

THE INDIAN PENAL CODE (AMENDMENT) BILL, 1953

MR DEPUTY CHAIRMAN Before we take up Dr Seeta Permanand's motion which comes next, Mr Rama Rao will introduce his Bill if she will please yield to this.

(No hon Member dissented)

SHRI RAMA RAO (Andhra) Sir, I move for leave to introduce a Bill further to amend the Indian Penal Code 1860

MR DEPUTY CHAIRMAN The question is

"That leave be granted to Shri Rama Rao to introduce a Bill further to amend the Indian Penal Code, 1860"

The motion was adopted

SHRI RAMA RAO Sir, I introduce the Bill

THE WOMEN'S AND CHILDREN'S INSTITUTIONS LICENSING BILL, 1953

DR SHRIMATI SEETA PARMANAND (Madhya Pradesh) Mr Deputy Chairman, I beg to move

"That the Bill to regulate and license institutions caring for women and children be circulated for eliciting opinion thereon by the 15th March 1954"

Sir, the object behind this Bill is clearly stated in the Statement of Objects and Reasons and as such I would not like to dwell at length at this stage on the objects of the Bill but I would make only a few observations

Sir the Government has introduced the Children Bill, but a comparison of both these Bills would show that the scope of that Bill is almost entirely different from the present Bill

The present Bill seeks to license the existing institutions, usually of a private nature for women and children and for an obvious purpose

Sir, it is known that, as a rule, the homes for women and children which are sometimes known as orphanages are run out of selfish motives and profit is made out of them, usually to the detriment of the inmates. Sometimes these institutions develop into a scandal and it is sought by this Bill to make it compulsory for those who organize these institutions to take a licence so that the running of these institutions is subjected to proper inspection and control regarding nutrition, sanitation and discipline in the institutions and also a general supervision, to ensure that the institutions are run for the welfare of the inmates

Sir it is usually said in our country that it is a punishment to have children and if you look at the condition of even school-going children this would be quite obvious Sir the condition of the children who come from these orphanages is pitiable I would not like to be ungrateful to those who run them but sometimes the condition in the institutions, run even by foreign religious institutions is such that one wonders whether it is really desirable that these children should live in these institutions meant for their general welfare and education, and continue to receive education or they should be left to earn their living instead, even at a school-going age It is very difficult to say which will be ultimately in their interests Very often you see Sir that the people who run these institutions themselves live a luxurious life and the children inside are treated as labourers and made to starve almost

It is necessary to make one more point, and that I would like to make here before the Bill is sent out for eliciting public opinion, namely, that this Bill would apply to Part C States first and it will be left open to other

[Dr. Shrimati Seeta Parmanand.]  
States to pass suitable legislation on similar lines.

Sir, it is a common sight how money is often collected for these various institutions, but what use is made of it will be known when the opinions are received. Many people are familiar with children's parties being taken out to different district towns, to far off places and money collected for this children's institution or that institution for poor women. Sometimes people come to railway stations and collect money showing some sort of printed receipts and saying that the money collected is meant for the children's homes which, as a matter of fact, is not the case. All these things would be stopped if this Bill is given permission to proceed now and when later it is passed.

Sir, I do not think it is necessary to say anything more just now unless some other speeches follow and it is necessary for me to make a reply. So I will not take any more time of the House as there are a number of Bills of other Members pending for a long time and as everybody is anxious that his Bill or her Bill should get some chance to move a stage further. So I would like to close my remarks here.

MR. DEPUTY CHAIRMAN: Motion moved:

"That the Bill to regulate and license institutions caring for women and children be circulated for eliciting opinion thereon by the 15th March 1954."

THE DEPUTY MINISTER FOR HOME AFFAIRS (SHRI B. N. DATAR): Sir, I should like to point out at the outset that there is a doubt as to whether this Bill could come within the purview of this Parliament, because it is said to be applicable to all the States and the question is whether the Central Government have any authority to pass any law...

DR. SHRIMATI SEETA PARMANAND: I cannot hear anything. I will have to reply.

SHRI B. N. DATAR: Sir, I should like to raise the preliminary question as to whether this Bill is within the powers of the Central Government or this Parliament, because the hon. mover of the Bill wants to make it applicable to the whole of India, to all the States—Parts A, B, C and D. The question is whether it can legislate in respect of any other Parts except Parts A and B. I may point out that we can legislate so far as Part C States are concerned ....

DR. SHRIMATI SEETA PARMANAND: If I may interrupt the hon. Minister, I would like to mention that it will apply only to Part C States and then the other States might like to make suitable legislation on these lines.

SHRI B. N. DATAR: But that has not been made clear at all in the Bill itself. The Bill purports to be for the whole of India

DR. SHRIMATI SEETA PARMANAND: Would it be possible in view of the remarks that I have made here to correct it later on when the time comes?

