nobody wishes to employ him either. He has got a

child aged about 10 or 12 years. The only source of income for this old blind man is by begging. Of course, the Government have not so far made any arrangement for beggars, to protect them, to feed them or to look after them, but I hope they will, one of these days. Now, this blind old man has got a child of 10 or 12 years and he wants the child to take him round for the purpose of begging. Under the definition as it stands, that child would be treated as a neglected child, but it is not a neglected child. His father gets the money and feeds the child and himself. How can you call that child neglected? If you take the child away from the protection of the old man, then you are starving the old man. Therefore, I think something should be done in this matter. What should be done, it is for the hon. Member in charge of the Bill to think out.

My last suggestion is that under this Bill children's homes have to be established in each State. We all know that the financial condition of the States is such that it would not be possible for every State to bear the initial and recurring expenses of at least one children's home. Therefore, in every State, more or less, you will find a number of private orphanages or homes for children. They have nothing to do with the Government. Why cannot the Government take charge of them? The building is already there; the expenses are met by public or by some other religious trusts. The only thing to do is to give them licences and these neglected children and the juvenile offenders may be kept there and looked after. These are the only suggestions I have to make.

SHRIMATI MAYA DEVI CHETTRY (West Bengal):

श्रीमती मायादेवी छेत्री (पश्चिमी बंगाल): उपाध्यक्ष महोदय, मैं इस बिल (Bill) को सपोर्ट (support) करने के लिये खड़ी हुई हूँ। एजुकेशन मिनिस्ट्री

(Education Ministry) द्वारा जो बिल यहां लाया गया है उसके पास हो जाने के बाद यह पार्ट सी स्टेट्स (Part C States) में लागू हो जायेगा। अभी तक वहां पर जो बच्चे नेगलेक्टेड (neglected) रहते थे, जिनके ऊपर देख रेख करने के लिये कोई गार्डियन (guardian) नहीं होता था, जो अनाथ और असहाय हो कर रहते थे, जिनकी संख्या आहिस्ते आहिस्ते बढ़ती ही चली जाती थी, जो भारतवर्ष को आगे बढ़ाने के बजाय पीछे खींचते थे, अन्त में, उनकी भलाई के लिये आज एक बिल पास किया जा रहा है। मैं आशा करती हूं कि इस बिल को केवल पास ही करके न बैठ जायें बल्कि इसको उपयोगी बनाने के लिये बराबर चेष्टा की जाये जिसमें इन बच्चों का भविष्य उज्ज्वल हो।

इस पर एक कहानी मुझे याद है कि एक म्युनिसिपैलिटी (municipality) ने एक आईन पास किया कि म्युनिसिपल एरिया (municipal area) के भीतर या स्टेशन (station) के नजदीक कोई यूरिन (urine) नहीं कर सकता है। पर उन लोगों ने यह विशेष ख्याल नहीं किया कि हमने वहां पर किमी यूरिनल (urinal) का बन्दोबस्त नहीं किया और यू ही आईन पास करके एक नोटिस (notice) टांग दिया कि कोई आदमी उस इलाके में पेशाब नहीं कर सकता है। वहां के लोगों को यह आईन ढोल पीट कर, नोटिस टांग कर मालूम कराया गया। जो बाहर से यात्री लोग आते थे उन्हें यूरिनल की जगह ढूँढ़ने में बहुत दिक्कत होती थी और उसके लिये भटकना पड़ता था। बाहर से जो अपरिचित लोग आते हैं, एक नई जगह में क्या नियम हैं इसके बारे में उन्हें कुछ मालूम नहीं होता और अनजाने में उनसे गलती हो जाती है। मेरे सामने एक ऐसा केस (case) हो गया।

एक आदमी एक बस (bus) में बैठ कर अपने तमाम परिवार के साथ उस जगह उतरा। परदेश में वह विचारा शीघ्र के लिये कहां जाय, वह कहीं रास्ते के किनारे पर बैठ गया। किसी पुलिस वाले ने उसे देख लिया और थाने में ले जाकर कहा कि यह आदमी हमारे आईन को तोड़ता है। पुलिस वाले भी जैसा कि हम सब जानते हैं अपनी समझ के अनुसार आईन का पालन करते हैं, जब कि मजिस्ट्रेट (magistrate) का काम आईन को देख के फैसला देना और उसको सजा सुनानी हो वह वताना होता है। आईन की नज़र तो उस आदमी पर नहीं होती है, पर उस आदमी ने क्या दोष किया और कौन दोषी है और कौन निर्दोषी, इसलिये हमारी नज़र यह होनी चाहिये कि जब हम कोई आईन पास करते हैं तब सब चीजों को ध्यान में रख कर उसे पास करना चाहिये ताकि अनुचित रूप से कोई आदमी उसमें न फँस जाये। तो मैं कह रही थी कि उस बेचारे को पुलिस वाले ने थाने में रख दिया और उसके बाल बच्चे एक दिन एक रात स्टेशन पर ही रह गये, उनकी न किमी से जान थी न पहचान। बाद में वह आदमी एक रात जेल में बन्द रहने के बाद थाने से छूट गया। इस तरह से झूठ मूठ में उसके आत्म सम्मान को कितना धक्का लगा होगा, और उस कानून से उनको कितनी नफरत पैदा हुई होगी यह आप सोच सकते हैं।

इस चिल्ड्रेन बिल (Children Bill) में एक जगह लिखा है कि :

"to provide for the care, protection, maintenance, welfare, training, education and rehabilitation of neglected children and juvenile delinquents in Part C States."

यहां पर खास तौर पर यह नहीं दिखाया गया है कि वे बच्चे जो इन दो कैटेगरीज (categories) में नहीं आ सकते हैं बल्कि जो विक्टिमाइज्ड (victimized) हैं वे

[Shrimati Maya Devi Chetty.]

कहां रखे जायेंगे। इसलिये हमें देखना चाहिये कि ऐसे बच्चे जो दूसरी तरह से नेगलेक्टेड हैं वे भी कानून के अन्दर लाये जाने चाहियें। हम यह मोचते हैं कि इस कानून को यहां अच्छी तरह से स्टडी (study) न करके सिर्फ पत्रे ही पलटते चले जायं। मैं इसमें इतने क्लॉजेज़ (clauses) को देख कर हैरान हो गई हूं कि इस बिल के अन्दर इतनी सब बातें ला कर कैसे काम चल सकता है। पुलिस को कहीं रास्ते में नेगलेक्टेड चिल्ड्रेन जुवीनाइल (juvenile) या डेलिक्वेंट चिल्ड्रेन (delinquent children) मिलेगा तो वह उसे पकड़ लेगी और आबजर्वेशन होम (observation home) में रख देगी और पता नहीं कब तक उसे वहां रखे। किसी बच्चे के बारे में पुलिस वाले को मालूम हो कि यह नेगलेक्टेड चाइल्ड है, यह मांगता है तो वह उस बच्चे को पकड़ के आबजर्वेशन होम में ला के रख देगी और उसके बारे में इन्क्वायरी (enquiry) करते करते पूछते पूछते छः महीने हो जायेंगे, क्योंकि पुलिस वाले मामूली से मामूली केस में छः महीना साल भर लगा देते हैं। तब जा कर कोर्ट (court) में उसकी परीक्षा होगी, और अगर यह पता चल गया कि चाइल्ड नेगलेक्टेड है तो फिर उसे चिल्ड्रेन होम (children home) में भेज दिया जायेगा नहीं तो फिर उसे लौटा दिया जायेगा।

अब यह देखना है कि उस होम में बच्चे को किस तरह की शिक्षा दी जायेगी। मेरे खयाल में खाली उनको ए, बी, सी, डी, (a, b, c, d) क, ख, ग, घ और अक्षर ज्ञान कराने से ज्यादा तो यह ध्यान होना चाहिये कि वे बाहर निकल कर भी कुछ कर गुजारा कर सकें, इसलिये अग्रिकल्चर फार्मिंग (agriculture farming) की

तरह की ट्रेनिंग (training) दी जानी चाहिये, उनको बेसिक एजुकेशन (basic education) भी दी जानी चाहिये जिससे कि बाहर निकलने पर वे अपने श्रम से निर्वाह कर सकें।

इस बिल में लिखा हुआ है कि १६ वर्ष से ज्यादा उम्र के बच्चे चिल्ड्रेन होम में नहीं रह सकते हैं। आखिर जिन बच्चों को आप तेरह चौदह या पन्द्रह की उम्र में पकड़ लेते हैं उनका वहां रहने का हक एक दो वर्ष रह जाता है। आप कैसे अन्दाजा लगा सकते हैं कि कोई बच्चा इतनी उम्र का होगा क्योंकि कद किसी का बड़ा होता है किनी का छोटा।

यह लिखा हुआ है कि ऐसा गार्डियन जो बच्चे को प्रॉपर एजुकेशन (proper education) दे सकता है उसका वेलफेयर (welfare) देख सकता है उसी के पास बच्चा भेजा जायेगा। इसमें ऐसे लोग भी गार्डियन बनना चाह सकते हैं जो खास गार्डियन न हों, जो उसको लेना चाहते हैं तो फिर उनको आप जबरदस्ती गार्डियन क्यों बनाना चाहते हैं। अगर आप गार्डियन के ऊपर बच्चे की प्रॉपर एजुकेशन (तालीम) का बोझ भी लादेंगे तो फिर वह आदमी इस बोझ को लेने से इन्कार कर सकता है क्योंकि आपका आईन कहेगा कि बच्चे को प्रॉपर एजुकेशन देना होगा नहीं तो पुलिस तुम्हारे ऊपर आ जायेगी। इसलिये आईन में हमें ये बाधाएँ कुछ हल्की करनी पड़ेंगी।

दूसरी चीज़ यह है कि ये कानून सिर्फ पार्ट सी स्टेट्स में ही लागू होगा और पार्ट ए (Part A) और बी स्टेट्स (B States) में उन लोगों को अधिकार है कि ऐसे ऐसे चिल्ड्रेन होम्स खोल के उन बच्चों को तालीम दें, शिक्षा दें लेकिन उस ढंग से, उस रूप से किसी स्टेट में भी यह

नहीं है। इतने बड़े बड़े स्टेट्स हैं वहाँ पर हजारों ऐसे नेगलेक्टेड चिल्ड्रेन गली गली में घूमते हैं जिनके न बाप हैं न माँ हैं, मांगते फिरते हैं। तो मेरे खयाल में उन बच्चों के लिये ऐसे सोशल वर्कर्स (social workers) रखने चाहियें जो कि उन लोगों को खोज खोज कर के चिल्ड्रेन होम में लावें और तालीम दे कर उन लोगों को एक मनुष्य होने के अधिकारी बनायें। आज हमारा भारत स्वाधीन हो गया है पर हम चिल्ड्रेन के ऊपर नज़र नहीं डालते। केवल कानून पास करके हम लोग बैठे रहें तो भी कुछ फायदा नहीं होगा। इसलिये हर एक स्टेट में सोशल वर्कर्स होने चाहियें जिनका काम हो कि खोज खोज के उन चिल्ड्रेन को ले आयें और शिक्षा दें। हमारे विचार में चिल्ड्रेन होम में तालीम देने के लिये औरतें ही होनी चाहियें क्योंकि औरतों में बच्चों के लिये जैसा कोमल हृदय होता है उतना किसी पुरुष में नहीं होता। इसके अलावा जो बच्चे नेगलेक्टेड हैं उनमें से कितनों ही को माता पिता का प्रेम भी नहीं मिलता है और वे सोसाइटी से, समाज से भी वृणित हो कर रहते हैं। ऐसे बच्चों के पालन पोषण और शिक्षा के काम को सब से ज्यादा औरतें ही कर सकती हैं इसलिये औरतों को ट्रेनिंग दे कर और शिक्षिका बना कर ऐसे चिल्ड्रेन्स होम्स के प्रबन्ध के काम में रख देना चाहिये।

मैं और ज्यादा क्या बोलूँ। ज्यादा बोलने से वे प्वाइंट्स (points) दुहरा जायेंगे जो कि और वक्ता कह चुके हैं। मैं अन्त में यही कहना चाहती हूँ कि चूँकि हम यह कानून बनाने जा रहे हैं इसलिये पार्ट सी स्टेट्स वालों को अभी से सोचना चाहिये कि चिल्ड्रेन्स होम्स कहाँ कहाँ बनायेंगे और किस तरह के बच्चों को प्राँपर ट्रेनिंग देंगे। अभी से इस बात को सोचना चाहिये क्योंकि कानून बन जाने के बाद काम शुरू हो जायेगा और पुलिस बच्चों को पकड़ कर लायेगी और मजि-

स्ट्रेट फैसला कर देंगे लेकिन अगर कोई होम्स न होंगे तो फिर यह एक बड़ा प्रॉब्लम (problem) हो जायेगा कि उन बच्चों को कहाँ भेजा जाय। ऐसा होना चाहिये कि पहले से ही स्थान को चुनें और घर बनायें और बच्चों के रिहैबिलिटेशन (rehabilitation) का प्रबन्ध करके यह कानून लागू करें।

इन शब्दों के साथ एजुकेशन मिनिस्ट्री को धन्यवाद देते हुये मैं इस बिल का समर्थन करती हूँ।

[For English translation, see Appendix VII, Annexure No. 221.]

SHRI H. C. MATHUR (Rajasthan): Mr. Deputy Chairman, I feel I must congratulate the Government for this piece of legislation, and I have no hesitation in saying that most of the criticism of the provisions of this Bill, both from the Congress side as well as from the Opposition, has been unwarranted and certainly uninformed. I do appreciate the anxiety, the care and the sentiments of most of the Members of this House, and it is only natural that we all should feel the same way about the children. And I have no hesitation in saying that even during the deliberations of the Select Committee the Government's attitude was open-hearted and any suggestions that were advanced were accepted in the most commendable manner.

So far as the provisions of this Bill are concerned, I feel that there is very little that can be said against them. As a matter of fact, this piece of legislation is as comprehensive as it could have been under the present circumstances. If any legitimate criticism can be advanced against the Government, it is only the general one that they have taken about four years, and this Bill has been with them on the anvil for more than that period, in spite of the admission on the part of the Government that they realised the urgency and the necessity of such a provision

[Shri H. C. Mathur.]

at the time of partition. This problem was already there in the country, but the partition of this country further accentuated it, and it was in that context that it was considered absolutely expedient that such a measure should be brought forward. But in spite of this recognition for urgency, it is most unfortunate and lamentable that this piece of legislation has been in the hands of Government in their usual sluggish manner for over four years.

