

[Shri T. T. Krishnamachari]

of our ability. In the circumstances, I can give the assurance that I will not allow the prices to go down below Rs. 1,000, because I have a cushion and the cushion will be operated for the benefit of the grower. That is all that I can say in this matter.

Mr. Chairman: The question is:

"In pursuance of sub-section (2) of Section 4A of the Indian Tariff Act, 1934 (XXXII of 1934), the Lok Sabha hereby approves of the notification of the Government of India in the Ministry of Commerce and Industry, No. S. R. O. 2520, dated the 29th July, 1954, by which an export duty of Rs. 350/- per ton of 2,240 lbs. was levied on ground-nut oil with effect from the date of the said notification."

The motion was adopted.

SPECIAL MARRIAGE BILL—contd.

Clause 4.—(Condition relating to solemnization of special marriages)—contd.

Mr. Chairman: The House will resume discussion on clause 4 of the Special Marriage Bill. The following amendments were moved on 2nd September, 1954 and discussion on these amendments was not concluded on 3rd September, 1954—60, 61, 108, 109, 182, 227, 229, 294, 62, 112, 183, 30, 295, 2, and 113.

The position is this. With respect to this clause 4, it was discussed for an hour and five minutes on 3rd September, 1954. Before then, on the 2nd of September, it was under discussion for two hours and 22 minutes. That is, this clause has been discussed for about three and a half hours, and I think at the present moment, we are considering amendments to clause, 4, sub-clause (c) particularly. Still, there are certain amendments to sub-clause (c) which are not yet moved.

I think most of the points with respect to this age—which is the main point under discussion under sub-clause (c)—have been considered in all its aspects—biological, economic, and all that. So, unless there is something which somebody wants to add, it is better, in the interests of this legislation, that we do not try to concentrate and devote more time to this question of age; because, after all, it is very difficult to come to any particular decision. If we continue in this strain, probably we shall have to continue for hours more.

Shri S. S. More (Sholapur): There is the difficulty of the old and the young.

Mr. Chairman: I am not talking of old and young. When one becomes a Member of this House, old or young, he has got the capacity to grasp things in the proper manner. Otherwise, he has no business here. Let us take it a little more seriously and let us make an attempt to get over these amendments at least as early as we can.

Shri Raghavachari (Penukonda): I do not wish to take up much time. From the arguments that have been advanced for straying away from a thing that has been recommended by the other House, I am not satisfied that there has been a fair or a clear approach to the matter but only there is an attempt to confuse the issues. One thing that I find is that this Act was meant to afford an opportunity for advanced people, people with reformed ideas and people who are economically independent and have their own judgement—mature judgement—about their course of action for the future. It is only for such people that this Special Marriage Act was intended. In the course of their arguments, Members have been urging that the marriage age in the country should not be high, that this is too old an age, and that therefore more people cannot come under this Act, etc. It was also stated that this was only a permissive legislation, for

people who want to take advantage of it if they are in a position to understand what they are about. You will see that the whole thing is made topsy turvy. The idea was that the people who have attained a certain age when they can make up their minds, nobody should interfere with their judgment. Now, you want to reduce the age and put in a guardian. Why this spoke in the wheel? You know that this is a permissive legislation; that marriage can be permitted between a person of one sex with any other person who is of the other sex, irrespective of caste, community, religion—anything. Then, you want to introduce the element of the guardian's consent. Do you expect that the guardians are more advanced than the present generation which wants to marry without the guardian's consent? I am afraid this guardian's consent for marriage between people, which you are introducing, is going to be the cause of all the ineffectiveness of this legislation.

Shri Venkataraman (Tanjore): The consent of the guardian is required under the existing Act of 1872. We are not introducing anything new.

Shri Raghavachari: I am only concerned with the possible effect of the consent of the guardian in a measure of this type—an advanced measure of this type. I feel that you are taking away the benefit you intend to give. I also conceive that the benefits you have in view will be defeated by the introduction of this guardian consent. I also say that this legislation is based on the argument that marriage age must be increased, that it must be raised, that there is too much of population, and that the highest productivity is between the ages of 18 and 21, and that, therefore, the age of marriage must be on the other side of 21. The Planning Commission would think of it. Our Health Minister would have it that way. That is one argument seriously advanced everyday, but when you come here, what happens? In other

words, I was only stating that there has been an attempt at confusing the issues, and the purposes; and then importing some ideas of the things that prevail in ordinary society into the purposes of this Act. It does not pretend to be applicable to all people. Therefore, I honestly feel that this age-limit must be 21—21 for both. Do not introduce this guardian. Do not complicate the matter. Let the young men take their chance in life. You talk of the biological aspect and say that there must be a difference in age, and all that. Just imagine your putting 18 years as another limit! Even at 21, a young man from the advanced section of society cannot be expected, in this age when unemployment prevails in the country, to be economically independent.

Dr. Jaisoorya (Hyderabad): Not even at 25.

Shri Raghavachari: You are introducing this extraordinary, advanced legislation on marriage, between communities, inter-communities. Only men and women are required! A man who is economically dependent lives within the family. If a man has some property, he is separated. Otherwise, he is separated without property. What is the economic advantage? What is the independence? What is the kind of life that he is expected to lead in life? Therefore, I only wish to submit that this is an attempt at confusing the issues which must not be there. Certainly you give an opportunity for mature people who can certainly make up their minds about their future. Let, therefore, the boy's and the girl's age be not below 21. They will, then only go on merrily. Therefore, I oppose the amendment.

