

Tuesday, 14th September, 1954

# LOK SABHA DEBATES

(Part I—Questions and Answers)

VOLUME IV, 1954

(23rd Aug. — 24th Sept. 1954)



SEVENTH SESSION

1954

LOK SABHA SECRETARIAT

NEW DELHI

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## LOK SABHA

*Tuesday, 14th September, 1954*

*The Lok Sabha met at Eleven of the Clock*

[MR SPEAKER in the Chair]

### ORAL ANSWERS TO QUESTIONS

#### INDIAN SHIPPING

**\*878. Shri Jhulan Sinha:** Will the Minister of Transport be pleased to state:

(a) whether it is a fact that the growth and expansion of the Indian Shipping enterprise has been impeded due to scarcity of trained personnel; and

(b) if so, the steps taken or being taken to relieve the impediment?

**The Deputy Minister of Railways and Transport (Shri Alagesan):**

(a) No Sir.

(b) Does not arise.

**Shri Jhulan Sinha:** May I know what are the facilities that are there for training the technical personnel for development of shipping in India?

**Shri Alagesan:** On the 'Dufferin' we are training cadets for the navigational side. At the Marine Engineering College, Calcutta, we are training Engineering officers. Also, post-sea training is imparted in the Nautical and Engineering College at Bombay.

**Shrimati Ila Palchoudhury:** What percentage of our trade is carried by Indian ships?

**Shri Alagesan:** The entire coastal trade is carried by Indian ships.

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## C. T. O. TRAINING SCHEME

**\*879. Shri K. P. Sinha:** Will the Minister of Food and Agriculture be pleased to state:

(a) the number of trainees who after receiving training in the Central Tractor Organisation have so far been absorbed by the said Organisation;

(b) the total number of persons who have completed training upto June, 1954; and

(c) the total number of trainees who are undergoing training at present at Delhi and Bairagarh separately?

**The Minister of Food and Agriculture (Shri Kidwai):** (a) 6.

(b) 78.

(c) 26 at Delhi and 13 at Bairagarh.

**Shri K. P. Sinha:** May I know if there is any difference in courses for engineering graduates and other trainees?

**Shri Kidwai:** There is a difference as regards training. Some people come for training only in tractor driving and mechanics. Some people are sent by the Education Ministry for some particular training; others are sent by States.

**Shri K. P. Sinha:** May I know if the trainees are given any assistance by the Government; if so, what is the assistance given?

**Shri Kidwai:** When the State Governments send trainees, they must be paying something to them.

## THEFT OF COPPER WIRE

**\*880. Shri Krishnacharya Joshi:**

Will the Minister of Communications be pleased to state:

(a) how many persons were prosecuted and how many were convicted for the offence of copper wire thefts at various places in 1953; and

(b) what steps Government have taken to prevent such thefts?

**The Deputy Minister of Communications (Shri Raj Bahadur):** (a)—

Prosecuted	250
Convicted	123

(b) A statement giving the necessary information is placed on the Table of the House. [See Appendix VI, annexure No. 1.]

**Shri Krishnacharya Joshi:** May I know what is the mode of punishment inflicted upon the convicted?

**Shri Raj Bahadur:** Mode of punishment?

**Mr. Speaker:** He wants to know whether it is fine or imprisonment.

**Shri Raj Bahadur:** Imprisonment. The same that is provided for in the Act for thefts of this kind.

**Shri Krishnacharya Joshi:** May I know what is the total loss to the Government on account of these thefts?

**Shri Raj Bahadur:** According to the book value, in 1951 it was Rs. 3,21,980 and in 1952 it was Rs. 2,52,650. The actual value—which is about three times the book value—in 1953 was Rs. 8,41,200.

**Shri Krishnacharya Joshi:** May I know what is the percentage of persons acquitted?

**Shri Raj Bahadur:** As I said, out of 250 prosecuted in 1953, 123 have been convicted. That comes to about 50 per cent. of the total number.

**Shri Thimmaiah:** May I know whether there are any P. & T. officials involved in these cases?

**Shri Raj Bahadur:** So far as I know, no, Sir.

## CONTRIBUTORY HEALTH SCHEME

**\*883. Shri Krishna Chandra:** Will the Minister of Health be pleased to state:

(a) whether the Contributory Health Scheme for Central Government Employees has been brought into force;

(b) whether any representations have been received against the compulsory enforcement of this scheme; and

(c) the estimated expenditure for the implementation of the Scheme?

**The Minister of Health (Rajkumari Amrit Kaur):** (a) Yes.

(b) Yes. Some representations have been received on the plea that there should be free treatment.

(c) The estimated expenditure sanctioned so far is Rs. 14.15 lakhs for the year 1954-55.

**Shri Krishna Chandra:** May I know how many persons are taking advantage of this scheme so far?

**Rajkumari Amrit Kaur:** About 2½ lakh persons come under this scheme, and the daily attendance is over 4,000.

**Shri Krishna Chandra:** May I know whether any complaint has been received by the hon. Minister or by the Government in connection with the implementation of this scheme?

**Rajkumari Amrit Kaur:** The complaint so far received has been that they have to wait a long time because of inadequacy of staff. That matter is being looked into.

**Shri Krishna Chandra:** Is it not a fact that an employee who has to go to the hospital has to wait in queues at several places before he is given treatment?

**Rajkumari Amrit Kaur:** There is no question of waiting at several places.



But because of the very great rush, especially during this month, they have to wait rather longer than we would like them to wait. Therefore, the question of additional staff is being taken up.

**Shrimati Renu Chakravartty:** May I know if any representations have been made to exempt Class IV servants and to allow them free amenities without having to contribute?

**Rajkumari Amrit Kaur:** Some representations were made for free treatment, but I am afraid they did not come from the Class IV staff. They came from higher grade staff.

**The Minister of Food and Agriculture (Shri Kidwai):** Class I!

#### LATE RUNNING OF TRAINS

**\*884. Shri Tushar Chatterjea:** Will the Minister of Railways be pleased to state:

(a) whether Government are aware of the frequent late-running of the suburban trains on the Sealdah and Howrah Divisions of the Eastern Railway;

(b) if so, what action has been taken to remedy the problem;

(c) whether it is a fact that one of the causes is the use of old engines on the trains; and

(d) how many old engines are still functioning in Sealdah and Howrah?

**The Deputy Minister of Railways and Transport (Shri Alagesan):** (a) and (b). Yes, but every effort is made to ensure the punctual running of suburban trains. The special steps taken in this direction include effective steps to prevent alarm chain pulling and disciplinary action against staff responsible for causing detentions.

The water on the Division used by the locomotives is receiving special treatment and big improvements have already been effected.

(c) No, Sir.

(d) Out of a total of 143 engines employed on the suburban trains on both the Divisions, 47 are over-age.

#### FANS ON N.E. RAILWAY

**\*885. Pandit D. N. Tiwary:** Will the Minister of Railways be pleased to state:

(a) whether it is a fact that a large number of fans fitted in the Inter and the Third Class compartments of the North Eastern Railway are out of order; and

(b) whether it is a fact that the number of technicians and mechanics required for repairing these fans is inadequate to cope with the increased number of fans?

**The Deputy Minister of Railways and Transport (Shri Alagesan):** (a) The incidence of failure of fans in coaches on the North Eastern Railway does not appear to be appreciably greater than on other Railways.

(b) No, Sir.

**Pandit D. N. Tiwary:** In view of the fact that the number of fans in the third and inter classes have been increased, may I know what is the increase in the number of technicians for repairing them at the various stations, that is to say, whether the increase in the number of fans conforms to the increase in the number of technicians?

**Shri Alagesan:** There is no dearth of technicians. But all the coaches on the North Eastern Railway have not been fitted with either batteries or dynamos. This is being done on a programmed basis. This year also, it is proposed to equip 272 more coaches with these batteries.

**Pandit D. N. Tiwary:** Are Government aware that complaints at stations for repairing these things are not attended to, and—not only that—there is danger of mishandling or bad behaviour on the part of the staff, as happened at Moghalsarai in the case of some Member of this House?

**Mr. Speaker:** He wants to know whether there have been complaints about maltreatment of persons, including a Member of Parliament.

**Shri Alagesan:** I am sorry I am not aware of any such incident. It has not come to our notice.

**Shri Bnagwat Jha Azad:** May I know if responsibility has been entrusted to any particular officer who can be contacted about these things? What happens is that when the guard is contacted, he directs people to the ticket collector, and from the ticket collector it goes to the Station Master and, meanwhile, the train steams off.

**The Minister of Railways and Transport (Shri L. B. Shastri):** A case was brought to our notice by a Member of Parliament. He sent a complaint to me also. I immediately ordered an inquiry and that inquiry is still going on. As regards reporting the matter to the staff at stations, hon. Members or the members of the public can inform the guard as well as the Station Master.

#### LOSS ON PROCURED AND IMPORTED FOODGRAINS

\*886. **Shri S. C. Singhal:** Will the Minister of Food and Agriculture be pleased to state:

(a) how much loss in value Government have incurred on procured and imported foodgrains from 1951 to 1953; and

(b) what was the percentage of quantitative loss in stocks?

**The Minister of Food and Agriculture (Shri Kidwai):** (a) Foodgrains were not procured locally by the Government of India during the years 1951 to 1953. As regards the imported foodgrains the State Trading Scheme is worked on a 'no profit no loss' basis and the question of any loss in value does not arise.

(b) The percentage of quantitative loss was as follows:—

Year	On the Sea	In transit and storage in India
1951	0.3	0.305
1952	0.24	0.73
1953	0.12	0.79 (Provisional).

**श्री एस० सी० सिन्हा :** एस्टीमेट कमिटी की सन् ५२-५४ की रिपोर्ट में दिया हुआ है कि जो माल सन् ५१, ५२ में जहाजों से आया, उसमें सवा दो करोड़ रुपये का घाटा हुआ और उस घाट को राइट आफ कर दिया है, low far this is correct ?

**श्री किशोर :** मैं ने अर्ज किया कि जो माल जहाजों से आया उस पर सन् ५२ में ०.२४ परसेंट लॉस स हुआ और यहां रखने से ०.७३ परसेंट लॉस हुआ और एक कमिटी कई वर्ष हुए श्री वी० टी० कृष्णमाचारी की सदारत में बनायी गयी थी, उसने कहा कि दो से तीन परसेंट तक लॉस तो होता ही है, उसको देखते हुए हमारा लॉस बहुत कम है ।

**श्री एस० सी० सिन्हा :** जो जहाजों में माल आया और जिसको जहाजों से नहीं उतारा गया, उसमें सवा दो करोड़ रुपये का लॉस हुआ ?

**श्री किशोर :** मैंने कहा उसमें ०.२४ परसेंट लॉस हुआ जो उस लॉस से बहुत कम है जितना लोग कहते हैं कि होना चाहिये था ।

**श्री एस० सी० सिन्हा :** क्या सरकार ने इस बात का भी पता लगाया कि जहाज वालों ने इस माल को बेच तो नहीं लाया . . . .

**Mr. Speaker:** Order, order; it is carrying on an argument.

**Shri Thirunavukarasu:** May I know what is the estimated value of the loss on the rice that is being imported from Burma?

**Shri Kidwai:** The hon. Member has presumed that there will be a loss. There will be no loss, I hope.

#### ANTI-MALARIA PLANS

\*887. **Shri A. K. Gopalan:** Will the Minister of Health be pleased to state:

(a) what steps have been contemplated under the Second Five Year Plan to check the menace of Malaria;

(b) whether Government are satisfied that financial difficulty will not affect the anti-Malaria plans of the Five Year Plan; and

(c) if so, what is the actual difficulty in eradicating Malaria or at least curtailing its intensity?

**The Minister of Health (Rajkumari Amrit Kaur):** (a) Proposals for the Second Five Year Plan have not yet been finalised.

(b) Yes.

(c) No difficulty is envisaged in curtailing the intensity of Malaria. Complete eradication under existing conditions, is not feasible.

**Shrimati Renu Chakravarty:** May I know, besides D. D. T. spraying, whether any steps had been taken by Government to destroy water-hyacinth in many parts of the country in the malaria-affected areas?

**Rajkumari Amrit Kaur:** In addition to D. D. T. spraying, the public is educated and wherever water schemes are coming in, it is seen to it that there is proper drainage so that breeding grounds for mosquitoes are eliminated as far as possible.

**Shri V. P. Nayar:** May I know whether, in view of the fact that millions of man-hours are lost on account of malaria, Government have set itself to any target in the reduction of the incidence of malaria in the first Five Year Plan?

**Rajkumari Amrit Kaur:** In the first Five Year Plan, at the end of it, 125 million persons will be freed from the risk of malaria. In the Second Five Year Plan, I hope more than that number will be freed from that risk.

**Shri A. M. Thomas:** May I know whether all the 90 units are functioning at present and what is the expenditure incurred so far?

**Rajkumari Amrit Kaur:** Rupees ten crores has been set aside for the three-year period from 1953-56. The number of Units in the States are, Andhra 2, Assam 5, Bihar 7 and, as a matter of fact, Bihar will get 14 at the end of the Five Year Plan and because of the floods in Bihar *ex-gratia* payment has also been made

for 4 extra Units, Bombay 19, Madhya Pradesh 12, Punjab 7, U. P. 5, West Bengal 8, Orissa 5, Madras 3, Hyderabad 6, PEPSU 2, Jammu and Kashmir 1, Mysore 5, Saurashtra 3, Travancore-Cochin 3, Madhya Bharat 4, Rajasthan 2, Ajmer 2/3, Bhopal 1, Bilaspur 1/3, Delhi 2, Himachal Pradesh 1/2, Cutch 1/2, Manipur 1, Tripura 3/4 and Vindhya Pradesh 3.

#### PILOTAGE AT HOOGHLY

**\*888. Ch. Raghubir Singh:** Will the Minister of Transport be pleased to state:

(a) whether it is a fact that income from pilotage at Hooghly resulted in a loss in 1952-53 and 1953-54;

(b) if so, what were the reasons for this loss; and

(c) what steps Government propose to take to make up this loss?

**The Deputy Minister of Railways and Transport (Shri Alagesan):** (a) Yes.

(b) The deficit is due to heavy operational expenses and Sinking Fund Charges.

(c) The scale of Pilotage fees and the rate of surcharge leviable thereon have been enhanced with effect from the 1st November, 1953.

**Ch. Raghubir Singh:** May I know the amount of loss sustained by the Government during these years?

**Shri Alagesan:** We have been sustaining a loss under this head from the year 1950-51. It was about Rs. 10 lakhs that year, Rs. 6.85 lakhs next year, that is, 1951-52; in 1952-53 it was 8.54 lakhs and in 1953-54 Rs. 9.16 lakhs.

**Ch. Raghubir Singh:** Is it a fact that the Government appointed a Committee to consider this matter?

**Shri Alagesan:** As I said, the surcharge has been raised from 25 per cent. to 33 1/3 per cent. And, as a result of this increase, we hope to get about Rs. 10.51 lakhs.

**Mr. Speaker:** He wants to know whether the Government has appointed any Committee?

**Shri Alagesan:** No, Sir.

**Shri Bhagwat Jha Azad:** May I know what are the reasons for this deficiency and what steps are taken to effectively reduce it?

**Shri Alagesan:** It is because of the maintenance cost of the pilot vessels we are having and also the contribution to the Sinking Fund Charges, which have already been referred to in the reply.

#### SHIFTING OF SUGAR MILLS

\*889. **Shri N. Rachiah:** Will the Minister of Food and Agriculture be pleased to state:

(a) how many sugar mills are shifting from North to South India;

(b) how many new sugar mills are being established in South India;

(c) the cost of shifting of the mills from North to South India;

(d) the quantity of sugar-cane required for these Mills; and

(e) what acreage of land will be required therefor?

**The Minister of Food and Agriculture (Shri Kidwai):** (a) One.

(b) Licences for the establishment of 7 new sugar factories in South India have been granted, and 25 more applications are under consideration.

(c) About 10 to 15 lakhs depending upon the size of the plant and distance between the old and new site.

(d) and (e). A quantity of about 7.5 lakh tons of cane will be required for the 7 factories already granted licences. This will require an area of about 30,000 acres.

**Shri N. Rachiah:** May I know how many representations have been received from the Mysore State for starting new sugar factories?

**Shri Kidwai:** One licence has already been granted and the other applications are pending.

**Shri Velayudhan:** May I know whether there was any proposal to shift the only sugar factory in Travancore-Cochin to the Madras State?

**Shri Kidwai:** I do not remember having seen any such request.

**Shri V. P. Nayar:** Is it a fact that the only sugar factory in Travancore-Cochin now run by the Travancore-Cochin Sugars and Chemicals, has been sold to some other concern outside the State and the Government of India has permitted the factory being shifted from Travancore-Cochin to a place in the Madras State?

**Mr. Speaker:** That is the same question.

**Shri V. P. Nayar:** I wanted to know whether the Government have passed any orders.

**Mr. Speaker:** Whether the transfer was permitted by the Government of India.

**Shri Kidwai:** No, Sir.

**Shrimati Tarkeshwari Sinha:** May I know whether the Government propose to establish some factories on a co-operative basis and whether Government propose to give some subsidy to the State Governments who have asked for starting sugar factories on a co-operative basis?

**Shri Kidwai:** There is no question of giving any subsidy. The Bombay Government, I understand, is proposing to establish 10 or 12 co-operative factories. We have already received a request from Andhra for starting one factory by co-operative societies.

**Shri L. N. Mishra:** May I know why the Bihta Sugar Mills of Bihar has been ordered to be shifted, in spite of the opposition of the State Government, cane-growers and the labour workers?

**Shri Kidwai:** Because factory is not getting the full cane required for its capacity.

**'OWN YOUR TELEPHONE' SCHEME**

**\*890. Shri Radha Raman:** Will the Minister of Communications be pleased to state whether the amount realized under the 'Own Your Telephone' Scheme is utilized for any specific purpose; and if so what?

**The Deputy Minister of Communications (Shri Raj Bahadur):** The amount is utilised for opening new telephone exchanges and for rehabilitation and/or expansion of the existing telephone systems.

**Shri Radha Raman:** May I know if the scheme is going to be given up soon?

**Shri Raj Bahadur:** No, Sir.

**Shri Radha Raman:** May I know up to what time the Government propose to continue the system?

**Shri Raj Bahadur:** As long as we attain a reasonable level of telephone development in the country.

**Shri B. N. Misra:** What is the amount which has been received?

**Shri Raj Bahadur:** Up to 31st July, 1954, Rs. 4.26,10,500.

**RECLAMATION OF LAND**

**\*892. Shri Bahadur Singh:** Will the Minister of Food and Agriculture be pleased to state:

(a) whether any land reclaimed by the Central Tractor Organisation remained uncultivated and got re-infested during 1953-54; and

(b) if so, what was the area of such land and the cost that has been incurred for its reclamation?

**The Minister of Food and Agriculture (Shri Kidwai):** (a) The Governments of Madhya Pradesh, Bhopal and Punjab have intimated that no reclaimed land remained uncultivated and got re-infested except for a negligible area in Bhopal. The Madhya Bharat Government have indicated that the information will be available only in August, 1955, while the reply of the Uttar Pradesh Government has

not yet been received. However, in these States also there is not likely to be any appreciable incidence of lands which after reclamation remained uncultivated and got reinfested.

(b) Does not arise.

**Shri T. N. Singh:** May I know whether Government have any arrangement for follow-up cultivation in case a particular land is not let out or given to owners, and in cases also where owners are not able to take up cultivation immediately?

**Shri Kidwai:** I think I have already informed that no land remained uncultivated and therefore this question does not arise.

**INDIAN BOARD FOR WILD LIFE**

**\*893. Shri M. R. Krishna:** Will the Minister of Food and Agriculture be pleased to state how far the recommendations made by the "Indian Board for Wild Life" have been implemented?

**The Minister of Food and Agriculture (Shri Kidwai):** A statement showing the recommendations made and action taken on each is laid on the Table of the Sabha. [See Appendix VI, annexure No. 2.]

**Shri M. R. Krishna:** From the statement I find that the State Governments were asked to set up separate 'Wild Life Boards'. May I know how many States have set up these Boards and whether the Centre is giving any financial assistance?

**Shri Kidwai:** We have not received any reports as to whether the State Governments have taken any action on it.

**Mr. Speaker:** The latter part of the question—whether the Centre is giving any financial assistance—has not been answered.

**Shri Kidwai:** When the scheme is received and we find that some aid is necessary, the financial assistance will

be given. I hope the hon. Member will not ask us to allocate some money even if they do not require it.

### डाक के जाली टिकट

\*८९६ श्री नवल प्रभाकर : क्या संचार मंत्री यह बताने की कृपा करेंगे कि :

(क) क्या यह सच है कि दिल्ली गुप्त-चर विभाग ने डाक के जाली टिकट छापने वाले एक दल का पता लगाया है;

(ख) यदि हां, तो इस सम्बन्ध में कितने व्यक्ति गिरफ्तार किए गए हैं; और

(ग) उन से डाक के कितने टिकट बरामद हुए ?

The Deputy Minister of Communications (Shri Raj Bahadur): (a) The answer is in the affirmative.

(b) Five persons have been arrested in this connection.

(c) 468 postage stamps of annas-two denomination.

श्री नवल प्रभाकर : क्या मैं जान सकता हूँ कि इस दल से सम्बन्ध रखने वाले कोई और भी व्यक्ति देश में पकड़े गये हैं ?

श्री राज बहादुर : अभी सारं मामले की पुलिस तकत्तीश कर रही हैं, इसलिये-इस के सम्बन्ध में और कुछ कहना कठिन है।

Several Hon. Members rose—

Mr. Speaker: He has already stated that the matter is under investigation.

Shri B. N. Miara: Sir, I want to put one question. What is the action which the Government has taken as regards the persons who have been arrested for printing counterfeit postal stamps?

Mr. Speaker: He has already stated that the matter is under investigation. That is the action taken by the Government.

### JUTE CULTIVATION

\*901. Shri Bibhuti Mishra: Will the Minister of Food and Agriculture be pleased to state:

(a) whether it is a fact that jute cultivation has decreased during the current season due to low prices; and

(b) if so, the steps taken or proposed to be taken to raise the jute prices?

The Minister of Food and Agriculture (Shri Kidwai): (a) According to the all-India First Estimate of Jute for 1954-55 the area under jute has increased in the current season by about 5 per cent. over the preceding year.

