

MR CHAIRMAN. The matter has been referred to the Minister for Rehabilitation and we are awaiting the answer.

SHRI B GUPTA. But he is sitting on it.

MR CHAIRMAN. He is sitting here, but he cannot give you the answer

THE CHILDREN BILL, 1953 *continued*

SHRI A DHARAM DAS (Uttar Pradesh) Mr Chairman, with your kind permission I would like to refer to a few of the points that I referred to yesterday because they form the basis for the suggestions that I propose to make today. Secondly, they contain partially or to some extent, the objectives we have in view in the training of the child, and also because they make mention of the agencies which we have or which we want to use or which we must use in order to achieve those objectives.

The first point is this. If the family or the school has failed in its duties, it becomes the responsibility of the social community to bring to bear upon the family and the school its slow but sure influence so that the young people trained by the co-operative efforts of the family and the educational institutions may be of a high calibre, capable of contributing to the physical, mental, moral, social and spiritual welfare of society. The second thing that I said was that if the society also failed in its duty, the responsibility devolves on the State to step in and to so arrange the education and training of the children as to enable them to grow up into men and women of strong character, capable of contributing their full weight or share in the building up of our new nation.

Sir, my submission is that the family and the school, as well as the society have all failed to properly look after

the children. To what extent it is their fault and in what proportion to apportion the blame to them is a question which we might leave to the future to decide, especially as the State has already decided to take up the responsibility of the care, protection etc. of neglected children and juvenile delinquents as mentioned in this Bill.

From the Statement of Objects and Reasons, it appears that the problem of juvenile delinquents was aggravated by the partition of the country. As a matter of fact, juvenile delinquency has increased in direct proportion to the increase in evil in this world of ours. But in self-complacency we forget the delinquencies of society and notice only the sins of the younger people. But they do nothing except what they see us doing. Therefore, we are to blame more than the children, let us not mince matters. Selfishness is increasing day by day, giving rise to crimes of various kinds. There has been a general lowering of standards of morality in almost all walks of life, and consequently, whether old or young criminal and anti-social acts are correspondingly on the increase. This downward trend of our public morality received a fillip during the Second World War and later during the time of controls of almost all the articles of our daily needs. Bribery and corruption infected our social and business relationships so much so that the exploitation of mankind for one's selfish ends received the sanction of even society and became the normal and accepted level for most of the relationships of our social and business life.

The partition of the country worsened these conditions and in the social fabric such as I have described already, the problem of juvenile delinquency was bound to be aggravated. Just as the children are in this generation, so will the nation be in the next. If we want our nation to be strong physically, mentally and morally and from other points of view, we must begin with the child. This is what this Bill intends to provide for. It should how-

ever, be noted that the Bill does not touch the question as to what kind of training our children are getting in their homes, in schools and in their social life and whether or not any change is necessary in those conditions and environments.

That would be a wide question requiring complicated and costly schemes of work, which will be difficult of implementation at the present time. We are therefore dealing in this Bill with the effects of the causes and not with the causes themselves. We are treating the symptoms of the disease and not the disease itself. There are some elements in the child's environments which result and are bound to result in children being 'neglected' and in their delinquency. But in this Bill we are not concerned with these elements. As a matter of fact, the real delinquents are the parents, the teachers and the society because it is they who failed in their duties with the result that we have juvenile delinquents and neglected children in our midst. But dealing with that aspect of the problem is also beyond the scope of this Bill. I think that the Government has intentionally limited the scope of the Bill. In the first place the financial implications of such a scheme will be beyond our capacity and secondly, because it is not easy to go into and tackle the external causes which are working in the minds of our children, starting from the time of their coming into being in the family to the time they pass out of schools, colleges and universities.

It has, however, been felt that these agencies have produced quite a number of young men and women with whose all-round training and development we do not feel satisfied and who unfortunately seem to have no compunction in reconciling themselves to various forms of corruption in society, thus swelling the number of mental, moral and physical weaklings in our newly born nation.

I have no doubt, however, that with the experience that would be gained

by Government during the working of this measure and with the expanding economy of our country, it will be possible for the Government to introduce a legislation which may deal with the causes of the present-day child delinquency and find a suitable solution for this difficult but important problem.

Now turning to the clauses of the Bill, provision is made in the Bill for an after-care organization. In my humble opinion there is a greater need for starting the work of the observation of the child before he actually develops into a neglected child or juvenile delinquent.

With this purpose in view I would suggest that another organization be provided for in this Bill for the work of observing children and advising and helping guardians in exercising healthy control over the child with the help and co-operation of the teacher and this organisation.

The workers of this organisation will visit different localities and educate parents and guardians in the matter of the training of their children on proper lines. They will also bring guardians in contact with teachers with the object of securing their co-operation for the general welfare of the child. If there be uncontrollable and destitute children among them, such can be taken charge of as 'neglected' children.

These observation officers or workers seem to be more important in the scheme of working for the welfare of the child. They will help parents in so planning the child's timetable that he be kept occupied all the time in useful work, games and sports.

In clause 2(h) it will be noticed from the definition of 'neglected child' that those going about abegging with their old, infirm, blind and diseased parents will be taken charge of under this Bill. Their beggar guardians who are in one way or another dependent on those children will be left without any helper.

[Shri A. Dharam Das.]

It seems, therefore, to be necessary that simultaneously with the setting up of the observation homes, special schools and children's homes, etc., beggars' homes be also set up where such beggar guardians could be lodged and given some work to do.

Arrangements can be made with States so that the State Governments and the local bodies may share the responsibility of raising funds for such homes and for managing them. There should be at least one such home in the district in which this legislation is enforced. This will rehabilitate the beggars and will in course of time solve the beggar problem also.

The problems of neglected children and juvenile delinquents, as was stated by one Member yesterday, are two different problems. While the former have to be so educated and trained that they may learn to employ their time usefully, the latter have already gone into the category of offenders. While the remedies applied to the former will be of a preventive nature, those applied to the latter will be corrective and reformatory. As a matter of fact, this Bill should have contained legislation only for neglected children because their problems are numerous and radically different from those of juvenile delinquents. Moreover, we have a very large number of children to deal with while the number of juvenile delinquents is comparatively very small. Again the requirements of the neglected children for their all-round development, education and training are unlimited while the needs of juvenile delinquents are only a few and can be met by establishing competent courts and special schools and by providing for probation officers. These could have been provided for for juvenile delinquents by suitably amending the Criminal Procedure Code or by enacting a separate legislation.

The problem of neglected children by itself is mainly a question of close observation as to how children are kept occupied at home by parents and

guardians and at school by teachers and how their leisure hours are being spent. Very often it is found that the parents think that their responsibility for the training of the child has ended as soon as he is put in school, while the teachers consider themselves responsible for only the teaching of the child and leave the responsibility of his all-round development to the parents. The child takes undue advantage of such a situation and in course of time undesirable habits are so ingrained in him that it becomes almost impossible for the parent or the teacher to exercise proper control over him. It is therefore important in a legislation of this type dealing with neglected children and juvenile delinquents that provision be made to bring together the parent and the teacher to co-operate with each other and with the Government for the proper education and training of the child. The Bill ignores this aspect of the child's problem and instead of seeking the co-operation of the parent, the parent has been ignored altogether. Whatever the extent of exploitation of the child by his elders, whatever the extent of ignorance of the parents as to the working of the child's mind and whatever their indifference to the child's all round development, there is no gainsaying the fact that there is no greater well-wisher of the child than his parents, that nobody's interests in the child can be aroused so easily and so deeply as that of the parents and that nobody will be prepared to make so much sacrifice in the interests of the child as the parents. The parents should therefore receive a more responsible and more respectable place in the scheme of things for the welfare of the child. The Bill in my humble opinion should be amended accordingly. With these remarks, Sir, I support the Bill.

SHRI M. P. N. SINHA (Bihar): Sir, before going into the details of the Bill, I want to say a few words generally. This Bill is intended to be operative in Part C States only. If there is a problem of neglected children and

juvenile delinquents, I think the problem is as bad in other States as it is in the Part C States. We who come from Part A or Part B States find the same conditions prevailing there. Therefore I would have very much liked the Bill to cover the whole of India instead of only Part C States.

Sir, this Bill, in my humble opinion, is quite all right so far as it goes and in an orderly society I think it is a Bill which should be placed on the Statute Book, but, unfortunately for us in this country, we are rushing on with Bills and Acts without taking into consideration the prevailing circumstances. Take, for example, this Bill. It seeks to protect the neglected child; it seeks to improve the conditions of morality of the delinquent children, but we have not gone to the root cause of the disease. Some hon. Members speaking here yesterday said that so much work is taken from minor children, that they are treated like animals and that they have to work for long hours in hotels and other places, but they have forgotten completely that ours is a country where more than half the people do not get two square meals. This Bill will be of no use unless and until we take into consideration two vital points. One is the general economic condition of the people. Here a child of nearly six years of age, whom you will bring under the category of neglected child, has to work to supplement the income of the family. Among the poorer classes you will find that innumerable children work and bring some income to the family. If you take them away from the family and put them in your rescue homes or in what you call the orphanages, the income of the family will be reduced and the still younger children of the family and the old parents may not be able to get even that income which they used to get when this child was doing small jobs and earning something for the family. I am opposed to putting these children on hard work, but, Sir, work like tending cattle, bringing some grass, pulling fans for a while or serving on the table, does not do so much of harm to a boy of 10 or 12 years. I would have very much liked the society

to develop in such a way that there was no need for these children before the age of 16 to do any work, but is that possible? If it is not possible, we should take that factor into consideration also.

Then there is the question of birth control. Here people go on producing children, high and low, everybody, educated or uneducated. There is no propaganda or legislation officially to prevent increase in population, and unless that is done, the problem will remain acute and it won't be solved. Therefore when you try to improve the condition of the children, you have to take into account the economic and social conditions of the people generally.

Sir, before I go into a few of the clauses, I have to refer to the speech of our esteemed friend, the hon. Mrs. Menon, who is classed, amongst and, in fact is, a talented lady. She has suggested that all these magistrates who will try cases under this Act should be paid magistrates, and everything should be done on payment. She has gone so far as to say that in no country today is work done by employing honorary agencies. I think most of the Members cannot agree with this, because in England and in many other countries most of these social reforms and work of a social nature are done by private agencies. No Government, much less the Government of India, can afford to meet the necessary costs of this kind of institution. She has said that honorary magistrates should not be asked to do this job. Why? I have seen first class people administering the Criminal Procedure Code and the Penal Code and doing good work. There is no reason why honorary magistrates should not be able to do this. In the case of the ordinary magistrates you will have to pay, and then the local officials and the Government will have to be careful in appointing them. The honorary magistrates on the other hand, can be appointed locally. I entirely agree with the views that there should be lady magistrates also. At least one of the magistrates on the panel should be a lady. In my opinion it will be much better to have lady

[Shri M. P. N. Sinha.]

magistrates generally for this purpose. There is a demand in the country from the educated ladies that they should be given more work of a social nature, and placed as they are, I think they would make very good honorary magistrates. Therefore I suggest that while appointing magistrates for this kind of work this should also be borne in mind.

There is another point. I find from the Bill that it provides for the appointment of more than one magistrate for the courts. I do not think it is at all necessary to do so. It will only increase the cost. I think one good magistrate will be quite able to do justice to the job instead of having two or three persons. We are only just making a beginning, trying to do something new. To provide for differences of opinion and then for appeal and this and that—all these are useless. The Bill should be a simple one. We can have one magistrate, preferably a lady magistrate.

Then I come to the question of establishment of children's homes. Stress has been put on the establishment of such homes by the Government. Here also I think it will be a costly affair and it will not be possible for many of the States, much less for Part C States, to establish such homes. There are, I believe, in this country many respectable and good orphanages and associations where these neglected children could be lodged. For instance, take the case of the "Home for Homeless" at Muzaffarpur from where I come. It is called the "Home for the Homeless". Every Minister from here, barring I think the Prime Minister, or perhaps the Prime Minister also—I do not know if you have seen it, Sir,—has seen that place. It is doing wonderfully good work in that part of the country. It is run at public cost and children found in the streets with nobody to care are brought there. There they are given education and trained to become good citizens. I think institutions of that kind should be encouraged instead of establishing Government homes at high cost.

I believe there are institutions like this in other parts of the country; if there are not, they should be established. There are institutions like the Young Men's Christian Association, Young Women's Christian Association, the Ramakrishna Mission and many other women's organisations. They can be requested, they can be called upon to do this job on behalf of society.

I entirely agree with my esteemed friend Dr. Shrimati Seeta Parmanand when she put the stress on this aspect of the question in the matter of establishment of homes.

About the production of neglected children before competent courts, it is said that any police officer or any person authorised by Government may do it. I am referring to clause 11, sub-clause (1). It says:

"Any police officer or other person authorised by the State Government in this behalf may, if he is of opinion that a person apparently under the age of sixteen years is a neglected child, take charge of that person for bringing him before a competent court."

You find, Sir, here the police officer or any other person authorised by the State Government could alone produce any neglected child. I do not know the wisdom of this particular clause. This is a good work and I think any person, even an unauthorised person, specially in this behalf should be eligible, should be competent to bring that child to a court. Firstly, there will be difficulty in licensing persons, in giving them permits, and in publishing their names; there will be a lot of extra work. Here is a thing of common good; and if a police officer can take cognizance of it, I think any sensible man can take cognizance of it. Supposing there is a theft. The police can catch the thief; and I can catch the thief, also. So, I don't think the Bill should be further complicated by permitting or licensing persons, who alone should be authorised to bring the neglected children to the court.

There is another clause, clause 32. It says that:

"The report of the probation officer or any other report considered by the competent court under section 30 shall be treated as confidential."

I, for one, do not see any wisdom in this either. There is a child, who has been found to be a neglected child, and there are the parents who have neglected their duty. The report of the probation officers before the competent court should, instead of being treated as confidential, be made public so that other parents may be afraid of neglecting their children or permitting them to go astray. It should be made widely public instead of being made confidential.

There is another matter in this legislation. I very much agree with my hon. friend who has just spoken that in this Bill, the two cases—the case of the neglected child and that of the delinquent child—have been treated on the same level. I think it should be treated on a different level and there should be separate enactments for the two. For example, I have not been able to find out what is actually meant by the words "neglected child". I am referring to definition (h) in clause 2. It says:

(h) "neglected child" means a child who—
(i) is found in any street or place of public resort begging or receiving alms, whether or not there is any pretence of singing, playing, performing or otherwise;

I agree—

(ii) "is found without having any home or settled place of abode or any ostensible means of subsistence or is found destitute, whether he is an orphan or not."

I agree—

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

Sir, I cannot understand this; what is the meaning of the words "is unfit to control, or unfit to exercise proper care and control over the child"? I do not know, Sir,—and you will pardon me if I am wrong—that most of the hon. Members sitting opposite have been children of parents exercising no control over their children at that time. Some of them, we know, had been "uncontrolled" politically; and they have grown to be very able men. I suppose there was no danger in their growing to be neglected children. I do not know how to classify my friends, Shri Bhupesh Gupta or Shri Dwivedy. Will they be classed as 'neglected children'? I do not know how they will classify the newly-come lady Member, the talented daughter of a talented father; I refer to Mrs Parvathi Krishnan. Well, I don't know; but people may say that her father did not control her properly: nevertheless she may form the Government tomorrow.

DR. SHRIMATI SEETA PARMANAND (Madhya Pradesh): Sir, no reflection is to be cast on individual Members of the House.

SHRI M. P. N. SINHA: So, Sir, it is very very difficult for Government to define this term "neglected child". All the same, I very much appreciate the efforts of the Government in bringing forward this Bill and I support it.

BEGAM AIZAZ RASUL (Uttar Pradesh): Sir, so much has been said about this Bill on the floor of this House that I will try not to repeat all the observations that have been made already. I would just like to put forward in a general manner my views on this subject.

While welcoming this measure, I must confess to a feeling of disappointment firstly at the manner in which this Bill has been drafted and secondly at the approach to this problem.