Shri Gadgil (Poona Central): I am really surprised to see that the age is raised to 21 in the Bill as passed by the Council of States. In the report of the Select Committee one finds that if the parties are less than 21, the consent of their guardians is necessary. In other words, a girl of

[Shri Gadgil]

15 or a boy of 18 could marry with the consent of his or her guardian in case neither of them were more than 21. Now, raising this to 21 is not helping the liberalisation of this law, but putting some obstacle in its way. I therefore feel that if it is reduced to 18, it will be all right and the consent of the guardian is absolutely unnecessary. Under the Indian Majority Act, if a boy or a girl, after he or she has attained the age of 18, is entitled to alienate his or her property, if the boy is good enough to join the Army after he completes the age of 18, good enough to die for the country, is it seriously suggested that he has no judgment so far as the question of marriage is concerned? By introducing a provision that if he is more than 18 and less than 21, the consent of the guardian should be necessary, then, who are likely to be the guardians? If the parents are there, they will understand at least sympathetically the difficulties of the boy or the girl, but in the absence of the parents, if you will bring in the long train of guardians under the Hindu or Muhammadan law, I am certain that those guardians will not come unless they receive something. So, it will be absolutely difficult to appreciate what will be the implications of any provisions that we may make. I am, therefore, of the view that, in the first place, the age should be 18 for both boy and girl, and secondly, no consent should be obligatory.

Mr. Chairman: What happens in the case of those whose guardians are appointed?

Shri Gadgil: This will over-ride that provision. Does it make a difference because the boy's property or the girl's property has been taken over for management by the court? Does it mean that the boy loses all his judgement with respect to his own affairs? I am, therefore, of the view that there should be no consent necessary, of any guardian, whether under the personal law, or if the

guardian is appointed by the court. But if, some people think—as one of my friends here seems to think—that boys at 18 are very likely to be taken in by girls who are usually cleverer, the age should be 21. In that case the limit should be 18 for girls and 21 for the boys, but under no circumstances the consent of guardian should be made necessary.

Shri Bogawat (Ahmednagar South): I had given notice of an amendment (No. 110) on this subject, but as I was not present in the House when this clause was taken up, it could not be moved. In my amendment I had suggested an age limit of eighteen years, with a proviso that if the person had not completed the age of twenty-one years, he or she shall obtain the consent of his or her guardian.

Sir, ours is a tropical country and boys and girls get mature at the ages ranging from 16 to 18. So, if we want to give full scope of the benefits or advantages provided in this Bill to the young couples, the age-limit should be fixed at eighteen. I do not know why the elders of the Council of State should have fixed the age limit at twenty-one. If that provision is allowed to stand, it would mean the denial of the advantages of this measure to a number of couples wanting to marry under this law. Even if both the boy and girl are mature and want to marry, they will have to wait up to the age of 21 years.

Generally when people are of the age of eighteen they desire to marry, and it is not advisable to postpone the marriage. We know how anxious parents of grown up boys and girls are. They want to see that the boy or girl gets married as early as possible. Fixation of this higher age limit would make the parents to marry their children in the same religion or caste and would defeat the purpose of this Bill which has in view, namely inter-caste or inter-communal marriages.

In fact nobody would marry a girl of 18 to a boy of 18. But why not allow in exceptional cases marriages between parties of the same age? Supposing the boy is robust and healthy and is only of 19 years. There cannot be any objection to his marrying a girl of 18 years. There cannot be any harm in such a marriage. For instance, there was an application with signatures of 40,000 females before the Petitions Committee, of which I have the privilege to be a member. The age mentioned there was 18 years of the girl. Therefore, this age limit of 18 years is suitable and should be accepted by the House.

In regard to the definition of guardianship the amendment No. 291 is accepted. Again according to provision in the Act of 1872 clause 2 condition No. 3 reads:

"Each party must if he or she has not completed the age of 21 years, had obtained the consent of his or her father or guardian to the marriage."

The provision about the consent of the parents or guardian is necessary as a safeguard. The parents or the guardian know the interest of their children or wards better. The parties to the marriage below 21 years of age are not very much experienced in the world and the consent should be made obligatory up to the age of 21 at least.

So, I request hon. Members of the House to accept the age limit of 18 years, provided that if they are not 21 years of age, then the consent of the parent or guardian is necessary. In the interest of the younger generation, and taking a long range view of society, it is quite essential that the age limit should be 18 years.

Shri Kanavade Patil (Ahmednagar North): Mr. Chairman, Sir, the question of the age of marriage of the boy and girl is an important one and this House has to consider this matter from various points of view. We must not forget that in this

country we have still got a very large number of people who think in terms of what our *shastras*, *smritis* and *shrutis* have taught us in the matter of marriage. Though conditions are changing, one cannot adapt oneself to them overnight. We should therefore see whether the age of 21 in the case of a boy is the suitable one for him to marry, and also whether the age of 18 in the case of a girl is really the proper and suitable age for her to marry.

I would like to draw the attention of the House to what the most ancient and authoritative book—the *Brahmanas* (ब्राह्मणास्) say in this connection.