(b) To improve the prices of raw jute Government are adopting indirect methods of long and short-term nature, e.g. improving the quality of the produce, increase in the yield per acre, bringing about a reduction in the production costs, and stopping of speculative activity. The price of raw jute ultimately depends on the price of jute manufactures fetched in the world market and Government keep a close watch on the conditions affecting India's export trade in jute goods and every possible step is taken to stimulate exports and to increase the competitive ability of the Indian jute manufactures in the overseas markets by way of reduction in export duty and liberalisation of export control.

श्री बिभूति मिश्र : क्या सरकार किसानों के हित के लिये जूट की भी मिनिमम कीमत तय करने की योजना बना रही हैं जैसे कि वह गन्ने की मिनिमम कीमत तय करती हैं ?

श्री किशूबहाई : मुश्किल तो यह है कि कुछ शकर हम बाहर से भी इम्पोर्ट करते हैं इसलिये हम जितनी कीमत चाहें रख दें, लेकिन हमारा जूट का सामान तो बाहर जाता है। अगर वह लोग नहीं खरीदेंगे तो हम कैसे कीमत बढ़ायेंगे ?

श्री बिभूति मिश्र : क्या सरकार जूट को खरीद कर अपने व्यवसाय में लगाना चाहती हैं और किसानों को ज्यादा कीमत देना चाहती हैं ?

श्री किशोर : अभी तक सरकार का यह इरादा नहीं है कि किसानों को ज्यादा कीमत दे कर जूट को खरीद और कम कीमत पर उस के माल को यहां से बाहर भेजे ।

**The L. N. Mishra:** The hon. Minister has referred to the question of improving the quality of jute. May I know whether the Government have received any reports from the State Governments about the steps they are taking towards improving the quality of jute? I may inform the hon. Minister that so far as the State Governments are concerned, no steps have been taken to improve the quality of jute.

**Shri Kidwai:** The hon. Member himself has replied to that question, but I think the information is not correct. We daily receive reports which show that different schemes for improving the quality of jute have been started in West Bengal and in other States, particularly Uttar Pradesh.

**Shrimati Renu Chakravartty:** May I know if the Government has made any survey to find out if the actual price prevailing this year is on a par with the cost of production of jute?

**Shri Kidwai:** It is very difficult to actually find out what is the cost of production of an Indian agriculturist, because I have found that, when in one State the Government attempted to find out the cost of production of wheat, the result was that it was found to be Rs. 80 per maund which nobody could imagine.

#### PORT AND SHIPPING STATISTICS COMMITTEE REPORT

\*902. **Shri Shivananjappa:** Will the Minister of Transport be pleased to state:

(a) whether the Port and Shipping Statistics Committee has submitted its report; and

(b) if so, whether a copy of the report will be placed on the Table of the House?

**The Deputy Minister of Railways and Transport (Shri Alagesan):** (a) Yes.

(b) A copy of the report will be placed in the Library of Parliament as soon as it is printed.

**Shri Shivananjappa:** May I know what are the main features of the recommendation?

**Mr. Speaker:** He will find them in the report when it is placed in the Library; it is under print.

#### NATIONAL HIGHWAYS IN ANDHRA

\*903. **Shri Viswanatha Reddy:** Will the Minister of Transport be pleased to state:

(a) the names of the national highways that pass through the Andhra State;

(b) whether it is a fact that some more roads are proposed to be taken over by the national highways;

(c) if so, the names of such roads; and

(d) the amount that has been sanctioned during the year 1954-55 for the maintenance of the national highways in Andhra State, specifying the allotment for each road?

**The Deputy Minister of Railways and Transport (Shri Alagesan):** (a) A statement giving the required information is laid on the Table of the Sabha. [See Appendix VI, annexure No. 3.]

(b) No.

(c) Does not arise.

(d) Rs. 32.00 lakhs. Information regarding the amount earmarked for each road has not yet been received from the State Government.

**Shri Viswanatha Reddy:** With reference to National Highway No. 7 connecting Benaras and Cape Comorin may I know whether the Government of Andhra have requested the Central Government to construct a bridge over Tungabhadra and if so,



what action has the Government taken in this respect?

**Shri Alagesan:** It has been decided in consultation with the Andhra Government to take National Highway No. 7 via Kurnool and it has also been decided to put up a bridge on the Tungabhadra.

**Pandit D. N. Tiwary:** May I know whether Government have fixed any criterion for deciding a road as a National Highway, or it is decided at random?

**Shri Alagesan:** Not at all; we do follow some principles like connecting major ports, capitals of States, so on and so forth.

#### AGRICULTURAL STATISTICS

**\*904. Shri Buchhikotaiah:** Will the Minister of Food and Agriculture be pleased to state:

(a) whether it is a fact that the Central Government have decided to conduct classes for the training of the Revenue Department employees of States for collecting agricultural statistics of the country;

(b) if so, the main purpose of starting these classes; and

(c) when they will be started and on what level?

**The Minister of Food and Agriculture (Shri Kidwai):** (a) Yes.

(b) The object of the training is to ensure that agencies whose duty it is to report or record different items of agricultural statistics are enabled to discharge their duties adequately with a proper understanding of the new standard, definitions, and concepts evolved during recent years.

(c) It is hoped to be able to start these classes before the end of this financial year. Several States have agreed to join the scheme, but a number of others have not yet communicated their views.

**Shri Buchhikotaiah:** May I know who will bear the expenses for these classes; whether Central or State Governments?

**Shri Kidwai:** The Centre is starting the classes and so it will bear the expenses.

**Shri Thimmalah:** May I know the total number of employees to be trained and the period of training?

**Shri Kidwai:** That will be decided when we receive applications and also the recommendations from the States.

#### TELEPHONE CONNECTIONS

**\*905. Shri Gidwani:** Will the Minister of Communications be pleased to State:

(a) whether Government are aware that many applications for allotment of telephones have not been disposed of for want of telephone equipment in Delhi, Bombay and other places in India;

(b) if so, the reasons for the shortage of the equipment; and

(c) when do Government expect to supply telephone connections to all those who need them?

**The Deputy Minister of Communications (Shri Raj Bahadur):** (a) Yes.

(b) The amount of equipment that is available from workshops and other sources is much less than what is required to meet the demands which are abnormally high and it takes considerable time for the manufacture and installation of equipment, especially the auto plant.

(c) By 31st March, 1955, it is expected that a position will be reached when it will be possible to provide connections to all those who need them in all exchange except about 24 large cities.

**Shri Gidwani:** "Except about 24 large cities", but it is the cities that need these connections most.

**Mr. Speaker:** What is the question?

**Shri Gidwani:** The hon. Minister stated that connections could be provided to all those who need them in all exchanges except 24 cities. May



I know why it is not possible in the case of the cities, which need them most?

**Shri Raj Bahadur:** The position is that we have got as many as 532 exchanges, out of which 300 approximately have waiting lists for new connections. We hope to provide connections to all those who need them in all exchanges except about 24 cities, including of course the four big cities of Bombay, Calcutta, Delhi and Madras.

**Shri Gidwani:** May I have an idea of the number on the waiting list?

**Shri Raj Bahadur:** I am just giving a rough idea.

Assam Circle.—Gauhati 136; Dibrugarh 103.

Bengal Circle.—None on the waiting list.

Bihar Circle.—Patna 170.

Punjab Circle.—Amritsar 500, Jullundur 267.

Rajasthan Circle.—Indore 472.

Central Circle.—Nagpur 756.

Orissa.—Nil.

Andhra.—Nil.

Bombay Circle.—Poonā 798; Surat 316.

Madras Circle.—Coimbatore 401; Madurai 176.

U. P. Circle.—Kanpur 656; Allahabad 565; Lucknow 553; Banaras 332; Agra 395.

That is all that we have got upto the 31st March, 1955.

**Shrimati Tarkeshwari Sinha:** Can I have an idea of the cost that a private individual is required to incur in the different places, Bombay, Calcutta and Delhi?

**Shri Raj Bahadur:** The hon. Member refers to the rental, I take it. It ranges from Rs. 252 to Rs. 288 a year. On the message rate basis, the rent is about Rs. 10 or Rs. 12 a month plus ten calls per rupee in Bombay and Calcutta and twelve calls per rupee in other places.

# TELEPHONE LINES IN FORMER STATES

\*906. **Shri Sanganna:** Will the Minister of Communications be pleased to state:

(a) whether it is a fact that Government have decided to sanction a non-recurring grant to the Government of Orissa for the maintenance of telephone lines in the ex-States' areas which have now been taken over by the Posts and Telegraphs Department;

(b) if so, amount of the grant; and

(c) whether it is to the extent requested by the Government of Orissa?

**The Deputy Minister of Communications (Shri Raj Bahadur):** (a) No grant has been sanctioned to the Government of Orissa.

(b) and (c). Do not arise.

## RECLAMATION OF TUNGABHADRA PROJECT AREA

\*907. **Shri Gadilingana Gowd:** Will the Minister of Food and Agriculture be pleased to refer to the reply to starred question No. 1337 asked on the 26th March, 1954 and state:

(a) whether any reply has been received from the Andhra Government regarding the undertaking of certain works by the C.T.O.;

(b) whether the Engineers of the Central Tractor Organisation have inspected the area; and

(c) the terms and conditions under which the Central Tractor Organisation will take up reclamation work in Tungabhadra Project area?

**The Minister of Food and Agriculture (Shri Kidwai):** (a) Yes, Sir. The reply is to the effect that the proposal for utilising the services of the Central Tractor Organisation in the Tungabhadra Project region of Andhra has been dropped.

(b) and (c). Do not arise.

### बिजली की रेलगाड़ियों का निर्माण

\*११०. श्री एम० एल० द्विवेदी : क्या रेलवे मंत्री यह बताने की कृपा करेंगे कि :

(क) भारत सरकार और इटली की "ब्रेडा कम्पनी" के बीच बिजली की रेल गाड़ियां बनाने के सम्बन्ध में जिस करार पर हस्ताक्षर हुए हैं, उसकी मुख्य शर्तें क्या हैं; और

(ख) ये गाड़ियां कब तक भारत पहुंच जायेंगी ?

**The Deputy Minister of Railways and Transport (Shri Alagesan):** (a) A statement showing the main terms of the agreement is laid on the Table of the House. [See Appendix VI, annexure No. 4.]

(b) The coaches are expected to arrive in India from September, 1955 to March, 1956.

**Shri M. L. Dwivedi:** In view of the fact that a sum of Rs. 1,26,00,000 is going to be spent in connection with the purchase of 50 coaches, may I know whether any tenders were invited by Government from different parties, and if so, why it was given to this particular firm? Was it the minimum quotation?

**Shri Alagesan:** Tenders were invited and six firms quoted—some of them were from Germany, Holland and Italy,—and this one was found to be the lowest and it also had certain additional advantages.

**Shri M. L. Dwivedi:** The statement says that 90 per cent. of the total cost will be paid before the time the coaches will be shipped. I want to know whether after the payment of 90 per cent. of the cost before the arrival of the coaches in India, what guarantee is provided in case the coaches are not found to be satisfactory by the purchaser, in addition to the 10 per cent. of the outlay which is the balance left?

**Shri Alagesan:** I do not follow the question.

**Mr. Speaker:** What is the provision made in the contract for satisfying ourselves that the coaches will come up to the mark when they are shipped?

**Shri Alagesan:** The terms are given in the statement itself and a provision also has been made for liquidating damages at the rate of 1 per cent. of the cost of stock delayed per month in service. The firm will be also sending a service engineer who will be looking after the working of the coaches for a period of one year.

**Shri M. L. Dwivedi:** May I know whether any certification will be made at the port where the coaches will be shipped to India that the coaches have been made according to specification and that they are all right?

**Shri Alagesan:** They are made according to our specification.

### UPGRADING OF MEDICAL INSTITUTIONS

\*911. **Shri Ramachandra Reddi:** Will the Minister of Health be pleased to state:

(a) whether any proposals for upgrading certain medical institutions have been under the consideration of Government; and

(b) if so, the stage at which the scheme of upgrading stands at present?

**The Minister of Health (Rajkumari Amrit Kaur):** (a) Yes.

(b) A statement containing the information is laid on the Table of the House. [See Appendix VI, annexure No. 5.]

### SILICOSIS

\*911-A. **Shri P. C. Bose:** Will the Minister of Labour be pleased to state:

(a) whether it is a fact that "Silicosis" an industrial disease of the Lungs is widely prevalent amongst the Mica Miners of Bihar and other places;

(b) whether any survey has been conducted by a committee of experts

to ascertain the nature and extent of the disease;

(c) the findings and recommendations of the committee; and

(d) the steps so far taken to implement the recommendations of the committee?

**The Minister of Labour (Shri K. K. Desai):** (a) to (c). A study of the problem of silicosis in mica mines in Bihar was conducted in 1952. Of the 329 persons selected for detailed examination in the course of the study silicosis was found in 34.1 per cent. and it was directly associated with the degree of dustiness of the occupations as well as the duration of time the workers had been engaged on these occupations. A statement of recommendations made as a result of the study is placed on the Table of the Sabha. [See Appendix VI, annexure No. 6.]

(d) A circular letter has been issued by the Chief Inspector of Mines in India to the owners, Agents, and Managers of all the mica mines to give effect to the recommendations of the Committee. Steps are being taken to establish a Medical Inspectorate under the Mines Department. The Inspectors of Mines during the course of their inspections pay special attention to the implementation of the recommendations and whenever considered necessary, orders under Section 22 of the Mines Act, 1952, are issued for enforcing these recommendations.

**Shri P. C. Bose:** From the statement it appears that the implementation of the recommendations of the expert committee will involve heavy expenditure. If the owners do not agree, what steps will Government take to compel them to implement the recommendations?

**Shri K. K. Desai:** Section 22 of the Mining Act will be applied.

**Shri Nanadas:** It appears from the statement that this disease, *silicosis*, is mainly due to dry drilling. May I know whether it is a fact that

more number of holes can be drilled by dry drilling in a given period of time than by wet drilling, so much so the employers are resorting to dry drilling? May I know what steps Government have taken to avoid this kind of malpractice?

**Shri K. K. Desai:** Already orders have been issued under the Mining Act to the mines, wherever the Inspector visited, to resort to wet drilling, and if within six months it is not complied with, action will be taken.

**Shri Joachim Alva:** Do Government make a comparative study of the treatment meted out to miners in other countries of the world, especially in the U.S.S.R. where miners are given the most comfortable treatment in sanatorium?

**Shri K. K. Desai:** The experts have made the study in the expert committee report.

#### STORAGE OF FOOD GRAINS

**\*912. Shri Bhagwat Jha Azad:** Will the Minister of Food and Agriculture be pleased to state:

(a) whether the experiments in the storage of food-grains in damp-proof aluminium bins in Himachal Pradesh conducted in collaboration with Indian Standards Institute have been successful;

(b) the extent to which it would improve the grain storage facilities in the country; and

(c) how it compares with the method in vogue at present?

**The Minister of Food and Agriculture (Shri Kidwai):** (a) The results of observations carried out have just been received by the Institution and will be examined by their Expert Committee before any definite opinion can be given.

(b) and (c). Do not arise.

**Shri Bhagwat Jha Azad:** May I know if it has come to the knowledge of the Government as to how this new experiment will compare in cost

with the facilities that are available in the country?

**Shri Kidwai:** It is only after the Government has received the report and the recommendations of the experts that a reply can be given to this question.

**Shri Bhagwat Jha Azad:** Will the recommendations and report of the experts go to another expert committee?

**Shri Kidwai:** All the reports go to competent officers.

**Shri Bhagwat Jha Azad:** May I know if this was not made by competent men....

**• Mr. Speaker:** Order, order. He has not understood the reply obviously.

#### FOOD PRICES IN BIHAR

**\*913. Th. Jugal Kishore Sinha:** Will the Minister of Food and Agriculture be pleased to state:

(a) the rates at which wheat and rice are available in the markets of the flood-affected areas in Bihar;

(b) the total quantity of rice and wheat that will be available at subsidised rates; and

(c) the channel and procedure of distribution of subsidised food grains?

**The Minister of Food and Agriculture (Shri Kidwai):** (a) Wheat is available in the open market in flood-affected areas of Bihar at 15 to 18 rupees per maund, and common rice at Rs. 15/- to 17/8/- per maund except Saharsa where wheat is selling at Rs. 20/- per maund.

The Government of Bihar, however, are issuing wheat at the subsidised rate of Rs. 12/- per maund and rice at Rs. 15/- per maund in the flood-affected areas to people with non-agricultural income not exceeding Rs. 100/- per month. Ten seers of foodgrains are issued at a time to each person at the subsidised rates.

(b) 10,000 tons each of wheat and rice have been made available to Bihar Government for issue at

subsidised rates. The Government of India have also given an assurance that if additional quantities are required for distribution at subsidised rates the question of supply of additional quantities will be considered.

(c) The channel for subsidised sales to consumers is the Gram Panchayats and retail dealers who obtain supplies from Government godowns and distribute that to consumers through retail shops in flood-affected areas.

**ठाकुर चुगल किरारो सिंह :** क्या यह बात सही है कि बिहार विधान सभा में एक सदस्य ने सड़ें हुए चावल का प्रदर्शन किया था कि ऐसा चावल बांटा जाता है ?

**श्री किडवाई :** एक सदस्य ने ऐसी बात जरूर कही थी लेकिन मैं आपको बतलाऊं कि एक दूसरे सज्जन जो शायद विधान सभा के सदस्य नहीं हैं उन्होंने यह कहा था कि जो चावल भंजा जाता है किसी एक जगह पर उसको कुछ लोकल तहसीलों में अपने भीगे हुए खराब चावल से बदल दिया गया ।

**ठाकुर चुगल किरारो सिंह :** क्या यह बात सही है कि उस एरिया में १५ रुपये से कम दर पर चावल मिल रहा है ?

**श्री किडवाई :** अगर मिल रहा है तो किसी को वह चावल खरीदने की जरूरत नहीं है ।

**पंडित डी० एन० तिलारी :** आनरबल मिनिस्टर ने कहा कि फल एफेक्टिव एरिया में उन लोगों को सब्सिडाइज्ड चावल दिया जायेगा जिनकी इनकम साँ रुपये प्रति मास से कम होगी, तो क्या सरकार को मालूम है कि दहातों में हाईली एक परसेंट ऐसे लोग होंगे जिनकी आमदनी साँ रुपये से ज्यादा हो, तो क्या ६६ परसेंट आबादी को सब्सिडाइज्ड राइस दिया जायेगा और क्या जो दस हजार टन चावल भंजा गया है, वह वहाँ के लिये काफी होगा ?

**श्री किडवाई :** मैंने अर्ज किया कि अगर वह लोग एक लाख टन चावल मांगें तो हम उनको एक लाख टन देंगे ।

*Gosadans*

\*914. **Shri Mahodaya:** Will the Minister of Food and Agriculture be pleased to refer to the reply to starred question No. 58 asked on the 24th August, 1954 regarding *Gosadans* and state:

(a) the reasons for the slow progress of the *Gosadans* Scheme; and

(b) what steps Government propose to take in the matter?

**The Minister of Food and Agriculture (Shri Kidwai):** (a) Lack of funds with the State Governments and difficulty in allocating suitable lands for starting *Gosadans*.

(b) A statement is laid on the Table of the Sabha. [See Appendix VI, annexure No. 7.]

**Shri Mahodaya:** May I know how many *Gosadans* are there in the country and how many animals are there in each?

**Shri Kidwai:** We are started some *Gosadans*—five or six. I do not know how many animals have reached there till today.

**Shri Mahodaya:** May I know who maintains these *Gosadans*?

**Shri Kidwai:** The State Governments.

## DEEP-SEA FISHING IN WEST BENGAL

\*915. **Shri N. B. Chowdhury:** Will the Minister of Food and Agriculture be pleased to state:

(a) whether any proposals have been made and any financial assistance has been sought by the Government of West Bengal for the development of deep-sea fishing in the coastal areas of the State;

(b) if so, what are the proposals; and

(c) what action Government have taken thereon?

**The Minister of Food and Agriculture (Shri Kidwai):** (a) Yes.

(b) For undertaking trawling operations and transport of fish.

(c) Loans amounting to Rs. 12,60,000 were sanctioned for operating Danish trawlers.

Under the T. C. M. Fisheries Programme, three Japanese Bull-trawlers, two insulated Road Vans and twenty insulated Containers are being provided to the Government of West Bengal, at a cost of approximately \$3,77,370. Japanese technicians are also being recruited for operating the trawlers and for training local fishermen for one year at a cost of approximately \$100,000.

**Shri N. B. Chowdhury:** May I know whether the deep-sea fishing carried on near the coastal areas of West Bengal is connected with any central organisation?

**Shri Kidwai:** I have not been able to appreciate the question.

**Mr. Speaker:** The question is, whether the arrangements on the West Bengal coast-line are connected with any central organisation?

**Shri Kidwai:** No. It is being operated by the West Bengal Government.

**Shri N. B. Chowdhury:** May I know whether the heavy loss suffered by the deep-sea fishing organisation of the Government of West Bengal has been shared by the Government of India also?

**Shri Kidwai:** No, except the aid that has been given on loan.

**Shri Meghnad Saha:** May I know if the hon. Minister is aware that according to experts, no fish or very few fish can be found in the deep sea?

**Shri Kidwai:** I will have to accept the opinion of the experts, but I am afraid experts will be differing among one another, in their opinion, from day to day.

**Shrimati Renu Chakravartty:** In view of the fact that deep-sea fishing in West Bengal has been in force for the last four years, has the Central Government, before sanctioning any money, gone into the question

as to whether the price of fish in West Bengal is going down as a result of these schemes?

**Shri Kidwai:** I think the West Bengal Government is very watchful towards its interests.

**Shrimati Renu Chakravartty:** I want to know whether the Central Government has gone into this question.

**Mr. Speaker:** The whole area is with the State Government and you cannot expect any more questions on it. to be answered here.

**Shrimati Renu Chakravartty:** We must be sure that the price is not going down.

**Mr. Speaker:** Order, order. Next question.

#### THEFT OF POSTAL BAGS

**\*917. Shri Dabhi:** Will the Minister of Communications be pleased to refer to the reply to starred question No. 2077 asked on the 27th April, 1954 regarding theft of postal bags on the 5th April 1954 from the Madras Mail and state whether the culprits have been traced?

**The Deputy Minister of Communications (Shri Raj Bahadur):** The answer is in the negative.

**Shri Dabhi:** May I know the value of the articles stolen and whether they have been recovered?

**Shri Raj Bahadur:** There were four insured parcels and 296 uninsured ones. The total value of the four insured articles was Rs. 542/6/0, and the Department may have to pay *ex-gratia* compensation amounting to about Rs. 7,700 in respect of the 296 uninsured articles.

**Shri Dabhi:** May I know whether there is any chance of these articles being recovered?

**Shri Raj Bahadur:** That is a matter which is perhaps within the province of the police who are in charge of the investigation.

