

Since the Port area is located in the wind direction of the residential colonies, encircled by hills all round, the Port Trust Authorities must keep in view the health and safety of the people residing there.

I request the Government to take effective measures for controlling the pollution of environment in Visakhapatnam due to the smoke and other effluents emitted by the hazardous industries.

[Translation]

- (vii) Need to set up industries in Himachal Pradesh to provide employment to the educated unemployed.

SHRI K. D. SULTANPURI (Simla) : Mr. Chairman, Sir, under Rule 377, I want to make the following submission :—

There are thousands of educated unemployed youths in Himachal Pradesh and the State Government is unable to launch a big scheme to provide them employment due to lack of funds. A few of them are employed in the Army, police and Border Security Force. The size of their land holdings being very small, the parents are finding it difficult to support their families. Therefore, I would request the Central Government to set up 3 or 4 big industries in the State, which should mainly be based on the local raw-material and electronics. Besides, whatever agencies are allotted by any company in the State, which also includes Public Undertakings, should be allotted to those youths who are *bona fide* residents of the State. I would also request that more Central Government jobs should be given to the youths of Himachal Pradesh so that unemployment is removed and the people are lifted above the poverty line.

[English]

- (viii) Need to provide funds for early electrification of Arkonam—Chingleput railway line.

DR. S. JAGATHRAKSHAKAN (Chengalpattu) : In Southern Railway,

the total electrification programme being envisaged is not upto the utmost requirements and needs of the railway commuters. The Arkonam—Chingleput railway line electrification has been pending for a long time now. A preliminary survey has already been over, and an engineering survey is yet to take place. The daily college students, office-goers and other regular commuters are suffering very much due to the slow railway service, and sometimes untimely and irregular service. It is very necessary and imperative that the Arkonam-Chingleput railway line is electrified, and the present tempo of the electrification programmes is intensified and quickened. Necessary funds may please be provided urgently for this purpose, and the sufferings of the commuters are removed expeditiously. The local trade is also affected due to the non-implementation of the programme in time.

12.31 hrs.

JUVENILE JUSTICE BILL,
1986—Contd.

[English]

MR. CHAIRMAN : The House will now take up further consideration of the following motion moved by Dr. Rajendra Kumari Bajpai, on the 5th November, 1986, namely :

“That the Bill to provide for the care, protection, treatment, development and rehabilitation of neglected or delinquent juveniles and for the adjudication of certain matters relating to, and disposition of, delinquent juveniles, be taken into consideration.”

Now Shri K.S. Rao.

SHRI K. S. RAO (Machilipatnam) : I rise to support this Bill, but while doing so, I want to bring certain things to the

[Shri K. S. Rao]

notice of the hon. Minister. Possibly, the Bill has been brought without much scrutiny. I have gone through some of the Clauses. I will go through them one by one.

In Clause 2 (h), it is said :

“Juvenile” means a boy who has not attained...

Instead of ‘not attained the age’, it could have been mentioned as ‘of fifteen years or more’. I suppose the intention of the hon. Minister is also that the age will be 15 years. Similarly, she could have put it, in the case of a girl, as ‘a girl of seventeen years’

In Clause 5 (3) it is said : “a panel of two honorary social workers”. It has only been said that they will be assisting court. But it has not been made clear in what manner, and on what lines they will be assisting the court.

In Clause 6(3), certain minimum conditions have been mentioned in regard to the appointment of members of the Board (whose powers are as much as those of a Magistrate), but the qualifications necessary for its Chairman, who enjoys the power of a Principal Magistrate have not been mentioned. It is only mentioned that the Members should have “special knowledge of child psychology and child welfare”. But the nature of the job that he has to perform clearly requires legal knowledge. So, I wish to bring it to the notice of the hon. Minister that she should preferably incorporate the minimum qualifications that are required for the Chairman of the Board, and also the Principal Magistrate, so that they can do their jobs well.

Above all, it is said in Clauses 9 and 10 that the intention is to see that no juvenile is put in jail, and no criminal punishment is given to him. But I suspect that this will be taken advantage of by some of the terrorists and vested interests

in the country now, to utilize these juveniles for achieving their targets, because it is categorically said that they will not be punished at all, irrespective of the crime they have committed. They will be sent only to a special home or a juvenile home. This will be a clear incentive or a way-out for these terrorists —to make use of the situation.

Extensive powers have been given to the concerned State Governments in deciding the punishment to the juveniles.

Clauses 52 and 53 deal with funds. But it is seen that the funds are very meagre. When the country has got no funds to impart training and education and to keep them in after-care homes for becoming normal citizens of this country, I am surprised how they could find the funds for the delinquent juvenile. Unless the hon. Minister is certain that the concerned State Governments are in a position to allocate the funds required to implement the noble task of reforming these juveniles, it will just stand as an Act without implementation. So, before bringing forward this Bill, I thought it was proper for the Minister to have taken an assurance from the concerned Ministries about the availability of funds for this purpose.

Some of the clauses are contracting the provisions made in some other clauses; clause 22(2) and clause 45 contradicts each other. In one of them, they say that the maximum punishment has to be given, that is as per the existing law or the present Act. In some other clause it says only the present Act will prevail over the existing criminal procedure code. So, clarification may be given once again or rather this section may be modified and necessary amendment may be brought.

About voluntary agencies, though a simple mention has been made, neither preference to be given to them nor the role to be played by them has been mentioned clearly. I am of the definite opinion, particularly with regard to delinquent juveniles that they have got a

great role to play. So, adequate financial assistance may be given only to the selected voluntary organisations in bringing reforms and not depending exclusively on the State Government or the government organisations. Even earlier schemes also show that the voluntary organisations have done very much in this regard.