Mr. Chairman: May I call the attention of the hon. Member that this Bill is meant for special cases?

Shri Kanavade Patil: I am coming to that. They have said that the most proper marriageable age in the case of a man is 24 and in the case of a girl about 16. I am really surprised at the view held by some hon. members who have got vast experience of life, that the age of the parties may be equal. I say that there ought to be a minimum difference of at least seven to ten years between the bride and the bridegroom. This is a matter to which we should devote more serious attention.

The proper age when a girl feels the sex urge is 16. You cannot stop her from marrying even under the Special Marriage Act. Supposing the spouses belong to different communities or castes, the girl is only 16 and the parties want to marry under the Special Marriage Act. We should not come in their way. We should allow this marriage with the persuasion of parents. According to my humble view the most proper age for a girl to marry is from 16 to 19. After 19 a girl may in all probability lose her physical charm. We have got examples of it in Europe and in America also.

Shri Velayudhan: Question.

Shri Kanavade Patil: Girls who choose to marry after the age of 21 i.e. in advanced age, lose their power of maternity.

An Hon. Member: No, no.

Shri Kanavade Patil: Yes, I know it. I have got authorities in support of my argument. Arguments, very interesting indeed, were advanced by some hon. Members that our population is increasing, as if this House is feeding them. How are we going to stop the course of Nature, taking shape. The laws of Nature are inviolable. As it is this House is too much scared by the population problem. God is there who is commanding all elements and protects all of them. We should not be too anxious about that. The question in Europe and America is different; there they have more hotels than families. And girls advanced in age do not wish to bear children. Supposing girls choose to marry after 21, 22, they may not get suitable husbands even. I am sure of this. (*Interruption.*) They will have to stand on their own legs and it may be that they may lose their many charms. If you think of girls marrying after 21, 22 and even after 24 years or at advanced ages, the difficulties will be many; they will lose much of their feminine looks, attractions and feminine charms. They may not find suitable husbands. I request you to think in these terms and, to see the several difficulties arising out of that.

I would like to submit that the most proper marriagable age for the Law Minister to consider is from 16 to 19 in the case of girls whether under the Special Marriage Act or the Hindu law. (*Interruption.*)

The Minister of Law and Minority Affairs (Shri Biswas): No personal appeal to him...

Shri Kanavade Patil: It is for the Law Ministry. I am surprised to see that some hon. Members have

suggested that equal ages would be quite proper. I do not believe in that. I think the views I have expressed have the support of the biologists and also of the medical authorities. Therefore, I suggest that there should be a reasonable difference between the ages of the male and the female, say, about seven to ten years. If a girl is 16, the boy should be aged about 25. Under no circumstances, men should be allowed to marry under 25 years of age.

Lastly, I want to further submit on this point. If the girl and the boy want to marry at advanced age, they must observe life of celibacy and chastity. They should both observe a very pure life. Unless they do so, it is very dangerous for the healthy growth and safety of the society to allow persons grown up in age to enter into marriage. The likely results will probably be disastrous to the present sexual and social morality. It is likely to be so. That is what, I believe, might unfortunately happen. Therefore, I submit that in the interest of our society and solidarity we should fix up the ages within reasonable limits.

दीर्घत को सी० शर्मा (जिला मंत्र, दक्षिण) : सभापति जी, जब मैं ने इस मसले पर गौर किया और जब यह बिल आया तो मैं अपने शहर में गया और अपने उन दोस्तों की फेहरिस्त निकाली जिन्होंने इस कानून में शादी की थी। तो मैं ने देखा कि इस में से केवल एक सौभाग्यवती ऐसी निकली जिसकी सास ने उसको कबूल किया। इस में से नौ औरतों को जो निहायत खूबसूरत, पढ़ी-लिखी, और अच्छे घरों की थीं उनकी सासों ने लेने से मना कर दिया। तो आजकल की दुनिया में लोग खूबसूरत की उत्तनी कद्र नहीं करते जितना कि मरे दोस्त कहते हैं।

आप देखिये कि जो आदमी बाजार जाते हैं उनमें से कितने गुलाब का फूल खरीदने जाते हैं और कितने आदमी कपड़ा, अनाज और

जिन्दगी की जरूरत की चीजें खरीदने जाते हैं। जिन्दगी का काम गुलाब के फूलों से नहीं चलता। जिन्दगी की जो आम जरूरतें हैं उनको पूरा करने से ही जिन्दगी का काम चलता है। जो स्पेशल मैरिज एक्ट में शादियां होती हैं उनमें देखी जाती हैं औरतों की खूबसूरती, उनके बात करने का तरीका, उनका क्लब में जाना, उनका खेलकूद, उनका नाचना और गाना। लेकिन नाचने और गाने से जिन्दगी का उतना ही सम्बन्ध है जितना गुलाब के फूल से। देखने में वह बहुत अच्छा लगता है लेकिन उससे घर का काम तो नहीं चल सकता।

