

[Shri C. D. Deshmukh]

Indian Income-tax Act, 1922, to provide for the assessment or re-assessment of persons who have to a substantial extent evaded payment of taxes during a certain period and for matters connected therewith.

Mr. Speaker: The question is:

"That leave be granted to introduce a Bill further to amend the Indian Income-tax Act, 1922, to provide for the assessment or re-assessment of persons who have to a substantial extent evaded payment of taxes during a certain period and for matters connected therewith."

The motion was adopted.

Shri C. D. Deshmukh: I introduce* the Bill.

CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL

PRESENTATION OF REPORT OF JOINT
COMMITTEE

श्री शाहीगल (पूजा मन्त्र) : मैं दंड प्रक्रिया संहिता, १८६८ में और ज्यादा संशोधन करने वाले विधेयक सम्बन्धी संयुक्त समिति का प्रतिवेदन सभा के सामने उपस्थित करता हूँ ।

Shri Matthen (Thiruvellah): I do not understand what it is.

Mr. Speaker: The hon. Member will find an English translation in the order paper.

Shri Matthen: Then, there is no necessity for this.

SPECIAL MARRIAGE BILL—Contd.

Mr. Speaker: The House will proceed with the further consideration of the Bill to provide a special form of marriage in certain cases, for the registration of such and certain other marriages and for divorce, as passed by the Rajya Sabha.

Clause 4 and amendments numbers 60, 61, 108, 109, 182, 227, 229, 294, 62 and 112 which are identical, 183, 30, 295, 2 and 113 which are identical are under discussion.

Clause 4.— (*Conditions relating to solemnization of special marriages*)

Shrimati Jayashri (Bombay-Suburban): I have sent an amendment to this clause. In the Hindu Code Bill which came before the Provisional Parliament, the conditions laid down for a valid marriage—*dharmic* as well as civil marriage—were, the bridegroom has completed the age of 18 years and the bride the age of 15 years at the time of the marriage and each party has, if he or she has not completed the age of 21 years at the time of this marriage, obtained the consent of his or her guardian for the marriage, provided that no such consent shall be required if the bride is a widow. We have changed this clause and instead of 15, we have raised it to twenty-one. Some of the members of the All-India Women's Conference met the Law Minister when this draft was circulated for public opinion and we requested the Law Minister not to raise this age too high.

[**SHRI PATASKAR in the Chair**]

Because, as we know, in our country, girls mature at a very early age, we requested the Law Minister not to raise the age beyond 18. Eighteen is a reasonable age and some of us have now sent an amendment to this clause and asked for keeping this age limit at eighteen. If you raise this age too high, we fear that this will prevent many girls from taking advantage of this Act. As we know, in our country, girls like to marry at the age of 15 or 16. In the case of *dharmic* marriages, we are going to keep it at 15. I would request the hon. Members not to raise this age too high and to keep the limit at eighteen. We are going to accept an amendment that if the party has not completed the age of twenty-one at the time of the marriage, he should

*Introduced with the recommendation of the President.

obtain the consent of the guardian. There is this clause which will prevent any fraud. Looking to the conditions we had in the original Hindu Code Bill, and in view of the fact that many Women's organisations have appealed to the Law Minister not to raise this age too high, I appeal to the Members to keep this limit at eighteen for the girl at least. I can say that in our society mostly the girl's age is much below that of the boy, and we are sure that the boy's age will be more than 21, more than 18 at least, but for the girl I would say that we should restrict it to 18 years of age, and I support this amendment. I oppose the amendment of Shri V. G. Deshpande.

Shri Frank Anthony (Nominated—Anglo-Indians): Mr. Chairman, Sir, my amendment which is No. 229 at page 4 is to the following effect:

“the parties have completed the age of twenty-one years, or in the case of a boy who has completed eighteen years but not completed twenty-one years, and in the case of a girl who has completed fifteen years and not completed twenty-one years, the consent of the father, if alive, or if the father be dead, the guardian of such person, in case there be no such person, the consent of the mother of such boy or girl, has been given to the marriage;”

I have sought to approach this subject from the point of view of judicial precedent and also from the point of view of logic, and frankly I have not been able to ascertain on what basis either of sense or logic we have arrived at this arbitrary figure of twenty-one years. I can find no sanction for it either in judicial precedents or in any cognate measure referring to marriage and consent. My own feeling is that somebody has vaguely remembered that in Britain the age of majority is twenty-one and so they have, by some rule of thumb and quite arbitrarily, hit upon this age of twenty-one years. So, my amendment,

I respectfully submit, seeks to bring this provision into line with the law of this country. My hon. friend, Pandit Thakur Das Bhargava sensed what I was trying to do.

Now, why have I put the age of marriage for a girl at fifteen and for a boy at eighteen? I have done this advisedly. Under the Child Marriage Restraint Act we prohibit marriages only up to these respective ages, i.e., if a girl has completed fifteen or a boy has completed eighteen years of age, then under the general law of the land their marriage may be performed. Now, the Home Minister has claimed for this measure that it is a progressive measure, but if his claim has any validity, then I would ask him why we are making this an unnecessarily restrictive provision? Why are we.....

The Minister of law and Minority Affairs (Shri Biswas): May I point out that the Bill as introduced did not say twenty-one? The amendment in the Upper House has made it twenty-one, not the Law Minister. He referred to the Law Minister, I take it, and not the Home Minister.

Shri Frank Anthony: I have rather an obsession with regard to the Home Minister.

Shri Biswas: The Law Minister suggested eighteen, and he is going back to eighteen also here.

Shri S. S. More (Sholapur): Go still further back.