MR. DEPUTY CHAIRMAN: As the Bill stands, it extends to the whole of India.

SHRI B. N. DATAR: Secondly, so far as the propriety of this Bill is concerned, there is another Bill which has been introduced in the other House by the Minister for Education. That Bill also ....

DR. SHRIMATI SEETA PARMANAND: That was introduced in this House.

SHRI B. N. DATAR: I did not know that. But the question is whether such a Bill is necessary at all at this stage. That also has to be considered.

MR. DEPUTY CHAIRMAN: How do you say that Parliament has no power? Under what article of the Constitution?

SHRI B. N. DATAR: Entry 4 of List II of the Seventh Schedule.

MR. DEPUTY CHAIRMAN: That refers to prisons, reformatories, borstal institutions and other things. It refers to juvenile offenders. This has nothing to do with offences.

SHRI B. N. DATAR: Entry 4 is the only item that can apply here. There is no other entry. We have got here reformatories. Reformatories are not necessarily confined to delinquents. It may be taken in a general sense.

DR. SHRIMATI SEETA PARMANAND: Sir, I beg to differ. In the present context it seems.....

SHRI B. N. DATAR: Entry 4 says: "Prisons, reformatories, borstal institutions and other institutions of a like nature". It may come perhaps only under reformatories and not anywhere else.

MR. DEPUTY CHAIRMAN: I am afraid that objection may not stand. Is there any other provision of law? Of course, you may vote it down, that is a different matter.

SHRI B. N. DATAR: The next question is whether a Bill of this nature, in so far as it is sought to be made applicable to the whole of India, is tenable here. That also is a question that has to be considered. The hon. mover has not stated that it is to apply only to Part C States and even in respect of Part C States, under the Part C States Act, the jurisdiction under such circumstances is concurrent between Part C States and the Central Government.

MR. DEPUTY CHAIRMAN: But you yourself said that the Government itself has introduced a similar Bill.

SHRI B. N. DATAR: The purpose there is entirely different.

MR. DEPUTY CHAIRMAN: So an objection has been taken, Dr. Seeta Parmanand.

DR. SHRIMATI SEETA PARMANAND: As for the objection raised on the score that the Education Minis-

ter has moved a similar Bill, I have already referred to it, apprehending this objection that the scope of that Bill is quite different. If you were to look into the 52 clauses of that Bill, you will find that it seeks to take certain legislative powers for the care and protection of particularly delinquent children. This Bill does not refer to delinquent children.

MR. DEPUTY CHAIRMAN: Under what provision of the Constitution do you bring forward this Bill? What is the power of Parliament? What is the particular article which gives Parliament power to enact such a law?

DR. SHRIMATI SEETA PARMANAND: If I could get a little time, I will be able to say. I will have to see which particular provision is applicable.

THE MINISTER FOR LAW AND MINORITY AFFAIRS (SHRI C. C. BISWAS): There is the residuary power in entry 97 in List I. It says "any other matter not enumerated in List II or List III".

MR. DEPUTY CHAIRMAN: That gives power to Parliament to enact.

SHRI C. C. BISWAS: What my hon. friend was trying to say was.....

MR. DEPUTY CHAIRMAN: What is the hon. Law Minister's opinion?

SHRI C. C. BISWAS: The Children Bill may have been introduced by virtue of this residuary power.

MR. DEPUTY CHAIRMAN: That means that Parliament has power, if it is not in List II or List III.

DR. SHRIMATI SEETA PARMANAND: Parliament has general powers of administration. Anyhow it has been a very bad omission in putting.....

SHRI C. C. BISWAS: And that Bill was restricted to Part C States. The idea was that that could be a model which other States might copy. But this Bill makes it applicable to the whole of India.

DR. SHRIMATI SEETA PARMANAND: I do admit that it has been an omission. But I said, in my preliminary remarks, that this will be applicable only to Part C States and like the Children Bill, other States may be left to legislate on similar lines.

MR. DEPUTY CHAIRMAN: Then you have to withdraw this Bill and bring forward another one.

DR. SHRIMATI SEETA PARMANAND: That could be done, but it means going through all stages over again. It might not get a chance in the ballot even.

MR. DEPUTY CHAIRMAN: That cannot be helped. You will withdraw the Bill?

DR. SHRIMATI SEETA PARMANAND: If there is no other way, I have to do that. But I think the House should give permission, if it is not against rules, to proceed with this.

MR. DEPUTY CHAIRMAN: You have to withdraw this and bring forward a fresh one, if you feel that it is absolutely necessary, even in spite of the Bill that has been introduced by the Government, that you should bring a separate Bill.

DR. SHRIMATI SEETA PARMANAND: Government's Bill, Government itself have to admit, is quite on different lines. I do not know how anybody can even argue that the two Bills are the same. They are quite different.

