

हमारे मंत्री महोदय ने कहा कि वह सदन में एजान नहीं कर सकते। तो मैं उनसे कहना चाहता हूँ कि अगर वह ऐसा नहीं कर सकते, तो वह इस प्रकार का कम्प्यूनिक् निकालें कि हम ने इस विषय में कौन्सिल में गौर किया है और सौध ही इस पर विचार किया जाएगा और स्टेट गवर्नमेंट्स को आदेश दिया जाएगा कि अगले दिसम्बर तक इस बिल में काबू बना दिया जाय, ताकि अगले साल तक बच्चों की कुछ व्यवस्था कर दी जाय और भील मांगना बन्द हो जाय। अगर आप ऐसा कर दें, तो मुझे कुछ संतोह हो जायगा। अगर आप वह आश्वासन दें हैं कि आप इस किस्म का बिल लायेंगे, तो मैं इस बिल को वापिस लेने के लिए तैयार हूँ.....

श्री सुरेश चन्द्र : क्या ?

श्री एम० एल० द्विवेदी : वना वह चलेंगा— चलता रहेगा। वह फिर कभी आयगा। अगर आप आश्वासन दें हैं, तो मैं इस को वापिस लेने के लिए तैयार हूँ।

**Shri Datar:** The House is impressed with the earnestness with which the hon. Member has moved this Bill. I entirely agree with the arguments that the hon. Member has given, and I would promise to him that with all earnestness and urgency, we shall bring this matter to the notice of the State Governments; but we cannot give any dates in this regard.

श्री अलगू राय शास्त्री : पीरज रीखाए, कभी न कभी हो जायगा।

श्री हंडन (विजला इलाहाबाद—बहिचम) :  
"भयम असम के साथ"।

**Mr. Chairman:** In view of the assurance given by the hon. Deputy Minister, is the hon. Member withdrawing his Bill?

श्री एम० एल० द्विवेदी : मंत्री महोदय ने आश्वासन तो दिया है, लेकिन उन्होंने कहा है

कि वह तैयार नहीं हो सकते। वह तैयार निश्चय न करें, लेकिन यह कार्य वह जल्दी से जल्दी करायें, वही मेरा निवेदन है।

उनके इस आश्वासन को दृष्टि में रख कर मैं यह बिल वापिस लेना चाहता हूँ और इस विषय में सदन की आज्ञा चाहता हूँ।

I beg to move:

"That leave be granted to withdraw the Bill".

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

"That leave be granted to withdraw the Bill".

The motion was adopted.

#### ADVANCED AGE MARRIAGE RESTRAINT BILL

**Shri D. C. Sharma (Hoshiarpur):** I beg to move:

"That the Bill to restrict the advanced age marriages, be taken into consideration."

Just now in this House we have been discussing a Bill which is a challenge to the social conscience of our people. My Bill also, in its modest way, is a challenge to the social conscience of our countrymen. At the very outset, I wish to submit that when this Bill was introduced in this House, it excited a great deal of interest. There were references to this Bill in some of the papers in India and, without feeling boastful, I must say that some correspondence from other countries also came to me, trying to discuss the pros and cons of this Bill.

I wish to hold, Sir, that this Bill contemplates a social legislation of a far-reaching character, a social legislation of a pioneering kind, a social legislation whose aim is the social integrator of our society on a very firm and broad basis. I am not doing anything unusual, because in the *Encyclopedia of Social Sciences*, I have come

[Shri D. C. Sharma]

across this sentence, which I think will give the key to my Bill:

"It may be safely predicated then that the future of marriage will be shaped not merely by utilitarianism, but largely on the bases of regnant ideologies".

I must say that we are living in this country in an atmosphere of new ideologies, reformed and better ideologies. We have forgotten or we have put aside the feudal or medieval conceptions of marriage. When I look at the social history of India, I find that in India we have had a series of Acts of social legislation. The first main Act of social legislation is said to have been passed in 1829; but I do not want to go into other aspects of social legislation. I want only to deal with social legislation which has some reference to marriage. In 1856, the Hindu Widow Remarriage Act was passed. In 1872, the Special Marriage Act was passed. This Act was later on amended in the year 1923. It recognised the civil form of marriage among Hindus which enabled them to enter into marital relationship irrespective of difference of caste and religion. Then, there were other laws. There was the Child Marriage Restraint Act which is popularly known as the Sarda Act. This was passed in 1929. It was later amended in 1938, and then in 1949. The result of this Act was that no Hindu girl below the age of 15 and no Hindu boy below the age of 18 could marry with impunity. There was the Alien Marriage Validating Act of 1937 which legalised intermarriages. There was the Hindu Women's Right to Property Act. In 1946, there was the Hindu Married Women's Right to Separate Residence and Maintenance Act passed. All these are Acts which have something to do with marriage in one form or another. Recently we have passed the Hindu Marriage and Divorce Act which has two very wholesome provisions. It puts an end to polygamy and introduces monogamy. It enables the husband and the wife to divorce. We have also passed the

Special Marriage Act. I do not want to go into the details of all these Acts. What I mean to say is this. When I look at the history of the legislation that we have passed in this country, I find that my country and my countrymen have a dynamic and progressive approach towards the problem of marriage, I find that they have been changing their conception of marriage from time to time.

It may be asked why I am advocating against advanced age marriage. The reasons are very simple. When I was a student at school, I read the biography of that great Indian reformer, Iswar Chander Vidyasagar, whose name is a household word in our country. It is said that one of his old teachers wanted to marry again. Iswar Chander Vidyasagar asked him not to do so because he was fairly of an advanced age. But, the old teacher would not listen to him.

Shri U. M. Trivedi (Chittor): His previous wife was living.

Shri D. C. Sharma: You keep a census of wives who are alive. I have no census of wives alive or dead I am speaking about my Bill.

Pandit K. C. Sharma (Meerut Distt.—South): You must know the facts.

Shri D. C. Sharma: I know the facts. Unfortunately, you are not in a mood to listen to these facts.

Mr. Chairman: Order, order.