दूसरी बात यह है कि आजकल की जो सोसाइटी है उसमें हर एक आदमी यह देखता है कि तुम्हारे पास जिन्दगी की जरूरतियात की क्या क्या चीजें हैं। जो शादियां मां-बाप के जरिये से होती हैं उनमें बहुत सा ज़बर आता है, कपड़े आते हैं, जिसमें से बहिनों को और सास को मिलता है। यह चीज इस मुहब्बतबाजी में खत्म हो जाती है। उनको इससे कोई ज्यादा लाभ नहीं होता। तो जो बात में कह रहा हूँ वह यह है कि अगर मां-बाप एक नव-वधू के आने पर खुश नहीं होते हैं और उसको स्वीकार नहीं करते हैं तो उसके लिए दूसरा क्या चारा है। इसका इलाज यही है कि जो साहब इस मुहब्बत के बाजार में शादी के लिए कदम बढ़ाये वह इस लायक हों कि उस लड़की को एक अच्छे मकान में रख सकें और उसके लिए एक अच्छी जिन्दगी मुहय्या कर सकें। यह कब मुमकिन है? यह तभी सम्भव है जब कि उस लड़के की उम्र इतनी ज्यादा हो कि वह खुद अपनी रोटी पेंदा कर सके तो ऐसा करने के लिए दो बातें होनी चाहिए। या तो उसके घर में रुपया पैसा हो, जायदाद हो और या वह कमा सके। लेकिन जो जायदाद वाला है वह इस स्पेशल मैरिज में नहीं जाने वाला है, क्योंकि वह इन्वैरिटेस (विरासत) में विश्वास करता है, मां-बाप के रुपये में विश्वास करता है। यह वही आदमी है जो शास्त्र में भी विश्वास करता है। यह आदमी पीछे देखने वाला होता है, वह रिवाज को देखता है, ट्रेंडिशन को देखता

है। उसकी निगाह फ्यूचर (भविष्य) की तरफ नहीं होती। वह आयन्दा की जिन्दगी से घबराने वाला होता है। इसलिए जिस आदमी के पास रुपया है और जो बाप की जायदाद पर अपनी जिन्दगी बसर करना चाहता है वह इस कानून में शादी करने के लिए तैयार नहीं होगा।

तो कौन इस कानून का फायदा उठायेगा? यह वही नवयुवक होगा जो कि भविष्य की तरफ देखने वाला है। और जो भविष्य की तरफ देखने वाला है उसको अपने पैरों पर खड़ा होना होगा इसलिए मैं वटर्जी साहब के संशोधन से इतिफाक करता हूँ कि उसकी उम्र २५ साल से बिल्कुल कम न होनी चाहिए। ताकि वह लड़की का पालन पोषण कर सके।

मेरे दोस्त ने कहा कि साहब लड़की का चार्ज जाता रहता है। मैं उनसे पूछता हूँ कि वह कितनी बार बाजार में गुलाब के फूल खरीदने जाते हैं और कितनी बार कपड़ा, अनाज वगैरह खरीदने जाते हैं। आजकल की दुनिया फूलों की दुनिया नहीं है। मेरा ख्याल है कि ज्यादा से ज्यादा एक करोड़ में से दो चार ऐसे आदमी होते होंगे जो कि फूलों की दुनिया में जिन्दगी बसर करते करते दूसरी दुनिया में चले जाते हैं। आम आदमी को तो मंहनत, मशक्कत करनी पड़ती है। शायद नवाबों के जमाने में उनके लिए लखनऊ में फूलों की दुनिया रही हो लेकिन आज तो सलत जिन्दगी है और मुसीबत की जिन्दगी है।

मेरे दोस्त डाक्टर साहब ने कहा कि १९ बरस की उम्र में लड़का इस काबिल हो जाता है कि वह शादी कर सकता है। बिल्कुल ठीक है। लेकिन उसके दिमाग को पकने में भी तो कुछ देर लगती है। पब्लिक सर्विस कमीशन के सचालों के जो जवाब आते हैं उनको देखकर आप अंदाजा लगाइये कि १९ बरस की उम्र में लड़का मामूली बातों को कितना समझ सकता है। जो आदमी मामूली बात नहीं समझ सकता, जो बाजार में जाकर कपड़ा नहीं पहचान सकता। जो सड़क पर बिना पूछे रास्ता नहीं मालूम कर सकता, क्या वह शादी के लायक

[पीठित के० सी० शर्मा]

समझा जा सकता है। मैं समझता हूँ कि १० फीसदी लड़के ऐसे होंगे जो साइनबोर्ड देखकर नहीं समझ सकते कि यह सड़क मधुरा को जाती है बल्कि दूसरों से पूछते हैं कि भाई यह रास्ता कहाँ जाता है। जिस आदमी को यह विश्वास नहीं है कि वह निशान के लम्बे को देखकर जहाँ जाना चाहता है वहाँ पहुँच सकता है या नहीं, क्या ऐसे शस्त्र के लिए यह सम्भव हो सकता है कि वह अपने मां-बाप के खिलाफ एक लड़की को अपने घर में ला सकेगा और उसका पालन-पोषण कर सकेगा। यह एक असम्भव बात है। इसीलिये मैं समझता हूँ कि चटर्जी साहब का जो संशोधन है वह बिल्कुल ठीक है कि २५ वर्ष से कम उम्र के लड़के की शादी नहीं होनी चाहिये और २१ वर्ष से कम उम्र लड़की की शादी नहीं होनी चाहिये। फिजिकली तो हो सकता है कि वे फिट हों, उनका बदन गठीला और मजबूत हो, लेकिन शादी के लिये दिमाग भी जो होना चाहिये, उस लायक समझ भी तो होनी चाहिये....

