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THE CHILDREN BILL, 1954

(AS PASSED BY RAJYA SABHA)

Composition of the Select Committee

1. Pandit Thakur Das Bhargava—*Chairman*
2. Rajmata Kamlendu Mati Shah
3. Shrimati Jayashri Raiji
4. Shrimati Uma Nehru
5. Shri B. Ramachandra Reddi
6. Shrimati Tarkeshwari Sinha
7. Shri Nikunja Behari Chowdhury
8. Shrimati Ammu Swaminadhan
9. Shri A. M. Thomas
10. Shri Jaipal Singh
11. Sardar Amar Singh Saigal
12. Shri Upendranath Barman
13. Shri Fulsinhji B. Dabhi
14. Shrimati Anusayabai Bhaorao Borkar
15. Shrimati Minimata
16. Shri Diwan Chand Sharma
17. Pandit Chatur Narain Malviya
18. Shri Mukund Lal Agrawal
19. Shri Mohan Lal Saksena
20. Shri Hari Vinayak Pataskar
21. Shrimati Shivrajvati Nehru
22. Shrimati Sushama Sen
23. Shri Radha Raman
24. Shri Raghubir Sahai
25. Shri Bhakt Darshan
26. Shri B. N. Datar
27. Dr. Mono Mohon Das
28. Shri Amjad Ali

(ii)

20. Shrimati Renu Chakravartty.

DRAFTSMAN

Shri S. P. Sen Verma, *Additional Draftsman, Ministry of Law.*

SECRETARIAT

Shri N. N. Mallya, *Deputy Secretary.*

Shri A. L. Rai, *Under Secretary.*

Shri P. K. Patnaik, *Under Secretary.*

Report of the Select Committee

1. The Chairman of the Select Committee to which 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 passed by Rajya Sabha, was referred, having been authorised to submit the report on their behalf, present their Report with the Bill annexed thereto.

2. The Bill as passed by Rajya Sabha was laid on the Table of the Lok Sabha on the 7th May, 1954.

3. The motion for reference of the Bill to a Select Committee was moved by Dr. Mono Mohon Das on the 25th August, 1956, and was discussed and adopted on the same day (Appendix I).

4. The Committee held four sittings in all.

5. The first sitting of the Committee was held on the 7th September, 1956 to draw up a programme of work.

6. The Committee at its sitting held on the 8th November, 1956 authorised the Chairman to ask for an extension of time for presentation of the report upto the 30th November, 1956.

7. The Committee at its sitting held on the 24th November, 1956 considered the Bill.

8. The Report of the Committee was to be presented by the last day of the first week of the Fourteenth Session i.e. the 16th November, 1956. The Committee were granted extension of time on the 16th November, 1956 upto the 30th November, 1956.

9. The Committee considered and adopted the Report on the 27th November, 1956.

10. The Committee feel that as the Bill was intended to apply to the erstwhile Part C States which have ceased to exist since the commencement of the States Reorganisation Act and the Constitution (Seventh Amendment) Act, they need not proceed with the consideration of the Bill.

The Committee accordingly recommend that the mover of the Bill be granted permission to move the necessary motions for the withdrawal of the Bill.

NEW DELHI;
The 27th November, 1956.

THAKUR DAS BHARGAVA,
Chairman,
Select Committee.

*The Bill was published in Part II—Section 2 of the Gazette of India Extraordinary dated the 14th September, 1953 and passed by Rajya Sabha on the 28th April, 1954.

Bill No. XXIII-CA of 1953

THE CHILDREN BILL, 1954

[AS PASSED BY RAJYA SABHA]

(AS CONSIDERED BY THE SELECT COMMITTEE)

A

BILL

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

BE it enacted by Parliament in the Fifth Year of our Republic as follows:—

CHAPTER I

PRELIMINARY

5 1. (1) This Act may be called the Children Act, 1954.

(2) It extends to all Part C States.

10 (3) This section shall come into force at once; and the State Government may, by notification in the Official Gazette, direct that all or any of the other provisions of this Act specified in the notification shall come into force in the whole of the State or any area thereof on such date as it may by the notification appoint, and different dates may be appointed for different provisions of this Act and for different areas within the State.

Short title,
extent and
commence-
ment.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) “adult” means a person who is not a child;

(b) “child” means a person who has not attained the age of sixteen years;

(c) “children’s court” means a court established under section 4;

(d) “children’s home” means an institution established or certified by the State Government under section 7 for the reception and protection of neglected children;

(e) “competent court” means a children’s court, and where such a court has not been constituted, includes any court empowered by sub-section (2) of section 5 to exercise the powers conferred on a children’s court;

(f) “guardian” in relation to a child, includes any person who, in the opinion of the court having cognizance of any proceeding in relation to a child, has, for the time being, the actual charge of, or control over, that child;

(g) “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;

(h) “neglected child” means a child who—

(i) 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, or otherwise;

(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; or

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

(iv) lives in a brothel or with a prostitute or frequently goes to any place used for the purpose of prostitution, or is found to associate with any prostitute or any other person who leads an immoral, drunken or depraved life;

(i) “observation home” means any institution or place established or recognised by the State Government under section 9 for the temporary reception of a child during the pendency of an inquiry regarding him;

(j) “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;

(k) "prescribed" means prescribed by rules made under this Act;

(l) "probation officer" means an officer appointed as a probation officer under this Act;

5 (m) "special school" means an institution established or certified by the State Government under section 8 for the reception and training of juvenile delinquents;

10 (n) "State Government", in relation to a Part C State, means the Lieutenant-Governor or, as the case may be, the Chief Commissioner;

15 (o) "supervision", in relation to a child placed under the care of any parent, guardian or other fit person under this Act, means the supervision of that child by a probation officer for the purpose of ensuring that the child is properly looked after and that the conditions imposed by the competent court are complied with;

V of 1898. (p) all words and expressions used but not defined in this Act and defined in the Code of Criminal Procedure, 1898 shall have the meanings assigned to them in that Code.