Shri Frank Anthony: Even though I am glad for the clarification, I would ask the Law Minister and the House to consider carefully what I am saying.

As I have said, under the Child Marriage Restraint Act, where we have placed a certain embargo, and quite rightly, on marriages up to a certain age, we permit, under the general law, marriage where the girl has completed the age of fifteen years and where the boy has completed the age of eighteen years. Now, I feel that in this measure for which we

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are claiming a progressive and a liberal character, we should not seek to make it less wide and less applicable than the general law of the land.

Then, may I say this, that this age of twenty-one perhaps—I shall be glad of the attention of the Law Minister, I am trying to convince him.....

Mr. Chairman: Does the hon. Member want to address the hon. Law Minister?

Shri Frank Anthony: I am addressing you Sir.

Mr. Chairman: He is addressing me, but he wants the Law Minister to listen to him.

Shri Frank Anthony: As I was saying, I want this measure to be no larger, no wider than the general law of the land, and that I think is a very legitimate request.

Now, I am opposed to this figure of twenty-one years. I feel that whoever propounded this thesis looked at either the British law or he may have even looked at the Indian Christian Marriage Act.

Shri Biswas: The British law makes it much lower. It makes it sixteen.

Shri Frank Anthony: I agree with him. I was coming to it.

Under the Indian Christian Marriage Act, a minor has been defined as a person who has not completed the age of twenty-one years, but the Indian Christian Marriage Act is much wider so far as marriage is concerned. There is no embargo on persons less than eighteen or twenty-one years marrying. All that it says is that a person is a minor unless he completes twenty-one years of age. And under section 19 of the Indian Christian Marriage Act all that is required is that if they are outside the mischief of the Child Marriage Restraint Act—i.e., a girl has completed fifteen years but not completed eighteen years of age, or a boy has completed eighteen years but has not completed twenty-one years of age

—the consent of the father, if the father is alive, the consent of the guardian if the father is not alive, and if there is no guardian the consent of the mother should be obtained.

Shri V. G. Deshpande (Guna): Who is a guardian?

Shri Frank Anthony: That is a different matter. I do not want to be sidetracked by these niggling little questions. We may to our complete satisfaction define the position with regard to guardian as far as it is humanly possible to define it. But what I am trying to postulate is the question of minima in respect of ages. And I say first this, that under the Child Marriage Restraint Act we have this position. Under the Indian Christian Marriage Act, even though the age of majority is pitched at a much higher figure; they allow marriages of girls who have completed fifteen years and boys who have completed eighteen years provided the consent of the parent or the guardian is forthcoming. And I say this, that unless the Law Minister is prepared to consider carefully what I am trying to impress upon him—unfortunately the Law Minister seems to have made up his mind and he is not prepared to listen to my arguments; as I said the Law Minister has waxed eloquent, sometimes he has waxed almost excited as to the progressive and liberal character of this measure—people will say “No, you are making claims which are not well taken.” What happens if you put in this provision of eighteen years? I say that it will largely be a reactionary measure. It will be a measure which is less liberal than the general law of the land. It will be less liberal than the Indian Christian Marriage Act. And, as the Law Minister himself has pointed out, in Britain—we have drawn a large number of our precedents from Britain—the age for the girl was formerly fixed at twelve and for the boy at fourteen. Then, I think in 1929 by the Age of Consent Act they raised it to sixteen. Even there where we may take it for

granted that people mature physically at a later age, even in Britain, the age at which they can contract a marriage is after they have completed sixteen years of age. Now, I want to know, when we have laid down a certain specific limit in the Child Marriage Restraint Act, when other Acts in our own country like the Indian Christian Marriage Act, when usage and custom, all allow girls to marry after they have completed fifteen years and boys if they have completed eighteen years, why you should now arbitrarily fix the figure at eighteen years of age? I say the charge will be made that instead of being a socially progressive measure, this is in fact, a reactionary measure, and as one who has had considerable professional experience in the divorce and marriage courts in this country, may I ask the Home Minister to also remember this?

Shri Biswas: Again the Home Minister!

Shri Frank Anthony: I am sorry, the Law Minister.

I say this, when the dominant motive which has informed this kind of legislation is a social and a humanitarian motive, let us not assume the pose of hypocrites or puritanical posers. In Britain, this law has got this as the dominant motive—the social and humanitarian motive. Now, what are we catering for? We see what is happening. More and more people are going to colleges. More and more young men and young women are going to be thrown together. Now, what has happened and is happening? In England, they have catered not so much for the contracting parties, but they have always catered for the unborn child. That has always been the dominant motive, both with regard to divorce and with regard to marriage, and we in this country cannot blink our eyes at it. We have this co-educational system spreading in this country in the colleges. We must accept the fact that it is not unlikely that young boys and young girls in colleges meet, they may get friendly, and they may

get intimate. But what do you do under this Bill? Do you make it possible for them to marry and to enter society as decent human beings, or on the other hand, are you not compelling them to become outcastes, and driving the woman on the streets? Under any other Act perhaps, if a Hindu boy and a Hindu girl in college get friendly, and there is the prospect of a child, I believe, they can marry under the Hindu law. But what happens when a Hindu boy and a Christian girl get friendly and if you accept that their friendship has perhaps led to intimacy and the prospect of a child, what happens? If both were Christians, they could marry; if the girl was fifteen, and the boy eighteen, they could marry, provided the parents' consent is there. But here, even though the Hindu boy's parents may consent, even though the Christian girl's parents may consent, you say, no, that child shall be born out of wedlock. It is a reactionary measure, because you are not even bringing it into conformity with your other laws and the law of the land. You say you are wanting to encourage intercommunal marriages. But are you really wanting to encourage intercommunal marriages? Girls in this country mature physically at a much earlier age than in England, i.e. where they can marry at the age of sixteen. Under your Child Marriage Restraint Act, you put it at fifteen. But here, under a special rule of thumb, you say, no, the girl shall be at least eighteen years old. I am not propounding a charter of libertinism; I am not saying that a girl at fifteen and a boy at eighteen should be free to marry according to physical impulses or the idiosyncracies of an infant. I am not saying it. I am hedging it round by all the salutary safeguards that you can possibly think of. I am saying that when a girl has completed the age of fifteen, and a boy has completed the age of eighteen, until they have reached the age of twenty-one, the consent of the parents or the guardians shall be forthcoming. That is the safeguard which I have prescribed, and I do feel that the hon. Law Minister should give