We are told that this Bill has been drafted on the lines of the recommendations of some expert committee that was appointed by Government. I should have thought that if there had been an expert committee, that went into this

[Begam Aizaz Rasul.]

very important question of child delinquency and neglected children in our country, something better would have emerged from their deliberations. This problem, as every one is agreed upon, is not so much a matter solely connected with child delinquents or neglected children in our country but has much more to it. We have to go into the roots of the causes of these things and those causes are so apparent today in our country that I do not think they should have been neglected in the drawing up of this very important measure. The two main causes, among others I may say, are first, the economic conditions of our country and secondly, the lack of educational facilities provided for our children. Now, Sir, if we were to deal with these two basic questions that relate to this very important question of our society, I think that we would be dealing with this question of neglected children in a much better manner. If more facilities were provided for our poorer children to receive education and not waste their very precious school-going ages in going about begging in the streets and indulging in anti-social activities, the problem would not exist to such an extent. The children, we should know, are not responsible for this state of affairs, it is the society; it is the parents who are really responsible for this. And I think Government also must bear a great deal of responsibility in this matter. I should have thought that a Bill which might later on become a model Bill for other States to follow could have been drafted and drawn up in a much better manner. I do not know how many Part A and Part B States have got legislation in this respect. But I know that in my own State of U.P. there is some legislation dealing with these things. But at the same time this is the first measure that has been introduced by the Centre and it would have been better if it had touched the important aspect of our society and had inspired other States to have legislation on those lines. That would have been very helpful. I know that certain things have been kept in

view and that steps have been taken in this Bill to see that a delinquent is not treated as a confirmed criminal, and when he is taken into custody, it should not be considered an arrest or that he should not be tried in the ordinary criminal court. All these things are there. But anyhow, what I feel is that the human approach to the problem is absolutely lacking. And that is what is needed more than anything else with regard to the treatment of these children.

Sir, as most hon. Members are aware most of the progressive countries in the world have dealt with this problem in a very very humane manner. Speaking of Japan which I visited only a few months ago, I would like to say for the information of this House what we saw when we got an opportunity of visiting some family courts there. These family courts are instituted by Government and are spread all over the country. They deal with the two very important questions of society, i.e., divorce and juveniles. So they are divided into divorce courts and juvenile courts. We had the opportunity of seeing the working of these courts, and I was very much impressed by the manner in which this problem was being dealt with there. The Government appoints judges for these family courts. This judge is the Chairman of this court, and two members of this court, who are called commissioners, are chosen from the public. One is a man and the other is a woman. And these three people sit together and hear all these cases and deal with them. Now ordinarily the procedure in legal courts is that every effort is made to trace the existence of crime. Also we find ordinarily that the courts are mostly concerned with imputing motives and pronouncing judgments. But in these courts we saw that the main emphasis was not on pronouncing judgments or imputing motives. Rather they tried to find out remedial measures and they tried to find the background of the child who had committed the offence. They tried to deal with the problem altogether in a humane and understanding manner. Every effort was made to investigate

the child's social and mental background which forced him to do a certain act which was anti-social. And we were told that in most cases the children went back to their homes convinced that they will not repeat the offence. These courts have doctors and psychiatrists attached to them and they deal with these problems. I know, Sir, that in our country it is very difficult, from the financial and other points of view, to have a large number of psychiatrists knowing different languages to deal with these children. Therefore I am not suggesting that in every court there should be a psychiatrist, but I should really like to emphasise the fact that these problems should be dealt with in a more understanding and humane manner and should not be treated, as is usually done, in a legalistic manner. This is a very great problem that confronts us.

Then, Sir, regarding the appointment of magistrates, I was very sorry to hear from the hon. Member yesterday a very sweeping statement to the effect that two women cannot agree on any one point. I think it was a very unfair statement to make about women. If he had any unfortunate experience of two women not agreeing on certain matters, it does not mean that all women are like that. And I know that women try to understand these problems especially with greater understanding and with a better approach than men. Of course I would like that man and woman should both be associated with these problems. I would suggest, as also it has been suggested in this Bill, that as far as possible at least one woman should be there; and so one man, one woman and a judge should comprise the court; they should sit together and try to go into the background of the offence. I will not go into the details of this point because already much has been said about it. But I hope that later on the Government will be able to bring forward legislation which will really deal with the problem of our children as it should be dealt with and in the background of what I have said, by providing more facilities for their education and also

by providing better economic conditions, which of course is not a thing that can be done by legislation. And I hope that as our country progresses economically and as more and more educational facilities are provided, these poor children will also become respectable members of society and we will have less and less cases of this kind. Thank you, Sir.

SHRI S. N. MAZUMDAR (West Bengal): Mr. Chairman, I shall not take much time of the House. My views have been broadly indicated in my Minute of Dissent. But still I shall take my stand to lay emphasis on some of the points, for the expression of which the Select Committee was not the proper place. It is true that in the Select Committee we discussed the whole thing in a friendly and responsive manner. And particularly I found that the Chairman of the Select Committee was very co-operative and responsive. But the Select Committee discussed only the clauses of the Bill. The principle, the scope, the nature and the extent of the Bill were outside the scope of the Select Committee. And unfortunately it so happened that on the day the motion for reference to Select Committee was made, we could not speak on this. I shall, however, only place some points before the House and also before the Government by way of constructive suggestions.

My criticism is not that this Bill does not go far.

[MR. DEPUTY CHAIRMAN in the Chair.]

If I advance that argument, my friend will say that we are at least making a beginning. My criticism is that a beginning has not been made in right earnest, in a proper scientific manner. If this Bill is called a Bill for Children's Courts, Special Homes, Observations Homes, etc. it would have been proper, but the Bill seeks to do much more than that. In the Statement of Objects and Reasons, it has been mentioned that the purpose of the Bill is to rehabilitate maladjusted children. It is all right, but my criticism is that nothing has been done in a proper and scientific manner. I have failed to

[Shri S. N. Mazumdar.]

understand how this Bill has been piloted by the Education Minister and not by the Law Minister. In the Select Committee most of the Members felt that there was no literature and no useful data about the problem of child delinquency or neglected children. It is said in the Statement of Objects and Reasons that the problem of delinquency has grown to very unusual proportions recently. Government has no idea—and I do not think there has been any study—of the proportion of the problem, the nature of the problem and of the causes of the problem. We find that this Bill has been drafted on the advice of an expert committee but we could not find why the Government could not give us an idea of the nature of that expert committee. The expert committee has only put forth a draft Bill as a model Bill. These experts—I do not wish to cast any reflection on them—are supposed to have come here, deliberated for a certain number of days. Spent some public money and their whole labour only resulted in the drafting of a model Bill, a Bill which deals with children's courts and special institutions. This problem as has been mentioned by many Members in this House from both sides of the House, requires a very special approach. There is the question of socio-economic background. There are so many questions relating to that background, and there is also the question of the psychological approach. Child psychology is a thing which has not been studied properly in India, nor has there been any real and effective step taken towards that end. This question is based on socio-economic environments, the stresses and strains arising in the family, in the minds of the adults and in the minds of the parents, the psychological development of the child resulting from that socio-economic environment, the environment outside, etc. This requires a special study and a special approach. In dealing with children, whether neglected or the so-called delinquent children, if there is no provision for a specialised approach, for a special study, the whole purpose of the Bill may be defeated. Many hon. Members

before me have spoken about the socio-economic background, and so I do not like to take much time of the House over this, but basing ourselves on the socio-economic realities of today, when we deal with the question of delinquent children, we must realise that in the case of each and every so-called child delinquent, there are certain psychological background, for which a specialised approach is necessary. The causes of delinquency in some may lie very deep in their minds, and it will not be possible to deal with them simply by putting all of them in a children's home or in a special institution. My point is that the Bill is going to be passed no doubt, but I do not know how it will work in its actual operation. My suggestion is that, after this Bill is passed, the Education Ministry should not rest content with the fact that they have passed this Bill and that everything is going to be all right. In all earnest, they should take up this matter.

10 A.M. This is a matter which, to a very large extent is non-controversial. Nobody, whatever may be his shade of political opinion, will doubt or deny the necessity for taking some steps to rehabilitate mal-adjusted children. There are mal-adjusted children and for that reason, if anything is to be done at all, this measure should be taken in right earnest with the help of experts in child psychology, experts in social problems—not only the so-called experts—and also our social workers who are working in this field. Proper steps should be taken to organise study and experimentation. The main thing is that the approach and the outlook to the problem should be changed. In this Bill, several problems have been dealt with in an omnibus fashion. Though separate provisions have been made for delinquent children and neglected children, they have been put on a par. It may be argued that in drafting a Bill it is not possible to deal with all these things separately or in any specialised manner. But in an important question like this, what was the necessity for hurrying with the Bill? By merely passing this Bill, nobody can claim that

the problem has been solved. The magnitude of the problem is there, and we have no clear idea of the magnitude of the problem; we have no clear idea of the causes of the problem, and we have no clear idea of the steps that should be taken for this. So, there was no hurry. The whole thing should have been done in a better way, in a more earnest way, in a more scientific way. In the absence of that, what has happened? The neglected children and the delinquent children have been treated on a par, whereas each case requires a separate and specialised approach.

About these definitions also, there are many difficulties. The Bill has been brought forward in such a way that I find it very difficult to suggest any amendments—I have no hesitation in admitting that—because I find that the whole approach is defective. The definition of a delinquent child is there, for example. I raised it in the Committee and I raise it again that if a child commits an offence, he is taken as a delinquent. A child may be induced to commit an offence for various reasons. My friend might argue that the court will decide whether he is a habitual offender or not, but if a child is taken to the court that fact itself creates an impression in his mind which may be injurious for his future development. In this way, there are many lacunas and many defects in this Bill which will defeat the very purpose of the Bill. So, Sir, at this late hour I do not like to indulge in any acrimonious criticism, but I submit for the consideration of the House and of the Government that this should be taken up in right earnest. Let a beginning be made; let us put the foundation at least.

As regards the question of rehabilitation, some other measures should be taken. Nobody is asking for the moon. Nobody is saying that everything can be done overnight. Even in the present socio-economic system, taking even a limited approach, keeping even a limited end in view, even with the limited number of neglected or delinquent children, something can be done in a proper

way. After finding out the causes, the adoption of preventive measures is absolutely necessary. Even in the United Nations' report on child welfare and the causes of child delinquency, the necessity of preventive measures was stressed. It was said that different economic and social measures, improved conditions of health, labour, housing, education and recreation were also necessary. It also said that it was necessary to have development services to be based on long-term planning aiming at the improvement of the physical, economic, social and cultural conditions of children, etc. There are also special pensions for orphans in many countries. So, this report of the U.N.O. on child welfare shows that this problem is not an isolated one and that this is related to the entire socio-economic conditions prevailing in different countries.

My friend who is piloting the Bill said that the Government is there, that the Welfare State is there and the other Ministries and Departments are there and so I need not be anxious about it. The question is that the whole thing is really inter-related and we cannot think in compartments like this, that this is taken up by the Education Ministry and so it will deal with this, that this Bill is drafted by the Law Ministry and so they will deal with the legal aspect and the Labour and the Planning Ministries are there and they will deal with the other aspects. This probably has been referred to in the Five Year Plan and I did not find any approach in the Bill based on what has been said even in the Five Year Plan. That approach should be changed.

Lastly, provisions have been made for children's homes, schools etc. but I am not prepared to believe that simply by making provision for creating these institutions or by recognising the existence of these institutions, much can be done in the way of rehabilitating children. We know in India today there are many institutions which are said to be benevolent but in these institutions there are a lot of things which

[Shri S. N. Mazumdar.]

are undesirable. So without going into the question of how these institutions are run, how they are conducted, whether they are managed properly or not, simply by providing for special institutions and observation homes, nothing can be done. So I submit, knowing that the Bill is going to be passed by a majority, that even after the Bill is passed, these should really be taken up by the Government and as soon as possible, Government should come forward before this House with whatever material they can gather on these problems.

SHRI MAHESH SARAN (Bihar): Mr. Deputy Chairman, so many hon. Members have already spoken that I don't think I will be justified in taking more time than is absolutely necessary. I only want to invite the attention of the Government to the fact that a measure like this is very nice and very good but one has to go to the root cause of the whole thing. Many courts may be established but things will not become all right unless we look to the causes that make the children neglected and delinquent. Poverty is so great in this country that beggary has become a thing of necessity and therefore if we don't look to the economic side of the question, if we don't look to the education of the children, this thing will not be got over by merely passing this Bill. In this connection I would like to draw the attention of the House to certain Acts and certain provisions of this Bill which require careful consideration at the hands of the Government regarding the neglected child. You find that neglected child is defined as:

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

Under the present circumstances when poverty is so great in India, is this provision a fit one to be placed under this section? That is what I wish to ask the Government. People are dying.

You know that people are starving in the streets and therefore old people who are very hungry, who cannot go about, send their children, they send their children also because they feel that probably greater pity will be aroused in the hearts of the people by seeing young children naked and without food and running about in the streets. Nobody likes to go to the streets or to station or to any place just to beg unless it is very necessary. Of course I am not referring to a section of the people whose job it is to beg, and they will beg whatever may happen; but by a clause like this, I think, you will have in the courts probably half of the people in a locality who are poor and half of the children in a place, who roam about in the streets. Therefore I would very humbly beg of the Government to look at this aspect of the question and to see that in order that this Bill may be a useful one, the causes of poverty are removed first before you can expect a lot of success so far as this Bill is concerned.

Then I would, with your permission, draw the attention of the Government to the fact that it is necessary to see that these observation homes and children's homes and after-care organisations are properly run. I find that it is the intention of the Government to have rules made. I am referring to clause 52 which says:

"The State Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:

* * *

(d) the internal management of special schools, children's homes and observation homes;"

Now what I would suggest is that it is very necessary that these homes should be run on proper lines and for this it is necessary that experts who know a lot about children should be put on

a Committee with the Government to frame these rules. Passing alone of this Bill will not do. We should be careful that the children are kept in the care of persons who know how to deal with them. They should know what different things should be done in order to improve the child. Therefore it is a particular subject which everybody does not know and therefore it is necessary that you should have a Committee which should assist the Government in framing these rules and this Committee should have men and women who should be experts on child's education. So what I was saying is that first we should try to remove the causes for children being neglected and delinquent and then so far as the schools are concerned, after they are put into them, it should be run on best lines so that the boys and girls may come out better citizens than before. The ordinary way in which people are kept in such places for example, in jails, makes them worse in being put there and the tendency is that once a person goes to jail, he feels like going again. I am talking of a criminal because he finds that the sort of life there is more liked by him, than the difficult and hard life outside the jail. Therefore if these homes are such as where a child could really improve, then alone they will do good to the child and to the society. Then there is one other point to which I would like to draw the attention of the Government viz., to clause 21 which says:

"Where the offence committed is punishable with fine and the juvenile delinquent is under fourteen years of age, the competent court shall order that the fine be paid by the parent or guardian of the child, unless the competent court is satisfied that the parent or guardian cannot be found or that he has not conduced to the commission of the offence by neglecting to exercise due care of the child."

Instead of holding a trial of the child, this section contemplates the enquiry and trial of the parent along with the child. But you find later on in clause 23 that there should be no joint trial

of a child and an adult. So what I mean to say is that clause 21 offends against clause 23. I think clause 21 which says that in a way the parent or guardian should along with the child be put under trial is wrong and certainly the parent should not be put to all these harassments along with the child. This has been said before and I do not want to repeat it. These two different categories of children—the neglected ones and the juvenile delinquents—they are quite dissimilar and I do not think it has been a wise thing to have put them both together in this Children's Bill.

With these observations, Sir, I support the Bill.

DR. SHRIMATI SEETA PARMANAND:
Mr. Deputy Chairman, I have had enough opportunity of expressing my views at the Select Committee stage, having been a member of it and I should not ordinarily have taken up the time of the House now in speaking on this Bill. But as I have indicated in my Minute of Dissent, I have to bring to the notice of the House certain points, and hence these present observations.

Firstly, I would submit that it is absolutely necessary for Government to indicate clearly what are the powers of a Select Committee in respect of widening the scope of a Bill entrusted to it. I say this because every time any suggestion was made by hon. Members there in the Select Committee, the Chairman of the Committee, in his gentle voice appealed in a persuasive manner that as it was a humanitarian measure, he would rather like that there was no dissent on any point. Therefore, it was not possible to make any substantial additions to this Bill. For example, I wanted to add, in order to make it unnecessary for me to bring up the Bill standing in my name for the licensing of children's institutions, that there should be some provision in this very Bill to provide for the licensing of homes for children, and also to make it obligatory on all homes run for children to get them licensed. But the Select Committee thought that it would be going beyond the scope of the Bill. And

[Dr. Shrimati Seeta Parmanand.]

yet, Sir, I was told by the Home Minister when I introduced my Bill last session that the Bill was not necessary, on the ground that Government intended to bring in a comprehensive legislative measure, and that reference was to this Children Bill. And when such a measure, meant to be a comprehensive one is being considered by a Select Committee and when we want to widen its scope, we are prevented from doing so, from doing anything in that direction, on the ground that it would change the nature of the Bill.