20 3. 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
 25 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.

Continuation of inquiry in respect of a child who has attained sixteen years.

CHAPTER II

30 COMPETENT COURTS AND CERTAIN INSTITUTIONS UNDER THE ACT

V of 1898. 4. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, the State Government may, by notification in the Official Gazette, constitute for any area specified in the notification, one or more children's courts for holding inquiries
 35 regarding neglected children and juvenile delinquents under this Act.

Children's Courts.

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

(3) In the event of any difference of opinion among the magistrates constituting a Bench, the opinion of the majority shall prevail, but where there is no such majority, the opinion of the senior magistrate shall prevail.

(4) A children's court, where it is presided over by a Bench of 5 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.

(5) 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.

Power of
Children's
court and
other courts.

5. (1) Where a children's court has been constituted for any area, such court shall, notwithstanding anything contained in any other law for the time being in force but save as otherwise expressly provided in this Act, have power to deal exclusively with all proceedings relating to neglected children and juvenile delinquents under this Act.

(2) Where no children's court has been constituted for any area, the powers conferred on the children's court by or under this Act shall be exercised in that area, only by the following, namely:—

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

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(3) The powers conferred on the children's court by or under this Act may also be exercised by the High Court and the court of session, when the proceeding comes before them in appeal, revision or otherwise.

Procedure to
be followed
by a magis-
trate not
empowered
under this
Act.

6. (1) When any magistrate not empowered to exercise the powers of a children's court under this Act is of opinion that a person brought before him under any of the provisions of this Act (otherwise than for the purpose of giving evidence) is a child, he shall record such opinion and forward the child and the record of the proceeding to the competent court having jurisdiction over the proceeding.

(2) The competent court to which the proceeding is forwarded under sub-section (1) shall hold the inquiry as if the child had originally been brought before it.

Children's
homes.

7. (1) The State Government may establish and maintain as many children's homes as may be necessary for the reception of neglected children to be sent there under this Act.

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(2) Where the State Government is of opinion that any institution other than an institution established under sub-section (1) is fit for the reception of the neglected children to be sent there under this Act, the State Government may certify such institution as a children's home for the purposes of this Act.

(3) Every children's home to which a neglected child is sent under this Act shall not only provide the child with accommodation and maintenance but also endeavour to provide him with facilities for education and for developing his character and abilities and to give him necessary training for protecting himself against moral dangers or exploitation and shall also perform such other functions as may be prescribed.

(4) The State Government may, by rules made under this Act, provide for the management of children's homes and the circumstances under which, and the manner in which, the certificate of a children's home may be withdrawn.

8. (1) The State Government may establish and maintain as many special schools as may be necessary for the reception of juvenile delinquents to be sent there under this Act. Special schools.

(2) Where the State Government is of opinion that any institution other than an institution established under sub-section (1) is fit for the reception of juvenile delinquents to be sent there under this Act, the State Government may certify such institution as a special school for the purposes of this Act.

(3) Every special school to which a juvenile delinquent is sent under this Act shall not only provide the child with accommodation and maintenance but also endeavour to provide him with facilities for education and for developing his character and abilities and to give him necessary training for his reformation and shall also perform such other functions as may be prescribed.

(4) The State Government may, by rules made under this Act, provide for the management of special schools and the circumstances under which, and the manner in which, the certificate of a special school may be withdrawn.

9. (1) The State Government may establish and maintain as many observation homes as may be necessary for the temporary reception of children during the pendency of any inquiry regarding them under this Act and such observation homes shall be maintained in such manner as may be prescribed. Observation homes.

(2) Where the State Government is of opinion that any institution other than an institution established under sub-section (1) is fit for the temporary reception of children during the pendency of any inquiry regarding them under this Act, the State Government

may recognise such institution as an observation home for the purposes of this Act.

After-care
organisation.

10. (1) The State Government may, by rules made under this Act provide for the establishment or recognition of after-care organisations and may vest them with such powers as may be necessary 5 for effectively carrying out their functions under this Act.

(2) Every such organisation shall take care of the children when 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 10 prescribed.

CHAPTER III

NEGLECTED CHILDREN

Production
of neglected
children be-
fore compe-
tent courts.

11. (1) Any police officer or other person authorised by the State Government in this behalf may, if he is of opinion that a person 15 apparently under the age of sixteen years is a neglected child, take charge of that person for bringing him before a competent court.

(2) When information is given to an officer-in-charge of a police station about any neglected child found within the limits of such station, he shall enter in a book to be kept for the purpose the sub- 20 stance of such information and take such action thereon as he deems fit and if such officer does not propose to take charge of the child, he shall forward a copy of the entry made to the competent court.

(3) Every child taken charge of under sub-section (1) shall be brought before the competent court within a period of twenty-four 25 hours of such charge taken excluding the time necessary for the journey from the place where the child had been taken charge of to the competent court.

(4) Every child taken charge of under sub-section (1) shall unless he is kept with his parent or guardian, be sent to an observation 30 home (but not to a police station or jail) until he can be brought before a competent court.

Special pro-
cedure to be
followed
when the
neglected
child has
parent.

