

SHRI JASPAT ROY KAPOOR:
In that case I have nothing to say.

MR. DEPUTY CHAIRMAN:
The question is:

“That clause 6 stand part of the Bill.”

The motion was adopted.

Clause 6 was added to the Bill.

Clause 7 was added to the Bill.

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

SHRI B. N. DATAR: Sir, I move:
“That the Bill be passed.”

MR. DEPUTY CHAIRMAN:
Motion moved:

“That the Bill be passed.”

SHRI J. S. BISHT: Mr. Deputy Chairman, I had not intended to participate in the debate on this Bill but because two hon. Lady Members have made certain remarks, it has become my duty to clear those points.

So far as the hon. Mrs. Nigam is concerned, I have not much to say because she is still young and it will take another twenty years to develop maturity of judgment, because her enthusiasm runs away with all questions of freedom and legality and everything.

With regard to Mrs. Menon, the point is this that you have got a written Constitution and as long as you have written Constitution, that guarantees certain Fundamental Rights. Your laws must conform to that Constitution, otherwise it is no good passing laws or providing sections therein which will tomorrow be invalidated by the Supreme Court. That is the first point. As for the amendment of the Constitution, it is for you to induce the country, the State Government and the Parliament to agree to forego their freedom. Remember please that when people lose their freedom, they lose it by stages and it is always under the garb of something being done for good. The greatest

harm that was done in Europe was under the cloak of religion. The horrors of Spanish Inquisition are still known to many.

SHRIMATI LAKSHMI MENON:
The hon. Member need not tell me about all that. I know them perhaps better than he does.

SHRI J. S. BISHT: They are of no consequence.

MR. DEPUTY CHAIRMAN:
Please address the Chair and also look towards the Chair.

SHRI J. S. BISHT: Mr. Deputy Chairman, therefore what I am submitting is this that if a publication is really harmful it will be for the courts to decide later on whether it is harmful but to say before hand that it should not be allowed to be published, is to cut at the very root of freedom of expression and that is a very valued right in all free democracies.

MR. DEPUTY CHAIRMAN:
Any reply, Mr. Datar ?

SHRI B. N. DATAR: No. I have nothing to say. I am obliged to the hon. Members for their general support to this Bill.

MR. DEPUTY CHAIRMAN:
The question is:

“That the Bill be passed.”

The motion was adopted.

THE SUPPRESSION OF IMMORAL TRAFFIC IN WOMEN AND GIRLS BILL, 1956

THE MINISTER IN THE MINISTRY OF HOME AFFAIRS (SHRI B. N. DATAR): Sir, I beg to move:

“That the Bill to provide in pursuance of the International Convention signed at New York on the 9th day of May, 1950, for the suppression of immoral traffic in women and girls, as passed by the Lok Sabha, be taken into consideration.”

[Shri B. N. Datar.]

Sir, this is again an important matter dealing with another social evil and that social evil, as the House knows, is prostitution. So far as this question is concerned, there were Acts, there have been Acts in different parts of India, in the different States, but it was considered that this question should be dealt with by Parliament.

In this connection I would point out to this House that the Parliament now has been seized of the authority to deal with this question because an International Convention, as I pointed out, was signed in 1950. After that Covenant was signed, we made a reference to the various State Governments and we had the opinions of all the State Governments. They felt that instead of having different pieces of legislation, so far as the States were concerned, it would be better if, for example, this evil of prostitution, to the extent that it can be, could be tackled by the Central Government.

After we received the opinions of all the State Governments, we also had the advantage of the opinions expressed by certain women's associations who took a lead in asking us to have a Central legislation in this respect. This question of prostitution as a social and moral evil was taken in hand by the Central Social Welfare Board and they had a committee appointed which was known as the Advisory Committee on Special and Moral Hygiene. That committee, which consisted of a number of women under the chairmanship of Shrimati Dhanwanthi Rama Rau, went into the whole question and their report has now been published. So far as that report is concerned, it deals with the whole subject of prostitution, it deals with the historical aspect of it and it also deals with the present needs, so far as the eradication of prostitution is concerned. So far as this question is concerned, we have to take into account certain aspects or certain difficulties while we deal with the question of prostitution. As has been pointed out by this Committee, prostitution by itself cannot be made an offence. But there are other matters,

a number of other things connected with prostitution which can be made penal and in this connection I would like to invite the attention of this House to certain observations of this Committee which are very relevant so far as this question is concerned.

SHRI AKBAR ALI KHAN (Andhra Pradesh): But we have not received a copy of that report.

SHRI B. N. DATAR: It is not our publication. It is a publication of the Central Social Welfare Board and copies are available in the Parliament Library, if I mistake not. They have dealt with this question and they say that prostitution by itself cannot be made an offence under the law, because thereby, we shall be treading very dangerously on the question of private rights. Still, there are matters connected with prostitution, especially when it is made a traffic, when a woman or girl is led astray, when brothels are kept or when certain other acts are done, when a young girl is induced or seduced or a woman is taken for the purpose of prostitution, when the Government can intervene and legislation can be brought in. That is the view taken by this Committee and it is a very well reasoned view. Therefore, keeping that in view, the Government have dealt with this question in the manner it has been approached so far as this Bill is concerned. I may point out that on page 31 of this Report, they say:

“Whether prostitution can be punished as a public nuisance under section 268 as causing injury, danger, or annoyance to the public in general is extremely doubtful, for prostitution has not been forbidden as such by the law.”

MR. DEPUTY CHAIRMAN
What Committee was it?

SHRI B. N. DATAR: This is a Committee appointed by the Central Social Welfare Board, under the name “Advisory Committee on Social and Moral Hygiene”. The Report of this Committee was published recently. They have dealt with this question

from different points of view and they have also pointed out the need and also the limits within which legislation on the question of prostitution can be undertaken.

Before this Bill was introduced in the other House, the Chairman of this Committee had an opportunity of going through the provisions of the Bill and then she made certain suggestions and those suggestions or amendments have already been accepted. After this Bill was before the Lok Sabha, there were some two other Bills, one dealing with children.