Similarly, I had pointed out at that time, knowing the financial limitations of the States in our country and feeling that the neglected children, brought before the court, should be sent back, if possible, to their parents, that if the neglect was due to want of finance, a little financial help may be given to the parents. After all, Sir, it cannot be said that all that help would be misused. There would always be the Probation Officer to see that proper use is made of the help. But the Committee did not think itself competent to make that suggestion. Not only did they not accept the suggestion but they thought it was most impracticable. I want to point out that this Bill has been moulded after the English Children's Act which was introduced in 1940 and which has been revised practically every year until the final Bill was produced in 1948. I pointed out how there and also in Denmark there is provision to see that rather than throwing the entire burden on the State for maintenance of the children, rather than depriving the child of the affectionate care and personal affection of its parents, the parents are given some monetary assistance to make it possible for the child to continue in its home. Sir, in our country where the State, I am sure, will not be able to provide for the maintenance of all the children, such a provision for giving financial assistance to the parents is very necessary. But this suggestion also was not acceptable.

Next, Sir, I would like to point out that this Bill is supposed to be a model Bill and as such it was produced by a committee of experts. But the names of these experts we do not know even today, and even in the Select Committee, we could not find out their names. Sir, I would like to point out that if the Government felt that a model Children Bill was necessary, and here I may mention that I do not agree with those who say that it would serve no useful purpose, the first and most useful purpose it would serve would be to raise the prestige of our country in the eyes of the world when the Social Welfare Body of the United Nations is able to see that India has got a model Children Bill, though the Social Welfare Body is not going to see how far India is able to put the provisions of that Bill into practice. But as I was saying, if the Government felt that such a Bill was necessary, it could easily have got it without trouble for such an Act is in force today in our own country and it has been in use in Bombay for the last three or four years. After all, we in the Select Committee had to draw heavily on the experience of the people who had a working knowledge of the Bombay Children Act. It is quite necessary to make the States accept this Bill, but Government has not the money to give even to those Part C States which have to draw on the Consolidated Funds of the Centre. Of course, those Part C States which have their own legislatures have not to draw on the Consolidated Funds of India. The Government has taken the trouble to bring in this legislation which, it thought would be comprehensive, but it is not comprehensive. I would however, make this appeal to the Government. If it wants to give effect to this Bill and show that as far as it lies in its power, it would implement this Bill and not put it on the shelf, as the Child Marriage Restraint Act has been put for all practical purposes, then as far as these four Part C States are concerned where the Government have to pay from its one home to begin with for which pro-

vision has been made in the financial memorandum and then start as many homes as are necessary in those States by making available to them not only a portion of the funds but all the funds needed by them. This is necessary because it is common knowledge that in our country, if we were honest to ourselves, we would have to admit that practically two-thirds of the children could be classified as neglected children and they would have to be in children's homes. Therefore, it is quite obvious that even if the scope of this Bill is such that it is applicable only for the Part C States, where starting one home would fulfil the letter of the law they should start as many institutions as are necessary.

Sir, I would now like to say one word about bringing in legislative measures which are not likely to be given effect to. This is one of them. When private Members want to bring in a legislative measure or when they give notice of any Resolution which they would like to be taken up, they are told that the responsibility of Government makes it obligatory to see that the Resolutions or the Bills introduced in Parliament are of a nature which can be carried out, otherwise they would become just a matter of ridicule, that they would have no weight, that it would lower the prestige of Government. If that is the test for a private Member's Bills and a private Member's Resolutions I wish the same were applied to Bills of this nature also, which one feels would remain more in the Statute Book and not used in application because of financial difficulties. For that reason also, I support this Bill as after all its intentions are good, though they are not likely to be carried out because of financial difficulties—I wish the Government had concentrated all its energies and resources to see what it could do to give compulsory primary education in all the States, that would have served a better purpose than putting this type of legislation on the Statute Book which would remain there just as an example to be looked at and not to be followed.

SYED MAZHAR IMAN (Bihar)

سید مظہر امام (بہار) : جناب

قیدی چیرمین صاحب! اس بل پر میں ہاؤس (House) کا زیادہ وقت نہیں لینا چاہتا۔ کیونکہ ہمارے بہت سے دوستوں نے اس پر کافی تبصرہ کیا ہے۔ مجباً یہ بل اس ہاؤس کے سامنے پہلے پیش کیا گیا تھا اسوقت بھی میں نے اسکو سپورٹ (support) کیا تھا۔ مگر مجھے اس وقت پوری امید تھی کہ سلیکٹ کمیٹی (Select Committee) سے پاس ہو کر جب یہ بل واپس آئے گا تو اس میں کافی امپرووومنٹ (improvement) دیکھوں گا۔ مگر میں نے یہ پایا کہ سلیکٹ کمیٹی سے واپس آنے کے بعد بھی اس میں کوئی خاص امپرووومنٹ نہیں ہوا ہے۔

دوسری چیز جو مجھے (گھٹائی ہے) وہ یہ ہے کہ (rule) بدلنے کے وقت اس کے اندر کچھ اور آسانیاں بہم پہنچائی جائیں چاہئیں۔ کیونکہ اس بل کو دیکھنے سے یہ پتہ چلتا ہے کہ اس میں پولیس اور مجسٹریٹ وغیرہ کا کافی پروویژن (provision) کیا گیا ہے۔ میرا کہنے

کا مطلب یہ ہے کہ اسکو پڑھنے سے معلوم یہ ہوتا ہے کہ صرف منجرم کو پکڑ کر ایک ہوم (home) کے اندر رکھا جائیگا۔ وہاں سے وہیں مستعد ہو کر اسکی حکومت کی نیت ہے کہ ایسا بچوں کو تعلیم دی جائے اور انکی دیکھ بھال کی جائے۔ چنانچہ کہ دیکھنے والا کوئی نہیں ہے۔ قیدی چیرمین صاحب! میں نے اکثر حکومت

[Syed Mazhar Imam.]

سے اس بات کو کہا ہے اپنی بجٹ اسپیچ (budget speech) میں اور دوسرے موقعوں پر کہا ہے کہ اس طرح کے بچوں کے ساتھ ایسی عورتیں اور مرد بھی ہیں جو کہ اپنی بھاری کی وجہ سے یا اپنی عمر کی وجہ سے مجبور ہو گئے ہیں اور ان کو دیکھنے والا کوئی نہیں ہے۔ تو میں نے کئی مرتبہ عرض کیا ہے کہ ان کی دیکھ بھال کے لئے بھی اس کے ساتھ ساتھ اسی طرح کا کوئی قانون اس ہاؤس کو بلانا چاہئے۔ یہاں پر یہ سوال پیدا ہوتا ہے کہ اگر ایک بچہ کسی سڑک پر یا ریل کے پلٹ فارم (platform) پر بھیک مانگ رہا ہے یا کسی ایسی ہی جگہ پر گتا ہے یا کسی دوسری صورت سے کماتا ہے تو اسکو پولیس پکڑ کر لیجائے گی۔ میں مانتا ہوں کہ اس میں شک نہیں ہے کہ ہماری نیت اچھی ہے کہ بچے کو اس طرح کے کاموں سے بچائیں اور اسکو تعلیم دے کر ملک کے لئے ایک اچھا انسان بنا کر پیش کریں۔ لیکن فرض کیجئے کہ وہ اس واسطے بھیک مانگتا ہے کہ اس کے ایک بوزھی ماں ہے جو کہ اس کے اوپر منحصر ہے اور جس کی کہ وہ پرورش کرتا ہے یا ایک بوزھا باپ ہے جو کہ کما نہیں سکتا اور اسکو وہ بھیک مانگ کر کھانا

پلاتا ہے تو ایسی صورت میں ان بوزھوں کے لئے کیا پروویژن ہوگا۔ اس میں شک نہیں ہے کہ بھیک مانگنا ایک جرم ہے۔ ایک سوسائٹی کے لئے یہ بہت ہی مہمل بات ہے مگر جب تک ہم سوسائٹی کو بالکل اس طرح نہ بنا لیں کہ بھیک مانگنے کی ضرورت ہی نہ پڑے اس وقت تک اگر اس بچے کو ہم نے اس سے محروم کر دیا تو یقیناً وہ بچے کھلئے آگے چلکر فائدہ مند ہوگا۔ مگر اس کے بوزھے باپ اور بوزھی ماں کو دیکھنے والا کوئی نہیں رہ جائے گا۔ اس لئے میں حکومت سے عرض کرنا چاہتا ہوں کہ ہم جب رول بناویں تب اس میں یہ پروویژن رکھیں کہ اگر تحقیقات کے دوران میں مجسٹریٹ کو یہ ثابت ہو جائے کہ اس نکلہکتیڈ چائلڈ (neglected child) کے پیرینٹ (parent) بھی ہیں جو کہ اس کے بھیک مانگنے پر ہی گزار بسر کرتے ہیں تو حکومت کی طرف سے اس کی ماں اور باپ کو بھی کچھ نہ کچھ پیسہ ملنا چاہئے تاکہ وہ اپنی پرورش کسی نہ کسی طرح کر سکے۔ ورنہ ان کے لئے بہت ہی ہارڈشپ (hardship) ہو جائے گی۔ میں حکومت کی توجہ اس طرف دلانا چاہتا ہوں۔ میں مانتا ہوں کہ حکومت نے جو قدم اٹھایا ہے کہ ہندوستان کے ایسے بچوں کی سکیورٹی (Security)

اپنے اوپر لی ہے چلکا کہ دیکھنے والا کوئی نہیں ہے وہ حقیقت میں ایک بڑا قدم ہے اور اس کے لئے حکومت کو جتنی مہارکباد دی جائے کم ہے۔ مگر اس کے ساتھ ساتھ یہ بھی کہوں گا کہ ایسے مردوں اور عورتوں کے لئے بھی حکومت کو ایسے ہومس بنانے چاہئیں چلکا کہ دیکھنے والا ملک میں کوئی نہیں ہے۔ اس سے ہوگز مہدی مراد یہ نہیں ہے، مہرا مطلب یہ نہیں ہے کہ ملک میں تمام غریبوں کو لئے ایسا سامان کر دیا جائے۔ کیونکہ یہ کہا جاسکتا ہے کہ یہ ایک سخت پرالہم (problem) ہے اور کوئی آسان مسئلہ نہیں ہے۔ میں یہ نہیں چاہتا۔ میں یہ چاہتا ہوں کہ جن عورتوں اور مردوں کا دیکھنے والا کوئی نہیں ہے جو کہ کمانے کے لائق نہیں ہیں جو کہ اپنی بیماری کی وجہ سے یا عمر کی وجہ سے مجبور ہیں اور کوئی کام نہیں کر سکتے ان لوگوں کے لئے ایک فہرست تیار کی جاسکتی ہے۔ یہ کام اس طرح ہو سکتا ہے کہ اس طرح کی لسٹ (list) آپ ان تمام آرگنائزیشنس (organisations) سے مانگ سکتے ہیں جو کہ اس طرح کے کام اس دیش میں کر رہے ہیں اور اس کے علاوہ حکومت کی جو مشینری (machinery) ہے ان سے بھی ایسی فہرستیں مانگ سکتے ہیں۔ ایسی لسٹ کو مانگنے کے بعد حکومت دیکھے کہ ان عورتوں

اور مردوں کی تعداد کیا ہے جو کہ عمر کی وجہ سے یا کسی ایسی بیماری میں مبتلا ہونے کی وجہ سے مجبور ہیں کہ کسی طرح کا کوئی کام کر سکیں۔ تو ایسے لوگوں کے لئے حکومت کا فرض ہے کہ وہ اسی طرح کا ایک ہل لائے اور انکی مدد کرے تاکہ وہ اپنے دنوں کو آسانی کے ساتھ گزار سکیں۔

دوسری چیز جو میں عرض کرنا چاہتا ہوں وہ یہ ہے کہ سولہ برس کی عمر کے بعد بچوں کو آپ علیحدہ کر دیں گے۔ لیکن اس ہل میں آپ نے کوئی ایسا خاص پراویزن نہیں کیا ہے کہ علیحدگی کے بعد انکی کیا صورت ہوگی۔ آپ پانچ یا چھ برس کے لڑکے کو تو تعلیم کے لئے نہیں لیوگے۔ کم از کم بارہ تیرہ یا چودہ برس کی عمر کے بچے لئے جانیں گے تو آپ دو تین یا چار برس رکھنے کے بعد اور ان کو تعلیم دینے کے بعد علیحدہ کر دیتے ہیں۔ مہرے خیال میں دو تین یا چار برس میں کوئی صحیح تعلیم آپ نہیں دے سکیں گے۔ اسلئے اس کے بعد کے لئے بھی کوئی پراویزن ہونا چاہئے کہ وہ بچے حکومت کی نگرانی میں رہیں اور ان کی تعلیم و تربیت حکومت کی نگرانی میں ہو۔ اس کے ساتھ ساتھ میں یہ بھی عرض کرتا کہ جو نیگلیکٹڈ چلڈرن ہیں

[Syed Mazhar Imam.]

ان کو ملٹری تعلیم دی جائے تو وہ ملک کے لئے بہت فائدہ مند ہوگا۔ اگر وہ میڈیکلی فٹ (medically fit) ہیں تو انکو ملٹری تعلیم ضرور دی جانی چاہیئے۔ اس طرح سے ملک کے لئے اچھے سولجیئرس soldiers پیدا ہو سکتے ہیں جیسا کہ اور دوسرے ملکوں میں جو ہو رہا ہے کہ نیگلکٹیو لڑکوں کو حکومت اس طرح سے سپاہی بناتی ہے۔ میں کہتا ہوں کہ اگر وہ بچے میڈیکلی فٹ ہیں تو سب سے پہلے ان کو ملٹری تعلیم دی جائے تاکہ وہ ملک کے لئے اچھے سولجیئرس ثابت ہو سکیں۔ جو فیزیکی فٹ (physically fit) نہیں ہیں ان کو دوسری تعلیم دی جا سکتی ہے۔ لیکن جو کہ تندرست ہیں انکو ملٹری تعلیم ہی دینی چاہیئے۔ مجھے امید ہے کہ میری اس گولڈن پوائنٹ خاص دھیان دیا جائے گا۔

ان الفاظ کے ساتھ میں اس بل کو سپورٹ (support) کرتا ہوں۔

[For English translation, see Appendix VII, Annexure No. 227.]

SHRI M. SATYANARAYANA (Nominated): Mr. Deputy Chairman, this Bill appears to me to be a measure to be introduced as a kind of punitive Act in the case of children, delinquent as well as neglected. A number of hon. Members have already

stated, in their observations, the reasons for finding such a kind of neglected children. One of the reasons that I have found in my experience—many of which have already been given—is the influence of films on our children; the impact of the influence of films on our children nowadays is so great that they want even a kind of escapism from their natural surroundings to get a kind of satisfaction from the roles created in the scenes of these films. Most of these children are drawn from the villages. They gather in the cities and they create a problem and the Government is finding that problem rather a very difficult one to be solved and, therefore, such measures are brought for purpose of enactment for bringing such of those children who are found to be neglected and loitering in the streets under the care of the Government in the homes to be set up. But, my own feeling is that there are environments and environments, and some of the environments are natural to the children and some are not. Such children are brought to the cities on account of the influence of the cities and if they are found to be neglected or loitering, it should be considered whether such children should be kept in the homes even in the cities or that they should be sent back to their natural surroundings. My own view is that it is better, when these homes are to be started, that these homes are not started in the cities or in the urban areas. So far, the practice has been, as I have found in Madras, Bombay and in some of the big cities in U.P., to establish Children's Aid Societies, Juvenile Schools, Reformatory Schools, etc., in the cities. They must be started in the villages, in village surroundings, so that such of those who were born in the villages and who were brought to the cities on account of the various influences may be sent back there and the training and reformation offered in the surroundings in which they were born. This will avoid their suffering from the same impacts in subsequent years and pursuing the activities which were responsible for their becoming either neglected or criminal.