12. (1) If a person, who in the opinion of the police officer or the authorised person is a neglected child, has a parent or guardian who has the actual charge of, or control over, the child, the police officer 35 or the authorised person may, instead of taking charge of the child, make a report to the competent court for initiating an inquiry regarding that child.

(2) On receipt of a report under sub-section (1), the competent court may call upon the parent or guardian to produce the child 40 before it and to show cause why the child should not be dealt with

as a neglected child under the provisions of this Act and if it appears to the competent court that the child is likely to be removed from its jurisdiction or to be concealed, it may immediately order his removal (if necessary by issuing a search warrant for the immediate production of the child) to an observation home.

13. (1) When a person alleged to be a neglected child is produced before a competent court, it shall examine the police officer or the authorised person who brought the child or made the report and record the substance of such examination and hold the inquiry in the prescribed manner and may make such orders in relation to the child as it may deem fit.

Inquiry by competent court regarding neglected children.

(2) 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 for being kept there until he attains the age of sixteen years:

Provided that the competent court may, for reasons to be recorded extend the period of such stay, but in no case the period of stay shall extend beyond the time when the child attains the age of eighteen years.

(3) During the pendency of any inquiry regarding a child, the child shall, unless he is kept with his parent or guardian, be sent to an observation home for such period as may be specified in the order of the competent court.

14. (1) 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 to be responsible for the good behaviour and well-being of the child and for the observance of such conditions as the competent court may think fit to impose.

Power to commit neglected child to suitable custody.

(2) At the time of making an order under sub-section (1) or at any time subsequently, the competent court may, in addition, make an order that the child be placed under supervision for any period not exceeding three years in the first instance.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), if at any time, it appears to the competent court on receiving a report from the probation officer or otherwise, that there has been a breach of any of the conditions imposed by it in respect of the child, it may, after making such inquiry as it deems fit, order the child to be sent to a children's home.

15. Where a parent or guardian of a child complains to the competent court that he is not able to exercise proper care and control over the child and the competent court is satisfied on inquiry that proceedings under this Act should be initiated regarding the child, it may send the child to an observation home and make such further inquiry as it may deem fit and the provisions of section 13 and section 14 shall, as far as may be, apply to such proceedings.

CHAPTER IV

JUVENILE DELINQUENTS

16. (1) When any person accused of a bailable or non-bailable offence and apparently under the age of sixteen years is arrested or detained or appears or is brought before a competent court, such person shall be released on bail with or without surety but he shall not be so released if there appear reasonable grounds for believing that the release is likely to bring him into association with any reputed criminal or expose him to moral danger or that his release would defeat the ends of justice.

(2) When such a person having been arrested is not released on bail under sub-section (1), by the officer-in-charge of the police station, such officer shall cause him to be kept in an observation home in the prescribed manner (but not in a police station or jail) until he can be brought before a competent court.

(3) When such a person is not released on bail under sub-section (1) by the competent court, it shall, instead of committing him to prison, send him to an observation home for such period during the pendency of the inquiry regarding him as may be specified in the order.

17. Where a child is arrested, the officer-in-charge of the police station to which the child is brought shall, as soon as may be after the arrest, inform—

(a) the parent or guardian of the child, if he can be found, of such arrest and direct him to be present at the competent court before which the child will appear; and

(b) the probation officer of such arrest in order to enable him to obtain information regarding the antecedents and family history of the child and other material circumstances likely to be of assistance to the competent court for making the inquiry.

18. Where a child having been charged with an offence appears or is produced before a competent court, the competent court shall hold the inquiry in accordance with the provisions of section 36 and may, subject to the provisions of this Act, make such order in relation to the child as it deems fit.

19. (1) Where a competent court is satisfied on inquiry that a child has committed an offence, then, notwithstanding anything to the contrary contained in any law for the time being in force, the competent court, may, if it so thinks fit,—

Orders that may be passed regarding juvenile delinquents.

5 (a) make an order directing the child to be sent to a special school for such period of stay as it may consider necessary for the proper training of the child:

10 Provided that in no case the period of stay shall extend beyond the time when the child attains the age of eighteen years;

(b) allow the child to go home after advice or admonition;

15 (c) direct the child to be released on probation of good conduct and placed under the care of any parent, guardian or other fit person on such parent, guardian or fit person executing a bond, with or without surety as the competent court may require, for the good behaviour and well-being of the juvenile delinquent for any period not exceeding three years;

(d) order the child to pay a fine, if he is over the age of fourteen years and earns money.

20 (2) Where the competent court makes an order under clause (b) or clause (c) or clause (d) of sub-section (1), it may, in addition, make an order that the juvenile delinquent be placed under supervision for such period, not exceeding three years, as it thinks fit:

25 Provided that if at any time afterwards it appears to the competent court on receiving a report from the probation officer or otherwise, that the juvenile delinquent has not been of good behaviour during the period of supervision, it may, after making such inquiry as it deems fit, order the juvenile delinquent to be sent to
30 a special school.

20. (1) Notwithstanding anything to the contrary contained in any law for the time being in force, no juvenile delinquent shall be sentenced to imprisonment or committed to prison in default of payment of fine or in default of furnishing security:

Orders that may not be passed against juvenile delinquents.

35 Provided that where a child who has attained the age of fourteen years has committed an offence and the competent court is satisfied that the offence committed is of so serious a nature or that his conduct and behaviour has been such that it would not be in his interest or in the interest of other children in a special school
40 to send him to such special school and that none of the other measures provided for under this Act is suitable or sufficient, the competent court may order the juvenile delinquent to be kept in safe custody in such place and manner as it thinks fit and shall report the case for the orders of the State Government.