While looking at this piece of legislation, I think, the most important aspect to be considered is that so far we have been taking a very different view in this matter. So far we have always felt that children are, in entirety, the responsibility of parents. Now there is a departure. The Government is taking not only the responsibility for the differential treatment to be given to the delinquent children, but it is taking a very big responsibility in respect of the neglected children. My apprehension is not about the provisions of this Bill. I do not feel that the provisions of this Bill are not comprehensive. But my serious apprehension is that this good piece of legislation, even when passed, will remain a pious hope, and that very little good will follow from it, because this piece of legislation is not to come into effect in its entirety and there is no assurance from the Government, or there is no provision in the Bill, which may make us feel confident that in certain part of it, even in this limited sphere of Part C States, this Bill will come into effect. This will definitely be left to the discretion of Part C States and they will be dilly-dallying about it, because all of us know that the finances of these Part C States are absolutely depleted. They are running their administrations mostly on assistance and aid from the Central Government. And it is no wonder if this piece of legislation remains in cold storage and we may have to say "Oh, here is a good piece of legislation

which we have got for our children; here is the court and here is the children's home." But we may have nothing in effect. I, therefore, wish the Government to give us at least an assurance in respect of these Part C States that within such and such specified period they are going to see that the provisions of this Bill are made applicable to the entire area of these Part C States. And I am very anxious that some such thing should be done now, because that will serve as an incentive and as a stimulus to Parts A and B States as well. We cannot blame this Government for restricting the sphere of this Bill only to Part C States because it is not open to the Central Government to legislate for Part A and Part B States. Part A and Part B States are to legislate in their own right and this piece of legislation is to serve as a model for them. As soon as it is passed by Parliament, I hope the Education Ministry will send copies of this piece of legislation to all Part A and Part B States and those States will give due consideration to it and put it on their Statute Book.

This problem, after our independence, has taken a very acute shape. We all realise that apart from the problem created by the partition, the present economic distress in the country has further accentuated the same. One feels absolutely ashamed and one does not know what to do when one sees the children begging here in Connaught Circus in New Delhi. Here in Delhi where we know that a number of foreigners visit, I feel utterly miserable when I think of the children hanging about these foreigners and asking for charity. So, I wish that the Government will not rest content with merely realising their responsibility in this regard in Part C States but will feel no hesitancy in giving all the funds that are necessary to implement this Bill in all Part C States.

Now, in the implementation of this Bill, the Government should not adopt the same attitude which it adopts in

the administration of the various other Departments. That attitude and that manner of administration will be entirely unsuited to serve the real purpose of this Bill, and it is very necessary that we should enlist public co-operation, the co-operation of public-spirited and social workers, and associate them in the implementation of this Bill. It is not the provisions of the Bill which are important. They are not half as important as the actual implementation of those provisions. I have no doubt in my mind that, if this is left to the usual course of the Department, this Bill, instead of doing great good to the country for which at present we are congratulating the Government, is more likely to do great harm. Every care has been taken to see that a child who is arrested is not left in the hands of the police or in custody even for a few hours. He must be removed to some observation home. We have amended the provision in the original Act to see that he is not left in police custody even overnight. It is true, and that is why I say, so far as the provisions are concerned, they are good enough, that they are comprehensive enough, but it is the implementation of this Bill which requires special effort, which requires special thinking, which requires a special approach and which requires a very specialised machinery. It is on that that I wish to lay the greatest stress, and I very much wish that the Government goes ahead with this at least in the Part C States before they are obliterated by the States Reorganisation Commission, so that some good comes out of it and the time which we have taken over this Bill is not entirely wasted.

11 A.M.

PANDIT S. S. N. TANKHA (Uttar Pradesh): Mr. Deputy Chairman, I welcome this Bill and I rise to give my wholehearted support to it and I congratulate my hon. friend, Dr. Shrimali, who has piloted this humane Bill, for it. It is, however, my regret that it is not possible for this House to pass this legislation for the whole country. We

can pass this legislation at the moment only in respect of Part C States under our residuary powers. So far as I can see, this legislation falls under item 4 of the State List, i.e. List II—"Prisons, reformatories, Borstal institutions and other institutions of a like nature, and persons detained therein; arrangements with other States for the use of prisons and other institutions." Now, this subject is a reserved State subject, and therefore we have no power to legislate in respect of Part A and Part B States. But all the same, I do hope that, when this Bill is placed on the Statute Book and made applicable to all Part C States, Part A and Part B States also will consider it advisable to pass laws on similar lines.

As we all know, modern science of criminology and penalogy has undergone revolutionary change within the last few years, and it is now an established theory that a criminal is not produced because of some inherent defect in him or because of his own faults or failings but because of the mal-adjustment of society and as such, it is the duty of the public to reform the society and to bring about a change in the conditions of the average man. As such, it will not be wrong to say that a criminal is a victim of circumstances and that it is the society which is responsible for his creation. If the society improves the lot of the average man and his surroundings, the chances of producing a criminal—either adult or child—will become almost negligible, and unless we take measures for the amelioration of the common man and radically alter the present mal-adjustments in our society, criminals cannot be eliminated or be made to become good citizens of the State. Environments, therefore, play a very large part in the making of the criminal. This is all the more so in the case of children who do not understand the consequences of their own acts, but are made to work on particular lines by their own parents or guardians in order to benefit them, and it would, therefore, be wrong to blame a child for his acts, or to

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call him a criminal in embryo. I realize that society cannot be reformed or put right through the process of legislation only but an earnest effort on the part of our social reformers is required for bringing about that change which we need in the society. To bring about a change in the status of the criminals and in our outlook towards them in my own State of Uttar Pradesh, the Government has passed two laws known as the First Offenders Probation Act and the Release on Probation Act. Under the former of these two Acts, criminals who have committed an offence for the first time are released either under the superintendence of the Probation Officer who is appointed by the Government, or are placed in charge of any other fit person who can take charge of and hold himself responsible for the conduct of the offender. The other Act—the Release on Probation Act—is an Act whereby after having served a certain period of imprisonment, the criminal, if he is found to have been of good behaviour, is released earlier than his term of imprisonment and is kept on probation for the remaining period. Both these legislations have been working very well in the State and I have had the good fortune of being associated with the working of these Acts. I was Secretary of the Prisoners' Aid Society for a number of years and in that capacity the Probation Officer was working under me. We had also established homes for the keeping of these prisoners and for training them on lines which would enable them to become independent and self-supporting on release from jail. The present Bill is more or less on the same lines and desires to achieve the same object although, of course, it is applicable only in the case of children.

Now, coming to the provisions of this Bill, I take up some of the salient provisions and give my suggestions regarding them. On the whole, it is certainly true that this Bill has been prepared well and tries to achieve the object which it has in view but I would like to place my point of view regard-

ing certain aspects of the provisions which according to me, require certain changes. I first take up the composition of the children's court. According to sub-clause (2) of clause 4, the children's court is to be presided over by a magistrate or by a bench of magistrates and where a bench is constituted, it is suggested that as far as practicable, a woman may be associated with that bench. My suggestion with regard to this is that according to me, it would have been much better if the Bill had provided that, so far as practicable, whether it be a single magistrate or a bench of magistrates who may be appointed for this purpose, the presiding officer as appointed should be a lady, because I feel that women are in a much better position to understand the child's psychology and to give proper relief to them by their love and affection than we men can. Men, as a rule believe in the proverb: "Spare the rod, spoil the child". Now how far would a person, who believes in that maxim, I ask you Sir, be in a position to judge or understand the child's faults and failings and to award him suitable punishment? So I suggest that as far as practicable ladies should be associated with this work and I am confident that there will be no district in which suitable ladies will not be available for this work. It is a very selfless and humane work and I am confident large numbers of educated ladies will come forward to do it.

There is, however, just one little difficulty that strikes me about this matter and I hope the hon. lady Members of this House will excuse for me giving expression to it. It is within my experience and perhaps within the experience of many of us that two ladies seldom agree on a point and can hardly ever work together in amity.....

AN HON. MEMBER: Is it so?

PANDIT S. S. N. TANKHA: I say this knowing it from my experience of ladies benches which had been working in

my own city of Lucknow. They have seldom co-operated and even went to this extent at times that if one of the two lady magistrates sat in the bench, the other refused to go there. If such things go on, how can work proceed? Therefore, my suggestion is, even though looked at from this point of view, it should not, however, be that women should be eliminated from this work but provision should be made that where such a disagreement occurs between the two magistrates, then the file of the case, with their separate opinions thereon, should be submitted to the district magistrate for his final orders. The other alternative is that instead of having two ladies on the bench, have three ladies on the bench, whereby two of the ladies will necessarily concur in one order. Even if this is not acceptable to the Government then I would suggest a third alternative *viz.*, that the ladies' bench must have one male member also in it, so that he may be able to harmonize the discord between them and to bring about unity in the orders which may be passed by them. With this object in view, I have made suggestions and tabled some amendments on this clause. Now according to me, clause 4 needs one other change also but I shall deal with it when I take up those amendments which I have tabled. I next take up clause 5. Sub-clause (2) of this clause provides the following:—

"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."

Now I fail to understand why this word 'salaried' has been kept in sub-clause (2) (c). If you compare this clause with clause 4, you will find that there is a discrepancy between them. I

specially draw the attention of the hon. the Law Minister to this point. So far as I can see, clause 4 does not provide that the work of children's court is necessary to be entrusted to stipendiary magistrates only. It leaves it open to the State Governments to appoint either salaried magistrates or take advantage of honorary magistrates. If that is the position, and if honorary workers are considered quite suitable for the composition of the children's courts and if suitable persons can be found to do this work honorarily, why then should you not allow them to be absorbed in the making of the benches of magistrates who are to try this class of cases where no children's courts are constituted? Therefore, I fail to see why in places where the children's courts would be established, it should be made incumbent that only salaried magistrates shall be employed for this purpose. If honorary magistrates or honorary workers are not considered good, if they are not found suitable for doing this work, then it was incumbent that clause 4 too should have provided that they should be salaried magistrates only. If clause 4 does not need that condition then why have it in clause 5? I believe it is not the intention of the Government that it should be only the salaried magistrate who should do this work, because if that were so, the provision in clause 4 regarding women magistrates would not have been there, because it is only a few ladies who are magistrates, throughout the length and breadth of this country. They are not very many and you will not find them in every district. If women can take part in the constitution of children's courts then it implies that there is no stipulation for having salaried magistrates in clause 4. Therefore, I see no reason why clause 5 should have that word "salaried" there. I have, therefore, proposed to delete this word "salaried" in sub-clause (2) (c) of clause 5. Now, the deletion of this word from sub-clause (2) (c) will not make it incumbent on the State Government to employ honorary workers only

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but their choice will be left unrestricted. They will have full authority either to employ honorary workers or salaried magistrates, whomsoever they consider fit and wherever they can find suitable persons to take up this work honorarily they will have the liberty to so appoint them but where they cannot find such suitable persons, they can appoint salaried magistrates. As far as I have been able to follow the arguments advanced by the Government on this point, I am made to believe that it is its intention that honorary workers should not be put in charge of this work because according to it, this is a very responsible work which cannot be left to honorary workers. But, as I have just pointed out, if that is the real intention, then that word "salaried" should also have been put in clause 4.

As regards the calibre of honorary magistrates which we usually find and which we can find, I have no hesitation in saying that I have known of very many honorary magistrates who do this honorary work with as great responsibility and with as great zeal and earnestness as any stipendiary magistrate. I am also of the opinion that many of them do this work as well, if not better, than, many of the paid magistrates. I further think that the salaried magistrates, by their constant contact with cases of criminals, themselves become hardened.

SHRI TAJAMUL HUSAIN: Half criminals.

PANDIT S. S. N. TANKHA: And the finer qualities in them diminish, if not disappear altogether. They thus will not appreciate the children's point of view so well as honorary selfless workers would. Moreover the position in most of the districts is that the stipendiary magistrates are considerably overworked. They have so much other work of the district that they have little time to spare for even the ordinary criminal litigation. Therefore, if this class of work is also entrusted to them, whether you keep the children's courts within the precincts of the ordinary court or you keep them aloof and

in a separate place, they will not have sufficient time to attend to it regularly and it may be that the children's cases may have to be adjourned from time to time because the deputy saheb is not available, or because the deputy saheb has gone on tour, or because the deputy saheb has gone to inspect the jail or to record the statement of a prisoner in prison and so on. Therefore, these children's cases will be compelled to be adjourned and postponed from time to time which will cause a lot of trouble and harassment to the children. From these points of views, I not only see no disadvantage in placing this work in the hands of honorary workers, but see a distinct advantage and convenience in it.

Next I come to another important matter and that is that while clause 15 provides that where a parent or guardian of a child complains to the competent court that he is not able to exercise proper control over the child

MR. DEPUTY CHAIRMAN: May I take it that you are not moving your amendments, since you are speaking on them?

PANDIT S. S. N. TANKHA: Sir, I will move them. I am only speaking on the ..

MR. DEPUTY CHAIRMAN: You can speak when you move your amendments.

PANDIT S. S. N. TANKHA: I am giving my reasons for the amendments proposed as I may not move all of them.

MR. DEPUTY CHAIRMAN: If you are not moving the amendments, you can speak.

PANDIT S. S. N. TANKHA: I will deal only with some important ones now and on the others I shall speak at the proper time.

MR. DEPUTY CHAIRMAN: It will be duplication.

PANDIT S. S. N. TANKHA: No, Sir. At that time I shall deal only with those aspects upon which I may not have spoken earlier.

I was submitting that according to clause 15 it was open to the guardians

or parents of the children to come and say that they could not exercise proper control over the children and that the court might take charge of the children, or the State might take charge of them. But there is no provision for the child or the child's next friend to come forward directly and tell the court that his parent or guardian is ill-treating him or neglecting him, and therefore, he may be taken over in the custody of the court. I am certainly aware that there is provision under clause 11 that such information can be given to the police officer, that is to say, it will be open to the child or his next friend or even any other third person to go and report the matter in the police station, or to the police officer, and say that such and such person is neglecting his child and therefore, the child should be taken charge of. That police officer may or may not take action upon it. If he does not take any action, then he has to make note of this matter in his diary and send a copy of it to the court concerned and if the court then finds that it is expedient to take charge of the child, it will take necessary proceedings under the Act.

But there is no provision whereby the child or his guardian or his next of kin can go before the court directly and ask the court that immediate custody may be taken of the child. I think that such a provision is very necessary.