डा० राम सुभग सिंह (शाहाबाद दक्षिण) :
वेदिमाग इंजन की तरह तेज चलता हो।

पीठित के० सी० शर्मा : हाँ, रेलवे इंजन की तरह दिमाग चलता हो, लेकिन इंसानी दिमाग तो उससे भी तेज चलने वाला होता है। मैं मानता हूँ कि इंजन बहुत काम करता है लेकिन इंसानी दिमाग उससे भी ज्यादा है, सुन्दरता और कला आदि चीजें वह रेल के इंजन या लोहे में नहीं होतीं। आज जो समस्या हमारे सामने पेश है वह यह है कि हम अच्छे से अच्छे नागरिक पैदा कर सकें। मैं समझता हूँ कि २८ वर्ष की लड़की की शादी होने के बाद २६ वर्ष की उम्र में जो बच्चा होगा, स्पेशल मैरिज एक्ट में जिस किस्म की शादियाँ होती हैं वह बच्चा उन दोनों के लिये एक बोझ साबित होगा और आप समझ सकते हैं कि उस बच्चे की क्या दुर्गीत होगी कि जिससे पैदा करने के बाद न मां चाहती है और न बाप चाहता है और मैं यकीन दिलाता हूँ कि जितनी शादियाँ

इस स्पेशल मैरिज एक्ट में या जितनी मोहब्बत की शादियाँ होती हैं और उनके पहली आँलाद १६ वर्ष या २० वर्ष में हो गयी, उनकी दुर्गीत आप उनके मां-बाप से जान सकते हैं। जो लड़कियाँ मोहब्बत की वजह से शादियाँ करती हैं और जिनको सास मानने के लिये तैयार नहीं हैं वह कभी भी १६ वर्ष की उम्र में बच्चा पैदा करने के बाद उसको मां की मुहब्बत नहीं दे सकतीं और वह बच्चा उसके लिये एक मुसीबत हो जाती है।

Mr. Chairman: The hon. Member may please address the Chair.

पीठित के० सी० शर्मा : मैं यह बात अपने तजुर्ब की बिना पर कहता हूँ। दो लड़कियाँ मेरी नॉलेंज में ऐसी आई कि जिन्होंने लव मैरिज कीं और एक साल के बाद ही उनके बच्चा पैदा हो गया और मैं आपको बतलाऊँ कि वे दोनों लड़कियाँ बहुत परेशान हैं, उन्हें लाचार होकर बच्चे की परवरिश मां की हँसियत से तो करनी ही पड़ती है, न करं तो सोसाइटी उनको बुरा कहे। लेकिन हकीकत यह है कि मां न उस आँलाद को चाहती है और न बाप चाहता है। दोनों जने इसको अपने ऊपर एक मुसीबत और बोझ ही समझते हैं, हालाँकि यह उन्हीं के कामों का नतीजा है। जिस तरह की आजकल जिन्दगी चल रही है और मुश्किल जमाने से हम गुजर रहे हैं उसके अन्दर और खास तौर पर उस किस्म के आदमीयों में जहाँ पर कि सास और बाप लड़की को कबूल करने को तैयार नहीं हों, छोटी उम्र में बच्चे का पैदा होना और उसका पालन-पोषण लड़की के लिये एक मुसीबत हो जाती है, उसका लालन-पालन भी ठीक नहीं होता और उस बच्चे को मां-बाप की मुहब्बत भी नसीब नहीं होती। इसीलिये मैं कहता हूँ कि लड़के की उम्र २५ वर्ष की होनी चाहिये और लड़की की उम्र २१ वर्ष होनी चाहिये ताकि उनके बदन भी मजबूत हों और उनकी दिमागों में इतनी समझ और अबस भी हो जिससे वह अपने बाल-बच्चों की

ठीक से परिवार कर सकें। वस मुझे इतना ही कहना है।

Shrimati Ammu Swaminadhan (Dindigul): I rise to support the amendment (No. 227) moved by Pandit Thakur Das Bhargava which provides that "the man has completed the age of twenty-one years and the women the age of eighteen years". I very much hope the hon. the Law Minister will agree to accept this amendment.

I feel that as far as our boys are concerned it is necessary for them to complete their education before they should think of marriage; and I do not think these days our boys can complete their education before they are twenty-one years of age. If, so far as boys are concerned, the age is raised to twenty-one from eighteen, I feel they will not really marry till they are twenty-four or twenty-five, because it is only when they become independent and start to earn for themselves that they will go in for this special marriage.

Today I have noticed that many of the hon. Members are speaking as though this is going to be an everybody affair and that all marriages are going to be performed under the Special Marriage Act. That I do not think is at all true. And though I do not understand Hindi I was told by some of my friends that the last speaker said that if girls marry at eighteen under the Special Marriage Act they will not love their children.

Pandit K. C. Sharma: If they produce a child at nineteen.

Shrimati Ammu Swaminadhan: I think that is a very strange thing for anybody to have said that mothers will not love their children if they marry at an early age. I think many of our girls in this country used to be married from the age of nine till they were fifteen before this Child Marriage Restraint Act came. Does the hon. Member think that those mothers did not love their children? I think

any mother, unless she is absolutely unhuman or is absolutely a mental case, will love her child, at whatever age she is at the time the child is born.