#### TRAINING IN HOMOEOPATHY

**\*919. Shri Krishnacharya Joshi:** Will the Minister of Health be pleased to state whether Government have decided to implement the resolution passed by the Central Council of Health at its meetings held in February, 1954 at Rajkot regarding the training course in Homoeopathy?

**The Minister of Health (Rajkumari Amrit Kaur):** The implementation of the resolution rests with the State Governments who have been addressed in the matter.

**Shri Krishnacharya Joshi:** May I know whether any financial aid is given for this training course by the Central Government?

**Rajkumari Amrit Kaur:** It will be given if the Governments send their schemes and they are approved by the Centre.

**Shri Krishnacharya Joshi:** May I know whether Homoeopathy, as a system of medicine, has been recognised by the Government?

**Rajkumari Amrit Kaur:** Homeopaths practise in various States. Therefore, some of them who have attained certain qualifications are registered.

#### COCHIN PORT EMPLOYEES

**\*920. Ch. Raghubir Singh:** Will the Minister of Transport be pleased to state:

(a) whether it is a fact that the rate of contribution to the Provident Fund of the employees at Cochin Port has been increased in 1954;

(b) if so, what would be the increased recurring expenditure; and

(c) whether the revised rate of contribution is applicable to all classes of employees?

**The Deputy Minister of Railways and Transport (Shri Alagesan):** (a) and (c). Yes.

(b) About Rs. 36,000/- per annum from 1954-55 onwards.

**Ch. Raghubir Singh:** Is it a fact that the rate of contribution to the Provident Fund is going to be increased at every port?

**Shri Alagesan:** The rate at Cochin has been increased to the level obtaining in other major ports.

NATIONALIZATION OF BENGAL PROVINCIAL (LIGHT) RAILWAY

**\*923. Shri Tushar Chatterjea:** Will the Minister of Railways be pleased to state:

(a) whether the attention of the Government has been drawn to the demand of the employees of the Bengal Provincial (Light) Railway for early nationalisation of the said Railway effecting complete integration with the Eastern Railway; and

(b) if so, what action Government propose to take with regard to that demand?

**The Deputy Minister of Railways and Transport (Shri Alagesan):** (a) Yes, Sir.

(b) Government are of the view that the proposal for the acquisition of the Railway by Government is not justified.

**Shri Tushar Chatterjea:** May I know whether the Government has made any enquiry about the financial position of this railway?

**Shri Alagesan:** Yes; to enquire into the condition of this Railway, a Committee was constituted with the Chief Minister of West Bengal as Chairman. They went into the question, and they recommended financial assistance to the tune of Rs. 1½ lakhs which was also advanced as a loan to the West Bengal Government.

**Shrimati Renu Chakravartty:** May I know how many light railways still remain functioning separately from the existing nationalised system of Railways, and whether Government propose to take them over or give them over to road transport?

**Shri Alagesan:** I cannot give the actual number; there are about ten

or fourteen or even more. The mileage may not exceed about 700 miles. There is no idea of taking over those narrow gauge systems. They are mostly narrow gauge railways.

**Shri Tushar Chatterjea:** May I know whether the Government has got any information about the rumour that is current in the area in which this railway runs, that this railway is going to be closed?

**Shri Alagesan:** It is for the company; it is not for us, the Government.

**Mr. Speaker:** He wants to know whether that rumour is a fact.

**The Minister of Railways and Transport (Shri L. B. Shastri):** There might be a rumour, but it is true that some of the representatives of the company have approached us and the West Bengal Government to take over that railway. We have not decided anything so far, and, as the Deputy Minister has said, our general policy is not to take them over. But we had made certain enquiries from the General Manager of the Eastern Railway about this company rate. We have asked for data.

IMPORT OF WHEAT

**\*924. Shri Dabhi:** Will the Minister of Food and Agriculture be pleased to refer to the reply to Starred Question No. 1552 asked on the 5th April, 1954 and state whether Government have taken a decision regarding the quantity of wheat to be imported into India during the year 1954?

**The Minister of Food and Agriculture (Shri Kidwai):** Government have taken the decision to import wheat as and when required, the quantities being decided as circumstances suggest.

**Shri Dabhi:** May I know the necessity of importing wheat when there is sufficient quantity in the country?

**Shri Kidwai:** Last year—in the wheat agreement year 1953-54—out of the 10 lakh of tons of wheat committed, we have imported only 60,000 tons. Now our old stocks are being exhausted and therefore we are importing some wheat to supply in areas where it is not available.



**Shri Dabhi:** May I know whether it is not a fact that indigenous wheat is cheaper and better in quality than imported wheat?

**Shri Kidwai:** I am afraid the people who have seen this new wheat that is procured recently will not agree with the hon. Member.

**Shri Heda:** What is the quantity that has so far been ordered and received?

**Shri Kidwai:** As I said, in the twelve months of the agreement of last year, we imported only about 60,000 tons. \*This year, I think we have already placed an order for about 4½ lakh tons of wheat.

#### STRIKE BY EMPLOYEES OF CALCUTTA PORT COMMISSIONERS

**\*926. Shri Tushar Chatterjea:** Will the Minister of Transport be pleased to state:

(a) whether it is a fact that on the 27th August, 1954 about 40 thousand employees of Calcutta Port Commissioners' offices went on strike;

(b) if so, whether Government have made any enquiry into the matter; and

(c) the steps that Government propose to take to meet the grievances of the said employees?

**The Deputy Minister of Railways and Transport (Shri Alagesan):** (a) There was a demonstration organised by three of the labour unions representing Port and Stevedore workers.

(b) and (c). The grievances put forward by the spokesmen of the demonstrators are under the consideration of the Commissioners for the Port of Calcutta from whom a report is awaited.

**Shri Tushar Chatterjea:** May I know when the report is likely to come to the Government?

**Shri Alagesan:** It should come very

shortly; it would not take long but I cannot indicate the actual time.

**Shri Dabhi:** May I ask question No. 877, now?

**Mr. Speaker:** I think I should permit him but hon. Members are expected to be present in time.

#### PRICES OF AGRICULTURAL COMMODITIES

**\*877. Shri Dabhi:** Will the Minister of Food and Agriculture be pleased to refer to the reply to starred question No. 1693 asked on the 8th April, 1954 and state:

(a) whether the Committee appointed to examine the existing machinery for the reporting of prices of agricultural commodities has submitted its report; and

(b) if so, what are its main recommendations?

**The Minister of Food and Agriculture (Shri Kidwai):** (a) and (b). Yes, Sir. The Report is under consideration of the Government.

**Shri Dabhi:** May I know whether copy of the report has been supplied to hon. Members?

**Shri Kidwai:** The report is under print and I hope a copy as usual will be placed in the Library.

#### WRITTEN ANSWERS TO QUESTIONS

##### OBSERVATORY AT UJJAIN

**\*876. Shri S. N. Das:** Will the Minister of Communications be pleased to state:

(a) what progress has been made in the work of revival of the ancient Astronomical Observatory at Ujjain;

(b) the definite steps taken so far in the direction; and

(c) whether Government have received any report of the survey made there?

\*The original reply by the Minister reads as follows:—

"This year, I think we have already placed an order for about two lakhs of tons."

The reply as printed above was sent by the Minister afterwards in substitution of the original reply.



**The Deputy Minister of Communications (Shri Raj Bahadur):** (a) and (b). Observations of astronomical "seeing" conditions have been commenced at Shri Jiwaji Observatory, Ujjain, with a view to determine the suitability or otherwise of Ujjain for the establishment of a modern astronomical observatory. Latest quotations of the cost of necessary astronomical instruments are being collected from manufacturers with a view to prepare a definite scheme for the setting up of an observatory.

(c) A number of locations in and around Ujjain were surveyed in 1949 and in 1951 by the officers of the India Meteorological Department. They recommended that observations of "seeing" conditions should be undertaken at the existing Shri Jiwaji Observatory at Ujjain, and at a number of other places around Ujjain (in Indore, Bhopal and Madhya Pradesh). Observations at the Ujjain Observatory have already been commenced.

#### DECK PASSENGER WELFARE COMMITTEES

**\*881. Sardar A. S. Saigal:** Will the Minister of Transport be pleased to state:

(a) whether the Deck Passenger Welfare Committees have been set up at the major ports;

(b) if so, what are their functions; and

(c) whether any special amenities are provided to the passengers before embarkation and after disembarkation at the major ports?

**The Deputy Minister of Railways and Transport (Shri Alagesan):** (a) Yes. Committees have been set up at the major ports of Bombay, Calcutta and Madras.

(b) and (c). A statement giving the necessary information is laid on the Table of the Sabha. [See Appendix VI, annexure No. 8].

#### FOREIGNERS IN AIR LINES CORPORATION

**\*882. Shri T. B. Vittal Rao:** Will the Minister of Communications be pleased to state:

(a) the number of foreign nationals employed in the Airlines Corporation;

(b) whether there is any disparity in pay between the Indian and foreign employees; and

(c) if so, why?

**The Deputy Minister of Communications (Shri Raj Bahadur):** (a) 193.

(b) No, except in the case of certain categories of staff employed in Karachi.

(c) The scales of pay of certain staff employed in Karachi were fixed by an agreement between Air-India Ltd. and the Airways Employees Union, Karachi, in 1951.

#### SUBSTITUTE FOR BUTTER

**\*891. Shri S. C. Samanta:** Will the Minister of Food and Agriculture be pleased to state:

(a) whether margarine is produced in India;

(b) if so, how it compares with pure butter; and

(c) for what purpose it is used generally?

**The Minister of Food and Agriculture (Shri Kidwai):** (a) Yes.

(b) Margarine, which is prepared by hydrogenating vegetable oils, is inferior to butter in nutritive value.

(c) It is used as a substitute for butter, i.e. for spreading on bread, sandwiches, etc.

#### TRAINING FOR COMMUNITY PROJECTS

**\*894. Shri V. Missir:** Will the Minister of Food and Agriculture be pleased to state:

(a) the progress in the work of training extension personnel for manning Community Development Projects and the National Extension Service; and

(b) the total number of persons trained so far, during this year?

**The Minister of Food and Agriculture (Shri Kidwai):** (a) 5,347 village Level Workers and members of the Supervisory Staff had been trained, upto the 31st July, 1954, and another 2,028 were under training on that date.

(b) 1,909 Village Level Workers and members of the Supervisory Staff were trained during the period 1st January to the 31st July, 1954.

#### RURAL POST-OFFICES IN MADRAS

**\*895. Shri Balakrishnan:** Will the Minister of Communications be pleased to state:

(a) the number of Post Offices that have been opened in rural area of the Madras State in the year 1953-54; and

(b) the number of Post Offices that will be opened there in 1955 and 1956?

**The Deputy Minister of Communications (Shri Raj Bahadur):** (a) 177 Post Offices.

(b) 1954-55	239
1955-56	184.

#### VOCATIONAL TRAINING CENTRES

**\*897. Dr. Satyawadi:** Will the Minister of Labour be pleased to state:

(a) the names of the members of the Selection Boards for the Vocational Training Centres in Punjab and PEPSU; and

(b) the dates when these Boards were constituted?

**The Minister of Labour (Shri K. K. Desai):** (a) A statement is placed on the Table of the House. [See Appendix VI, annexure No. 9].

(b) July, 1954.

#### TRIPURA PROJECT AREA

**\*898. Shri Biren Dutt:** Will the Minister of Food and Agriculture be pleased to state:

(a) whether it is a fact that a big fishery has been set up by the people in the Tripura Project Area;

(b) whether any financial assistance has been sought from the authorities on this account;

(c) if so, whether any aid in the form of cash or otherwise has been given to them; and

(d) if not, the reason therefor?

**The Minister of Food and Agriculture (Shri Kidwai):** (a) A few small fisheries have been taken up by the people of the Project area.

(b) No.

(c) and (d). Do not arise.

#### जड़ी बूटियां

**\*८९९. श्री बाबशाह गुप्त:** क्या स्वास्थ्य मंत्री यह बताने की कृपा करेंगी कि:

(क) जड़ी बूटियों के उगाने तथा उन की रक्षा करने के कौन कौन से सरकारी केन्द्र हैं; और

(ख) क्या इन केन्द्रों में इन जड़ी बूटियों से औषधियां तैयार करने की कोई योजना है?

**The Minister of Health (Rajkumari Amrit Kaur):** (a) and (b). The required information is being collected and will be laid on the Table of the House.

#### TRAMWAYS IN MADRAS

**\*900. Shri K. Subrahmanyam:** Will the Minister of Labour be pleased to state:

(a) whether it is a fact that the Union Government have appealed against the award of special Industrial Tribunal Madras in the dispute between workers and the management of Madras Electric Tramways; and

(b) whether it is a fact that this appeal has been referred to the Labour Appellate Tribunal?

**The Minister of Labour (Shri K. K. Desai):** (a) and (b). Yes, Sir.

#### NORTH LAKHIMPUR-ALONG ROAD

**\*908. Shri Gohain:** Will the Minister of Transport be pleased to state:

(a) whether there is any proposal to construct a road from North

Lakhimpur to Along in Siang Frontier Division of North East Frontier Agency;

(b) if so, whether the survey has been completed and alignment finalised; and

(c) the length of the road and the estimated cost of construction of the road?

**The Deputy Minister of Railways and Transport (Shri Alagesan):** It will not be in the public interest to disclose the information.

#### BRIDGE AT MANIHARIGHAT

\*909. **Shri H. N. Mukerjee:** Will the Minister of Railways be pleased to state whether Government propose to construct a bridge at Maniharighat?

**The Deputy Minister of Railways and Transport (Shri Alagesan):** There is no such proposal under consideration.

#### MOTOR VEHICLE TAXATION

\*918. **Shri S. N. Das:** Will the Minister of Transport be pleased to refer to page 28 of the Ministry's report for the year 1953-54 and state:

(a) whether any general agreement has been reached among the various States on a common policy for taxation of motor vehicles;

(b) if not, how the matter stands;

(c) whether the Transport Advisory Council has finally considered the matter; and

(d) if so, what is the final decision in the matter?

**The Deputy Minister of Railways and Transport (Shri Alagesan):** (a) to (d). It is proposed to review the whole position relating to taxation on motor vehicles in the light of the findings of the Taxation Enquiry Commission on receipt of its report.

#### HOOGHLY MODELS

\*921. **Shri S. C. Samanta:** Will the Minister of Transport be pleased to state;

(a) the number of models of the river Hooghly which are being experimented on at present by the experts at

the Central Water and Power Research Station Kharakvasla;

(b) whether the experts have recommended that a protrusion near Fulta point should be cut out to improve navigability; -

(c) if so, when this will be carried out; and

(d) how far the construction of the dams and Durgapur barrage under Damodar Valley Corporation Project will affect or help the navigability of the river Hooghly?

**The Deputy Minister of Railways and Transport (Shri Alagesan):** (a) Two.

(b) Yes.

(c) The work is expected to start by October, 1955.

(d) Expert opinion is that the Damodar Valley Project will not materially affect the navigability of the river Hooghly. Investigations are, however, in progress.

#### INCREASE IN FOOD PRODUCTION \*

\*922. **Dr. Satyawadi:** Will the Minister of Food and Agriculture be pleased to state:

(a) whether any assessment of the increase in food production as a result of the activities of the Central Tractor Organisation has been made; and

(b) if so, the result thereof?

**The Minister of Food and Agriculture (Shri Kidwai):** (a) Yes, Sir.

(b) The additional food production per year on the land reclaimed by Central Tractor Organisation at the very conservative rates of 8 maunds per acre for fallow lands and 2 maunds per acre for Kans infested cultivated lands, is about 56,64,000 maunds or about 2,08,200 tons.

Some experiments are being carried out by the National Sample Survey to determine the additional production in the tractorised areas on a scientific basis. Their final figures are not yet available.

## MILCH CATTLE

\*925. **Shri S. N. Das:** Will the Minister of Food and Agriculture be pleased to state:

(a) what are the important features of the Five Year Plan to improve the breed of milch cattle in India which the Government of India have approved of;

(b) which of the States have so far agreed to participate in the scheme drawn up by the Centre; and

(c) what is the estimated cost of the scheme and how will that be shared between the participating States and the Centre?

**The Minister of Food and Agriculture (Shri Kidwai):** (a) to (c). A statement is laid on the Table of the Sabha. [See Appendix VI, annexure No. 10]

## SRI-KOLAYATJI-JAISALMER RAILWAY LINE

430. **Shri Karni Singhji:** Will the Minister of Railways be pleased to state whether there is any proposal to construct a railway line from Sri-Kolayatji to Jaisalmer on the Northern Railway?

**The Deputy Minister of Railways and Transport (Shri Alagesan):** No, Sir.

## GRANTS TO STATES

431. **Shri D. C. Sharma:** Will the Minister of Health be pleased to state:

(a) the amount of grants made to the Punjab State for 1953-54, for development of health services in that State;

(b) the purpose for which these grants were made;

(c) the amount that has lapsed in the case of Punjab State during the year 1953-54; and

(d) the reasons why the amounts lapsed?

**The Minister of Health (Rajkumari Amrit Kaur):** (a) to (d). The information is being collected and will be

laid on the Table of the House when available.

## बेकारी

४३२. **सेठ गोविन्द दास :** क्या कृपया मंत्री यह बताने की कृपा करेंगे कि किस राज्य में प्रति सहस्र जनसंख्या के अनुपात से बेकारों की संख्या सबसे अधिक है ?

**The Minister of Labour (Shri K. K. Desai):** Information is not available.

## ELECTRIC LOCOMOTIVES AND COACHES

433. **Sardar A. S. Saigal:** Will the Minister of Railways be pleased to state:

(a) whether orders have been placed abroad for electric locomotives and coaches to meet the need of expansion;

(b) what is the actual number of electric locomotives, motor coaches and trailer coaches on Indian Railways at present;

(c) what is the mileage of the suburban electrified lines of Bombay and Madras;

(d) how much mileage will the proposed electrification of Railways in West Bengal and Bihar cover; and

(e) what will be the actual cost of the electric lines to be provided in Bihar and West Bengal?

**The Deputy Minister of Railways and Transport (Shri Alagesan):** (a) No order has so far been placed. Global quotations in this connection have, however, been called for and these are due to be received by 1st December, 1954.

(b) to (e). A statement giving the information is laid on the Table of the House. [See Appendix VI, annexure No. 11].

## TUBE-WELLS ON N. E. RAILWAY

434. **Pandit D. N. Tiwary:** Will the Minister of Railways be pleased to state:

(a) whether majority of the tube-wells sunk in 1952-53 and 1953-54 in

Muzaffarpur Region on North Eastern Railway are not in working order;

(b) the number of tube-wells (hand pump) sunk which are in order at present; and

(c) whether the tube-wells sunk were of old pattern?

**The Deputy Minister of Railways and Transport (Shri Alagesan):** (a) No, Sir.

(b) Four hundred and seventy-three.

(c) Tube-wells sunk are of the usual designs that are in common use in the country.

#### MANGANESE AND IRON MINES IN ORISSA

**435. Shri Nanadas:** Will the Minister of Labour be pleased to state:

(a) the number of workers rendered unemployed in the State of Orissa as a result of the closure of manganese and iron ore mines; and

(b) the names of mines affected by the recent closure?

**The Minister of Labour (Shri K. K. Desai):** (a) About 2,000 on the basis of the employment figures for 1953. (Information is not available in respect of one mine).

(b) *Iron ore Mine*

Hatisikil

*Manganese Mines*

Badipuli

Lasorda

K-13

Roida "D" Block

Sagarbhanga

Harishchandrapur

Pamposh.

#### CANADIAN LOCOMOTIVE BOILERS

**436. Shri Bhagwat Jha Azad:** Will the Minister of Railways be pleased to state:

(a) whether any Canadian Locomotive Boilers under the Colombo Plan have reached India up till now;

(b) if so, the number of such boilers; and

(c) their cost?

**The Deputy Minister of Railways and Transport (Shri Alagesan):** (a) Yes.

(b) 20.

(c) £8,075 F.O.B. per boiler.

#### RAILWAY CONCESSIONS

**437. Shri M. R. Krishna:** Will the Minister of Railways be pleased to state:

(a) whether any concession in fares is given to the visitors to places of historical, cultural and religious interest; and

(b) what additional facilities are provided to the tourists?

**The Deputy Minister of Railways and Transport (Shri Alagesan):** (a)

(i) Students of recognised schools and colleges in parties of not less than four and teachers of primary and secondary schools in parties of not less than five, when travelling for educational tours of places of historical, geographical and cultural importance are granted concessional tickets.

(ii) Standard circular tour tickets for 1,500 miles and over are issued to individuals at concessional fares.

(iii) Concessional return tickets are issued to visitors to places of religious interest during important *melas*, provided the grant of the concession is commercially justified.

Barring the concessions referred to above, visitors to places of historical, cultural and religious interest are not granted concession in rail fares as a matter of course.

(b) (i) Special trains are run and special carriages attached to booked trains where required.

(ii) The standard of retiring rooms has been raised at certain stations and new retiring rooms constructed at

certain others to serve the tourist traffic.

(iii) The Railway hotel at Auran-gabad is being extended to provide more accommodation.

**उत्तर प्रदेश के रेलवे स्टेशनों पर चोरियां**

४३८. श्री रघुनाथ सिंह : क्या रेलवे मंत्री यह बताने की कृपा करेंगे कि उत्तर प्रदेश में डाकुओं ने इस वर्ष ३१ जुलाई तक कितने रेलवे स्टेशनों को लूटा और उन्हें क्षति पहुंचाई ?

The Deputy Minister of Railways and Transport (Shri Alagesan): Five.

**दिल्ली पोलिटेक्निक (व्यवसायिक प्रशिक्षण)**

४३९. श्री नवल प्रभाकर : क्या भव्य मंत्री यह बताने की कृपा करेंगे कि :

(क) दिल्ली पोलिटेक्निक में इस वर्ष कितने लोगों को व्यवसायिक प्रशिक्षण के लिये चुना गया;

(ख) उन्हें किन किन व्यवसायों के लिये चुना गया;

(ग) उनमें अनुसूचित जातियों और अनुसूचित आदिमजातियों के कितने लोग थे; और

(घ) कितने निर्धन प्राथियों को वित्तीय सहायता दी गई ?

The Minister of Labour (Shri K. K. Desai): (a) No vocational trades are taught in the Industrial Training Centre at the Delhi Polytechnic, Delhi.

(b) to (d). Do not arise.