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serious consideration to what I am suggesting.

I am basing my amendment on judicial precedent, on the laws of our own country and on the facts as they obtain in this country. After all, as the previous speaker has said, it is not normal for girls in this country to wait till the age of eighteen or twenty-one to marry. You are stultifying the whole purpose of this Act. Normally, people in all societies prefer their girls to marry before they are eighteen, or twenty-one. But now, arbitrarily, you are setting this age-limit for girls at eighteen years of age. A certain issue has been posed in the form of a question as to why, when we accept the age of majority at eighteen, we should, in respect of marriage, say that the consent of the parent should be required. I have said that until they are twenty-one, the consent of the parent or the guardian should be a pre-condition to the marriage, and I say that I have done it advisedly. I recognise that marriage is a grave and an important matter, and unlike most other matters, perhaps, it does have graver consequences. And perhaps, even at eighteen, I am fixing the age at a limit where we expect people to be physically mature, and where we think they can enter into marriage without any adverse consequences for their progeny. But after that, I am accepting this thesis that perhaps, mentally, they are not sufficiently mature, and sometimes they may be overborne by physical impulses. And that is why I have deliberately put down this safeguard that until they have completed the age of twenty-one, the consent of the guardian or the parent should be given. And there is also another thing. We find it in our own divorce and marriage laws. There is no sanctity with regard to the age of minority in our own Acts. We find differing provisions. So, for the purpose of this particular Act, we can say that we regard them as minors until they reach the age of twenty-one. Under the Indian Christian Marriage Act, a child or a minor has been de-

finied as a person who has not reached the age of twenty-one. Under the Indian Divorce Act, the word 'minor' has been defined differently; there, a girl of an Indian father is a minor until she is thirteen, and a boy of an Indian father is a minor until he reaches the age of sixteen. Under the Indian Divorce Act the courts' jurisdiction is ousted, in the matter of education, custody and maintenance, as soon as the girl reaches the age of thirteen. They cannot order that a girl of thirteen, a child of thirteen, should be within the custody of a particular parent as soon as she completes thirteen, she ceases to be a minor under the Indian Divorce Act. So, there is nothing extraordinary and unusual, if, for the purpose of this Act, we say that a minor shall be a person who has not completed the age of twenty-one, and for the purpose of entering into marriage, we put the age at the limit which we have in all our wisdom set in the Child Marriage Restraint Act, namely, fifteen for a girl and eighteen for a boy. In the Indian Christian Marriage Act we had this very salutary safeguard that between the ages of fifteen and twenty-one in the case of a girl and between the ages of eighteen and twenty-one in the case of a boy, the consent of the parent or the guardian should be there.

10 A.M.

Shri N. C. Chatterjee (Hooghly): I express my dissent thoroughly from the amendment moved by Shri Frank Anthony. I have, on many occasions, differed from the recommendations of the Upper House, but on this occasion, I think they have acted very wisely. If Shri Frank Anthony had only read some of the minutes of dissent of distinguished Members of the Joint Committee, he would have found good reasons. He has made a legalistic approach to this question. But I would say that I have been practically all my life a humble votary of Themis, and if you are going to lower the age for a girl for marriage under this Act, you will simply increase the work in the

divorce courts, but it will not lead to any social welfare. I would rather take what Shrimati Vijaya Lakshmi had pointed out. She had administered a very timely admonition, when she spoke here the other day. She said that we ought to realise that this Special Marriage Act is not meant for all the millions and millions of people throughout the country, but that it would only touch the fringe of society, the cultured, the cultivated, the educated and the progressive— or call it even fashionable or whatever else you like, but it will only touch the fringe of society.

Now, if the progressive people want to do away with sacramental marriage, orthodox marriage, and so on, would it be right to think only of the legalistic age? Now, what is this lady, Shrimati Sita Paramanand saying? She says:

“The age should be raised from eighteen to twenty-one,—at least in the case of boys. Usually, unorthodox marriages are initially settled by the parties themselves at a very tender age.”

My hon. friend Shri Frank Anthony says, have consent by parent or guardian. But that is only an illusory safeguard, for parents have got to consent, if the intensity of attachment is so strong, and there is no legal bar that they have cannot withhold it. Again, this lady has pointed out:

“A boy of eighteen is not in a position to take a realistic view of marriage and its responsibility.”

I believe, with Acharya Kripalani that he is just a mere school-lad. Are you going to have a Special Marriage Act, for the purpose of setting a high standard of marital relationship for educated and progressive people, or are you going to give a boy, who is in the matriculation class or just out of it, a charter to marry any school-girl, at the age of eighteen?