I think eighteen is a right age for every girl in this country to get married. For one thing I am quite sure that at eighteen years of age she is able to make up her own mind, and she will not be coerced into marrying anyone unless she herself makes up her mind. And for the special marriage the girl has to make up her mind. She is not going to depend on somebody else or allow somebody else to force her into marriage. I therefore think that eighteen is a right age.

I also feel that for another reason the girl's age should not be raised to twenty-one, and that is that it is good for mothers to be young with their children. I have noticed in foreign countries very often by the time children are born the mothers are grey-haired ladies, and somehow the children think of them as some ones much older than their own mothers ought to be and with whom they can play as equals. I have noticed this in several cases in foreign countries. It has not so far happened in our country because we have always married when we were young.

I see another strange thing, that so many of our Members who have been living in Hindu society and who have been insisting upon their daughters, sisters or other relatives getting married by the time they are fifteen, are today insisting that for special marriage alone they should be twenty-one years of age. This is a very very strange thing for me to hear that people of orthodox way of thinking bringing this point forward that the girl also should be twenty-one years of age.

Pandit K. C. Sharma: Light has dawned on man!

Shrimati Ammu Swaminadhan: I think the reason why they bring this forward is because they are not in-

[Shrimati Ammu Swaminadhan]

favour of this Bill. Of course I do know that there are several hon. Members here who are not in favour of this Bill. But I do hope that the hon. Minister will consider this particular amendment and also the wish of many of the Members of this House that the age of the girl should be eighteen and that of the boy twenty-one.

Then there is another matter, with regard to the guardian. I agree with Mr. Gadgil and I feel that it is not very good to have a guardian with regard to giving consent to marriage. Because very often, if it is not a father or mother but a guardian appointed, he may bring all kinds of obstructions to a marriage like this. At the age of eighteen, when in India we do attain the age of majority, I do not understand why the guardian should come in at all. If a boy and girl want to marry and if the father and mother are living or if one of them is living, it is quite enough for them to get their agreement for such marriage. I feel that it may be slightly dangerous to appoint a guardian for the purpose of giving consent with regard to special marriage. But I have heard about the difficulties that may arise if a guardian is not appointed; so I am not insisting upon it.

But I do hope the hon. Minister will accept this amendment of the ages eighteen and twenty-one for the girl and the boy respectively.

Shri S. S. More: I will not express at present my views about the age at which girls or boys should be permitted to marry. At least as a lawyer I feel that on our statute-book there are a number of laws which give out different ages for the marriage of those persons who come under these Acts. This country is vast. We are trying to develop a sort of uniformity in our legislation. Can we not seek this opportunity for introducing a sort of uniformity in the matter of marriageable age? I will, for the purpose

of comparison, give the provisions of different enactments that are already on our statute-book.

Now, take, for instance, this present measure. It had different age limits at different times. When it was introduced in this House, the age limit for both a boy and a girl was eighteen. Then, the Select Committee, when it reported, stuck to the original provision. But the Council of States was pleased to say—they being elders must be true to their description of elders—that the age should be twenty-one.

The Special Marriage Act of 1872 was more liberal in 1872 than what we propose today in 1954. The bridegroom was allowed to be eighteen and for the girl the marriageable age was fourteen. Then, we have got another Bill in this House. I am shocked by the bewildering variety of the different provisions under our marriage laws. The Hindu Marriage and Divorce Bill which has been introduced and referred to the Select Committee has fixed the age at eighteen for boys and fifteen for girls.

Now, let us go to old legislation. Section 7 of the Hindu Widows Remarriage Act of 1856—one century back—said that if the girl was a minor, the consent of the guardian had to be taken, and according to the definition of the word “minor”, if she was eighteen, then there was no consent, because the Majority Act comes into operation. Thus there was no minimum age limit. Then, another provision I shall refer to is the Indian Christian Marriage Act, section 18. It also says that if a minor girl is to be married, the consent of the guardian is necessary, and eighteen will be the permissible age when one can marry without consent of a guardian. Then, there is the Parsi Marriage Act. I would make a very earnest appeal to the Law Minister. Let us do away with the distinctions in marriage.

Shri Biswas: Appeals are being made to the Law Minister by various speakers. The Law Minister wants to make it perfectly clear that he will leave the decision to the House.

Shri S. S. More: My request and very earnest appeal to the Law Minister is this. Let us do away with the different provisions, defferent statutes, one for Muslims, one for Christians, one for Hindus, one for Parsis. Why this variety? And now again, the Special Marriage Act. Parsis, Hindus, Christians and those who come under the provisions of the Special Marriage Act are all Indians. They are under the same climate. The period of maturity will be the same, unless it is maintained by someone that the period of maturity varies with the different faiths, the period of being struck by the pointed shafts of God *Madan* also differs, then, I have nothing to say. But let us try to introduce a sort of uniformity.

Pandit Thakur Das Bhargava (Gurgaon): This is a contract marriage.

Shri S. S. More: But even my friend Pandit Thakur Das Bhargava knows that a man who has attained the age of eighteen is competent to enter into any valid contract. He can, as Mr. Gadgil says, alienate his property. Why cannot he alienate his heart if it is struck by the shafts of *Madan*? So, my submission is: let us have some uniformity, and I would again make a request to introduce some uniformity in the ages of all the persons who are supposed to be affected by the different legislations.