Therefore, all the three Bills were referred to a Select Committee of the Lok Sabha and that Select Committee went into this Bill and they made certain amendments. We accepted them and ultimately when their report came, it was accepted by the Lok Sabha and that House has passed the Bill. It is now before this House.

So far as the question of the enactment of this law is concerned, I have stated that this social evil has to be tackled in an effective manner. Some hon. Members may call this an indirect manner. But prostitution by itself, as has been stated by the Committee, cannot be made an offence. But prostitution, if committed in certain places which ought to be considered fairly sacred places, which ought to be kept away from the taint of prostitution, as for example, schools or temples or places of worship or hostels, then to that extent and only within those limits, becomes or can be considered an offence. In that case it has been made an offence, because here it amounts to a public nuisance, and it has been stated in the body of the Bill itself that if such an offence has been committed within, I think 200 yards or so, then it becomes an offence, not because it is prostitution, but the enormity of the prostitution has amounted to a public nuisance. To that extent prostitution by itself has been made an offence.

So far as prostitution is concerned, there are a number of agencies which help in abetting prostitution, which also live on prostitution. Take for

example, brothel keeping. The brothel keeper has been the subject of consideration by this Bill and the keeping of brothels itself is an offence. It is considered an offence to let out premises for the purpose of prostitution. If it is let out knowingly for the purpose of prostitution, then it becomes an offence under the provisions of this Bill. In addition to these keepers of brothels, or those who let out houses for prostitution purposes, those who carry on this profession as middlemen or what are called, pimps, they also are dealt with because they traffic in prostitution. Then there are other kinds of this offence, for example the act of seducing a woman or a young girl from her place and bringing her for prostitution and living on the income of prostitution. That also has been made an offence. Solicitation is also made an offence, that is to say, solicitation in connection with this so-called profession of prostitution, that is also made an offence.

In addition to the penal provisions—and the penal provisions are fairly stiff,—there is a certain speciality or significance in this measure, in that when a person has been found guilty, when he is convicted of the offence, then under this measure there is a minimum punishment prescribed. As you are aware, Sir, in all penal provisions, the matter is left entirely to the court. But here in this case, since this is a very grave social evil which is sapping the vitality of the nation and in order to see to it that it is discouraged as much as possible, for this offence a minimum punishment has been prescribed. If an offender has been found guilty, if he has been convicted by the court—the process of conviction is naturally left to the judicial discretion of the court—but once a person has been found guilty, then here, there is a departure from the ordinary principles of jurisprudence, in the interest of social security and in the interest of the well-being of society that that particular offender should receive a minimum punishment.

This is a departure which has been made purposely. When the offence is repeated, the punishment is enhanced

[Shri B. N. Datar.]

as it has been done in certain other cases in the Indian Penal Code. The object is that if we use stern measures, they will have some effect in checking the evil though it is also true that we have to carry on the work in other respects for educating public opinion and for obtaining as large a measure of public co-operation as possible to the eradication of this particular evil. There is another side which might be called the positive side so far as this Bill is concerned. Now, it has been agreed and put in the Bill that there ought to be what are called protective homes. If there is a case of a young girl who has been carrying on prostitution and if she has been found guilty, instead of sending her to a jail or a house of punishment, it has been thought better to send her to a protective home. The idea is to have at least one protective home for every district in India wherein these people could be kept. They will be kept in these homes and they will be looked after. It is felt that apart from economic rehabilitation which also will be fully attended to by teaching them some crafts, there should be an effective attempt made to rehabilitate them so far as the moral side is concerned because, these young girls have to be weaned away from the life of shame that they lead. I know, Sir, that about two or three years ago, a very great and a heroic attempt was made to get all these girls away from the clutches of these brothels. An organised attempt was made and about 140 girls were rescued. These girls had lived this life of shame for a long time and they had forgotten the shameful character of the life. They thought they would be leading a life of luxury or a life of comfort which they were denied in their own places far away in the hills and, therefore, some of these girls did not like to come out from such places. Therefore, attempts were made to train them properly and to wean them, especially psychologically, from the life that they were leading, namely, a life of shame and vulgarity. That attempt succeeded to a certain extent and such attempts should be made

everywhere. These women and girls would be kept in the protective homes and every step would be taken by the State Governments to see to it that they go out into the world not only economically rehabilitated but morally rehabilitated as well. That is the object of protective homes.

As against this evil of prostitution, we had another evil also and they were the so called protective homes or the homes for the orphanages, for the widows, etc., started by people. It has been the experience of many State Governments and many women's associations as well that these institutions were not carrying on properly at all. In fact, in some cases, they served themselves as brothels. Objection was taken on that score; therefore, there ought to be no scope for the abuse of any such powers and it has been laid down that these protective homes should be started either by the State Governments themselves or where they thought that private associations might start such homes, a licensing system has been introduced. Rules would be made and according to them, licences would be granted by the State Governments only in proper and *bona fide* case so that, in the name of protection of women and girls, no undue advantage can be taken, on abuse of the process of law would be made and private gains out of the traffic in women would not be made by these associations as well. This is so far as the main provisions of the Bill are concerned.

Now, it has been laid down that, to the extent they are offences under the Act, they are cognizable; otherwise, what happens is that if an offence becomes non-cognizable, then naturally a private complaint has to be made before a Magistrate and oftentimes action is tardy or there is no action at all. Therefore, this is considered as an offence against the society itself and that is the reason why offences under this Bill have been made cognizable.

Another clause of this Bill might also be understood by hon. Members of this House. It is our desire and it is a fact, Sir, that so far as the weaning away of such women and girls is

concerned, that cannot be done unless we have the fullest co-operation of women in all respects. For that purpose, Sir, as you will find, when you go through the provisions of the Bill, we have made it possible to have the largest amount of co-operation in carrying out the provisions of this Bill. One such provision is that if here are protective homes started by the State Governments then, with the management of the protective homes, will be associated as largely as possible and as practically as possible, a number of women workers. That is one thing. The second thing is that we have also provided for women police officers—both in the officer cadre and in the lower ranks—for the purpose of this Bill. They can help in the detection or in the investigation of this crime because, this Bill deals with the offences by women, and naturally the co-operation of women either as members of non-official bodies or as members of the police force or in other ways is always considered essential. Therefore, Sir, you will find special provision made for the purpose of invoking the co-operation of women social workers to the fullest possible extent.