Then, there are other factors which have got to be taken into account. It is rather extraordinary in this House that I find that the older the Member,

the younger the age of the girl he is fighting for. Acharya Kripalani is solemnly saying that the age should be thirty-five. I am humbly but passionately pleading that the age should be twenty-five at least for the boy. Pandit Thakur Das Bhargava is arguing for eighteen, and Shri Frank Anthony is for fifteen.

Shri Frank Anthony: Your own law has accepted it.

Shri N. C. Chatterjee: Anyhow, it will lead to indiscipline in the family. It will lead to disruption of many families, which is very undesirable. Many undesirable things will happen, which ought to be eliminated. There is no good saying that there may be some kind of attachment leading to intimacy, and therefore, this Parliament, in the year 1954, should solemnly provide for certain lapses and precocious intimacies developing in the critical age of adolescence. Are you going to encourage it, or are you going to stop it?

Shri Biswas: Will raising it to twenty-five stop it?

Shri N. C. Chatterjee: I think twenty-five is a good age. At least in this case, I would rather go by the advice of the distinguished ladies who are progressive like this lady Shrimati Sita Paramanand. What does she say? She is saying that in this case, the age should be at least twenty-four. I have said twenty-five, only one year more than what she has said. If you want to make it twenty-four, I do not mind.

Shri Biswas: Ladies are so variable in their opinions.

Shri N. C. Chatterjee: Ladies are variable in their opinions; anyhow we have got to pick and choose between them, and I think in this case they reflect more the advanced and progressive opinion. (*Interruption*).

As a matter of fact, why are you enacting this law? You do not want orthodox marriage; you are really giving a charter for unorthodox, unsacramental marriages, civil marriages

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which are based purely on contract. Therefore, you are thinking of love marriages. Would you like a love marriage at the age of eighteen?

Shri Biswas: I would ask the hon. Member to preach this in his own home.

Shri N. C. Chatterjee: As a matter of fact, I take it that in the great majority of cases, both in your parts, Maharashtra, and in Bengal, amongst educated middle class families, it is seldom that the marriage of a boy takes place till he is twenty-five; in the case of girls, it is seldom that a marriage takes place till she is twenty—or twenty-one. You are putting the hand of the clock back. Therefore, I am pointing out: do not take the legalistic aspect.

Shri Biswas: You prescribe the minimum age only.

Shri N. C. Chatterjee: Make it minimum.

Mr. Chairman: Let the hon. Member proceed.

Shri N. C. Chatterjee: I am not pleading for a ceiling in this case. I am saying what should be the minimum age. Put any age you like; the only question is, what is the proper age? You find that even in our country when people are marrying under the sacramental system or under personal laws, the marriageable age is generally advanced in the case of girls to twenty or twenty-one or even more and in the case of boys to twenty-five or twenty-six.

Shri Nanadas (Ongole—Reserved—Sch. Castes): What about people in the villages?

Shri N. C. Chatterjee: They do not marry under this Act. The people in the villages, the rural population, won't be touched by this legislation.

What I am pointing out is that many members in these dissentient notes have drawn attention to the great menace of India's over-population.

That is a serious menace and that aspect, the economic aspect and the social aspect, of population should also be taken into account. Dr. Seeta Paramanand says that 'at the age of eighteen a boy can hardly support a wife. Marriage at twenty-one will be a good Malthusian barrier against the population growth'. This Parliament should also take that into account. It is not a question of only a union of 'A' and 'B'. It has effect on family life, it has effect on the social system, it has effect on the whole national well being. When you are really making a progressive legislation for progressive people, you should have the courage to say that you are not going to allow this Act to be used as a charter for this kind of child marriage at a critical age of adolescence. They have to realise the rights and obligations and the duties and responsibilities and then with full knowledge enter into it. I submit that what the Upper House has done is not at all unfair. On the other hand, if you like, Parliament in its wisdom should increase at least the minimum age of the boy to twenty-four or twenty-five and of the girl to twenty-one.

Shri Bhagwat Jha Azad (Purnea cum Santal Parganas): I should be given a chance to speak because it is only a question for my contemporaries. It is not for old men.

Shri S. S. More: You are not fit to speak on these matters.

Mr. Chairman: Let there be no cross-table talk.

Shri Dabhi (Kaira North): I rise to support the amendment, No. 227, of Pandit Thakur Das Bhargava and to oppose all other amendments. I would have preferred sub-clause (c) as it was passed by the Rajya Sabha, but anyhow I am firmly of the opinion that the age of the bridegroom at least should never be less than twenty-one years. I do not understand how our people who call themselves educated, advanced and progressive advocate the marriage of a boy of eighteen.

Do these friends want to say that a boy of eighteen who is studying in a school or college, who is not in a position to maintain himself, whose parents find it difficult even to find money for his studies, should be allowed to throw an additional burden upon his parents of maintaining his wife and children? Do these friends also want to argue that a boy of eighteen should be a father of children? Do they mean to say or suggest that the children of boys of eighteen would be healthy?

Shri B. N. Misra (Bilaspur—Durg—Raipur): What about the present position? Are we not having boys of eighteen who are fathers of so many children?

Shri Dabhi: That is one of the reasons why we are weaklings; that is one of the reasons why at present we are producing such large numbers.

According to orthodox Hindu religion also, the minimum age is described as twenty-five or twenty-four. Even the famous physician, Sushrut, says that the minimum age of a boy must be twenty-five. Not only that; he says that children born of a boy who is less than twenty-five years of age would be 'durbalendriya'—weakling. Many people think that our Hindu Sastras are for a low age; that is not the case. But our progressive people want that a boy of eighteen should be the father of children!