Then, I should make myself perfectly clear. I believe that a girl should be allowed to marry at the earliest age that she is fit for marriage. The boy also should be allowed to have his plunge into the worldly life as early as possible. We are trying to decide the matter in the light of our own ripe experience because we have reached the age where we are supposed to be most experienced.

But the quantum of experience varies. Those who have solemnised only one or two marriages up till now have not the experience of a man who has gone in for ten marriages. So, this kind of experience is a relative term, and is not infalliable. Let the young people go by the method of trial and error.

1 P.M.

When I go into a bazar and purchase something, I am told by others that I have been cheated. The same thing may happen in the bazar of love. Some persons might be cheated. (*An Hon. Member:* Are they?) We should not be guided by the words, but in this world we have different experiences, we have different reactions to so many social problems, and particularly problems which go to affect the heart.

Then, my friend Mr. Chatterjee was pleased to say: let the age be twenty-five. As far as the old *shastras* are concerned—and he stands by the old *shastras*, they say:

‘अष्टवर्ष भवेत् कन्या’

For him that will be the guiding principle. But for special marriage he feels that twenty-five should be the minimum limit. Now, if you look to our Constitution, twenty-five years of age is the age for entering the legislature. (*Interruption*) Then he feels he is keeping marriage on the same plane with the legislature and entering into marital relationship is as onerous or as responsible as entering the legislature. (*An Hon. Member:* More). But then, many of us, even at the age of twenty-five when we enter here, are supposed to be a misfit in this House. When I heard some of the speeches I thought in any case the age ought to be raised to sixty and then only they should be permitted to become Members. (*An Hon. Member:* Fifty-five). I hope in the Council of States someone did not suggest that the quaiifying age for marriage should be 30 on par with the age required to enter the Council of States.

[Shri S. S. More]

Now, it is a peculiar feature that we people who have reached a certain age—I will not say the period of dotage—become extremely cautious because we had sown our wild oats, committed all the mistakes and blunders in our life, and we do not want our children to go the same way. Now, is there any one who can lay his hand on his heart and say that he has not acted with a certain impetuosity—when young—which is the characteristic feature of youth? But our youth, if they are to enter the military, if they are to fight for the protection of the country's cause, must be given full scope for the warm blood which runs through their veins. We old people who have lost all the biological urge...

Shri A. M. Thomas (Ernakulam): It should not be "we", but "I".

Shri S. S. More: I, many of us, and particularly those in old age, do not like to admit our own weaknesses of which we are very conscious. So, I would say let us. (*Interruptions*) There is too much disturbance by old people.

Mr. Chairman: It is too distracting!

Shri S. S. More: They are not only interrupting the happiness of young people, but even my speech. So, I would rather say let us devise some uniform laws. I would say even for the Christian, even for the Parsi, even for the Muslim, or even for the Hindu, let the marriage law be the same because the conditions under which they live are of the same type, and as affection is the same in all persons, whatever faith they may belong to, I would, in the interests of uniformity, say: let us have as early a point of marriage as possible. And I am not trying to be very modern in this case. Take, for instance, the Marriage Act of England, 1949. There they have prescribed sixteen years of age.—that no boy or girl below the age of sixteen can marry. We have been emulating so many things from England.

Let us have that English provision for our guidance, and we shall be wiser in at least emulating the Britisher in this respect.

Then, I wanted to say a word or two about the guardian. I agree with Mr. Gadgil that when a boy or a girl has attained the age of eighteen, he or she should be treated as a perfect major, and no person should be allowed to interfere with his or her decision, even if it is wrong, because there is no guarantee that the guardian is quite competent to give that correct decision which will be valid for all times. But even here, the different enactments have different provisions and different phraseology. Take, for instance, the Hindu Widow Remarriage Act of 1856. There, they also say that in certain cases, the consent of a guardian should be there. It is very elaborately worded. In the Parsi Marriage Act, it is not so elaborately worded, giving the order of priority of guardians who should give consent. It only says, 'consent of his or her father or guardian', and there it stops. Section 19 of the Indian Christian Marriage Act also gives us some indication about the guardian or the person who is competent to give consent. I would rather feel that in this case we shall be wise if we knock out this provision of the consent of a guardian.

It is quite possible that the guardian and the ward who is out to marry will be separated by a large gulf of age. The young man will be up to date and very modern, while the old man will be more wedded to the tradition and to the past, and there will be a sort of conflict between the past and the present. So, the consent of the guardian will not be willingly given. The man who gives his consent will not be animated with the desire of doing what is best in the interests of his ward, but he will be giving his consent more prejudiced by his own views, and if he does not like the match, he will try to put a spoke into it.

I would, therefore, say, do away with the guardian's consent, let the father and mother, if they are wise enough, give their blessings. But supposing the Law Minister and the Government are insisting on obtaining the consent of the guardian, what would happen, if the consent is not given? Will that arbitrary decision stand unrevoked and unchallenged by anyone? It is quite possible that a brother or somebody else may happen to be the guardian of a girl, and if the man whom the girl is going to marry happens to be very rich, the brother may well say, well, you are going to marry that person, he has a long purse, why does he not part with some fraction of his money in my favour, and so on. That is bound to happen, because the case of parents is on a particular footing, while the case of relations or other court guardians stands on a different footing.