(2) On receipt of a report from a competent court under sub-section (1), the State Government may make such arrangement in respect of the child as it deems proper and may order such juvenile delinquent to be detained at such place and on such conditions as it thinks fit: 5

Provided that the period of detention so ordered shall not exceed the maximum period of imprisonment to which the child could have been sentenced for the offence committed.

Power to order parent to pay fine etc.

21. (1) 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. 15

(2) An order under this section may be made against a parent or guardian who, having been required to attend has failed to do so, but save as aforesaid, no such order shall be made without giving the parent or guardian an opportunity of being heard.

(3) Any order directing that a parent or guardian shall pay fine under this section may be enforced as though it were an order passed under the Code of Criminal Procedure, 1898. V of 1898

No proceeding under Chapter VIII of the Criminal Procedure Code against the child.

22. Notwithstanding anything to the contrary contained in the Code of Criminal Procedure, 1898 no proceeding shall be instituted and no order shall be passed against a child under Chapter VIII of the said Code. 25

No joint trial of child and adult.

23. (1) Notwithstanding anything contained in section 239 of the Code of Criminal Procedure, 1898 or any other law for the time being in force, no child shall be charged with or tried for, any offence together with an adult. 30

V of 1898

(2) If a child is accused of an offence for which under section 239 of the Code of Criminal Procedure, 1898, or any other law for the time being in force, such child and an adult would, but for the prohibition contained in sub-section (1), have been charged and tried together, the court taking cognizance of that offence shall direct separate trials of the child and the adult. 35

Special provision in respect of pending cases.

24. Notwithstanding anything contained in this Act, all proceedings in respect of a child pending in any court in any area on the date on which this Chapter comes into force in that area, shall be continued in that court as if this Act had not been passed and if the court of trial finds that the child has committed an offence, it shall 40

record such finding and, instead of passing any sentence in respect of the child, forward the child to the competent court which shall pass orders in respect of that child in accordance with the provisions of this Act as if it had been satisfied on inquiry under this Act that the child has committed the offence.

CHAPTER V

CERTAIN POWERS AND FUNCTIONS OF COMPETENT COURTS AND APPEALS AND REVISION FROM ORDERS OF SUCH COURTS

25. (1) A children's court shall hold its sittings at such place, on such day and in such manner, as may be prescribed. Sittings, etc.
of children's
courts

(2) A magistrate empowered to exercise the powers of a children's court under sub-section (2) of section 5 shall, while holding any inquiry regarding a child under this Act, as far as practicable, sit in a building or room different from that in which the ordinary sittings of civil and criminal courts are held, or on different days or at times different from those at which the ordinary sittings of such courts are held.

26. (1) Save as provided in this Act, no person shall be present at any sitting of a competent court, except— Presence of
persons in
children's
court

(a) the officer of the competent court, or

(b) the parties to the inquiry before the competent court, the parent or guardian of the child and other persons directly concerned in the inquiry including police officers, and

(c) such other persons as the competent court may permit to be present.

(2) Notwithstanding anything contained in sub-section (1), if at any stage during an inquiry, a competent court considers it to be expedient in the interest of the child or on grounds of decency or morality that any person including the police officers, the parent, guardian or the child himself should withdraw, the competent court may give such direction, and if any person refuses to comply with such direction, the competent court may have him removed and may, for this purpose, cause to be used such force as may be necessary.

27. If at any stage during the course of an inquiry, a competent court is satisfied that the attendance of the child is not essential for the purpose of the inquiry, the competent court may dispense with his attendance and proceed with the inquiry in the absence of the child. Dispensing
with attend-
ance of

Attendance
of parent or
guardian of
the child.

28. Any competent court before which a child is brought under any of the provisions of this Act may, whenever it so thinks fit, require any parent or guardian having the actual charge of, or control over, the child to be present at any proceeding in respect of the child.

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Presumption
and determi-
nation of
age.

29. (1) Wherever any person is brought before any competent court under any of the provisions of this Act (otherwise than for the purpose of giving evidence) and it appears to the competent court that he is a child, the competent court shall make due inquiry as to the age of that person and for that purpose shall take such evidence as may be forthcoming and shall record a finding whether the person is a child or not, stating his age as nearly as may be.

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(2) No order of a competent court shall be invalidated merely by any subsequent proof that the person in respect of whom the order has been made is not a child, and the age presumed or declared by the competent court to be the age of the person so brought before it shall, for the purposes of this Act, be deemed to be the true age of that person.

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Circumstan-
ces to be
taken into
considera-
tion in
making
orders under
this Act.

30. For the purpose of making any order in respect of a child under this Act, a competent court shall have regard to the following circumstances, namely:—

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- (a) the age of the child;
- (b) the circumstances in which the child is living;
- (c) the reports made by the probation officer;
- (d) the religious persuasion of the child;

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(e) such other circumstances as may, in the opinion of the competent court, require to be taken into consideration in the interests of the child:

Provided that in the case of a juvenile delinquent, the above circumstances shall be taken into consideration after the competent court has recorded a finding against the child that he has committed the offence.

Sending a
child out-
side juris-
diction.

31. In the case of a neglected child or juvenile delinquent whose ordinary place of residence lies outside the jurisdiction of the competent court before which he is brought, the competent court may, if satisfied after due inquiry that it is expedient so to do, send the neglected child or juvenile delinquent back to a relative or other person who is fit and willing to receive him at his ordinary place of residence and exercise proper care and control over him, notwithstanding that such place of residence is outside the jurisdiction

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of the competent court; 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.