The objectives, as was mentioned by friends from the opposition benches, are very good, but time may not be ripe for the government to implement them with the available fund. So, adequate emphasis must be laid or some way must be found out by the hon. Minister to attract allocation or the support from the voluntary organisations by giving all possible facilities to them by bringing a legislation in the context of tax exemption for these companies or individuals who assist these organisations in a big way beyond what is being provided in this context.

I wish to bring to your notice that earlier there used to be Section 35(cc) in the Financial Act wherein total exemption was given for all the contribution made to research and development or some of the services rendered to such delinquent juveniles or in the rural areas, which was deleted later. But now the existing provision is only a meagre one, which gives only 10 per cent relief under Section 80G. So, to increase activities or to achieve the target set by the Minister, an amendment to that Act might encourage many companies who have got some commitment to the society, particularly to reduce this delinquent juveniles problem, to contribute in a big way to the voluntary organisations and achieve these targets in that manner.

So I request this to be taken up by the hon. Minister so that the Bill will achieve its real purpose.

MR. CHAIRMAN : Shri A.J.V.B. Maheswara Rao.

[*Translation*]

***SHRI A. J. V. B. MAHESWARA**

*The speech was originally delivered in Telugu.

RAO (Amalapuram) : Mr. Chairman, Sir, I welcome the introduction of Juvenile Justice Bill, 1986. This Bill has been brought forward in order to do justice to the juveniles who hitherto were neglected very badly. It is necessary that the Govt. should have necessary sincerity and devotion to implement the Bill when made into an Act as mere enactment of this Bill will not be enough. The Govt. has to see that justice is really be done to juveniles after adopting this Juvenile Justice Bill. In her introductory speech, the hon. Minister mentioned that earlier Children Acts were not implemented properly as there were many flaws in legislations. Hence I would caution the Govt. and urge that this Bill too should not meet the same fate of the earlier Bills passed by this House. I do not know how far the Govt. will succeed in the implementation of the proposed legislation. For the successful implementation of this legislation the Govt. should have necessary dedication of purpose on one hand and trained and devoted personnel on the other and then only it would be possible to bring a change in the life of juveniles. But, Sir, I doubt very much if the Govt. possess these essential perquisites.

There are crores of juveniles in the country. We may need thousands of homes to take care of these children. It is the responsibility of the Govt. to establish and run these homes. The burden of running these homes going to fall on State Governments which are already facing a financial crisis. The State Governments are not in a position to bear this extra burden. Hence the Central Govt. should extend liberal financial grants to run homes meant for delinquent children.

Sir, as I mentioned earlier trained man power is very necessary to handle this very delicate task. Many of the Scheduled Castes and Tribes student hostels, Backward Class students hostels in the country are not functioning properly as there is no trained staff to run them. In such a situation, how are we going to manage these new homes? Do the Government have such a trained staff at its disposal to successfully implement this legislation?

[Shri A.J.V.B. Maheswara]

Crores of rupees are needed for establishing the various types of homes as envisaged in this Bill. I want to know whether the Government have that much money?

The proposed homes are going to be established in different States. State Governments have to shoulder the burden. I want to know whether the Central Government had consulted the State Governments before bringing forward this Bill and whether they had given their consent for this additional expenditure on their part?

Sir, many atrocities are perpetrated on juveniles who are under the custody of police. Sexual assaults on these innocent children are increasing day by day. Juveniles are also being used for drug-peddling. Hence it should be seen by the Govt. that such atrocities which are taking place under the very nose of the Government do come to an end. The Government should take necessary steps immediately. Now, the age of juveniles has been increased in the Bill. I welcome it.

Sir, the proposed legislation has to be implemented sincerely. Only then, justice will be done to the juveniles. Juveniles who are detained in the jails need protection and care of the Government. The Government should take every possible step for their proper care and rehabilitation so as to enable them to lead a life of honour in our society.

I conclude my speech, thanking you, Sir, for giving an opportunity to speak.

SHRI ANADI CHARAN DAS (Jaipur): Sir, the Bill which is currently under discussion in the House seeks to provide for the care, protection, treatment, development and rehabilitation of neglected and delinquent juveniles and for the adjudication of certain matters relating to, and disposition of, delinquent juveniles.

I support this Bill and specially thank

the hon. Minister of Welfare and her Ministry for bringing forward this Bill. This Bill is very important and should have been brought forward much earlier. Anyhow, now this Bill is before the House and is likely to be passed. But merely passing it will not solve all the problems. The point which in fact, needs to be seen is why the juveniles become delinquent and whom do they belong to. To my mind, the question of their parentage is immaterial. They are the children of this country. All the children of the poor families are the children of this country and they are the future of the country too. Under these circumstances, the effort made to do justice to these children through this Bill is appreciable but the basic fact remains that had preventive measures been taken, it would have been better. Had these measures been taken in the beginning, the number of delinquent juveniles would not have risen so much.

You might have seen that mostly the children of the nomadic communities are found as delinquent juveniles at the stations or in the mines. You have made special arrangements for the care and treatment of these delinquent juveniles. I would like to suggest that if the Government could make arrangement for the rehabilitation of such nomadic communities, it would not give shelter to their children but also provide educational opportunities to them. The people of Nomadic Communities do not stay permanently at one place, instead they keep on changing places. Every State has such a nomadic community. We have Kela Community in our region and also Mankaria Community, the members of which eat insects. What have the Government thought about such communities? The Bill is silent about the steps to be taken regarding such communities. The Government have a scheme to build some special homes, observation homes, and juvenile homes. It is good but how the children would come to these homes and who will bring them there? If you do not make special arrangements in this regard, I think, you cannot provide these benefits to those for whom they are intended. Till today, the Government have made no arrangements for the rehabilitation of the children who grow up,

in destitute homes or orphanages. The boys somehow manage to get a job but the girls have to face a lot of difficulties. When the girls in the orphanages grow up, that organisation faces difficulty in looking after them and getting them married. There should be some arrangement in this regard. Unless there is a reform in the society, who is going to marry them? My suggestion is that whosoever marries these girls, should be given benefits by the Government. The boys can manage on their own but the girls in the orphanages need more care at that age. If you do not make any arrangement in this regard, nothing can be done for them.

