

[Dr. K. L. Shrimali]

public opinion and parents and not on punishing the parents.

I should not like to take more time of the House. I hope the various suggestion made by hon. Members will be given full consideration by the Joint Committee.

**Mr. Deputy-Speaker:** The question is.....

**Shri Sinhasan Singh:** I want to ask only one question.

**Mr. Deputy-Speaker:** That would take time.

The question is:

"That this House concurs in the recommendation of Rajya Sabha that the House do join in the Joint Committee of the Houses on the Bill to provide for free and compulsory education for children in the Union Territory of Delhi made in the motion adopted by Rajya Sabha at its sitting held on the 14th April, 1960, and communicated to this House on the 16th April, 1960 and resolves that the following members of Lok Sabha be nominated to serve on the said Joint Committee, namely, Shri Amjad Ali, Shri M. Ayyakannu, Shri Chun Lal, Shri Shankarrao Khanderao Dige, Shri V. Eacharan, Shri Aurobindo Ghosal, Shri Kanhu Charan Jena, Shri Nemi Chandra Kasliwal, Shri Chhaganlal M. Kedaria, Shri N. Keshava, Shri Bajj Nath Kureel, Shri Nibaran Chandra Laskar, Shri N. B. Maiti, Shri Ram Chandra Majhi, Shri Jiyalal Mandal, Shrimati Minimata Agamdas Guru, Shri R. Govindarajulu Naidu, Shri C. Krishnan Nair, Shri P. K. Vasudevan Nair, Shri Naval Prabhakar, Shri Ram Saran, Shri Devulappali Venkateswar Rao, Shri Bhola Raut, Shrimati Renuka Ray, Shri Birbal Singh, Dr. M. V. Ganga-

dhara Siva, Shri Shraddhakar Supakar, Shri Shiva Dutt Upadhyaaya, Shri Atal Bihari Vajpayee and Shri Balkrishna Wasnik".

*The motion was adopted.*

15.36 hrs.

#### THE CHILDREN BILL

**The Minister of Education (Dr. K. L. Shrimali):** I beg to move:

"That this House concurs in the recommendation of Rajya Sabha that the House do join in the Joint Committee of the Houses on the Bill to provide for the care, protection, maintenance, welfare, training, education and rehabilitation of neglected or delinquent children and for the trial of delinquent children in the Union Territories made in the motion adopted by Rajya Sabha at its sitting held on the 15th February, 1960, and communicated to this House on the 18th February, 1960, and resolves that the following members of Lok Sabha be nominated to serve on the said Joint Committee, namely, Shri P. Subbiah Ambalam, Shri S. R. Arumugham, Shri S. M. Banerjee, Shri Dharanidhar Basumatari, Shri Bhakt Darshan, Shri Laxmanrao Shrawanji Bhatkar, Shri J. B. S. Bist, Pandit Braj Narayan "Brajesh", Shri Akbarbhai Chavda, Shri Daljit Singh, Shri Nayantara Das, Shri Shree Narayan Das, Shri Resham Lal Jangde, Shri M. R. Krishna, Shrimati Sangam Laxmi Bai, Shri Mathew Maniyangadan, Shri Mohan Swarup, Shri J. G. More, Shri Mohan Nayak, Dr. Sushila Nayar, Shrimati Uma Nehru, Shri Deen Bandhu Parmar, Shri Uddaraju Ramam, Shri Ram Garib, Shri Mahadevappa Rampure, Shri Radha Charan Sharma, Shri Prakash Vir Shastri, Shri Babu Nath Singh, Shri Prabhu Narain Singh and Shri Tula Ram".

In moving this Motion, I should like to make a brief reference to some of the salient features of this Bill. Unfortunately, this is a rather ill-fated Bill. In 1954, a Bill for Part C States was introduced in the Rajya Sabha and later in the Lok Sabha. The Select Committee of the Lok Sabha on the Children's Bill, however, recommended its withdrawal, as on the reorganisation of States a number of Part C States like Vindhya Pradesh and Ajmer disappeared and other Part C States which became known as Union Territories, with the exception of Delhi, were not in need of such legislation since the problem was not acute.

On close examination, it was found that the Union Territory of Delhi did need a legislation of this type. At present the Bombay Children's Act, 1924 is in force in Delhi. On examination, it was found that this Bill was outmoded and it was rather punitive than positive and promotive. As far as the education and training and rehabilitation of children is concerned, our main emphasis should be on education rather than on punishment.

There were several alternatives before us. We could introduce legislation in Parliament designed to repeal the Bombay Children's Act, of 1924, and to extend to Delhi the Bombay Children Act, 1948, as subsequently amended, or to permit to continue the application of the Bombay Children Act of 1924 with such amendments as may be necessary, or introduce a Children Bill which would be suitable to all Union territories. On close examination we found that the last alternative was the best one because we would be able to have a proper Bill for Delhi and other Union territories.