**दिल्ली पोलिटेक्निक**

४४०. श्री नवल प्रभाकर : क्या भव्य मंत्री यह बताने की कृपा करेंगे कि :

(क) दिल्ली पोलिटेक्निक के कितने छात्रों ने १९४८ से १९५३ तक अपनी पढ़ाई अधूरी छोड़ दी; और

(ख) क्या नियमानुसार ऐसे छात्रों के विरुद्ध कोई कार्यवाही की गई ?

The Minister of Labour (Shri K. K. Desai): (a) 934.

(b) No action was taken against trainees drawn from Ex-servicemen or Displaced Persons from 1948 to 1950, as the training given to them was of the nature of discharge of an obligation. Efforts are, however, being made to recover the cost of training from the trainees who prematurely left the training under the Adult Civilian Training Scheme which started from 1950.

D. R. T. A.

441. Shri Gidwani: Will the Minister of Transport be pleased to state:

(a) the amount spent by the Delhi Road Transport Authority for the repairs of engines during the year 1954-55; and

(b) the amount spent during 1951-52 and 1952-53?

The Deputy Minister of Railways and Transport (Shri Alagesan): (a) and (b)—

Year	Amount spent Rs.
1951-52	92,665
1952-53	49,174
1954-55 (April to July)	3,130

**NATIONAL FILARIA CONTROL SCHEME**

442. Shri S. N. Das: Will the Minister of Health be pleased to state:

(a) the nature of National Filaria Control Scheme in which the Government of Bihar have agreed to participate; and

(b) the names of the other States which have agreed to work out this scheme?

The Minister of Health (Rajkumari Amrit Kaur): (a) A note explaining the National Filaria Control Scheme is laid on the Table of the House. [See Appendix VI, annexure, No. 12.]

(b) Besides Bihar, the following States have also agreed to participate in the Scheme:—

Andhra, Bombay, Madhya Pradesh, Madras, Orissa, Uttar Pradesh West Bengal, Hyderabad, Saurashtra, Travancore-Cochin and Vindhya Pradesh.

#### DELHI STATE DAIRY DEVELOPMENT SCHEME

**443. Shri S. N. Das:** Will the Minister of Food and Agriculture be pleased to state:

(a) whether it is a fact that the Central Government have been approached for aid and assistance for implementing the Delhi State Government's Dairy Development Scheme;

(b) if so, what are the main features of this Scheme; and

(c) the form and shape in which the assistance will be given?

**The Minister of Food and Agriculture (Shri Kidwai):** (a) The Delhi Government have not yet submitted their scheme which includes the loan and grant-in-aid from the Centre.

(b) The main features of the draft scheme are:—

(1) establishment of a colony in the Jheel Khuranja area across Yamuna to which the cattle maintained for commercial milk production within the limits of the Municipalities of Delhi and New Delhi will be removed for colonisation with their owners. It is proposed to provide the colonists with facilities in respect of accommodation, sanitation, veterinary aid, maintenance of dry animals and disposal of milk. The provision of other amenities such as a dispensary, school etc., is also contemplated.

(2) establishment of a dairy for pasteurising the colony's milk for supply to the urban public of the State.

(c) In view of the reply to (a) above, this has yet to be settled.

#### JAPANESE METHOD OF RICE CULTIVATION

**444. Shri K. P. Sinha:** Will the Minister of Food and Agriculture be pleased to state the total amount spent on propaganda and the assistance given to the State Governments for paddy cultivation under the Japanese method during 1953 and 1954 so far?

**The Minister of Food and Agriculture (Shri Kidwai):** The amount spent in 1953-54 was Rs. 37,493/- and the amount sanctioned in 1954-55 so far is Rs. 1,41,915.

#### ALL INDIA WOMEN'S FOOD COUNCIL

**445. Shri R. N. Singh:** Will the Minister of Food and Agriculture be pleased to state:

(a) whether it is a fact that the Annapoorana cafeteria which is run by the All-India Women's Food Council, has been exempted from paying rent in the Kamla Market, Delhi for six months;

(b) if so, the reasons therefor; and

(c) whether similar facilities have been given to others also?

**The Minister of Food and Agriculture (Shri Kidwai):** (a) Yes.

(b) This is in response to our general recommendation to the State Governments to give all possible assistance in achieving the objects for which the Council was constituted by the Government of India.

(c) This is purely a matter for the State Government to decide.

#### PRODUCTION OF SUGAR

**446. Shri Bibhuti Mishra:** Will the Minister of Food and Agriculture be pleased to state:

(a) the total quantity of sugar produced from 1st November, 1953 to 31st May, 1954, State-wise;

(b) how it compares with the figures for the corresponding period of 1952-53; and

(c) the reasons of the fall in production, if any?

**The Minister of Food and Agriculture (Shri Kidwai):** (a) and (b). A statement giving the required information is laid on the Table of the Lok Sabha. [See Appendix VI, annexure No. 13].

(c) The decrease in production of sugar during 1953-54 season was due to the decline in the availability of sugarcane caused by a fall both in the area and production of sugarcane. The fall in acreage was due to the low prices of gur at the sowing time. The fall in production of cane was also due, apart from reduction in area, to scarcity of rain and inadequate supply of water at the irrigation sources in certain areas. The crop in East U.P. and North Bihar was also considerably damaged by floods.

#### DIESEL ENGINES

**447. Dr. Ram Subhag Singh:** Will the Minister of Food and Agriculture be pleased to state:

(a) whether Government have assessed the requirement of diesel engines for developing the indigenous fishing industry in India;

(b) if so, the approximate total number of diesel engines required;

(c) whether Central Government have purchased or propose to purchase any diesel engines during the year 1954-55; and

(d) if so, their number?

**The Minister of Food and Agriculture (Shri Kidwai):** (a) and (b). Government of India have not yet comprehensively assessed the requirement of diesel engines, as the programme of mechanisation of fishing craft can be effectively drawn only after working out suitable designs for different parts of the Indian coast. On the Bombay and Saurashtra coast, where the existing craft can be fitted up with engines without much modification, the State Governments have initiated a mechanisation programme. In other States, the programme depends on evolving suitable designs.

(c) Yes. Agreements under the Foreign Assistance programmes, *inter alia*, provide for the supply of marine diesel engines.

(d) Firm indents for the supply of 254 diesel engines under the Technical Co-operation Mission's Programme for 1952 have been placed and 117 engines are proposed to be obtained under the T.C.M. 1954 programme. For the Fisheries Community project in Travancore-Cochin, it is proposed to procure 100 diesel engines under the Norwegian Aid programme.

#### QUARTERS FOR COAL MINERS

**448. Shri Ramananda Das:** Will the Minister of Labour be pleased to state:

(a) the total number of quarters provided for coal miners at Bhuli township near Dhanbad and the total number that have been occupied by the coal miners; and

(b) the total amount spent so far on the construction and maintenance of these quarters?

**The Minister of Labour (Shri K. K. Desai):** (a) The total number of quarters for coal miners constructed by the Coal Mines Labour Welfare Fund at Bhuli is 1,566. The total number of houses occupied by them is 559.

(b) The total amount spent upto July, 1954, on construction of these houses is about Rs. 49,27,000 and the expenditure on maintenance is about Rs. 79,000.

#### REGISTRATION OF MEDICAL PRACTITIONERS

**449. Shrimati Tarkeshwari Sinha:** Will the Minister of Health be pleased to state:

(a) whether Government propose to introduce legislation prohibiting the practice of medicine, including the Ayurvedic, Unani and Homoeopathic systems by unregistered practitioners; and

(b) when the proposed bill is likely to be introduced?



**The Minister of Health (Rajkumari Amrit Kaur):** (a) Yes.

(b) It is not possible to say at present when the Bill will be introduced.

#### MANGANESE MINES IN MADHYA PRADESH

**450. Shri N. A. Borkar:** Will the Minister of Labour be pleased to state:

(a) the number of manganese mines operating in Madhya Pradesh;

(b) the number of manganese mines which have been closed down; and

(c) the number of labourers thrown out of employment due to the closure of these mines?

**The Minister of Labour (Shri K. K. Desai):** (a) The number of mines working at the end of 1953 was 264.

(b) 87 in 1954.

(c) About 16,000, according to the employment figures for 1953.

#### ROAD CONSTRUCTION IN MANIPUR

**451. Shri Rishang Keishing:** Will the Minister of Transport be pleased to state:

(a) the programme of road construction for the State of Manipur under the Five Year Plan;

(b) the mileage of roads in Manipur so far constructed and the mileage under construction since the operation of the Five Year Plan; and

(c) the names of roads to be constructed during the remaining period of the Plan?

**The Deputy Minister of Railways and Transport (Shri Alagesan):** (a) and (c). A statement containing the required information is attached. [See Appendix VI, annexure No. 14].

(b) Mileage improved 108. Mileage under improvement 114. Mileage of new roads under construction 49.

#### SALEM-BANGALORE RAIL LINK

**452. Shri S. V. Ramaswamy:** Will the Minister of Railways be pleased to state:

(a) whether there is any proposal for the construction of a Railway line linking Salem and Bangalore; and

(b) if so, at what stage the proposal is at present?

**The Deputy Minister of Railways and Transport (Shri Alagesan):** (a) Yes.

(b) The operating advantages to be derived by the proposed Metre Gauge link are under investigation.

#### POST OFFICES IN INDIA

**453. Shri Hem Raj:** Will the Minister of Communications be pleased to state:

(a) the number of Post Offices, rural and urban in the country in 1953-54;

(b) the number of Post Offices proposed to be opened in 1954-55 in rural and urban areas, respectively, State-wise;

(c) the number of rural Post Offices which were doing Savings Bank business in 1953-54; and

(d) whether there is any proposal to entrust more rural Post Offices with the Savings Bank business?

**The Deputy Minister of Communications (Shri Raj Bahadur):** (a) On 31st March, 1954 there were 6,179 urban and 39,728 rural Post Offices in India.

(b) and (c). Information is being collected and a statement will be placed on the Table of the House shortly.

(d) Savings Bank facilities are provided in rural Post Offices as and when circumstances permit.

#### WATER SUPPLY AND SANITATION SCHEME FOR PUNJAB

**454. Shri Hem Raj:** Will the Minister of Health be pleased to state:

(a) whether the Punjab Government have submitted any scheme

under the Five Year Plan to the Planning Commission for water supply and sanitation in the Punjab State; and

(b) if so, the nature of the Scheme and the decision taken thereon?

**The Minister of Health (Rajkumari Amrit Kaur):** (a) No scheme for water supply and sanitation in Punjab has been submitted to the Planning Commission.

(b) Does not arise

#### BRIDGES IN SAGAR DISTRICT

**455. Shri K. C. Sodhia:** Will the Minister of Transport be pleased to state:

(a) whether it is a fact that certain bridges on National Highway No. 26 in Sagar District of Madhya Pradesh are scheduled to be constructed during the period of the currency of the First Five Year Plan;

(b) if so, the names of the places where these bridges will be constructed and the estimated cost thereon; and

(c) when the construction work is likely to commence?

**The Deputy Minister of Railways and Transport (Shri Alagesan):** (a) Yes.

(b) Four minor bridges are proposed to be constructed over Nallas, one each near Deori and Surkhi towns and two near Gourjhamar, at a total estimated cost of Rs. 6 lakhs.

(c) In 1955.

#### EMPLOYMENT EXCHANGES

**456. Shri Jethalal Joshi:** Will the Minister of Labour be pleased to state:

(a) the number of persons registered with the Employment Exchange in Saurashtra in the year 1953-54; and

(b) the number of those who have been provided with employment during this period?

**The Minister of Labour (Shri K. K. Desai):** (a) 8,777.

(b) 827.

#### रहस्यमय बीमारी

४५७. श्री बी० डी० शास्त्री : क्या स्वास्थ्य मंत्री यह बताने की कृपा करेंगी कि :

(क) दिल्ली तथा अन्य राज्यों के बच्चों में जो रहस्यमय बीमारी फैली हुई है उसके कारण कितने बच्चे मरे हैं ;

(ख) क्या इस बीमारी के वास्तविक स्वरूप का पता चल गया है और उसके लिये मफल उपचार खोज लिया गया है ; और

(ग) चिकित्सा के कारण इस बीमारी के कितने रोगी बच गए हैं ?

**The Minister of Health (Rajkumari Amrit Kaur):** (a) There have been 54 deaths upto 4th, September, 1954, on account of this disease in Delhi State. No definite information regarding the number of deaths which have occurred in the other States is available.

(b) Not yet.

(c) No information is available.

#### PRICES OF FOOD GRAINS

**458. Th. Jugal Kishore Sinha:** Will the Minister of Food and Agriculture be pleased to state:

(a) the economic level of the prices of different kinds of food grains in the country; and

(b) the market prices of food grains at present prevailing in the various States?

**The Minister of Food and Agriculture (Shri Kidwai):** (a) Data for determining economic level of prices of Foodgrains are not maintained by the Government.

(b) Statements giving the available information are laid on the Table of the Sabha. [See Appendix VI, annexure No. 15]

#### BORHALGANG AND BAHRAICH RAILWAY LINE

**459. Shri R. S. Lal:** Will the Minister of Railways be pleased to state:

(a) whether any proposal has been made for a new railway line between Borhalganj and Bahraich via Damodarganj and Bansi;

(b) if so, the reaction of the State Government to this proposal; and

(c) the decision if any, taken by Government in view of the importance and urgency for constructing this line?

**The Deputy Minister of Railways and Transport (Shri Alagesan):** (a) Yes, Sir.

(b) The State Government's recommendations in order of priority for construction of new lines during the Second Five Year Plan period are awaited.

(c) In view of the answer to part (b) above, this does not arise.

#### RAILWAY STATION AT ORWARA (N.E. RLY.)

**460. Shri R. S. Lal:** Will the Minister of Railways be pleased to state:

(a) whether any request has been received for the construction of a new Railway station near Orwara between Gonda and Gorakhpur on the North Eastern Railway; and

(b) if so, when the work will be undertaken?

**The Deputy Minister of Railways and Transport (Shri Alagesan):** (a) and (b). A proposal for opening a new station near Orwara between Basti and Munderwa stations on the Gonda-Gorakhpur section was recently examined by the North-Eastern Railway in consultation with the zonal

Railway Users' Consultative Committee and dropped, as it lacked financial justification. The proposal is, however, under further consideration on public amenity grounds.

#### गवेषणा करने वाले छात्र

**४६१. श्री नवल प्रभाकर :** क्या छात्र तथा कृषि मंत्री यह बताने की कृपा करेंगे कि :

(क) पूमा गवेषणा मंस्था, दिल्ली में कितने छात्र गवेषणा कार्य में लगे हुए हैं;

(ख) वे कितने समय तक गवेषणा करेंगे; और

(ग) गवेषणा काल में उन्हें क्या क्या सुविधाएं दी जाती हैं ?

**The Minister of Food and Agriculture (Shri Kidwai):** (a) Post-graduate Students 103, Honorary Research Workers 5 and Research Fellows 6.

(b) For Post-graduate Students 2 years; for Honorary Research Workers 6 months, extendable on the merits of each case, and for Research Fellows 1 year, extendable on the merits of each case.

(c) In addition to the Library and Laboratory facilities which are available to all workers, Post-graduate Students are given regular lectures and practicals during the first year and expert guidance for carrying on research on problem or problems assigned to them in the second year. Honorary Research Workers and Research Fellows are given expert guidance in their Research problems. The Research Fellows are also paid at Rs. 150/- (Fixed) per month, each.

#### नीतनवा और मुनौली के बीच रेल लाइन

**४६२. { श्री एच० एस० प्रसाद :  
श्री डामर :**

क्या रेलवे मंत्री यह बताने की कृपा करेंगे कि

(क) क्या उत्तर पूर्व रेलवे के नीतनवा स्टेशन और नेपाल सीमा पर स्थित मुनौली

के बीच रेलवे लाइन बनाने की कोई योजना है; और

(ख) यदि हाँ, तो इस लाइन के कब तक पूरी हो जाने की आशा है।

**The Deputy Minister of Railways and Transport (Shri Alagesan):** (a) There is no such scheme at the moment.

(b) Does not arise.

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Tuesday, 14th September, 1954



# LOK SABHA

## DEBATES

(Part II— Proceedings other than Questions and Answers)

**VOLUME VII, 1954**

*(13th to 30th September, 1954)*

**Seventh Session**  
**1954**

**LOK SABHA SECRETARIAT**  
**NEW DELHI**

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LOK SABHA

Tuesday, 14th September, 1954

The Lok Sabha met at Eleven of the Clock.

[MR. SPEAKER in the Chair.]

QUESTIONS AND ANSWERS

(See Part I)

11-55 A.M.

SPECIAL MARRIAGE BILL—Contd.

**Clause 1.**—(Short title, extent and commencement).

**Clause 15.**—(Registration of marriages celebrated in other forms).

**Clause 16.**—(Procedure for Registration).

**Clause 17.**—(Appeals from orders under section 16).

**Clause 18.**—(Effect of registration of marriage under this Chapter).

New clauses 18-A, 18-B and 18-C.

**Clause 19.**—(Effect of marriage on member of undivided family).

**Clause 20.**—(Rights and disabilities not affected by Act).

**Clause 21.** (Succession to property of parties married under Act).

**Mr. Speaker:** The House will now 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. The amendments  
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will also be discussed along with the clauses 15 to 18, new clauses 18-A, 18-B, 18-C and 19, 20, 31 and 1 which are under discussion.

**Shri Venkataraman (Tanjore):** Mr. Speaker, yesterday I was dealing with clause 18. The objection raised against clause 18 was twofold: one is that after the registration of this marriage under this law even illegitimate children known to be illegitimate would become legitimate by the operation of clause 18. For that purpose, my hon. friend, Mr. Tek Chand gave a very uncommon illustration. He said: suppose a person has four children, a, b, c and d, and one of them, say c or d, is an illegitimate child born to the mother during a period of non-access—let us take it of proved non-access—he said what is the point or principle on which you now declare that child to be legitimate? My answer is simple. So far as the children born before the date of registration are concerned, if the father and mother paternise them, I submit with all the emphasis that I can command, it is not for Mr. Tek Chand or any body in the country to object to it. If the father and mother go and voluntarily register the marriage knowing fully well under clause 18 that children will become legitimate—that is, they voluntarily paternise the children—why should society have any objection to such acknowledgment of paternity by both the parents. One of the conditions of registration under clause 15 is that both the parties must be over 21 years of age and both parties must submit an application for registration. That means they elect to declare their children as legitimate children. I, therefore, submit that there is no force or reasonableness at all in the

[Shri Venkataraman]

objection raised by Mr. Tek Chand. There is salutary provision in England but not valid here that parents cannot bastardise their children. It is necessary; otherwise two persons who will have the knowledge to declare the children bastards or illegitimate will be allowed by law to go and do something by which the children's future will be doomed. Here is a case in which the law provides that if both parties elect to come and register themselves under this Act, they shall be deemed to acknowledge paternity of the children right up to that date. So far as the future is concerned—illegitimate children born after the registration—they have other remedies open by way of divorce etc. Therefore, my submission is that this need not deter the House from considering clause 18 as already drafted.

There is another objection which has some little force and that objection is: why should illegitimate children who, under the law may not have the right to inherit the property, be allowed, by operation of clause 18 of this Bill, to inherit to the property of the collaterals. Let us take the case of an illegitimate child born to a person of the 4th *varna* who under the ordinary Hindu law, except in special cases in Madras, is not allowed to inherit, being an illegitimate child...

[SHRIMATI KHONGMEN in the Chair]

The question is legitimately raised as to why these children, who under the ordinary personal law of theirs will not be allowed to inherit to the property of the collaterals, be allowed by a circumlocutory procedure under clause 18. Well, Sir, they have considered this.....

Kumari Annie Mascarene (Trivandrum): Madam-Chairman.

Shri Venkataraman: I am sorry, Madam-Chairman. I have to some extent anticipated the objection, Madam-Chairman, and I have given notice of an amendment No. 320.

I shall read the amendment.

"Provided that nothing contained in this section shall be construed as conferring upon any such children any rights in or to the property of any person other than their parents in any case where, but for the passing of this Act, such children would have been incapable of possessing or acquiring any such rights by reason of their not being the legitimate children of their parents."

12 Noon

Babu Ramnarayan Singh (Hazari-bagh West): On a point of order, the Law Minister is not present in the House.

Shri N. C. Chatterjee (Hooghly): Where is the Law Minister? This is a very important clause.

Mr. Chairman: The Railway Minister is here.

Shri N. C. Chatterjee: Can the Railway Minister look to this?

The Minister of Railways and Transport (Shri L. B. Shastri): He will be coming in a few minutes. I am noting carefully what the hon. Member is saying.

Babu Ramnarayan Singh: Are they taking notes?

Shri Venkataraman: As I submitted at the beginning, the object of this amendment is to limit the right of children who are illegitimate to inherit the properties of their parents only. But, if the illegitimate children, according to the personal law, are entitled to inherit the properties of their collaterals, such a vested right should not be taken away by this clause. Therefore, an exception has been provided: except in cases where, but for the passing of this Act, such children would have been incapable of possessing or acquiring such rights by reason of their not being legitimate children. To put it in a different way, in the case of a person belonging

to the fourth *varna* in Madras, who, under the personal law applicable to him, is capable of inheriting notwithstanding his being an illegitimate child, would still be entitled under this clause 18 to inherit the property of the collaterals. By and large, barring that exception, children who are illegitimate, but who are deemed to be legitimate, in accordance with clause 18, will not be entitled to inherit the property of the collaterals. I submit, therefore, that clause 18, while it covers all reasonable cases, will, by the addition of the proviso which I have suggested, completely meet all the objections that can be raised against that clause. I would very humbly commend my amendment to the consideration of the House.

Now, I come to clause 19. The objection against clause 19 is that there would not be an automatic severance from the joint family by virtue of either solemnization or registration of marriages under this Act. As I explained yesterday, the object of this legislation is to provide a uniform law for all people who want to register themselves under this Act. Whether a Christian registers himself or a Muslim registers himself or a Parsi or for that matter, anybody who registers himself under this Act, his marriage, his divorce and his inheritance should be controlled and regulated according to the provisions of this Act. Then only we can have what is called a uniform code or a civil code. If people who marry under this Act or register themselves under this Act, are still allowed each to have his own personal law in respect of several matters, how on earth can it be called a uniform law or a uniform code to which we are progressing? This is an optional law given to the people to enable them to be governed by a uniform system of marriage, divorce and inheritance. It would be improper, it would be totally wrong to introduce even within this common law variations in regard to inheritance of various persons coming under it.