- 5 **32.** The report of the probation officer or any other report considered by the competent court under section 30 shall be treated as confidential: Reports to be treated confidential.

10 Provided that if such report relates to the character, health or conduct of, or the circumstances in which, the child or parent is living, the competent court may, if it thinks it expedient, communicate the substance thereof to the child or parent concerned, as the case may be, and may give the child or parent an opportunity to produce such evidence as may be relevant to the matter stated in the report.

- 15 **33. (1)** No report in any newspaper, magazine or news sheet of any inquiry regarding a child under this Act shall disclose the name, address or school or any other particulars calculated to lead to the identification of the child, nor shall any picture of any such child be published: prohibition of publication of names, etc. of children involved in any proceeding under this Act.

20 Provided that for reasons to be recorded in writing, the court holding the inquiry may permit such disclosure, if in its opinion such disclosure is in the interest of the child.

25 (2) Any person contravening the provisions of sub-section (1) shall be punishable with fine which may extend to one thousand rupees.

34. (1) Subject to the provisions of this section, any person aggrieved by an order made by a competent court under this Act may, within thirty days from the date of such order, prefer an appeal to the court of session: Appeals.

30 Provided that the court of session may entertain the appeal after the expiry of the said period of thirty days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) No appeal shall lie from—

- 35 (a) any order of acquittal made by the competent court in respect of a child alleged to have committed an offence; or
 (b) any order made by a competent court in respect of a person finding that he is not a neglected child.

40 (3) No second appeal shall lie from any order of the court of session passed in appeal under this section.

Revision

35. The High Court may, at any time, either of its own motion or on an application received in this behalf, call for the record of any proceeding in which any competent court or court of session has passed an order for the purpose of satisfying itself as to the legality or propriety of any such order and may pass such order in relation thereto as it thinks fit: 5

Provided that the High Court shall not pass an order under this section prejudicial to any person without giving him a reasonable opportunity of being heard.

Procedure to apply to inquiries, appeals and revision proceedings.

36. (1) Save as otherwise expressly provided by this Act, a competent court, while holding any inquiry under any of the provisions of this Act, shall follow such procedure as may be prescribed and subject thereto, shall follow, as far as may be, the procedure laid down in the Code of Criminal Procedure, 1898 for trials in summons cases. 10 15

V of 1898.

(2) Save as otherwise expressly provided by or under this Act, the procedure to be followed in hearing appeals or revision proceedings under this Act shall be, as far as practicable, in accordance with the provisions of the Code of Criminal Procedure, 1898.

Power to amend orders.

37. (1) Without prejudice to the provisions for appeal and revision under this Act, any competent court may, either on its own motion or on an application received in this behalf, amend any order as to the institution to which a child is to be sent or as to the person under whose care or supervision a child is to be placed under this Act. 20 25

(2) Clerical mistakes in orders passed by a competent court or errors arising therein from any accidental slip or omission may, at any time, be corrected by the competent court either on its own motion or on an application received in this behalf.

CHAPTER VI

MISCELLANEOUS

30

Power of State Government to discharge and transfer children.

38. (1) The State Government may, notwithstanding anything contained in this Act, 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. 35

(2) The State Government may, notwithstanding anything contained in this Act, order—

(a) a neglected child to be transferred from one children's home to another; 40

(b) a juvenile delinquent to be transferred from one special school to another or from a special school to a borstal school where such school exists or from a special school to a children's home;

(c) a child who has been released on licence, which has been revoked or forfeited, to be sent to the special school or children's home from which he was released or to any other children's home or special school:

5 Provided that the total period of the stay of the child in a children's home or a special school shall not be increased by such transfer.

(3) The State Government may, notwithstanding anything contained in this Act, at any time, discharge a child from the care of
10 any person under whom he was placed under this Act either absolutely or on such conditions as the State Government may think fit to impose.

39. (1) Where it appears to the State Government that any child kept in a special school or children's home in pursuance of this Act
15 is a leper or of unsound mind, the State Government may order his removal to a leper asylum or mental hospital or other place of safe custody for being kept there for the remainder of the terms for which he has to be kept in custody under the orders of the competent court or for such further period as may be certified by a
20 medical officer to be necessary for the proper treatment of the child.

Transfer of children of unsound mind or suffering from leprosy.

(2) Where it appears to the State Government that the child is cured of leprosy or of unsoundness of mind, the State Government may, if the child is still liable to be kept in custody, order the person having charge of the child to send him to the special school or
25 children's home from which he was removed or, if the child is no longer liable to be kept in custody, order him to be discharged.

40. (1) When a child is kept in a children's home or special school, the State Government may, if it so thinks fit, release the child from the children's home or special school and grant him a
30 written licence for such period and on such conditions as may be specified in the licence permitting him to live with, or under the supervision of, any responsible person named in the licence willing to receive and take charge of him with a view to educate him and train him for some useful trade or calling.

Placing out on licence.

35 (2) Any licence so granted shall be in force for the period specified in the licence or until revoked or forfeited by the breach of any of the conditions on which it was granted.

(3) The State Government may, at any time, by order in writing revoke any such licence and order the child to return to the
40 special school or children's home from which he was released or to any other children's home or special school, and shall do so at the desire of the person to whom the child is licensed.

(4) When a licence has been revoked or forfeited and the child refuses or fails to return to the special school or children's home to which he was directed so to return, the State Government may, if necessary, cause him to be taken charge of and may cause him to be taken back to the special school or children's home. 5

(5) The time during which a child is absent from a special school or children's home in pursuance of a licence granted under this section shall be deemed to be part of the time of his stay in the special school or children's home:

Provided that when a child has failed to return to the special school or children's home on the licence being revoked or forfeited, the time which elapses after his failure so to return shall be excluded in computing the time during which he has to be kept in custody.