Shri D. C. Sharma: I was talking about Iswar Chander Vidyasagar. He asked the teacher not to marry again; but he did not listen to him. He foresaw the early death of his teacher and a long life of widowhood for his wife. It was this incident that made him advocate of widow remarriage. I do not want to go into instances like that to tell you about the misery that has been brought about by this form of advanced age marriage.

Recently, I was in my constituency, in a town which has about 3000 inhabitants. I was going through the main

bazaar of that town. I saw a young woman who had gone off her head. She was a young woman, very well dressed. She was being chaperoned by an old man. The whole bazaar was looking at that spectacle. I asked somebody, "What has happened to this woman?" He told me that that was a case of marriage of a person of advanced age with a young woman. I saw this only recently. I can multiply instances. I can tell you about the untold misery and suffering, mental, physical and psychological which these young girls undergo when they marry people of advanced age. Why do they marry persons of advanced age? They marry under compulsion from their parents. They marry sometimes these persons of advanced age for money.

I want to ask one question: Are we going to tolerate this kind of marriage, which is compulsion of the worst kind? Are we going to put up with a kind of marriage the basis of which is money or purchase? I would say that all these are feudal conceptions of marriage. I have read the history of feudal Europe and the history of some other countries which have passed through feudalism. We have not passed through feudalism in the sense in which China or Europe has passed. Still I find that some of the feudal customs have come to be embedded so much in our social system that drastic measures are required to do away with those obnoxious customs. I would say that the marriage of a young lady to a person of advanced age is nothing but a hang-over from the feudal system, from the mediaeval social system. I would say that it should be done away with.

There have been so many reformers in India. I want to submit that at least one of those great reformers said that the difference between the age of the bridegroom and the bride should be nine years—that which was talked about in the old days—that the man should marry at the age of 25 and the bride be not less than 16 years. There was one kind of marriage which had to be celebrated at the age of 36 and

another kind of marriage to be celebrated at 48. This is because of the sociological conditions, because of the ethical conditions and it is also because of the biological researches. When one looks at this question from these points of view, one is led to believe that this kind of advanced age marriage in the form in which I have put it down in the Bill is something a social inequity of the worst kind. Recently, I came across a short paragraph in a newspaper. I do not want to give name of the newspaper.

**An Hon. Member: Why?**

**Shri D. C. Sharma:** Because, I do not want to give undue publicity to any newspaper on the floor of the House. It is dated the 1st September, 4 P.M.

1955. The newspaper is published in Delhi. And what do I find here? A gentleman who is about 60 years of age has married a girl of 18 years of age. He has three sons who are 15, 25 and 30 years old. These sons of his opposed his marriage, but .....

**Shri Bhagwat Jha Azad (Purnea cum Santal Parganas):** But love is blind.

**Shri D. C. Sharma:** .....I should say the folly of this man—and there are some persons who are in great love with folly—was unlimited and could not be mitigated. Why does the paper report this thing?

**An Hon. Member: Which paper?**

**Shri D. C. Sharma:** It is a paper published in Delhi. It is because.....

**Shri Raghavachari (Penukonda):** It cannot be compulsion. It is over 18 years.

**Shri D. C. Sharma:** It is not compulsion according to the lagging social consciousness of some persons, but it is compulsion according to the enlightened social consciousness of those persons—and this Bill refers to the enlightened social consciousness—for whom I am speaking.

Why does he try to make news of this? Well, it is something unthinkable,

[Shri D. C. Sharma]

something out of the ordinary. It is like an accident. We find news about air accidents in the papers, about railway breaches, and they are publicised. In the same way, this kind of news is publicised in the papers because it is a social accident of magnitude.

**Shri U. M. Trivedi:** May I know what time is allotted for this Bill.

**Mr. Chairman:** Two hours.

**Shri U. M. Trivedi:** There must be some time limit for the introduction also. He can carry on, I have no objection.

**Mr. Chairman:** I may make it clear that two hours are allotted for this Bill, but this Bill must be divided into two stages. This is the consideration stage, and if the consideration motion is passed, then we shall have to take up clause by clause consideration also. So, I think the hon. Mover of this Bill must bear it in mind that after all he must allow some time for other Members also.

**Shri D. C. Sharma:** Yes, Sir.

**Mr. Chairman:** So, I would request him not to take excessive time, so that some time may be devoted by others to this motion and then the clause by clause consideration may also be taken up.

**Shri D. C. Sharma:** I will finish in another five minutes.

Our folk songs are the unwritten wisdom of our nation. A friend of mine who is a great collector of folk songs, Shri Devender Satyarthi, has given me some sample songs from the Punjab, Rajasthan, from the hill district of Kangra and from Uttar Pradesh in which I find the fate of young girls married to old men described:

"With a basket on my head I left home. Is there any customer who will buy him?"

This is a very uncomplimentary reference to a husband who is a very old man.

"Alas, mother wedded me to an old man, The old man likes to lie on the mat, Have this rotten mat, old man, have this rotten mat."

So, I would say that this kind of thing is to be found not only in our sociology but also in our folk songs.

Again, I wish to submit that in some of our Sanskrit books there are things like that. It is said that a man who marries at an advanced age is in a way taking poison. I do not want to quote that proverb. So, what I was saying is this, that the accumulated experience of the ages, the accumulated wisdom of the ages, our own experience, our present day life, our changing conceptions, all these demand that this social disease should be wiped out. I can admit that this social disease may not be of very great magnitude, but I say that it is a social disease of the worst kind, and though we have advanced in certain sectors in this country, this social disease does not show any signs of diminution. It is not on the decrease. I would therefore say that this Bill which is of a very mild type should be accepted by the House. Of course, there may be some differences about what constitutes old age. There may be also some differences about other things. But that does not matter. The idea is this, that young women should be saved, and also old persons of advanced age should be saved. Persons of advanced age should be saved against themselves. Because I know matches of this kind lead to widowhood and lead to complications of all kinds, social, legal and otherwise.

**The Parliamentary Secretary to the Minister of Education (Dr. M. M. Das):** May I know whether the Mover regards himself as old or young?