Another very important reason why I am against the other amendments for lowering the age—the marriageable age—from twenty-one to eighteen, is that of over-population. Every year 40 lakhs of human mouths are being added to our country and everybody is alarmed at the growth of population. The Census Commissioner has alarmed the whole country by his calculation that by 1981 we would be 52 crores of people. In order to avoid this catastrophe, our so called advanced people advocate the use of chemical and mechanical contraceptives which involves risks to the health of women.

People never think of the risks involved to the health of women by allowing a free rein in these matters. It is strange to see that there are some people who advocate a course of action for our people which would lead to over-population. On the one hand, they are alarmed at the over-population and advocate chemical and mechanical contraceptive without caring for the health of the persons concerned—or at least the women—and on the other, they advocate a course of action which would lead to over-population. The Health Minister in a radio talk on the first of this month from Delhi has stated that if the marriageable age of the boys and girls is raised, a few years of active productive life will be put out of the picture and that will itself have a tremendous check on the population problem. I would like anybody to challenge the statement made by the hon. Health Minister.

Shri Bhagwat Jha Azad: What has she said?

Shri Dabhi: She has said that if the marriageable age of boys and girls is raised, there would be less population. The Census Commissioner in his report has stated that certain investigations were made in certain parts of Travancore-Cochin and Madhya Bharat. He has given facts and figures to show that the higher the age of the girl, the lesser would be the number of children she would give birth to. So, from every point of view it is absolutely necessary that the age of the boy for purposes of marriage should be at least 21.

Then, Sir, it was argued that there is the consent of the guardian and therefore there is no difficulty. But, here there is no question of the consent of the guardian. Even if the consent of the guardian is given, if we think that it is not advisable from the nation's point of view, from society's point of view that a boy of 18 should not be allowed to marry, then the question of consent does not arise. Do our friends who argue in this way

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want to say, that if the parents of a girl or boy give their consent, he or she may be allowed to marry within a prohibited degree of relationship? We would not allow that. The law would not allow that even if there is consent of the parents. Supposing the parents give their consent for a boy who is having his first wife to marry a second time, we would not allow that because it is against law and against society. We want that there should be certain essential principles of marriage and if they are to be fulfilled, then the question of consent or no consent does not arise. We should not give our approval to any step which would be against the policy which we have decided upon. Therefore, taking into consideration all these points I appeal to the House at least to support the amendment moved by Pandit Thakur Das Bhargava.

Shrimati Renu Chakravarty (Basirhat): Sir, I am obliged to answer certain criticisms made by Shri Chatterjee. Firstly, of course, we are all aware why he wants the age limit to be raised to 25. The real reason as we have seen in all the amendments is to restrict the scope of the Bill as far as possible. But, when he tries to rouse certain prejudices that by not raising the age we shall automatically increase the divorce cases, I would just like to point out that the Special Marriage Bill has been on the Statute Book since 1873 and the age put down there was 18. Of course, there was a clause with a proviso about consent, but age of '18' was already there. If the minimum age of '18' is there and the number of divorce cases has not been so large as to completely upset Indian society, then, I think, there is absolutely no case which he can make out that by accepting the age of 18 we will be doing a great harm to our society. Of course, he has recommended to us the arguments which have been put forward by Dr. Sita Parmanand. I have great respect for my colleague in the Upper House, but I would say and I think

it is wiser that we should consider what has happened during these last so many years and judge on the basis of actual events when we prescribe the age.

Now, there is certain force in the arguments made by Shri Frank Anthony that we should keep at least the minimum age according to the general law of the land. It is true that many of us do want that the scope of this Bill should be extended. We should move the majority of our people towards a uniform code for registration of marriages and to make this Special Marriage Bill slowly applicable to the rest of India, may be with certain amendments. Therefore, I would, in the first instance have, liked to support Shri Anthony for the age to be 15. But why is it that I do not do so? The reason for that is we feel that, at this stage, the introduction of guardianship will lead to more complications, we want to make it as simple as possible and, at the same time safeguard, as far as possible, against wrong choices. That is why we say that, although we have allowed 15 as the minimum age in the general law of the land, we should keep it at 18. But, here again, we find that there are many amendments. One of the official amendments coming from the other side is again a proviso guardianship—first guardian, second guardian, then third guardian etc.

I would now argue on the point as to whether 18 is an age when a man or woman can make a correct choice. In our country we do accept 18 as the age of majority. It is an age at which men are allowed not only to control property, but when we used to have institutions of Princes, they would also come to the throne. Even now they control property. They are regarded as being mentally mature enough to face the problems of the world and make correct judgements based on their own understanding. Now, the question or the arguments is, 'are they capable of managing the affairs of heart'? That is only limited point on

which we have to discuss. The rest of it is accepted for good or evil. Pandit Thakur Das Bhargava has made out a case that we should make change in the age of majority and bring it on a par with the marriageable age, but at the moment we are limited to this aspect as to whether a man is in a position to make a correct decision when it comes to the affair of the heart. I feel a distinction has been sought to be made that in the case of a woman she matures earlier and she can make a correct decision at 18, but for a man, he is much more innocent and he is not able to come to a correct decision. (*Interruption*). It is said that he must attain the age of 21 to make a correct decision. I feel, I have more faith in man and I would say that if a woman is able to make up her mind at 18, certainly a man is also able to make up his mind at 18. I would say that in Hindu marriages we are allowing the age to be 18 where it is not necessary to take the consent.

Pandit Thakur Das Bhargava (Gurgaon): There the age is going to be increased to 21.