I have for the present tabled some amendments to clause 15 to incorporate that provision also but I understand that objection has been taken to it that that will not be a suitable place for the proposed amendment. If that be so and if my point of view is appreciated by the Government, then a separate clause either after or before clause 15 may be added to provide for that aspect of the matter.

I next come to clauses 34 and 35. These clauses deal with appeals and revision. Before the present Bill went through the Select Committee stage, this clause read as follows:

"35. (1) Any person aggrieved by a finding of the court of sessions under

this Act that a child has committed an offence may, within sixty days from the date of the order, prefer an appeal to the High Court:

Provided that the High Court may entertain the appeal after the expiry of the said period of sixty days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time."

Now, what the Select Committee has done in this matter is that it has deleted sub-clause (1) of this clause and has only retained sub-clause (2) which means that it has taken away the right of appeal to the High Court but has only retained the revisional powers of the High Court in respect of that matter. The Select Committee has given its reasons for so doing on page (iv) of its report and it says therein on clauses 34 and 35, "the Committee are of opinion that there should be no appeal against acquittal under any circumstances. They are also of the view that there should be no second appeal in any case and the decision of the court of session passed in appeal should be final."

Now, as regards the view that there should be no appeal against acquittal, I am in complete agreement with the Select Committee and I am certainly and definitely of the view that this should not be allowed to be done, but I would submit that if sub-clause (1) of clause 35 of the original Bill had been allowed to stand even then the fear of an appeal against acquittal would not have arisen because sub-clause (1) said, "Any person aggrieved by a finding of a court of session under this Act that a child has committed an offence" and did not provide for cases where he was held not to have committed an offence and as such where the order is passed that the child has not committed an offence, no appeal would lie. That is to say, where the child was acquitted no appeal was provided for but it was only provided for where a child had committed an offence. Therefore, it was only, where the finding was of conviction that provision was made for the aggrieved person to

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appeal to the High Court. This sub-clause, I think, was a very salutary provision as it was to the benefit and advantage of the child against whom the order was passed. I am fully conscious of the fact that in criminal law the Criminal Procedure Code does not provide for such a procedure whereby a second appeal against conviction may lie to the High Court. I am also conscious of the fact that in civil law where a second appeal is allowed that too is allowed in a very restricted measure, namely in cases only where a point of law is involved, ~~whereas~~ under the present clause which I wish to be retained, I am wishing to provide for a second appeal to the High Court on any matter whether it be on a point of law or on a matter of fact. Still being fully alive to this position of law, my submission even then is that since the present legislation is neither of the character of criminal law ~~nor~~ of the character of civil law but is a legislation of an entirely different character namely for the correction of the child and for correctional proceedings against him, therefore, no harm would be done, on the contrary, ~~great~~ advantage would accrue to the child and his parents if such a provision of second appeal to the High Court is allowed. I am definitely of the view that the High Court can always make a better appreciation of the evidence on the record than the District Judges can and, therefore, to provide this opportunity of second appeal to the child would be to his benefit and to the benefit of his parents and, as such, even though the procedure may be a novel one it should be allowed to be provided for in this legislation.

With these remarks, Sir, I support this measure and would deal with the other amendments tabled by me at the proper time.

SHRIMATI MONA HENSMAN (Madras): Mr. Deputy Chairman, I count it a privilege to use and congratulate the Government on passing the Bill, but in congratulating the Government on this Bill, I would like to point out that while nobody can expect it to be

quite a comprehensive measure, yet we must take what little corrections there may be in good faith. It seems interesting to me to make out that some of the details that were in the Bill that was shown to us before, have had very definite and good alterations made to them, and also there are some very interesting notes by some of the Members of the Select Committee who say they do not dissent from the Report, but wish to emphasise certain points which they would have liked to have had emphasised in the Bill.

First of all, if you will allow me, I will make a few general observations on what I feel is the scope of the Bill and, in order to prevent my taking up time later when the clauses are brought up one by one, I will not mention now the separate clauses, but speak in general on the spirit of the provisions in the Bill, referring to the matter according to the pages they are on. I will not offend the law, but keep the discussions by saying all I have to say today.

Now, one thing has, however, been brought into prominence since the Bill was last presented to us and that is that at certain stages of the Bill "fourteen years" is mentioned when I expected sixteen years, I thought that the Part C States, as some of the Part A and Part B States had done already, would be very anxious to follow the U.K. and other countries in making sixteen the definite age below which nobody shall be called anything but a juvenile. Now in this Bill it says, for instance, that a child of fourteen may be permitted to pay a fine if he is earning. Now, when the child is under sixteen, he certainly is a juvenile and preparation has been made in some of the homes, in some of the schools and in some of the places where the children are staying to allow them to do work, agricultural, weaving, carpentry and other forms of basic education work whereby they may earn and lay aside a little money; that money is not for the payment of fines, small or great, but for the day of their discharge. We have this method, Sir, in our State. There has been a very good provision made in the programme of the certified

schools whereby vegetables grown by the children are sold back to be used by them at less than the market prices, so the Government money allotted for their food goes further, and the children are given that and they get good, cheap and fresh material to eat, as well as the money that is put by against their names. Different woven things are sold to the public—mats and towels and prints for this purpose. Here in this House one Member pointed out that basic trades should be introduced, such as smithy, carpentry etc. This could also be done, with profit to the Government and the children, for it makes them a self-respecting part of the nation.

I now come to the question of begging as connected with juveniles. A suggestion was made by a Member of this House that an old gentleman who has no other means of living could take a child of nine or ten years and start begging, and he insisted that child should not be prevented from plying this nefarious trade as he was a bread winner for his aged relative. But, physically and morally, I maintain that this is not possible. In one of the minutes of dissent we notice that it has been suggested that a child which "has a parent or guardian who utilise the child for earning in a manner which affects the child morally or physically or who express their inability to exercise proper care or control over the child" should be kept in a home by the State. Now I ask you, Sir, and I ask the House whether it is not demoralizing and whether it is not against the welfare of the child to go and beg whether for an aged parent or for itself. In some parts of our country where I have been waiting at a ferry or waiting near a railway crossing I have seen children's homes set up, but I also saw that such children were begging and that the people who run those homes said, "Because the children while in their own homes used to be beggars and used to beg before they came to the home, let them continue to beg and earn so that the State's financial contribution to those homes might be augmented." Surely that is not what we are aiming at in this Bill. We

wish these children to be taken into a scheme of rehabilitation so that they might lead a life in the same manner as other children do, where there would be regular teaching imparted to them, where there would be scope for all sorts of recreation and other programmes for their rehabilitation, but not **beggary**. I would ask that this House does not permit begging at all to continue. If this begging as a "wage earner" is allowed, then surely there is nothing wrong if a man steals in order to keep his wife and children alive, or you may say that a woman can be unwomanly in her living in order to keep her husband and children alive. So what I mean to say is that a child should not be utilised by a parent or guardian for earning their living by the demoralising profession of beggary.

Then, the police should always be in mufti when handling these children. There should be a provision in the Bill that the children's courts and the juvenile delinquents' courts should see that no police officer, no care-taker or welfare officer is present in uniform at any stage of the proceedings when the child also happens to be present, and also when escorting the child from one place to another. When the child after a court of enquiry is restored to the parent or guardian, the probation officer should keep in regular touch with such children and such children should be reported on at regular intervals to the proper authorities.

Now as regards the homes set up by Government for these children though they are corrective institutions, they should be run from the point of view of making the children feel at home there, and not run in a manner that the child would think of escaping therefrom. Of course the older children sometimes may have to have rather stern measures taken against them to keep them in order. The whole idea is to reform the children and to remember they are after all children. Therefore, I cannot agree with one of the previous

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speakers of this House who mentioned the word 'criminal' in connection with a child. There is no such thing as a criminal child at all. It is society which is criminal, which has denied the child the right and opportunity to lead a normal life under normal circumstances either economically or otherwise. So I support the phrase used in this Bill and say that the word 'offender' is all right. The child should not be called an 'accused' because he is not the accused. In all the cases and charge-sheets regarding these children I want the word 'offender' to be put in instead of even the word 'accused'. A child is not an accused in the sense of an adult being an accused—he is a juvenile offender, not even a delinquent.

Now these children, when they come back from the court, when they are sent to their homes and if those homes are at great distances, or miles away from the places where the courts are held, should go under proper escort. What I mean is that a woman should go with the girl and a man with a boy, but no escort should be in uniform and they should never be sent in such circumstances without a suitable escort. Nobody should get the impression that a young criminal is being taken, along the road by the police.

Then there is no special provision for those children who are economically in very sound circumstances, and rightly so, though I am afraid they should also be treated as neglected children. There may not always be economically neglected children to be cared for by the State, but the children who lack proper care or have no right precept or example set before them. In this connection, I may tell the House that I saw this morning in one of the leading papers of this country, on the leader page the news that Rita Hayworth's two children are probably

going to be brought under the law by reason of their neglect. One child was born 8 years ago and the other only 4 years ago—both are girls—and Rita Hayworth, as we know, lacks nothing in money or notoriety (some may call it fame) and is often envied by young girls—but they were kept in the charge of a governess, all the same the people living near them and seeing them every day perhaps do not consider these children are being properly looked after, or properly brought up, and since they may be brought under the circumstances and clauses of a neglected child, members of the public seem to have reported the matter to the court for investigation. Therefore, the people who live next door to many families in our country and who ought to know the condition of the children in their neighbourhood may well introduce an enquiry as to why such children should not be brought under the law governing neglected children. What I want to impress upon the House is that it is not only the children who are in economically bad circumstances that they may become neglected children, but even children who are in very good homes under very excellent circumstances outwardly may also suffer neglect, misunderstanding and ill-treatment. Of course, these children will be dealt with separately, I suppose—not under this particular law in a juvenile court, because it may not fall within the scope of this Bill to judge the offences against them but under some other law. Their cases, of course, may not be brought into the open by reason of the fact that Government is not being called upon to support them.

Now, one of the Members in one of the minutes of dissent has talked about "victimised children". Surely victimised children should not come under a Bill like this. Surely it was an adult who victimised the child or who aided and abetted the victimisation of the unfortunate child.

So a victimised child should be kept in as much privacy as possible in order to allow him or her to forget the circumstances of victimisation and so such cases should not be provided for in this Bill, and the juvenile court should not be expected to deal with such cases, except perhaps in camera.

Now, Sir, I would say that private orphanages and schools are also a very good way of looking after these children. We have got in the State from which I come not only homes where the children can be sent, but also private institutions for the purpose of training them, to which Government gives certain amounts for their upkeep—perhaps Rs. 15 for children under ten and Rs. 25 for children over ten. Of course, I speak subject to correction, because the rates change according to the money market. Certain amounts are definitely given by the Government for boys and girls to be kept in schools like the Avvai Home which Dr. Muthulakshmi Reddy runs and the Seva-Sadan where no discrimination is made on the ground of caste or creed, or any such thing and, nobody in the school, except the teachers know who is the delinquent and who is the child that has been brought there and paid for by Government or who is the child from the wealthy family or average family—all are treated alike. All the other children accept these children as one of themselves. Therefore, the private schools and the aided schools are also some of the best places where the delinquent children can be reformed to be like other children in society again, and reinstated in homes and families.

I would emphasise the fact that homes run by the Government are very necessary for the implementation of this Bill, but other Members have already pointed this fact out, and so I will not dwell on that point any further. Special care should be taken to choose the people

who run these homes and if necessary they should also be trained. Special care should also be taken to see that such homes have advisory committees whereby every help is given to the boys and girls, while they are in the home and after they leave it. The whole House knows that boys when they are 10 to 14 years old are extremely mischievous and have to be specially taken care of. In our part of the country, in Ranipet, there is a home run by the Government and the children stay there because they want to stay there. Sometimes in the juvenile court a child comes to me and says, "Send me to Ranipet". I say, 'Why do you want to go there?' and his reply is, because "There is football there; there is cricket; there are games." This is the sort of thing we want to encourage. We shall have to provide a good scheme of life for the children. We should see that the boys and girls enjoy life as well as get rehabilitated. Of course, in the case of younger children it is a pity to separate boys and girls, but I would leave this matter for the different States to determine. Study, planned recreation, good food and a good programme of physical exercises, games, gardening etc. should be provided in each school.

With regard to these magistrates, I would like to emphasise the point made by the previous speaker. The magistrates need not be paid magistrates. I agree with him entirely. These have got their own duties on their shoulders and they will naturally not have the time to give to children's courts. Let me tell you, I have been in the children's court in Madras since 1932. We are always three women there. Three women are there. I may say not because as one of the hon. Members maintained, two women may disagree, but because often one may have to be away for various reasons in her home, for reasons of convenience, etc. The three women are honorary magistrates having third class powers and

[Shrimati Mona Hensman.]

working four days in a week from 9 o'clock to 1 o'clock. We give 20 minutes to half an hour to each case as may be necessary, but the paid magistrates would always be having people waiting outside the doors—lawyers, members of the public and others—and how can you expect them to work out of office hours? They cannot work from 8 to 10 or 8 to 11. I would, therefore, certainly endorse the very sensible suggestion made by the hon. Member that honorary women magistrates with third class powers may be employed, women who would find it easier to give all their time and attention than salaried magistrates on the bench. This also ensures that every care is given to the children. When the children pass out of their hands, the honorary magistrates can also keep in touch with them in their homes, in the case of girls when they are married after they are 16 years of age. Do not think that young men do not come forward to take these girls in marriage. They are well-trained girls and there is a waiting list of bridegrooms with the people who are in charge of such homes. But they have got to make very careful enquiries before they can give these girls in marriage to those persons who come forward to marry them.

Coming to children's courts, they should be constituted as soon as possible. On page 4, it says, "Where no children's court has been constituted for any area", etc. It may be a year or two before they are constituted or this year's budget may not have made proper provision and during that period there may be no children's court, but I would urge that the Government insists that these courts should be established as quickly as possible. In the meanwhile the Government should keep an eye on those cases.

Every help should be given to the remand homes. It is quite right that a child should be taken from the street into an institution through

the remand home. When a child is apprehended, whether for being a destitute or for any other reason, such a child should be taken immediately to a remand home, some neutral place, where he or she can be fed and clothed and where he or she can wait till the case comes up. In certain cases, perhaps by accident or by design, we have cases where girls have spent a night in the police station and there have been terrific repercussions. I use the words with discretion, the fuss that has been made strikes terror to the hearts of those concerned, and proves deterrent to a repetition of this behaviour—and I am drawing attention to this fact so that this sort of offences may not be committed again.