**Shri D. C. Sharma:** With these words I commend this Bill to the attention of the House.

**Mr. Chairman:** Motion moved:

"That the Bill to restrict the advanced age marriages, be taken into consideration."

**Shri U. M. Trivedi:** I hoped that a man of such great learning as my hon. friend Shri D. C. Sharma would give some exposition about the Bill which he has introduced in the House. He has delivered us a good harangue no doubt about some marriages at advanced age, but he has failed to carry conviction to our minds by any analysis of the Bill which he has introduced in this House. It was up to him to have said something regarding the clauses which he has put into this Bill, but he has not dwelt upon any one of them or stated where the necessity is for the introduction of this Bill, what are the facts behind it which lead him to put the age of 40 for a man or 25 for a woman. He has not said anything as to why punishment should be meted out to persons who attend marriages or perform marriages when they are not of merely children whose marriages are being performed, but grown-up, adult people whose marriage is being performed. They invite us for marriage parties for performing them and we go to those parties, and then we get punished. Why this particular provision?

And he has not told us one word why this jurisdiction has been vested in the Presidency Magistrate. Where is the time for a Presidency Magistrate to look into such things, and then give a jurisdiction to a District Magistrate to look into such affairs and take cognizance of them. I therefore say there ought to have been some data and some reasoning behind the introduction of this Bill.

It becomes extremely difficult. It is really a very delicate question and it is very embarrassing to address this House on this question which is entirely a question of sex. And I do not know how this Bill has been introduced by a gentleman, by a friend, and I should say a very honourable friend, who does not admit his knowledge of any sex life, who does not admit that he has made a special study of biology and who shows a great lack of his knowledge about genetics. The difficulty is that one

must realise—and at his age he ought to have realised, he is past that age—that a man becomes highly active sexually at the age of 40. As a man of the world and as an experienced man who is above 50 years of age, he ought to have realised it. Further, there is no need for him to suggest that those above the age of 40 should not marry young girls below 25 years of age. It would have been something if he had suggested some upper limit and said that a man above the age of 60 or 70 should not marry. If he had put an embargo like that, that would have been understandable. But to put an embargo on a man at the age of 40 or above from marrying is not proper. For instance, there may be a man who may not like to marry until he feels that he has settled down in life, as is the case generally in other countries. To put an embargo like this on such a person saying that he shall not marry a female who is less than twenty five years of age, and further that he shall not marry a person who had not been previously married, is not proper.

Moreover, the language used by my hon. friend in this Bill is very bad, of course.

**Shrimati Subhama Sen (Bhagalpur South):** He is a professor.

**Shri U. M. Trivedi:** He has said here 'and who had not been previously married'. After all, a man is not going to marry an already married woman. So, my hon. friend ought to have said 'one who has not already been divorced in some respect'. Perhaps, my hon. friend has translated from Hindi to English, and that is where his mistake lies. Why should he put this kind of an embargo that he shall marry only a woman who has got some marital experience? That is not very fair at all.

On the contrary, there are some women who are not very old, and who want to marry males of the age of 40 or so. At the age of 20, we find that our women are well-developed, and at the same time very conscious

[Shri U. M. Trivedi]

and well-versed in the art of keeping our houses. What harm is there in a woman at the age of 20 marrying a man at the age of 40? There is nothing wrong in it. Further, when a woman reaches the age of 45, she becomes practically an old woman feeling the urge of sex going away. But a man even at the age 60 has the urge of sex still remaining. So, I for one do not see any reason in not permitting a woman at the age of 20 to marry—and then permitting her to end her sexual life at the age of 45 when she has become old to marry. A man at the age of 45 or 50 who is still strong and has the urge of sex should not be tacked on to a woman sexless. What harm is there in allowing such a marriage of a woman of 20 to a man of 40. I for one do not see any reason for putting inhibitions on this institution of marriage.

We have already made provisions for divorce galore, and two Bills have already been passed in that respect, namely the Special Marriage Bill and the Hindu Marriage Bill. Thus, we have opened out all the doors and windows to allow all sorts of remarriages and divorces. Under those circumstances, where does the necessity arise for a Bill of this nature?

There is another point in this connection. Perhaps, it might not have been within the experience of my hon. friend that there are some old ladies who want to marry young men. My hon. friend is not putting any restrictions on those women. Why should he put restrictions only on the male and not on the female? We know of several instances like that. My hon. friend seated behind me, Shri Amjad Ali, has told me that the great prophet Muhammed also married a lady who was older than he.

An Hon. Member: 20 years older than he.

Shri U. M. Trivedi: If it were a question of incompatible marriages,

then there would have been some substance in my hon. friend's Bill, and there would have been some point in laying down this kind of a prohibition. But what he has done is to put the restriction only on the males at the advanced ages.

Perhaps, my hon. friend has done like this just with a desire to get some sort of publicity. But I should say that he should not have aimed at that through this Bill. He is a reformist, no doubt, and he has got good reforming ideas; and having been a teacher all his life, he must have felt like that. But the world has been moving, and several developments have taken place in the world from different angles. If we study some of those developments and some of those angles, we shall find that there is absolutely no justification either for the introduction this Bill or even for its consideration. We have got many other urgent and deeper problems to tackle first. Therefore, I would request my hon. friend to withdraw this Bill.

The Bill that was withdrawn a little while ago was not worded properly, but at least the sentiment behind it was a good one and a substantial one. But there is nothing of that kind in regard to this Bill, and I should say that the hon. Mover should take the earliest opportunity to ask for the leave of the House to withdraw this Bill.