Shrimati Renu Chakravartty: I know it is being increased, but I am arguing against that. I am saying that in Hindu marriages you are allowing a man to make a decision at the age of 18. In Hindu marriages you are also allowing inter-caste marriages which are considered by many as being problematical and which, according to certain people, will give rise to certain complications in society. You are allowing the decision to be made by man, at 18 with or without the consent of the guardian. (*Interruption*.) I think if my hon. friend Deshpande could, he would certainly not allow it to be on the Statute Book; but, I am sure we will be able to pass it. In any case, there must be strong argument in the minds of Government, for recommending 18 in the Hindu Marriage Bill otherwise it would not have been put on the draft proposal. Therefore, I feel that there is no case whereby we can say that at the age of 18 a girl can marry without the consent of the parents but the man

cannot do so until he attains the age of 21.

An Hon. Member: You want deduction of age in the case of man also?

Shrimati Renu Chakravartty: I do. It should be on a par. If it is 18 for the woman, it should be 18 for man also. The question that has been raised is that the marriages will be inter-provincial, inter-religious and in such cases complications arise. I feel that we are legislating for that section of the people who have moved forward from orthodoxy. We are making a provision for them. We do not consider inter-caste or inter-provincial marriages as wrong. That is why those who regard them as wrong, who say that it should not be allowed, oppose it. Let us be clear about it. If we say that they are not wrong and that they are not against happy marriages, then we should not regard them as very complicated affairs. It is not a question as to the character of the man which we are disputing. It is a question as to whether inter-caste, inter-religious or inter-provincial marriage is so very complicated that a girl or a boy of 18 years of age cannot make a decision. That is the point which we have to decide. Therefore, I really feel that the age limit should be 18 and should not require consent.

Lastly I come to the question of consent of the parents. Certainly, I must say that the parents must give their advice. It is only a natural thing. It depends upon the bond of affection between parents and children, the regard which the children hold for their parents and the way in which the children are brought up. These will decide whether the advice will be accepted or rejected. I think that advice must always be there at every stage whether at 18 or at 21. But, I do not see the logic of the argument that, the advice of the parents, instead of being persuasive and based on understanding, should be forced upon them by legal penalties in order to guarantee the welfare and happiness of our children.

[Shrimati Renu Chakravartty]

Then there comes the question of difficulties of guardianship. My hon. friend, Mr. Chatterjee, pointed out, while speaking on his amendment, that various difficulties have already arisen in this matter. I have no legal knowledge and so I cannot say much about them. The point was raised about the legal guardianship, that is, guardianship of property and guardianship of the person. Mr. Venkataraman has accepted that it will be the guardianship of the person. Even there, certain cases have been quoted by Mr. Chatterjee where specifically the Punjab High Court has given the ruling that in the case of guardians, their guardianship will not apply to marriages. Of course, I do not know how far it is correct and what the Law Minister thinks about it. One difficulty has already cropped up. Then the question will arise as to what will happen in the case of those who have parents alive, and even there the first choice is being left with the court guardians, and so many other complications will arise. I would like to put this before the House, namely, that we should judge it from this point of view: Are our children able to make their decision at 18? If they can make their decision about the affairs of life for which they are considered to have a mature judgment, then they should also be given the right of free choice of marriage, and I do not think that inter-caste or inter-religious or inter-provincial marriages are such complicated or wrong marriages that they cannot make their choice and that they will not be able to deal with properly.

Shri Bhagwat Jha Azad: At the very outset I am not prepared to run a race with my elder friends for expressing the progressive idea about age, but when such friends are cornered by youths, they take the plea that they are speaking with the experience of half a century in public life and bar. I was denied the right to express my views on this Bill by Mr. More; but for your assistance and kindness, I would not have been able to speak.

Mr. Chairman: I do not know how Mr. More comes in here.

Shri S. S. More: He is trying to catch my eye.

Shri Bhagwat Jha Azad: I am sorry that Mr. More claims that he has the experience of half a century. He just now said that I should not express my opinion on this Bill. He does not understand that I am competent to do it. Here is another friend who also says that I am not competent to express my views.

I would like to urge that the age should be reduced to eighteen for the purpose of marriage and I would like to support my point by rebutting the arguments advanced in favour of twenty-one. The arguments advanced are that wisdom seldom dawns before twenty-one, that boys and girls below twenty-one are mostly in schools and colleges and they do not finish their education and, therefore, they should not be allowed to marry. These arguments were advanced by Dada Kripalaniji. There are other friends who say that they are not capable of earning before that age and, therefore, marriage should not be allowed to take place before that age. So far as wisdom is concerned, if that is the ground for extending the age to twenty-one, then you will find a good example in this House that elderly persons who are far above twenty-one differ amongst themselves. Some of them are for 21, others are for 25 and probably there are persons who are for 35, as Acharya Kripalani said, and so it is not necessary that wisdom comes with age, but some times, and even most times, it comes even before the age of eighteen. This argument, which is repeated *ad nauseum* in this House, is, therefore, no valid argument at all. It is no argument to say that some of them do not finish their education in college till twenty-one. Probably, my friends, who are now far above twenty-one have abandoned their touch with the colleges. I came fresh from the university two years back and I feel I am in a

better position to keep my hands on the pulse of the young men than these gentlemen and, therefore, I consider that it is better in our circumstances that the age of marriage should be eighteen. There are students, boys and girls, who finish their education by eighteen. If you say that wisdom does not come at that age, then I say that there are some proverbs in my part of the country just as in other parts of India, which say that there are cases where wisdom does not come before sixty. Does it mean that those men should not be allowed to marry before sixty? Secondly, if the arguments are wisdom and capability of earning, then I feel the Law Minister should make a provision to the effect that persons who produce a certificate of wisdom or capability of earning will be allowed to marry. Then, there is no question of the age being 21 or 25 or 35. The only criterion is that the boy or girl, who will produce a certificate of capability of earning and wisdom, will only be allowed to marry.