Provision in
respect of
escaped
children.

41. Notwithstanding anything to the contrary contained in any law for the time being in force, any police officer may take charge without warrant of a child who has escaped from a special school or a children's home or from the care of a person under whom he was placed under this Act and shall send the child back to the special school or the children's home or that person, as the case may be; and no proceeding shall be instituted in respect of the child by reason of such escape but the special school, children's home or the person may, after giving the information to the competent court which passed the orders in respect of the child, take such steps against the child as may be deemed necessary. 15 20 25

Contribu-
tion by
parents.

42. (1) The competent court which makes an order for sending a neglected child or a juvenile delinquent to a children's home or a special school or placing the child under the care of a fit person may make an order on the parent or other person liable to maintain the child to contribute to his maintenance, if able to do so, in the prescribed manner. 30

(2) The competent court before making any order under sub-section (1) shall inquire into the circumstances of the parent or other person liable to maintain the child and shall record evidence, if any in the presence of the parent or such other person as the case may be. 35

(3) The person liable to maintain a child shall, for the purposes of sub-section (1), include in the case of illegitimacy, his putative father:

Provided that where the child is illegitimate and an order for his maintenance has been made under section 488 of the Code of Criminal Procedure, 1898 the competent court shall not ordinarily make an order for contribution against the putative father, but may order the whole or any part of the sums accruing due under the 40

said order for maintenance to be paid to such person as may be named by the competent court and such sum shall be paid by him towards the maintenance of the child.

(4) Any order made under this section may be enforced in the same manner as an order under section 488 of the Code of Criminal Procedure, 1898.

43. Any person in whose custody a child is placed in pursuance of this Act shall, while the order is in force, have the like control over the child as if he were his parent, and shall be responsible for his maintenance, and the child shall continue in his custody for the period stated by the competent court, notwithstanding that he is claimed by his parent or any other person.

Control of custodian over child.

44. In any area in which this Act is brought into force, the State Government may direct that a juvenile delinquent who is undergoing any sentence of imprisonment shall, in lieu of undergoing such sentence, be sent to a special school for the remainder of the period of the sentence; and the provisions of this Act shall apply to the child as if he had been ordered by a competent court to be sent to such special school.

Juvenile delinquent undergoing sentence at the commencement of the Act.

45. Notwithstanding anything contained in any other law, the conviction of a child or the fact that a child has been found under this Act to have committed an offence shall not be regarded as a disqualification, if any, attaching to a conviction of an offence under such law.

Removal of disqualification attaching to conviction.

46. (1) The State Government may appoint probation officers, officers for the inspection of special schools, children's homes, observation homes or after-care organisations and such other officers as it may deem necessary for carrying out the purposes of this Act.

Appointment of officers.

(2) Subject to any rules that may be made under this Act, it shall be the duty of the probation officer—

(a) to visit neglected children and juvenile delinquents at such intervals as the probation officer may think fit;

(b) to report to the competent court as to the behaviour of any neglected child or juvenile delinquent;

(c) to advise and assist neglected children or juvenile delinquents and if necessary, endeavour to find them suitable employment;

(d) where a neglected child or a juvenile delinquent is placed under the care of any person on certain conditions, to see whether such conditions are being complied with; and

(e) to perform such other duties as may be prescribed.

(3) Any officer empowered in this behalf by the State Government may enter any special school, children's home, observation home or after-care organisation and make a complete inspection thereof in all its departments and of all papers, registers and accounts relating thereto and shall submit the report of such inspection to the State Government. 5

Officers appointed under the Act to be public servants.

47. Every probation officer or any other officer appointed in pursuance of this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

XLV of 1860.

Procedure in respect of bonds.

48. The provisions of Chapter XLII of the Code of Criminal Procedure, 1898 shall, as far as may be, apply to bonds taken under this Act. 10

V of 1898.

Delegation of powers.

49. The State Government may, by general or special order, direct that any power exercisable by it by or under this Act shall, in such circumstances and under such conditions, if any, as may be specified in the order, be exercisable also by an officer subordinate to the State Government. 15

Protection of action taken in good faith.

50. No suit or other legal proceeding shall lie against the State Government or any probation officer or any other officer appointed under this Act in respect of anything which is in good faith done or intended to be done in pursuance of this Act or of any rules or orders made thereunder. 20

Act VII of 1897 and certain provisions of Act V of 1898 not to apply.

51. The Reformatory Schools Act, 1897 and section 29B and section 399 of the Code of Criminal Procedure, 1898 shall cease to apply to any area in which this Act has been brought into force. 25

VII of 1897
V of 1898.

Power to make rules.

52. (1) 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:— 30

(a) the places at which, the days on which and the manner in which a children's court may hold its sittings;

(b) the procedure to be followed by a children's court or any other competent court in holding inquiries under this Act; and the mode of dealing with children suffering from dangerous diseases or mental complaints; 35

(c) the circumstances in which, and the conditions subject

to which, an institution may be certified as a special school or a children's home or recognised as an observation home;

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

5 (e) the functions and liabilities of special schools, children's homes and observation homes;

(f) the inspection of special schools, children's homes, observation homes and after-care organisations;

10 (g) the establishment, management and functions of after-care organisations; the circumstances in which, and the conditions subject to which, an institution may be recognised as an after-care organisation;

(h) the qualifications and duties of probation officers;

15 (i) the recruitment and training of persons appointed to carry out the purposes of this Act and the terms and conditions of their service;

(j) the manner in which a child may be sent outside the jurisdiction of a competent court;

20 (k) the manner in which contribution for the maintenance of a child may be ordered to be paid by a parent or guardian;

(l) the conditions under which a child may be placed out on licence and the form and conditions of such licence;

25 (m) the conditions subject to which children may be placed under the care of any parent, guardian or other fit person under this Act and the obligations of such persons towards the children so placed;

(n) any other matter which has to be, or may be, prescribed.