These are the various provisions of the Bill. Now, I do not know whether Members would try to ask for reference of this Bill to a Select Committee of this House. I should request my hon. friends in general and the hon. lady Members in particular not to ask for such a thing for the simple reason that we are anxious to have this Bill passed into law and necessary action started by the various State Governments as early as possible. My Ministry has been interested in this question and the Central Social Welfare Board have a very ambitious programme for the purpose of carrying out—either protective homes or shelters or whatever they are—the provisions of this Bill and for taking action as is necessary in furtherance of this Bill. Several women's organisations which have been dealing with this question in a very effective manner are anxious that this should become law immediately and that action should be started by the various State

Governments. We have left it to the State Governments, as you will see, Sir, to make rules and these rules will be before them. They deal with matters of detail in regard to the provisions embodied in the Bill.

Thus, you will find, Sir, that this is another measure that purports to deal with the eradication of the social evil of prostitution to the extent that it is possible. I, therefore, commend this Bill for the support of this House.

MR. DEPUTY CHAIRMAN:
Motion moved:

“That the Bill to provide in pursuance of the International Convention signed at New York on the 9th day of May, 1950, for the suppression of immoral traffic in women and girls, as passed by the Lok Sabha, be taken into consideration.”

SHRIMATI CHANDRAVATI LAKHANPAL (Uttar Pradesh): Mr. Deputy Chairman, I welcome this Bill because it deals with a fundamental social problem but I was under the impression that the Bill aimed at eradicating this evil of prostitution altogether. I was rather disappointed at the justification that the hon. Minister gave with regard to the limited scope of this Bill. I am afraid that this Bill, if it is not going to abolish or ban prostitution as such, is not going to serve any useful purpose. The distinction that it makes between individual prostitution and commercial prostitution is unnecessary and it detracts from the value and the utility of this Bill. I fail to understand how we can wipe out this evil from our country unless we prohibit individual prostitution. We cannot hope to solve the problem and we cannot hope to rid society of this evil so long as we do not strike at the root of the evil. Sir, individual prostitution is the root of this evil and by banning only commercial prostitution we shall be driving prostitution underground and that will be still more dangerous because in that case prostitution is likely to spread throughout the country.

Sir, I sometimes wonder at the lenient and mild attitude of our legislators. This evil of prostitution is not a

[Shrimati Chandravati Lakhnapal.] new thing. It has been prevalent in our country for centuries but the law has always connived at it. People have always tolerated it. Even now after all these six long years since we took the pledge of eradicating this evil in all its forms and shapes we are only coming out with a measure which is lukewarm and mild towards this evil of prostitution. I think the reason behind this is our attitude towards women. Women, in our society, are considered to be not human being but commodity, not a person but a thing, to be sold at pleasure, to be exploited at will. Sir, this accounts for our silently and helplessly witnessing this woeful tragedy of the life of a woman who is called a prostitute. Gandhiji taught us to hate the evil and not the evil-doer but we hate the evil-doer but do not hate the evil. We tolerate prostitution but we do not tolerate the prostitute. Actually we hate the prostitute. We have nothing but scorn for the prostitute but we have not even a frown for those who go to visit that prostitute. I am sure that we can never arrive at a right conclusion till we correct and clean our attitude towards women. A reorientation of our outlook towards women can only help us and make us move forward on the path of progress. But even under these circumstances I am prepared to support this Bill because it serves a useful purpose though in a limited manner. This Bill, I must confess, is an improvement in several ways upon enactments of this nature which are prevalent in different States. It has enhanced, penalties for the offences committed under this Bill; it prescribes imprisonment for even the first offence and thus exercises stricter control on the immoral traffic in women and girls which is a sure entrance and the main entrance to prostitution. But merely prescribing penalties and punishments of imprisonment will not serve the purpose. The problem is a difficult one and a delicate one also, and it needs efficient handling in all its aspects, in all its forms and at different levels.

The important aspect of this problem to me are rehabilitation of those who are rescued from moral danger,

rescue work and the implementation machinery. Sir, I am not concerned much with the rehabilitation side of the problem, because that side is being taken care of by the Central Social Welfare Board and it is gratifying to note that the Central Social Welfare Board is starting a country wide scheme of setting up State Homes and District Shelters throughout the country and a sum of about Rs. 4 crores is going to be allotted for this purpose. But to my mind it is the work of rescuing girls and women in moral danger which is even more important than the work of rehabilitation, in the sense that we need homes only for those women who are rescued. If there are no women who are rescued as a result of our successful work, then the homes, even if they are established, will be of no use. So I think that rescue work forms the central point of our whole scheme to prevent immoral traffic.

[THE VICE-CHAIRMAN (SHRI R. P. TAMTA) in the Chair]

And this rescue work depends upon an adequate and efficient machinery through which it is going to be handled. Now what kind of a machinery is there through which we are going to carry on this rescue work? According to clause 13 we find that the work of rescuing women who are in moral danger will be entrusted to an ordinary police official. I submit that the ordinary police—whether they be officials or otherwise—will not be able efficiently to handle this problem which is a difficult and a delicate problem. I can say this on the basis of the experience of social workers and even of the Government. Often, the policemen have been found involved in the very crime they were meant to check and they have also been found involved in corrupt practices in this sphere.

5 P.M.

I mean no aspersion on our police. They have rendered most valuable services in their own sphere. But let me submit that this is a peculiar sphere, requiring special training. And we want in this sphere, in this delicate and difficult problem, specially trained persons, persons who have got a

background of social work with them, persons who have got a scientific approach, a humane approach to this problem. I must say that if the work is entrusted to the general police, as it has been done in clause 13, we shall never be able to handle this problem efficiently. If we want to see that the Bill should serve the purpose for which it is meant, then we will have to provide an adequate machinery also in order to implement the provisions we are making here.