The salient features of the present Bill are, firstly, we have fixed the age of the child. For this Bill the age of the child has been fixed as 16 for boys and 18 for girls. A higher age has been provided for girls be-

cause girls need protection for a longer period than the boys.

The Bill also makes provision for the care of neglected children. This is a new provision, and I think the House will generally welcome this provision. Neglected child has been defined as a child who—

“is found begging; or

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”.

This would cover the type of cases which our friends had in view.

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

Most of the difficulties and maladjustments of children arise because of the sense of insecurity which the children have to face at an early period. It is during that period that preventive measures have to be taken. If you study the life history of the criminals, you will find that most of them are neglected in early childhood and face all kinds of insecurities and maladjustments. Therefore, it was thought necessary that some provision should be made to take care of these neglected children.

At present, under the present Act, there is no provision for this category of children. This is a new provision which we have made in this Bill. It also enjoins that no child will be sent to prison whatever be the offence. It is now well recognised that children should not be treated as criminals. Children are not criminals. Even if they commit a crime, they do it on account of certain social and economic conditions under which they have to live, certain kinds of fear and anxieties from which they suffer, some kinds of environmental con-

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ditions which are detrimental to the proper development of their personality. Therefore, in this Bill, we have taken care to see that the child is not considered a criminal and that he is not sent to prison under any circumstances.

In the earlier 1954 Bill the children who had committed offences that are punishable by death or with imprisonment for life were excluded from the provisions of the Bill. But, on careful thinking and on examination of other legislation in other progressive countries, we have come to the conclusion that under no circumstances should the child be sent to prison. They do not commit offences because they are born criminals but they commit offences because they are born under certain circumstances and they are forced into certain situations. Therefore, whatever measures we adopt must be preventive and we should not send them to prison. It will only make them confirmed criminals.

According to another provision in this Bill a child who would come under the purview of this Act would be brought before Children's courts and not before the ordinary courts. The Bill also prevents joint trials of adults and children and it also enjoins that, as far as practicable, one of the magistrates of the Bench should be a woman and no lawyers will be allowed in Children's courts and that Probation Officers will represent the case to the court. There has always to be a difference between Children's courts and the ordinary courts. In Children's courts, as far as possible, women should be the magistrates because they understand the psychology of the children and they are sympathetic towards them and the children are also not afraid of them. Therefore, it has been provided that, as far as possible, women should be magistrates, and no lawyers should be allowed in Children's courts. The cases should be argued by the Probation

Officers who are familiar with children and who understand their needs and difficulties.

All these provisions have been made from the psychological point of view, the child's needs and his interests; and the whole emphasis throughout this Bill is that the child should not be treated as an ordinary criminal but as a person who is suffering from some kind of maladjustment on account of some emotional difficulties or some kind of social maladjustments.

In addition to these, there is a provision for having Children's Homes for neglected children; and special schools for juvenile delinquents have also been provided for.

The Bill also provides that no stigma will be attached to a child because he has committed an offence. Reports of the Probation Officers are to be treated as confidential and the names of children who have been tried or who have been sent to the court for one reason or another should not be given out.

There is another important chapter which has been introduced in the Bill which was not there in the 1954 Bill. This chapter deals with special offences in respect of children. Under this chapter any person who is found ill-treating children, or employing children for begging or exploiting children would be deemed to have committed an offence.

Recently, we have seen various kinds of reports about the kidnapping of children for purposes of begging; and it has also come to our notice through various sources that children are being exploited by various kinds of people and agencies. Therefore, a provision has been made to stop this malpractice.

In this whole programme, the Probation Officer will play a very important role and he would act as the

friend, philosopher and guide to the children. The institutions which are meant for these children need not be governmental institutions; they can be voluntary organisations; but they must be recognised for this purpose by the Administration as Children's Homes.

These are some of the special features of this Bill; and I hope the House will welcome it. Our whole approach in this Bill has been a psychological approach, to treat the child as a person and not to treat him as a criminal or a delinquent but to help him to readjust himself to certain circumstances and certain conditions. Most of the difficulties and problems of children arise because of certain emotional difficulties or because they have been living in unhygienic and unfavourable environment. Therefore, the approach should be preventive rather than punitive. It is with that approach that the whole Bill has been drafted and I move this motion for reference to the Joint Committee.

**Mr. Deputy-Speaker:** Motion moved:

"That this House concurs in the recommendation of Rajya Sabha that the House do join in the Joint Committee of the Houses on the Bill to provide for the care, protection, maintenance, welfare, training, education and rehabilitation of neglected or delinquent children and for the trial of delinquent children in the Union territories made in the motion adopted by Rajya Sabha at its sitting held on the 15th February, 1960, and communicated to this House on the 18th February, 1960 and resolves that the following members of Lok Sabha be nominated to serve on the said Joint Committee, namely:—

Shri P. Subbiah Ambalam, Shri S. R. Arumugham, Shri S. M. Banerjee, Shri Dharanidhar Basumatari, Shri Bhakt Darshan, Shri Laxmanrao Shrawanji Bhatkar, Shri J. B. S. Bist, Pandit Braj