श्रीमती शिवराजबती नेहरू (जिला सखनऊ—मध्य) : हमारा माननीय सदस्य जो बिल लाये हैं वह एक समाज सुधारक बिल हैं और उस का सिद्धान्त भी ठीक हैं। परन्तु उस के प्राप्त करने का जो रास्ता रखा है वह बड़ा गलत है। यह सही है कि अधिक उम्र के अन्तर की जो शादी होती है वह बड़ी दुःखदायी होती है, साथ ही यह भी सही है कि विधवा की शादी रद्दए से ही होनी चाहिये। लेकिन हमारा माननीय सदस्य ने यह नहीं बताया है कि ४० वर्ष का मर्द कैसा हो, अगर वह कोई कुंआरा आदमी हो तो ? इस में

सिर्फ ४० वर्ष का आदमी ही कहा है। लेकिन चूँकि चौलिस वर्ष का आदमी कहा है इस लिये गालिबन वह दूसरी शादी करने वाला ही होगा।

पंडित के० सी० शर्मा (जिला मंत्र—द्विजण):  
जरूरी नहीं है।

श्रीमती शिवराजबती नेहरू : एक रंछुए की शादी विधवा से ही होनी चाहिये, यह तो उचित बात है।

Shri U. M. Trivedi: Is it parliamentary to use the word 'रंछुआ' ?

Mr. Chairman: There is nothing wrong in the use of that word.

Shri U. M. Trivedi: The better word would have been 'विधुर' This word 'रंछुआ' has got a very bad meaning at least on my side, a hopelessly bad meaning.

Mr. Chairman: It may be so in your part. But this is just an ordinary word otherwise, and this can be used.

श्रीमती शिवराजबती नेहरू : इस बिल में इस को लाने का कारण यह बताया गया है कि चूँकि बड़ी बड़ी उम्र के पुरुषों से छोटी छोटी उम्र की लड़कियाँ की शादी हो जाती हैं, इस लिये कुछ दिनों के बाद वह विधवा हो जाती हैं और जीवन भर उन को विधवा रह कर ही गुजारना पड़ता है, जो कि बड़ी दुःखदायी बात होती है। यह बात बिल्कुल सही है, और इस का कारण यह है कि हमारे देश के जो माता पिता होते हैं वह यह नहीं देखते हैं कि मर्द की उम्र क्या है, वह तो सिर्फ धन देखते हैं और धन के ही लालच से वह अपनी पुत्रियों को बेच देते हैं और बड़ी उम्र के मर्दों से अपनी पुत्रियों की शादी कर के उन का जीवन बिल्कुल बिगाड़ देते हैं, उन का जीवन दुखी बना देते हैं।

साथ ही यह भी सही बात है कि जब किसी ज्यादा उम्र के पुरुष के साथ किसी छोटी उम्र की लड़की की शादी होती है तो पुरुष ठीक से अपनी तब कायम नहीं कर सकता है। वह स्त्री के वश में आ जाता है, जिस के कारण घर में भी

कलह मच जाती है और सब को ही तकलीफ होती है। ऐसा कहा जाता है :

"दुजाहे की जाँरू, नख्खास की घोड़ी,  
जितनी ही कूद, उतनी ही घोड़ी।"

जो दुजाहे की जाँरू होती है, वह अपने पति के ऊपर बहुत ज्यादा हुकूमत करती है। जब कभी छोटी उम्र की स्त्री की शादी बड़ी उम्र के मर्द के साथ हो जाती है तो वह उस के ऊपर हावी हो जाती है और सारे घर भर के ऊपर कब्जा कर लेती है, जिस की वजह से घर वालों को भी अपार कष्ट होता है। परन्तु इस को रोकने का उपाय यह नहीं है जो कि इस बिल में सुझाया गया है। इस का उपाय यह है कि हम समझ बूझ कर अपने देश के युवक युवतियों को अपनी इच्छा से अपना जीवन साथी चुनने की इजाजत दें और माता पिता जो हैं वह अपने पुत्र और पुत्रियों की शादी में हस्तक्षेप न करें। यदि ऐसा हो जाय तो जाहिर सी बात है कि अगर स्त्री पुरुष किसी को समझ बूझ कर पसन्द कर लेंगे और शादी करंगे तो फिर किसी को परेशानी नहीं होगी। अगर कोई स्त्री जान बूझ कर किसी बड़े मर्द से शादी करे या कोई पुरुष छोटी उम्र की कन्या से शादी करना चाहे तो उस को कानून बना कर नहीं रोका जा सकता है। इस में सरकार कर भी क्या सकती है ? यदि कोई २० वर्ष की स्त्री है और वह ४० वर्ष के मर्द से शादी कर ले, और सरकार कानून के जरिये उस को रोकना चाहे, तो यह तो वही बात हुई कि :

"मियां बीवी राजी, तो क्या करंगा काजी"

यह जो हमारे माननीय सदस्य ने कहा कि एक अखबार में यह बात छपी थी कि ४० वर्ष के पुरुष से १८ वर्ष की लड़की की शादी हुई, और उस आदमी के बड़े बड़े लड़के थे, तो मैं समझती हूँ कि उस लड़की ने अपनी इच्छा से शादी न की होगी। मां बाप ने उस की शादी तब की होगी। मुझे ऐसी भी मिसालें मालूम हैं जहाँ पर कि एक ऐसी ही शादी होने जा रही थी, परन्तु जो लड़की के गांव वाले थे उन्होंने उस का विरोध कर के फॉरन ही सारी बागत को तहस

[श्रीमती शिवराजवती नेहरू]

नहस कर दिया और लड़की की स्वाहिश को जान कर उस की शादी अपने में से ही एक नौजवान से कर दी। एंसी बहुत सी मिसालें मौजूद हैं। यह जो आयु रकी गई है कि ४० वर्ष का पुरुष हो और २५ वर्ष की स्त्री हो यह भी कुछ ठीक नहीं जचती है। मान लीजिये कि पुरुष ४० वर्ष का न होकर ४२ वर्ष का हो और स्त्री २५ वर्ष न हो और इससे दो वर्ष कम हो तब उसमें क्या अन्तर पड़ता है। सभापति जी, आप तो जानते ही हैं कि आजकल के जमाने में २५-२५ और २०-२० वर्ष की लड़कियां मौजूद हैं जिन की शादी नहीं हुई है। मैं पूछती हूँ कि इस में विधवायें रखने की क्या जरूरत है। यदि वह विधवा हो तभी उसकी उस पुरुष से शादी हो सकती है यह ठीक नहीं है। मैं तो यह चाहती हूँ कि जो शादी का अन्तर हो वह पांच साल का हो और इस से ज्यादा न हो और फिर उसके बाद चाहे वह पुरुष ६० वर्ष का हो और स्त्री चाहे ५५ वर्ष की हो इस में किसी प्रकार का भेदभाव नहीं होना चाहिये। इस लिए मेरी प्रार्थना है कि इस बिल में यह बात होनी चाहिये कि स्त्री और पुरुष की आयु में पांच वर्ष से ज्यादा का अन्तर न हो।