Another aspect is that the children of the people who leave their villages due to the atrocities of the landlords, remain neglected and thus become delinquent juveniles. I want that such landlords should also be punished. Be it a landlord, a contractor or an affluent person, whosoever is responsible for their leaving the village, whether on the pretext of loan, untouchability or due to any other reason, should be punished. If you do not punish them, their number will increase and with it will increase the problem. I have a suggestion in this regard. The children of the age group which you have specified, should be brought up by an organisation like juvenile home, special home, observation home or an 'after care home'. You should make arrangements for their education in these organisations.

Some States have banned begging by the juveniles but some other States have not. To my mind, the Centre should direct these States to totally ban begging. There are some criminals who make the children beg and turn them into delinquent juveniles. There are some communities which are beggar communities. I suggest that the Centre should direct each and every State to totally ban begging. The voluntary organisations engaged in this work should be given funds and every State should be asked to make a provision in their budgets for this purpose and the Centre should also give matching grants. They should be given Central assistance in the same way as is given for the special

schemes. The Centre should give grant to them so that they could be run smoothly.

I thank you for providing me an opportunity to speak.

SHRI MANVENDRA SINGH (Mathura): Mr. Chairman, Sir, I rise to support the Juvenile Justice Bill, 1986 but, at the same time, I also want to give some suggestions. Today we find that our youth is going in the wrong direction. In our country, the families which are living below the poverty line or just at the dividing line, and the families the children of which do not get two square meals a day, cannot afford education, do not get a right job, they are the families whose children take to unlawful activities or their parents themselves force their children into crime. The Government themselves should conduct a survey of such families so that their children could be provided with food, education and jobs. This is my first suggestion. Otherwise the way the population is increasing, their number will also go on increasing, thereby making this problem all the more difficult.

So far as the question of the Juveniles is concerned, numerous instances have come to light, according to which the children take to unlawful activities to feed themselves and their families and with the passage of time become criminals. They take to stealing, dacoity and way-laying and a number of other crimes. It is essential to curb their bad tendencies at the initial stage. The Government should provide them with food, education and other facilities right from their childhood.

Besides, it is also seen that because of certain compulsions, the families sell their daughters, which encourages the prostitution. If we want to get rid of these evils, the Government should shoulder full responsibility for food, work and education of the children of such families. If the Government takes over this responsibility, these evils will gradually vanish.

[Shri Manvendra Singh]

I would also like to tell you that many gangs are operating in different parts of the country which indulge in child-trade. Recently, you might have read in the newspapers that a small girl was abducted from Andhra Pradesh. After some years, the parents of the girl found her outside their house. She was blind. The girl told later that the men who had abducted her had blinded her and had given her training in begging. There are several gangs operating in the country who make the children beg. In this process they make them blind, lame and disabled and thereafter send them to the streets and railway stations for begging. The money thus collected is taken away by these gangs. There are many such gangs operating in our country. Our Government should take steps in this direction.

You are, perhaps, aware that not only Indian but even foreign girls are sold in Dhaulpur. Have the Government taken any action against this? The girls from all over India come there. You might have read about Vrindavan also where girls come from a number of States. From West Bengal, girls who become widows and are rejected by the society also come there. You will have to pay attention to this also. There is need for such organisations in the society as may undertake the work of getting these girls married. Such widows are brought to Mathura and Vrindavan and through the Bhajnashram Trust, the gangs force them into this trade there. These girls are sold.

You will have to form such organisations through which the salvation of these widows could be effected.

In the near future, I am organising a camp.

13.00 hrs.

Dr. Sethi is from Jaipur. His team helps the handicapped persons by donating them free equipments and artificial

limbs. When I talked to the beggars about it, they told that if the artificial limbs were provided to them, they would be deprived of their source of earning and then nobody would give them alms. In this regard, I would suggest that some training school should be opened at the district and block level so that the handicapped males and females could get employment. There are many such Government organisations where these persons can be given employment, such as Khadi Gramodyog, cottage industries, carpet and jute industries. The Government should provide them proper training and assistance so that the tendency of begging among them may be put to check.

As regards the jails where the juveniles are lodged, there have been complaints that the girl inmates are sent out for prostitution and the boys are forced into begging. Their living conditions are not satisfactory. The officials of such jails indulge in misappropriation of funds. You will have to adopt strict measure in this respect. I would like to know as to how many such officers as have been found guilty of such charges, have been punished under the Act? May I know whether any scheme is on the anvil to see that the administration of such jails at district level is run properly so that beggary is put to check, the children are saved from the clutches of gangs and girls are not forced into prostitution?

13.02 hrs.

The Lok Sabha then adjourned for Lunch till Fourteen of the Clock.

JUVENILE JUSTICE BILL, 1986—
Contd.

The Lok Sabha reassembled after lunch at seven minutes past Fourteen of the clock

[SHRI SHARAD DIGHE *in the chair*]

[*English*]

MR. CHAIRMAN: Shri Balwant Singh Ramoowalia.