Shrimati Sucheta Kripalani (New Delhi): Who will issue the certificate of wisdom?

Shri Bhagwat Jha Azad: It is for those gentlemen to answer the question. It is they that want such certificates and it is not my case. I say that the limit of 21 for marriage is not justified under our circumstances. There is a fundamental difference between the understanding of the gentlemen like Mr. Deshpande, and our understanding. Whereas they want to stick to dogmas and to their own concept of things, we want to move forward with the century. Marriage is an institution which is not to be strictly adhered as prescribed in our old religious books. It is an institution which has developed with the ages, and, therefore, the conception regarding marriage, regarding the fixation of the age of marriage and such other things should be reformed accordingly. I feel that the arguments that have been advanced by my friends regarding education and wisdom and other things are not justified.

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The previous speaker introduced another argument, namely, that of population and quoted the Health Minister of the Government of India as saying that the population will be increased. Her idea about population and marriage are very peculiar. We cannot understand her insistence on abstinence. Let her propagate, from her Ministry, all the facilities to be given to the couples. I feel that this population ground has no standing. I would plead, therefore, that the age should be limited or restricted to eighteen and I do not mind if, in the case of the males, it is twenty-one, but I strongly oppose the opinion that a girl at eighteen gets the wisdom, not the boy.

श्रीमती उमा मेहता (जिला सीतापुर व जिला खैरी—पश्चिम) : कल से आज तक इस बात पर बहुत बहस हो रही है कि लड़कों और लड़कियों की उम्र क्या होनी चाहिये। मैं सब भाषण बराबर सुन रही हूँ, और जब मैंने एन्थनी साहब का भाषण सुना मैं समझती हूँ कि वह कानून ठीक कहते हैं क्योंकि सार मूलक में जब एक कानून है तो वह इस को भी उन्हीं में लाना चाहते हैं।

साथ ही साथ जो इस वक्त औरतों के विचार हैं वह यह हैं कि हम समझते हैं कि हमने कन्यादान छोड़ दिया, हम लोगों ने ८ और ६ वर्ष में शादी करना छोड़ दिया, सप्तपदी को छोड़ा क्योंकि सप्तपदी तो कन्यादान के साथ ही होती है। आज दिन भी जब हम लड़की को ब्याहने चलते हैं तो हमें एक दम से कोई वर नहीं मिलता है। दहातों में दूसरा ख्याल है, दहातों में १४ वर्ष में शादी कर देते हैं, लेकिन जब १४ वर्ष में शादी होती है तो उस में भी कन्यादान नहीं होता है। तो यह चीजें हमारा समाज से निकलती जाती हैं। हमने जो लड़की के लिए १८ वर्ष की उम्र रखी है वह इसलिए रखी है कि हम समझते हैं कि इस उम्र में लड़की काफी समझदार हो जाती है और हिन्दुस्तान की आबादवा के ख्याल से वह उस उम्र में जवान भी हो जाती है। और वह उस उम्र में माता भी बन सकती है। इसलिए हमने

[श्रीमती उमा नेहरू]

लड़कियों के लिए १८ साल की उम्र रखी है। मेरी राय में लड़की की उम्र १८ से २१ करना ठीक नहीं है। आज लोगों का यह ख्याल है कि शादी के वक्त लड़के की उम्र लड़की से कम से कम पांच बरस ज्यादा होनी चाहिए। इसलिए मैं समझती हूँ कि लड़के के लिए १८ बरस रखना बहुत कम होगा। मैं समझती हूँ कि ऐसे अज्ञानी बहुत ही कम मात्रा में पाए जाएंगे जो अपने १८ वर्ष के लड़के को १८ वर्ष की लड़की से शादी करने की सलाह दें। मैं इसमें ज्यादा बहस नहीं करना चाहती। इसमें बहुत सारी बातें देखने को हैं। औरत और मर्द में फिजिकली और मेंटली बहुत फर्क होता है। औरत जल्दी बवान हो जाती है और उसमें समझ भी जल्दी आती है, मर्द को नहीं आती। १८ बरस का लड़का बिल्कुल लड़का रहता है। मुझे इस उम्र में लड़के की शादी करने में एतराज नहीं है लेकिन मैं समझती हूँ कि ऐसा करने से उसको फिजिकली भी नुकसान होगा। आज दिन हमारे यहां जो शादियां होती हैं उनमें अगर सात आठ बरस का उम्र में फर्क हो तो अच्छा समझा जाता है, नहीं तो कम से कम पांच साल का फर्क तो जरूर होना चाहिये। क्योंकि अगर मर्द और औरत दोनों तीस तीस साल के हों, तो उस उम्र में मर्द तो बवान दिखायी देता है पर औरत बुढ़िया दिखने लगती है। इसका कारण है। उसको बच्चे होने लगते हैं।

अब सवाल आता है कि फॉर्मली प्लानिंग हो या न हो जो शादी होती है उसमें पहला विचार यह आता है कि एक आँलाद पैदा हो। एक हो या दो हों यह बजट करना आपके हाथ में है। लेकिन अगर शादी इस ख्याल से होती है कि हमको आँलाद न हो तो मेरी राय में ऐसी शादी करना पाप है।

मैं ने चटर्जी साहब को सुना। मैं समझती हूँ कि जो वह कह रहे थे वह ठीक है। लेकिन मेरे ऊपर कुछ ऐसा असर पड़ा कि श्री ईशापांडे, श्री चटर्जी बगैरह को यह डर है कि अगर हमने