Then the Government talk about inquiries by competent court regarding neglected children. This should always be done by special officers. On page 6 it is mentioned that when the case comes up before the court the child and the parents may be called there and the probation officer who is the essential part of the machinery should also be there.

About the clause relating to uncontrollable children, when the complainant says that if they do not listen to their mama or heed their papa, they may be sent to the home. What may happen is, a person who may make a faked complaint about a poor innocent timid-looking child saying that this child is uncontrollable just because he wants to place the burden of its education on the State. Honorary magistrates have to exercise great discretion and send the probation officer at odd times and odd seasons to see whether this poor little innocent child is really uncontrollable or not. Of course, where the child is really uncontrollable it is very desirable that the child is sent to a place where it could have proper training and opportunities for education and be under other than the home influence.

Coming to the next clause we would like the words 'juvenile delinquents' to be changed into 'juvenile offenders'. When a child has committed an offence, information should be sent to the parent or guardian. He should be summoned or notice should be sent to him to appear in court where the child is to appear not only at the beginning of the case, but also at the end of the case, so that the parent or the guardian knows definitely what is to be done with the child, whether he is to receive back the responsibility of his training, whether the child is admonished and returned to the parents and home or whether he has to pay the fine for the delinquency of the child or have the child removed to a school. For instance, supposing a boy of 16 takes out a motor car and creates an accident in the street, killing someone. Then we would find it necessary to fine the parent, not the child. The child is bound over and corrected by the court. But the demand is made on the parent because the child was under his jurisdiction and he failed in his duty of looking after the child and virtually allowed the child to do this misdeed. On page 9, there is a reference to juvenile delinquents being kept in safe custody and this perhaps could be done in borstals. I would however leave it to the Government because the Government runs the borstals wherever they are, and a small percentage of children need the stricter life or discipline and correction.

As for the powers of the competent courts, I would approve of the power of appeal to be retained. It is most useful, for with the best will in the world, the juvenile court may make a mistake in some cases. Either the child gives a false age or that given by the parent happens to be false and only a doctor can give the final verdict on this question. There was a case the other day where a child of very good birth was scolded by the parent with the result that the child ran away and got into a remand home.

The probation officer could not detect that the child was lying because the child had given a string of inventions, and the child was committed in all good faith to a Government home by the three women honorary Presidency magistrates dealing with the case. Then the father came and brought a case in the High Court, for restoration of his child and he proved that the child had, by not telling the truth, laid itself open to the charge of delinquency! Surely an appeal should be allowed in such a case. The same may be the case about age of a juvenile. It is very difficult to determine the age of boys and girls as to whether they are 15 years of age or 16 years of age. For this purpose a competent doctor should be there and that opinion should be upheld by the court.

I would not like to take up any more time of the House, for I know there are many other speakers. As the Government have themselves said, this is a model Bill and when it comes into force in the Part C States, I hope it will encourage the other States also to adopt this, and this House to pass this and implement the same.

SHRI R. P. TAMTA (Uttar Pradesh):

श्री आर० पी० टमटा (उत्तर प्रदेश) :
उपाध्यक्ष महोदय, मैं इस बिल (Bill) का जो कि सदन में पेश किया गया है, स्वागत करता हूँ। इस बिल को पेश करके सरकार ने ठीक रास्ते पर एक कदम बढ़ाया है और मैं समझता हूँ कि इस बिल का असर भारतवर्ष के दूसरे हिस्सों पर भी पड़ेगा, जहाँ कि इस तरह के कानून की अभी तक कोई व्यवस्था नहीं है। उन स्टेटों की सरकारें भी इस तरह के बिल बनायेंगी और उन बच्चों के देखभाल की ठीक व्यवस्था हो सकेगी जिनके मां-बाप ठीक तरह से उनकी देखभाल नहीं करते हैं, तथा इसी तरह से जो अपराधी बच्चे हैं उनके सुधार के लिये भी कानून बनेंगे। मैं

[Shri R. P. Tamta.]

तो यह चाहता था कि यह बिल सारे पार्ट ए (Part A) और पार्ट बी स्टेट्स (Part B States) में भी लागू होता। परन्तु इसके खिलाफ यह कहा जा सकता है कि इन ए और बी स्टेट्स के लिये यह कानून केन्द्र से नहीं बनाया जा सकता क्योंकि यह विषय स्टेट लिस्ट (State List) का है और यह भी कहा जा सकता है कि कुछ स्टेट्स में इस तरह के कानून मौजूद हैं। इसके जवाब में मुझे यह कहना है कि हमारे देश में बहुत थोड़ी स्टेट्स ऐसी हैं जहाँ कि इस प्रकार के कानून मौजूद हैं। और जिन स्टेटों में इस तरह के कानून मौजूद हैं वे कानून पूरी तरह से उस हद तक नहीं जाते जिस हद तक कि इस तरह के कानूनों को जाना चाहिये। दूसरे प्रश्न के उत्तर में मुझे यह निवेदन करना है कि यह एक ऐसा विषय है जिसमें क्रिमिनल प्रोसीजर कोड (Criminal Procedure Code) जाब्ता फौजदारी के तरीके को बंदलने की बात है और साथ ही इसमें सोशल प्लानिंग (Social Planning) की बात भी आती है। इसलिये मैं समझता हूँ कि इस तरह का कानून पार्लियामेंट (Parliament) द्वारा बनाया जा सकता है, क्योंकि यह दोनों विषय कन्क्युरेंट लिस्ट (Concurrent List) में आते हैं और केन्द्र का यह कानून सारे स्टेटों में लागू किया जा सकता है। अगर यह बात न भी स्वीकार की जाय तब भी राज्यों से उनकी राय लेकर, प्रस्ताव पास करवा कर, इस प्रकार का कानून सारे देश के लिये पास किया जावे क्योंकि इस तरह के कानून की सारे देश में आवश्यकता है। इससे देश को बहुत अधिक फायदा होगा, क्योंकि आज के बच्चे काल के नागरिक हैं और हमको बालकों की देख रेख व उनके चरित्र-निर्माण की व्यवस्था करनी है।

[THE VICE-CHAIRMAN (SHRI B. C. GHOSE) in the Chair.]

एक बात मुझे यह भी निवेदन करनी है कि गो यह कानून सारी स्टेटों में लागू नहीं होगा, यह केवल पार्ट सी स्टेट्स (Part C States) के लिये ही बनाया गया है, फिर भी इस बात का कोई यकीन नहीं है, आशा नहीं है, कि यह सारे पार्ट सी स्टेट्स में भी एकदम लागू हो जायेगा। क्योंकि इस बिल के खण्ड १ उपखण्ड (३) में कहा गया है कि उस स्टेट की सरकार को यह अधिकार होगा कि वह इस अधिनियम के किसी उपबन्ध को या सब उपबन्धों को पूरी तौर पर स्टेट के किसी हिस्से या सब हिस्सों में जब चाहे, गवर्न-मेंट गज़ट नोटिफिकेशन (Government Gazette Notification) द्वारा लागू कर सकती है। इसका मतलब यह हो जाता है कि पार्ट सी स्टेट्स की सरकारों के ऊपर यह बात छोड़ दी गई है कि वह इस बिल को चाहें तो सारी स्टेट में लागू करें या न करें, चाहें तो उसके कुछ उपबन्ध कुछ हिस्सों में लागू कर सकते हैं। इस तरह का ऑप्शन (option) गुंजायश, अधिकार, कि जब चाहें, जहाँ चाहें कानून लागू करें, इस बिल में पार्ट सी स्टेट्स की सरकारों को दिया जा रहा है। मैं चाहता हूँ कि यह कानून जो बनाया जा रहा है, उसमें यह व्यवस्था होती कि पार्ट सी स्टेट्स की सरकारें तो कम से कम इस कानून को पूरे तौर पर अपने यहाँ फौरन लागू करतीं ताकि पार्ट सी स्टेट्स के सभी भागों में तो इस कानून का फायदा उठाया जा सकता।

दूसरा निवेदन मुझे यह करना है कि यह जो बिल बनाया जा रहा है वह हाफ हार्टेड मेज़र (half-hearted measure) की तरह बनाया गया है। इसके खण्ड ४ में जहाँ पर कि चिल्ड्रेन कोर्ट्स (children courts) की व्यवस्था है उसमें कहा गया

है कि जो अपराधी बच्चे कोर्ट के सामने आयेंगे, मुकदमे के लिये आयेंगे, इन्क्वायरी (enquiry) के लिये आयेंगे, उनके लिये विशेष तरह की कोर्ट (अदालतों) की व्यवस्था की गई है। इसमें बेंच (bench) बनाया गया है और यह कहा गया है कि उस बेंच में एक महिला भी होंगी। इस प्रकार की विशेष तरह की अदालतों का बनना जरूरी भी था। परन्तु खण्ड ५ पर जब हम आते हैं तो देखते हैं कि उसमें कहा गया है कि जिन जगहों में चिल्ड्रेन कोर्ट नहीं हैं, वहां चिल्ड्रेन कोर्ट के अधिकार डिस्ट्रिक्ट मजिस्ट्रेट (district magistrate), सब डिवीजनल मजिस्ट्रेट (sub-divisional magistrate) और फर्स्ट क्लास मजिस्ट्रेट (first class magistrate) बरत सकते हैं यानी वे चिल्ड्रेन कोर्ट समझे जावेंगे। इसका मतलब यह हुआ कि चिल्ड्रेन कोर्ट सब स्टेटों में सब जगहों पर नहीं बनेंगे। इस तरह के बच्चों के मसलों पर विचार उन्हीं मजिस्ट्रेटों द्वारा किया जायेगा जो दूसरे मुकदमे आम तौर पर करते हैं। इस तरह पर विशेष प्रकार की अदालत, जिसकी बनाये जाने की व्यवस्था खण्ड ४ में की गई है, समाप्त हो जाती है।

12 NOON

इस बिल में यह कहा गया है कि बच्चों की भलाई के लिये, उनकी देख रेख के लिये, उनकी शिक्षा के लिये और उनके सुधार के लिये यह कानून बनाया गया है, परन्तु इसमें इन सब बातों की व्यवस्था नहीं की गई है, जिनसे बच्चों का सुधार होता और उनके चरित्र का निर्माण होता। मसलन बच्चों में बीड़ी सिगरेट पीने की आदत है, इस कानून में निषेध होना चाहिये था। जुवेनाइल स्मोकिंग (Juvenile smoking) की मुमानियत होनी चाहिये थी। इस कानून द्वारा इस प्रकार की व्यवस्था होनी चाहिये थी कि किसी प्रकार से भी सिगरेट बच्चों को

न मिलने पावे—उनको कोई सिगरेट न दे, न वे खरीद सकें और न पी सकें। जब उनके सुधार के लिये व्यवस्था की जा रही है तो इस बात का ध्यान रखा जाना चाहिये कि उनका सुधार पूरी तरह से हो और सब बातों पर विचार करके उन सब बातों को कानून में लाना चाहिये था।

इसके अतिरिक्त मुझे यह भी कहना है कि इस बिल में नैगलेक्टेड (neglected) और जुवेनाइल डेलिक्वेंट चिल्ड्रेन (juvenile delinquent children) को एक साथ रखे जाने की व्यवस्था की गई है। मगर मेरा कहना यह है कि उनके लिये अलग अलग व्यवस्था की जानी चाहिये थी, क्योंकि जो बच्चा अपराधी है, डेलिक्वेंट है, अगर उसको अनपराधी बच्चे के साथ रखा जायेगा तो अपराधी बालक का असर उस पर अवश्य आ जायेगा और यह एक आपत्तिजनक बात होगी।

मुझे यह भी निवेदन करना है कि नैगलेक्टेड चिल्ड्रेन के बारे में खण्ड ११ में पुलिस ऑफिसर को और किसी आदमी को, जिसको सरकार ने नियुक्त किया हो, यह अधिकार दिया है कि अगर उनकी राय में वह बच्चा नैगलेक्टेड है या नैगलेक्टेड मालूम होता है तो उसको कोर्ट के सामने लाने के लिये वे पकड़ सकते हैं। इसके द्वारा पुलिस वाले माता पिताओं को तंग कर सकते हैं। इसकी काफी गुंजायश इस खण्ड में है। खण्ड २ के उपखण्ड (ज) (iii) को जब हम पढ़ते हैं तो देखते हैं कि कोई मां-बाप जो अपने बच्चे का ठीक तरह से पालन, देखभाल नहीं कर सकता है, उसे अच्छी तरह से नहीं रख सकता है, उसका बालक भी नैगलेक्टेड कहा जा सकता है और वह भी इस खण्ड में आ सकता है। इसका नतीजा यह होगा कि पुलिस अफसर अगर चाहें और कहें कि उनकी राय में बच्चा ठीक तरह से नहीं रखा जा रहा है,

[Shri R. P. Tamta.]