Narayan "Brajesh", Shri Akbarbhai Chavda, Shri Daljit Singh, Shri Nayantara Das, Shri Shree Narayan Das, Shri Resham Lal Jangde, Shri M. R. Krishna, Shrimati Sangam Laxmi Bai, Shri Mathew Maniyangadan, Shri Mohan Swarup, Shri J. G. More, Shri Mohan Nayak, Dr. Sushila Nayar, Shrimati Uma Nehru, Shri Deen Bandhu Parmar, Shri Uddaraju Ramam, Shri Ram Garib, Shri Mahadevappa Rampure, Shri Radha Charan Sharma, Shri Prakash Vir Shastri, Shri Babu Nath Singh, Shri Parbhu Narayan Singh and Shri Tula Ram."

**Mr. Deputy-Speaker:** Shri Warior. After him, I will call Ch. Ranbir Singh. The hon. Member may be brief. We have yet to go through two Bills before we rise for the day.

**Shri Warior (Trichur):** Mr. Deputy-Speaker, Sir, at the very outset I welcome this Bill and the most salient features that have been embodied in the Statement of Objects and Reasons of this Bill. This Bill provides for the care, protection, maintenance, welfare, training, education and rehabilitation of neglected or delinquent children. No more laudable cause can be expounded in the Bill specially confining to a growing city like Delhi. This Bill is confined only to the Union Territory of Delhi and we are glad that at least at this hour when so many things are expanding in all directions, the care of the children is also expanding in the eyes of the Government.

This Bill is necessitated by the fact that the Bombay Act which is applied to Delhi is not an adequate one and also the other Government of India Act of 1948. I hope that the Government has considered the experience gained in the implementation of those Acts, Bombay Act as well as similar Acts in other States also. What that experience is, it is not fully known to

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us. Anyway, if this Bill is an improvement upon those Acts out of experiences gained, naturally this Bill must become the model for other States to copy.

There is one disquieting feature and that is when we make any social legislation we always say that we have to make some inroads into the autonomy of the States. Sir, unnoticed the inroads are made in the economic field and in other fields. But when it comes to the question of social legislation, all sort of objections are taken. In the matter of education, in the matter of primary education—the Bill that we passed just now—and in the matter of Orphanages Bill that had been mooted here we had the same objection that we are making inroads into the autonomy of States. I think in the case of social legislation we could make some inroads but not exactly in the same way as in the economic and other fields. There it is more affecting the autonomy in practice. In the social field it is not so. So, I think, if it is possible without infringing the provisions of the Constitution we could take some authority in the Centre and give guidance and model Bills to the States and ask them to enact such legislation and implement the provisions thereof.

Another thing is that we must not have any dogmatic approach in all these things. In the field of social legislation there are sometimes controversies. For instance, there was much controversy when we passed the Hindu Code Bill. Certain controversies were raised but actually a very large section of our population has gained by that and very many families have welcomed that. So, I say, we must not have a dogmatic approach whenever we enact any legislation in the social sphere.

Sir, this problem of children is mainly an economic problem. We

had also some experience in the jails as political prisoners. We had come across many cases of children also. It begins just like this. These children will work as coolies at the bus stands or at the railway stations. On and on some pickpocketing will be done. Then, all of a sudden the policeman will catch hold of them and send them to the jails. In the jails they learn more about the criminal activities. There they learn everything which they do not learn outside the jails. By the time some action is taken to reform them, they become incorrigible criminals and above all correction. So, there is a very salutary provision in the Bill. The hon. Minister had been pleased to say that the children will not be sent to the jails. The jails are the places where more dangerous and criminal activities are learnt. In fact, there are many people who did not smoke outside the jails and who learnt smoking inside the jails. So, also the children. I had many occasions to deal with these people even inside the jails and I have seen that if they had not been sent to jails, they would have been very good citizens.

Apart from this economic problem, there is another problem which has come to stay in this country and that is—I must inform the hon. Minister if he has not taken cognizance of that fact—the cinemas. The cinemas also play a very great role in creating so many juvenile delinquents as well as juvenile criminals. I had an experience of one small boy of school-going age. One day he saw a film and after seeing the film he went home. He had stolen something from his father's almirah or table and when his father asked him about it, he raised his pen-knife. It is the cinemas which make the children to act like that. That also has created a problem. Of course, there are certain films advertised as "Adults Only". But actually when that film is for "Adults Only", the more children go to see the film, and much of all these criminal tendencies are learnt from these cinemas.

Then there is another thing, that is, beggary. Beggary in this land is considered as holy. So, how can we say that we want the children to be taken away from beggary? Begging has become something holy and it is respected and we all give alms to the beggars. And if we see the beggars in a very sad plight, it is all the more. I have seen beggars going round in the trains and other places and some of the very respected people kneel down before them.

15.59 hrs.