इस के बाद इस बिल में यह है कि यदि व्याह का एक साल हो जाए तब कोई कार्टवाई नहीं होनी चाहिये। इस के क्या माने हैं। अब शादी हो गई तब फिर तीन महीने हुए हैं या छः महीने हुए हैं, इस से क्या अन्तर पड़ता है। जिस तरह से एक साल के बाद कार्टवाई नहीं हो सकती उसी तरह तीन महीने के बाद या छः महीने के बाद भी कार्टवाई क्यों हो ? और सजा क्यों दी जाय ? इस बात को भी दँस लेना जरूरी है।

इस के बाद इस बिल में यह दिया गया है कि इन्क्वायरी की जाए। मेरी प्रार्थना है कि यह तो एक बड़ी मुश्किल सी बात है कि घर घर पुलिस वाले जायें और पूछताछ करें कि कहीं किसी बड़े आदमी की किसी छोटी लड़की से शादी तो नहीं हो रही है। यह एक बहुत बुरी बात है कि पुलिस वाले हमारे घरों में घुस सकें

और यह दँसें कि किस पुरुष की किस स्त्री से शादी हो रही है या किस स्त्री की किस पुरुष से शादी हो रही है।

इस में आगे चल कर यह भी कहा गया है कि अगर एंसी शादियां हों तो उन के ऊपर १,००० रुपया तक जुर्माना किया जा सकता है और एक मास की कैद दी जा सकती है। यह दोनों बातें मुझे ठीक मालूम नहीं पड़ती हैं। अगर इस बिल की यह मंशा है कि इतना ज्यादा जुर्माना करके सरकार का कोष भरा जाए तब तो दूसरी बात है। इस बिल के उद्देश्य में यह कहा है कि बड़ी आयु के पुरुष छोटी कन्याओं से विवाह कर लेते हैं तब वह कन्या छोटी आयु में विधवा हो जाती है लेकिन मेरा कहना यह है कि हम ने विधो रिमेंट्रेंज बिल बहुत वर्षों से पास कर दिया है फिर भी यदि विधोस ही दुबारा शादी करवाना नहीं चाहती हैं तो सरकार उनसे यह काम जबरदस्ती नहीं करवा सकती है। इसी तरह से यदि आज हमारे दँश में बहुत सारे ऐसे लोग हैं, पुरुष हैं या स्त्रियां हैं जो कि अपने से बड़े या अपने से छोटे के साथ शादी करना चाहते हैं तो सरकार को उनको ऐसे कार्य से कानून द्वारा रोकना कीठन है। यह काम तो समाज सुधारकों पर छोड़ दिया जाना चाहिये। समाज सुधारकों को लोगों को यह बात बतानी चाहिये कि एंसा काम करना गलत उचित नहीं है और एंसा नहीं होना चाहिये। यदि आप एंसा करेंगे तभी समाज सुधार होगा और स्त्री और पुरुष की सारी समस्यायें हल हो जायेंगी। यह चीजें कानून द्वारा हल नहीं हो सकती हैं।

**Shri Raghavachari:** I rise to express my feeling that the Bill is based upon certain basic ideas which do not exist today, and the remedies conceived do not really achieve the purpose.

**The Minister of Legal Affairs (Shri Pataskar)** May I make an enquiry. I think there are two hours allotted for this Bill.

**Mr. Chairman:** Two hours for all stages.

**Shri Pataskar:** If we can fix up some time for the stage of consideration, then we may know what is the time for the next stage.

**Shri Sinhasan Singh** (Gorakhpur Dist.—South): That stage will not come.

**Shri Pataskar:** If that stage will not come, why spend time on this?

**Mr. Chairman:** We may just appropriate some time for this stage, and then we may proceed to the next stage. If that stage does not come, that time may be availed of for some other purpose.

**Shri Pataskar:** That would be better.

**Mr. Chairman:** If the House agrees, we can finish the consideration stage by, say, 4:30 or 4:45 P.M. The hon. Member who was just on his legs will take some time. Another hon. Member may take some time. Then the Minister of Legal Affairs will speak.

**Sardar A. S. Saigal** (Bilaspur): The Minister of Legal Affairs is not going to accept it.

**Shri Pataskar:** I think the consideration stage will be over by 5 P.M.

**Mr. Chairman:** It will be over at 4-45 P.M. if the House so agrees.

**Shri D. C. Sharma:** Two hours were allotted for this Bill.

**Dr. Suresh Chandra** (Aurangabad): The House does not want it.

**Mr. Chairman:** The clause by clause stage will also take some time. The hon. Member realises that the clauses are much more important. He himself said that the question of age is very important. So if the consideration motion is passed, the question of age will come and there might be differences of opinion and many Members may like to speak. So I propose that the consideration stage may be finished at 4:45 P.M. and then we will proceed with the clause by clause consideration.

**Some Hon. Members:** Yes.

**Shri Sinhasan Singh:** May I make a suggestion? The clause by clause consideration stage probably may not come in the case of such Bills, Government's opposition is there, and the Mover being a member of the Government Party, will have to withdraw the Bill. The whole idea is to bring to the notice of the House and the country at large that such marriages should not be solemnized.

This will have a moral effect. So let the discussion go on, and Members may express their opinions this way or the other; we may prolong it and we may allot 15 minutes for the clause by clause stage, if it comes at all.

**Mr. Chairman:** May I take it that according to the hon. Member, this Bill is not likely to pass the consideration stage? I cannot make a supposition like that at this stage. I have taken the sense of the House, and the House has just agreed that the consideration motion may be put at 4:45 P.M.