उसकी देखभाल ठीक तरह से नहीं हो रही है तो वह उसके मां-बाप को तंग करने के लिये, उसको हैरेस (harass) करने के लिये बच्चे को खण्ड ११ के मुताबिक अदालत में पेश करने के लिये पकड़ कर ले जा सकते हैं।

इसी तरह से खण्ड २ के उपखण्ड (ज)
(iv) में यह कहा गया है :

"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;"

यानी अगर कोई वैश्या का बच्चा है और वह उसको शिक्षा देना चाहती है, पढ़ाना चाहती है, लिखाना चाहती है, उसको अच्छी तरह रखना चाहती है, तब भी यह मान लिया जायेगा कि उसका जो बच्चा है वह नेगलेक्टेड बच्चा है। इसी तरह से कोई आदमी जो शराब पीता है, मगर उसके बच्चे की मां शराब नहीं पीती है, वह बच्चा जिसका बाप शराब पीता है, इस उपखण्ड के अन्दर आ सकता है। तो इसका नतीजा यह होगा कि वे बच्चे जिनके मां-बाप उनकी देखभाल कर सकते हैं, अपने मां बापों से छीन लिये जायेंगे। और इसका मतलब यह होगा कि गरीब आदमी जो किसी सबब से या अपनी गरीबी के कारण अपने बच्चे की देखभाल भली प्रकार नहीं कर सकता है, वह इस खण्ड के कारण अपने बच्चे से अलग किये जा सकेंगे और ऐसे बच्चों को अपने मां-बाप का प्रेम प्राप्त नहीं हो सकेगा और मां-बाप अपने बच्चों के सुख से वंचित हो जायेंगे। मैं समझता हूं कि इस तरह की व्यवस्था होनी चाहिये कि यह कानून इस तरह के लोगों पर न लगाया जाय। इस तरह के मां बापों को इस कानून द्वारा परेशान न किया जाना चाहिये। यह कानून

वहां पर लगाया जाना चाहिये जहां पर कोई मां बाप दरअसल में अपने बच्चे को जान बूझ कर अपराधी बनाता हो और वो उसको अपने पास नहीं रख सकता हो। जहां पर लोग गरीब मजदूर हैं उनके ऊपर यह कानून नहीं लगाना चाहिये और उनके बच्चे उनसे नहीं छीने जाने चाहियें। मुझे खुद इस तरह के कानून का तजुर्बा है।

हमारे स्टेट उत्तर प्रदेश में नायक गर्ल्स प्रोटेक्शन ऐक्ट (Naik Girls Protection Act) है जिसके अनुसार जो वैश्याओं की लड़कियां होती हैं अथवा उनके संसर्ग में रहती हैं उनको रेस्क्यू औफीसर (rescue officer) की रिपोर्ट (report) पर रेस्क्यू होम (rescue home) में भेजा जा सकता है। वहां पर होता यह है कि रेस्क्यू औफीसर अगर जिला मजिस्ट्रेट को इस तरह की रिपोर्ट देता है कि अमुक लड़की वैश्या के साथ में रहती है या उसके नजदीक रहती है तो जिला मजिस्ट्रेट उसकी रिपोर्ट के आधार पर उस नाबालिग बच्ची को रेस्क्यू होम में भेज देने का हुक्म दे देता है। यह भी देखने में आया है कि रेस्क्यू औफीसर कभी कभी तो किसी लड़की को वैश्या की सम्बन्धी बता कर या उससे उसका सम्बन्ध बता कर और यह कह कर कि उसका बुरे लोगों के बीच रहने का अन्देश है, उसे मां बाप से छुटा कर दूर स्थान में रेस्क्यू होम में भिजवा सकता है। इस तरह के कानून से छोटी लड़कियां जबरदस्ती उनकी मरजी के खिलाफ मां बाप से अलग कर दी जाती हैं, और कभी कभी तो इस तरह की कार्यवाही बड़ी अन्यायपूर्ण मालूम होती है। विशेष कर जब लड़की के मां बाप, रिस्तेदार उसे बुराई से बचाना चाहते हैं, उसे अच्छी शिक्षा देना चाहते हैं, क्यों इस तरह के बच्चों को मां बाप से अलग किया जावे? मैंने वह नजारे देखे हैं, वह हृदय विदारक दृश्य देखे हैं कि जब छोटी छोटी लड़कियां अपने मां-बाप से, चाचा

से जो कि उनकी परवरिश करते थे, जबरदस्ती छीन ली जाती थीं और वे रोते हुये, बिलखते हुये अदालत में जाते थे और उन बच्चों को होम्स में भेज दिया जाता था। ऐसे मौकों में इस बात का भी अन्देश होता है कि जो पुलिस अफसर, या प्रोबेशन आफिसर (probation officer) ऐसे होते हैं जिनको इस तरह के अधिकार होते हैं, जो उन बच्चों को उनके मां-बाप को परेशान कर सकते हैं, उनसे भ्रष्टाचार की संभावना भी रह जाती है। इसलिये मैं तो निवेदन करूंगा कि सरकार जब इसके अन्तर्गत नियमावली बनाये तो उसमें इस बात की अच्छी तरह से व्यवस्था होनी चाहिये कि कम से कम उन गरीब लोगों को या ऐसे लोगों के बच्चों को, जिनकी देखभाल उनके गार्जियन (guardian) अच्छी तरह से करना चाहते हैं, उनको शिक्षा देना चाहते हैं और उनको तालीम देकर बुराइयों की तरफ से बचाना चाहते हैं, उन मासूम बालकों को उनके मां-बाप से न छुटाया जा सके और वे उनके प्रेम से वंचित न हों। इसलिये मैं यह निवेदन करूंगा कि इस तरह की पूरी व्यवस्था कानून में होनी चाहिये कि इसका एब्यूज (abuse) न हो और नाजायज इस्तेमाल न हो और पुलिस या अधिकारी लोगों को तंग न कर सकें। क्योंकि खण्ड ११ में यह कहा गया है कि पुलिस अफसर की राय में अगर यह है कि कोई बच्चा या लड़का नेगलेक्टेड है तो वह उसकी रिपोर्ट कर सकता है और उसकी इन्क्वायरी करके उसे होम में ले जाया जा सकता है।

खण्ड २१ में इस बात की व्यवस्था की गई है कि अगर १४ साल से कम उम्र का बालक कोई जुर्म करे, तो उसके पैरेंट्स (parents) को या गार्जियन को जुर्माना किया जा सकता है। मैं समझता हूं यह बिल्कुल सिद्धान्त के खिलाफ बात है।

अगर बच्चों ने कोई जुर्म किया है तो उनके लिये पैरेंट्स या गार्जियन को क्यों सजा दी जाये? हां, अगर उसने बच्चे को जुर्म करने के लिये उकसाया है, तो उस पर मकदमा चल सकता है, यह दूसरी बात है। अगर मां-बाप बेकसूर हैं और सिर्फ इसलिये कि उन्होंने अपने बच्चों की देखभाल नहीं की इसलिये बच्चे ने जुर्म किया तो मां बापों को जुर्माना करना और खास तौर से गरीब तबके के लोगों को जुर्माना करके उनमें रुपया वसूल करना और उस गुनाह के लिये, जो उसके मासूम बच्चे ने किया है, मैं समझता हूं यह बहुत सख्त कदम होगा क्योंकि इस तरह से कोई भी आदमी किसी को दैरेस कर सकता है, परेशान कर सकता है।

इस बिल में खण्ड ३४ में जो अपील (appeal) का प्रोवीजन (provision) है, उसका मैं स्वागत करता हूं। मैं समझता हूं कि इस तरह की अपील होना बड़ा जरूरी था, क्योंकि मैंने देखा है कि इस तरह के कानून में जिसका मैंने अभी जिक्र किया था उसमें अपील की व्यवस्था नहीं है, उसमें अपील भी नहीं हो सकती है और न हाईकोर्ट (high court) में रिवीजन (revision) हो सकता है, हाईकोर्ट ने कह दिया है कि हम रिवीजन स्वीकार नहीं कर सकते हैं और न ही कोई दस्तअंदाजी कर सकते हैं, इसलिये मुझे खुशी है कि इसमें अपील का प्रोवीजन किया होगा है। मेरे माननीय मित्र, तनखा साहब ने सुझाव दिया था कि इसमें सेकेंड अपील (second appeal) भी होनी चाहिये। मैं समझता हूं कि अगर सेकेंड अपील हो जाय तो और अच्छा हो जायेगा क्योंकि यह एक इस तरह का मामला है कि जिसका बच्चे के भविष्य से सम्बन्ध है, और अगर कोई आदमी समझता है कि किसी मामले में ज्यादाती हुई

[Shri R. P. Tamta.]

हैं तो उसके लिये सेकेंड अपील का भी प्रोवी-
जन इसमें होना चाहिये ।

अन्त में मैं एक बार खण्ड ४२ के सिलसिले में निवेदन करना चाहता हूँ । इसमें यह कहा गया है कि अगर कोई बच्चा चिल्ड्रेंस होम में भेजा जाता है तो उसका जो खर्च होगा, उसका कंट्रीब्यूशन (contribution) पेरेंट्स को देना होगा, जिसके लिये उनसे कहा जा सकता है कि आप हमें रुपया कंट्रीब्यूट कीजिये । मैं समझता हूँ कि यह भी एक तरह से ज्यादाती होगी उन गरीब माँ बापों पर, जिनका बच्चा वगैर उनकी मर्जी के, जबरदस्ती या बिना किसी गलती के, चिल्ड्रेंस होम में भेज दिया गया हो । मैं समझता हूँ कि चिल्ड्रेंस होम में तो ज्यादा ही खर्चा बच्चे पर होगा, इसलिये आज कल की मुश्किल के जमाने में पेरेंट्स को यह खर्चा देना बहुत मुश्किल होगा ।

मैं गवर्नमेंट को इस विधेयक के लाने के लिये धन्यवाद देता हूँ और मैं उससे निवेदन करूंगा कि वह इस बात की जल्दी से जल्दी व्यवस्था करे कि और स्टेट्स में भी उन की राय लेकर, या उनकी सहमति से इस तरह का कानून सारे देश के लिये बनावे और इस बात की व्यवस्था करे कि वे बच्चे जिनकी अच्छी तरह से देख रेख नहीं होती है और जो अपराधी हो जाते हैं, उनको सुधारा जाये । इन शब्दों के साथ मैं इसका समर्थन करता हूँ ।

[For English translation, see Appendix VII, Annexure No. 222.]

SHRIMATI LAKSHMI MENON (Bihar). Mr. Vice-Chairman, before I commence my speech about the Bill I would like to express my strong protest against the aspersions cast on women magistrates by one of the

previous speakers. If that hon. Member knew anything about the movement for child protection in this country or anywhere in the world, he would have realised that the whole movement was initiated by women and not by men. And, he also referred to his experience of women magistrates in Lucknow. I am sure he was not referring to any specially-trained or specially-constituted women magistrates, but just to ordinary women picked up in order to satisfy a persistent demand that women should be associated with judicial work. I was in fact going to support his amendment to the effect that all the magistrates shall be women as far as practicable. But now I think I have to be more reasonable and content with the view that it is not a question of whether the magistrates should be men or women, but it is a question of whether the magistrates should be suitably trained people.

SHRI B. GUPTA (West Bengal): I hope the remark of the hon. Member about women magistrates would not be made a ground for divorce!

SHRIMATI LAKSHMI MENON: I am afraid I do not share the general enthusiasm for this Bill for a very simple reason. The Bill deals with two categories of children, the neglected and the delinquent. For one thing, no attempt is made to make a distinction between offence and crime. In other countries where legislation is framed for dealing with delinquent children, a differentiation is made between a criminal and a delinquent, i.e., a difference is made between crime and offence. But here all crimes or all offences, short of man-slaughter, are included in the term 'delinquent'. That is one of the chief objections to the Bill.

And secondly, I am not in the habit of supporting nebulous schemes, ideas dealing with such important matters as protection, treatment and education of children.

Let us take the population of the Part C States. It is about 10 millions and we are told that the percentage of the population of the age group—5 to 14—is about 23 or 24 per cent. according to the census report of 1951. Now, I would like to ask the hon. the Mover of this Bill what percentage of these 2½ millions of children of the school-going age are properly educated or educated in schools. The Government, instead of making provision, adequate and the right kind of provision for the education of children, goes on passing legislation dealing with mal-adjusted, neglected, victimised, exploited, ill-treated and other kinds of children, and also the uncontrollable children—let me not omit it. Everybody admits—everybody who has anything to do with education—that the first step towards civilisation in any community is the provision of adequate education. Now, in this country, unfortunately, we do not have provision for adequate education. If you go to any city or district headquarters, or any railway station, or any other place where people gather, the thing that strikes your eye is the huge mob of children of the school-going age, ill-clad, unkept, without any idea as to what they have to do, just running wild, sometimes begging and sometimes fighting. It happens not only in Part C States but all over India. Now, what has the Government done? I ask the Government—the Central Government as well as the State Governments—what have they done to deal with these children? These children are just being driven to the pavements, because there is no accommodation for them in their own homes and there is no provision by the State for their education. When a society sends its children away—its school-going children—away to the pavements, it is preparing the ground to create delinquents, and, therefore, the responsibility of the State is not to introduce such kind of half-hearted legislation without any motive or purpose but to see that adequate provision is

made for the education of our young people. I say this with a sense of responsibility, because if we read about crime statistics, we will find that most of the crimes are committed by children between the ages of 8 and 16, and I am told that the peak age for crime is 13 and the peak age for offence is 16. The whole of this group belongs to the school-going age.

Many speakers have mentioned about the causes of delinquency. I do not quite agree with all that my colleague, Mr. Bhupesh Gupta, had said about the socio-economic causes of crime. In one of the reported speeches of Mr. H. Brown—I think it was in Glasgow in one of the Scottish Universities—he has proved with a good number of examples from current British life that impeccable material conditions do not necessarily mean the absence of delinquency. He has also proved that in areas where there has been healthy and good housing, crime has increased whereas in the slum areas it has not increased to the same extent.

SHRI B. GUPTA: In Mayfair in England crime is increasing among the rich!

SHRIMATI LAKSHMI MENON: We have only to go through the crime statistics, in order to realise the truth of this observation of the United States of America, where the material conditions are better than anywhere else in the world, that it is only one of the contributory causes; it is not everything. A great Russian scientist has told us that the best way to train a child to live as a normal good citizen is to train its conditioned reflexes—what we call in ordinary parlance good habits. These good habits can be inculcated in the child by means of social restraints, by means of educational opportunities, by means of traditional systems of conduct and behaviour. Now, we are omitting all these things and instead, we are trying to bring in legislation

[Shrimati Lakshmi Menon.]

which does not provide for anything, at all because everything is left to the discretion of the State Governments. As we all know, the States do not have any money for anything, nor has the Central Government for that matter, and the result is that we have a legislation which will surely decorate our Statute Book but will mean nothing as far as the problem is concerned. Having said that the need for education is the most important need as far as the prevention of crime is concerned, I would like to point out that this idea of creating an atmosphere of good living by means of sound education had been emphasised in this country many, many hundreds of years ago. If I remember aright, when Lord Buddha began his first sermon at Saranath, what he said was something like this: It is not by heredity that a man becomes a Brahmin or a savage but by his good actions and good conduct, emphasising thereby that it is environment and education that matter more than heredity.

We are told that this Bill is a model Bill and that it is the result of the labours of a committee of experts. I had asked since then the hon. the Mover of this Bill to tell me the names of those experts, but as usual, the names were not available. They have just disappeared, and hence it is very difficult for me to point out whether any attempt has been made to study the statistics of crime since the partition. We are not supplied with any statistics, nor do we know how the inter-State repercussions are met by this particular Bill.