Another point that I want to bring to the notice of the House is about the films. Even in the films shown now we have got two classes of films, one is the 'A Certificate film' and the other is the 'U Certificate film.' A 'U' certified film is supposed to be universal and an 'A' certified film is meant for adults only.

Although the Government have passed an Act—and it is supposed to be strictly rigid in the matter of its enforcement—there does not seem to be any agency to see that that strict and rigorous enforcement of its Act is adhered to as according to the 'A' certificate it is expected that the children are not at all taken to these films but in a number of cinema houses it is found that the children are also taken and there is no agency to prevent it. The 'U' certificate films are supposed to be universal films. So the Government must also see that such of those films which are meant only for adults are not at all visited by the children as it becomes generally the ground wherein the children can be influenced and afterwards they begin committing crimes. The Education Ministry or the Home Ministry or whichever Ministry is responsible for it must see that this enforcement is made and the 'A' and 'U' classifications are strictly observed.

The third point that I wanted just to bring to the notice of the House is this. This Bill is intended to treat the influences on the children of the problems now in existence from the point of view of sociological background only. We have not taken into consideration the psychological and the physiological background which is largely responsible or rather to a very large extent responsible to this problem. I have heard mention being made of an expert committee on the basis of the report of which this Bill has been redrafted. It is not available for my perusal to find out what observations have been made therein on the basis of which this Bill has been redrafted. Anyhow a report should be

made available made by such experts who have specialized in understanding the problem of the children from the viewpoint of physiological and psychological background and then remedies should be found out of how exactly, either from the medical point of view or from other points of view, the children can be treated. Whatever findings are given by those committees they must not only be made available to those who legislate on this problem but they should also be largely circulated to the parents who can understand the problem and treat the children. After all the child gets spoiled on account of certain dissatisfaction and certain discouragement, certain urges which he is not able to get satisfied in the surroundings where he lives and so he wants to escape. These are mainly emotional reasons and at an age where emotions are not satisfied, they get astray. These emotional reasons are partly due to the parent's neglect and partly due to the society's neglect and some of these factors have to be taken into account before a child is declared as neglected or delinquent or a criminal. These things also have to be taken into account. Therefore the Ministry of Education, which is now piloting this Bill, will do well not only to go into the punitive measures that have to be taken into account for the purpose of reforming those children or keeping them under the proper care either of the parents or of the Government or the teachers, as is now being envisaged, but also in a general way as to how the parents should treat their children in such circumstances. A good account of it should be kept and a good report of it should be made and also a general survey has to be made and the results of that survey have to be circulated among the people so that real education to the parents may be given and the parents may take advantage of it and avail themselves of some of those results, learn and educate themselves to keep the children better than they are keeping now and it is only probably to avoid the evil effects of such kind of neglected children on the society and on themselves that this Bill is now being envisaged.

[Shri M. Satyanarayana.]

As far as the legal implication or the defects or the effect of the measures taken are concerned, I have nothing to say because many people have taken care of it. The only thing I would like to say is this that this should not be at all taken as a punitive measure and meant to punish the children by those who are in charge of administering this measure but it must be used as a kind of an educative and reformatory measure for which the necessary material, the necessary environment and the necessary resources should be given so that ultimately this kind of work entrusted to the police and entrusted to the courts may get reduced and ultimately this may prove to be a good measure for reforming the children.

With these words I support the Bill.

THE PARLIAMENTARY SECRETARY TO THE MINISTER FOR EDUCATION (DR. K. L. SHRIMALI): Mr. Chairman, before replying to the various points that have been raised in the course of the debate, I should like to thank hon. Members who have participated in the debate and have made very valuable suggestions. Most of the suggestions that have been made are with regard to the implementation of this Bill. I may assure the hon. Members that all the suggestions will be taken into full account while implementing this Bill.

Before I go into details there are one or two misunderstandings with regard to this Bill which I should like to clear at the very outset. It has been said that the police officer will take hold of a child as soon as he has committed an offence. Now I would like to invite the attention of the hon. Members to the definition of a delinquent child. There are two clauses 2(g) and 2(j). (g) says: "juvenile delinquent" means a child who has been found to have committed an offence other than an offence punishable with death or transportation for life" and (g) should be read with (j) which says: "offence"

means an offence punishable under any law for the time being in force with imprisonment or fine or with both but does not include an offence punishable with death or transportation for life". Now a child is to be regarded as technically delinquent when his anti-social tendencies become so grave that he becomes or ought to become a subject of official action. It is wrong to say that any offence would be considered as delinquency. A child becomes delinquent when he has committed an offence which the court should take into account. It would be wrong to ignore the breach of the law even if it is made by a child.

There is another misunderstanding with regard to this Bill. It has been asked: "Why should it be confined to Part C States only?" I would invite the attention of the hon. Members to the constitutional provisions and to entry 11 and entry 3 of the State List which makes this subject primarily relatable to matters in the State List, and it is for that reason that this legislation has been brought forward for Part C States only.

Then one or two hon. Members wanted to know whether legislation of this nature exists in other States also. There are several States, for example, Bombay, Madras, West Bengal, Madhya Pradesh, and Uttar Pradesh and they have some kind of legislation which deals with this subject.

SHRI D. D. ITALIA (Hyderabad): And in Hyderabad also.

DR. K. L. SHRIMALI: So it is in the Part B States of Mysore and Hyderabad, and Punjab is also considering a Children's Bill.

So in some of the States this kind of legislation already exists and it was very necessary to bring about legislation for Part C States.

Then, Sir, I will go into the details of some of the criticisms which have been made against this Bill. Now

criticisms of a general nature have been made from two sides, one from the front and another from the back. The frontal attack has been made by my friend Mr. Bhupesh Gupta and my friend Mrs. Menon has attacked from behind.

SHRI B. GUPTA (West Bengal): Then you are between the pincers.

DR. K. L. SHRIMALI: Shri Bhupesh Gupta in his criticism said that the approach of this Bill is of a procedural nature and said that this Bill does not take into account the social and economic factors.

Now, Sir, anybody who has made a study of juvenile delinquency knows that juvenile delinquency is not the result of one factor, but there are a multiplicity of factors which contribute to delinquency. One of the eminent authorities, Sir Cyril Burt, who was a Professor of Psychology in London University, made a very systematic study of juvenile delinquents and he came to the conclusion that there were about 170 distinct conditions which contribute to juvenile delinquency. There were certain major factors and some minor factors. I am going into details with regard to this question, because the main criticism against this Bill has been that unless we improved the economic conditions of the country the problem of juvenile delinquency will not be solved. Now, my submission is that economic condition is an important factor but it is not the only factor. Among the conditions under which juvenile delinquency takes place there are firstly hereditary conditions. A child may be born with certain physical or intellectual defect. Then there are certain temperamental conditions which are inherited and which may contribute to delinquency.

SHRI S. MAHANTY (Orissa): Is delinquency congenital or acquired?

DR. K. L. SHRIMALI: It is both.

SHRI S. MAHANTY: How can it be both?

DR. K. L. SHRIMALI: There are certain hereditary conditions which a child inherits, and there are certain environmental conditions also which contribute to delinquency. In certain cases the hereditary condition is the major factor while in certain cases the environmental condition is the major factor. Among the environmental conditions, there are conditions within the home that contribute to delinquency, such as poverty in the home, or defective family relationship. It has been found that a large number of delinquents come from homes where the children are not properly adjusted in the family. One of the great desires of children is to get affection and sympathy from parents. If the home is broken, if the domestic life of the parents is not satisfactory, if they are emotionally not properly adjusted, then the children of that family will be problem children. Then there may be defective discipline in the home. Outside the home also there may be conditions which may not be very congenial. The children may not get satisfaction of the desires for adventure and there may not be adequate recreational facilities. Thus it will be seen that there are various kinds of conditions which contribute to delinquency. An interesting study was made by the same author with regard to the order of importance of these various conditions and I will read out to the House that order of importance of the conditions which contribute to delinquency. They are—defective discipline, specific instincts, general emotional instability, morbid emotional conditions, a family history of vice and crime, intellectual disabilities such as backwardness or dullness, detrimental interests, developmental conditions such as adolescence or precocity in growth, a family history of intellectual weakness, a defective family relationship, absence of a father or presence of a step-mother, influences operating outside the home such as bad street companions, and lack of or excess of facilities for amusement, a

[Dr. K. L. Shrimalkar] family history of temperamental disorder, a family history of physical weakness, poverty and its concomitants, and physical infirmity. So poverty and poor economic conditions come at the bottom as the 14th item in the list of these 15 general conditions. Now, I do not in any way wish to minimise the importance of the economic factor. Very often of two children coming from a poor home one becomes a delinquent and another develops into a normal child. So there must be some other reasons than mere poverty which contribute to delinquency. Material conditions are far less important than moral conditions. Very often you will find that a poor home where a certain discipline is maintained, where the family life is satisfactory, where the parents are properly adjusted, where there is harmony inside the home, will not produce a delinquent child. On the other hand, in a prosperous home the family might be very well off and there might be all the amenities of civilised life, but if the child is not getting satisfaction of his natural urges such as affection and sense of security, he may become delinquent. So material conditions such as poverty are far less important than moral conditions.

Another question was raised by my friend Shri Bhupesh Gupta as to why in a poor country like ours the parents should be asked to pay fine. I wish to submit that even in a poor country like ours parents must understand that they have responsibility towards their children. I think it is the greatest crime for a parent to produce a child and not to take care of him. Most of the children, who become delinquent, become so not because of any of their faults but because of the fault of their parents. One of the eminent educationists in England pointed out that there is no problem child but there is only the problem parent. If there are problem parents, there is no reason why the law should not take cognisance of their negligence and punish them. Even in Soviet Russia--

I do not know the present conditions-- before the last war whenever a child had any complaint about the treatment of the parent, the child could go to the authorities, report to them and get the parent punished. Therefore I do not see any reason why a parent should not be punished when he has committed the offence of neglecting the child.

My friend Shri Bhupesh Gupta also pointed out that there should be private institutions also to receive children. I would invite his attention to clause 7(2) and clause 8(2) which make provision for institutions other than Government institutions. Of course it is important that the institutions should be certified by the Government. We must remember that we are dealing not with normal but with abnormal children. They have committed some crime and it is very important that any institution that takes care of such children should have specialists on their staff who have full knowledge of the child's mind and who can guide the children and take care of them in a proper way.

Then, Sir, some points were raised by Prof. Wadia. He said that as regards the 'neglected child', the definition was faulty. He suggested that certain words such as there are in clause 2(h) (i)—"whether or not there is any pretence of singing, playing, performing, or otherwise"—these words, according to him, should be deleted from this clause. His main argument was that if a child is begging or receiving alms under the pretence of singing, playing or performing, there is no reason why it should be punished; it should be considered as legitimate means of earning livelihood. I wish to submit, that in order to make our children good citizens, it is very important that they should develop self-respect. The sentiment of self-respect has been found to be the most important sentiment in the development of character. A child who goes about begging in the streets, whether it may be under the pretence of singing or not, loses all sense of self-respect. And, once a child loses self-respect he

will not develop moral sense, and this is a sure way of making the child delinquent. I think, it is very important that a child should not be allowed to go about begging in the streets, even under the pretence of singing, or playing or performing.

Then, certain points were made by Shri Rajendra Pratap Sinha. He said no organisation to help parents or educate parents for preventing delinquency exists in the country. Now, it must be remembered that this Bill has a very limited scope. The main purpose of this Bill is to deal with neglected and delinquent children. If we wish to prevent delinquency, we shall have to create conditions which will change the social and economic structure, educate the parents, improve family life, create better human beings and so on. This is a big task and a task which deals with the improvement of the whole of humanity. It will be wrong to wait till all the parents have been given education and till the whole society has been reformed. Here, the problem is urgent; a child has committed an offence under the existing law and a child is being neglected and is on the point of becoming delinquent. Immediate action has to be taken to restore that child to normal citizenship. I agree that alongside the efforts of the State, voluntary organisations will have to take part in creating favourable conditions so that delinquency might be prevented. In the countries where this Bill is operating, there are a large number of social welfare organisations and voluntary agencies do all kinds of social work in order to prevent delinquency. I hope, Sir, in this country also, there will be full co-operation of the State and voluntary organisations.

11 A.M.

Shri Rajendra Pratap Sinha also wanted us to give more deterrent punishment to the parents. Parents, he thought, have a greater responsibility and therefore they ought to be fined more heavily. Sir, clause 21 of the Bill, already provides for this and the court has power to order the parent to pay fine. We fully recognise that

19 CSD.

parents have a certain responsibility for children and they must be made to realise that they cannot continue to neglect the children and expect to be left scot-free.

Certain suggestions have been made by Shri Rajendra Pratap Sinha. He said that we have made a mistake by providing children's homes and special homes at the same time. In his opinion, separation of neglected children and delinquent children was unnecessary. We have made it quite clear that we wish to treat the neglected child and the delinquent child separately. The reason is that the neglected child is not a delinquent child. The neglected child has been neglected by the parents and by the society; and the court comes in to protect the child so that he might not become delinquent. He may be a potential delinquent. But, a neglected child is not yet a delinquent, and it will be quite wrong to keep both the children in the same house or in the same institution. After all, we should not forget that a delinquent child is a criminal; he has committed a crime; and therefore the delinquent child and the neglected child should not be treated on the same basis.

Then, another objection raised by Shri Rajendra Pratap Sinha and several other Members was that there should be honorary magistrates as well as salaried magistrates. They raised objection to our appointing only salaried magistrates. We have to be very careful in dealing with children. Any negligence on the part of magistrates may do great harm to the child. After all, if any honorary magistrate neglects his duty, nobody can take him to task; but a salaried magistrate cannot in any way be expected to neglect his duties. It is with a view to give greater responsibility to the magistrate that this provision has been made. We hope that the salaried magistrates will be more efficient, more responsible, and in this way it will help the children in a better way.

My hon. friend, Shri Dhage, raised one point with regard to victimised

[Dr K L Shrimali]

children. The same point has also been raised by Shrimati Violet Alva. According to them this Bill should have brought under it the victimised children also. In my opinion, Sir, it would be wrong to treat the victimised child in the same way as we treat the neglected child or the delinquent child. The victimised child is neither a neglected child nor a delinquent one. If, somebody has raped a child or done some wrong to the child, the child is not responsible for it and there is no reason why the child should be brought to an institution. We have provision under the ordinary criminal law of the land to punish the person who has done wrong to the child, but as far as the child himself is concerned, he is a normal person. The child should be made to live under normal conditions, he has to continue to grow as a normal child, and there is no reason for bringing that child under the jurisdiction of the Children's Act.

Shri Prithviraj Kapoor and several other Members said that unless there is parents' education, we shall not be able to prevent juvenile delinquency. I agree with this position. And as I have just now said, efforts to educate the parents and the public have to continue if we wish to prevent juvenile delinquency. I might also say that the function of educating people should not be the sole responsibility of the State. People also must share that responsibility. And if we, the Government and the public, realise our responsibility towards children, there will be less number of delinquents.

Some suspicion has been expressed with regard to the police officers. Shrimati Maya Devi Chettry and several other Members said that it was wrong to ask the police officers to take charge of the children. It is true that many of our policemen are not very much educated and they do not understand the psychology of children. They are not psychologists. But at the same time when we are making strenuous efforts to build up respect for the police and for the Administration it is wrong

in my opinion, to criticise the police always. If we wish to build the morale of police, it is also important that we should respect them for the duty which they are performing. I think it is ungracious to hurl criticism against the police day in and day out.

Some points have been raised by my friend, Shri Tankha. And one of the points that he raised was that there must be at least two ladies in the court, if not three. Now clause 4(2) provides that, as far as practicable, one of them shall be a woman. Nothing in this clause prevents us from appointing more than one woman. I agree that as far as possible there should be women in the children's court because they are more sympathetic, they understand the psychology of children better, they can always understand their needs. And therefore as far as possible, there must be one woman. But if more are available, I think, nothing in this clause will prevent us from appointing them. And I hope, Sir, that as far as possible more women will be appointed for this work.