[Translation]

SHRI BALWANT SINGH RAMOO-WALIA (Sangrur) : Mr. Chairman, Sir, during the course of the discussion on this Bill, very serious issues has come up for consideration. There are some evils in our society which force the common people, particularly, the adolescent children into crime, thereby compelling them to a very miserable life. The society is not constituted by one or two persons only. The ambitions of the crores of people, their way of life, their approach towards life, all contribute towards the shaping of the society. Many young girls are forced to go to brothels for prostitution. Similarly, there are different kinds of crimes and other malaise plaguing the society which are a scourge for it. When their figures are published, India tops the list among the countries of the world. What are the reasons for it? I would have welcomed this Bill had attempts been made in it to root out these evils. While introducing this Bill on 20th August, the hon. Minister, Dr. Rajendra Kumari Bajpai had said that they wanted that the young children should lead a new and decent life and should enjoy social equality. She said that they also wanted that the children should be given equality in the social, cultural and economic spheres and they should be brought up properly. The Bill further says that effort will be made to organise them. But I would like to tell the hon. Minister that after having gone through this Bill, I find that although a number of points have been touched upon still the real issues have been left out. For instance, very little has been said about the types of exploitation of children and the *modus operandi* of their exploitation. The Bill speaks very little about it. Just now, an hon. Member was saying that children were blinded by the gangs of child lifters. After going through pages 41, 42 and 43 of chapter VI, I am compelled to say that nothing has been said about the gangs of child lifters. The gangs of child lifters lift hundreds of children from the cities and force them into begging and make them indulge in immoral acts. When the children refuse to obey their dictates, they are maimed and blinded. They are also meted out very shabby treatment. But

there is no mention about all this in the Bill. It is unfortunate that the maximum imprisonment provided for crimes committed against the juveniles is merely three years and there is no mention of any punishment for child lifters in the Bill, whereas the gangs of child lifters deserve maximum punishment. I demand that atleast ten years' imprisonment should be provided for child lifters in the Bill. These people blind the children and force young girls into prostitution in the brothels. Thus, they live on their earning. These people make them commit very heinous crimes. So, I think that three years' imprisonments provided in the Bill has no meaning. If a child is killed, at least the parents can face the truth that their child is dead. But these people force the children to commit different crimes and also torture them, with the result that the life of such children becomes a hell. But the Bill does not envisage any imprisonment for them.

.. I think that at the time of drafting this Bill, the hon. Minister was not serious about it, otherwise she would have incorporated these points in the Bill. I do not mean that we have no faith in the work and efficiency of our hon. Minister. We do have faith in her. But I am sorry to point out that all these provisions which should have been there, have not been included in the Bill.

Now I shall draw the attention of the hon. Minister and the Government to what the policemen do. Boys are exploited by the Police to the maximum. No other organised gang exploits the boys as much as the policemen do. I know that juveniles are forced into bonded labour by the policemen. They work as domestic servants in their houses, look after their cattle, scrub their shoes but they are not even provided with meals. These policemen threaten some 'Dhaba' owner in the area and ask him to provide food to the child. That child takes his meals in the 'Dhaba' and works as bonded labour for the policeman. Similarly, child labour is also prevalent in the houses of the Government employees and officers. No mention of these things has been made in the Bill. If these things do find a mention anywhere in the Bill,

[Shri Balwant Singh Ramoowalia]

I may kindly be informed about them and I shall welcome them.

There is no denying the fact that we shall have to adopt family planning if we want to strengthen India. We shall have to motivate everybody to go in for voluntary family planning irrespective of caste, colour and creed so that we could work for strengthening the country. It is our foremost duty and a responsibility of the Government too to take care of and get a place in society for those people who are born poor and have been exploited by the criminal gangs or have been forced by them to take to these activities because of poverty and social discrimination.

I would strongly demand once again that there should be some stringent law to deal with these exploiters in the crime world, including the police officers who are exploiting these juveniles. Besides, efforts should also be made to see that they do not remain a burden on the society.

With these words, I welcome the Bill, but at the same time I would say that the measure is not adequate enough.

[English]

SHRI VIR SEN (Khurja): Mr. Chairman Sir ! I thank you for the opportunity that you have given me. There is no doubt that the Bill has been brought in the House with laudable aims. A large percentage of the children who become delinquents suffer from some faults in their bringing up. So, the Government has brought this Bill with a view to providing some facilities, so that they may be brought back on the right track. I would also say that the attention which the Bill has drawn has not gone sufficiently too far. There are many aspects which have been left aside.

Before I go into specific questions, I would like to make a reference of Mr. Ramoowalia's remarks that the Government has not taken any consideration of the persons who commit crime against

these people. I would like to remind him that blinding of the children etc., are to be covered by the Indian Penal Code. This Bill deals with the delinquents and the juvenile themselves and not the person who deal with them. I think, Mr. Ramoowalia will be satisfied to see that the aim of the Bill is only to deal with the juvenile.

I would first go to the definition of begging. Begging of course, is defined as singing, dancing, fortune telling, performing tricks, selling articles. I think there are very wide terms. They do not include really what is begging. If a person sells any article to earn something, you cannot brand him a delinquent or as a beggar. There are several traditional arts, particularly singing. There are some children who sing and earn. You have included singing in the purview of begging. I don't think that this is a correct approach.

There may be a magician who is playing on the road. He shows certain amusements to the children and entertain them. You also included this in the definition of begging. In the same way, puppet show which is an enjoyable show which sometimes teaches history to the children is also included in the definition of begging. I think these are very wide terms and should be taken away and confined to some specific things.

Begging sometimes, may be done in distress also. A person who is away from the home, when his pocket is picked and when he needs money, sometimes he would be compelled to begging. In such cases you cannot brand him as a juvenile delinquent or a criminal. In the same way it happens with some stranded persons also. So, these things should be excluded from the scope of begging. Now I come to the definition of a juvenile. According to the definition which you have given in this Bill in the case of a boy the age is 16 years and in the case of a girl it is 18 years. I think this definition is not correct.