I have tabled an amendment to clause 13, according to which I want a specially trained police cadre, the personnel of which will be in the nature of social workers-cum-policemen. I also want a fair number of women to be included in this police cadre. They should not be merely constables. They should be allowed to occupy responsible positions of supervision for guiding the affairs. This will eliminate to a great extent the chances of corruption that are found in this sphere. The amendment which I have tabled has been drafted mostly on the suggestions made by the Committee on Moral and Social Hygiene, to which reference has been made by the hon. Minister in his speech. And so, I hope that the amendment which I have tabled deserves serious and earnest consideration not only of the hon. Minister but of all the hon. Members of this House, because it is on the machinery, on the agency which is going to implement these provisions that the success of this Bill depends. And if we are not able to provide this improved type of machinery, then let me say that this Bill is bound to meet the fate that the State Bills are meeting. It will remain a dead letter on the Statute Book and will serve no practical purpose.

With these words I hope that my amendment, on which I shall speak in greater detail when the occasion arises, will be approved and accepted by the hon. Minister, if he wants that the Bill should serve any useful purpose at all.

SHRI V. K. DHAGE (Bombay): Mr. Vice-Chairman, I welcome the

Bill for the Suppression of Immoral Traffic in Women and Girls, because it makes provision for the elimination of middlemen in the profession of prostitution. As the hon. Minister stated in his opening speech, this Bill does not prevent the carrying on of the profession of prostitution by an individual. That is to say, the act of prostitution may be considered immoral, but for legal purposes it is not considered to be unlawful for any person to indulge in prostitution. I do not know whether we can be such moralists as to be able to say that prostitution can be abolished. The hon. Member, Shrimati Chandravati Lakhapal, felt that the measure has not gone to the full length, inasmuch as it does not prevent prostitution at all. We must be able to appreciate the circumstances which make prostitution as a profession to be continued in this country. Prostitution is due to social conditions which exist, laws of marriage which are existing, and also the economic conditions which prevail. It would not be enough to say that we would like to abolish prostitution, unless and until you root out the causes which make prostitution a possibility. Marriage conditions and social conditions, I may put it in a wider manner, make it possible for prostitution to exist. This has been going on since ancient times. I do not know whether I should say Vedic times or pre-Vedic times, but it has been a profession, the oldest of professions in the world.

SHRIMATI SAVITRY DEVI NIGAM (Uttar Pradesh): After the Vedic time.

SHRI V. K. DHAGE: Many of our great men probably are the products of *ganikas*.

SHRI AKBAR ALI KHAN: You want that to remain in perpetuity?

SHRI V. K. DHAGE: I do not want it to remain in perpetuity. What I want to say is that you have to get rid of your social conditions, before you can think of abolishing prostitution. If you have the present marriage laws as they exist, you should not

[Shri V K Dhage]

think in terms of abolishing prostitution. If you are not able to provide employment to every person, you should not think that you will be able to abolish prostitution. That is my point. I am not saying that there should be prostitution. But prostitution cannot be abolished unless you root out the very causes which make prostitution a possibility. That is my point. And I was rather trying to come to it slowly, but my hon friend, Mr Akbar Ali Khan, was rather in a hurry.

SHRI P S RAJAGOPAL NAIDU (Madras) You have lost the trend.

SHRI V K DHAGE I have got the pain in the chest also in the excitement.

THE VICE-CHAIRMAN (SHRI R P TAMTA) You may better conclude then.

SHRI V K DHAGE No, Sir. I shall begin. Our approach to the problem must be in a different way. We have been considering, as the hon Member who preceded me said, that the prostitute is a very despicable being. In my own way of looking at things, the prostitute must not be despised, in the manner in which it is done under the present system of society. If it had not been for the existence of the system of prostitution, probably the chastity of women would have been at greater stake. People's passions would have probably run wild and this institution has come as a safety valve. They have suffered. They go through all tortures and horrors of life. Nevertheless, as a profession they have practised it without meaning any harm to the society. In fact, they have been the protectors of the society. Do not forget, I am not a supporter of this institution. I am only trying to drive my point to say that the prostitute has been a benefactress of the society, in the circumstances, under the conditions which the society makes them prevail now. We have, therefore, to look at the individual in a very human manner, and the Bill also, to a certain extent makes provision for the treatment of

this individual in a human manner. In fact, the recommendations of this Committee to which the hon Minister referred—that is, the Advisory Committee on Social and Moral Hygiene—are that the treatment to be accorded to the prostitute should be human, should be rather on the liberal side and therefore we should also be able to provide institutions for their rehabilitation in such a way that that person, who has been a prostitute, when rehabilitated, should not suffer this stigma of prostitution afterwards. This, of course, is the problem which every social worker, who deals with the problem of either the prostitution or the delinquency of the children, has to face.

Now, Sir, there is another aspect of the problem, which is the economic condition of these people. The individuals who resort to prostitution apart from the social conditions that prevail, are also driven to this evil as you may call it, because of economic circumstances. This report of the advisory Committee has pointed out several instances in which they say that it was the economic circumstance of the person which led that person to prostitution. I shall just read to you, Sir, one such passage, and you will understand that the Committee were rather at bay to see whether they would be able to persuade that person away from prostitution. The passage is on page 8: "One of the girls told us that she has four young brothers in the village whom she could now afford to send to school, and in time she would like to buy her family more land in the village. They could neither sing nor dance nor had they any education or general knowledge. The Committee could find no adequate answer to their arguments." There are also other instances here. I might quote one: "In times of famine and drought, when these labourers are unemployed they dedicate one or two daughters to the temple and so assure themselves of the means of livelihood in times of distress. These parents are happy to see their daughters move into brothels in cities where opportunities are wider and money more easily got." I do not

know whether anyone will see that this woman whom this Committee has quoted is not doing something noble in the matter of sacrificing herself in order to maintain the family from starvation. It depends upon how you look at the thing, whether the person herself likes it or not, whether the person is desirous of leading that life, which you call a life of shame, or not, but the fact remains that she is trying to support and maintain the members of her family, she is trying to give education to her brothers, and that being the case, the Committee members themselves could hardly say whether they had anything by way of answer to that argument. These are the facts which we will have to face in order to be able to see whether we can eradicate prostitution, if we are not able to provide employment to them, if we are not able to provide means of sustenance to the people who go to this kind of profession.