APPENDIX I

(Vide para 3 of the Report)

Motion in the Lok Sabha

"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 passed by Rajya Sabha, be referred to a Select Committee consisting of—

1. Her Highness Rajmata Kamlendu Mati Shah
2. Shrimati Jayashri Raiji
3. Shrimati Uma Nehru
4. Shri B. Ramachandra Reddi
5. Shrimati Tarkeshwari Sinha
6. Shri Nikunja Behari Chowdhury
7. Shrimati Ammu Swaminadhan
8. Shri A. M. Thomas
9. Shri Jaipal Singh
10. Saradar Amar Singh Saigal
11. Shri Upendranath Barman
12. Shri Fulsinhji B. Dabhi
13. Shrimati Anusayabai Bhaorao Borkar
14. Shrimati Minimata
15. Shri Diwan Chand Sharma
16. Pandit Chatur Narain Malviya
17. Shri Mukund Lal Agrawal
18. Shri Mohan Lal Saksena
19. Shri Hari Vinayak Pataskar
20. Shrimati Shivrajvati Nehru
21. Shrimati Sushama Sen
22. Shri Radha Raman
23. Shri Raghubir Sahai
24. Shri Bhakt Darshan
25. Pandit Thakur Das Bhargava
26. Shri B. N. Datar
27. Shri Amjad Ali
28. Shrimati Renu Chakravartty
29. Dr. Mono Mohon Das

with instructions to report by the last day of the first week of the next session."

APPENDIX II

MINUTES OF THE SITTINGS OF SELECT COMMITTEE ON THE CHILDREN BILL, 1954

I

First Sitting

The Committee met from 10 A.M. to 10-25 A.M. on Friday, the 7th September, 1956.

PRESENT

Pandit Thakur Das Bhargava—*Chairman.*

MEMBERS

2. Rajmata Kamlendu Mati Shah
3. Shrimati Uma Nehru
4. Shri B. Ramachandra Reddi
5. Shri A. M. Thomas
6. Shri Jaipal Singh
7. Sardar Amar Singh Saigal
8. Shri Upendranath Barman
9. Shri Fulsinhji B. Dabhi
10. Shrimati Anusayabai Bhaorao Borkar
11. Shrimati Minimata
12. Shri Diwan Chand Sharma
13. Pandit Chatur Narain Malviya
14. Shri Mukund Lal Agrawal
15. Shrimati Shivrajvati Nehru
16. Shri Raghubir Sahai
17. Shri B. N. Datar
18. Dr. Mono Mohon Das
19. Shri Amjad Ali
20. Shrimati Renu Chakravartty.

Shri C. C. Biswas, *Minister of Law and Minority Affairs* was also present.

DRAFTSMAN

Shri S. P. Sen Verma, *Additional Draftsman, Ministry of Law.*

REPRESENTATIVES OF MINISTRIES AND OTHER OFFICERS

Shri J. N. Dhamija, *Deputy Secretary, Ministry of Home Affairs.*

SECRETARIAT

Shri P. K. Patnaik, *Under Secretary.*

2. The Committee held a preliminary discussion on the programme to be adopted by them.

3. The Committee decided to hold their next sitting on the 5th November, 1956 and to sit from day to day till the completion of their work.

4. The Committee considered whether any evidence would be taken by them. It was decided that Associations or Public Bodies which express any desire of submitting their suggestions or views before the Committee in respect of the Bills should be asked to send written memoranda thereon to the Lok Sabha Secretariat.

5. The Committee desired that copies of the following documents should be circulated to members:

- (i) All State Acts on the subject matter of the three Bills before the Committee.
- (ii) Reports of the State Governments on the working of the Acts in their States.
- (iii) Opinion of the State Governments on the three Bills before the Committee.
- (iv) Reports of Committees appointed by Central|State Governments on matters relative to the subject matter of the three Bills.
- (v) Convention relating to the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of others, signed at New York on the 9th May, 1950, by the Government of India and the Governments of other Powers and States.
- (vi) Report of the Advisory Committee on Social and Moral Hygiene appointed by the Central Social Welfare Board.

It was decided that the Ministry of Home Affairs might be requested to collect necessary materials and supply documents mentioned in items (i) to (v) above and the Central Social Welfare Board might be requested to supply copies of the documents mentioned in item (vi).

6. The Committee decided to take up the three Bills in the following order:—

- (i) The Suppression of Immoral Traffic in Women and Girls Bill, 1954.
- (ii) The Children Bill, 1954 as passed by Rajya Sabha.
- (iii) The Women's and Children's Institutions Licensing Bill, 1953 by Rajmata Kamlendu Mati Shah, M.P.

7. The Chairman suggested that notice of amendments to the clauses of the Bills that the members intended to move should be sent well in advance to the Lok Sabha Secretariat for circulation to the members of the Committee.

8. The Committee then adjourned to meet again at 11 A.M. on Monday, the 5th November, 1956.

III

***Third Sitting**

The Committee met from 10 A.M. to 1 P.M. and 3 P.M. to 6-30 P.M. on Thursday, the 8th November, 1956.