Sir, a child below the age of 12 years is quite innocent and it is only after of

age of 12 that adolescence begins and certain changes take place in the constitution of a child. Sex starts to play its wonderful role and the child tries to assert himself. It would be better if I quote from an authority what this age brings forward. I quote :

“It is a period of storm and stress. Important functions previously nonexistent arise—every step of the upward way is strewn with wreckage of body, mind and morals. Sex asserts its mastery in field after field and works its havoc in the form of secret areas. The social instincts undergo sudden unfoldment and the new life of love awakens. Everything is plastic. Character and personality take form; self-feeling and ambition are increased. It is all marvellous new birth.”

This is the period of stress and strain. It is a period of turbulence. This is, of course, not within the control of the child. At this age you have not to treat the child as a criminal. Your Bill, of course, considers him only as a criminal. At this age the child needs love and affection.

Sir, there are certain families where on account of poverty or quarrels in the family a child becomes a delinquent. He goes out of the home. It is a sort of escapism from the conditions of the family. He goes out in the streets. Such a child who is not able to get love in the family or normal training in the house goes out in the streets. If you brand such a child as a criminal then it is not going justice to the child. Therefore, there should be a different approach. The approach should be that the child is treated as a victim of the society and victim of the family. In these circumstances we should not leave the child in an observation home or a special home. Such boys and girls who have gone astray from the social behaviour approved by the society should not be handed over to a home which is not equipped to bring about the desired change

in such boys and girls. So what should be done is that your observation homes should have specially trained people—people particularly trained in psychology—who understand the nature of the development of the child. Only such people can bring about the desired change. For this purpose you require a large amount of money. Further your present definition brings within its scope only children of the age group 13-16 years. The correct time will be the period which coincides with the age of adolescence and adolescence begins at the age of near about 13 and ends, according to certain experts at the age of 25. But I think that the age between 13 and 21 is the correct age of adolescence and all your efforts should be directed towards this period, that is between the age of 13 and 21 in the case of both girls and boys. This is the age which should be considered in relation to this Bill; persons within this age group should be termed as delinquent juveniles. However, this Bill deals only with a small portion of the total problem.

Further, you have entrusted the police officers to take charge of the delinquents. As Shri Ramoowalia has mentioned, they are one of the categories which are responsible for turning people into criminals. If these juveniles are put into the hands of policemen, it will create more problems for the delinquents rather than reduce it. These people should not be made in charge of delinquents. You have made a provision that if a delinquent is brought into the charge of police, he has to be produced before the court within twenty four hours. As you know, a criminal has to be brought before a Magistrate within twenty four hours, but that provision is followed more in breach rather than in practice. I think, this will also remain a dead letter in this case. Then, the courts are given powers to deal with delinquents as criminals. When under trial, they are to be kept under observation. If they are found to be criminals, then they are to be sent to special homes etc. There must be some distinction between the observation home, the special home or the home, but the Bill does not say anything. Special provision and special facilities have to be

[Shri Vir Sen]

provided for persons who are to be kept under observation and for persons who have committed one or two offences. One offence in the case of a child does not make him a criminal. Sometimes, it is occasional also. If a person has become mentally habitual, then, of course, you can say that he is a delinquent. According to the definition in this Bill, a delinquent juvenile is a juvenile who has been found to have committed an offence. I do not agree with this. This definition that if a juvenile commit a crime once, he becomes a delinquent, should be modified and only a person who is habitual and has committed an offence several times, should be considered as a delinquent.

Further, vast resources are required for implementation of this legislation as also for imparting right type of training.

Lastly, the State Governments are not in a position to take up the task that you are envisaging in the Bill for them to do. In my opinion, it is only the Centre which should take charge of the whole thing, do supervision and provide the funds etc. otherwise the whole exercise is likely to be a waste. Of course, the intentions of the hon. Minister are bright and very good, but unless the other things are taken care, we will only be able to touch a tip of the iceberg.

THE MINISTER OF STATE OF THE MINISTRY OF WELFARE (DR. RAJENDRA KUMARI BAJPAI): Mr. Chairman, Sir, I have listened carefully to all the hon. Members. Some of them are not here. It would have been better if the hon. Members who participated in the debate were here to listen to the reply.

AN HON. MEMBER: The debate has gone on three days.

DR. RAJENDRA KUMARI BAJPAI: It was expected that the reply would be given today.

I am glad that the Bill has been supported by all sections of the House. About 23 to 24 members have participat-

ed in this debate and that shows the keen interest of the members. I am also grateful for their useful suggestions and some of the valid points made during the course of the discussion.

Though everybody supported the Bill and welcomed it, at the same time everybody is apprehensive about its implementation. They all expressed a doubt as to whether it will be implemented fully or whether in future there would be some problems or difficulties about its implementation. That is the main criticism. Another criticism is that it is left to the State Government for implementation. Many hon. members questioned as to why it has been left to the State Governments. As you know, practically all the Children's Acts that are existing in our country are executed by the State Governments only, and there was no uniformity. This comprehensive Central Bill has been brought only to bring about uniformity and to serve some more useful purposes. Though it will be executed by the State Governments, at the time of framing the rules the Central Government will be providing guidelines and on those guidelines only, the State Governments will proceed to implement this piece of legislation, which is very important. Some of the hon. members rightly pointed out that this legislation is quite revolutionary. I will say that in a sense it is a completely new concept. The whole approach to the problem of juvenile delinquency or the problems of those children who are neglected or delinquent is totally new.