There is another factor, Sir, which we should be able to appreciate—and it is not an original point which I am stating but it is a point which is recommended by the Committee itself—the approach or the attitude of the society as it exists today with regard to problems of sex. Because of the taboo which is attached to sex, it makes for one of the causes for the prevalence of prostitution. It is a matter of great sorrow, Sir, that there is no sex education provided in our schools and colleges. We have considered this as something very nasty, but sex is the most creative and sacred thing in our life. Why did our ancient people not put this stigma upon the knowledge of sex but enshrined sex in various temples, etc.? In fact, some of the people who are 'Saivaites', went to the extent of worshipping the sex organs, thereby exalting the idea that it does the most important creative function. If you visit even a big temple like Kailas in Ellora, on one side of the main shrine you see the story of Ramayana carved, and on the other side you will find education in the matter of sex carved out in stones. These carvings are also there in the famous temples or Khajwraho.

Some people think that these temples should be pulled down. I do not know what sort of knowledge or understanding they have about art or architecture or the sacred things in life that they should think that these should be pulled down. The ancient people provided education even on this matter in temples, and it is necessary that this education should be provided to our young men in the schools and colleges. As I said, Sir, this is not my idea but it is the recommendation of the Committee on Social and Moral Hygiene which the hon. Minister quoted.

Sir, I will not take much time and I will conclude very soon. It is right to say that this Bill envisages the establishment of protective homes and certain other institutions to rehabilitate the erstwhile prostitute. I welcome this provision. But what I would like to point out is, whenever social workers have established homes under the Children's Act for the rehabilitation of the children, the Government has always come forward by saying that there is no money with them for the purpose of providing these homes and the provisions of the Children's Act have remained dead on the Statute Book. Unless and until the Government makes financial provision, it is no use making provisions in the Statute Book. They must make a provision for finance to open these homes in every district town, as the hon. Minister stated just now. Then alone the provisions of this Bill will be successfully carried out. I may tell you that, when social workers approach Finance Secretaries for the purpose of assistance under the second Five Year Plan for establishing remand homes as they are here in this Bill as well as under the Children's Act, they are constantly told that there is no money. And whatever provision you may show to them in regard to finance under the first Five Year Plan or the second Five Year Plan, they come out by saying that they have no money and that Legislatures go on passing legislation as they like without any kind of a consultation with the Finance Ministry.

[Shri V. K. Dhage.]

I would like to warn the hon. Finance Minister that this reply should not be forthcoming saying that there is no finance. They must, before they put this provision into execution, make sufficient financial provision—not in your Department, because you will say

SHRI B. N. DATAR: No, no. Provision has already been made.

SHRI V. K. DHAGE: I am happy to note that there is a provision made and that homes will be opened as early as possible. I thank him for that information.

I shall now come to the provisions of the Bill. Clause 6 says:

“(1) Any person who detains any woman or girl, whether with or without her consent,—

(a) in any brothel, or

(b) in or upon any premises with intent that she may have sexual intercourse with any man other than her lawful husband. . . .”

I think that there is a small defect in this provision. Suppose the person detained with consent is the prostitute herself, then would you like punishment to be accorded under this clause? I am just raising this doubt. I do not know whether it occurred to the framers that such an eventuality may be there.

Then in clause 4, it is said—“Provided that no such presumption shall be drawn in the case of a son or daughter of a prostitute, if the son or daughter is below the age of eighteen years.” I read out to you an instance from the report. In that instance, the son or the daughter happens to be above the age of 18 years. Would you like that son or daughter to be punished? This is the second doubt that I have.

The third is with regard to sub-clause (2) of clause 13:

“The special police officer shall not be below the rank of—

(a) an Assistant Commissioner of Police in the presidency towns of Madras and Calcutta.”

Do we still have presidency towns of Madras and Calcutta?

SHRI B. N. DATAR: They are still called like that.

* SHRI V. K. DHAGE: I do not know if this is correct.

SHRI B. N. DATAR: That name still remains—“presidency towns.”

SHRI V. K. DHAGE: “Presidency towns” still remains?

SHRI B. N. DATAR: In the Criminal Procedure Code also, it is there even now. It has only a historical association. Nothing more than that.

SHRI V. K. DHAGE: I am not a lawyer. Therefore, I just pointed out to you a doubt whether that would be quite proper.

Proviso to sub-clause (2) of clause 17 says—“Provided that such custody shall not be that of a person, or body of persons, of a religious persuasion different from that of the girl.” Would it be that, if an institution has to take the custody of the girl, that also would be required to be of that particular religion? That is the doubt to which, I hope, the hon. Minister will be able to give a satisfactory answer.

Thank you.

SHRI J. S. BISHT (Uttar Pradesh): Mr. Vice-Chairman, I welcome this Bill although it has come six years after the signing of the International Convention in New York on the 9th May of 1950. But my purpose in speaking on this Bill is with regard to certain omissions that I find here.

Once upon a time, when I was the Chairman of a municipality, I found in certain particular important localities which also happened to be on the way to certain colleges, that very prominent houses were licensed for prostitution. So, I set about eradicating this evil and drafted a bye-law. When I was drafting it, I came across

a ruling of the Allahabad High Court which laid down that no municipality can frame a bye-law forbidding prostitutes from living within the whole of the municipal area. What they said was that a municipality could frame a bye-law only forbidding them from living in certain particular localities. But they could not forbid them from living within the municipal limits. That is to say, you could exclude them from certain areas, but not from the whole area. However, in framing that bye-law, I managed to have it in such a manner that those localities were included within the excluded localities. And I understand that the same difficulty is being faced by the Delhi Municipality also. They want to get rid of certain areas which are inhabited by prostitutes. But they also find the same difficulty because they cannot clear them out from the whole of the municipal area. So, when you were framing the law, why was this lacuna not filled up? Why was it not made, say, like this? "Irrespective of any provisions contained in any local, municipal or district board Act, it would be in their power if they so thought fit to exclude the whole of the area under their jurisdiction from being inhabited by the prostitutes." It should be left to the discretion of the local authorities. If any particular local authority thought that it should purge its area of this vice, it should be open to it to do so and if there are difficulties later on, it should, I believe, be able to handle the situation. So, this is an omission which seems to me to be rather very important and I do not know whether, at a later stage, the hon. Minister would think it advisable to bring in an amendment by which this small difficulty could be overcome arming the local authorities—municipalities, or notified areas or town areas or district boards or cantonment boards—with wide powers to pass such bye-laws so as to forbid the whole of the area under their jurisdiction from being inhabited by prostitutes.