May I say another thing also? In the Act of 1872, as amended by the Act of 1923, this clause exists. No difficulty has been felt; no point has been brought forward so far in any court; no agitation has taken place anywhere in the country that it should be amended. My submission to this House therefore, is that it is better to allow a member of a joint Hindu family to separate on account of this registration so that he may be put on par with every other person irrespective of the personal law to which he may belong, to be governed by the same code, by the same rule of succession. May I plead with the House on the same point from another point of view? In the present Hindu Law, a person can effect severance from the family by a mere declaration, by a mere notice. A unilateral declaration is sufficient to effect severance from the family. What he can do by a letter, why on earth should it be said that he cannot do by registration? This is an expression of his desire to separate from the joint Hindu family of which he is a member. By the mere fact of registration, the law implies that he has given notice of his intention to separate from the joint Hindu family. It may be asked, why do you prevent a person who wants to remain in the joint family and yet have the benefit of this Act, from having the benefit? As I said, the object of this Bill will be frustrated. The object of having a common law for persons who marry under this Act would be frustrated by allowing any amount of variations amongst persons who are governed by it. Let us not forget that it is an optional law. My hon. friend Shri Pocker Saheb said yesterday that it is a tyranny which is imposed by some people on others. It is indeed a tyranny to which people voluntarily submit. If I agree to be governed by this law, I accept the provisions of this law. Nobody should stand in the way of my accepting the provisions of this law. Likewise, if I do not want to be governed by this law, there is absolutely no compulsion on anybody to register himself under this law. It is therefore no tyranny imposed on

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anybody by somebody else. My submission, therefore, is, that clause 19 should remain as it is. If any variation is made, the very object, the very purpose for which the Bill has been brought forward would be defeated.

I shall not take up the time of the House on clause 20. So far as clause 21 is concerned, there is one small lacuna in the section as it stands.

Dr. Jaisooria (Medak): Clause 19, not 21.

Shri Venkataraman: I have come to clause 21. Clause 21 as it stands provides that the Indian Succession Act will be applicable to all those persons who marry under this Act. Supposing a Parsi marries another Parsi, under the Special Marriage Act, then what is the law that would govern him? The Indian Succession Act contains several Chapters, one of which relates to Parsi intestate succession. Chapter III of the Indian Succession Act relates to Parsi intestates. Now, if Parsi intestate succession is also a part of the Indian Succession Act, it has got to be excluded, because as I said, the object of this legislation is to see that all people are governed by the same law of succession. So, even Parsis who marry under the Special Marriage Act will have to be governed by the general rule of succession contained in Chapter II of the Indian Succession Act, and shall have to be excluded from the operation of Chapter III relating to Parsi intestates. I have given an amendment to that effect, viz. amendment No. 82, which reads:

In page 7, line 19, add at the end "and for the purposes of this section that Act shall have effect as if Chapter 3 of Part V (Special Rules for Parsi Intestates) had been omitted therefrom".

Therefore, even the Parsis will have to be governed by the general rule of succession contained in the Indian Succession Act. It is a facile argument to say that in order to enable

as many people to come and register themselves under this Act, we ought to allow the various personal laws to remain in operation. As far as I understand, the object is not to see as many people register themselves under this law, but to see that, as far as possible, everyone who registers under it has a common law of marriage, divorce and inheritance. Let us make no mistakes about the object. The object is to provide a uniform law or a uniform code, which will be applicable to all persons who voluntarily elect to come under it. The object is not to see that thousands and thousands of people come and register themselves under this law, and therefore, we should make all deviations from the fundamental principle, namely a uniform law of marriage, divorce and succession.

Therefore, I submit with my utmost humility that the clauses as they stand meet all the objections, and that the House may be pleased to accept amendment No. 315 of Shri Dabhi, amendment No. 320 of mine with regard to clause 18, and amendment No. 82 with regard to clause 21.

Shri N. C. Chatterjee: I beg to move:

In pages 5 and 6, for lines 46 to 48 and 1 to 3 respectively, substitute:

"15. *Registration of marriages celebrated in other forms.*—Any marriage celebrated or solemnized before the commencement of this Act, other than a marriage solemnized under the Special Marriage Act, 1872 (III of 1872) or under this Act or under the personal law of the parties or under the provisions of any other law may be registered under this Chapter by a Marriage Officer in the territories to which this Act extends if the following conditions are fulfilled, namely:—"

I am happy that the hon. Law Minister is back in the House, because I shall crave his indulgence and his earnest attention to some points we are making.



The most controversial Chapters in this Bill are Chapters III and IV. Chapter III deals with registration of marriages celebrated in other forms. That means that under this Act, marriages celebrated under Hindu law between Hindus, marriages celebrated between Muslims under Muslim law, and so on, can be registered. What we are submitting is that you are really trying to interfere with sacramental marriages or personal marriages contracted under the personal laws of the parties. It is most undesirable that you are trying to introduce divorce by backdoor instead of being straightforward.

I should remind the House that this legislation has been in force from the year 1872. From 1872 up till today...

**Dr. Jaisooria:** 1873.

**Shri N. C. Chatterjee:** Is it 1873? It is written here, the Special Marriage Act, 1872 (Act III of 1872). The doctor is wrong. Anyhow, doctors are usually wrong.

**Dr. Jaisooria:** No.

**Shri N. C. Chatterjee:** From 1872 up till today, for nearly eighty-two years, there has been no such Chapter as Chapter III. When the great Brahmo leader Babu Keshub Chandra Sen wanted legislation of this character...

**The Minister of Law and Minority Affairs (Shri Biswas):** But 1954 is not the same as 1923.

**Shri N. C. Chatterjee:** That is what we are saying. There was no such necessity at all. It was felt that there should not be any registration of Hindu marriages or Muslim marriages, or Sikh marriages or Jain marriages, celebrated under the personal laws of the parties. Even when Dr. Gour amended this Act in 1923, there was no necessity, as you know, for having anything like Chapter III. All that was put down was that this law shall apply also to Hindus, Buddhists, Sikhs and Jains, and there it stopped. When they were really enlarging the scope of the original Act, they did not feel the necessity of making any provision for

registration of Hindu marriages or Muslim marriages.

I agree with Pandit Thakur Das Bhargava that this is somewhat derogatory to Hindus, to men and women who have performed sacramental marriages, to say that you can somehow regularise marriages and make your marriages perfect by registering your marriages under this law. I am submitting that Chapter III is only uncalled for. But what is more objectionable is Chapter IV. The sponsors of this Bill are saying that they want progressive marriages for progressive people. I am saying that you are keeping backward antediluvian legislation which is inconsistent with any progressive ideals of marriage.

Now, what are the consequences of marriage under this Act? First, we have clause 19, which is but a reproduction of a section which was introduced in the year 1923 by Dr. Gour in the Special Marriage (Amendment) Act, (Act XXX of 1923), namely section 22, which says that immediately a marriage is registered or solemnized under the Special Marriage Act, there will be an automatic disruption of Hindu *mitakshara* coparcenary. It says:

"Marriage solemnized under this Act, of any member of an undivided family, who professes the Hindu, Buddhist, Sikh or Jain religion shall be deemed to effect his severance from such family."

Pandit Thakur Das Bhargava has pointed out that it is unfortunate that jurists like Dr. Gour surrendered to reactionary bureaucratic forces, and accepted an amendment like this. But it is reactionary, and it is bureaucratic. You have not got the courage of your conviction. If this Parliament thinks that special marriages are good, that there should be some kind of civilized marriage system, some kind of civil law operative for secular marriages, non-sacramental marriages, non-dharmic marriages, ordinary marriages between citizen and citizen, then why introduce this kind of clause? It is something

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like a penal provision. You are really penalizing the people. It is an amazing thing—I am glad, Madam-Chairman, you are in the Chair—that all the lady Members of the Joint Select Committee have condemned this provision, namely clause 19, as thoroughly inappropriate, discriminatory, unsatisfactory and imposing some kind of penalty. I know it was authoritatively announced in the other House that they are very proud of their lady Members; they have got Seeta and Savitry; we are also proud of our lady Members; we have got our Sushamas and Suchetas and Renu Chakravartys. Now, I find that all the lady Members—Seeta, Savitry, Sushama, Sucheta and Renu—have unanimously condemned this thing as illogical, reactionary, not in tune with progressive and civilized methods of social reform legislation. Now, take one by one. First of all, take Mrs. Renu Chakravartty. She is pointing out that this is supposed to be a progressive measure which seeks to enunciate the principle that marriage by registration does not necessarily mean religious ostracism and you should not have this kind of provision which is clause 19 of this Bill. I am amazed to find that the members of the Joint Select Committee—that means those who are not the ladies—predominated and voted down the ladies. They are saying:

“The Joint Committee gave very anxious consideration to this clause as this had been made the subject of attack in many of the opinions received on the ground that it penalises marriages under this law. After careful consideration, the Joint Committee have decided to retain this clause in its original form, particularly because it has the desirable effect of simplifying the law of succession.”

I am pointing out it does nothing of the kind. It does not really simplify;—it rather complicates matters and leads to very undesirable and anomalous consequences. The real reason

which the Joint Committee has put forward is this:

“...one of the chief reasons why persons marry under this law is that in case of intestate succession, the Succession Act will apply and it would be extremely inconvenient to have different laws of succession applicable to different types of property.”

Solemnly the members of the Joint Select Committee are suggesting that it is desirable to retain the 1923 amendment, that reactionary amendment which Dr. Gour in a moment of weakness or in a moment of a spirit of compromise accepted. I am pointing out that Mrs. Kripalani is negating that suggestion. She is saying:

“We strongly object to clause 19 of the Bill, the retention of which the Joint Committee has recommended. After giving our anxious consideration, we have definitely come to the conclusion that the retention of this clause is objectionable and will, to a large extent, defeat the object of this legislation”.

I maintain that Mrs. Kripalani is right. If the object is to permit marriages between citizen and citizen who conform to certain standards, who think they are progressive and want this kind of non-canonical law, then do not penalise them. Do not say that immediately one member marries, he will be practically thrown out of the family. Automatic, compulsory, statutory disruption of the coparcenary is not proper; it will lead to very undesirable consequences.

**Shri Biswas:** Does it effect disruption of the entire joint family according to the hon. Member?

**Shri N. C. Chatterjee:** It does. If the Law Minister remembers Hindu law, the first thing is a *mitakshara* coparcenary based on the cardinal principle of the concept of community of ownership and unity of possession. Now, that community of ownership.....



**Shri Biswas:** He is talking of the earlier Calcutta view. That is not the later view, not the view in Madras, for instance.

**Shri N. C. Chatterjee:** I am talking of the latest view. I am convinced that my reading of the law is correct. I do not like to contradict anything which falls from my learned brother, but I may still point out that that is the correct view.

**Shri N. P. Nathwani (Sorath):** May I help the hon. Member? If he cares to read paragraph 334 of Mulla's *Principles of Hindu Law*, he will find this point covered.

**Shri N. C. Chatterjee:** Which edition is it?

**Shri N. P. Nathwani:** Mine is rather old—1946.

**Shri N. C. Chatterjee:** That is the trouble. That is what has misled the Law Minister too. I have got the 1952 edition of *Hindu Law* by Sir Dinshah Fardunji Mulla, edited by the hon. Mr. Justice Bijan Kumar Mukerjee, MA., LL.D., Judge of the Supreme Court. He has pointed out that immediately there is a severance of one member, there is an automatic disruption of the entire coparcenary. It will be a peculiar notion of law to say that although one member has severed himself, still the coparcenary continues: it does nothing of the kind. On the other hand, Mr. Justice Mukerjee has pointed out that in order to have some kind of coparcenary, there must be specific agreement either to re-unite or to continue to remain united. Now, anybody who knows our system of family law, our system of succession and our social structure, knows that at least 25 crores, or nearabout, of people—barring men like Mr. Biswas, myself and a few in Bengal and Assam who are governed by the *Dayabhaga* Hindu law—are governed by the *Mitakshara* school of Hindu law. Under the *Mitakshara* school, immediately a son is born in the family, he gets a vested interest in the coparcenary property, i.e. the ancestral property. Now, it is very difficult to re-unite because there are

many minor children; it is very difficult to bring about a consensus for union; it is not at all easy.

Now, I am really on Mrs. Kripalani's argument. Her argument is cogent. The basic argument of the Joint Select Committee is this, that this clause, although *prima facie* bad, although *prima facie* reactionary and unsatisfactory, should be retained because one of the objects is that people want that there should be disruption, that people should be governed by the Succession Act. Now, what Mrs. Kripalani is pointing out is this:

"On the other hand, we can definitely say from our experience that people who wanted to marry under the provisions of the Special Marriage Act were dissuaded from doing so because of this section"—

that is, sections like 19, 20, 21 and so on. She was pointing out that really this was a discouraging factor. It is not an encouraging factor. I think Mrs. Kripalani is right.

**Shri D. C. Sharma (Hoshiarpur):** If it is discouraging, it will suit the hon. Member—those persons who, are not in favour of this law.

**Shri N. C. Chatterjee:** I am taking a rational view of things, not a partisan view. I am taking a progressive view of things and not a convenient view of things as Shri D. C. Sharma wants to take. What I am saying is that that is the view which has also been put forward by Mr. Sushama Sen. Mrs. Sushama Sen is pointing out—and I hope the hon. the Law Minister will also remember his own statement—

"During the discussions on this Bill, several members from both Houses of Parliament had spoken against this clause"—

that is, clause 18—

"From the *precis* of public opinion from all parts of India, the majority of them have expressed for the deletion of this clause. The Rau Committee was also strongly against it".

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Now, who were against it? First of all, many Members of Parliament were against it. Secondly, many eminent persons who have their opinions on this Bill are against it. Sir B. N. Rau and his committee of experts were against it. And who else is against it? The hon. the Law Minister himself was rather doubtful regarding this clause. The hon. the Law Minister had said:

"There is great force in the argument against this clause".

I think there is still greater force in the argument against this clause. Mrs. Sushama Sen says:

"It may be recalled that this clause was not in the parent Act of 1872, which was initiated by the Brahmo leader Keshub Chunder Sen...I have consulted some prominent members of the Brahmo Samaj. They are definitely against this clause".

This Act was passed many years ago, and, as you know, Madam, Mrs. Sen points out that there has been hardly any disruption in the joint family up till 1923. From 1872, there was no such disruption. And, in fact.....

**Shri Biswas:** There could not be any question of disruption during those years because no marriage was possible between two Hindus under the Act of 1872.

**Shri N. C. Chatterjee:** There were people marrying under this Act and nobody knows better than the hon. Law Minister himself that Hindus were marrying under this Act. As a matter of fact, the Brahmo leaders wanted an Act in order that they can have a marriage between a Hindu and a Hindu and the only.....

**Shri Kasliwal (Kotah-Jhalawar):** But they had to declare that they were non-Hindus.

**Shri N. C. Chatterjee:** They were telling a lie and they were forced to tell a lie. In Jnanendra's case.....

**Shri Biswas:** I was only pointing out that there could not be such a provision in the original Act.

**Shri N. C. Chatterjee:** I was pointing out that Shrimati Sushama Sen is perfectly right in spite of the interjections of the Law Minister. They were Hindus, they still remained as Hindus and, in fact, they were welcomed in their own society and they were never driven out of society. There was no urge from 1872 up till 1923; never did any Brahmo leader or any progressive leader or any leader who wanted emancipation and progress had ever appealed to the Government or to the Central Legislature that he should have a kind of provision like our present clause 19. She points out that although men and women were marrying under this Act, there had been, in fact, no disruption of the coparcenary and she is pointing it out:—

"The family members were free to choose their own course and sever connections or not from the joint family as each case demanded.

This new clause of severance from the joint family was introduced under Gour's Amendment Act..."

"This new clause seems uncalled for as it compels separation automatically on marriage under this Act....."

Now, Mr. Venkataraman made a very spirited speech. Mr. Venkataraman, I am sorry to say, indulged in special pleading. He was objecting to Mr. Pocker's use of the word 'tyranny'. The tyranny is this. Simply because, a member of an undivided family, a Hindu boy marries a Hindu girl, why force disruption on others. Of course, I am not governed by the Mitakshara of Vignaneswara but in this country there are millions of families that are governed by the Mitakshara. Supposing one Hindu boy marries a Hindu girl under this Act.

There is no objection. Simply because they marry under this Act, they need not undergo any ostracism, they do not want to drive away that couple from the family. They want to welcome them into the family. They treat both the boy and girl as honoured members of the family. Then, why do you compel by statutory severance and automatic disruption of that joint family. That is the tyranny. The tyranny is there. The law steps in and says, whether the boy or girl wants it or not, it does not matter, and shall be a severance. That is, a marriage solemnized under this Act shall be deemed to effect a severance of the joint family.

We all know, Madam, the cardinal principle of Hindu law is settled from 30 Ind. App. The law is perfectly clear. Ordinarily you cannot break away from a Joint Hindu family so long as it remains a coparcenary, you cannot predicate what is the share of a particular member. But, immediately there is unequivocal declaration of intention to sever, there is a disruption of the coparcenary. Therefore, if the boy wants to sever, he can sever by an unequivocal declaration of his intention. I ask what right has the Parliament to say whether a boy wants it or not, whether the girl wants it or not, whether the members of the family want it or not, whether the parents want it or not whatever might be the consequences with regard to the structure of the family business, its enterprise, its social status, there must be an automatic severance.

**Acharya Kripalani** (Bhagalpur-cum Purnea): What do they gain?

**Shri N. C. Chatterjee:** Ask them if they can answer it. They have not answered it. They do not answer inconvenient questions.

I am pointing out that when the law is there that they can sever by an unequivocal declaration of clear intention, why force this thing?

I raised this point the other day in my opening observations and I repeat it now. I have no interest personally because I am not governed by the *Mitakshara* and I can make an objective and impersonal approach to the problem. Supposing a big joint *Mitakshara* family is carrying on a big business. You know especially in my city of Calcutta and also in other industrial cities like Bombay very big commercial houses are really run or conducted by managing agents and firms who are really *Mitakshara* coparcenary firms. There are many advantages. As a matter of fact, even when a big managing agency firm is running a big limited company, no bank would lend them money unless the credit of the members of the joint family firm is pledged and they stand guarantors for the bank overdraft or other banking facilities the company would get. Therefore, the credit-worthiness, the continuity of the joint family firm as one entity to some extent is essential for its continuity of business. We want industrial development and, therefore, we want the private sector to be flourishing for the success of the Five Year Plan and also the next Five Year Plan. If you want to do that, then do not put joint family business in jeopardy. A member, say X from the Birla house or some other big business house, a boy marries under this Act, say in Madras and goes away on a honey-moon trip to Europe or America. People may not know of the marriage. They may not discover it till 3 or 6 months later. By virtue of this clause, immediately the marriage is solemnized, immediately the Marriage Officer enters the factum of the marriage in the register, the firm is dissolved and that joint family firm cannot function; it has come to an end. It will have terrible consequences and repercussions on the business and trade and industry of this country. I submit, there is absolutely no necessity for this Chapter at all, including clause 19.

There are also other Members who have pointed this out. I am not going

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to read all the opinions. But, as I have told you, practically all the lady Members and also some other Members (*Interruption*) have entered a very strong caveat against this. I submit that you should discard a clause like this.

I also want to point out there is a good deal of force in the attack on clause 21. Clause 21 says that immediately a man is married under this law, then automatically his succession shall be regulated by the Indian Succession Act. Why? Supposing a Hindu Brahmin boy marries a Hindu Brahmin girl under this Act. He may want only one safeguard, legal safeguard for monogamy; he does not want the possibility of a bigamous marriage, if that is his only purpose of marrying under this Act, then why should he be compelled to have recourse to the Indian Succession Act? If a Muslim boy wants to marry under this law, why press him to be governed by the Indian Succession Act and not by the Muslim law of succession? Sections 31, 32 and 33, Chapter II, are the sections of the Indian Succession Act governing succession. Mr. Parikh in his latest book of 1953, says this:

"This chapter applies to Europeans and Indian Christians only and lays down the share of the next of kin of the deceased in cases of intestacy."

Now, therefore, you are driving every Hindu who marries a Hindu girl under this law, every Muslim who marries a Muslim girl, every Jain, every Sikh who marries a member of his community, to be governed by the Indian Succession Act. Why Christianise this Law of Succession? Why not have our own ordinary law of succession? You are not eliminating our law of succession nor are you eliminating our laws of marriage.

**Pandit Thakur Das Bhargava** (Gurgaon): The Parsi Law of discrimination is there, in the Succession Act itself.

**Shri N. C. Chatterjee:** Yes; the Parsi law of discrimination is there. What I am pointing out is this. In introducing this clause Mr. Venkataraman says: "Our great and paramount object is uniformity". I say, you are deluding yourself. You are labouring under self-delusion. You have deluded the Parliament and the country because you are not having a uniform code of law. You are still having the Hindu Law of marriage, the Muslim Law of marriage, the ordinary personal laws of marriage, the Hindu law of succession, the Muslim law of succession and all such things. You are keeping all that and you are saying that simply because the Hindu marriage is under this Act, the Hindu Law of succession shall cease to operate. This is a retrograde step, a bad step, an undesirable step and, if you like, a wicked step. If you are going to do it, I must say it is not a proper step. You have not got the courage of conviction. You really think that if some boy does it, he is doing something improper and therefore, he should be thrown out of the family and he should be severed from the joint family. The Hindu Law of succession is really and legally stifled by Parliamentary legislation. Well, I say, you are ostracizing that boy. That is not the proper attitude. If you are consistent, if you have the courage of conviction, then boldly say; it is good; it is progressive; it is civilised and therefore, welcome him and do not throw him out of the family and out of the pale of Hindu Law.

Now, what will happen? I know the difficulties of Members of Parliament who have married a Hindu wife and are having four sons. Supposing, Madam, he registers under this Special Marriage Act today, what will happen? Governed by *Mitakshara*, coming from Allahabad, Poona, Madras or any other part of the country, in the case of a Hindu married to a Hindu lady, having four sons and living as Hindus, if immediately registration takes place tomorrow, there will be automatic severance. What

happens is, the four sons go away with four-fifths of the property.

**Shri A. M. Thomas** (Ernakulam): No; the sons get it by birth.

**Shri N. C. Chatterjee:** The joint family property. Ask Mr. More, he will tell you. He has got four sons.

**Shri Biswas:** Has he left his four sons?

**Shri S. S. More** (Sholapur): But, I have no property.

**Shri N. C. Chatterjee:** Immediately your Bill is passed and the marriage is registered, the four sons get four-fifths of the property and the poor father is left only with one-fifth. Supposing he is still virile and gets four sons thereafter, what happens: these four sons will get only a share out of the one-fifth. Although the Hindu sons have got four-fifth, after the marriage is registered under this non-canonical law, the issue born thereafter will have only a share of the residue of one-fifth. Under the Succession Act a widow will get one-third of the one-fifth.