One of the very important things which is contributing to the growth of juvenile crime in India is the employment of children in domestic service. This point has not been dealt with by any of the other speakers, and therefore, I hope you will allow me to deal with it at

length. Recently in Purulia station which I visited, I saw a little child being led along by a policeman. The child must have been between the ages of 11 and 13, and there was a crowd of people following the child, laughing at him and making all sorts of comments. I enquired of the boy. He had already been in jail for six months and he was then being removed to his village home by the policeman. I should say that the policeman was very sympathetic and treated the child considerably. When I asked the child what had led him to this, he told me that he was employed in a house where he was not paid his salary for two months, and one of the lads, maybe one of the boys in the household asked him, "Why don't you steal some property and sell it and thus get your salary?" So, he decided to steal his master's watch and sell it in the market and thus realise his salary. Of course, the crime was detected before the watch was sold, and the boy was handed over to the police. And the child was kept in the ordinary prison for six months. The six months having been completed, the child was being led back to his native village. Nothing was done to enquire into the culpability of the employer. When children are employed in domestic service, many attractions are placed before them, and as everyone knows, children below the age of 14 do not have any moral sense of right or wrong. Even older people do not have it. They often like to take advantage of the amusements which the members of the family participate in and from which they are excluded. He finds in that household other children of the same age group go to the cinema, go to school and have all sorts of amusements, and this boy does not have that opportunity. After all, he may be poor but he is a child. But he is not given these opportunities. Children in the domestic services are treated so badly because there is no law which could protect them—neither the Young Offenders Law nor the Factories Act, nor has

any other kind of law that we have for the protection of the young persons any validity as far as employment of children in domestic service is concerned. I am sure it would be a revealing thing if we could have a census taken of the number of children under the age of 14 years employed in domestic service in India. The whole of this morning I tried to read the Census Report to find out whether such information is available but unfortunately, it is not available. Perhaps that information would be too revealing and it is better that such an information is not available because I think it will set the country aflame. So, one of the things that we should do is to see that children are not employed in domestic service. All these things boil down to one thing i.e. if we want to protect children between the ages of 8 and 14 or 8 and 16, the State should take care of them, but how is the State to take care of normal children except by providing them with adequate educational facilities and free educational facilities? Not only free education because in England they have found that when children were given free lunches in the schools, the crime rate went down because hungry children steal more than well-fed children and when children were not hungry, they were not stealing and therefore, they got out of the control of the police. So what we want is not legislative measures because 25 per cent. of the population belongs to that age group which is morally vulnerable and if the State is serious and wants to take care of these children, then the prime necessity, the prime need is to provide education and the proper kind of education in which the children can learn something without actually being starved.

Much has been said about the influence of the cinema. Here I would like to tell the House an incident which was reported to me only last week. A certain child belonging to a well-to-do family—rather a middle-

class family—attending school suddenly disappeared from Madras after stealing some money from the family. This child was found as a vagrant in Bombay. The police caught hold of the child and while he was being put through the usual process, a very kind gentleman got into touch with the child and he asked him what it was that drove the child away from his comfortable home—and he was a vagrant without food in Bombay—and then a very astonishing thing came out, that he had seen Shanta Apte on the screen and he wanted to see her in person and he knew that she was in Bombay and so he came all the way to Bombay. And just before he left Madras, he was very indifferent to his studies, he used to run away from the classes, told a large number of lies in order to get out of the house, etc. Then this gentleman gave him an introduction to Shanta Apte, told her the circumstances of his decamping. Then Shanta Apte invited the child, gave him lunch, and gave him her autograph, and the child was perfectly satisfied. He went back to Madras and he has become an ideal student.

SHRI RAJAGOPAL NAIDU (Madras): Did Shanta Apte give him drinks?

SHRIMATI LAKSHMI MENON: That is an unnecessary question. Nobody offers drinks to a child of 11. From this you will find how the cinema affects children who are emotional. They are in the adolescent stage. It is not a question of good or bad films. Bad films might be repulsive to certain children and good films might produce contrary reactions in the case of other children. The question is one of handling the child in the proper way in the children's homes. In this Bill there is nothing provided about the way children should be handled. After all if a neglected child or delinquent child is to be caught by the police, the initial step is wrong. We don't associate kindness, gentleness or tenderness with the police although we say the police

[Shrimati Lakshmi Menon.]

belongs to us and they are part of the country. I have seen policemen and policemen and none of them could qualify himself for this kind of task. What we should have is proper men and women, as Mrs. Hensman has suggested, not wearing the uniform, but people whose dress and habit will associate them with something more socially valuable and agreeable.

Now, I would like to say something about the definition of the neglected child. The neglected child is very badly defined in this Bill because ill-treatment for instance, which is one of the features or one of the characteristics of neglect, is omitted. There are all sorts of elaborate definitions given about neglected child, e.g., a child which is found in the various places defined in the Bill. I think it should be made more comprehensive. Another thing is, all sorts of matters are dealt with in the rule-making powers, but nothing is said about the kind of training that should be imparted to the children in the schools. We have got the procedure to be followed in the children's court and other courts, in the children's homes, special schools, etc., but not the kind of training that should be imparted to the children in the schools. After all, if we want to form the right kind of reflexes of development and the right kind of habits so that the conduct of the children will conform to the right kind of adjusted life in society, then the curriculum that is to be followed is more important. Something has been said about teaching them weaving and spinning and what not, but not how the child should be given moral instruction so that when we get him out of the school, he may be a good citizen and his crime may not be a stain on him.

There are many things to say and I hope I will get a chance to speak when the Bill is taken up for clause by clause consideration. I wish to say something about the paid and voluntary workers. If the State is serious and if this is going to be a

feature of all the States, then I do not think that it can be left to voluntary workers. Voluntary work is all right when we have not got a State which is sympathetic to the needs of the State but we want to have trained social workers and people trained in the administration of Children's Acts to be in charge of courts and for expediting trials etc., then we must have paid workers. Wherever honorary magistrates have been appointed, the work has been very slack for one thing, that they are not properly educated in the administration of laws, and secondly, they think, "Well, it is voluntary work and why should I be in the court at the proper time? I am not paid." That is the attitude in our society. I don't think that I would attach the same kind of importance to voluntary workers—as one of the previous speakers had done. What we want, if the Government is serious, is to have proper institutions, properly trained people, men and women and also paid workers. Those days when social work could be done by voluntary workers are gone and nowhere in the world do we find that people are asked to do regular work on a voluntary basis and have that work effectively done.

Now I come to the last point, i.e., the general ineffectiveness of this Bill. What does this Bill do? It is left to the discretion of the States. The State may do it, the State may have a court, the State may have this or that but once that ineffectiveness is cast away, everything becomes mandatory. How to remove this spirit of inaction which is propagated by this Bill? In the Gita it is said that one of the greatest sins is to be enamoured of inaction but in this Bill we find the glamour of inaction more than in any other legislative measure. Thank you.

SHRI KANHAIYALAL D. VAIDYA
(Madhya Bharat):

श्री कन्हैया लाल डी० वैद्य (मध्य भारत)
उपाध्यक्ष महोदय, मैं इस बिल (Bill)

का हृदय से स्वागत करता हूँ और शिक्षा विभाग को इस बड़े महत्व के सवाल को लाने पर बधाई देता हूँ। लेकिन मैं इस दिल को अपूर्ण मानता हूँ और इस सम्बन्ध में दो तीन प्वाइन्ट्स (points) पर कुछ प्रकाश डालना चाहूँगा।

एक प्वाइंट जिस पर अभी मेरे पूर्व वक्ता श्रीमती मेनन ने प्रकाश डाला है वह है बच्चों से मजदूरी लेने के बारे में। आप इस देश में जहाँ कहीं जाइये, वहाँ पर आपको बच्चे काम करते हुये दिखलाई देंगे। श्रीमती मेनन ने जो कुछ उदाहरण दिये वे तो बहुत ही थोड़े थे। आप इस देश के होटलों और दूसरे स्थानों में चले जाइये, आपको छोटे बच्चे जानवरों की तरह काम करते हुये दिखलायी देंगे। अगर आप में मनुष्य हृदय है तो आप इस बात का अनुभव कर सकते हैं। मैंने कई पार्ट बी (Part B) राज्यों में—होटलों और दूसरी ऐसी जगहों में—जहाँ इन बच्चों का शोषण होता है, इनके काम को देखा। मैं अगर वे किस्से आपको यहाँ सुनाऊँ तो आप रो पड़ेंगे। मनुष्यता के नाम की कोई चीज उन लोगों में नहीं है। वे लोग बच्चों की मेहनत और मजदूरी से अपने बड़े बड़े धंधों, उद्योगों और कारखानों को चलाते हैं, और उन बच्चों का वहाँ इतना शोषण होता है कि वे सो नहीं सकते। अगर वे सोते हैं तो उनको गरम सलाखों से जला कर जगाया जाता है और काम करने के लिये मजबूर किया जाता है। देश के करोड़ों नौनिहाल बच्चे बचपन से ही इंसानियन और मनुष्यता को प्राप्त नहीं कर सकते, उनकी जिन्दगियाँ खत्म हो जाती हैं, और उनकी आवाज आज आपके वेलफेयर (welfare) राज्य में कोई भी सुनने वाला नहीं है। जैसा श्रीमती मेनन ने बताया उनके लिये अब तक कोई कानून नहीं है।

[MR. DEPUTY CHAIRMAN in the Chair.]

मैं स्वयं होटल बॉयज़ यूनियन (hotel boys union) का वर्षों तक प्रेसीडेंट (Pre-

sident) रहा हूँ। मैंने पुलिस के अधिकारियों और मिनिस्ट्रों से इन बातों पर ध्यान देने को कहा, मगर सबने अपना हाथ ऊँचा कर के कह दिया कि क्या करें, कोई कानून नहीं है, कोई व्यवस्था नहीं है जिसके अन्तर्गत हम इन बुराइयों को दूर कर सकें। अभी इसके पूर्व श्री पृथ्वीराज कपूर ने सिनेमा के बारे में बताया था। मैं उन बातों पर तो नहीं जाऊँगा लेकिन उसके विषय में मैं एक बात कहना चाहता हूँ कि कई प्रांतों में, कई राज्यों में, ऐसे कानून बने हुये हैं कि दूसरे शो (show) में, रात के दस बजे के बाद, कोई छोटा, माइनर एज (minor age) का बच्चा सिनेमा देखने के लिये नहीं जायगा। लेकिन माफ कीजिये, इस सरकारी मशीनरी, इस लालफीताशाही पर आधारित जनराज्य में भी आपके इन कानूनों का पालन नहीं होता और जिन लोगों पर यह जिम्मेदारी है वे उसको पूरा नहीं करते। अभी श्रीमती मेनन ने कहा, इन अग्य कानूनों में 'मे' ('may') बर्ड (word) का प्रयोग नहीं है, 'शैल' ('shall') बर्ड का प्रयोग है, और राज्यों की सरकारों को यह लाजिमी करार दिया गया है कि उन जिम्मेदारियों का जो कि कानून में दी गई हैं पुलिस के अधिकारियों को पालन करना होगा और वे यह अपना फर्ज समझेंगे कि इन बुराइयों को रोकें। आप इन सिनेमाघरों में जाकर देखिये, पुलिस के अफसर, मजिस्ट्रेट (magistrate) और दूसरे अधिकार जिनसे समाज यह आशा करता है, यह जनराज्य, यह वेलफेयर स्टेट, यह आशा करता है कि वे अपने दायित्वों का पालन करेंगे, वे लोग मुफ्त कांम्प्लीमेंटरी पासज (complimentary passes) ले कर अपने परिवार वालों के साथ इन सिनेमाघरों में बैठते हैं और वहाँ उनके तथा दूसरों के नाबालिग बच्चे खेल देखने के लिये जाते हैं रात के बारह-एक बजे तक। वे छोटे बच्चे किन बुराइयों का शिकार

[Shri Kanhaiyalal D. Vaidya]

नहीं होते, उनका जीवन रात को सिनेमा में किस प्रकार बरबाद नहीं होता, इसकी आप कल्पना कर सकते हैं।

एक पौइंट जिसकी ओर मैं आपका ध्यान दिलाना चाहूंगा, बहुत गम्भीर है। इस देश में गरीबी के कारण लाखों मा बाप अपने बच्चों को इस लालच में कि वे जिन्दा रहेंगे, उनको खाने के लिये मिल जायेगा, वे चाहे किसी प्रकार से भी अपने बच्चों को प्यार करते हों, लेकिन उन्हें क्रिश्चियन (Christian) मिशनरियों को सौंप देते हैं और ये मिशनरी (missionary) उन छोटे बच्चों को अपनी सम्पत्ति बना लेते हैं। दुनिया में दूसरे देशों में भी चिल्ड्रेन ऐक्ट्स हैं और वहाँ की सरकारों ने उनमें यह व्यवस्था की है कि कोई बच्चा अगर सरकारी कब्जे में भी रहे या किसी चिल्ड्रेन होम या किसी स्थान पर रखा जायेगा, तो इस बात की कोशिश की जायेगी, इस बात की व्यवस्था की जायेगी कि वह बच्चा उन्हीं धार्मिकता के अन्दर, उसी अपने विश्वास के मुआफिक रखा जायेगा और उसके सारे सस्कार उसी तरह से बनाये जायेंगे। किन्तु इस देश में, आज भी आपके इस वेलफेयर राज्य बन जाने के बाद भी, पिछले वर्षों में जहाँ जहाँ स्कैसिटी (scarcity) की कंडीशन्स (conditions) रही, वहाँ आपके इन क्रिश्चियन मिशनरियों ने उस भुखमरी का खूब लाभ उठाया और लाखों छोटे बच्चों का धर्म परिवर्तन किया। मैं नहीं समझता कि किसी देश की स्वाधीन सरकार, जो अपने को एक जनतांत्रिक सरकार कहती हो, उसके कानून में, उसके विधान में जो यह चिल्ड्रेन बिल लाया गया है उसमें यह व्यवस्था क्यों न हो कि इस प्रकार के नाबालिग बच्चों को आप क्रिश्चियनाइज नहीं कर सकते, उनको आप धर्म परिवर्तन होने के नाते से

क्रिश्चियन नहीं बना सकते। आपको ऐसी व्यवस्था इस कानून में करनी चाहिये जिससे आप इन बच्चों के धर्म के रक्षण में सहायक हो सके। मैं धार्मिकता के नाते से कोई बात नहीं कहता, मैं सेक्यूलर (secular) राज्य को मानते हुये, इस जन-राज्य को मजबूत बनाने के नाते से आप से कहता हूँ कि उन बच्चों का उपयोग राष्ट्रीयता के विरुद्ध और आपके सेक्यूलर पालिसी (policy) के विरुद्ध होता है।