One hon. member has said that because there were some discussions and resolutions with regard to this juvenile problem in the United Nations, we have come forward with this legislation. Although it is quite all right to say so, let me clarify that we are one of the important members of the United Nations and we respect the resolutions and decisions of the United Nations. Not only that, we also try to implement those social legislations which are beneficial for our society and for our nation. In the resolution of the UN also, an option has been given to all the member-States that whenever they find it convenient and useful, they should

at the same time try to implement this viewpoint which has been expressed by the UN forum and clear guidance has also been given by the UN in this regard. There is no harm in accepting this if it suits our social conditions in our country and if we want to deal with the juvenile problem in our country. There is nothing wrong in accepting it. I do not agree with the views expressed by one of the hon. Members, i.e., this Bill is for academic discussion only. If this view is accepted, then anything which we bring in this House—this august House—for discussion on any subject or any problem, you will say very lightly that it is for academic discussion only. A Bill of this kind, of course, must have some academic side also. At the same time, it should also take into consideration the social and other aspects also. So, we should not jump to that conclusion. It is the Government's intention, not the intention only, but we are going to implement this Bill very effectively and translate its provisions into reality. This much I can assure the august House and hon. Members should not express any doubt because, after much thought, after much deliberation, after much thinking, we have brought this Bill before this House. Some of the points which were raised during the discussion, I will try to explain now. I would only take two or three points mainly which I want to explain, though it is quite clear in the Bill.

Shri Ramachandra Reddy, though he is not here, wanted to know why there are two different bodies, that is the Juvenile Court. The Bill itself explains that the bodies have different functions. The Juvenile Welfare Board would deal with neglected juveniles, while the Juvenile Court would deal with juvenile delinquents. In this Bill, we have separated two types of juveniles. Those children who are neglected and those children who are delinquent and have committed some crime and all these things. So, we have to distinguish among these two types of juveniles.

On hon. Member was just saying about beggary and the definition of beggary. Regarding the definition of juvenile,

he was saying that, this is not correct. But, I think, if he goes into detail and read it carefully, he will see the distinction. We have clearly made the distinction that those children who are neglected, will be treated differently and they will not be treated as criminals and those who have committed some crimes, they are also not going to be treated as hardened criminals. Till now, they are being kept with the criminals in Jails. So, the whole purpose of this Bill is to separate juvenile delinquents from the elderly people or criminals or hardened criminals. This is one very important point in this Bill.

Then, he wanted to know why different types of homes like special Homes, Observations Homes are not created. Some Members also raised this point as to why Observation homes are provided.

Since one type of home should be adequate for those children who have committed a very minor crime or if some minor children are just loitering here and there, in that case, if he is kept in an observation home—after all observation home is only the temporary stage—and after enquiry he will be sent back to his home; parents may be called and he will go back to his home. Their functions have also been defined: the Observation Homes constitute only the temporary accommodation of juveniles, till enquiries against them are completed. On the other hand, Special Homes are for providing accommodation, education, vocational training and rehabilitation of those juveniles found to be delinquent. So, this is the difference.

SHRI SHANTARAM NAIK (Panaji) :
They want money for all that.

DR. RAJENDRA KUMARI BAJPAI : When we are going to take the responsibility, money will be provided.

Similarly, the after care organizations are meant to take care of rehabilitation of juvenile when they leave their Special Homes. So, we have taken care at every stage: first, when we find and keep a child on minor offences. At that time, it is not

[Shri Rajendra Kumari Bajpai]

established whether he has done anything wrong or not. But he has been brought in by the Police or anybody who has found him. He will not be in the police lock-up. He will not be kept anywhere else. So, he must have some place. We will have to give him some place. That place is the Observation Home for the time being, i.e. temporarily till the enquiry is instituted. After the enquiry, we consider what action we can take about him. After some charge is established against the child, he will be with the Juvenile Welfare Board; it will take care of him. You know that this Juvenile Welfare Board also consists of social workers: one member will be from the Government. Its members will also be given some magisterial powers; but they will see things from the point of view of the offence proper. If the offences are not serious, they can remain in the Special Home or whatever is provided here, where they will be given education, vocational training and all that. Then the court will be constituted, with a Metropolitan Magistrate.

There is also one difference in the Welfare Board, social workers who have got special knowledge of child psychology and child behaviour will be the members. After the Welfare Board finds that a juvenile can be sent before the Juvenile Court, he will be produced before that court. So, different functions are there; and for this purpose, different types of Homes have been created.

Similarly, the after-care organizations are meant to take care of the rehabilitation of juveniles when they leave their Special Homes. Some of the hon. Members had raised the point, viz. that if the child comes out of this Home, or after the Welfare Board lets them go out, they may again come into the clutches of those who trade in children and those who exploit children. But we have taken care in this Bill, about it: the After-care Home will take care of the child, give him vocational training and also try to see that the child takes to normal life.

I am specially grateful to those Members who supported the Bill and at the same time given valuable suggestions. Dr. Phurenu Guha expressed doubts about the implementation of the provision of this Bill.

I only want to assure her that this will be effectively done. Then some of the hon. members have expressed their views as to why net juveniles or children are prevented from committing a crime; we must do something for the prevention of that crime. That is all right. We have taken care of that as it has been mentioned in this Bill in Chapter 9, clauses 41, 42 and 43. Though it has been said here that the punishment is only for three years or punishment should be more; it is now for the first time that we are bringing this Bill and let us try to implement it and see how successfully we are able to do it. We have, while giving punishment, taken a precaution from all sides. Some have raised a point that children are forced or compelled to beg and for that sometimes their hands are cut or they are made blind and all sorts of things are done. For that, we have also provided in this Bill that there should be punishment for those persons not only who make them to beg but also those who use them for narcotic business or carrying narcotic drugs from one place to another. For all that, they will also be punished; and that punishment also is not less than three years.

SHRI BALWANT SINGH RAMOO-WALIA : What about child lifters ?

DR. RAJENDRA KUMARI BAJPAI : They are all among exploiters; those who will be misusing the juveniles, they will all be under this law.