Then there is another point, as the hon. Minister himself pointed out, that this law does not completely eliminate prostitution. It only eliminates

certain institutions, that is to say, the institution of prostitution in the shape of brothels and all those sorts of things, which are kept going by these middle-men—touts or pimps or others who indulge in what is called the 'white slave traffic'. That is still very right. But another difficulty which we come across along with prostitution is a pest, a great curse, that is, venereal disease. Now, there are many countries like France and Japan which have powers to regulate it. That is to say, any person, who wants, as an individual, to carry on the profession of prostitution is licensed. These people have to be licensed by the State or the local authority; otherwise, they cannot carry on.

SHRI H. N. KUNZRU (Uttar Pradesh): That does not afford any real protection.

SHRI J. S. BISHT: No, no. Please listen. Under that system of licensing, they have to offer themselves for medical examination every month and to have a certificate that they are not suffering from any venereal disease which is likely to be propagated to the other person. That is a great precaution which protects society from the spreading of this dread disease.

SHRI H. N. KUNZRU: Which it is not.

SHRI J. S. BISHT:...which is so horrible in its after-effects because it is such a disease that people often hide it from their near and dear ones and then go to doctors at a very late stage. Of course, modern medicine has discovered many remedies which are efficacious but in the villages and far off places, these things are not available. I think that such a provision, although it is not one hundred per cent. foolproof as my esteemed friend, Dr. Kunzru, says, will at least minimise to some extent the quantum of the disease.

With regard to clause 7, my hon. friend from Madras informed me that the undesirable custom of Deva Dasi has been abolished there, and the institution of brothels is also regulated there.

[Shri J. S. Bisht.]

With regard to clause 8, I feel it is a little redundant because this provision finds place in almost all the Municipal Acts and also in the District Boards Acts of this country.

“Whoever, in any public place, or within sight of, and in such manner as to be seen or heard from, within any building or house or not . . .

(a) by words, gestures, wilful exposure of her person or otherwise tempts or endeavours to tempt, or attracts or endeavours to attract the attention of, any person for the purpose of prostitution;”

These are also provided in most of the Municipal Acts—I find them in the U. P. Municipal Acts at least—and I do not know whether it has been found necessary to fortify it by this extra provision. With these few remarks, I support the Bill.

SHRI P. N. SAPRU (Uttar Pradesh): Sir, I would be brief. So far as this Bill is concerned, it has my general support. The main lines of this Bill are in accordance with the recommendations of the International Convention signed in New York on the 9th May 1950 for the suppression of immoral traffic in women and girls, but it does not deal with the problem of individual prostitution. In the very nature of things it could not cover the problem of individual prostitution. What the society or the State can do is to attack commercialised prostitution. In a free society it is difficult to understand how individual prostitution can be attacked. Prostitution is illegal in England—it is not recognised there—and it is not recognised by the law of the United States, and yet there are individual cases of prostitution by women who sell their bodies for money.

SHRI DAWOOD ALI MIRZA (Madras): For lust too.

SHRI P. N. SAPRU: I do not know. I would like to restrict the word to

women who sell their body for money. In modern society there is a class of persons known as the demi-monde. A woman of this class is treated as an ostensibly respectable person; you take her out for a dance, to hotels, etc., and she is prepared to sell her body to anyone who will just give her a good time. How are you going to tackle that problem? It is all right for Mrs. Lakhnupal to say that that problem of individual prostitution should have been tackled, but then the problem of sex also should have been tackled by the Creator who is supposed to have created this universe.

SHRI KAILASH BIHARI LALL (Bihar): May I know from Mr. Sapru whether it has come to his knowledge that there are males also who sell their bodies for money?

SHRI P. N. SAPRU: I do not know. I have not come across such cases myself, but I have heard of male prostitution also.

SHRIMATI T. NALLAMUTHU RAMAMURTI (Madras): Both male and female prostitutes are abominable and are a poison to society.

SHRI P. N. SAPRU: I absolutely agree, but how are you to abolish individual prostitution? Therefore, the point that this Bill does not deal with the question of individual prostitution has no meaning whatever.

SHRIMATI T. NALLAMUTHU RAMAMURTI: When the Devadasi Bill was being passed in the Madras Legislative Assembly, the same arguments were being used so many times as are being used here. The Bill has been passed and the institution of Devadasis has been completely done away with. They are very very happy today and they have fallen into line with the rest of society. I want to give this information to the House.

SHRI P. N. SAPRU: My respected friend has misunderstood me. I am not supporting the institution of prostitution; I am not an apologist for the institution of prostitution. That is not my point. My point is that there

are certain institutions which the State cannot abolish. The State cannot prevent me from selling my body if I want to do so. Government cannot have a spy in every home to ensure that no woman or no man sells her or his body. That is the whole point, and it is no use having a legislation which cannot be enforced. I think, therefore, that more commonsense should be exercised in dealing with problems of this character, and we must not go by mere sentiment alone.

SHRIMATI CHANDRAVATI LAKHANPAL: May I remind him that there are other civilised countries which have done it?

SHRI P. N. SAPRU: Which are those countries?

SHRIMATI CHANDRAVATI LAKHANPAL: China and Russia.