**Shri N. P. Nathwani:** Why should a father invite all this trouble by registering his marriage under this Act?

**Shri V. G. Deshpande** (Guna): He is right.

**Shri N. C. Chatterjee:** Then, this is meant really to prevent, to discourage people from marrying under this Act. As Mr. Nathwani says, this is meant to dissuade people.

**Shri N. P. Nathwani:** You are taking an illustration which is not applicable. You are trying to imagine that a man goes and registers his marriage to invite all this trouble.

**Shri N. C. Chatterjee:** I cannot make Shri Nathwani consistent, but there are many Congressmen who will see the force of my argument.

**Shri Algu Rai Shastri** (Azamgarh Distt.—East cum Ballia Distt.—West): I can see.

**Shri N. C. Chatterjee:** Here is Shri Algu Rai Shastri; he is from U. P. and he says he can see.

**An Hon. Member:** He is a Shastri.

**Several Hon. Members:** I can see.

**Shri N. C. Chatterjee:** Now, on this point, the Socialist, the Hindu Mahasabhis, the Communists and also Shri Algu Rai Shastri, all see the force. This is really logical and consistent. Be consistent and have the courage of conviction. Do not have this kind of a very unsatisfactory clause. The old legislature, the Central Legislative Assembly, before we attained our independence, did pass many unsatisfactory, stupid pieces of legislation and senseless pieces of legislation. These clauses in Doctor Gour's Act are among the most senseless pieces of legislation ever enacted. Please do not re-enact the same and have it on our statute-book. That will reflect no credit on us; that will reflect discredit. There is no equity; there is no justice behind it.

**Acharya Kripalani:** We should keep up the old position.

**Shri N. C. Chatterjee:** This is not in conformity with progressive ideas and there will, really, be inequality and discrimination which should be avoided.

Now, Madam, I had tabled two amendments. One is No. 187 on page 10 of consolidated list number 3. Shri Biswas's Bill says in clause 15:

"Any marriage celebrated, whether before or after the commencement of this Act, other than a marriage solemnized under the Special Marriage Act, 1872 (III of 1872), or under this Act, may be registered under this chapter .....provided certain conditions are fulfilled."

I am saying, not only you should exclude from the purview of this Chapter, marriages under the Special Marriage Act of 1872 and marriages under this Act, but also all sacramental

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marriages solemnized under Hindu law. I am also supporting Pandit Thakur Das Bhargava's stand that really marriages which were perfectly validly entered into under personal law, Hindu Law, Muslim Law, Buddhist, Jaina or Sikh Law, should not be touched. There is absolutely no point in giving them registration and trying to bring them under the operation of this Act. For heaven's sake, answer our point. What is the fun, what is the point, what is the objective, what is the argument for bringing in sacramental Hindu marriages? You have introduced the Hindu Marriage and Divorce Bill which is on the legislation anvil. Here, every afternoon for hours and hours we are discussing this Special Marriage Bill and when I go up, again I find the Hindu marriage and Divorce Bill being discussed in the Select Committee. Look at the hon. Law Minister; he is going down in weight. This burden is too much for him. Mornings, afternoons, evenings, day in and day out, marriage is haunting him—Special Marriage in Parliament and Hindu Marriage and Divorce Bill in the Select Committee. Why do you rope in the Hindu marriages again here in clause 15? What is the point in doing so? I can understand your having a uniform code. But you are going to legislate about the Hindu marriages. The hon. Law Minister says that he will go on with it and the Government is pledged to go through with it. They have a majority and they shall, therefore, put in on the legislative anvil. We also know that the Select Committee is proceeding with it. Then why do you have this again in this Bill? Why do you have this duplication? What is your point in doing it?

Then, the second thing is, the hon. Law Minister seems to be consistent. He says: "Do not think I am only having the Hindu Marriage and Divorce Bill. I will also introduce Muslim Marriage and Divorce Bill."

**Shri V. G. Deshpande:** After ten years.

**Shri N. C. Chatterjee:** I do not know when that will come or when they will have the courage to do so, but that is the promise, declaration and pledge. Then, why bring in Muslim marriages under this clause 15? What is the advantage of bringing them again under this clause? You may reform the Hindu Law of marriage if you can and if you will have the country behind you. But, then, do it in a straightforward and direct manner and not by the back-door or side door like this.

**Shri Biswas:** You call this a side door; it is perfectly open.

**Shri N. C. Chatterjee:** It is open, according to you, but I am pointing out that this is really a side-door. You are really trying to rope in sacramental marriages when you are having a straight legislation dealing with these marriages. There is no sense in having this again in this Bill. As one hon. Member has pointed out, it is something like a conflict between law and truth. My hon. friend Mr. Bhargava has said that it is a slur on Hindus who had contracted Hindu marriages and I take it that is the feeling of Mr. Pocker Saheb that it is a kind of slur on Muslims. It is derogatory and it is an outrage.....

**Shri Biswas:** The remedy lies in their hands. Do not register.

**Shri Velayudhan** (Quilon *cum* Mavelikkara—Reserved—Scheduled Castes): It is an outrage on Hindu orthodoxy.

**Shri N. C. Chatterjee:** Why do you duplicate? Why do you create complications? Why do you unnecessarily cover the same ground by two kinds of Bills or two kinds of legislations? I submit that both these Chapters are unnecessary. There is considerable force in Pandit Thakur Das Bhargava's amendments Nos. 260 and 370. Somebody who is not very favourably disposed to the amendments



in the office has made it grammatically inaccurate and the English is somewhat wrong.

**Pandit Thakur Das Bhargava:** Amendment No. 371 is complete in itself. I discovered the mistake myself as regards 260 and 370.

**Shri N. C. Chatterjee:** Therefore, we had given notice of an amendment by myself and by Shri Jhunjhunwala. It is amendment No. 512 in List No. 16, which reads as follows:

*"Registration of marriages celebrated in other forms.—Any marriage celebrated or solemnized before the commencement of this Act, other than a marriage solemnized under the Special Marriage Act, 1872 (III of 1872), or under this Act or under the personal law of the parties or under the provisions of any other law may be registered under this Chapter by a Marriage Officer in the territories to which this Act extends if the following conditions are fulfilled, namely: "*

What I was pointing out is that this will really cover all cases of Hindu-Muslim, Hindu-Christian or mixed marriages and marriages between persons of different religions and that will be meeting all difficult situations, and no further we should go.

We had also tabled a small amendment to the Special Marriages Bill. If you kindly look at sub-clause (e) of section 15, the Joint Select Committee has added something there, "The parties are not within the degrees of prohibited relationship". I think, that was in the original Bill. The Select Committee has added "unless the law or any custom or usage having the force of law, governing each of them permits of a marriage between the two". I think there is considerable force in the Law Minister's point. When a similar amendment was sought to be introduced in clause 4, he pointed out "Either have faith in the customary law or personal law or have faith in this Act" I also say—do not make a *kichdi* or

hotchpotch of it. Be consistent. This House rejected the amendment to clause 4 where you wanted to put in 'customs in prohibited degrees'. You do not want to relax the rule in the case of *mathul-kanya* or some other customary form of marriage. Therefore, logically, Parliament should discard this amendment which has been introduced by the Joint Select Committee.

**Mr. Chairman:** I shall place the amendment which Shri N. C. Chatterjee has moved. Amendment moved:

In page 5 and 6, for lines 46 to 48 and 1 to 3 respectively, substitute:

*"15 Registration of marriages celebrated in other forms.—Any marriage celebrated or solemnized before the commencement of this Act; other than a marriage solemnized under the Special Marriage Act, 1872 (III of 1872) or under this Act or under the personal law of the parties or under the provisions of any other law may be registered under this Chapter by a Marriage Officer in the territories to which this Act extends if the following conditions are fulfilled, namely:—"*

**Shrimati Jayashri (Bombay—Suburban):** Madam. I thank you for giving this opportunity to speak, and express my opposition to the clauses. I entirely agree with Pandit Thakur Das Bhargava and Mr. Chatterjee. I think there is no necessity for keeping clauses 15 to 18 as they will create confusion. While I was speaking on the Bill I stated that there will be loopholes and that confusion, will be created, and the Law Minister gave us an assurance that this Act will apply only to marriages that have taken place in the past, and that it will not apply for the marriages that are going to take place in the future. It will have limited application and that also will be doubtful. I am not sure if many people will come forward to register their marriages and unnecessarily it will be creating confusion in our

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marriage laws. Besides this, as Mr. Chatterjee has pointed out, in our Hindu Mitakshara laws, as soon as a son is born, he is a coparcener in the joint family. Now, if the father registers his marriage and a second son is born, I think there will be two sets of laws that will apply to the children. The first son will be still in the joint family and the second son will be severed from the joint family. I do not see there is any point in encouraging this sort of severance. As other lady Members in the Select Committee have also disagreed with this clause, I also emphatically disagree with keeping clause 19. The Law Minister said that this will benefit women, and in the Succession Act, especially Hindu women and daughters will get more inheritance rights. I agree, but I will request the Law Minister to tell us openly and frankly whether this House has any intention of passing the Hindu Marriage and Divorce Bill and the other Bills on inheritance, succession, etc., which were parts of the Hindu Code. When I spoke on the Bill, I had said that I agreed with the principles underlying the Bill, but I would have been happier if we had passed the Hindu Code Bill. If we had passed that Bill, all these complications would not have arisen. I also agree with Mr. Chatterjee that it will unnecessarily break the joint family who may be united in business and many other concerns. You are not going to benefit by keeping this clause and it will also prevent many people from taking advantage of this Act. I do not think that many people will come forward to register their marriages. There is no necessity for keeping Chapter III.

With regard to Chapter IV, I myself have sent amendments. I have asked for the deletion of the word "shall" and insertion in its place "shall not" in clause 19, and with regard to clause 21, my amendment...

Mr. Chairman: We are not discussing clause 21 now.

1 P.M.

Shrimati Jayashri: Other hon Members had referred in their speeches to clause 21 and that is why I am also referring to it. Mr. Venkataraman said that some of the clauses did not apply to parsies in the past, and that is why that clause was necessary. But if we do away with this clause 19 and give permission to the parties to the marriage to agree according to the desire of the family, whether they should be governed by the Succession Act or by their own personal law, that permission should be given to the parties solemnizing this marriage. I see no necessity in keeping this clause 19 which unnecessarily severs the joint family. Though we were given this assurance by the Law Minister that women will benefit by this clause, I think that we do not want to deprive the benefit to the joint family. We would rather that the Minister immediately passes the Hindu Marriage and Divorce Bill and the Hindu Succession Bill which were parts of the Hindu Code Bill which would have done more benefit to the Hindu women. At present, even if we are going to pass this Act, I am sure millions of Hindu women are going to suffer. They are not going to benefit. They are not given any property rights, especially daughters, and unless we pass the Hindu Code Bill, I do not think that this Bill is going to benefit, especially the Hindu women. That is why I strongly disagree with the clauses in Chapter III and clause 19.

Dr. Rama Rao (Kakinada): All the opponents of this clause have not been allowed to speak so far, with the exception of Shri Venkataraman. They have taken a major portion of the time. I think we have only one hour more.

Shri Dabhi (Kaira North) rose—

Mr. Chairman: Shri Dabhi.

Shri Dabhi: I support the amendment to clause 15 moved by Pandit Thakur Das Bhargava. But realising



that the amendments may not be accepted by the House, and reminded of the saying,

सर्वनाशे समुत्पन्ने ह्यर्धं त्यजति पण्डितः ।

I have moved two amendments to sub-clause (e) of clause 15, namely, amendments Nos. 43 and 315. You will see that sub-clause (e) of clause 15, as it stands, allows the parties to a marriage, even though the marriage is within the prohibited degrees, to marry, if custom allows such a marriage, and to be registered under this Act. My amendment No. 43 wants to delete the words: "Unless the law or any custom or usage, having the force of law, governing each of them permits of a marriage between the two." So, if this amendment is accepted, then, if the parties are within the prohibited degrees of relationship as defined under this Act, they would not be allowed to register their marriage under this Act, even if custom allows such a marriage.

My amendment No. 315 is to the effect that even though marriages which have been solemnized before this Act came into operation may be registered, if custom allows them, post-Act marriages could not be allowed to be registered if the parties to the marriage are within the prohibited degrees of relationship as defined under this Act. We have already passed sub-clause (d) of clause 4: and this sub-clause says that a marriage under this Act cannot be solemnized if the parties to the marriage are within the prohibited degrees of relationship as defined in sub-clause (f) of clause 2. At that time, we know that amendments were moved for giving effect to custom—saying that if custom allows the marriage between the two parties even though they be within the prohibited degrees under this Act, the marriage may be allowed and be solemnized. But we have rejected both these amendments, and therefore, my submission is that we should not allow custom to prevail in this Act which, as my hon. friend, Shri Venkataraman

said, is a first step in the direction of a uniform Civil Code. My hon. friend Shri Venkataraman said that the object of this Bill is to have a uniform civil code for all the communities of the country. If this is so, I do not understand why there should be any mention of any custom in any provision of this Act. The clause as it means that the parties who want to evade the essential provisions of clause 4 would marry under the personal law, and then get their marriages registered under this Act. So, it is not at all proper to allow such marriages to be registered. I consider it to be a fraud upon the Act itself: when once you lay down an essential conditions for a marriage and then if you allow those very provisions to be evaded, then it is practically a fraud upon that Act itself.

Then again, while speaking on clause 4, the hon. Law Minister said as follows on 7th September, 1954.

"This is a law for the whole of India and not for any part of India: not for South India only but for South India, North India, East India and West India, and therefore the rest of India need not draw inspiration from South India. We are legislating for the whole of India. Therefore we say that looking at the matter from that point of view, it is not right that there should be any marriage between prohibited degrees of relationship; and this has been the law everywhere."

If that be the case—I agree with the Law Minister—I hope he would accept my amendment No. 43 because, this law, as he says, is meant for the whole of India, for all the communities. Therefore, under no circumstances, should custom be allowed to prevail in this Act especially.

Then, as I have said, because the hon. Minister may not accept the amendment on which I spoke so far, I have also moved amendment No. 315, which is an amendment to sub-clause (e) of clause 15:

[Shri Dabhi]

(c) of Clause 15.—The effect of my amendment No. 315 will be that the marriages which would have been solemnized before this Act comes into operation would be allowed to be registered under this Act even if the parties to the marriage are within the prohibited degrees as defined under this Act but if the custom allows such marriages. So I have moved another amendment. While speaking on the Bill on 7th September 1954, the hon. Minister practically accepted this amendment of mine. But I request him to further consider my amendment No. 43 as he will see from the opinion expressed in this House...

**Shri Biswas:** I shall be only too glad if that amendment is accepted by the House. I shall accept that as a compromise.

**Shri Dabhi:** You will see, Madam, that several hon. Members of this House have expressed the same opinion and so, I suggest by way of compromise my amendment may be accepted.

**Shri Mohiuddin (Hyderabad City):** Mr. Venkataraman said that the Special Marriage Bill is an attempt to provide a common civil code which will be optional to those who want to adopt it. In the complicated social system of India it would naturally be a desirable step that some such measure should be introduced. But, unfortunately, what we find is that innumerable obstacles are provided in the various clauses of the Bill. **Shri Chatterjee** has referred in strong terms to the obstacles provided by the provision that as soon as a Hindu boy or girl registers the marriage under this Act, it shall be deemed to effect—his severance from the coparcenary family. Another important obstacle is regarding inheritance. Clause 21 provides that any person who registers his marriage under this Act will be compelled under the provisions of the Act to abide by the Indian Succession Act. All these

clauses dissuade persons from registering their marriages under this Act. Instead of attempting to provide a common civil code, it appears to me that we are simply adding one more personal law to the so many personal laws.....

**Shri Algu Rai Shastri:** Creating a new caste!

**Shri Mohiuddin:**...already prevailing in the country. It is not an attempt at a common code.. ....

**Shri V. G. Deshpande:** But it is a Congress Code!

**Shri Mohiuddin:** I would suggest that we should consider this problem from the point of view of reforming the marriage as far as polygamy is concerned. Naturally some provisions have to be made in the Marriage laws in regard to what law of inheritance will be followed by the parties to the marriage. It does mean that it should provide both for marriage as well as for inheritance. I suggest that this special Marriage Bill should lay special emphasis on the reform of polygamy and introduce monogamy in marriages in India and leave the various communities to follow their personal laws in regard to inheritance. That would mean that monogamy will be introduced within a very short period in the whole country. A Muslim boy marrying a Muslim girl will, knowing full well the protection they get if they register their marriage under this Act, will always prefer to register their marriage under the Special Marriages Act. But, if they are told that if you register your marriage under this Act, you will have to follow a particular system of inheritance, then, I am sure very few will go and register themselves under this Act. It simply means that the girls and boys who want sincerely to see that monogamy system is introduced and that there is no risk in future for the girls that the husband will go and marry another wife will be prevented by the provisions of clause 21

from registering the marriage under the Act and enjoying the benefit of the monogamy for the whole of their life.....

**Shri Velayudhan:** Can they not enter into an agreement under the Muslim law?

**Shri Mohiuddin:** I do not know which agreement the hon. Member is referring to?.....

**Shri S. S. More (Sholapur):** He is not yet a Minister.

**Shri Mohiuddin:** I am sorry. Which agreement is the hon. Member referring to? There may be some provision by which the bride may say at the time of marriage that the marriage is subject to the condition that the husband will not marry a second wife but in that case it simply means that if the husband marries a second wife, the first marriage is dissolved. It does not mean that it is monogamy. I do not know to what particular agreement hon. Member is referring but according to the present practice, as far as I know of the Muslim marriages in India, it is simply this. The husband is allowed to marry a second or third or fourth wife, though the percentage of polygamous marriage is very small. I suggest that the House may consider Pandit Thakur Das Bhargava's amendment No. 274, given on page 16 of Consolidated List No. 1, which he moved yesterday. It provides that the parties to the marriage shall be at liberty to contract and declare at the time of the marriage what law, whether the personal law of any of the parties or the Indian Succession Act or any special terms and conditions, shall govern the devolution of property. If this provision is accepted, I am sure that the Special Marriage Bill will be very popular with all the communities in the country, simply because it introduces a very important reform of monogamy. Of course, there are other clauses also. For instance, there is severance from the coparcenary family of the person who registers his marriage under this Act. That has also to be considered

and amended. I therefore suggest to the hon. Law Minister that, in considering this Bill, we should clearly aim at reform of one particular evil, that is the evil of polygamy, and leave the other reforms, reform of inheritance, etc., for future consideration. If this is accepted, I think the Special Marriage Act will be the most popular Act in the country as far as marriage is concerned.

**Mr. Chairman:** Shri V. G. Deshpande. But, I would request the hon. Member to speak from his own seat.

**श्री वी० जी० देशपांडे :** यह जो विधेयक सदन के सम्मुख रक्खा गया है उस में मेरी समझ में १५, १६, १७, १८, १९, २०, और २१ यह सात धारायें जो हैं उन का परिणाम अत्यन्त अनर्धकारी है जिस को अंगरेजी में मिस्विक्स कहते हैं । यह इस प्रकार की धारायें हैं । मेरी समझ में नहीं आता है कि उन को क्यों रक्खा गया है । यह बात तो समझ में आ सकती है, जैसा कि श्री वेन्कटरामन् ने कल कहा था, कि दक्षिण हिन्दुस्तान में ऐसे बहुत से विवाह हो रहे हैं जिन की वैधता बड़ी विवादास्पद है । उन के बारे में तो इन धाराओं को समझ सकता हूँ, लेकिन जिन का विवाह वैधानिक रीति से, कानूनी तरीके से, बहुत अच्छा और जायज है, उन के बारे में पुनर्विवाह का विचार क्यों किया जा रहा है यह समझ में नहीं आता है । एक बात तो हो सकती है कि इस प्रकार से रोमैन्टिक रिबाइवल अर्थात् प्रणय पुनरुज्जीवन करना चाहते हैं, परन्तु उस काव्यमयता का विचार हम आज यहां नहीं कर रहे हैं ।

बहुत से लोगों ने बताया कि यदि मनु और याज्ञवल्क्य विधान बना सकते थे तो आज हम को भी अधिकार हैं, भले ही हमारी बुद्धि सामान्य हो, लेकिन एक स्थान पर आ कर हम विधान बना सकें । मेरा कहना इतना ही है कि आप बड़े महान् हैं, याज्ञवल्क्य और मनु से भी ज्यादा विद्वान, तपस्वी और गुणी हैं, लेकिन इतना जानने के पश्चात् भी मैं कहूंगा कि यदि आप इसका विचार करते हैं तो आप की कृति

[श्री बी० जी० दशपांड]

का परिणाम केवल एक दो व्यक्तियों पर ही नहीं, आज की पीढ़ियों पर नहीं, बल्कि भविष्य पर होने वाला है। यह समझ कर कि आप जो जो कदम उठाते हैं उस का प्रभाव भविष्य में आप की पीढ़ियों पर होने वाला है इस लिये, कदम उठाने के पहले आप को ठीक तरीके से सोच विचार कर लेना चाहिये। यह सवाल केवल एक पति और पत्नी का ही नहीं है, जिन के विवाह पूर्व में हो चुके हैं उन के बच्चे भी हैं। यहां यह बातें भी आप के सम्मुख कहीं गई हैं कि जिन के विवाह हो चुके हैं उन के पुत्र तथा पौत्र भी हैं, ऐसे भी लोग जा कर, वृद्ध पुरुष और वृद्धा स्त्री भी जा कर अपना विवाह रजिस्टर करा सकते हैं। क्या कारण है कि जिस के लिये हम सैक्रामेंटल मैरिज अर्थात् संस्कार से जो विवाह हुए हैं, उन को नष्ट करने के लिये जा रहे हैं। मेरा कहना है कि हम ने अग्नि और बाह्यण के समझ आने के पश्चात् धर्म, काम और अर्थ :

धर्म च अर्थ च कामे च नातिचरामि नातिचरामि ।

तीनों की शपथ लेने के पश्चात् हम फिर रजिस्ट्रार के पास जाते हैं। इस में कौन सी गम्भीरता का निर्माण होता है, यह मेरी समझ में नहीं आता है।