Then, Sir, Shri Tankha also suggested that if a child is neglected, then he might either himself or through his own friend go and complain to the competent court that his parent ill-treats him or exercises improper control over him. I think, Sir, it is introducing a very dangerous principle in allowing the child to make the complaint himself. In the first place, there is no need for a child to do this because social workers will always be available, to whom the child can go and confide. It is not necessary for him to go to the court to make a complaint. And in the second place, Sir, I think it undermines the very basis of relationship between the child and the parent, if we allow him to go and make complaints against his own parents. And it undermines the very authority which sometimes helps in maintaining order and discipline. In my opinion, therefore this power should not be given to the child.

He also suggested that some provision should be made for making a second appeal to the High Court. The Select Committee considered this question very carefully and they said that this should not be permitted as there is no second appeal provided for in the criminal procedure. We should also remember, Sir, that the purpose of the children's court is not to punish the child, but to protect him and to treat him. When a child is brought to the children's court, the court plays the role of the parents, and no punishment is given to the child when he is kept in a home or in an institution. The whole purpose of the children's court is to treat the child and to guide him properly so that he might be protected from all kinds of evil influences.

Then some criticisms were made by my friend, Mrs. Menon. She said that we have not made any difference between crime and offence. I think she has also misunderstood the whole purpose of the clause. I have already explained that a child would not be taken charge of by the children's court for an ordinary offence. He must be a habitual offender, an offender under law. So there is a clear difference between crime and offence. Mrs. Menon and several other Members suggested that it was no use making legislation for delinquent and neglected children unless we also introduced legislation for the education of normal children. Now I am afraid, Sir, I do not agree with this view. I do not in any way underrate the importance of providing free and compulsory education in our country as provided in our Constitution. I think it is the right of every child to be in the school, and the State has made that provision. But we must also remember that educational development can take place only when there is proper economic development. We must have adequate funds in order to bring all the school-going children in the educational institutions. And at present the fact is that our State Governments are finding it extremely difficult to bring all the children in the schools, and I am quite sure, Sir, that as soon as funds are

available, necessary legislation would be introduced to implement the Directive of the Constitution. At the same time I feel that this measure is urgent. We cannot allow our children to grow into delinquents. I have already explained that delinquency is the result of not only poverty or economic factors or lack of education, but there are various causes which contribute to delinquency.

Once a child becomes a delinquent, no society in its interest or in the interests of the State, can allow that child to continue to become a criminal. He has to be protected and some provision has to be made so that he might not be lost to the society.

Then, Sir, one Member—I think it was Mr. Gupta—suggested that we should drop the idea of making provision for neglected children and only deal with delinquent children. I think it is as important to deal with neglected children as it is to deal with delinquent children. A neglected child is a potential delinquent. If he continues to remain neglected, if he continues to live a frustrated life, if he continues to feel insecure, in course of time he is sure to become a delinquent and this is a measure to prevent his lapsing into delinquency.

Some Members have suggested that we should have separate provisions for neglected and delinquent children. If they had only carefully gone through the Bill, they would have seen that the Select Committee has been very careful in making a distinction between neglected children and delinquent children.

Now, one Member just now pointed out that the Bill only provides punitive measures and that we have made no provision for the treatment or for the proper guidance of the children. I think this is an altogether complete misunderstanding of the provisions of the Bill. Children's courts are being provided, as I have already said, not for punishing the children but for treating them and protecting them from evil influences.

[Dr. K. L. Shrimali]

In the end I would like to thank all the hon Members once again for having shown great interest in this Bill and for having participated in the discussions. I would like to say in the end that it would be a great mistake to throw the whole responsibility on the State for the education of children. Parents must also understand their responsibility. The State will not shirk its responsibility as far as it lies in its power and, as far as economic resources permit. The State will exercise its responsibility, but at the same time let us remember that education is as much the responsibility of the people as it is of the State. Thank you

MR DEPUTY CHAIRMAN: The question is.

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

The motion was adopted.

MR DEPUTY CHAIRMAN: We shall now take up the clause by clause consideration of the Bill. There are no amendments to clause 2.

Clause 2 was added to the Bill.

MR DEPUTY CHAIRMAN: The motion is

"That clause 3 stand part of the Bill"

There are two amendments.

PANDIT S. S. N. TANKHA (Uttar Pradesh) Sir, I do not want to move my amendment to clause 3 because the hon mover has incorporated my amendment in the change he has now proposed in clause 3 and which the hon the mover of the Bill now proposes to be substituted for clause 3 as reported by the Select Committee

MR DEPUTY CHAIRMAN: There is an amendment by Dr Shrimali himself.

DR K L SHRIMALI: Sir, I move:

15 "That at page 3, for the existing clause 3, the following be substituted, namely:—

'3. Continuation of inquiry in respect of a child who has attained sixteen years—If any person, who has not attained the age of sixteen years at the time of the initiation of any inquiry regarding him under this Act or at the time when he is taken charge of in connection with such inquiry, attains the age of sixteen years during the course of such inquiry, he shall be deemed to be a child for the purposes of this Act and the inquiry may be continued and orders may be made in respect of such person under this Act as if such person is a child, notwithstanding anything to the contrary contained in this Act.'"

MR DEPUTY CHAIRMAN: The question is:

15. "That at page 3, for the existing clause 3, the following be substituted, namely:—

'3 Continuation of inquiry in respect of a child who has attained sixteen years—If any person, who has not attained the age of sixteen years at the time of the initiation of any inquiry regarding him under this Act or at the time when he is taken charge of in connection with such inquiry, attains the age of sixteen years during the course of such inquiry, he shall be deemed to be a child for the purposes of this Act and the inquiry may be continued and orders may be made in respect of such person under this Act as if such person is a child, notwithstanding anything to the contrary contained in this Act'"

The motion was adopted

MR DEPUTY CHAIRMAN: The question is.

"That clause 3, as amended, stand part of the Bill"

The motion was adopted

Clause 3, as amended, was added to the Bill.

MR DEPUTY CHAIRMAN: The motion is:

"That clause 4 stand part of the Bill."

There are three amendments.

PANDIT S. S. N. TANKHA: Sir, I move:

2. "That at page 3,

(i) in line 40, after the words 'senior magistrate' a full stop be inserted; and

(ii) in lines 40-41, for the words 'and one of them shall, as far as practicable, be a woman' the words 'Such magistrates shall, as far as practicable, be women' be substituted."

3. "That at page 3, lines 47-48, after the word 'magistrates' the words 'provided that such magistrate has taken part in the proceedings of the case at one stage or the other' be inserted."

4. "That at page 4, at the end of line 2, the words 'but no final order in the case shall be passed under the signature of one magistrate alone' be added."

MR DEPUTY CHAIRMAN: The clause and the amendments are now open to discussion.

PANDIT S. S. N. TANKHA: Sir, my first amendment to this clause is to the effect that after the words "senior magistrate"

MR. DEPUTY CHAIRMAN: You can speak on the amendments. There is no need to quote them.

PANDIT S. S. N. TANKHA: I have asked for an amendment to the effect that as far as practicable women should be associated in this work and that they be appointed on the Children's courts, as far as practicable. I have already put forth my point of view on this subject yesterday. The reply

which the mover of the Bill has given today is to the effect that, according to him, there is no restriction on the appointment of women as magistrates under sub-clause (2) of clause 4. My reading of the sub-clause is this: It reads as follows:—

"A children's court shall be presided over by a magistrate or a Bench consisting of two or more magistrates as the State Government thinks fit to appoint"

It is true there is no restriction here, but the clause further proceeds:

".....and where a Bench is so constituted, one of the magistrates shall be designated as the senior magistrate and one of them shall, as far as practicable, be a woman"

These words, I think, do restrict the appointment of ladies only to cases where a Bench is constituted, but where no Bench is constituted and where there is only one single magistrate, these words bar to my mind, the appointment of women. According to my interpretation, this would restrict the appointment of women, but if my interpretation is incorrect and it is permissible for the State Government to appoint ladies even where the court consists of one magistrate only, then too I see no reason why my hon. friend, the mover of the Bill, should have any objection to the inclusion of the words which I have suggested and which will make that sense clearer and make the clause more sensible and clear on the point. The words which I substitute are:

"Such magistrates shall, as far as practicable, be women"

Where is the objection to this? If they are not available, they will not be appointed, but where they can be made available, they should be appointed. Therefore, I see no reason why the hon. mover should object to the inclusion of these words. If, Sir, he is really in favour of the appointment of women he should agree to my amendment. If he is against it, he can, of course, object to it. Otherwise

[Pandit S. S. N. Tankha.]
there is no reason to object to my amendment.

Then the other amendments which I have proposed to this clause are in respect of sub-clause (4). This sub-clause says:

"A children's court, where it is presided over by a Bench of magistrates, may act notwithstanding the absence of any of the magistrates and no order made by the Bench shall be invalid by reason only of the absence of any of the magistrates during any stage of the hearing of the proceeding."

According to me, this clause is capable of being read to mean that where a Bench is constituted, even though one of the magistrates does not participate in the proceedings at any stage of the case, this sub-clause validates those proceedings although the other magistrate has not sat on the Bench even for a minute. I think that is a very wrong thing to do. Unless the two magistrates have sat on the Bench and have considered that case at one stage or the other, it would not be right for us to validate those proceedings where only one magistrate has really taken part. So I have proposed in my amendment that these words be added:

"provided that such magistrate has taken part in the proceedings of the case at one stage or the other."

Now, if I am right in thinking that this sub-clause is capable of being read in the manner I read it, and that under it, it is possible that in a Bench of two Magistrates, even though a certain magistrate may not take part at any stage of the proceedings, the proceedings would still be considered valid. I have, therefore, suggested that the above words may be added and as a consequence of that change, I have also suggested that the following words be added further:

"but no final order in the case shall be passed under the signature of one magistrate alone."

I know that in one sense it may not be necessary to have these words added because it will be said that when a Bench is sitting or when a Bench is constituted, there can be no final order unless it is signed by both the magistrates. I do recognize that this argument has some force and therefore it may not be necessary to add the words I have proposed, but all the same, if these words are added, I think it will make the position more clear and no harm will be done by the inclusion of those words.

SHRI B. GUPTA: Sir, I rise in support of these amendments because they all seem very reasonable. Since the Parliamentary Secretary in charge of the Bill has stated that he desires that women should be associated with this type of work, I think there should be an express provision, at least a provision which goes to encourage such appointments. After all there is some anti-feminist attitude on the part of people in high places and the tendency is not to give much credit to the women or to associate them with such work. Therefore in the light of our experiences and the realities, it is better that we have an express provision.

With regard to the other two amendments, it is very right that all magistrates who may be dealing with such cases should apply their minds and discuss the matter from all angles more especially from the humanitarian angle.

Then the other amendment that has been suggested is also a very apposite one in this particular case. I don't see any reason especially why these two should not be accepted. After all they are coming from their own side and they should not be so very touchy about these amendments as they may be when they come from us. I hope the hon. Member in charge of this Bill will find reasons to accept all the amendments.

SHRI P. T. LEUVA (Bombay): Sir, I rise to oppose all the amendments which have been moved by my hon.

friend Pandit Tankha. The idea in moving the amendments was that under this clause, Mr. Tankha is under the impression, that women are debarred from becoming Members of a Bench. He wants that instead of the singular used in the original clause, plural should be used. The idea underlying the original clause is that as far as practicable one of the Members should be a woman but this does not prevent the Government from appointing both Members of the Bench from women. Therefore there can be no necessity for the hon. Member to move this amendment because the idea is that as far as practicable, women should be appointed as Members of the Bench.

The second consideration would then be, suppose there is no Bench, and where one person is presiding over the court, whether a woman is debarred from becoming a Member of that Court. There is no justification for thinking that the woman cannot become a magistrate to preside over the Children's Court singly and therefore the apprehension in the mind of Shri Tankha could very well be removed if he refers to sub-clause (5) wherein it is stated that "No person shall be appointed to preside over a children's court unless he is a magistrate of the first class and has, in the opinion of the State Government, special knowledge of juvenile delinquency and child welfare."

Therefore any person can be appointed; it is quite immaterial whether that person is a man or a woman, but that person should have knowledge about juvenile, delinquency and child welfare. Therefore there is no force in the amendments moved because they are redundant and they are implied in the clause itself because a woman is not prevented from becoming a magistrate in a single court. There is therefore no necessity for these amendments and I oppose them.

PANDIT S. S. N. TANKHA: On a point of explanation. My friend has entirely misunderstood me.

MR. DEPUTY CHAIRMAN: The hon. Member cannot speak for the second time.

PANDIT S. S. N. TANKHA: I am explaining what I have said. He has misunderstood me. I did not say that if a Bench is constituted there cannot be two lady magistrates because in the clause there is clear provision that where a bench is constituted, one of them may be a lady... ..

MR. DEPUTY CHAIRMAN: At least.

PANDIT S. S. N. TANKHA:..... which means I admit that it is capable of meaning and will mean that both of them can be lady magistrates. I admit it and it is not my contention at all that two or more ladies cannot be appointed on a Bench, but what I have said is that the former part of this clause precludes the appointment of ladies. In other words where a Bench is not constituted but only one judge is appointed, I submit a lady will be precluded from being appointed a magistrate.

DR. K. L. SHRIMALI: Sir, I think the point that has been raised by my friend Shri Tankha has already been dealt with by my friend Mr. Leuva and it is not necessary to deal with it in great length. I have already explained that as far as the provision of this clause is concerned, it does not prevent the Government from appointing more than one woman in the Bench. I agree that women are more useful in the Children's Court than in ordinary courts, but at the same time we must also remember that in a Children's Court they may have to deal with both boys as well as girls. There must be some men also to deal with the problems of the male delinquents. I think as far as possible the Board should consist of both men and women but there must be at least one woman so that if there are children of the female sex, they can be dealt with by the woman magistrate.

MR. DEPUTY CHAIRMAN: Do you wish to press your amendments, Mr. Tankha?

PANDIT S S N TANKHA As I cannot convince my hon friend, there is no use putting them to vote I beg leave to withdraw my amendments

*Amendments Nos 2, 3 and 4 were, by leave, withdrawn

MR DEPUTY CHAIRMAN The question is

"That clause 4 stand part of the Bill"

The motion was adopted

Clause 4 was added to the Bill

MR DEPUTY CHAIRMAN The motion is

"That clause 5 stand part of the Bill"

PANDIT S S N TANKHA Sir, I move

5 "That at page 4, line 18, the word 'salaried' be deleted"

SHRI B GUPTA Sir, I move

6 "That at page 4 after line 18, the following be added, namely —

'(d) any social worker who may be appointed in that behalf'"

MR DEPUTY CHAIRMAN Clause 5 and the amendments are open for discussion

PANDIT S S N TANKHA Sir, I made my submission yesterday on this point also, but I find that the hon mover while giving a reply today, has not met my argument. I had submitted yesterday that I failed to understand why in the making of the appointment of magistrates for children's court no provision has been made for appointment of salaried magistrates, if it is the belief of the hon mover that honorary workers are not suitable for such work. If it has not been considered necessary to have salaried magistrates where the Children's Courts are established why is it that where the Children's Courts are not constituted and the work is left to be done by other magistrates, it should

be found necessary to entrust it to salaried magistrates only? I fail to understand it and I particularly note that this part of my argument has not been answered or met by my hon friend. Therefore I press that this word "salaried" be removed from sub-clause (c) of clause 5. By the removal of this word, as I submitted yesterday, it would not be incumbent upon the State Governments to appoint only honorary workers but they will be at complete liberty to appoint whomsoever they like. The only difference would be that the restriction which is imposed by the presence of the word 'salaried' would be removed and they would be at liberty to appoint either honorary workers or salaried magistrates, as they may deem fit and proper

SHRI B GUPTA Sir, sub-clause (2) of clause 5 of the Bill deals with places where there are no children's courts and it has been provided in this sub-clause that in such places certain magistrates will be appointed to deal with such cases. My amendment adds to this list of persons by providing that any social worker who may be appointed in that behalf may also be included. It was pointed out by some hon Members of this House that this is not necessary. But why I say that social workers may be appointed in this behalf is this. I am not quarrelling with the provision that exists here, for appointing suitable magistrates, who are available and who are kindhearted and have a humanitarian approach—though I do not think all magistrates have got that kind of an approach. If suitable magistrates could be found and appointed, I have no quarrel over the matter. But what I say is, since it is a matter of social reform, a matter of dealing with cases where you do not have merely a procedural approach or a legalistic approach, but where you should have the human approach, social workers should be associated. Of course, it may be argued that such workers may not have experience of dealing with such cases, that they do not have the necessary legalistic experience, the

*For text of amendments, vide col 4459 *supra*

procedural experience etc. etc. But Sir, in our country, we all know that there are honorary magistrates appointed without taking into account their legal qualifications. Public men have been appointed to such posts and they have been dealing with cases which involve law and procedure. If that is so, then in this particular case there should not be any departure from that principle. All I say is that social workers should be appointed, and if they lack legal knowledge or procedural knowledge, that deficiency would be more than made up by the other qualities that they possess. Therefore, I think this amendment of mine will commend itself to the hon. Member in charge of this Bill, in which after all, he is trying to view this matter from the humanitarian angle.