I would, therefore, say that we should have a provision akin to section 3 of the English Marriage Act of 1949. I shall read out section 3(b) of that Act, which is as follows:

"If any person whose consent is required refuses his consent, the court may, on application being made, consent to the marriage, and the consent of the court so given shall have the same effect as if it had been given by the person whose consent is refused."

This is a necessary provision. It will work like a sobering check on the person who is to give his consent. He will not be allowed to be arbitrary, dictatorial or authoritarian in his giving consent, and the court will be sitting like a guiding or protecting angel to judge whether his decision is right or not.

So, I would once again request the hon. Law Minister that he should copy this particular provision which I have read out, for the benefit of our young people. If you do away with the con-

sent, well and good; if, on the other hand, you want to keep that consent there, let it be properly regulated and controlled, looking to nothing else but the happiness of the two persons who are trying to come together in honest wedlock.

Shrimati Renu Chakravartty (Basirhat): I move for closure. We have had enough discussion. (*Interruptions*)

Dr. Ram Subhag Singh: What is the use of moving closure now? We must discuss the matter fully. (*Interruptions*)

Shri N. C. Chatterjee (Hooghly): May I make a submission?...

Shrimati Renu Chakravartty: The Business Advisory Committee has given only twenty-eight hours for the discussion on this Bill, and therefore, that has to be kept up. I do not mind if you go on discussing the Bill for the whole of the session, but that does not mean that you are going to shut out discussion on the later clauses of the Bill. That is the point.

Shri N. C. Chatterjee: I want to inform Shrimati Renu Chakravartty and the House that the matter was discussed by us in the Business Advisory Committee, and we came practically to a unanimous conclusion that on this question of age, which is very vital, at least three more hours should be given. Shri M. S. Gurupadaswamy also was there, and he will bear me out on this point. The hon. Law Minister was also there....

Shrimati Renu Chakravartty: But what is the decision of the Business Advisory Committee.....(*Interruptions*)

Shri Biswas: But the question is whether any new points of view are being presented.... (*Interruptions*).

Dr. Ram Subhag Singh: I have to submit.....

Mr. Chairman: As I said in the beginning, till we started discussion or

[Mr. Chairman]

this clause today, we have taken nearly 3½ hours, and probably up to now we have taken about one hour today. I know the importance of this clause, but as a matter of fact, even if we pass or reject or dispose of all the amendments, we are not going to proceed further than clause 4 because there are still other sub-clauses. These are only amendments to sub-clause (c) which relates to the age which no doubt—I appreciate the feelings of hon. Members—is a matter of great importance. At the same time, some decision has to be arrived at; though I am not inclined to accept the motion for closure today, I would suggest to hon. Members that I also find that many of the arguments for or against such as the biological arguments, the economic arguments and the references to *Shastras* and what not are almost the same ones put in different words.

Dr. Ram Subhag Singh: Our difficulty is that those who were on the Select Committee come here and speak and after speaking, move for closure. They do not care for others' opinions.

Shrimati Renu Chakravarty: I have every right to say what I wanted to say. I have given a note of dissent from the Report of the Select Committee. (*Interruptions*)

Dr. Ram Subhag Singh rose—

Mr. Chairman: There is no good raising passion on a simple matter of closure; so long as the rules do not prevent anybody from moving a motion of closure. I think we would progress much better if we do not ascribe any particular intention or personal bias to anybody. I think today I will call upon Shri Jaunjanwala to just begin and tomorrow in the beginning we will have to make up our mind as to when we should conclude this.

Shrimati Renu Chakravarty: May I just ask for a clarification from the

members of the Business Advisory Committee? Does it mean that the Business Advisory Committee by allotting 3 hours out of the 28 hours has also said that we have to finish our entire work within the 28 hours?

Mr. Chairman: Instead of allowing that matter to be discussed.....

Shrimati Renu Chakravarty: Let it be decided here.

Mr. Chairman: I must know what the Business Advisory Committee have done. I must wait till they send us some report. Shrimati Renu Chakravarty will find that the much better course would be to wait till they send some report about what they have decided.

Shri M. S. Gurupadaswamy: (Mysore): May I make a submission?

Pandit D. N. Tiwary (Saran South) May I also make a submission?

Shri M. S. Gurupadaswamy: The Business Advisory Committee.....

Mr. Chairman: Until I get some official communication from the Secretary, let us not spend time in discussing as to what happened there. I would prefer to go by whatever they communicate to the Speaker and thereby to the Chairman. I think that would save time.

Shrimati Sushama Sen (Bhagalpur South): Regarding the age of the girl, women Members are more concerned than men. The mother knows better what is good for the daughter. May I request that women Members should be given a chance to speak?

Mr. Chairman: Whenever a lady Member has stood up, she has always been successful in catching my eye. There has been no question of any complaint.

डा० राम सुभग सिंह : सभापति जी मुझे
केवल दो मिनट कुछ कहना है....

Shri Jhunjhunwala (Bhagalpur
Central) rose—

Shri V. G. Deshpande (Guna): Who
is to speak?

Mr. Chairman: I have already called Shri Jhunjhunwala. I think I should now adjourn two minutes earlier.

The Lok Sabha then adjourned till a Quarter Past Eight of the Clock on Tuesday, the 7th September, 1954.