[SHRI MULCHAND DUBE *in the Chair*]

If that is the custom in this country, then it is very difficult to prevent children from beggary. Sir, it is also a very lucrative business. Some of the beggars have come from different parts to the holy cities and they have minted great wealth also. There are some *sadhus* and they are actually minting a lot of money here in all the sacred places of the country. That aspect of the matter also must be considered when this question of beggary is tackled.

16 hrs.

Sir, I need not go into the details of this Bill. There is much scope for improvement in this Bill. I need not go clause by clause. But I will refer only to a few of them. The first thing is the definition itself. Before that, I will mention one or two points. The most important person in this Bill is the probation officer. What sort of intellectual equipment or training will be given to these officers? If this is entrusted to the police, we know what will happen. We have our experiences about the police and they would do more harm than good. I do not want to say all those things in the public here. The policemen have taught our young culprits more immoral things than they have learnt from outside. I have the experience of ten months' continuous lock up in police station and I have seen innumerable things. A probation officer

cannot be of that sort. He must be an educated person and should have equipment, intellectual and otherwise. Otherwise, the whole object of the Bill would be sabotaged.

I shall now come to the constitution of the courts. The hon. Minister also referred to it. It says generally that there should be three magistrates and a small provision says that at least one woman must be there. It should have been the other way round and there should have been more women magistrates. It is better to entrust this work of dealing with children and juvenile delinquents to women than men. Mostly, the probation officers also could be women. Women officers would be preferable to male officers in primary education centres. We have seen that lady teachers are better and are preferred by children and parents than male teachers. The human touch should be so much there. The students and the small children require that human approach and that instinct and these are more to be found in the ladies than in men. So, probation officers may be more ladies than men.

These homes are very important. Any home will not be suitable. Because this Bill is coming after that Bill relating to education I am saying this. The period of teaching and the syllabus cannot be the same. We had seen certain places where the peasantry send their children to school. But magic lantern slides and such other attract the children more than the text books. So, in these homes, to make these children stick to them, there should be slides, cinemas, cultural forms and things like that. These homes must thus be fully equipped so that the children will have these attractions and continue there. By compulsion alone they may not stick on there. In these respects, there are certain clauses also which must be gone into.

In clause 10, sub-section (2) it is said:

**"Every such organisation shall take care of the children when**

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they leave children's homes or special schools and shall, for the purpose of enabling them to lead an honest, industrious and useful life, take all such measures as it may deem necessary or as may be prescribed."

This is a very laudable objective, no doubt, but what is the provision for that? To which place will they go? A girl of 18 after leaving the care of such a home is left without any place to go. Which way will she go, if she is not married? What work will she have? What income will she have? How will she live? Sir, all these questions come up. If all these are to depend upon the Administrator, I do not know how he will solve them, provided sufficient provisions are made for that, sufficient funds are made available and sufficient institutions are created for that. Therefore, these things are not to be left vague like this.

There are also clauses 39, 40 and 42. All these need improvement. I think the Joint Committee must go deep into these provisions and effect sufficient improvement so that when the Bill emerges from the Joint Committee it will be a Bill well worth for other States also to copy.

**श्री० हरलबीर सिंह (रोहतक) :** सभापति महोदय, इस विधेयक को प्रवर समिति के सिफुर्द करने की मैं तारीफ करता हूँ। इस बिल के पीछे जो भावना है वह बिल्कुल साफ है। इन्सान के अन्दर या बच्चों के अन्दर जो बद आदतें दाखिल होती हैं उनका ताल्लुक बहुत कुछ समाज के वायुमंडल से है। अगर समाज का वायुमंडल अच्छा होगा तो बच्चे अच्छे शहरी बनेंगे और अपने जीवन में कामयाब होंगे। इसी नुक्ते निगाह को मानते हुए इस बिल के अन्दर यह इन्तिजाम रखा गया है कि बच्चों को किसी जेल के अन्दर न भेजा जाये। आप जानते हैं कि आज भी जिन १४ साल से

कम उम्र के बच्चों को सजा की जाती है उनको ग्राम जेल के अन्दर नहीं रखा जाता बल्कि रिफारमेटरी के अन्दर रखा जाता है। मुझे एक सयासी कैदी की हैसियत से पंजाब के एक बोस्टल जेल में रहने का अवसर मिला था। वहाँ पर बहुत सारे बच्चे थे और आप जानते हैं कि पंजाब एक मजबूत सूबा है, इसलिए जो बच्चे वहाँ आते थे उनमें कुछ तो ऐसे होते थे कि जिन्होंने काल में मदद की थी, कुछ ऐसे आते थे जिन्होंने डकैती या चोरी में हिस्सा लिया या मदद की, कुछ जब कतरने के अपराध में भी वहाँ आते थे। वहाँ एक बात का खयाल रखा जाता था कि रात को दो बच्चों को साथ नहीं रहने दिया जाता था ताकि वे और ज्यादा बद आदतें न सीख लें। लेकिन ग्राम तौर पर देखा गया कि जो लड़के वहाँ से निकलते थे वे वजाये अच्छी बातें सीखने के जुर्मों को ज्यादा सीख कर निकलते थे और दुबारिया बनने के ज्यादा लायक बन कर निकलते थे, वह यह सीख कर निकलते थे कि जुर्म को ज्यादा होशियारी से कैसे किया जाये। तो इस चीज को रोकना बहुत जरूरी है। इसके लिए दो चीजें जरूरी हैं। एक तो इस तरह के बच्चों को इसी तरह के दूसरे बच्चों से अलाहिदा रखना जरूरी है ताकि वे और बद आदतें न सीख सकें। ऐसे बहुत सारे बच्चों को इकट्ठा रखना, जिनमें कि बुराई की प्रवृत्ति है, कोई ज्यादा अक्लमन्दी का काम नहीं होगा। तो इसलिए हमको इस काम में बहुत होशियारी से चलना होगा।