SHRI P. N. SAPRU: After what has happened in Hungary recently, I do not know whether we can call Russia a truly civilised country, and I am sorry that the name of Russia was mentioned by Mrs. Lakhanpal. I am a frequent reader of international periodicals and I am not certain whether in China or in Russia things are so rosy as Mrs. Lakhanpal would like us to believe. There are prostitutes in those countries also.

SHRI AKBAR ALI KHAN: From our recent experience, I can say that in China they have abolished it to a very great and appreciable degree.

SHRI P. N. SAPRU: May I say that there used to be a class of person called Pagett M.P., of whom we used to hear when the British were here in this country. We have now experts who go to foreign countries on conducted tours, come back and make statements which would require much greater proof than just impressions gathered in a visit of three weeks or four weeks.

SHRIMATI T. NALLAMUTHU RAMAMURTI: Can't we envisage a situation where a man would not like to sell his body or a woman for that matter?

SHRI P. N. SAPRU: If it is all for love, why do women want men to make present to them? (*Interruption.*) These are very inconvenient questions, and I am prepared to discuss the psychological, physiological and economic background of prostitution. We do not require Rama Rau Committee to enlighten us on the causes of prostitution. They are well known. The point that I was driving at was something different, and it is with that purpose that I really got up to speak.

A new principle has been introduced, I think my hon. friend Mr. Datar will excuse my saying so, but I say that a vicious principle has been introduced in this Bill. That principle is that you have prescribed minimum sentences for those who may attempt to commit an offence or who may commit offences under this Bill. I have been taught so far to believe that a sentence is a question of law and a sentence is a matter within the discretion of the court. The tendency in modern countries is to have indeterminate sentences, to leave the determination of sentences to the courts of law. You are reversing in this piece of legislation the trend of thought, the trend of legislation in regard to sentences in countries with a progressive background. For example, take clause 6 which says:

"The person shall be punishable on first conviction with rigorous imprisonment for a term of not less than one year and not more than two years".

Now you have prescribed the maximum and the minimum. When you are dealing with a particular case, you are dealing not with a type but you are dealing with an individual. You have to take into account various factors. You have, for example, a sex case. There is difference between attempt and something actually done. You have lumped them together and the same sentence you have provided for a man who attempts to commit the crime and fails to commit it and the man who actually commits the crime. All that is, I think, if my hon. friend Mr. Datar will pardon my saying, legally

[Shri P. N. Sapru.]

thoroughly unsound and I am sorry that that vicious principle should have been accepted in this Bill. If the brothel keeper is to be treated as a person apart, why not the thief, why not the forger of notes, why not so many other persons who commit offences against the laws of the land? Just because he happens to be carrying on an activity which we regard as nefarious and which courts should regard as nefarious, we should not go in for a departure from the recognised principle of jurisprudence. That, I think, is a fundamental criticism which I have to offer against this Bill.

So far as protective homes are concerned, they are all right but I would like the Government to ensure that they are well run. You will need in those protective homes, in order to rehabilitate these women, the help of psychiatrists because prostitution is something abnormal and women who take to it are abnormal persons and you will need therefore some persons in these protective homes who will be good psychologists.

I would like to emphasise that it is desirable that these homes and these activities should be run as far as possible by women alone. My experience of the institutions where you have a male secretary has not been a very happy one and I would therefore, as far as possible, eliminate men from the running of these institutions. The other day the U. P. Government gave the All India Sewa Samiti a good sum of money for establishing a Rescue Home. I happen to be the President of that Home and the problem before me was to nominate the Committee and I told our Secretary that I would nominate only women. He is a very very fine man, an associate of Pandit Kunzru, but I told him that I would only nominate women, because I think the best way to run these institutions is to leave them to be run by women themselves.

With these words I would give this Bill my general support.

SHRI DAWOOD ALI MIRZA:
Mr. Vice-Chairman, I congratulate

the Government on this Bill. I lend my moral and general support to it but the thing is, whether we are going to succeed in eradicating prostitution from this country. This prostitution has been in existence in this country from times immemorial.

SHRI P. S. RAJAGOPAL NAIDU:
In every country.

SHRI DAWOOD ALI MIRZA:
We tolerated it, we condoned it, we patronised it, but today, all of a sudden, over-night we want to bring in a Bill, we want to bring in a reformation in the society which is in existence from times immemorial. No doubt the hon. Minister is doing a great service to women. The hon. Minister is doing a great service to the nation and to the society but we have to see the reason and the causes that are at the root of this evil. This social evil is not prevalent in India only. It is prevalent in the East, it is prevalent in the West and it is quite prevalent at the place where this Convention was signed, in New York. Sir, to pass a Bill and to leave it as it is, is very easy. The Bill can be passed unanimously without any opposition but to put it into force, to carry it out, is a great thing. It is a difficult task. We have to go deep into the root causes of this evil. What is the root cause of this prostitution? A man pays some money to a woman and she surrenders her body to that man and it is prostitution. What makes her to surrender? Under what conditions does she surrender? I know of an instance and let me tell my hon. Minister about that. At a certain place, a girl was taken away by some student, a student of the University. She was rather very roughly handled by half a dozen students. Then she was brought back in an unconscious condition to the hostel and then when the police took charge of her box, there a letter was found written by that girl to her parents wherein she says: 'I am selling myself, I am risking my life because of you, because I have to support you. I know you will be starving because I have delayed in sending money to you. Forgive me for it.' Sir, how are you going to

eradicate that? It is easy to pass Bills. No doubt as far as brothels are concerned, the hon. Minister can succeed in either hauling up or eradicating or closing them down but in prostitution of this type, where the root cause is poverty and nothing else, what are you going to do with that situation? As I said, it is easy for us to pass a legislation. For instance we have prohibition in this country. You have passed the law of prohibition. But is it a fact that there is no liquor? Is it not a fact that in every house you get liquor?

SEVERAL HON. MEMBERS: No, no.