जहाँ तक कन्याओं का सम्बन्ध है, उनके भी बड़े दर्दनाक किस्से हैं। इन क्रिश्चियन होम्स में इन मिशनरियों के कारण जिस प्रकार बच्चे जाते हैं, जिस प्रकार से वे बैकवर्ड ट्राइब्स (backward tribes) और पिछड़े हुये वर्गों की लड़कियों को ले जाते हैं, तो उन पर फिर मा बाप का कोई अधिकार नहीं रह जाता। पच्चीस, पचास, सौ या दो सौ रुपया देकर या दो मन अन्न या इसी तरह का कोई लालच देकर ये गरीब लोग उनको बेच देते हैं। उसके बाद वर्षों के शिक्षण के बाद उनको एक स्थान से दूसरे स्थान पर मिशनरी सस्थाओं के शिक्षा के हेड क्वार्टरों में भेज देते हैं। पिछले युद्ध काल में आपने सुना होगा, इन क्रिश्चियन बच्चों को फौज के टैमियो के मनोरंजन के लिये भी कहीं कहीं भेजा गया और उनका वैश्यावृत्ति के लिये उपयोग किया गया। यह आपके देश के अन्दर बच्चों के साथ होने वाला खेल है जो आज भी निरंतर रूप से चल रहा है। इसलिये मैं बड़े अदब से इन दो तीन बातों का मुझ्वाव शिक्षा विभाग और माननीय मंत्री महोदय के सामने रखना चाहता हूँ और मैं यह चाहता हूँ कि जो यह बच्चों के रक्षण के लिये बिल बनाया गया है, कम से कम उसमें आप यह व्यवस्था करें कि बच्चों के साथ देश में जो अत्याचार किये जा रहे हैं उनसे वास्तव में उनका रक्षण हो सके। आज आपके देश

के करोड़ों बच्चों का जो कि आपके देश के अपने ही नागरिक हैं, उनका जीवन बरबाद हो रहा है। आपके इन कानूनों के पास कर देने के बाद भी, जैसा कि मेरे पूर्व वक्ता ने बताया "मे" शब्द का प्रयोग है दूसरे राज्यों में इस तरह का कानून बनाने की व्यवस्था उन के सरकारों के हाथ में होगी। यह प्रश्न आपने राज्य सरकारों के ऊपर ही छोड़ दिया है। मैंने कोई एमेडमेंट्स (amendments) मूव (move) नहीं किये क्योंकि इस बिल के निर्माण के लिये जो सेलेक्ट कमेटी (Select Committee) बनी थी उस कमेटी में कुछ सज्जन हैं जिन्होंने मिनिट्स आफ डिसेंट (minutes of dissent) रखे हैं। उन्हीं तमाम लोगों ने तथा जैसा कि श्रीमनी मेनन ने कहा, उन्हें भी इन एक्सपर्ट (expert) लोगों ने जिन्होंने यह बिल बनाया, यह नहीं बताया कि यह बिल किन सिद्धान्तों को सामने रख कर बनाया। इसलिये उन एक्सपर्ट लोगों ने उसका यह ढांचा तैयार किया, फिर भी उन्हें जो सफलता इस प्रश्न पर मिलनी चाहिये थी वह नहीं मिली। मैं नहीं समझता कि मेरे एमेडमेंट्स जो इस ढांचे के विपरीत होते या इससे अन्य स्वरूप में होते उन्हें सरकार स्वीकार करती या नहीं, इसलिये मैंने वास्तव में कोई एमेडमेंट नहीं रखे। लेकिन मैं एक मोटा सुझाव सरकार के सामने और शिक्षा विभाग के सामने रखता हूँ।

मैं पहले बधाई दे चुका हूँ कि आप बड़ा सुन्दर काम कर रहे हैं कि देश के करोड़ों छोटे बच्चों के प्रश्न पर आपने ध्यान दिया। उनकी समस्या एक महत्वपूर्ण समस्या है क्योंकि उनके जीवन के साथ इस देश में उत्तरोत्तर खिलवाड़ हो रहा है और मा-बाप गरीबी के कारण अपने छोटे छोटे बच्चों को मजदूरी के लिये या दूसरे होटलों या ऐसे ही स्थानों में भेज देते हैं। वहाँ उनसे १६-१६ और १८-१८ घंटे काम

लिया जाता है, वहाँ पर उनके ऊपर तरह तरह की ज्यादातिया होती हैं, मारा पीटा और डराया धमकाया जाता है और शारीरिक शोषण होता है। मैंने त्रिश्चयन मिशनरियों के किस्से सुनाये। लाखों बच्चे आज भी गरीबी के कारण, असहाय अवस्था के कारण, विधर्मी बन जाते हैं और आपकी राष्ट्रीयता पर प्रहार करने के लिये उन्हें देश विरोधी कामों में लाया जाता है।

तो सरकार को चाहिये कि वह इस कानून को ही बना कर मतोष न कर ले, बल्कि एक कमीशन (commission) एप्वाइंट (appoint) करे, जो कि बच्चों के सम्बन्ध में इस देश में जो समस्याएँ हैं, जो प्रश्न हैं, उन सब को ध्यान में लाकर जाच करे। पार्ट ए और पार्ट बी स्टेट्स में इस सम्बन्ध में जो कानून हैं और उसमें जो खराबियाँ हैं उन सब पर यह कमीशन पूरी तरह विचार करे और सब प्रान्तों में घूमे और घूमने के बाद जाच करके अपनी रिपोर्ट दे और उसके आधार पर फिर एक विस्तृत कानून बने जिससे कि इस देश में छोटे बच्चों के साथ जो बुरा व्यवहार हो रहा है और उसका शिकार होना पड़ रहा है वह न हो। कहा गया है कि विदेशों में इस सम्बन्ध में काफी किया गया है।

मैं इस बात को मानता हूँ कि स्वतंत्रता प्राप्ति के बाद हमें बड़ी बड़ी समस्याओं का सामना करना पड़ रहा है और उन समस्याओं को हल करने में सबसे बड़ी कठिनाई अर्थ की है, धन की है। तो जिस प्रकार की चिल्ड्रेन्स होम्स की व्यवस्था इस कानून में की गई है, उसी प्रकार से उनकी उचित व्यवस्था करे तो काफी खर्च पड़ने की सम्भावना है। इस खर्च का बहुत बड़ा असर पार्ट सी स्टेट्स पर पड़ने वाला है और अगर पार्ट बी या पार्ट ए स्टेट्स इस तरह का कानून बनायें,

[Shri Kanhaiyalal D. Vaidya.]

जो कि इस वक्त डेफिसिट फाइनेंसिंग (deficit financing) की पालिसी पर ही चल रहे हैं, तो फिर उनको भी आपसे ही इस सम्बन्ध में रुपया मांगना पड़ेगा। कम से कम पार्ट बी स्टेट्स इस काम को बिना केन्द्र की सहायता के नहीं कर सकती हैं। तो फिर इस तरह से आपके सामने एक आर्थिक प्रश्न भी आयेगा। पार्ट बी स्टेट्स और रियासती एरिया (area) में तरह तरह के अत्याचारों से और शताब्दियों के शोषण से करोड़ों लोगों का उद्धार करना है, जो वहां नारकीय पेशे का जीवन बनाये हुये हैं, उनकी बहुत सी समस्याओं को सुलझाना है। इसलिये मेरा बहुत ही नम्र निवेदन है कि इस विषय में एक विस्तृत कानून की बहुत आवश्यकता है लेकिन इसके पहले आपको एक कमीशन एप्वाइंट करना चाहिये जो कि सारे हिन्दुस्तान में घूमे और देखे कि बच्चों के साथ कैसा व्यवहार हो रहा है।

MR. DEPUTY CHAIRMAN:

श्री उपसभापति : पुनरावृत्ति नहीं होनी चाहिये।

SHRI KANHAIYALAL D. VAIDYA:

श्री कन्हैयालाल डी० वैद्य : पुनरावृत्ति नहीं है, यह मैं नई बात कह रहा हूं। मेरा कहना है कि इस तरह का एक कमीशन हो और वह सब बातें देख कर अपनी रिपोर्ट (report) दे। समाज में बच्चों के साथ बड़ा जुल्म किया जाता है, बच्चों के साथ बड़ी ज्यादती की जाती है। अभी कुछ दिन पहले इमी सदत में एक बिल एनीमल क्रुएल्टी (animal cruelty) के सिलसिले में आया था, तो मेरा कहना है कि यहां चाइल्ड क्रुएल्टी (child cruelty) होती है

MR. DEPUTY CHAIRMAN:

श्री उपसभापति : यह दूसरी बात है। इस बिल से इसका कोई मतलब नहीं है। क्रुएल्टी टु एनीमल्स (cruelty to animals) से इस बिल (Bill) का क्या मतलब है? इन बिज के बारे में यह बात क्या है?

SHRI KANHAIYALAL D. VAIDYA:

श्री कन्हैयालाल डी० वैद्य : मैंने क्रुएल्टी टु एनीमल्स का रेफरेंस (reference) इसलिये दिया कि हम ऐसे बिल पर डिसकशन (discussion) करते हैं लेकिन आज पूरे देश में चाइल्ड क्रुएल्टी हो रही है, यह बहुत बड़े पैमाने में हो रही है और फैमलीज (families) में हो रही है।

MR. DEPUTY CHAIRMAN:

श्री उपसभापति : लेकिन चिल्ड्रेन (children) एनीमल्स (animals) तो नहीं हैं।

SHRI KANHAIYALAL D. VAIDYA:

श्री कन्हैयालाल डी० वैद्य : तो मैं यह निवेदन करूंगा कि जो क्रुएल्टी टु चाइल्ड होती है उसको भी रोकने की व्यवस्था करने की आवश्यकता है। इस बिल में ऐसी बहुत सी बातों का समावेश नहीं हुआ है। यह बिल बिल्कुल अपूर्ण है। इससे बच्चों के रक्षण की जो समस्या है वह हल नहीं होती। इसलिये एक कमीशन एप्वाइंट करके इस विषय में ऐसा विस्तृत कानून बनाया जाय, जिससे कि यह प्रश्न ठीक तरह से हल हो। इन शब्दों के साथ मैं इस बिल का समर्थन करना हूं।

[For English translation, see Appendix VII, Annexure No. 223.]

SHRIMATI CHANDRAVATI
LAKHANPAL (Uttar Pradesh):

श्रीमती चन्द्रावती लखनपाल (उत्तर प्रदेश) : उपाध्यक्ष महोदय, मैं आपको हार्दिक धन्यवाद देती हूँ कि आखिर आपने मुझे इस विषय पर बोलने का समय दे ही दिया।

इस महत्वपूर्ण बिल पर लगातार दो दिनों से बहस हो रही है, बहुत कुछ इस पर बोला जा चुका है। मेरी भी इस पर बहुत कुछ बोलने की इच्छा थी, लेकिन अब तो बहुत सी बातों को कहने का उत्साह समाप्त हो चुका है किन्तु फिर भी दो तीन बातें जिनके सम्बन्ध में मैं बहुत तीव्रता के साथ अनुभव करती हूँ, अपने पार्लियामेंटरी सेक्रेटरी (Parliamentary Secretary) माननीय श्रीमाली के संमुख रख देना चाहती हूँ।

इस बिल के अन्दर चिल्ड्रेंस कोर्ट (children's court) की व्यवस्था की गई है। इस सम्बन्ध में मेरी सम्मति है कि यदि हमने उन मैजिस्ट्रेट्स (magistrates) को लाकर इसमें रख दिया जो कि अपने साथ पुरानी बातें—लीगल (legal) रिजिड (rigid) और फारमल कनवेंशन्स (formal conventions)—अर्थात् जितनी भी कठोर और कानूनी परम्परायें हैं उन्हें लेकर इन कोर्ट्स में आयेंगे तो एक प्रकार से हमारा सारा उद्देश्य ही समाप्त हो जायेगा। इसलिये मेरा यह सुझाव है कि जो भी मैजिस्ट्रेट इसमें काम करें वे स्पेशल ट्रेनिंग (special training) लेकर, एक विशिष्ट योग्यता लेकर, आयें। इसका प्रबन्ध भी आसानी से हो सकता है। आज हमारे उत्तर प्रदेश में लखनऊ के अन्दर एक जेल ट्रेनिंग स्कूल खुला हुआ है। जितने भी जेल अफसर हैं वे जेल के अन्दर जाने से पहले वहाँ ट्रेनिंग लेकर जाते हैं। मेरा कहना है कि चिल्ड्रेंस कोर्ट में जितने भी मैजिस्ट्रेट काम करें

वे सब एक स्पेशल ट्रेनिंग, एक विशेष योग्यता की ट्रेनिंग लेकर काम शुरू करें। उस ट्रेनिंग में डेलिक्वेंट चाइल्ड (delinquent child) की साइकालाजी (psychology) के अध्ययन की ट्रेनिंग सम्मिलित हो। मैंने यह देखा है कि इस बिल के अन्दर केवल यह प्राविजन (provision) किया गया है कि उनको चिल्ड्रें की डेलिक्वेंसी का अन्दाजा हो। मैं समझती हूँ कि इतना ही पर्याप्त नहीं है। उनकी सारी मनोवृत्ति को बदलने के लिये यह आवश्यक है कि वे कोई विशिष्ट ट्रेनिंग तीन या चार महीने के कोर्स (course) की लेकर आयें।

इसके अतिरिक्त जैसा कि मेरे पहले बोलने वालों ने कहा है कि चिल्ड्रें कोर्ट में जितने भी मैजिस्ट्रेट हों उनमें से अधिक संख्या में महिलाओं को स्थान दिया जाना चाहिये। मैं केवल यही नहीं अनुभव करती कि बाल-न्यायालयों में महिलायें ली जायें वरन् मैं तो यह भी सोचती हूँ कि बाल-गृहों के जो संचालक हों उनमें अनिवार्य रूप से यदि महिलायें ही रखी जायें तो अत्युत्तम होगा। यदि वास्तव में हम बाल-गृहों का वातावरण "घर" की तरह बनाना चाहते हैं तो फिर बिना मां को बैठाये "होम" (home) कैसा, "घर" कैसा? इसलिये जब तक महिलाओं को होम्स की संचालिकायें बना कर नहीं रखेंगे तब तक वहाँ होम का वातावरण, प्रेम और सहानुभूति का वातावरण कदापि स्थापित नहीं कर सकते। मेरा यह भी कहना है कि होम्स के अन्दर जो भी काम करने वाले व्यक्ति हों, जो भी पदाधिकारी हों, वे सब विशिष्ट ट्रेनिंग से सुसज्जित, विशिष्ट योग्यता के कोर्स में से गुजरे हुये होने चाहिये।

इसके अतिरिक्त, बहुत से माननीय सदस्यों के साथ ही मैं भी अनुभव करती हूँ कि यह बिल अत्यंत उपयोगी होते हुये भी

[Shrimati Chandravati Lakhnapal.]