दूसरी जरूरी चीज इस के लिए वह है कि ऐसे बच्चों को उनके माता पिता से, अगर वह माता पिता जुर्म करने वाले हैं, अलग रखा जाये। जो आदमी गलतियां करता है, उसमें एक वजह तो उसकी आदत हो सकती है, और जो उसके आसपास के हालात होते हैं उनका भी उसकी आदतों पर बड़ा असर पड़ता है। जो उसके आसपास वायुमंडल होता है, उसका भी उसकी आदतों पर बड़ा

असर पड़ता है। लेकिन इस तरह की व्यवस्था इस बिल के अन्दर कहीं नहीं है कि बच्चों को जुर्म करने वाले माता पिता से अलग रखा जाये। मैं चाहता हूँ कि जिनको दुबारिया कैदी कहते हैं, जो लोग मारल टरपीट्यूड के लिए सजा पाये हुए हों, उनके बच्चों को उनके पास न जाने दिया जाये, क्योंकि अगर वह अपने ऐसे माता पिता के पास रहेंगे, जिन्होंने समाज के अन्दर बुराइयां सीखी हैं, तो कुदरती बात है कि वह अपने बच्चों को भी वही बुराइयां सिखायेंगे। तो इस में व्यवस्था होनी चाहिए कि ऐसे माता पिता से उनके बच्चों को अलग रखा जाये। आपने दूसरे बिल में यह रखा था कि अगर कोई गरीब मां बाप अपने ६ में ११ साल की उम्र के बच्चे को स्कूल नहीं भेजेगा तो उस पर सौ रुपया तक जरूरीमाना किया जा सकता है। मैं चाहता हूँ कि प्रवर समिति इसके अन्दर भी कोई तजवीज रखे कि जो ऐसे माता पिता के बच्चे हैं जिन्होंने समाज के अन्दर खराबियां की हैं, उनके बच्चों को जो स्पेशल स्कूल बनाये जायेंगे उनमें रखा जाये और उनका खर्चा जहां तक हो सके उनके माता पिता से लिया जाये। लेकिन अगर माता पिता न दे सकें तो कम से कम उन बच्चों को उनके पास न जाने दिया जाये।

इसके अलावा मैं ने देखा है और जिन आदमियों को चाहे कैदी की हैसियत से जिनको पुलिस से, या दुबारिया कैदियों से या जेल के अधिकारियों से वास्ता पड़ा हो या जिनका वास्ता रिफार-मेटरी के अधिकारियों से पड़ा हो वह बता सकते हैं, जैसा कि वारियर साहब ने कहा है, कि ये लोग बच्चों को आम तौर पर अच्छी बातें सिखाने के बजाये बुराई ज्यादा सिखाते हैं। इस बात का खास तौर पर ध्यान रखा जाये कि जो भाई इस काम के लिए भर्ती किये जायें, उनको सिर्फ नौकरी देने के लिए ही भर्ती न किया जाये, बल्कि जो बहुत ऊंचे दर्जे के समाज-सेवक हों, उन्हीं को इन बच्चों के साथ रहने का मौका दिया जाये।

उन के लिए कोर्स को बड़ी समझ से प्रैक्टाइब करने और स्लाइड्ज वगैरह के जरिये उनको शिक्षा देने की जरूरत है। इस के साथ ही उन के शिक्षण और पालन-पोषण की व्यवस्था बहुत होशियारी के साथ करने की जरूरत है। मैं चाहता हूँ कि कम से कम केन्द्र-शासित इलाकों में इस बिल के पास होने के बाद कोई बच्चा ऐसा न रहे, जिस को कोई भिखारी बना सके, या जो भिखारी हो, या जेब-कतरा हो। ऐसे बच्चों को सरकार ऐसे शिक्षण-केन्द्रों में भेजने की कोशिश करे। साथ ही आप जानते हैं कि अभी हम यह तो नहीं कह सकते कि हमारी पुलिस सोलह आने ईमानदारी से, या सभी भाई ईमानदारी से काम करते हैं। ऐसी तबवको अभी तो हम नहीं कर सकते हैं। आखिर वे हमारे ही अंग हैं। जैसे समाज में कुछ कुरीतियां हैं, वैसे ही उन में भी कुरीतियां हैं। उन के जिम्मे एक बहुत बड़ा काम है खराब बच्चों को छांटना। कई दफा ऐसा हो सकता है कि कोई बच्चा असल में अच्छा हो, लेकिन उन के ख्याल के बमूजिब वह खराब हो। इस में यह प्राविजन किया गया है कि उन को हवालात में नहीं रखा जायेगा। हमारे पुलिस के भाइयों को आम तौर पर मुलजिम्ओं से वास्ता रहता है। वे कई दफा कुरीतियां ही सिखाते हैं और उन्हें बच्चों को खास तौर पर कुरीतियां सिखाने का मौका मिल सकता है। इसी लिए यह व्यवस्था की गई है कि उन को हवालात में नहीं रखा जायेगा।