आगे चल कर यह कहा गया है कि उन को मोनोगामी और डाइवोर्स दोनों चीजें दी गई हैं। एक पत्नीव्रत और तलाक औरत और आदमी दोनों के लिये दिये जा रहे हैं। मैं समझता हूँ कि जिन का विवाह कुछ दिन पूर्व हो चुका है, जिन के पुत्र और पौत्र भी हो चुके हैं, उन के लिये तलाक की बहुत आवश्यकता है, ऐसा समझने का कोई कारण नहीं है। फिर यह कानून बनाते समय ज्वारंट सैलेक्ट कमेटी के अन्दर विवाह का जो तरीका तैयार किया गया है वह प्राइविट डिवोर्स का विचार करने के पश्चात्, सापिण्ड्य का विचार कर के, बनाया गया है। जैसे मैं ने पहले बताया था कि उस में दिया हुआ था कि दादी के साथ शादी नहीं होगी बाँती के साथ शादी नहीं होगी। आप ने सपिण्ड

का ठीक से विचार नहीं किया है, और उस रिवाज को आप यहां लाना चाहते हैं। साथ में इन रिवाजों के साथ जो विवाह पहले हो चुके हैं, उन का भी विवाह आप इस कानून की १५वीं धारा के अन्तर्गत करना चाहते हैं। उन का विवाह फिर करना चाहते हैं जिन्होंने पुरानी रिवाजों में रह कर विवाह किया और विवाह करने के पश्चात् जिन के पुत्र और पौत्र हो चुके हैं।

और भी बहुत सी बातें इस में दी गई हैं १५, १६, २०, और २१ क्लॉजों में। कल तो मैं देखता था कि हमारे जो विधि मंत्री हैं उन्होंने कन्फ्यूजन बर्स कन्फ़ाउन्ड कर दिया। जो शादी तीस साल पहले हो चुकी है और वह आज १९५४ में विवाह का रजिस्ट्रेशन कराने जाता है तो उस के जो रजिस्ट्रेशन के पहले के लड़के होंगे उन के नाम भी रजिस्टर हो जायेंगे। यानी विवाह में जिस बहू की रजिस्ट्री होगी वह अपने साथ पुत्र और पुत्री को भी ले कर घर में आयेंगी, सबत्स धेनु आपके घर आयेंगी। यह कहने के पश्चात् विधि मंत्री से यह पूछा गया कि अभी किसी का सीवियरन्स फ्राम कोपारसनरी होता है और जो अविविक्त कटुम्ब है वह टूट जाता है तो यह होने के पश्चात् उस के पुत्र का क्या होगा। हमारे विधि मंत्री ने इस के जवाब में बताया कि जो लड़का होगा रजिस्ट्रेशन होने के कारण उस पर असर नहीं होगा। मैं मानता हूँ कि उस पर असर नहीं पड़ेगा, परन्तु उस का कितना अनर्थकारी परिणाम हो सकता है यह आप देख सकते हैं। मैं समझता हूँ कि व्यक्ति विवाह एक पत्नीव्रत के लिये नहीं करेंगे, न ही डाइवोर्स के लिये करेंगे। हिन्दुस्तान में एक समान संहिता हो इस के लिये भी नहीं करेंगे। अगर विवाह करेंगे तो इस लिये करेंगे कि लड़के को कोई अधिकार न मिले। लड़के को अधिकार न मिलने की यह बातें हो सकती हैं। पंजाब के अन्दर मिताक्षरा ला के अनुसार लड़का पिता के जीवित होते हुए उस की जायदाद में से अपना हिस्सा नहीं मांग सकता है।

पंडित ठाकुर दास भार्गव : नहीं मांग सकता है ।

श्री बी० जी० ईशपांड : पंजाब में नहीं मांग सकता है लेकिन बाकी हिन्दुस्तान में मांग सकता है । पंजाब में मिताक्षरा के बारे में थोड़ा अपवाद किया गया है ।

The Hindus in this province are governed by the *Mitakshara* law. According to that law, when a father and sons constitute a joint Hindu family, the sons can ordinarily claim partition of the coparcenary property in the life-time of their father even against his will. परन्तु दागे कहते हैं : A full bench of the Chief Court of Punjab has held that though under the *Mitakshara* system of Hindu Law, a son can enforce partition even during his father's life-time, in the Punjab, this form of Hindu Law is not in force, and in every case the onus of proving that the son has such a right lies on the person affirming it.

Shri N. C. Chatterjee: If I may point out, the same is the law in Bombay. In Bombay, it has been held that without the assent of his father, a son is not entitled to a partition if the father is joint with his own father, brothers or other coparceners. There is also this restriction in Bombay.

श्री बी० जी० ईशपांड : ग्राम्भ में भी मिताक्षरा स्कूल ही है । मिताक्षरा में हमारे यहां भी यही होता है कि पिता के जीवित होते हुए पिता की अनुमति से ही पुत्र जायदाद का पार्टिशन मांग सकता है, लेकिन पंजाब के अन्दर लड़का पार्टिशन नहीं मांग सकता है । विवाह इस लिये भी रजिस्टर किये जायेंगे कि एक लड़का पिता के जीवित होते हुए भी अविभक्त कुटुम्ब की जो जायदाद है उस को तोड़ने के लिये प्रापटी का पार्टिशन चाहता है । बड़े दुर्दैव की बात है कि जो हमारे विधान मंत्री हैं वे समय समय पर यहां से निकल जाते हैं और सदन में जो विवाद होता है उसको सुनने के लिए कोई मंत्री नहीं है ।

Some Hon. Members: There is no Minister here.

Shri S. S. More: We will have to suspend the discussion.

श्री पी० एन० राजभाष (शालापुर-रक्षित-अनुसूचित जातियां) : यहां कोई मिनिस्टर नहीं है ।

An Hon. Member: Even Shri Venkataraman is not there.

Sardar A. S. Saigal (Bilaspur): But Shri Venkataraman is not a Minister.

Pandit Thakur Das Bhargava: Sardar A. S. Saigal is there, to deputise.

Sardar A. S. Saigal: No, I cannot sit there.

Shri S. S. More: The hon. Member Shri V. G. Deshpande cannot address the empty benches.

Shri N. C. Chatterjee: Mr. Chairman, you will remember that the Speaker gave a ruling that at least one member of the Cabinet should be here.

An Hon. Member: Shri V. G. Deshpande is addressing the Chair.

Shri S. S. More: The Deputy Speaker once gave a ruling to the effect that at least one Minister must be here.

Mr. Chairman: Let us wait for a few minutes.

श्री बी० जी० ईशपांड : मैं बोलूं या न बोलूं ।

Shri Bhagwat Jha Azad (Purnea cum Santal Parganas): When no Ministers are available, the House should be adjourned.

श्री अलगू राव शास्त्री (जिला आजमगढ़-पूर्व व जिला बलिया-पश्चिम) : यह सही है ।

Shri Gidwani (Thana): Appoint two more Deputy Ministers. That is the solution.

Shri S. S. More: Let us mourn in silence now.

**Babu Ramnarayan Singh:** I propose that the House should adjourn.

**Acharya Kripalani:** Let anyone from among Congressmen sit on the Treasury Benches. Shri Algu Rai Shastri is there. Sardar A. S. Saigal is there.

**Sardar A. S. Saigal:** I cannot sit there. I have no jurisdiction.

**Shri P. N. Rajabhoj (Sholapur—Reserved—Sch. Castes):** Shri Bogawat can sit there.

**Shri Bogawat (Ahmednagar South):** No.

**Mr. Chairman:** The hon. Minister is very much wanted in the House.

**Shri Biswas:** But the Law Minister does not leave the House except for very urgent reasons.

**श्री बी० जी० ब्रह्मचारी :** सभाने श्री महोदया, इस सदन में हमारे विधि मंत्री श्री विश्वास जी ने इस कानून में यह धारा सम्मिलित करके हिन्दू जाति और विधान की परम्पराओं के साथ विश्वासघात किया है और मैं कहूँगा कि इस धारा के जो परिणाम होने वाले हैं उनको आप १८वीं धारा में देखिये। उसमें यह कहा गया है कि :

"Subject to the provisions contained in sub-section (2) of section 24, where a certificate of marriage has been finally entered in the Marriage Certificate Book under this Chapter, the marriage shall as from the date of such entry, be deemed to be a marriage solemnized under this Act, and all children born after the date of the ceremony of marriage (whose names shall also be entered in the Marriage Certificate Book) shall in all respects be deemed to be and always to have been the legitimate children of their parents."

तीन बातें इसमें हैं। पहली यह कि एक तो संस्कार से विवाह होगा, फिर जिस दिन रजिस्टर में एंट्री होगी उस दिन दूसरा विवाह समझा

जायगा। बच्चों के बारे में वही कानून है कि जिस दिन से विवाह संस्कार हुआ उस दिन से जितने बच्चे हों वे उनके बच्चे समझे जायेंगे। हमारे यहां शास्त्रों में भी यह विचार है कि जिसका खेत उसकी फसल मानी जाती है और उनको खेज कहते हैं। ऐसा ही यहां भी मालूम होता है। और इसमें बर्सा के लिए यह किया गया है कि जिस दिन से यह विवाह होगा उस दिन से वह अपने मां बाप से तो अलग हो ही जायगा, यही नहीं बल्कि वह अपने बच्चों से भी अलग हो जायगा। वह कानून जो आप वात्सल्य और सहानुभूति के गुणों को बढ़ाने के लिए ला रहे हैं उसका परिणाम यह होगा कि वह आदमी अपने मातापिता से निकल जायगा और अपने बच्चों से भी, चाहे वे छोटे बच्चे हों, निकल जायगा क्योंकि मिताद्वारा के अनुसार कनसेप्शन के दिन से बच्चे को उत्तराधिकार का अधिकार हो जाता है। तो इस दृष्टि से वह अपने पहले बच्चों से अलग हो जायगा। इसका परिणाम यह होगा कि पहले लड़कों के लिए एक कानून होगा और बाद के लड़कों के लिए दूसरा कानून होगा। मैं तो देखता हूँ कि आज शब्दों के अर्थ बदल गये हैं। इस प्रोग्रेसिव काल में जहां यूनीफार्मिटी लाने का प्रयत्न किया जा रहा है वहां मैं ट्रिमेंडस डाइवर्सिटी देख रहा हूँ। एक फैमिली में बाप के लिए एक कानून और दूसरे बच्चों के लिए दूसरा कानून। यह बड़ी यूनीफार्मिटी हमारे विधि मंत्री लाना चाहते हैं इस देश में और इसीलिए मैं इस स्पेशल मैरिज बिल का समर्थन नहीं करता। यह बिल देश का, समाज का और हिन्दू संस्कृति का नाश करने वाला है ऐसा मैं इसको मानता हूँ।

इसमें क्लाज १५ को मैं बहुत बुरा समझता हूँ। जिनको बच्चे नहीं हुए हैं अगर वे अपने को रजिस्टर कराते हैं तो वह यह जानकर आते हैं कि इसमें आने का क्या परिणाम होगा और हमारे लड़के बच्चों पर कौनसा कानून लागू होगा। जिनको क्रिश्चियन ला से अपने को



गवर्न कराना पसन्द हो वे आ सकते हैं यद्यपि मैं तो उसको अच्छा नहीं समझता। लेकिन रीजन के बच्चे ही गये हैं अगर वे अपने को रजिस्टर करवाते हैं तो उनके बच्चों के साथ अन्याय होगा। ऐसा बड़ी लोंग कर सकते हैं जो अपने बच्चों के साथ अन्याय करना चाहें। पहले के बार में तो यह कहा जाता है कि लड़के को अधिकार है कि वह अपनी प्रापर्टी को बंटा सकेगा। कहने के लिए यह बात ठीक है लेकिन मिस्टर मॉर जैसे विधिज्ञ दूसरा मत भी द सकते हैं और आप जानते हैं कि जब दो बर्कीलों में मतभेद होता है तो उसका क्या परिणाम निकलता है। मैं देखता हूँ कि इस कानून की धारा १५ से १८, १९ तक की धाराओं के बहुत बुरे परिणाम होंगे। यह बात ठीक है कि जो लोग आज यह चाहते हैं कि हम क्रिश्चियन ला में जाना चाहते हैं वे रजिस्टर करवा लें लेकिन मैं नहीं समझता कि पुरानी शादियों का रजिस्ट्रेशन क्यों होना चाहिए। हम आज इस कानून को बड़े उत्तरदायित्व के साथ बना रहे हैं। इसलिए हमको यह देखना चाहिए कि कहीं यूनीफार्मिटी लाने के बदले हम डाइवर्सिटी न ले आएं। कहीं ऐसा न हो कि देश में शान्ति, सम्मान, प्रगति के बदले प्रतिवाद का उदय हो जाय जो कि इस विवाह विच्छेद के कारण हो सकता है। आप जिस उद्देश्य से इस कानून को बनाना चाहते हैं वह अच्छा है पर आप यह देखें कि इस कानून से वह उद्देश्य पूरा भी होता है। मेरे विचार से यदि आप इसमें ये चीजें रखेंगे तो वह उद्देश्य पूरा नहीं होगा। ठाकुर दास जी का जो संशोधन है वह किसी हद तक ठीक है ऐसा मैं मानता हूँ। ऐसा हो सकता है कि कोई प्रगतिशील व्यक्ति इस कानून में शादी करमा चाहे लेकिन वह इंडियन सक्सेशन एक्ट को जो कि क्रिश्चियन सक्सेशन एक्ट है अपने ऊपर न लादना चाहता हो और अपने परसनल ला के अन्दर रहना चाहता हो तो आप उसको ऐसा करने की अनुमति क्यों नहीं देना चाहते। कारण यह है कि हमारे परसनल ला हमारी आर्थिक, सामाजिक और धार्मिक परिस्थितियों

को ध्यान में रखकर बनाये गये हैं और वह हमारे लिए ज्यादा उपयुक्त हो सकते हैं। हमारे कृषि प्रधान देश हैं और हमने देखा है कि इस अनडिवाइड्ड फॉर्मली ने हमको बड़ा लाभ दिया है। मैं नहीं समझ सकता कि ऐसे कानून की जगह हम हजारों मील दूर की एक नयी उत्तरीयकार की पद्धति को क्यों लाने का प्रयत्न करें। पीडित ठाकुर दास जी ने कहा था कि यह शर्त जो डाक्टर गौड के लिए लगायी गयी थी कि अगर वह इस शर्त को मान लेंगे तो उनका विधेयक स्वीकार कर लिया जायगा। पर आप अब इस शर्त को क्यों यहां जरूरी बनाना चाहते हैं। आप इस शर्त को क्यों लाना चाहते हैं। जो इंडियन सक्सेशन ला है वह वास्तव में क्रिश्चियन सक्सेशन ला है। मैं पढ़ना चाहता हूँ कि आप इस को क्यों लाना चाहते हैं। हमारा परसनल ला हमारे देश का ला है और हमारी परिस्थितियों के अनुसार बना है। मैं तो कहूंगा कि यहां पर इंडियन सक्सेशन एक्ट किसी को भी लागू नहीं होना चाहिए। सब को परसनल ला लागू होना चाहिए। मेरे कुछ साथी इस कानून से विवाह करने वालों के लिए सक्सेशन एक्ट को बहुत अच्छा मानते हैं। लेकिन मुझे तो कोई ऐसी अच्छाई इसमें दीखती नहीं। मैं तो समझता हूँ कि इस सक्सेशन एक्ट से हमारी स्त्रियों को और समाज को कोई लाभ नहीं हो सकता। मैं चाहता हूँ कि यह किसी के लिए भी नहीं लागू होना चाहिए। आप देख रहे हैं कि इस विवाह पद्धति में केवल मोनोगमी और डाइवर्स नहीं है यह तो इनडायरेक्ट तरीके से सबको क्रिश्चियन बनाने वाला साबित होगा। इस देश के परसनल ला में देखल देकर हम ऐसे कानून बनाने जा रहे हैं जो इस देश के लोगों की कल्पना के विरुद्ध हैं और बहुत सी ऐसी चीजें जो उनको पसन्द नहीं उन पर लादने का इस बिल के द्वारा प्रयत्न हो रहा है।

हमारे मित्र श्री वेंकटरामन् ने बतलाया कि हम इस देश के अन्दर एक ऑप्शनल यूनिफार्म सिविल कोड का निर्माण करना चाहते हैं, एक

[श्री वी० जी० दशपांडे]

वैकील्पिक, एकता वादी, इस प्रकार की एक नई पद्धति हम इस देश में लाना चाहते हैं, लेकिन मेरी समझ में नहीं आता कि यह वर्तमान बिल जिस रूप में है उससे कैसे आपका उद्देश्य और लक्ष्य पूरा होगा। आप ईश्वरते हैं कि केवल स्वयं ही के लिये नहीं बल्कि अपने पुत्र और पौत्र के बार् में भगड़ा पैदा करने वाली आपने यह वर्तमान पद्धति अपनायी है जो कि विनाशकारी सिद्ध होगी। इसीलिये मैं इस पार्लियामेंट के सदस्यों से, सभानेत्री जी, आपके द्वारा प्रार्थना करूंगा कि चूंकि इस कानून का असर आपके भविष्य पर पड़ने वाला है और इसके परिणामस्वरूप बहुत प्रकार की विचित्र परिस्थितियां हमारे सामने आयेंगीं और जिनका हमें सामना करना पड़ेगा, इसीलिये यह बहुत आवश्यक है कि हम एक सुधार या प्रगति के उत्साह में वहां पर इस प्रकार का कानून स्वीकारन करें जिसका परिणाम हमारे लिये अनिष्टकारी हो और मैं उसके लिये आप सबको सावधान करना चाहता हूं।

**Shrimati Renu Chakravartty**  
(Basirhat): I beg to move:

In page 7, line 6, add at the end:

"provided either party makes a declaration to that effect at the time of registration."

It is when we discuss these clauses of the Bill that it is borne upon us more forcibly than ever, why those of us who have been demanding that the Hindu Code Bill be passed in its entirety were perfectly right. Without knowing exactly what is going to be the fate of the Succession Bill, it is very difficult to make up one's mind exactly on what stand to take with regard to the consequences of marriage.

During the course of this debate on these clauses, there has been a wide diversity of outlook as to what is the aim of the Bill. Without clearly enunciating that, I am afraid each of us will be misunderstood in the attitude we take to the various clauses of the Bill. There is no

doubt, as far as we are concerned, that we want people to accept a uniform code of marriage, inheritance etc. At the same time, we realise that this acceptance of a unified code has to be achieved in the midst of the existing diversity of personal laws. It is no use just standing on principles rigidly and forgetting the objective situation in the country. Also we have to take full cognisance of the fact that in the midst of a volume of prejudice regarding marriage, there is a new demand for a new set of laws. It is against this background that we have to judge our attitude to each clause. Our aim must further be to give the chances of relief and equity which are inherent in the clauses of this Bill and to bring some ray of happiness to all those who are suffering today and are desirous of taking advantage of those benefits. We should like as large a section as possible of those who are suffering today to be allowed to benefit by it. It is here that I differ from my friend, Mr. Venkataraman, although I do agree with the majority of the points he has tried to cover. But I do want, that slowly, larger and larger sections should utilise this piece of legislation and I think in that respect my Hindu Mahasabha friends are quite right when they say that you are trying to get larger and larger sections of people to accept this Bill. We do want it; let us be quite straightforward about it. We do want that larger sections of people—some of whom are today prejudiced against registration, some are afraid of society; there are various factors at play in the country and, therefore, they are unable and hesitant—to take advantage of this Bill. We must encourage them. It is with this idea that we have to move. We have to see that, step by step, people go forward towards the acceptance of a unified code and that is why today we keep it as a permissive measure, and we have to put this aim very clearly before this House.

Let us take the whole genesis of this Act itself. It was passed in 1872. At



that time, it was passed for those non-conformists—should we call them—of the Hindu religion, who did not believe in *Saligram Shila*, who did not believe in the traditional form of *Agni Sakshi*, for Hindu marriage. It was in order to validate those marriages that the Brahmo leader, Keshub Chunder Sen, wanted this enactment. It was to benefit those sections of people who called themselves Hindus, who were Hindus but who no longer believed in the traditional forms. Here I should like to tell my friend, Mr. Chatterjee, through you, that it is true that we conform to the social customs, traditions etc. and we are accepted more or less within the Hindu fold, but it is also true that even in my childhood I have seen how we were ostracized. We were not allowed to sit and eat with the Brahmins and with those who were really the orthodox sections of society. So it is necessary, when people are non-conformist, when they do not believe in the traditional sacramental forms of marriage, that they should be allowed to marry under the forms they believe in and these marriages must be validated by some Act. And we see that slowly now in the way this very Act is being used by larger sections. It is not only the Brahmos who are utilising it, but larger and larger sections of Hindus are utilising it and we know that more and more people will utilise it. That is why there is the insertion of Chapter III. The inclusion of Chapter III, as my friend, Mr. Chatterjee, has pointed out, is a new innovation.

**Pandit Thakur Das Bhargava:** May I ask a question of the hon. lady Member? Two days back, Shrimati Sushama Sen said Shri Keshab Chunder Sen believed in sacramental marriages. Is that true?

**Shrimati Renu Chakravartty:** I do not know what he means by 'sacramental marriage'. We, Brahmos, do not believe in the full sacramental form of marriage as performed by Hindus. We do not have any sacramental marriages in the Brahmo community, in the sense of marrying before the *Saligram Shila* or taking oath before the fire.

**Shrimati Sushama Sen** (Bhagalpur South): They are sacramental marriages.

**Shrimati Renu Chakravartty:** I am very glad that the orthodox Hindus accept our form of marriage as sacramental. At least it was not so earlier. That was why it was necessary to validate those marriages, and that was why the Brahmo leader, Keshub Chunder Sen, fought for the enactment of that legislation, the Act of 1872. He fought against the orthodox people, lone-handed, in order to validate those marriages. It would not have been necessary if Hindus had accepted our marriages as being valid. I am not a very great exponent of the Brahmo Samaj; nor do I know very much about the details of that history. But this is what I have heard and I would like to be corrected, if I am wrong.

**Shri N. C. Chatterjee:** There were some inter-caste marriages which were not then allowed according to some High Court decision. That was why they wanted some kind.....

**Shrimati Renu Chakravartty:** I would just like to point out that there are many Brahmo marriages which are contracted within the cast itself. It was necessary even to validate even those marriages.

Now, Sir, the insertion of Chapter III.....

**An Hon. Member:** Madam,

**Mr. Chairman:** The Chair has no objection to being addressed as 'Sir'.

**Shri N. C. Chatterjee:** Especially from a lady.

**Shrimati Renu Chakravartty:** Madam, I was on the point that a larger and larger volume of opinion was veering round to accepting the need for registration and that was why the insertion of Chapter III had become necessary.