**Sardar A. S. Saigal:** Yes.

**Shri Raghavachari:** I was just submitting that the basic idea behind this Bill is really not existing now and, therefore, the very purpose and object, on which it is based, is not available to him. If you read the Statement of Objects and Reasons, it says: 'leaving young widows to mourn over the loss of their husbands all their lives'. So the conception behind this Bill is that marriage between a man and a woman is a union for all life, and if that breaks, then mourning continues for the rest of the life, in the case of the person left behind. Now, law has provided, and society has to reconcile itself to the other principle, because recently we passed marriage laws permitting marriages only for some time, not necessarily for the whole life. In other words, man and woman come together not for all life, but for some time, one at a time. That is the spirit of the monogamy and other laws which were passed. Therefore, the very foundation on which Shri D. C. Sharma, the Mover of this Bill, has based it, that the other partner is to mourn all life, now is not there.



He has provided for injunction and prevention of these things. By which court, I do not understand. He says, 'on a complaint'. Is it that our friend proposes to give jurisdiction to the criminal court to issue injunctions preventing such marriages or is it the ordinary civil courts? It is not clear. He is, therefore, actually introducing some complications in the existing law. It looks as if he intends to bring about a situation whereby unhappy marriages may be prevented. But the whole thing is conceived in such a way that it will not bring about the result intended. Therefore, I cannot support the Bill.

**Shri Pataskar:** I have great sympathy for the hon. Member who has brought forward this Bill, with the laudable object of preventing marriages between persons of unequal age.

**Shrimati Sushama Sen:** Laudable?

**Shri Pataskar:** His object in moving the Bill is to prevent marriages between persons of unequal age which is exactly a very laudable object.

**Shri Jaipal Singh (Ranchi West-Reserved-Sch. Tribes):** Is the hon. Minister expressing the views of the Treasury Benches?

**Shri Pataskar:** Why; is there any doubt in the mind of the hon. Member? I think he ought to agree with me; I expect him at least to agree.

**Shri Jaipal Singh:** I only wanted to know whether it is the official view of the Treasury Benches. That is why I asked.

**Mr. Chairman:** It is the view of Government; there is no doubt. What is wrong with it?

**Shri Jaipal Singh:** There is nothing wrong. I only wanted to know whether it is the view of the Treasury Benches. 'Yes or No', that is what I want to know.

**Shri Pataskar:** I leave it to the hon. Member to consider it in any appropriate manner he likes.

The main point I was saying is that this is a very novel method of achieving the object which the hon. Mover of the Bill seems to have in his mind. I was saying that it is true that marriages between unequals sometimes—and more often than otherwise—lead to results which are undesirable. But, it is not every human action that could be controlled by legislation. That is the main point to be considered.

Then, what is the evil for which this Bill has been brought and which can be eradicated by passing a measure of this nature? what does he say in the Statement of Objects and Reasons? He says:—

"Everyone in this country is conscious of the deplorable fate of young women who are married to males of advanced age.....".

It need not always be deplorable. A marriage between a man of 40 and a girl—now a woman—of 25 means a marriage between two major persons. I can understand that there is some justification for saying that if an old man is marrying some minor. We agree that there is some justification for preventing such marriages. All that has been raised in the past. But he says.

"Everyone in this country is conscious of the deplorable fate of young women who are married to males of advanced age.....".

Is a man of 40 really of such advanced age that when he marries a woman below 25 years of age the result is necessarily deplorable?

**Shri Gidwani (Thana):** These are the proper ages now.

**Shri Pataskar:** He may have come across a few cases where a man of 60 married a girl of 18. But his Bill is not for 60 and 18; his Bill is for 40 and 25. Both of them are majors.

**Shri Gidwani:** These are the normal ages of people marrying at present.

**Shri Pataskar:** How can you predict that a marriage between persons of over 40 and below 25 will always

[Shri Pataskur]

lead to deplorable results? It may lead to good results or it may lead to bad results.

Then again what does he say? If the woman happens to be a widow there is nothing wrong. The probable reason is that if the man dies, she may again become a widow. That seems to be the idea underlying this provision. If she is a widow of less than 25, then it does not matter. I have carefully read the Bill. He says:

"...leaving young widows to mourn over the loss of their husbands all their lives."

He does not seem to have sympathy for a widow who again has a chance of marrying and becoming a widow. The Mover of the Bill has no sympathy for those unfortunate women who have become widows before the age of 25 years. And as he predicts, such women may again become widows. We have sympathy for the cause of such women. Then it says "Widow remarriage is not prevalent in India....." That is a startling proposition. As a matter of fact, in many communities, as I said on another occasion, there is remarriage; probably in some advanced communities which forms about 15 or 20 per cent. this may not be very prevalent, but as my hon. friend will also admit, during the last few years and even now remarriages are very common even among these communities and it is not looked upon with the same disfavour as it used to be. Then it says "and the prevailing corruption in Indian society....." This is a proposition to be made out with caution, and we could not follow this. Then again "on account of the absence of any legislation"—I was waiting and waiting to hear that if really the absence of such a legislation was going to lead to corruption, we must do something. He cited no example as to what 'corruption' means. I do not know whether it means the corruption of society. To my mind, this Bill is brought forward, as I said at the beginning to which my friend over there objected, with a laudable object.