PRESENT

Pandit Thakur Das Bhargava—*Chairman.*

MEMBERS

2. Rajmata Kamlendu Mati Shah
3. Shrimati Jayashri Raiji
4. Shrimati Uma Nehru
5. Shri B. Ramachandra Reddi
6. Shri Nikunja Behari Chowdhury
7. Shrimati Ammu Swaminadhan
8. Shri A. M. Thomas
9. Shri Jaipal Singh
10. Shri Upendranath Barman
11. Shri Fulsinhji B. Dabhi
12. Shrimati Anusayabai Bhaorao Borkar
13. Shrimati Minimata
14. Pandit Chatur Narain Malviya
15. Shri Mukund Lal Agrawal
16. Shri Mohan Lal Saksena
17. Shri Hari Vinayak Pataskar
18. Shrimati Shivrajvati Nehru
19. Shri Radha Raman
20. Shri Raghubir Sahai
21. Shri B. N. Datar
22. Shri Amjad Ali
23. Shrimati Renu Chakravartty.

DRAFTSMAN

Shri S. P. Sen Verma, *Additional Draftsman, Ministry of Law.*

* The Minutes of the 2nd sitting and paras 2 to 24 and 26 of this Minutes, which deal with the Suppression of Immoral Traffic in Women and Girls Bill, 1954 and the Women's and Children's Institutions Licensing Bill, 1953 have not been included in this Appendix.

REPRESENTATIVES OF MINISTRIES AND OTHER OFFICERS

Shri J. N. Dhamija, *Deputy Secretary, Ministry of Home Affairs.*

SECRETARIAT

Shri N. N. Mallya, *Deputy Secretary.*

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25. The Committee decided to ask for extension of time for presentation of the Reports on the following Bills upto the 30th November, 1956:—

(1) The Women's and Children's Institutions Licensing Bill, 1953 by Rajmata Kamlendu Mati Shah, M.P.

(2) The Children Bill, 1954.

Chairman was authorised to move the necessary motions in the House.

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27. The Committee then adjourned to meet again at 10-45 A.M. on Friday, the 16th November, 1956.

VI

*Sixth Sitting

The Committee met from 11-45 A.M. to 1-50 P.M. on Saturday, the 24th November, 1956.

PRESENT

Pandit Thakur Das Bhargava—*Chairman.*

MEMBERS

2. Rajmata Kamlendu Mati Shah
3. Shrimati Jayashri Raiji
4. Shrimati Uma Nehru
5. Shri B. Ramachandra Reddi
6. Shri A. M. Thomas
7. Shri Upendranath Barman
8. Shri Mukund Lal Agrawal
9. Shri Hari Vinayak Pataskar
10. Shrimati Shivrajvati Nehru
11. Shrimati Sushama Sen
12. Shri Radha Raman
13. Shri Raghubir Sahai
14. Dr. Mono Mohon Das

DRAFTSMAN

Shri S. P. Sen Verma, *Additional Draftsman, Ministry of Law.*

SECRETARIAT

Shri A. L. Rai, *Under Secretary.*

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12. The Committee then took up the Children Bill, 1954 as passed by Rajya Sabha.

13. The Committee felt that as the Bill was intended to apply to Part C States which have since ceased to exist with the reorganisation of States, they need not proceed with the consideration of the

* Minutes of the 4th and 5th sittings and paras 2 to 11 of this minutes, which deal with the Suppression of Immoral Traffic in Women and Girls Bill, 1954 and the Women's and Children's Institutions Licensing Bill, 1953, have not been included.

Bill. The Committee decided that they would report to the House accordingly.

14. The Committee decided to consider the draft reports on the Women's and Children's Institutions Licensing Bill and the Children Bill as passed by Rajya Sabha, at their next sitting.

15. The Committee then adjourned to meet again at 10-30 A.M. on Tuesday, the 27th November, 1956.

VII

Seventh Sitting

The Committee met from 10-45 A.M. to 11-30 A.M. on Tuesday, the 27th November, 1956.

PRESENT

Pandit Thakur Das Bhargava—*Chairman.*

MEMBERS

2. Rajmata Kamlendu Mati Shah
3. Shrimati Jayashri Raiji
4. Shrimati Uma Nehru
5. Shri B. Ramachandra Reddi
6. Shrimati Ammu Swaminadhan
7. Shri Jaipal Singh
8. Sardar Amar Singh Saigal
9. Shri Upendranath Barman
10. Pandit Chatur Narain Malviya
11. Shri Mohan Lal Saksena
12. Shrimati Shivrajvati Nehru
13. Shrimati Sushama Sen

DRAFTSMAN

Shri S. P. Sen Verma, *Additional Draftsman, Ministry of Law.*

SECRETARIAT

Shri A. L. Rai, *Under Secretary.*

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*4. The Committee next considered and adopted the draft Report on the Children Bill.

5. As the Chairman was not expected to be available for presentation of the Reports, the Committee authorised Shri B. Ramachandra Reddi and in his absence Rajmata Kamlendu Mati Shah to present the two Reports on their behalf.

6. The Committee decided that Minutes of Dissent, if any, should be sent so as to reach the Lok Sabha Secretariat by 5 P.M. on Thursday, the 29th November, 1956.

7. The Chairman announced that the Reports would be presented to the House on Friday, the 30th November, 1956.

8. The Committee then adjourned at 11-30 A.M.

*Paras 2 and 3, which deal with the Women's and Children's Institutions Licensing Bill, 1953, have not been included here.