१८ बरस की उम्र कर दी तो कहीं सारे लोग लुढ़क कर इसमें न आ जायें। यह स्पेशल मैरिज बिल असल में उन लोगों के वास्ते है जो उनके ख्याल में बहुत प्रोग्रेसिव हैं। इसलिए वह ऐसी उम्र रखना चाहते हैं कि कहीं यह छूत सब को न लग जायें। उनको डर है कि अगर हम १८ बरस रखेंगे तो कहीं ऐसा न हो सारे विवाह इस स्पेशल मैरिज के मातहत होने लगे। इसलिए वे डर के मारे यह कहते हैं कि १८ बरस नहीं होना चाहिए। लेकिन मैं कहूंगी कि ऐसा नहीं है। और अगर यह चीज इतनी ताकत रखती है और समाज के लिए मुफीद है तो कोई बजह नहीं है कि हम सब के सब डुलक कर इसके अन्दर क्यों न आ जायें। हमको आगे जाना है और समाज को बदलना है। हमको इस तरह से समाज को नहीं देखना चाहिए। मैं उनको औरतों की तरफ से बताती हूँ कि हम हमेशा आपसे ज्यादा आर्थोडॉक्स ख्यालात की रही हैं। औरतों ने ही भारत के धर्म को कायम रखा है वना यहां के आदिमियों ने तो जो हुकूमत आयी उसके साथ अपनी बजह बदली। हमने नहीं बदली। हमने अपने धर्म को कायम रखा। आज क्या आप समझते हैं कि हम नहीं समझती कि कितनी मुश्किल से यह विवाह का रिवाज दूनिया में आया है कि एक मर्द और एक औरत विवाह करे। इतिहास से मालूम होता है कि यह रिवाज कितनी मुश्किल से दूनिया में आया है। हम इसे तोड़ना नहीं चाहतीं। हम तो इसे और भी मजबूत बनाना चाहती हैं। हम चाहती हैं कि ज्यादा तन्दुरुस्त और खूबसूरत बच्चे पैदा हों। इसलिए मैं चटर्जी साहब से और दूसरों से कहूंगी कि वे डरें न कि यह बिल पास होने से और इसमें १८ बरस की उम्र रखने से वे सब लोग जो सप्तपदी करते हैं इसमें आ जायेंगे। हमने यह बिल इसलिए रखा है कि जो नौबवान अपनी बिरादरी से बाहर शादी करना चाहते हैं, और हमारे मना करने पर भी करते हैं, उन बच्चों को भी हम अपने गले से लगा सकें और उनको अपने में मिला लें। यही हमारा धर्म है। इसलिए मैं हाउस से कहूंगी

कि इस बात को ख्याल करके लड़की के लिए १८ बरस मंजूर कर लें। लड़के के लिए २१ बरस रखा जाये मुझे एतराज नहीं है। मैं इस बिल को सपोर्ट करती हूँ।

Dr. Jaisoorya (Medak) rose—

Mr. Chairman: Will you be able to finish it within five minutes?

Dr. Jaisoorya: Yes, very soon. I am competent. There are two aspects. One is the biological aspect as far as age is concerned. The other is: the needs of society. We have to make a compromise between the two.

Shri Biswas: The third is the emotional aspect.

Shrimati Sucheta Kripalani: That is a constant factor in all matters.

Dr. Jaisoorya: Let me put some facts. It is only in recent times that a complete survey was made. We had up till now only fragmentary surveys about the biological aspect. It is correct that a girl, especially in the tropics, is physically ripe for marriage at 16. She is not biologically ripe for motherhood. The ideal age for a woman to become a mother is between 18 and 23. So, we have to see not only the physical ripeness of a woman but also her biological role as a mother. Therefore, I suggest 18 is a very good age for marriage. Complications arose because of the evil aspect of the Indian Majority Act and all that—that a boy is his own master in his own right at the age of 18.

Another unfortunate fact I have to tell you. That is so unfortunate as it is: that a boy is physically ripe at 18 and his urge is highest at the age of 18. But society cannot allow that because there are very few boys who are, at the age of 18, economically independent. So, the question is how many boys will marry at the age of 18, although they may be ripe. Very few boys will be able to marry at the age of 18.

Secondly, if the minimum age of the girl is fixed at 18, there will be very

few cases of boys of 18 who will marry the girls. Generally, there is a difference of three to four years. There are extremely few cases that I know of, where boys have married girls who are older than themselves—the boys. There are one or two little instances of which we should not be so terrified as to say that the age of boys should be raised to 21. If you look at it factually, very few cases will come under this category. On the average, society's position is that very few boys will marry at the age of 18. Most of them marry pretty late, and most of them marry girls who will be above 18 years of age. Therefore, I do not think we should make such a tremendous fuss about it. We can make a law that both can marry at the age of 18, *de facto*. Actually, it comes to what we really want: that the boy should be above 21 and the girl should be above 18.

Mr. Chairman: It is almost 10.45.

We shall take up Private Members' Bills. I think first we will take up the Bills to be introduced.

GOVERNMENT OF PART C STATES (AMENDMENT) BILL

Shri V. P. Nayar (Chirayinkil): I beg to move for leave to introduce a Bill further to amend the Government of Part C States Act, 1951.

Mr. Chairman: The question is:

"That leave be granted to introduce a Bill further to amend the Government of Part C States Act, 1951."

The motion was adopted.

Shri V. P. Nayar: I introduce the Bill.

WOMEN'S AND CHILDREN'S INSTI- TUTIONS LICENSING BILL

Shrimati Jayashri (Bombay—Suburban): I beg to move for leave to introduce a Bill to regulate and license