SHRI DAWOOD ALI MIRZA: Is it not a fact that everywhere you have this illicit distillation? And by the introduction of prohibition, the Government is losing crores and at the same time, while the Government is losing crores and crores, you are enriching the coffers of the police-walas, they fill their own pockets with bribes, and corruption is prevalent. Similarly, this law also may lead to the same result. Therefore I appeal to the hon. Minister to consider this aspect of the question. I give this measure my support, but I would appeal to him first to go deep into the root causes of this evil and eradicate those roots, elevate our fallen sisters and then bring in a legislation which will be a complete success.

Sir, I thank you very much for giving me this opportunity to speak.

SHRI B. N. DATAR: Sir, we had a very interesting debate so far as the various questions arising in connection with this Bill are concerned. The hon. lady Member, Shrimati Chandravati Lakhnapal, was disappointed that we did not and could not make prostitution an individual offence. In this respect, may I bring to her notice what has been stated by the Committee whose Report, or portions from whose Report, I read out only a few minutes ago? In that Report, they start with a definition of prostitution and show how there is a limit also to the making of laws so far as the prevention or eradication of prostitution

is concerned. There are certain acts that are immoral, for instance an act between a man and a woman where the question of commercialisation does not come in at all, if a man asks for and if a woman surrenders her person for lust, that cannot be prostitution at all. For prostitution certain other things are required and these have been so pithily pointed out in this Report. They start with this position, that individual prostitution cannot be made the subject matter of an offence. I may read from page 30 of this Report:

“In law all sexual intercourse outside wedlock is illicit. Prostitution is a part of it. Prostitution is defined as sexual intercourse for hire, in money or in kind. Adopting Flexner’s definition three elements namely, barter, promiscuity, emotional indifference should be present.”

These things put in here in an effective manner have to be present. And here comes the answer to the lady Member:

“But illicit sex relationship between two adult individuals of the opposite sexes has been regarded as a personal affair of which the law takes no cognizance. Law has concerned itself with it only when it offends public decency or when its practice assumes such a form as to amount to a public nuisance.”

Therefore, as has been rightly pointed out by hon. Members like Shri Dhage and Shri Sapru, and the hon. friend who spoke now, it is perfectly true that there are certain matters which cannot be prohibited or abolished by law. If in our enthusiasm for social reform we make a law, using the Legislature for it, then that law would be a dead letter, as has been pointed out in this very Report. They have said that in one country—I do not remember the exact name of that country—they enacted a law to abolish prostitution, but that law became a dead letter. In this Report also they have pointed out how a woman is induced to prostitution, how she is induced to sell her person and honour. There may be economic reasons,

[Shri B. N. Datar.]
 there may be other reasons also. But this question has to be tackled from different points of view, including the economic factor as well. My hon. friend here referred to an instance of how a young girl had to sell her honour for the purpose of educating her children. This is an instance which we have to take into account in a rueful manner, because the conditions are such. Her honour was sold. Her object was laudable; but whether her action was laudable or not is the question that we have to consider. Without necessarily going into the realms of philosophy or religion, I would point out that we have to see whether it was the right kind of action on the part of this girl to sell her honour for the purpose of educating her children. So far as we are concerned, we are trained to a way of life according to which, not only the ends have to be pure, but the means also must be pure. Suppose for instance, a woman sells her honour and out of the large funds that she had thus acquired, she establishes, say, a hospital or a school or a college. We may take the moral side of it, not necessarily the realistic side of it, to which reference was made. On the moral side of it, we have to take into account whether such an act would be right. Even if it be for the education or the welfare of the parents or of the children or any other person in whom that particular girl is interested, can that action be considered a proper one?

SHRI P. N. SAPRU: Shakespeare poses this question in his "Cymbeline" "Then brother die and Isabella live chaste."

SHRI B. N. DATAR: But let us try to have a realistic appreciation of the position. Let us not in our anxiety to just appreciate a particular action, go on extolling that particular action. Though in this Committee they have stated that there is no effective answer, I think there is an effective answer in religion and in culture. The girl should not have sold her honour at all, for the sake of educating her children or for maintaining her parents. It would have been better if the

parents had died of starvation, it would have been better if the children remained uneducated. After all, nothing is more important than honour, especially in the case of a woman. Therefore, I would not accept the position that this was an advisable or a proper course. You can say, from a realistic point of view, this particular action can be defended, but I would not like it to be defended on ethical ground and for God's sake, let us not consider this as a proper act at all.

Now, let hon. Members consider this question of prostitution from a larger point of view. In the case of individual prostitution, the matter is between the woman and the purchaser of her honour. In such cases, so far as this personal action is concerned, if in our enthusiasm for rooting out prostitution, we do something, then the results would be terrible, and those terrible results also have to be taken into account. As an hon. Member asked, "Can you have a spy in every house? And can that spy tell you the truth? Will this not be an instrument of persecution and harassment? So, let us look at it from the realistic point of view and let us understand the position. Laws have certain limits. You cannot do everything by legislation. That is the reason why legislation has to be resorted to only when it is absolutely essential. All along, we have to take other steps also. We have to educate the public. We have to educate the girls and then morality will be established and economic conditions also have to be improved. That is the reason why I stated in my opening remarks that in addition to moral rehabilitation, we must also do something in the protective homes for the purpose of giving these people sources of livelihood, because in a number of cases, we know, it is on account of poverty that they have to take to this course. Therefore, they have to be weaned away effectively and that can be done provided you give them some source of livelihood on the strength of which they can live.

That is the reason, Sir, why it is not possible to do so. I am afraid there is no country in which prostitution has been abolished as a result

of legislation. Let us take the factors into consideration. I am not aware of the conditions in China or in Russia. As Mr. Sapru rightly pointed out, we cannot understand the conditions in a country by a casual visit extending over a few days or a few weeks.

SHRIMATI T. NALLAMUTHU RAMAMURTI: The Devadasi system has been abolished by legislation.

SHRI B. N. DATAR: Sir, so far as this system of Devadasi is concerned . . .

THE VICE-CHAIRMAN (SHRI R. P. TAMTA): It is already time. You can continue tomorrow.

The House stands adjourned till 11 A.M. tomorrow, the 18th December 1956.

The House then adjourned at six of the clock till eleven of the clock on Tuesday, the 18th December 1956.