समाज की एक अत्यंत महत्वपूर्ण समस्या पर प्रकाश डालते हुये भी, एक बहुत ही सीमित और संकुचित बिल है और संकुचित और तंग दायरे में होने के कारण, इसकी उपयोगिता भी कम हो गई है। मैं समझती हूं कि यह बिल एक माडेल (model) बिल के रूप में लाया जा रहा है इसलिये यह बिल यदि और ज्यादा विस्तृत और व्यापक होता तो इससे बहुत अधिक लाभ हो सकता था। उदाहरणस्वरूप मैं कहना चाहती हूं कि इस बिल के अन्दर उन तमाम प्राइवेट (private) तौर पर चलने वाले होम्स का बिल्कुल ध्यान नहीं रखा गया है जो कि आज भी चल रहे हैं। मेरा कहना यह है कि इस समय देश के अन्दर अनाथ बच्चों के लिये, उपेक्षित बच्चों के लिये जो भी काम हो रहा है वह ज्यादातर सरकार की ओर से नहीं हो रहा है, वह प्राइवेट एजेंसीज (agencies) की ओर से ही रहा है, निजी संस्थाओं के द्वारा हो रहा है। इनमें बहुत सी संस्थाएँ ऐसी हैं जो कि बहुत अच्छा काम कर रही हैं। हां, कुछ ऐसी भी हैं जो उतना अच्छा काम नहीं कर रही हैं लेकिन उनको भी यदि थोड़ी सी गाइडेंस (guidance), थोड़ी सी आर्थिक सहायता मिले तो वे भी बहुत अच्छा काम कर सकती हैं। इस बिल के अन्दर उन संस्थाओं को रिकगनाइज (recognise) ही नहीं किया गया है। जैसा कि श्रीमती सीता परमानन्द ने सेलेक्ट कमेटी (select committee) के अन्दर सुझाव पेश किया था, होना यह चाहिये कि इस बिल के अन्दर ऐसा खण्ड हो जिसके द्वारा उन समस्त निजी संस्थाओं को जो कि बच्चों का कार्य कर रही हैं एक व्यवस्था में, एक संगठन में बांध दिया जाय और उन सब को गाइडेंस दिया जाय, जिससे कि उनके द्वारा जो कार्य हो रहा है, उससे लाभ उठाया जा

सके। दुःख की बात है कि वैसा नहीं किया गया है और बिल को संकुचित रखा गया है।

इसके अतिरिक्त एक और बात है, वह यह है कि यह बिल, यह मान कर चलता है कि उपेक्षित तथा अपराधी बच्चे वे बच्चे होते हैं, जो आवाजा फिरते हैं, अनाथ होते हैं, सड़कों पर घूमते हैं। मैं यह कहना चाहती हूं कि आज हमारे समाज का वातावरण ऐसा है कि वह हर एक बच्चे को अपराधी और क्रिमिनल (criminal) बनने के लिये उत्तेजित कर रहा है। समाज के इस तरह के वातावरण को कोई मां-बाप नहीं, बल्कि सरकार और शिक्षा विभाग ही दूर कर सकता है और रोक सकता है।

जैसा कि अभी श्रीमती मुंशी ने बतलाया, समाज के अन्दर जो फिल्में दिखलायी जाती हैं, उससे बच्चों के ऊपर बहुत ही बुरा प्रभाव पड़ रहा है। आज कल हमारे देश में जो सिनेमा (cinema) दिखलाये जाते हैं, वे बच्चों को पथभ्रष्टता की तरफ ले जा रहे हैं। श्रीमती मेनन ने अभी अपने भाषण में कहा था कि हमारे देश के अन्दर जो शिक्षा पद्धति है, जो शिक्षा का अभाव है, सरकार की तरफ से बच्चों को शिक्षा न देने की जो एक वास्तविकता है, उसकी वजह से आज बहुत से बच्चे क्रिमिनल बनते जा रहे हैं। इन दो बातों के अतिरिक्त एक तीसरी भी चीज है जो बच्चों के ऊपर बहुत बुरा प्रभाव डाल रही है, और वह है गन्दा साहित्य, जो आज देश में हर जगह आसानी से सुलभ हो रहा है। इस तरह के गन्दे साहित्य को पढ़ कर हमारे देश के बच्चे पतन की ओर जा रहे हैं। आज हमारे बच्चों के हाथों में प्रेम की कहानियों की किताबें और दूसरी खराब मनोवृत्ति वाली जासूसी किताबें पायी जाती हैं जिनकी वजह से उनका चरित्र दिन पर दिन गिरता ही चला जा रहा है। आज

हमारे देश में बहुत से ऐसे प्रकाशक हैं, जिन्होंने इस तरह की लव स्टोरी (love story) की किताबों को छापना अपना पेशा बना लिया है और इसी का व्यापार कर रहे हैं। आज हमारे देश के अन्दर 'मनोहर कहानियाँ' और 'माया' जैसी कहानी की किताबें प्रकाशित होती हैं जिनमें अश्लील बातें लिखी रहती हैं। जब ये किताबें बच्चों के हाथों में पड़ती हैं, तो उनका ध्यान इधर उधर उड़ने लगता है। इस बिल में उन बातों का कोई उल्लेख नहीं है जो कि बच्चों को डेलिक्वेंसी की ओर ले जाने के लिये उत्साहित करती हैं और उत्तेजित करती हैं। डेलिक्वेंसी के कारणों के ऊपर इस बिल में कुछ भी विचार नहीं किया गया है और न किसी प्रकार का ध्यान ही रखा गया है। हम रोग का इलाज करने जा रहे हैं, परन्तु जब तक हम रोग पैदा करने के कारणों को दूर नहीं करेंगे, तब तक बीमारी का प्रतिकार नहीं हो सकता है। "प्रिवेंशन इज बेटर दैन क्योर" ("prevention is better than cure") इस सिद्धान्त की इस बिल में बिल्कुल ही अवहेलना की गई है। मैं तो यह कहूँगी कि बच्चों के लिये होम्स खोल कर हम डेलिक्वेंसी की समस्या को हल नहीं कर सकते हैं। हमारे देश में बच्चों की जो समस्या है, डेलिक्वेंसी की जो समस्या है, वह दो चार होम्स खोलने से हल नहीं की जा सकती है। जब तक हम उन सब कारणों को, जिनके कारण हमारे देश में डेलिक्वेंसी की बीमारी फैली हुई है, दूर नहीं करते, जब तक हमारे देश के अन्दर शिक्षा में सुधार नहीं किया जाता, जब तक बुरी फिल्मों पर रोक नहीं लगाई जाती, जिनके द्वारा बच्चों का चरित्र भ्रष्ट हो रहा है, जब तक गन्दे साहित्य पर रोक नहीं लगाई जाती, तब तक यह बीमारी दूर नहीं की जा सकती। जब तक हम बीमारी को पैदा करने वाली चीज़ को नष्ट नहीं करते हैं तब तक हम रोग पर काबू नहीं पा सकते हैं। इसलिये मेरी यह

प्रार्थना है कि जो चन्द सुझाव मैंने दिये हैं, उन पर अवश्य विचार किया जायेगा।

1 P.M.

जिस भावना को लेकर यह बिल बनाया गया और आज पास किया जा रहा है, उसका तो मैं समर्थन करती हूँ और वह ठीक भी है, मगर होना यह चाहिये था कि इस बिल को काफी व्यापक बनाया जाता, जिससे इसके द्वारा पूरा पूरा लाभ उठाया जा सकता।

[For English translation, see Appendix VII, Annexure No. 224.]

SHRI R. C. GUPTA (Uttar Pradesh): Sir, so far as the object of the Bill is concerned, it is a very laudable and useful measure and nobody can possibly have any quarrel with it but the question is, whenever such a law is to be passed, one has to consider whether it would be properly enforced and whether there are ways and means available for enforcing it.

MR. DEPUTY CHAIRMAN: At this stage I would suggest to the hon. Member that he will please put forward new points and not repeat old arguments.

SHRI R. C. GUPTA: I will not repeat old arguments. If the Government had considered the financial aspect of this measure and made sure that it was all right from that point of view, I would submit that a Bill of this type would be immensely beneficial to the States concerned, but I feel that proper attention has not been paid to this aspect of the question. In my opinion it is impossible especially for the smaller Part C States to finance the homes which are envisaged in this Bill in a proper manner. It would do great harm to the children if they are taken away from their own homes and sent to undesirable places. I would submit that the homes which are envisaged in this Bill would be nothing better than ordinary jails if not

[Shri R. C. Gupta.]
properly financed. If the Government intends to take away the children from their homes the Government should provide better facilities than are available to them at their own homes, better surroundings than are available to them at their own homes and better education. This does not seem to be possible financially and therefore, this measure, if passed, will not do any good to the children.

My second objection is this that in this Bill two different ideas have been jumbled together, the case of a 'neglected child' and the case of a 'juvenile delinquent'. These are two different problems. If the Bill were confined only to 'delinquents' I might have agreed that this might prove a beneficial measure, although even then it may not be possible for the Part C States to bear the financial burden thrown on them thereby. But the question of a neglected child is a very wide one and it would be much better if this question of a neglected child were left alone. This Bill if worked in the spirit in which it has been introduced would certainly be beneficial but what we find in the provisions of the Bill is that in the 'observation homes' the juvenile delinquent and the neglected child would be put together for some time during the trial. Would it at all be desirable that the juvenile delinquent should be placed with the neglected child or *vice versa*? There must be two different homes altogether. In fact the definition as given in this Bill of a 'neglected child' seems to me to be too wide. It would cover the case of a child who lives with his drunken father. A very good child will be punished for no fault of his and would be deprived of the company of his good mother and other relations and placed in these undesirable homes and taken away from the family home, simply because his father happens to be a drunkard.

Take another case. Supposing the father is a drunkard and the mother is a saintly lady and the child is 8 or 9 years of age. Under clause 2(h) he will be considered to be a neglected child and he will have to be deprived of the company of his mother where he would have been looked after much better than in that home which is envisaged in this Bill. So the son is being punished for the fault of his father. The father is a drunkard and the son is good but he is being taken away from the family because the father is a drunkard. Similarly you will punish the parents for the fault of the bad sons. If the son is a bad character, if he has been caught for stealing, then fine may be imposed on the father. There seems to be two contradictory ideas put into this Bill.

I would not take up much time of the House but I will again with all the force at my command submit that it would be much better for the Government to drop the provisions relating to neglected children and only deal with juvenile delinquents in this Bill. If they agree to deal with juvenile delinquents only, I would draw attention to the definition given in clause 2 (g). I submit that the Government should not treat the commission of any offence as an offence amounting to juvenile delinquency. Under the clause as it stands, even a boy who has been found guilty of an ordinary offence under section 323 or 352 I.P.C. could be dealt with as a delinquent. No purpose would be served by treating such a boy who has been convicted under section 323 I.P.C. as a juvenile delinquent. It should be made clear that offences contemplated in this clause are those which involve moral turpitude.

There is another provision to which I would draw the hon. Minister's attention. In sub-clause (2) of clause 11, the last two lines have been added by the Select Committee. I would like to drop those two lines

because it will encourage false applications by the enemies of the father of the children. If the police officer is satisfied that the information is not reliable why should he proceed with the case and report to the magistrate? What will happen if these two lines are retained is that even if the Sub-Inspector is of opinion that no case is made out for taking action under this clause, he will have to forward the complaint to the officer concerned and then some sort of a trial would be held and the parents and the boy would unnecessarily be harassed. So I submit that this amendment made by the Select Committee does not seem to be quite proper.

Coming to clause 15 of the Bill, it relates to 'uncontrollable children'. I do not see any justification for this clause. There may be hundreds of reasons why the children may be said to be uncontrollable. Why should they be put in the same category of juvenile delinquents or neglected children? This clause requires reconsideration and if it is possible it should be dropped altogether.

Under clause 38 power has been given to the State Government to discharge children even after an order of conviction or an order of committal to such homes has been passed. This power should be given to the courts trying the children because it will be very difficult to get such children who are inside such homes, released by moving the State Government and obtaining necessary orders for release. There may be hundreds of cases where after a short stay in such homes it would be in the interests of the children themselves that they should be released. This power should either be delegated to the district magistrates of the district concerned or to the court concerned so that it may be largely utilised for the purpose of release of children if they are subsequently found fit for release. There is one more point and it is with regard 18 C.S.D.

to the clause which requires contribution by parents. Mostly the children will be from the poor class and it would be a very hard thing for their parents to contribute towards the maintenance of such a child in the home. So this clause 42 also requires reconsideration.

I submit that in my opinion this Bill is impracticable and financially unsound. It will not be possible for the Government to substitute better homes than the children's own houses. Therefore, my suggestion is that this Bill should not be proceeded with. If necessary, two separate Bills dealing with neglected children and dealing with delinquents may be brought forward when enough finances are available.

SHRI A. DHARAM DAS (Uttar Pradesh): Mr. Deputy Chairman, I rise to support the Bill and in doing so, I congratulate the Government for having taken the earliest opportunity to take up this question of children. It is but right and proper that independent India should feel concerned with that section of our boys and girls which is being neglected or which is being brought up in criminal environments. It will be admitted that it is the responsibility of every family to see that children are offered full opportunities for the development of their faculties so that they may grow up into useful citizens of the country. All powers are inherent in a child but only those will come into full play which are fully developed. It is, therefore, our duty to see that our children are properly educated, properly trained and properly looked after. If a family fails in its duty, it becomes the duty of the school to supplement the training which the child has received at home so that there may be a harmonious development of physical, mental and moral aspects of the child's life. If the family and the school both fail in their duty, it becomes the responsibility of the social community to bring to bear on the family and the school its slow but

[Shri A. Dharam Das.]

sure influence so that young people trained by the co-operative efforts of the family and the educational institutions may be of high calibre and may contribute to the physical, mental, moral, social and spiritual welfare of our society. If the society also fails in its duty it becomes the responsibility of the State to step in and to so arrange the upbringing, education and training of our children as to enable them to grow up into men and women of strong character, capable of contributing their full share in the building up of our new nation. On account

of the poverty and ignorance of our people and for other reasons which need not be enumerated here, it has devolved on the State to take up the all round development of the child in its own hands.

MR. DEPUTY CHAIRMAN: The hon. Member may continue tomorrow. The House stands adjourned till 8-15 A.M. tomorrow?

The Council then adjourned till a quarter past eight of the clock on Wednesday, the 28th April 1954.