SHRI P. T. LEUVA Sir, I rise to oppose the amendment moved by Shri Bhupesh Gupta. My hon. friend seems to have misunderstood the provisions of clause 5. He will observe that clause 4 deals with the establishing of children's courts. And then in clause 5, provision is made to the effect that where no children's courts are constituted, ordinary courts will have the power to deal with all proceedings under this Act. That means that these courts are already functioning. It will not be a question of appointing or creating a special court in a district. It is only a question of giving the work to the court already functioning there. Therefore the question of appointing a social worker would not arise. That would be creating a special Children's Court in that particular district. Therefore this amendment to clause 5 is not necessary, because that appointment will have to be made under clause 4. Therefore I oppose this amendment.

DR K. L. SHRIMALI: Sir, I have already dealt with these points in my earlier reply and I would only repeat what I have said. I oppose the amendment. I have said that as far as possible this work should be entrusted to salaried magistrates only and the reason I gave was that they would

work with greater responsibility. We are dealing with delinquent children and it would be quite wrong to entrust the work to persons on whom we may not be able to exercise full control. It is for the purpose of protecting the children and for taking immediate action that this provision has been made. Therefore, I have to oppose his amendment and I hope my hon. friend will not press it.

MR DEPUTY CHAIRMAN: And about the other amendment? That moved by Mr. Gupta?

DR K. L. SHRIMALI: Sir, I do not accept that amendment also.

PANDIT S. S. N. TANKHA: I do not press my amendment.

SHRI B. GUPTA: I too do not press my amendments, Sir.

*Amendments Nos 5 and 6 were, by leave, withdrawn.

MR DEPUTY CHAIRMAN: The question is:

"That clause 5 stand part of the Bill."

The motion was adopted.

Clause 5 was added to the Bill.

MR DEPUTY CHAIRMAN: There are no amendments to clauses 6 and 7.

Clauses 6 and 7 were added to the Bill.

MR DEPUTY CHAIRMAN: The question is:

"That clause 8 stand part of the Bill."

There is one amendment and it stands in the name of Shri B. Gupta. Do you move it?

SHRI B. GUPTA: Yes, Sir. I move:

7. "That at page 5, after line 7, the following proviso be added, namely:—

'Provided that an advisory committee consisting of social workers and other citizens commanding the confidence of the

*For text of amendments, *vide* col. 4465 *supra*.

[Shri B Gupta]

public shall be appointed to these schools.”

Sir, clause 8, as you will see, deals with the setting up of schools for treating delinquent children. There are also certain other provisions with regard to this aspect. I submit that wherever you have such schools there should be attached to them advisory committees consisting of social workers, and citizens commanding the confidence of the public. In all probability it will be argued that this is redundant and unnecessary. But my point is that the treatment of delinquent children, as has been pointed out by many speakers, involves a broad social approach. It is a question of healing, so to say, some social deformities. So the whole work should be placed under the view of the society and people should be associated with the treatment of such children. From our experience of borstal schools, as they were called in the British days, where some delinquent persons were kept, where such child offenders were kept, we find that much of its good purpose was defeated because the practice ultimately became the bureaucratic one. Those who got into such institutions to administer them lacked the human approach, forgot the social view of the matter and degenerated so to say, into a kind of a bureaucratic machine and they treated the children in the same way as criminals were treated in the jails.

My own view is that even in the prisons the criminals should not be treated in the way that they are treated now in our country. There also the object should be one of social reform, of changing human beings. Now Sir, in such a case, therefore, it is all the more reason that an advisory committee should be appointed. It will give them a number of advantages, firstly, local people having local experience of surroundings and of the ways of life will be in a position to give advice in the running of the school, secondly, there will be a check on any bureaucratic approach or

method, and thirdly, the children will have also the feeling that they are being looked after not merely by certain officials or certain people who are directly and closely associated with the school or who are in the administration of such schools, but also by the broader section of the public. That would be a very healthy feeling and it would generate a very healthy atmosphere in the schools and will be looked upon by the children as something which is very very beneficial. Therefore, I would suggest that my amendment be accepted. After all, many Government institutions of this nature do have certain advisory bodies attached to them, and I do not see any reason why such arrangements should not be adopted when we know that this would undoubtedly prove beneficial.

SHRI P T LEUVA Sir, I oppose this amendment. The reason is very plain.

SHRI B GUPTA That role has been cut out for the hon Member.

SHRI P T LEUVA Sir, in the Bill itself, Government is given powers to make rules under clause 52. If you refer to sub-clause (e) of clause 52—Functions and liabilities of special schools, children's homes and observation homes—you will find that in order that the management of the school or the children's home may be carried on properly, Government would make rules for that purpose. If the amendment of my hon friend is accepted, there would be another difficulty which I envisage. Now the amendment says, "Provided that an advisory committee consisting of social workers and other citizens commanding the confidence of the public shall be appointed to advise on the work of each of these schools." Now, who will decide the question as to whether a particular person who has been appointed as a member of the advisory committee commands the confidence of the public or not. Shall we have an election for this purpose or

SHRI B. GUPTA: We shall sit as reasonable men across the table and discuss it.

SHRI P. T. LEUVA:.....appoint somebody ourselves because then my hon. friend will come every now and then and say that the persons who have been nominated to the advisory committee do not command the confidence of the citizens because they do not command his confidence. Therefore, Sir, there would be greater room for dispute and in the end it is very likely that the interests of the home itself would suffer. My hon. friend should not show any distrust in the Government itself which Government is likely to appoint the advisory committee for the purpose of managing the children's home or the special schools. I do not, therefore, see any reason why this amendment should have been moved at all because power is already there under the rule making powers in clause 52.

SHRI B. GUPTA: Sir, may I make one point clear?

MR. DEPUTY CHAIRMAN: You have no right of reply.

SHRI B. GUPTA: I am only clearing up one point. I am not making a reply. He is under a misapprehension.

MR. DEPUTY CHAIRMAN: Order, order.

DR. K. L. SHRIMALI: Sir, I am afraid, my friend Mr. Bhupesh Gupta is under a grave misapprehension. In the first place, he thinks that whatever Government does will always be wrong and whatever is done by public bodies will always be right. Mistakes can be made both by Government as well as by the public bodies.

SHRI B. GUPTA: Therefore, I put the two together.

DR. K. L. SHRIMALI: In this case, the Bill provides that the State Governments will have the power to make further rules with regard to the internal management of these special schools

and homes. There is, Sir, one danger. I think this is a matter of detail which the State Governments will decide but personally I am opposed to the appointment of advisory bodies for dealing with these special schools.

SHRI B. GUPTA: My amendment is not for an advisory body running the school.

MR. DEPUTY CHAIRMAN: Order, order.

DR. K. L. SHRIMALI: The reasons are that if there are such advisory bodies it is quite likely that they may come in conflict with each other and the interests of the children's home may suffer. It is very important to take the help of the public bodies for the benefit of the delinquent and neglected children but outside the educational institutions there will be a good deal of scope for the public bodies to work for the benefit of these children. I would, therefore, request my friend not to press this amendment.

SHRI B. GUPTA: After hearing the speech of the hon. Member there, I press it, Sir.

MR. DEPUTY CHAIRMAN: You want to withdraw it?

SHRI B. GUPTA: No, Sir, I press it.

MR. DEPUTY CHAIRMAN: The question is:

7. "That at page 5, after line 7, the following proviso be added, namely:

'Provided that an advisory committee consisting of social workers and other citizens commanding the confidence of the public shall be appointed to advise on the work of each of these schools'."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 8 stand part of the Bill."

The motion was adopted.

Clause 8 was added to the Bill

MR DEPUTY CHAIRMAN: We now take up clauses 9 and 10. There are no amendments.

Clauses 9 and 10 were added to the Bill

MR. DEPUTY CHAIRMAN: The motion is:

"That clause 11 stand part of the Bill."

PANDIT S. S. N. TANKHA: Sir, I move.

8. "That at page 6, line 15, after the words 'parent or guardian' the words 'or other fit person' be inserted."

MR. DEPUTY CHAIRMAN: The amendment and the clause are open for discussion.

PANDIT S. S. N. TANKHA: Sir, you will see that this clause deals with the production and custody of the neglected children before they are brought before the competent court. Sub-clause (4) of this clause says that every child taken charge of under sub-clause (1) shall, unless he is kept with his parents or guardian, be sent to an observation home (but not to a police station or jail) until he can be brought before a competent court. Now, it is a very salutary rule whereby it has been provided in this sub-clause that the child shall not be sent to a police station or a jail. It is also well that provision has been made in this clause that the child may be placed in the custody of his parent or guardian but two difficulties occur to my mind regarding the working of this sub-clause. The first is that the State Governments, under the existing provision in this Act will be compelled to establish children's homes in every district because if that is not done, it will mean removing the child from one district to the other which will be a very difficult job to do and, moreover, will cost time and money both. Now, if the homes are to be established in every district then it will mean cast-

ing a great financial burden on the State Governments because the establishment of a home in every district means a considerable expenditure. Therefore, I have suggested a very harmless and I think a very proper amendment to this sub-clause. I have suggested that after the words "every child taken charge of under sub-clause (1) shall, unless he is kept with his parent or guardian", the words "or other fit person" be added. Now, Sir, it is possible that the child may have to be taken from the custody of the parent or guardian himself—the complaint may have been made to the police that it is the guardian or the parent who is either ill-treating him or is neglecting him or is conducting him in such manner as to render him liable to be taken charge of under this Act—and the police take charge of that child. In such cases, the police cannot naturally entrust the child to the same parent or guardian against whom complaint has been made and, therefore, unless some other agency is provided for keeping the child for the time being until he is brought before the competent court, I do not see what is to be done to the child except to send him to the children's home wherever it may be situated.

MR DEPUTY CHAIRMAN: Who is to decide whether a person is a fit person or not?

PANDIT S. S. N. TANKHA: 'Fit person' means an uncle or an aunt or any other near relative.

MR DEPUTY CHAIRMAN: Somebody has to decide and if the court has to decide then that person becomes the guardian and this word covers that.

PANDIT S. S. N. TANKHA: The police officer himself can decide. It will be the police officer who will entrust the child temporarily to the custody of the parent or guardian, but where he thinks that the child should not be entrusted to the parent or guardian then what is he to do except to send him to the Home. But why not

permit him to try to find some other suitable person to take care of the child for the time being. Or he may be put in charge of some non-official agency, for example he may be placed in an *anathalaya* or any other public institution for the time being.

Now, Sir, in clause 14 a similar provision has been made. Clause 14 applies to children after they are brought before the court and it says: "If the competent court so thinks fit, it may, instead of making an order for sending the child to a children's home, make an order placing the child under the care of a parent, guardian or other fit person, on such parent, guardian or fit person executing a bond with or without surety" etc.

MR. DEPUTY CHAIRMAN: There it is the court that decides. Here you want the police officer to decide, and that makes all the difference.

PANDIT S. S. N. TANKHA: Let him have a bond executed from that 'other fit person' and place the child in his custody. Therefore, Sir, I think it is a very suitable amendment.

DR. SHRIMATI SEETA PARMANAND: It will be the probation officer, not the police officer.

PANDIT S. S. N. TANKHA: Yes! The probation officer himself can take charge of the child, or place him in charge of "other fit person" that may be available to the Police.

Therefore, Sir, I press this amendment and I hope the hon. mover of the Bill will accept this amendment at least, if not any other.

SHRI P. T. LEUVA: I oppose this amendment, Sir. These provisions relate to children who have been taken charge of not from the parent or guardian; they are neglected children and therefore they are not taken charge of from the care and control of the parent or guardian. The clause refers to those children who are destitute or neglected and the parent or guardian

is not available at the time when the child is taken charge of. Now the duration of the custody of this child is for a limited period of 24 hours and within this period the child is to be produced before a competent court. Now what is to be done during that interval of twenty-four hours? Clause 11(4) has made the provision that the child cannot be sent either to jail or to a police station. So somebody has to take care of the child during the intervening period but if within twenty-four hours the police is able to find out the parent or guardian, then the question of fitness of the guardian or parent would not arise because the parent or guardian is presumed to take care of the child and relying upon that presumption the police officer can hand over the child to the parent or guardian. If they are not available, my hon. friend who has suggested the amendment says that a fit person might be given the custody of the particular child. Now this amendment if adopted will lead to complications and abuses because under clause 11 not only the police officer but any other person authorised by the Government can take charge of such neglected children. Now you will have to give the power sought to be given by the amendment of the hon. Member both to the authorised person as well as to the police officer. But nowhere have we got the definition of "police officer" and so "police officer" may be a police constable also. Now do you wish to give such a judicial power to a police constable who may not be knowing anything about the provisions of this Bill and who may not be knowing his own responsibility and there may be cases where young girls may be taken charge of as neglected children? Now do you mean to suggest that you should give such a power to such a policeman, namely to hand over the child even for that twenty-four hours to 'other fit person' whose fitness to keep the child cannot, even by a superior police officer, be decided within that short period of twenty-four hours? And if you give such powers to petty officers

[Shri P. T. Leuva.]

there would be a great many abuses and in my opinion the amendment would lead to more abuses if there be any already, which my hon friend wants to prevent

12 Noon

Then my hon. friend referred to clause 14, wherein the words "or other fit person" appear, in support of his amendment to insert those very words in this clause. Now that clause refers to the position after the court comes to a decision that the child is a neglected child and after that if the court comes to the conclusion that the child should not be handed over either to the parent or guardian, the court can hand over the child to some 'other fit person' but the court will not hand over to a so called fit person unless it is satisfied that the person to whom the custody of the child is made over would look after the interest of the child. Now coming to this clause 11, here the decision would not be by the court but by an authorised person or a police officer which may mean a police constable also. I would therefore submit that, if this amendment is accepted there would be many more abuses than my hon friend imagines 'here are at the moment.

DR K L SHRIMALI. I am afraid I have not been convinced by the arguments which have been advanced by my friend Mr. Tankha. If a child is neglected I can understand that for some time he may be kept with his parent or guardian, but if he has no parent or guardian, there is no other place where he can go except to an observation home. It would be quite wrong to place the child in the hands of any strange person. There are grave risks involved in placing the child under a third person. As far as the child is concerned it does not matter to him whether he goes to a stranger or to an observation home; both will be strange places for him. But he would be better looked after in an observation home than with a strange

person who does not know the child, who does not understand his background, and who does not understand his psychology. So from all points of view I think it is safer to bring the child to an observation home than to send him to a third person.

MR DEPUTY CHAIRMAN. Mr. Tankha, do you want to press your amendment to the vote of the House?

PANDIT S S N TANKHA. Although, Sir, I cannot appreciate the reply given, all the same I do not press my amendment to the vote.

The *amendment was, by leave, withdrawn.

MR DEPUTY CHAIRMAN. The question is:

"That clause 11 stand part of the Bill."

The motion was adopted.

Clause 11 was added to the Bill.

MR DEPUTY CHAIRMAN. There are no amendments to clause 12.

Clause 12 was added to the Bill.

MR DEPUTY CHAIRMAN. Now we come to clause 13. There is one amendment. Do you move it, Mr. Tankha?

PANDIT S S N TANKHA. Yes, Sir. I move:

9 "That at page 6, lines 43-44 for the words 'until he attains the age of sixteen years' the words 'for such period as may be deemed necessary but which shall in no case extend beyond the attainment of sixteen years by the child' be substituted."

MR DEPUTY CHAIRMAN. The amendment and the clause are open for discussion.

PANDIT S S N TANKHA. Mr Deputy Chairman, this clause relates to the enquiry by the competent court and to the consequences that would

For text of amendment, *vide* col 4473 *supra*.

follow after the competent court has taken its decision regarding the matter.