आज तो वक्त नहीं है, लेकिन मैं समझता हूँ कि देश में एक वक्त आयेगा, जब हम उन छोटे बच्चों ही नहीं, उन बड़े आदमियों के बारे में यह न मानेंगे, जो कि समाज में कुरीतियां करते हैं, कि खाली उन का ही कुसूर है, बल्कि यह मानते हुए कि समाज के बायु-मंडल का भी कुसूर है, उन को कैद में भेजने के बजाये शिक्षण-केन्द्रों में भेजेंगे। आज भी देश के तकरीबन सारे हिस्सों में इस तरह कोशिश की जा रही है।



**Shrimati Renuka Ray (Malda):** The protection of childhood and youth against exploitation is one of the cardinal principles in the directives of our Constitution. I am glad to welcome this measure, because in spite of the fact that we have had the Children Act in force in Delhi—I think the Bombay Act has been applied to Delhi—it is not at all satisfactory. I am glad an attempt is being made to have a more satisfactory Act. Before entering into some of the provisions of the Bill and pointing out where they need tightening up, I would like to say that the real thing that should be done is to eliminate the causes which bring about delinquency amongst children.

We know it for a fact that it is among the slum areas that the majority of the juvenile delinquents come into existence, because of the environment and conditions. So, ultimately it is a question of the changing of the economic and social conditions in which they live. We have to see to that and we should not forget this because we bring in a legislation of this nature. I say this in particular because I have a feeling that there is a tendency amongst us to think that institutional care of those who have become delinquents or who have been neglected—not only in regard to children, but others also—justifies this and that if we can make some arrangement for this, we will have done our duty. I do not say that is how the Education Ministry or the Minister himself is actuated, but that is the general feeling in the country even now; it is not institutional care, but it is the family that has to be strengthened, because it is the family which is the nucleus of this nation. That is something which we should know. Today we perhaps do not give that much attention to it that we should.

I think more especially this is true in the case of those who become juvenile delinquents in this country. As I said, it is the slum areas from which a large number of delinquents come. It is obvious that their environ-

mental circumstances and homes need to be tackled first and foremost. If that can be done, we shall bring down the number of those who need to be brought under the legal provisions and brought into the institutions that are set up. I think a great deal more of attention has to be focussed on prevention rather than cure—the medical profession today does recognise the need for prevention rather than cure—in social matters. In these matters, where social reform measures are concerned, I think it is essential that we also pay similar attention.

Turning to the Bill itself, I find that clauses 7 and 9 provide for the establishment of children's homes and there certain details are given about what powers the Administrator should have. I think those things have to be looked into carefully. I am glad that the Bill is going to the Joint Committee. Because, there is no doubt that the type of home depends on the type of person who is going to look after that home. I have nothing against Government as such, but I do think where personal care is required, where a certain amount of individual attention is required, it would be well for us to take the help of existing voluntary organisations which have a good deal of experience in this matter. They may not have the resources or fund today to do it on a widespread scale but it is they who have pioneered this kind of effort and I think that if this is to be satisfactorily undertaken and these homes are to yield the fruit that we hope for, then non-official organisations of repute and standing should be asked for their help. I think the Select Committee might look into this particular clause from that aspect.

In regard to clause 39(1), which relates to the persons who are responsible for the neglect of such homes, I think they should not be let off with such light punishments as six months imprisonment or fine or both. I hope the Select Committee will look into this matter.

Clause 47(1) gives to the Administrator the right to place a child or release a child from the children's home, or special school, and grant him a written licence for such period and on such conditions as might be specified in the licence, permitting him to live under the supervision of any responsible person. A great deal hinges on the word "responsible". If a person is responsible, then there is nothing like that. But a great deal of care and caution have to be taken because it is a known fact, an admitted fact, that in the name of homes for children and women, a great deal of things are done by various types of persons. We have to be very careful that when children are given out to individuals to look after, those individuals are completely above reproach of this type. That is another point which I hope the Joint Committee will go into.

As I said, I welcome this measure and I hope the Joint Committee will go into the points which I have referred to and some other points which I have not the time to refer, and I am sure the Joint Committee will improve upon this Bill.