MR. DEPUTY CHAIRMAN: You may consider all aspects of the question and bring forward a separate Bill.

DR. SHRIMATI SEETA PARMANAND: If there is no other alternative, if the House feels that way that it would not allow this small change to be made later, I have no other course. But the Bill would be perfectly plain, because the preliminary remarks could be there that the Bill will apply to Part C States only. It

will make the position clear. It is a small technicality and Members of the House would realise how difficult it is for private Members to bring forward Bills, even to secure a place in the ballot. The Bill is in the interests of women and children and Members of the House know what havoc is being caused in this sphere and how every day is a valuable day lost. I would really beg of them to ignore this little technicality. Again, at this stage I am not asking that this Bill should be taken into consideration or anything like that. It is only to be circulated for eliciting public opinion and the necessary change can be made later. The confusion, that might be caused in the minds of the people, has already been cleared by me in the preliminary remarks even before the objection was taken. I would therefore beg of the House.....

MR. DEPUTY CHAIRMAN: I am afraid such an amendment cannot be allowed now. On a previous occasion another Bill was thrown out in similar circumstances. You will have to withdraw the Bill.

DR. SHRIMATI SEETA PARMANAND: Why not put it to the House, if I may request you?

SHRI RAMA RAO (Andhra): Why not tell the Members what should be done? What is the use of taking advantage of their ignorance of law?

MR. DEPUTY CHAIRMAN: Ignorance of law is no excuse. It is a well known legal maxim.

(Interruptions.)

DR. SHRIMATI SEETA PARMANAND: Everybody makes mistakes. Even the best judges do make mistakes. When we come to the discussion of some of the Bills before the House like the Special Marriage Bill, we will see to that. May I point out one thing? Sometimes certain questions are overruled because they are against the rules. When certain Resolutions are not allowed, the Secretariat is kind enough to point out to us

what the causes are. I wish this had been pointed out to me by the Secretariat so that it could have been corrected. In view of the fact that the omission has not been only from one side, I would request you to put it to the House as to whether they would like in this particular case to condone this little omission which can be rectified at a later stage.

PANDIT S. S. N. TANKHA (Uttar Pradesh): May I know whether the House has that right?

KAKASAHEB KALELKAR (Nominated): We see no harm in making that little correction and allowing the Bill to be proceeded with.

SHRI C. C. BISWAS: I agree with my hon. friend that the House cannot condone a defect like this. It goes to the root of the matter. She might make a complaint that it was not pointed out to her. But suppose it was pointed out and in spite of that it was not done. In such a situation will the House condone it?

(Interruptions.)

3 P.M.

PANDIT S. S. N. TANKHA: It is not within the right of this House to condone this.

MR. DEPUTY CHAIRMAN: It is not a little mistake; I tried to point out to the hon. Member that it was a serious mistake; it is not a little mistake.

SHRI PRITHVIRAJ KAPOOR (Nominated): Sir, when the hon. Member is concerned with the soul of the Bill, why should we bother ourselves with the body thereof?

KAKASAHEB KALELKAR: Sir, when the hon. Member herself says that she intends this Bill to extend only to Part C States, that ought to be enough and for a little technical error, it is not proper to disallow consideration. Supposing there is a printing mistake or a mistake of grammar, we would have corrected it.

MR. DEPUTY CHAIRMAN: It is not a technical mistake. This Bill is made applicable to the whole of India. Parliament has got powers to pass such a law only for Part C States and even the Bill that has been introduced by the Government refers to Part C States. I refuse to allow the Bill.

DR. SHRIMATI SEETA PARMANAND: Sir, I would like to make a request. When the Ancient and Historical Monuments Protection (Amendment) Bill was before the House, the hon. Minister in charge of the Bill was allowed to take two hours for correcting some faults and introduce it.....

MR. DEPUTY CHAIRMAN: That was only an addition to a Schedule; the body of the Bill was not altered.

SHRI S. N. MAZUMDAR (West Bengal): Sir, may I submit.....

MR. DEPUTY CHAIRMAN: Mr. Mazumdar, I have given the ruling; I will not allow the Bill to be proceeded with.

SHRI RAMA RAO: Is there any provision in our Secretariat to help us with the technical and legal knowledge required.....

MR. DEPUTY CHAIRMAN: It is for the hon. Member to take the necessary help from the office.

THE MINISTER FOR HOME AFFAIRS AND STATES (DR. K. N. KATJU): You consult me; I shall help you.

## THE STANDARD WEIGHTS AND MEASURES BILL, 1953

MR. DEPUTY CHAIRMAN: We shall go to the next Bill, the Standard Weights and Measures Bill. Shri Kishen Chand.

SHRI KISHEN CHAND (Hyderabad): Mr. Deputy Chairman, I beg to move:

"That the Bill to provide for the standardisation of weights and