In sub-clause (2) of clause 13, it is provided: "Where a competent court is satisfied on inquiry that the child is a neglected child and that it is expedient so to deal with him, the competent court may make an order directing the child to be sent to a children's home"—now the words which follow the words "to be sent to a children's home" are very important—"for being kept there" for what period?"—"until he attains the age of sixteen years." Now look at the monstrosity of this. According to this provision, if a child of seven years is brought before the court and if the court thinks it expedient that the child should be sent to a children's home or a rescue home what it has to do is to pass an order that the child be kept there until he attains the age of sixteen years. There is no alternative to the court to say, "Keep him there for a year and then see how he behaves." There is no alternative, or option for the court to send him to a children's home for any period less than "until he attains the age of sixteen years". This, I think, Sir, is a very unjust and unfair order and as such I have suggested the amendment that for the words "until he attains the age of sixteen years" the words "for such period as may be deemed necessary but which shall in no case extend beyond the attainment of sixteen years by the child" should be substituted.

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

Now, where is the difficulty and what is the drawback which compels the Government not to accept this amendment? It will always be open to the magistrate to send the neglected child according to my amendment, for any period he deems necessary. It may extend to 16 years of age or it may extend to a lesser period. According to my reading of this clause, as it stands at present, it compels the Magistrate to send him for a period until the child

attains the age of 16 years. If the child is of the age of 14 years, he will have to be sent there for two years and if the child is of 7 years he will have to be sent for 9 years. If my interpretation is correct, I think it will work a very great hardship on the child as well as upon his parents. Therefore I press that this amendment be accepted.

SHRI P. T. LEUVA: No doubt it is true that the magistrate would be obliged to send the child for a minimum period till he attains 16 years of age, but the State Government has got the power under clause 38(1) to discharge a child at any time. Clause 38(1) says that "the State Government may, at any time, order a neglected child or a juvenile delinquent to be discharged from the children's home or special school, either absolutely or on such conditions as the State Government may think fit to impose". So there is no likelihood of any hardship being caused because the State Government has always the power to discharge a child.

SHRI B. GUPTA: Sir, I oppose the point of view expressed by the hon. Member. The argument he has put forth does not satisfy us. Here it is a question of a competent court deciding a certain thing, and it should be left open to the magistrate absolutely to decide as to what should be the period for which the child ought to be sent to a home. His discretion, judgment or wisdom should not be prejudiced in any manner. The hon. Member said that it is open for the Government to release the child at any time, but that applies to all cases, even cases of a criminal nature. For instance, if a High Court sends somebody to jail for a period of, say, 10 years, it may be that the Government finds itself disposed to discharging him. Such discharges at times do take place. Here in the Bill it is envisaged that these children will be brought before the court and their offences gone into. Now the offence may be of a very very minor nature and with a little nursing and care, shall we say, for six months

[B. Gupta.]

or a year, the child may be completely cured of the ill. Therefore it should be left entirely for the court to say for which period the child should be kept in the home. As far as the Government is concerned it is bound by the decision of the court, although the Government even then might discharge the child even before the term expires. We should therefore guard against such bureaucratic decision. Here you are appointing certain types of courts and you envisage that these courts will be comprised of certain types of people and that they will pursue a kind of jurisprudence which is not usually followed in the ordinary civil or criminal courts. Let them decide the whole thing as they think best. You should not bind them to any set procedure.

What will happen? A child, say, of the age of 7 is brought before a court for committing a very minor offence. A judgment has to be pronounced. Suppose he is found guilty of having committed such an offence, here the court will be absolutely under an obligation to say, 'go to the home till you reach the age of 16'. In that case the child will be sent there for 9 years. It would seem very very rigorous and it would be shocking to good conscience if this sort of judgment is given. It is no consolation that the Government at some time might think that he should be discharged before his term expires. The very fact that a judgment of that sort would be pronounced regardless of the nature of the offence would be a preposterous thing to be practised in such courts. The amendment that has been suggested is very very reasonable. It conforms to good conscience and principles of natural justice. Especially when the object is to correct the minds of children of young age, I do not see why such a reasonable amendment should not be accepted and why this amendment should meet with such kind of opposition from that hon. Member there who seems to be very determined today to oppose every single amend-

ment that is being moved from this side of the House or that side of the House. He is today no respecter of persons, it seems!

DR. K. L. SHRIMALI: I am afraid there is a grave misapprehension in the minds of hon. Members with regard to the function of these homes which are being established by the Government. The main purpose of these homes is to give protection to neglected children. Children are found in the streets begging or indulging in all kinds of anti-social activities. The court comes to the rescue and puts them in a home where they will be receiving all kinds of educational facilities, where their physical and mental health will be looked after and where they will be protected from all kinds of evil influences. Now, if you leave the child early, you are again putting him in the streets. A neglected child has no parent or guardian or a secure home. Now the court is exercising the function of .

SHRI B. GUPTA: If his father becomes a Deputy Minister, what happens?

DR. K. L. SHRIMALI: The court is exercising the function of a super-parent and I think the whole purpose of this Bill would be defeated if we leave the children after a short time. The children must stay for a minimum period of time in order that they might be educated properly and they might become self-reliant. We have fixed the limit as 16 years of age because by that time the child is expected to attain maturity in moral and intellectual judgment and also he would become a fit person to earn his livelihood. After reaching the age of 16 if the child leaves the institution, he will no more be a neglected child. He will be able to stand on his own legs. It is for that reason that this limit has been kept. Hon. Members have been under the misapprehension that the child would be harmed if he is kept there for a longer period; on the other hand it is for the benefit of the child that he is kept in the home under proper

protection I hope in view of this explanation the hon Member would withdraw his amendment

THE VICE-CHAIRMAN (SHRI B C GHOSE) Do you press your amendment?

PANDIT S S N TANKHA I cannot say I have been convinced by the arguments of the hon Mover in reply but all the same I am prepared to withdraw

The *amendment was, by leave, withdrawn

THE VICE-CHAIRMAN (SHRI B C GHOSE) The question is

"That clause 13 stand part of the Bill"

The motion was adopted

Clause 13 was added to the Bill

Clause 14 was added to the Bill

THE VICE-CHAIRMAN (SHRI B C GHOSE) Clause 15, there is one amendment Are you moving it, Mr Tankha?

PANDIT S S N TANKHA No, Sir I don't move it

Clause 15 was added to the Bill

Clauses 16 to 18 were added to the Bill

THE VICE-CHAIRMAN (SHRI B C GHOSE) In clause 19, there are two amendments, are you moving them, Mr Tankha?

PANDIT S S N TANKHA Yes, Sir I move

11 "That at page 8, lines 34 and 35 be deleted"

12 "That at page 8 line 37, the words 'or clause (d)' be deleted"

THE VICE-CHAIRMAN (SHRI B C GHOSE) The clause and the amendments are open for discussion

*For text of amendment, *vide* col 4478 *supra*

PANDIT S S N TANKHA According to sub-clause (d) of clause 19, the competent court may order the child to pay a fine, if he is over the age of fourteen years and earns money" Now, Sir, what I think is that the idea of putting the neglected children before the court and classifying them as neglected ones depends more or less upon the fact whether or not their guardians or parents or they themselves have the means to give such children a suitable living Where the child is found fault with, some order has to be passed against him It seems to me very unjust and unfair for the order to be passed that if he is making a small earning, the fine should be paid out of it I think, Sir, such a provision will defeat the object with which this Act is being brought into force After all, if he is earning a little money and is made to part with that money or even a part of it, you will again render that person liable to be handed up as a neglected child So, it is very necessary that no fine should be imposed upon him

Then, the other amendment standing in my name is a consequential one, depending upon the acceptance of the first amendment, but if sub-clause (d) is not deleted, the other amendment also will have to drop Therefore I press these amendments

DR K L SHRIMALI Sir I am afraid again, there is some misunderstanding in the mind of the hon Member This clause 19 refers to delinquent children and not to neglected children I think if a child has attained the age of 14, it means he has attained some maturity, and if he has committed some crime, there is no harm in fining him to some extent My friend has been referring to this clause as if it dealt with neglected children no this section deals with only delinquent children

PANDIT S S N TANKHA Sir, I see my friend's point, and I do not press my amendments

The *amendments were, by leave, withdrawn

THE VICE-CHAIRMAN (SHRI B. C. GHOSE): The question is:

"That clause 19 stand part of the Bill."

The motion was adopted.

Clause 19 was added to the Bill.

Clause 20 was added to the Bill.

THE VICE-CHAIRMAN (SHRI B. C. GHOSE): Clause 21, there is one amendment; do you move it, Mr. Gupta?

SHRI B. GUPTA: Surely. I move:

13. "That at page 9, after line 27, the following provisos be added, namely:—

'Provided that no parent or guardian shall be so fined unless his monthly income is Rs. 100 or more:

Provided further that in imposing such fines regard shall be taken of the economic position of the parent or guardian concerned'."

THE VICE-CHAIRMAN (SHRI B. C. GHOSE): The clause and the amendment are open for discussion.

SHRI B. GUPTA: Sir, this is, in my view, a very important amendment. I see, from the very face of my hon. friend, that it will not be accepted. Even so, I move it. This important clause 21, says:

"Where the offence committed is punishable with fine and the juvenile delinquent is under fourteen years of age, the competent court shall order that the fine be paid by the parent or guardian of the child....."

This will be the normal practice, but the court may not realise that fine in two types of cases; one, when the parent or guardian cannot be found, and two, where he has not condoned to the commission of the offence by neglecting to exercise due care of the child. My amendment is to the effect that the poorer people should

be exempted from the operation of this particular provision. I will be asked why the parent or the guardian should not be made to pay for the crime or offence of the child if he has condoned to the commission of such an offence. Here again, Sir, I am returning to the social aspect of the question. There are many many factors leading to the problem of juvenile delinquency. It is not possible for me here to enumerate them all, the list is inexhaustible. But the basic reason as to why such delinquency at all takes place in this country should be gone into. That has been my contention even before. The problem is one of a social nature. It is the poverty, unemployment and the poor conditions of life of the people that may push a section of the children on to the path of such delinquency. This measure is not aimed at combating that basic cause. We are here more concerned with the symptoms of the disease, and are trying to treat them. When we are faced with such a situation we should not introduce a penal provision to punish either the parent or the guardian.

Firstly, the presumption should be that the guardian or the parent in the case of the poor people has not been responsible for the delinquency on part of the child. That should be the presumption. If the Government can prove by leading positive evidence that the guardian or the parent in question has condoned to the commission of the crime or the offence, it is somewhat understandable. But nothing of that sort is said here. A general provision is made that the fine will be realised from the parent or the guardian of the child, of course, with some exceptions. Now, Sir, this is not fair. If we want to make a social approach to this matter, of course, the question of fine becomes a very minor matter. We are dealing with a human being that is just blossoming into manhood. You are trying to rid him of the ills that have got into him. Why, then, should we come out to penalise the parent or guardian?

Sir, the fining business will be very very rigorous on the part of the parent because most parents are poor and we know what happens to the poor people. And, normally, the practice will be that in almost all such cases of delinquency in children, the guardians or the parents will be penalised. Sir, this is not justified in our view of the matter. As far as the rich are concerned, if you like you can penalise them you may do so; they have the money, they can pay the fine. Secondly it is perhaps also necessary to penalise the rich people because in the commission of the offences they commit, the rich people's children are guided by the ideologies and practices that are there among the rich. But so far as the rich people's children are concerned, I do not know of any son of the rich being hauled up before a court to answer any such charge. On the other hand, the delinquent child of the rich may even become a Deputy Minister when he grows up. *(Laughter)* You may not like my saying that. If you like you can examine my statement that some delinquent children of the rich become Deputy Ministers when they grow up.

But they are not brought before the court of law. Therefore, Sir, if you like, you can bring some of them before the court of law and show how the rich are corrupting their children and spreading these social evils.

PANDIT S S N TANKHA But there are no such Deputy Ministers in the Central Government.

SHRI B GUPTA I have not examined the cases of the children of the Central Government Ministers and that task is beyond me. But in England or in the United States of America some of the sons of the multi-millionaires and very rich people are the greatest criminals, and they go scot-free, they are not brought up before the court. Even at a very young age they become first-rate criminals and they can commit almost any crime on earth with im-

punity. Sir, if such people are brought up before the court of law, their guardians should be made to pay, because by pampering their children they do corrupt them, and it is not a bad idea if they are made to pay a little money for the maintenance of some of the schools and institutions. But never, never should you direct these measures against the poor people. You should take upon yourself the task of answering the question as to why our children beg in the streets, as to why these children do commit offences which are socially reprehensible. That should lead you to self-examination; that should lead you to examine your policies, that should lead you to examine the social set-up which you are maintaining today. And without doing that, if you just call them to account, penalise them, it will be adding insult to the injury and I think, that will add to the mischief that you want to undo. Therefore, I say with all humility here that this amendment should be accepted, because social inequalities do exist and because there are lots of things being done by those people who are highly placed and which compel the poor people to resort to that sort of life at times. And here since we are concerned not with the provisions of the Indian Penal Code, but with the provisions of a social measure, let this measure remove such unhelpful and malevolent approach that is indicated in this unhappy provision.

SHRIMATI MONA HENSMAN (Madras) Mr Vice-Chairman, I am not putting any obstacles against the amendment, but I wish to explain to the hon. Member who has just spoken that it does not matter as much as he thinks whether the parent has a low income or not for the promoter of the offence does the paying of the fine. The whole trouble is that the parents who have an income of Rs 100 or under are mostly engaged in some parts of the country, in our State for instance in such things as illicit distillation. And those children

[Shrimati Mona Hensman.]
are being used by parents for going to and fro and thus smuggling this material to the purchaser, and that is forbidden by the States. Now, these adult men are using young children because they feel that the law will let them off with a smaller fine than if they were themselves caught doing these nefarious acts. And in each case—I speak with knowledge—in the juvenile court we have sentenced a child to a fine of Rs. 20 or Rs. 25. The parents never pay the fine there, but they do get the small earnings of the children out of this illicit distillation, cotton betting, racing bets, etc.

DR. K. L. SHRIMALI: Sir, I oppose this amendment. I have already dealt with it at length in my reply and have explained that poverty plays a very insignificant part in the causes of delinquency. It is true that poverty plays some part, but it is not a major factor in most of the cases.

[MR. DEPUTY CHAIRMAN in the Chair.]

The clause reads as follows:

"Where the offence committed is punishable with fine and the juvenile delinquent is under fourteen years of age, the competent court shall order that the fine be paid by the parent or guardian of the child, unless the competent court is satisfied that the parent or guardian cannot be found or that he has not concurred to the commission of the offence by neglecting to exercise due care of the child."

I think, Sir, hon. Members would realise that it is a great crime to produce children in the society and not to look after them. After all, parents must understand that they have a responsibility towards their children.

SHRI B. GUPTA: But the society must look after the parents also.

DR. K. L. SHRIMALI: Well, the State has the responsibility and the State does discharge that responsibility as far as it lies within its power. I

think it will be wrong to say, and it will be a very dangerous principle to enunciate, that parents should not have any responsibility for the care and guidance of their children. Most of the children become delinquent just because of sheer neglect—deliberate neglect—on the part of parents. And there is no reason why these parents should not be fined by the court. I therefore oppose this amendment.

MR. DEPUTY CHAIRMAN: Mr. Gupta, do you want me to put your amendment to vote?

SHRI B. GUPTA: Yes.

MR. DEPUTY CHAIRMAN: The question is:

13. "That at page 9, after line 27, the following provisos be added, namely:—

'Provided that no parent or guardian shall be so fined unless his monthly income is Rs. 100 or more;

Provided further that in imposing such fines regard shall be taken of the economic position of the parent or guardian concerned."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 21 stand part of the Bill."

The motion was adopted.

Clause 21 was added to the Bill.

Clauses 22 to 30 were added to the Bill.

MR. DEPUTY CHAIRMAN: Clause 31. There is one amendment.

SHRI P. T. LEUVA: Sir, I move:

16. "That at page 11, lines 44-47, the following be deleted, namely:—

'and the competent court exercising jurisdiction over the place to which the child is sent shall have

the same powers in relation to the child as if the original order had been passed by itself." "

MR. DEPUTY CHAIRMAN: The clause and the amendment are open for discussion.