**Mr. Chairman:** Shri D. C. Sharma. I hope he will be brief.

**Shri D. C. Sharma** (Gurdaspur): How many minutes can I take?

**Mr. Chairman:** Only 5 minutes which, at the discretion of the Chair, can be extended up to 10 minutes.

**Shri D. C. Sharma:** That is too short. I will require at least 15 minutes.

I welcome this Bill. I think this Bill makes provision for those children who, on account of family circumstances or social circumstances or economic disabilities, had become, so to say, neglected children or delinquent children or children of any

kind. It is a social measure of far-reaching consequences. I hope similar measures will be enacted in other States in our country also.

The first point that I want to make is this, that the constitution of the children's courts should be made as simple and uncomplicated as possible.

One of the drawbacks that I have found in this Bill is that it has been made to be by far and large an administrative measure. Here you find that the social worker, the welfare worker, the voluntary and honorary social worker or welfare worker is not being given his due. My feeling is that a Bill like this should attempt a happy compromise between administration and voluntary welfare agencies. I hope that when it goes to the Joint Committee, it will see to it that the element of those persons who are working in an honorary capacity for some of these causes is progressively enhanced. If this Bill is left only to courts and to probation officers and administrators or to this agency and that agency which are all of them Government agencies, I think it will never achieve its objective.

I now come to children's courts. My feeling is that children's courts should be left entirely to women. There should not be any room for men here. I think there are some places from which men should keep away and it is one of those places. It is because the psychology of a child can be understood much better by a woman than by a man however good, kind-hearted and knowledgeable he may be. I think, therefore, that these children's courts should be manned entirely by women. In my country there is no dearth of qualified women to do this.

Again, I find that something is going to be done for children's homes. These children's homes should not be treated like diluted prison houses. After going through this Bill I find that

[Shri D. C. Sharma]

these children's homes are going to be, I should say, prison houses or jails but with an element of mercy added to them. My feeling is that these children's homes should be modelled on our *gurukulas*. If they are modelled like that, I am sure that they will be more conducive to the welfare of children than the so-called children's homes where officialdom reigns and where people who are administrators have their field day.

Then, I would say that instead of having these special schools for children an attempt should be made to integrate these children at the earliest possible opportunity into the body of other children. After all, these special schools are going to have some kind of a social stigma. They are going to suffer from some kind of a social disability and our problem is to make these children shed all those vestiges of past mistakes and past errors. Therefore these special schools should be only temporary homes. They should not be called special schools. They should be called by some other name. They should be called camp schools or something like that. After putting those children in schools like that for three months or four months, in no case for more than six months, they should be sent to normal schools where normal students read.

Of course, so far as the after-care organisations are concerned, as I have said already, there should be room in them for those persons, for those women specially who are interested in the welfare of children.

So far as these neglected children go, I think the provisions are welcome. But I would like to say that the more I go about in this country, the more I come to the conclusion that the number of such children is on the increase; they are doing all kinds of things; they are resorting to all kinds of professions; they are serving in all kinds of ways. My idea is

that these neglected children should also be treated in the same way as those children whom we have described in chapter II, namely that they should also be taken away from their evil or bad contacts as early as possible. Of course, there are scores of provisions in this behalf.

I now come to juvenile delinquents. After going through chapter V, I find that these juvenile delinquents are going to be treated in the same way as ordinary prisoners, that is, they will stand trial, they will have to go through the maze of the law and all that kind of thing. I would say that the procedure here should be simplified, and the appeals, revision, this, that and the rest, should be played down. If we are going to treat them like ordinary criminals, I think it is no use.

I set a great deal of store by the probation officer. I welcome this new idea of probation officer. But my feeling is that the Ministry of Education should do something to have these probation officers trained in the proper way. Of course, they are being trained even now, but their training should be complete and comprehensive, because on these probation officers will depend the proper running of these institutions.

The classification of children into neglected children, delinquent children and so on is not to my taste. My feeling is that both the categories should be called unfortunate children. If you call them neglected children, it means that you have given them a social stigma for all time to come. If you call them delinquent children it means that you have bracketed them with the prisoners. Therefore, I would say that the nomenclature should be changed. Of course, this nomenclature prevails in other countries, but we must not have this nomenclature because it gives the children a bad name for all time to come.

I welcome this Bill, but I would say that the legal part of this Bill should be toned down as much as possible and the rehabilitation part should be played up as much as possible, and that rehabilitation should not be done only as an administrative proposition but it should be done also as a voluntary social welfare proposition.

16.33 hrs.

**Dr. K. L. Shrimali:** There are some points to which I think I should make a reference. As far as the Bill is concerned, it has been generally welcomed by the House, and I am grateful to the Members for having given it a warm welcome.

I think Shri Warrior drew our attention to an important point, and that is with regard to after-care homes and after-care organisations. It is very important that after a boy or girl leaves an institution or home, we must take care that he or she does not relapse into the old evil habits, but is properly rehabilitated.

I would like to draw the attention of my hon. friend to clause 10 where provision is made for after-care of the children through after-care organisations.