Shri Salahuddin wanted to know whether it would be unconstitutional for a child to be taken away from the parents if the parents were found unfit to look after their child. There is nothing like this in this Bill that if parents like it or not like it and anything unconstitutional. We are going to do it only when parents compel him and they think that he may go to some correctional home or special

home; then only with the consent of the parents, both father and mother, he will be kept in the home. So, there is nothing in the Constitution which comes in the way of the court or juvenile home for providing protection to a neglected child. It is our duty to provide protection to a neglected child. So, this Bill provides protection to that child. So, there is nothing unconstitutional in this Bill. To a neglected child, on the complaint made by a parent to the Board that he is not able to exercise proper care and control over the child, if a parent himself accepts it and say that he is not able to exercise control over his child, then he gives it to the welfare board to look after him, to enquire about him and to keep him in protection and child care. This is what we are going to arrange for. Mr. Jain said that the Centre and State should be more actively involved for the implementation rather than—Mr. Jain is not here—placing too much faith in voluntary organisations. Here we have involved everybody. The Central Government is there. We are bringing a Bill; we are giving guidelines, but it should be implemented through the State Governments and there voluntary organisations are necessary to help implement this Bill.

We have involved social and voluntary organisations because this is a social measure and with the help of voluntary organisations we can implement it more effectively. The Bill does provide for active involvement of the Central and State Governments and at the same time we must keep in mind that voluntary organisations have a very major role in the effective and successful implementation of any social legislation, especially the one in this Bill. It is also very essential that we take all possible help from social and voluntary organisations, because they alone can arouse sufficient awareness in the community and also provide facilities for the care and protection of children and that is what we need very much in India when there is so much of illiteracy and children are prone to be exploited. To prevent such exploitation we need the help of all voluntary organisations and with the help of the Government these organisations can discharge the social

responsibilities in the interests of the juvenile.

For the first time we are giving so much power to voluntary organisations, magisterial powers and they should be able to do their work properly for the welfare of the children and in courts also which are meant for rendering justice to the juvenile. This is a departure from all the past practices which exist till now in our country. We want to save our children from exploitation and for that we have encouraged the involvement of the voluntary organisations. I think that these are the...*(Interruption)*

SHRI THAMPAN THOMAS : I had referred to a valid point during the discussion i.e. there is no law for adopting if some children are really neglected. If there is a law in the country for adopting the children, that would be better. Then only some children will be saved from exploitation.

DR. RAJENDRA KUMARI BAJPAI : To have an Act for all kinds of neglected children, or adoptions is a controversial thing in our country. There is no particular provision for neglected children.

SHRI SOMNATH CHATTERJEE :
Uniform family adoption law !

SHRI BALWANT SINGH RAMOO-WALIA : In the definition of 'begging' the Bill says that persons involved in singing fall under the category of begging. In our society there are thousands of children, who go to Kirtans, for Bhajans and devotional singing even on the Radio and TV is there.

DR. RAJENDRA KUMARI BAJPAI : Please see the definition. It is not that all singing and other things are forbidden. It is not so. The definition is clear. It says, that—

"begging" means—(i) soliciting or receiving alms in a public

[Dr. Rajendra Kumari Bajpai]

place or entering into any private premises..."

This is the point you have to be careful. Only singing is nothing, but if you are just singing—

[*Translation*]

—as they say that they beg by singing a song, by beating a drum and by spreading a piece of cloth.

[*English*]

That type of singing is prohibited here.

So, soliciting or receiving alms in a public place.

MR. CHAIRMAN : Let the reply be completed. Please resume your seat.

DR. RAJENDRA KUMARI BAJPAI: Singing for getting something, for aims, that singing is of course, begging.

So, soliciting or receiving alms in a public place or some such thing,—

[*Translation*]

—if they are sitting at a crossing and have spread a piece of cloth and the people are offering money thereon—

[*English*]

that type of begging we forbid.

SHRI SAIFUDDIN CHOWDHARY : Which type of begging are you allowing ?

DR. RAJENDRA KUMARI BAJPAI: I am not allowing any type of begging. This clause further says :

"...entering into any private premises for the purpose of soliciting or receiving alms, whether under the pretence of singing, dancing, fortune-telling performing tricks or selling articles or otherwise."

Then only it will be termed as begging. You all understand its significance and you all know it.

These were the points raised by hon. Members. I think I have covered all the points.

With these words, I request hon. Members to pass this Bill.

MR. CHAIRMAN : The question is :

"That the Bill to provide for the care, protection, treatment, development and rehabilitation of neglected or delinquent juveniles and for the adjudication of certain matters relating to, and disposition of, delinquent juveniles, be taken into consideration."

The motion was adopted.

MR. CHAIRMAN : Now, we take up clause by clause consideration of the Bill. Clause 2. There is an amendment by Shri Mool Chand Daga—not present. The question is :

"That clauses 2 to 14 stand part of the Bill."

The motion was adopted.

Clauses 2 to 14 were added to the Bill.

MR. CHAIRMAN : Clause 15—There is an amendment by Shri Mool Chand Daga—not present. The question is :

"That clauses 15 and 16 stand part of the Bill."

The motion was adopted.

Clauses 15 and 16 were added to the Bill.

Clause 17—(Uncontrollable Juvenile)

SHRI SHANTARAM NAIK : I beg to move :

Page 9,—

after line 7, insert—

“Provided that where the person complaining against the juvenile is the father of the juvenile then the Board shall obtain the opinion of the mother or vice-versa.” (1)

why I am saying so is that the Board should have the views of both the sides and not one-sided view.

DR. RAJENDRA KUMARI BAJPAI: I have already explained that the Board will consult the parents. I request the hon. Member to withdraw his amendment.