The idea was that there should not be marriages performed between a man of, say, 60 or 70 years and a girl of 14 or 15 or with some such inequalities. Naturally, I think these are things which must be left to be adjusted by people among themselves either by volition or by the stress of social circumstances. After all, the remedy would lie in educating opinion among those people where probably such unequal marriages take place rather than by legislation. Of course, the Mover has served a purpose by bringing this to the notice of the people that unequal marriages are undesirable. Beyond that, we cannot pass a legislation, because fundamentally it will be very difficult to enforce a legislation of this type. What will be the result in every case? It will have to be found whether the woman was 25 and the man was 40. Perhaps they may be leading a very happy married life—who knows it? Again, at 40 a man may be in good health and though less than 25 a woman may be of poor health. Biologically also it is very difficult to predict these things. So, whether a marriage is happy or otherwise depends not merely on age. If that was the only factor, then we could straight-away legislate, having some biological grounds, and then regiment all sexual life. That is quite a different matter. Attempts have been made in the past to bring measures like this in the Central Assembly and other Assemblies. This is done with a very good object of introducing some social reform, but as the Mover himself knows, there are so many other matters of social reform which are still pending, and, therefore, this social reform of preventing marriages of persons of unequal age has to be examined from different points of view. It is not merely on the ground of age that such a Bill should be passed. Whatever his intentions may be, the Mover will have realised that to have a legislation of this kind will be very difficult for any Government to enforce and again it is for a cause which may or may not exist. I have also tried to ascertain the position in advanced countries

as it may be said that ours is a backward society and not sufficiently advanced. So far as I could find no such attempt has ever been made anywhere, even in the so-called advanced countries to fix ages of marriage. In the olden days marriages between a man of 60 or so and a girl of 16 or 17 was common and in Maharashtra there was a Sharada drama, which was very popular and it created a good impression so far as such marriages are concerned. All steps must be taken to prevent unequal marriages wherever the inequality was very bad, but that should be solved in a different level, in a different manner and from a different point of view. As I said, legislation for such a purpose is out of place. If you want once to start controlling the relations between two major persons, how far we should and can go is a matter worth, considering.

The other aspect that I would like to urge is the difficulty of enforcing such an enactment and the consequences of harassment that might result from passing a restrictive legislation of this kind. I would, therefore, appeal to the Mover not to press this Bill.

**Shri D. C. Sharma:** What am I supposed to do now, Sir? I have to reply.

**Some hon. Members:** Withdraw the Bill.

**Mr. Chairman:** It is within the discretion of the hon. Member to make his reply or not. It is his own lookout, but I have called upon him in case he wants to make a reply before I put the motion.

**Shri Sinhasan Singh:** As I said in the very beginning, if the Mover should ask for the withdrawal of the Bill, the position will be awkward and we have been deprived (*Interruptions*).

**Mr. Chairman:** If the Mover is prepared to withdraw, it will be put to the House. The position is not awkward.

**Shri D. C. Sharma:** I do not know why you are sitting all the time and interrupting everybody.

**Dr. Suresh Chandra:** He should address the Chair.

**Mr. Chairman:** Order, order.

**Shri Jaipal Singh:** On a point of order. Is it proper for any Member of this House to anticipate the decision of another Member as to what he is going to do or not going to do? Have we the right to prophesy that hon. Member will take up the time of the House over a measure of this sort? Another hon. Member tells us in advance that he is going to withdraw. Is it fair to the mover of the Bill? Is it fair to the House as such?

**Mr. Chairman:** There is no point of order at all. The hon. Member could certainly anticipate. It is his own anticipation. The Chair has not acted on the basis of such anticipation. In the ordinary course, the Mover is called upon to make a reply if he so chooses. If the House agrees to the withdrawal of the motion, the Bill will be withdrawn.

**Dr. Suresh Chandra:** The hon. Member himself did not know whether he should reply or not. That was the reason.....

**Mr. Chairman:** Order, order. He is replying.

**Shri D. C. Sharma:** I do not know what kind of effect the speech of the Minister of Law has had on me, but it is very strange to hear from the Minister of Law a homily on the futility of legislation.

**Dr. Rama Rao (Kakinada):** Minister of Legal Affairs.

**Shri D. C. Sharma:** He has been telling us that we cannot have legislation on every aspect of life in this world. If we study the recent trends in legislation in the countries of the world and especially India, I would say that we are trying to have legislation which covers almost every

[Shri D. C. Sharma]

aspect of the life of man. If that is so, I do not understand why this kind of legislation should have been taken exception to by the hon. Minister of Law.

It has been said that if this Bill is passed, it would be difficult to enforce it. That is another surprise for me. I had thought that it was within the province of the Government to enforce every Bill that became an Act and that the Government was powerful enough. This kind of a confession that it would be very difficult for the Government to enforce this Act is very surprising. It has been said that this Bill will cause a great deal of harassment.

We have recently passed a Bill which has become an Act with regard to pure food. I can tell you that there are *hartals* in the villages and in the cities and I cannot go to any village or town in my constituency without coming across people who are very much annoyed with us for having passed that Bill. They say that they could not be held responsible for that kind of adulteration which that Bill contemplates. They do not know what is to be done about it. I have been going about in my constituency and I have come across persons saying that it has been the cause of a great harassment. Did you contemplate that that Bill would cause a great harassment. I do not think that we contemplated that. We passed that Bill in the interest of society. This Bill is going to be in the interest of society and I do not think that it is going to cause such harassment as for instance that Bill about pure food is causing, according to the traders and shopkeepers at least in my constituency. In my State recently a deputation came from Quadian and they said: "We have brought samples; here are these things; how can we be responsible for the purity of these articles which we get from others?" When legislation is passed harassment sometimes goes with it.

**Shri Pataskar:** There is one difference; that legislation was necessary for solving a vital problem.

**Shri D. C. Sharma:** I say that problems are vital not only quantitatively but also qualitatively. I do not take only the quantitative view of the problems; I take the qualitative view also. I think the unhappiness of one family is a factor which has to be taken note of as much as the purity of food. I take a qualitative view of things as well as a quantitative view of things. What I was going to say was that the speech of the hon. Minister has not convinced me that this kind of legislation should not be brought forward.

It has been said that the Bill is defectively worded. I must confess it to you, Sir, that I took the help of a lawyer friend to draft this Bill.

**Shri A. M. Thomas (Ernakulam):** He would not have been a competent lawyer.

**Shri D. C. Sharma:** If I had done it myself, perhaps the Bill may not have been as good as it is now. But I must tell you in all honesty that this Bill was drafted in consultation with a very good lawyer—I do not want to mention his name—and I had incorporated some of the suggestions that he put forward. Therefore, if there are any defects in the Bill, they are all that of the lawyer friend of mine and not mine. After listening to these lawyer friends my faith in that lawyer friend, I feel, was not as justified as it would otherwise have been.