I would also like to inform him that there are already two after-care homes, one for boys and one for girls in Delhi. After this Bill is passed, we shall strengthen these organisations further so that they can look after the children properly after they have left the homes.

Shri Warrior also asked whether we had taken into account the experience of other places which have tried these measures. I would like to inform him that we have taken into account the Bombay Act, the Madras Act and the East Punjab Act. Whatever experience these States have had has been fully considered before drafting this Bill. The provision for the higher age

limit for girls is based on the experience which we actually gained in Bombay. Formerly, Bombay also did not have this higher age limit. Later on it was found that this was necessary for the protection of girls.

Ch. Ranbir Singh drew our attention to another important point, that wherever possible we should make the parents pay for the children who are put under homes or some kind of institutional care. I think there is a good deal of truth in what he said, that if we do not do this, we develop irresponsibility among parents. There may be sometimes parents who just think that there will be homes and institutions which will look after them and so they become irresponsible. Therefore, we have a clause, clause 49, which enables us to charge fees from parents or make them pay for the maintenance of children in the homes and institutions wherever we find that they are in a position to make this payment.

I think he also raised the question with regard to classification of children. The Bill has already a provision for classifying children into two categories and we have special schools for them. I would draw his attention to clauses 7 to 9 on page 5 of the Bill.

Shrimati Renuka Ray had an apprehension that when the children were sent out, it was possible that they might be exploited by the persons under whose care they were put. This, again, is a legitimate apprehension. But in the Bill we have a provision to the effect that one of the duties of the probation officers would be to visit such children from time to time and see whether the conditions laid down are observed. I would draw her attention to clause 52(2)(e) of the Bill.

I am sure the Joint Committee will give full consideration to the other points to which hon. Members have referred.

**Shri Tyagi (Dehra Dun):** I was not here when this was discussed. I would like to ask one question. Who foots the bill for this? Will it be borne wholly by the Central Government or will the State Governments also bear a part of the expenditure?

**Dr. K. L. Shrimali:** This is a Bill for the Union Territories.

**Mr. Chairman:** The question is:

"That this House concurs in the recommendation of Rajya Sabha that the House do join in the Joint Committee of the Houses on the Bill to provide for the care, protection, maintenance, welfare, training, education and rehabilitation of neglected or delinquent children and for the trial of delinquent children in the Union Territories made in the motion adopted by Rajya Sabha at its sitting held on the 15th February, 1960 and communicated to this House on the 18th February, 1960 and resolves that the following members of Lok Sabha be nominated to serve on the said Joint Committee, namely Shri P. Subbaiah Ambalam, Shri S. R. Arumugham, Shri S. M. Banerjee, Shri Dharanidhar Basumatari, Shri Bhakt Darshan, Shri Laxmanrao Sharanwanji Bhatkar, Shri J. B. S. Bist, Pandit Braj Narayan "Brajesh", Shri Akbarbhai Chavda, Shri Daljit Singh, Shri Nayantara Das, Shri Shree Narayan Das, Shri Resham Lal Jangde, Shri M. R. Krishna, Shrimati Sangam Laxmi Bai, Shri Mathew Maniyangadan, Shri Mohan Swarup, Shri J. G. More, Shri Mohan Nayak, Dr. Sushila Nayar, Shrimati Uma Nehru, Shri Deen Bandhu Parmar, Shri Uddaraju Ramam, Shri Ram Garib, Shri Mahadevappa Rampure, Shri Radha Charan Sharma, Shri Prakash Vir Shastri, Shri Babu Nath Singh, Shri Prabhu Narain Singh and Shri Tula Ram."

*The motion was adopted.*

16.04 hrs.

### HINDU MARRIAGES (VALIDATION OF PROCEEDINGS) BILL

**The Deputy Minister of Law (Shri Hajarnavis):** Sir, I beg to move:

"That the Bill to validate certain proceedings under the Hindu Marriage Act, 1955, as passed by Rajya Sabha, be taken into consideration."

The necessity for this Bill arose in this manner. Under the Hindu Marriages Act several applications can be made to the court as for restitution of conjugal rights, judicial separation and divorce. Such applications under section 19 must be made to a court which is a District Court; and a District Court has been defined in the Act to mean the principal civil court of original jurisdiction in the area and also to include any other civil court which may be specified by the State Government by notification as having jurisdiction in respect of the matters dealt with in that Act.

As all lawyers are aware and as this House is aware, the District Judge is an over-worked judge and several Additional Judges are appointed and the District Judge transfers several matters which are under the law triable by the District Judge to the courts of the various Additional District Judges. According to the general notions which prevailed elsewhere and which, similarly, prevailed in the Punjab also, it was thought that the court of the Additional District Judge is a court of the District Judge.

For instance in the State in which I practised, there are several decisions of the High Court in which it has been held that the court of the Additional District Judge is a court of the District Judge and, therefore, whatever the District Judge can do, the Additional District Judge can also do. That was the generally accepted interpretation of law in the Punjab also