SHRI SHANTARAM NAIK : I seek leave of the House to withdraw my amendment to clause 17.

MR. CHAIRMAN : Has Mr. Shantaram Naik leave of the House to withdraw his amendment No. 1 to clause 17 ?

SEVERAL HON. MEMBERS :
Yes.

*Amendment No. 1 was, by leave,
withdrawn.*

MR. CHAIRMAN : The question is :

“That clause 17 stand part of the Bill”

The motion was adopted.

Clause 17 was added to the Bill.

Clause 18—(Bail and Custody of Juveniles)

SHRI SHANTARAM NAIK : I beg to move :

Page 9, line 22,—

(ii) after “safety” insert—

“not being a police station, a police out-post, a custody of a police-officer or jail,”

(ii) omitt “(but not in a police station or jail)”

Clause 2 says :

“When such 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 or a place of safety in the prescribed manner (but not in a police station or jail)...” (2)

Normally this is not the standard legislative drafting. Hence my amendment.

DR. RAJENDRA KUMARI BAJPAI: This is not exactly the thing what the hon. Member has said. These were introduced in the Bill primarily to emphasise that the juvenile delinquent shall not in any case be kept in police custody or jail or any police officer will not take or keep him in custody, but he should be kept in the observation home or other place of safety.

15.00 hrs.

A police man will not keep him in his custody. That is the point. So, while drafting the Bill, this has been emphasised in this bracket. So, I will request the hon. Member to withdraw his amendment.

SHRI SHANTARAM NAIK : I withdraw my amendment.

MR. CHAIRMAN : Is it the pleasure of the House that the amendment moved by Shri Shantaram Naik be withdrawn ?

SEVERAL HON. MEMBERS : Yes.

Amendment No. 2 was, by leave, withdrawn.

MR. CHAIRMAN : The question is :

“That clause 18 stand part of the Bill.”

The motion was adopted.

Clause 18 was added to the Bill.

Clause 19—(Information to parent or guardian or probation officer)

SHRI SHANTARAM NAIK : Sir, I beg to move that :

Page 9, line 31,—

add at the end—

“by using the quickest mode of communication” (3)

Sir, here the hon. Minister should have absolutely no objection because clause 19 says: “Where a juvenile is arrested the officer-in-charge of the police station to which the juvenile is brought shall, as soon as may be after the arrest, inform parents, etc.”. They have to inform the parents as soon as the juvenile is arrested. After the words ‘inform’, I am seeking to add the words: “by using the quickest mode of communication”. What is the harm in it? On the contrary, the police officers will not get any excuse of not communicating. They may say, “All right, we will send a messenger”. He will reach after 48 hours. You will have nothing to hold him responsible. So, in simplest words they can say, “by using

the quickest mode of communication.”

DR. RAJENDRA KUMARI BAJPAI: Sir, trying to emphasise the mode of communication is not considered necessary. Since it would depend upon the circumstances of the case as to what mode of communication would be best, so I think it is the requirement of the law to inform as soon as may be. So, that responsibility is on the officer-in-charge how quickly he informs or how quickly he acts because it is specifically mentioned that the child will not go to any police lock-up or anywhere else but to an Inquiry Home or an Observation Home. We have made this provision and it will be the quickest one. So, I will request the hon. Member to withdraw his amendment.

SHRI SHANTARAM NAIK : Sir, I am very pained to withdraw my amendment.

MR. CHAIRMAN : Is it the pleasure of the House that the amendment moved by Shri Shantaram Naik be withdrawn ?

SEVERAL HON. MEMBERS : Yes

Amendment No. 3 was, by leave,

withdrawn.

MR. CHAIRMAN : The question is :

“That clause 19 stand part of the Bill.”

The motion was adopted.

Clause 19 was added to the Bill.

MR. CHAIRMAN : Now Clauses 20 to 40. The question is :

“That clauses 20 to 40 stand part of the Bill.”

The motion was adopted.

Cluses 20 to 40 were added to the Bill.

MR. CHAIRMAN : Clause 41. Shri Mool Chand Daga—absent. The question is :

“That clause 41 stand part of the Bill.”

The motion was adopted.

Clause 41 was added to the Bill.

MR. CHAIRMAN : Clause 42. The question is :

“That clause 42 stand part of the Bill.”

The motion was adopted.

Clause 42 was added to the Bill.

MR. CHAIRMAN : Clause 43. There is an amendment by Shri Mool Chand Daga. He is not present. The question is :

“That clause 43 stand part of the Bill.”

The motion was adopted.

Clause 43 was added to the Bill.

MR. CHAIRMAN : Clauses 44 to 62. The question is :

“That clauses 44 to 62 stand part of the Bill.”

The motion was adopted.

Clauses 44 to 62 were added to the Bill.

MR. CHAIRMAN : Now Clause 63. Notice of amendment has been given by Shri Mool Chand Daga. He is not present. The question is :

“That clause 63 stand part of the Bill.”

The motion was adopted.

Clause 63 was added to the Bill.

MR. CHAIRMAN : The question is :

“That Clause 1, Enacting Formula and long Title stand part of the Bill.”

The motion was adopted.

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

MR. CHAIRMAN : The Minister may now move that the Bill be passed.

DR. RAJENDRA KUMARI BAJPAI : Sir, I beg to move :

“That the Bill be passed.”

MR. CHAIRMAN : The question is :

“That the Bill be passed.”

The motion was adopted.

15.05 hrs.

[SHRI ZAINUL BASHER—in the chair]

MR. CHAIRMAN : We now take up item No. 10, Citizenship (Amendment) Bill.

15.05 hrs.

CITIZENSHIP (AMENDMENT)

BILL, 1986

[English]

THE MINISTER OF STATE IN THE MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS AND MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI P. CHIDAMBARAM) : I beg to move :