**Shri Gidwani:** Nobody will help you hereafter.

**Shri D. C. Sharma:** Persons who have spoken about this Bill have expressed sympathy with it. Sympathy is a very vague thing and I am the last person to depend upon the sympathy of anybody in this world. But I must say that there are speakers who have preceded me who are in accord with the sentiments which had

worked in my bringing forward this Bill and that sentiment is very simple. I do not want, as I said in the beginning, living as we do in a backward country, that our young women should be married to old men for some reason or another. My friend Shri Raghavachari has said just now that sometimes a young girl is purchased. I do not deny that. It has been said that they are sometimes coerced into a marriage of that kind; I do not deny that. Is it not a very retrograde thing in our society that we should have a social situation of this kind where young girls are purchased or coerced? I think this a sore in our society and if I want to stop that sore I do not think that I am doing anything wrong.

What is my conception of advanced age?—It has been asked. Again I will say that advanced age is not to be taken in the sense in which my friends who have read the literature of the countries of the world take it. Advanced age in India is to be taken with reference to the average expectation of life. What is the average? I know it has gone up now. But the conception of advanced age in India cannot be the same as it is in England, U.S.A. or U.S.S.R. for the simple reason that their expectation of life is very high compared to ours. Here, I do not know what our expectation of life these days is but I know it is not very high.

It has been said that I have not given any facts and figures. Our country is not as yet statistically very far advanced as the U.K., U.S.A. or U.S.S.R. Those countries are statistically very advanced and have statistics about every problem. We are just now building up our statistical organisation and I know that our statistical organisation at present is not of a very advanced kind. It has been said that there are some kinds of lies and statistics are also described as a kind of lie; I do not want to go into that.

Much more useful than the statistics are personal observations, personal experience and personal knowledge. Is

276 L.S.D.

there anybody here in this House who has not come across instances of maladjusted marriages to which I have made a reference in my Bill? What are we doing now? We are trying to make marriages a very happy adventure. That is why we are having this legislation. And if I have brought

5 P.M.

one source of unhappiness in that marriage to the notice of this House I think I have done something which is in conformity with the trend of the time. Therefore, I say that it is the business of the State to control all those actions which lead to unhappiness. Why are we trying to say that the children should not beg? Why are we saying that children should not be vagrants? Why did we pass Sharda Act? It has been said that this kind of Bill will interfere with personal freedom and personal choice; yet I think in every country we have to make a balance between personal choice and the exigencies of the social structure. My Bill refers to those exigencies and therefore it deserves the consideration of the House.

It has been said that the provisions which I have put in this Bill are such as are complicated. In the very beginning I said that I have tried to make this Bill as mild as possible.

**Shrimati Sushama Sen:** Sir, it is already past five o'clock.

**Mr. Chairman:** It has already been decided that the House will sit today till 5-15 P.M. The private Members business started at 2.45 and therefore the House will sit till 5.15.

**Shri Gidwani:** But, you said that you will put the motion for consideration to the vote of the House at five o'clock.

**Mr. Chairman:** He is just finishing and then I will put the motion.

**Shri D. C. Sharma:** Sir, how much time has been allotted to this Bill?

**Mr. Chairman:** The hon. Member fully knows that two hours have been

[Mr. Chairman]

allotted for this Bill, out of which we have taken about one hour and fifteen minutes. At about 4.45-I said that I will put the motion for consideration to the House at five o'clock so that the hon. Member could reply to the debate for about 15 minutes. He has already taken about 12 minutes and I should like him to finish in three or four minutes.

**Shri D. C. Sharma:** How long will the House sit today?

**Mr. Chairman:** What is this question at this stage I can't understand?

**Shri D. C. Sharma:** I will speak next time, Sir.

**Mr. Chairman:** There is no question of next time. I want to put the motion for consideration today so that if the motion is carried we can go on with the clause by clause consideration of the Bill.

**Shri D. C. Sharma:** That will be done next time, Sir.

**Mr. Chairman:** I do not understand what the hon. Member wants.

**Shri D. C. Sharma:** Sir, 2 hours are allotted for this Bill. We have only taken one hour and fifteen minutes today. 45 minutes are, therefore, left.

**Mr. Chairman:** If 2 hours are allotted to a Bill it does not mean that full 120 minutes will be devoted to the consideration of the Bill if it can be finished earlier. So far as the second and third stages are concerned they have also to be finished. The hon. Member perhaps assumes that the House will not agree to consider the Bill at all. I cannot make that assumption. As I have already submitted when Shri Sinhasan Singh put the question to me, I propose, if the consideration motion is passed, to proceed with the clause by clause consideration of the Bill. Therefore, I apportioned time in such a manner

that the whole Bill may be finished; otherwise the difficulty will be that if 2 hours are over then the clause by clause consideration will not take place. I would, therefore, request the hon. Member to finish in 3 or 4 minutes.

**Shri D. C. Sharma:** Sir, as Shri Raghavachari put it, in this Bill I have drawn the attention of this House to a very important social problem. I hope that the House will focus its attention upon that problem and will find some way out of the social difficulty that confronts us at this time.

The question is:

"That the Bill to restrict the advanced age marriages, be taken into consideration".

*The motion was negatived.*

#### FUNERAL REFORMS BILL

**Shri Telkikar (Nanded):** I beg to move:

"That the Bill to provide for the cremation of dead human bodies in India be circulated for the purpose of eliciting opinion thereon by the end of October, 1955.

There are only about five minutes more. Shall I begin my speech?

**Mr. Chairman:** How does the hon. Member assume that there are only five minutes more? I have already said that we shall sit till 5-15 P.M.

**Shri Telkikar:** While moving for the circulation of this Bill I do not think it out of place or even improper just to give a brief history of the events behind the emergence of this Bill. On the 3rd of September, 1954, exactly a year before, I happened to receive copy of a petition sent to the House of