SHRI P. T. LEUVA: Mr. Deputy Chairman, my hon. friend, Mr. Bhupesh Gupta was complaining that I was only opposing the amendments. Now I have myself moved this amendment. In clause 31 provision has been made for sending a child outside jurisdiction, and this Act will be applicable only to Part C States.....

DR. SHRIMATI SEETA PARMANAND: It is also meant to apply to Part B and Part C States later on.

SHRI P. T. LEUVA: That is a different matter. In my humble opinion, Sir, this will amount to legislating extra-territorially. I will illustrate my point by giving an instance. Suppose a child has been taken charge of in Delhi, which is a Part C State, and the child happens to come from Madras; his parents or relatives stay in Madras. Under clause 31, a court has a right to send the child to Madras and there is no difficulty so far as sending him to Madras is concerned, but the difficulty arises subsequent to that, where you have inserted the words "and the competent court exercising jurisdiction over the place to which the child is sent shall have the same powers in relation to the child as if the original order had been passed by itself." The child is sent to Madras and therefore the court which is established in Madras will have jurisdiction over that child. It means that under this Act the court in Madras will be vested with some powers, but this Act is applicable only to Part C States. I would submit that by passing this amendment we will be investing courts outside Part C States with some powers, which I think is beyond the power of the Centre. So far as sending the child is concerned,

there cannot be any difficulty, but you cannot invest any court in Madras with powers under this Act, over which State we have no powers at all.

MR. DEPUTY CHAIRMAN: Under the present law, the court which sends the child will have jurisdiction at the place where the child is.

SHRI P. T. LEUVA: The wording here is "and the competent court exercising jurisdiction over the place to which the child is sent ..." That is the court in Madras. Therefore, we will be legislating for vesting certain powers on courts which are beyond the jurisdiction of the Centre. Had this legislation been a Central legislation applicable to all States, it would have been all right, but unfortunately the Centre has no power to legislate for all States. We can only legislate for Part C States.

MR. DEPUTY CHAIRMAN: But how is your amendment different?

SHRI P. T. LEUVA: It is for the deletion of these words. Then in that case, you are not investing any court with powers.

SHRIMATI MONA HENSMAN: May I ask one question of the hon. Member? The hon. Member does not want the court in Madras to be invested with powers, but what about the child? He is legislating for parents or guardians over whom the court which has got the child in Delhi has got no competent authority. How can the court in Delhi have any authority over the parents who are as far away as Madras? Surely, it will be much more in order that the competent court, wherever the child is sent, exercises control over the child. Otherwise the child is uncared for. You have no power for the Delhi court to force the parents or the relatives of the child in Madras to look after the child. They may take care of the child, but who will see to it that they do it? If this power is not there, the child may be neglected.

SHRI P. T. LEUVA: I am in complete sympathy with what the hon. Member says, but the question is whether we can legally do it. I see ~~that~~ it is desirable to have a uniform law throughout ~~India~~ ^{India}, all courts working in perfect co-ordination. But the question is, 'Can we do it?' That is the reason why I have moved this amendment.

PANDIT S. S. N. TANKHA: Sir, I oppose this amendment. My reason is that the mover has not properly understood the clause. This clause does not provide for the transfer of one child from the jurisdiction of a Part C State to a Part A or Part B State. It provides for the transfer of a child from the jurisdiction of one court in a Part C State to the jurisdiction of another court in the same State. As is known, there are district courts in each State. Now, one magistrate exercises jurisdiction within his district only; he has no jurisdiction over the other districts. Therefore, if within the State of U. P. a child is taken charge of in the district of Lucknow, the court concerned instead of keeping him in the district of Lucknow, may send him to the district of Agra, which is within the same State.

MR. DEPUTY CHAIRMAN: Supposing the child is outside the State.

PANDIT S. S. N. TANKHA: My friend over there was arguing that we were not legislating for Part A and Part B States, and therefore we could not provide under this Act for the transfer of a child from the jurisdiction of a Part C State to the jurisdiction of a Part A or Part B State.

MR. DEPUTY CHAIRMAN: Your argument will be all right if the child is transferred to a place which is within a Part C State.

PANDIT S. S. N. TANKHA: My submission is that what is provided for in this clause...

SHRI H. P. SAKSENA (Uttar Pradesh): U. P. is not a Part C State. So, why do you worry?

PANDIT S. S. N. TANKHA: I am giving it only as an example, my friend. My submission is that what is provided for in this clause is that it will be competent for one court in a Part C State to transfer a child to the jurisdiction of another court in the same State. It has been provided in this clause that, if a child is sent to another district within the jurisdiction of another court, that court will also have the same powers over that child as if the original order had been passed by that court. I think this is a proper thing to provide for. What my friend says is that, if these words are added it will mean that a child could be sent from a Part C State to a Part A or Part B State, over which the Centre can have no jurisdiction. That is not the position at all. It is for this reason that I press that the words asked for to be deleted should be retained.

SHRI B. GUPTA: I think my hon. friend would withdraw the amendment.

DR. SHRIMATI SEETA PARMANAND: The competent court means the competent court under this Act. State to which this Act does not apply does not come into the picture at all. That is all what I want to say.

DR. K. L. SHRIMALI: The Select Committee considered this point at great length, and they were concerned about a child who will have to be transferred to a different State. If the child has been a neglected child or a delinquent child whether he is living in the State, where he was tried or whether he is sent to a different State, after all, the State must exercise its responsibility. It was with that end in view that this additional provision was made. As far as Part C States are concerned there is no difficulty with regard to this clause, and there should be no difficulty with regard to Part A and Part B States, because this Act will not be operative there.

SHRI P. T. LEUVA: Sir, in deference to the wishes of my friend, Mr. B. Gupta, I would like to withdraw the amendment.

*The amendment was, by leave, withdrawn.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 31 stand part of the Bill."

The motion was adopted.

Clause 31 was added to the Bill.

Clauses 32 to 34 were added to the Bill.

MR. DEPUTY CHAIRMAN: Clause 35. There is one amendment by Shri Tankha.

PANDIT S. S. N. TANKHA: I have already made my submission upon this clause yesterday but as I find that it does not find favour with the hon. mover of the Bill, I don't propose to move my amendment.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 35 stand part of the Bill."

The motion was adopted.

Clause 35 was added to the Bill.

Clauses 36 and 37 were added to the Bill.

MR. DEPUTY CHAIRMAN: Clause 38. There are three amendments to this clause.

SHRI P. T. LEUVA: Sir, I move:

17. "That at page 13, line 20, after the words 'The State Government may,' the words 'notwithstanding anything elsewhere contained in this Act,' be inserted."

18. "That at page 13, line 24, after the words 'The State Government may,' the words 'notwithstanding anything elsewhere contained in this Act,' be inserted."

19. "That at page 13, line 38, after the words 'The State Government may,' the words 'notwithstanding anything elsewhere contained in this Act,' be inserted."

*For text of amendment *vide* cols. 4490-91 *supra*.

MR. DEPUTY CHAIRMAN: The clause and the amendments are open for discussion.

SHRI P. T. LEUVA: Sir, in amendments Nos. 17, 18 and 19, I would like to modify the language by dropping the word 'elsewhere' because it is redundant. The main reason why I am moving these amendments is as follows. Under clause 37 the court has been given powers to vary any order passed by itself on an application received or *suo motu*. So under clause 37 the court can change its own orders at any time. It can send the child from a Children's Home to the special school or from the school to the custody of the parent etc. So many powers can be exercised by the court under clause 37. Under 38, the State Governments also have been given similar powers and without this amendment I personally feel that there will be some conflicts between the State Governments and the courts. Because the courts cannot be prevented from passing any order after they have themselves decided the case because the powers have been revived under clause 37. Therefore I am moving this amendment that notwithstanding anything contained in this Act, the State Government has full authority to vary any of the orders passed by the court after the child is sent to the school or to the Children's Home or to the custody of the parent. This is only for the purpose of preventing any possible conflict between the State Governments and the courts.

MR. DEPUTY CHAIRMAN: It is understood.

PANDIT S. S. N. TANKHA: I oppose these amendments on the very simple ground that the addition of these words is absolutely unnecessary. The words which my hon. friend proposes to add will be absolutely redundant because wherever a particular provision is made in the Act for any particular purpose, it implies that those provisions are made notwithstanding the other provisions contained in that Act. Therefore, Sir, when clause 38 says

[Pandit S S N Tankha]
that a State Government may at any time make an order against a neglected child, it means that the State Government can do it in spite of the fact that there are other provisions to the contrary in this Act. It is also a well-known principle regarding the framing of statutes that redundant words should not be introduced in any legislation. The addition of the words which are proposed to be added would mean the introduction of redundant words which as I have said, should be avoided. Without the addition of these words, the intention of the hon. mover is clearly embodied in this clause and therefore, Sir, I submit that these words should not be added.

DR K L SHRIMALI Sir, if the word 'elsewhere' is omitted from these clauses it will clarify the clause. I therefore accept the amendment.

MR DEPUTY CHAIRMAN I am putting the amendment to the amendments. The question is

"That the word 'elsewhere' be omitted in amendments Nos 17, 18 and 19."

The motion was adopted.

MR DEPUTY CHAIRMAN I am putting the amended amendments to vote.

The question is

17 "That at page 13, line 20, after the words 'The State Government may,' the words 'notwithstanding anything contained in this Act,' be inserted."

The motion was adopted.

MR DEPUTY CHAIRMAN The question is

18 "That at page 13, line 24, after the words 'The State Government may,' the words 'notwithstanding anything contained in this Act,' be inserted."

The motion was adopted.

MR DEPUTY CHAIRMAN The question is

19 "That at page 13, line 38, after the words 'The State Government may,' the words 'notwithstanding anything contained in this Act,' be inserted."

The motion was adopted.

MR DEPUTY CHAIRMAN The question is

"That clause 38 as amended, stand part of the Bill."

The motion was adopted.

Clause 38, as amended, was added to the Bill.

Clauses 39 to 52 were added to the Bill.

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

DR K L SHRIMALI Sir, I beg to move

That the Bill, as amended, be passed."

MR DEPUTY CHAIRMAN Motion moved.

"That the Bill, as amended, be passed."

SHRI S MAHANTY At this stage I have very few remarks to offer Sir, if anything, it seems the Education Ministry lately have been trying to justify their existence. Therefore they have presented us with this Children Bill over which a long debate has already taken place but in the end

MR DEPUTY CHAIRMAN You are making it longer.

SHRI S MAHANTY And ultimately it is going to remain a dead letter on our Statute Book because of the fact that the States have not enough money to provide for all that has been indicated in this Bill. Sir, my heart goes out always for measures of social reform. Therefore let it not be misunderstood that I am opposing this Bill at this final stage of its passage. But if the hon. mover permits me to say so, it is only a mud pack cure for

high blood pressure. It is strange how he reduces the enormous problem of delinquency to a matter of techniques and law. I contest what he said earlier that delinquency is congenital and not acquired. Whatever may be the findings of psychologists, it is a matter of common experience that delinquency is always acquired. The impact of social maladjustment leads to emotional maladjustment and there you get delinquency. I doubt very much that by providing all these legalistic innovations we are going to stop this. I would have liked very much if the Government would have been aware of it and would have put their finger on the sore point and would have tried to save millions of our children who are victims of delinquency. In the second place, in this Bill a provision has been made to penalise children, those who might be seen in the streets singing songs and thereby trying to earn a livelihood. I don't see any justification why the Government should penalise them if they go to earn their livelihood by a very legitimate means.

SHRI GOVINDA REDDY (Mysore): It is penalising?

SHRI S. MAHANTY: Of course, what else?

SHRI GOVINDA REDDY: It is protecting.

SHRI S. MAHANTY: That is protection? Your protection and the protection of your friends always comes to penalising. Therefore "God save from the protectors" has been the slogan everywhere. What I was trying to say is that it is the basic responsibility of the State to provide security, to provide economic security to every citizen of this State irrespective of his class or creed. The hon. mover seems to make out a very strong case that if a poor man brings forth a child and that child is not properly looked after by the man, it is the fault of the parent for which they will also be penalised. That is true, but if the State does not enable the parents to discharge their legitimate duties towards their child,

it is then certainly the responsibility of the State and not that of the parents. Therefore on these flimsy grounds we should not penalise either the child or the parents. At least you should spare the child who tries to earn a livelihood by singing, that is to say, by utilising his own talents, its congenital talents.

Thirdly I would like to ask the hon. mover whether he has taken it for granted that delinquency is confined only to the Part C States. I am happy to learn that in Hyderabad and in Mysore there are Children's Homes. But is he aware how the delinquent children's homes in Hyderabad are managed? If my information is correct, there are complaints, loud enough, about the management of the delinquent children's homes in Hyderabad. At any rate I am told.....

DR. SHRIMATI SEETA PARMANAND: What about Bombay? They are managed very well.

SHRI S. MAHANTY: What I mean to say is, this question of delinquent children is not confined only to the Part C States. This is a phenomenon which may be found everywhere and in every State, irrespective of whether they are Part A, Part B or Part C States. Therefore, it would have been proper enough on the part of the Government if they had come with an overall measure providing for delinquent children wherever they may be found in India.

With these few words, Sir, I rather support the measure, with my own reservations.

DR. K. L. SHRIMALI: Sir, I have very little to add to what I have already said. My hon. friend seems to have misunderstood my remarks. I have never said that delinquency is always congenital. There are a multiplicity of factors that go to produce delinquency. It would be wrong to single out one particular factor and make it the cause of the delinquency. There are hereditary factors as well as environmental factors. I have also explained the reason why this Bill is

[Dr. K. L. Shrimali.]
being confined to the Part C States. I am glad my hon. friend at the last stage has given the measure his overall support.

MR. DEPUTY CHAIRMAN: The question is:

"That the Bill, as amended, be passed."

The motion was adopted.

THE VOLUNTARY SURRENDER OF SALARIES (EXEMPTION FROM TAXATION) AMENDMENT BILL, 1954.

THE DEPUTY MINISTER FOR FINANCE (SHRI A. C. GUHA): Mr. Deputy Chairman, on behalf of the Finance Minister, Shri Deshmukh, I beg to move:

"That the Bill to amend the Voluntary Surrender of Salaries (Exemption from Taxation) Act, 1950, as passed by the House of the People, be taken into consideration."

Sir, this is a very small measure. In fact it has only one operative clause and it is a very simple measure also. I am sure hon. Members who have taken care to go through the Statement of Objects and Reasons must have known what are the intentions of Government in introducing this amending Bill. I shall state in brief the purpose of this Bill.

1 P.M.

In section 2(2) of the present Act, there is a list of persons who are to be exempted on the surrender of a portion of their salary from the income-tax obligations. As it stands at present, the Act makes the list a closed one and if any other person is willing to surrender a portion of his salary, he is not to be exempted under the law as it exists today. Sir, under the present Income-tax Act, a person is liable to be charged income-tax on his due salary, that is to say on the

salary to which he is entitled, the salary that he is entitled to draw. Whether he draws the full amount of the due salary or not, he is to be charged on the salary due to him and unless we give some exemption by amending the Act, any other person who may be willing to surrender a portion of his salary will not get that exemption. In certain cases, without giving this exemption, a person surrendering a portion of his salary may have actually to pay about double the salary that he surrenders, if this exemption from income-tax charge is not allowed to him. Therefore it is very necessary for encouraging people to surrender a portion of their salary that we should give them this exemption.

SHRI M. VALIULLA (Mysore): How double the salary?

SHRI A. C. GUHA: I mean double the surrendered salary.

Section 3 of the present Act is not necessary and so we delete that section and in the place of sections 2 and 3 of the existing Act, we substitute clause 2 of the present Bill.

I think that within the short time now available I need not say anything further on this Bill. It is an absolutely non-controversial measure and I hope the House will be pleased to return the Bill within the time available today.

MR. DEPUTY CHAIRMAN: Motion moved:

"That the Bill to amend the Voluntary Surrender of Salaries (Exemption from Taxation) Act, 1950, as passed by the House of the People, be taken into consideration."

SHRI B. GUPTA (West Bengal): Mr. Deputy Chairman, in so far as this measure encourages the surrender of salaries by certain officials and the incumbents of high offices, it is naturally to be welcomed. But we should not stop at merely welcoming it. This Bill recognises the fact that there are some people-high-up in the administration of