Now, a question has been raised about people who were married twenty or thirty years ago, and the need or otherwise of inserting the clause that if they want, they can come and get

[Shrimati Renu Chakravarty]

registered. I think these are extreme cases. It is true these people have been given the right to do so; they are not going to be barred. But really, as far as I am concerned, until such time as there is a volume of prejudice in society against registration of Hindu marriages, until such time as registration is not made compulsory by the Hindu marriage, until such time as we are able to have one uniform code, until such time I am of the opinion we must make provision for registering marriages immediately afterwards which may be contracted in the customary form.

I know of many many cases; let us be practical, and let us see what is happening around us,—how there are parents who want their children's marriages should be registered but they are afraid of society, and so they have to perform the marriages according to shastric or customary rites and still want those marriages to be registered. Even as I said before in the Select Committee—I would ask my friend Mr. Pocker Saheb to listen to this—it was one of the Muslim Members who most consistently and insistently pleaded with us, 'Please allow us to be included in this; do not put this restriction on prohibited relationship. Our society is very very conservative but there is a progressive section that wants to have their children's marriages registered under this law.' They want that the enforcement of monogamy should be there. Therefore, I feel that it is necessary to allow such marriages to be registered. This is the logic of it. If, in the present circumstances, we could make every Hindu, Muslim and other marriage registerable under this law, and make it compulsory, there could be nothing like that. But at the moment, the question bristles with difficulties, and the least we could do is not to exclude these sections by prohibiting the registration of customary marriages contracted within prohibited degrees. I agree with what Mr. Venkataraman said. Shall we bar those who want to register under this law? Shall we say that although there

has arisen a certain consciousness among certain sections demanding new marriage laws we are going to shut them out? I would like that every opportunity, every encouragement should be given to all people who want to register their marriages. That is why I support this Chapter in its entirety.

Now, I would like to make my position clear with regard to prohibited degrees. There is no denying the fact that eugenically prohibited degrees are bad. If it was left to me and if I could really carry the majority of people along with me, I would surely ban marriages within prohibited degrees of relationship. But, we are not banning it; we are allowing it under customary law. Therefore, since it continues to exist, I would say we should not ban people who, out of fear of society and under the force of circumstances are still marrying under those laws to get over those practices gradually. Until the time when we see that the volume of public opinion is gathering and a larger number of people are getting married under this Act, until that time we should take the masses along with us, by throwing open the Act to be utilised by the widest sections possible. When you are allowing such marriages under the personal law I find no reason why you should not allow them registration under this Act. That is why I feel there is no contradiction. We cannot always be rigid. We as Communists adhere to certain principles. We stand for commission but do we not sometimes support actions which contain just a decimal point of our way of thinking because we think that that measure is a small step in the right direction. It is from that point of view that we say that we cannot be rigid about these things. Marriage laws and social laws die hard. Sometimes people accept the bankruptcy of many economic laws but when it comes to changing marriage, laws few find it has got into the blood and bones of those very people. Sentiments are roused, all sorts of prejudices are roused. We have to legislate step by

step. We have to legislate with a lot of imagination and we have to do propaganda in the country. When the Chinese marriage law was enacted they had to continuously undertake propaganda and fight tenaciously to eradicate the prejudices and to dispel fears that still remained in the Chinese peasantry. Enacting of social laws is a very very difficult thing. I would say that although we may hold very strongly to certain principles, we have to move seeing the realities as they are. We cannot apply rigid principles like my friend Mr. Gurupadaswamy who was giving us a long lecture as to the principles we should enunciate.

Before I come to the rather complicated question of inheritance, I will finish clause 18, I have heard a galaxy of legal talent—of which I have none. Therefore I will enunciate my position as a mother, as a woman, as to what I think should be our attitude towards our children. I would ask the Law Minister and the legal talent that exists in this House to find out ways and means as to how we can achieve this end. We do not want our children to be regarded as illegitimate. We want that our children should be legitimate.

**Shri Tek Chand** (Ambala-Simla):  
Ergo banish marriage.

**Shrimati Renu Chakravartty**: I have heard the hon. Member right through the whole course of the Select Committee on this point but I still adhere to my view as a woman and say that you have no right to inflict a punishment on the children for what you may call the sins of the fathers and mothers. Punish the fathers and mothers if you want; but, what right have you to punish the children. That is the position I will take. I would ask my friends, whatever laws we may make, we should not penalise children. We should not do that.

After that, I will come to the effect of marriage under this Act. Here again, I repeat it is very difficult to know what is going to happen because we are not sure of the fate of the

**Succession Bill**. I have already enunciated my position regarding the outlook that I have of encouraging larger and larger sections to marry under this law and have the marriages registered. I have given my minute of dissent in the Select Committee. I have made it very clear that by discriminating between people who marry under this law and people who marry under the personal law, we would be discouraging marriages under this Act. I know of some people who would like to have the marriages of their children registered under this law. They have come to that decision; they are prepared to have their children's marriages registered but if it means their children will sever. They will have strong objections. It does not effect the *Dayabhaga* school so much as it effects the *Mitakshara* school, when it comes to a question of family property etc. It is from that point of view that I say we should not discriminate.

At the same time, after having heard the arguments which have been put forward, I have taken up a slightly different position. I say that if Hindu law had given this right to property we would not have gone to this trouble of giving much thought to the Indian Succession Act. Hindu law does not give the right of inheritance to wives and daughters.

**An Hon. Member**: It does.

**Shrimati Renu Chakravartty**: It does not; otherwise there would not have been this trouble. There is no property she can own. Because of that, I do recognise that the Indian Succession Act gives certain advantages to the women. I think Shrimati Jayashri Rajee has not given sufficient attention to that. Yet, I say that, because we want that larger sections of the people should be encouraged to marry under this Act, we must take this Bill in its entirety. We must also recognise the fact that there are certain good aspects in the Indian Succession Act. That is why I have moved an amendment that at the time of the registration of the marriage they should be given the option to be governed either

[Shrimati Renu Chakravartty]

by the Indian Succession Act or by their personal law (*Interruption*).

I now come to the point that has been raised about inheritance for the children of those who get their marriages registered long after the marriage performed under personal law. I think it is only very few people who will register their marriages, say, after 20 years. Will it be that their children, one set of them, will be governed by the personal law and another by the Indian Succession Act?

**Shri S. S. More:** Pre-registration children will be governed by the personal law (*Interruption*). It will create complications.

**Shrimati Renu Chakravartty:** It may create complications. Why not leave it to them? After all, their children who have been born before registration will be governed by the personal law.

2 P.M.

**Shri Tek Chand:** What about collateral succession?

**Shrimati Renu Chakravartty:** Well, the point is, I do not understand this 'collateral succession' at all. It is for the lawyers to find out.

**Shri Tek Chand:** Therefore ignorance is bliss.

**Shrimati Renu Chakravartty:** I never try to compare myself with my hon. friend Shri Tek Chand as far as legal abilities go. I dare not do so.

**An Hon. Member:** But you have the force of conscience. (*Interruption*).

**Shrimati Renu Chakravartty:** I do feel that there is no ban on legislators expressing our opinion though we are not eminent lawyers like Mr. Tek Chand. We come as human beings to judge human relationship. We have every right to express our opinion to those who make the law. (*Interruption*).

Lastly, I would just say that I would recommend my amendment number 136 regarding Chapter 4, that the option should be given to the parties registering at the time of the marriage to specify what will be the succession which they would like to follow, and for the rest of the Chapter, I would request the House to leave it exactly as it is.

**Mr. Chairman:** I shall now place the amendment which Shrimati Renu Chakravartty has moved. Amendment moved—

In page 7, line 6, add at the end:

"provided either party makes a declaration to that effect at the time of registration."

**Pandit K. C. Sharma (Meerut Distt.—South):** Sir, I am sorry, I cannot support this Chapter III in this Bill.

**An Hon. Member:** Chapter IV.

**Pandit K. C. Sharma:** I am in support of the principles of this Bill, and I think the law has been long on the Statute Book. It has created certain environmental forces, which being in existence, you cannot go back upon now. Therefore, this law has come to stay and it is a good law to be available for the people who need it. But, I do not understand the logic of having this Chapter III in this Bill for the simple reason that every force of life, every custom and every structure of society has some influence on the human mind and human conduct. It is only the biological forces that direct man's actions but the social forces and institutional influences too direct and mould one's conduct and character. One's cultural outlook has a great deal to do with it. Therefore, it is not an easy job to say: "you are born a Hindu boy in a Hindu family, but now you behave like this and behave like that". All of a sudden if you say this, it is very difficult proposition. Human beings are not to be thrown like stones. Therefore, I say, that in the name of law alone,

this Chapter III cannot find a place in this Bill.

**Shri Algu Rai Shastri:** I thank you for this.

**Pandit K. C. Sharma:** I say this not on account of the conditions prevalent in the country, but in the name of logic and in the name of reason. What is law? Law as the great Greek Law-giver says, is the highest reason seated in the mind of the community. If any law does not appeal to reason it is not good law it is a bad thing to enact a bad law. What has the great Law-giver said? He said that any law must appeal to the reason seated in the mind of the community. The Hindu Law-giver has also said the same thing. Law, he said, is the intuitive wisdom in the mind of the community. Does society accept that if a marriage was performed under the Hindu, Muhammadan or any other law, after twenty years the persons concerned should say: "we do not like this system. We would like to change our marriage under this new Law and get it registered"? This is not what a man would do or the society would accept. If a man and woman have been living for twenty years under a certain norm of life, certain environmental forces have acted upon their family life. Men and women are not stones to change their environments all of a sudden. If they accept the sudden change, they have lived all these years in vain. They have not the receptivity of human mind and of human heart. This is an impossible position to human beings and this Chapter III should not be there. I find no precedence anywhere that such a law has ever been enacted. I ask my hon. friend the Law Minister to find out any precedent for such a measure. I have found none. I have laboured for it to find any precedent anywhere where a marriage performed twenty years back under a certain law could be changed overnight under a new Act. I do not think any sensible man or woman will have such

a conduct in life. What is against reason and what does not appeal to social conscience should not be enacted as law. It is for that reason that the English jurist stated "Law of the land". Law of the land means the law that will appeal to the social conscience of the civilised community. Then again, in the Constituent Assembly we discussed about 'due process of law'. What is due process of law? Given certain procedural necessities, it ultimately means that the law must appeal to the mind of civilised man or a conduct approved by society. Does this appeal to the reason in the mind of man; or the feeling in the heart of man, the reason and feeling with which he can stand as a man of honour before the society.

Is it possible for a man and woman who married twenty years back under a certain Act with all the obligations and all the ceremonies—those ceremonies themselves carrying certain influences in the mind of man and woman—to say: "we shake off all those environments and influences and we adopt this new system". This is not in the human conduct and this is not tolerable. Therefore, I say that this Chapter III is unadjustable and I do not find any precedent for it.

Then, I say that it is not a good moral and it is not good in itself. The other day the Prime Minister said the greatest harm that the wars have done to man is that they have coarsened life; that is to say, the refinement of life goes away. He gave examples from so many books and journals where a German was a Nazi, then a socialist, then again Nazi, then he became a Communist and so on. What is the worth of such a man. What is the worth of a man who lives a Hindu life for some time and then a Muslim life. He was quite a ceremonious man, sitting round the sacred fire and going seven times round the fire making some promises in the name of the old law in pure Sanskrit language, living a life with children

[Pandit K. C. Sharma]

and family for twenty years, he now says good-bye to all that and takes a new life. What is the moral value of such a man. I say, it is not in the good of society. Why should a man change and shake off his obligations.

**Shri K. K. Basu:** (Diamond Harbour): Just like the Congress.

**Pandit K. C. Sharma:** Madam, this is one question which only a few people can understand. Other people—and my friend Mr. Basu is one of them—cannot understand it.

**Shri K. K. Basu:** It is very difficult to understand you.

**Pandit K. C. Sharma:** You cannot understand it for your life; you have to learn a lot.

Therefore, my point is that it does not appeal to reason and therefore it is not good. It is not moral and therefore it is bad. It is not logical and justifiable and therefore, it should not be incorporated here. Therefore, I oppose the inclusion of Chapter III as applicable to all sorts of marriages, and I am supported in my contention by what Dr. Ambedkar put in the Hindu Code, clause 21, which simply says that marriages of doubtful validity could be registered under that Act. Again in the Special Marriage Act of 1872, it is stated that, excepting the marriages that are performed under certain religious systems, marriages, the validity of which is doubtful, could be the subject-matter of the Act.

**Dr. Rama Rao:** That does not arise now.

**Pandit K. C. Sharma:** In the first place, I oppose it *in toto*.

If at all it has any validity or any sense, it can have sense only if instead of the words "the Special Marriage Act, 1872 (III of 1872) or under this Act" you put in the words "the Christian, Jewish, Hindu, Mohammadan, Parsi, Buddhist, Sikh or Jain personal law or the marriages, the validity of which is doubtful". I

have taken it from the preamble of the Special Marriage Act of 1872. That law was made for marriages not performed under systems quoted above and also for marriages, the validity of which was doubtful. Pandit Bhargava, the other day, was very vehement to say "of doubtful". I do not regard that in the case of any man and woman living together as husband and wife and carrying on their life as such, it is the business of a third person to stand up and say "Yours is not a valid marriage". No third person can stand up and say that their marriage is not valid.

श्री अन्नन् राव शास्त्री (जिला आजमगढ पूर्व व जिला बलीया पश्चिम) : मियां बीबी राजी, क्या करंगा काजी ।

**Pandit K. C. Sharma:** When it comes to the acid test, he runs away. When a man and a woman agree to live as husband and wife, a third person should have no business to question the validity of their marriage. If this Chapter has any meaning, it can have sense only if my amendment is accepted and in that case it would read—

Registration of marriages celebrated in other forms.—Any marriage celebrated, whether before or after the commencement of this Act, other than a marriage solemnized under the Christian, Jewish, Hindu, Mohammadan, Parsi, Buddhist, Sikh or Jain personal law or the marriages, the validity of which is doubtful.

With this amendment, it will help certain classes of people who want certain laws to govern their life and govern the inheritance of their children, because the validity of their marriage is a doubtful question. To avoid future trouble for the children with regard to inheritance, this may supply a good need. Otherwise, I do not regard personally that it is the business of any third person to question the validity of the marriage between a man and a woman.



I then come to the difficulties mentioned by the speaker who preceded me—Shrimati Renu Chakravartty. A man married twenty years back and has three children. Then he gets his marriage registered and again—the woman unfortunately in this land is very fertile—gets three or four children more. Then the trouble arises in this way. The former children are governed by one law and the latter children are governed by another law. This point has been made out by so many speakers, on the very face of it, it looks ridiculous. However I do not very much appreciate why too much emphasis is put on inheritance. As I interrupted yesterday my hon. friend, Mr. Bhargava, there is no inseparable accident between property and inheritance. I do not regard the question of inheritance as anything very important. On the other hand, the question is how this man is brought up, how the child is brought up and in this you have to look to the future. The future wants able-bodied young men determined to do the job and perform it intelligently. It does not matter whether the man should inherit ten houses or twenty houses. Too much emphasis on inheritance is placed and as I already said, there is no inseparable accident between a clod of earth and blood of man. Blood is different from earth. A man may be capable of doing many good things. Houses are built and houses are destroyed and it is a man's business, and whatever importance it has, it is not going to have as much importance tomorrow. I am again supported in my attitude regarding Chapter III. A Bill was brought forward by Dr. Deshmukh in 1946 with regard to the same provisions which are adumbrated in this Chapter. The then Law Minister questioned it saying that it was not adjustable, not that the law was bad in itself. Str Asoka's contention was.....

**Mr. Chairman:** This is not a general discussion.

**Pandit K. C. Sharma:** I am opposing Chapter III alone.

**Shri Biswas:** I hope the Chair will give me at least one hour if I am to reply to all the points raised.

**Pandit K. C. Sharma:** My contention is supported by the attitude the then Law Minister, Sir Asoka, adopted that Chapter III is not adjustable to the Special Marriage Act. Further when a Bill came in 1951, the House was of the opinion that that amendment to the Special Marriage Act was not adjustable. Therefore, I stand on surer ground that Chapter III, as it is, cannot be a part of the Special Marriage Act.

**Shri Kasiwal:** I will be brief and will not take much of the time which the Law Minister wants to take.

I have heard with some attention what Mr. Chatterjee said on the question relating to registration of marriages and he said that Chapter III was uncalled for. While saying that it was uncalled for, he said that this Chapter was not to be found in the Act of 1872 and it was not to be found even later when the Act of 1872 was amended in 1923. That was the only argument he advanced when he said that Chapter III was uncalled for. My friend, Pandit K. C. Sharma, also dwelt at length on Chapter III, but I would remind them that society is not static, as they presume.

**Pandit K. C. Sharma:** It is an intelligent society.

**Shri Kasiwal:** It had advanced to such an extent that registration of marriages as such could take place under the Act.

Then, I will pass on to another point regarding clause 15. Mr. Tek Chand was pleased to raise a point on clause 15: he said that in line 4, the words "valid in law" should be inserted, and he said that unless these words "valid in law" were inserted after the words "ceremony of marriage," every form of marriage, whether it was valid or invalid, proper or improper, would become valid after registration under this Bill. But K.

[Shri Kasliwal]

submit that he did not take into consideration two factors. One was that he did not properly read the clause. The clause does not merely say that the ceremony of marriage has been performed but says that the "ceremony of marriage has been performed between the parties and they have been living together as husband and wife ever since." If these particular words were not there, that is to say, that "they have been living together as husband and wife ever since," was not there, perhaps his contention would have been right. But it is not so. I will remind him that he has forgotten one particular aspect of Hindu law which is a question relating to the doctrine of *factum valet*, which is applicable in Hindu law both to marriages and adoption. I will read from page 173 of Maine's *Hindu Law*:

"The doctrine of *factum valet*, rightly interpreted, is particularly applicable in connection with the questions relating to marriage and adoption."

Then, it goes on further and says:

"When the fact of the celebration of the marriage is established, it will be presumed, in the absence of evidence to the contrary, that all forms and ceremonies necessary to constitute a valid marriage have been gone through."

**Shri Tek Chand:** Therefore, it is a rebuttable presumption.

**Shri Kasliwal:** You cannot say that you must put in these words. So also, where a man and woman have been proved to live together as man and wife, the law will presume, until the contrary is clearly proved, that they were living together in consequence of a valid marriage and not in a state of concubinage. Therefore, the insertion of these words, "valid in law" is not necessary at all. The words are clearly there: that they have been living together as husband and wife ever since. Once they have been

living as husband and wife ever since, it would be presumed that there was a valid marriage and it is not at all necessary to insert these words "valid in law" after the words "ceremony of marriage."

My friend, Shri Venkataraman, also gave one or two instances of a marriage which is performed in the south—garlanding and all that. One cannot at all be sure whether such a marriage would be a marriage valid in law, as far as Shri Tek Chand's point of view goes. But so far as the ceremony of marriage is concerned, a ceremony of marriage has been gone through and they have been living as husband and wife ever since after that ceremony has been gone through. So, I believe that so far as that point is concerned, it disposes of Shri Tek Chand's objection, the objection which he wanted to raise in amendment 372.

There is another point to which I would like to refer, and that point is covered by the amendment given under No. 315 by Shri Dabhi, relating to the question of prohibited degrees. I think this House will agree to this amendment to the effect that all those marriages, even though they come within the purview of the prohibited degrees of relationship, could be registered provided they have been solemnized before this Act came into force. I think it is a very salutary provision and I hope the House will agree to this amendment. I need not go further into the matter. A very long discussion has already taken place on this particular point.

Then I will come to clause 17. Shri Tek Chand again raised a very pertinent question. He said that the objector under clause 17 should be given the right of appeal. Now, I submit that we did not give a right of appeal under clause 8 regarding solemnization of marriage. How can we give the right of appeal to an objector when he objects to the registration of a marriage? It would be absurd if you do not give the right of appeal to the objector so far as the question of solemnization of marriage



is concerned, but you give the right of appeal to a person who is objecting when a registration of marriage is concerned.

**Shri Tek Chand:** There you want to be uniformly unfair.

**Shri Kashiwal:** There should be no distinction in respect of solemnization of marriage and registration of marriage. The House has agreed to clause 8. In that clause, the question of giving the right of appeal to the objector has been rejected by the House.

**Shri K. K. Basu:** Provided by appeals for the lawyers!

**Shri Kashiwal:** I am not going into the details. It will open up a vast amount of litigation. Every sort of person will come and object and the marriage will never be solemnized and registered. All sorts of objections will be raised. The Law Minister, in the course of his speech, said enough on this point. So far as clause 17 is concerned, it remains at par with clause 8. I do submit that the right of appeal to the objector should not be given.

Shri Tek Chand again raised certain points with regard to clause 18. I am not dealing with that particular clause, because Shri Venkataraman took 15 minutes for that particular clause and he answered every point that was raised by Shri Tek Chand.

There are three other clauses on which probably no discussion has taken place, and those three clauses are proposed to be inserted by an amendment of Pandit Thakur Das Bhargava. Those clauses are 18A, 18B and 18C. With regard to these clauses, I must say that, with all respect to Pandit Thakur Das Bhargava, I have been unable to appreciate his attitude so far as this Bill is concerned. On the one hand he has been very strict, and he has been talking of all things—I might say—of things earth, earthy. On the other hand, he has been soaring high in the sky. He has been soaring into Platonic heights, I might say, when he wants clauses

18A, 18B and 18C to be incorporated in the Bill. What is the object of these clauses—clauses 18A, 18B and 18C? He wants that the husband and wife, the moment they have married, should have the property this way: all the property which the husband had before or the wife had before should be joint. All the property which they later on acquired should become immediately joint. He made an appeal to this House that this is a matter which can be taken to the U.N.O. as an example of what we are doing here. I really do not know whether it has something which may be taken to the U.N.O.

**Shri K. K. Basu:** It all depends upon the selection of the delegates.

**Shri Kashiwal:** If you will go as a delegate, you may take the matter further. If supposing these clauses were there, I really want to ask whether a boy of 21 or a girl of 18 is in a position at that time to enter into a contract saying that, now that we are going to get married, half of my property will be yours and the other half will be mine. I am quite sure that at that stage they may not be in a position to say anything to each other except this 'everything will be yours'; I do not want anything except yourself. At that stage it is not possible for any boy or girl to enter into such a contract and say, we are now equal sharers of this property which belongs to you and me. Subsequently also even when there is an accretion to their estates or they make some money and acquire some property, even then, the entire property will be joint. We do not know what will happen to this joint property when there is divorce. Nothing has been said so far as that particular clause under divorce is concerned. I submit that the clauses which he proposes to insert into this Bill are entirely unnecessary and uncalled for.

**Shri Algu Rai Shastri:** What will happen? Who owns the property?

**Shri Kashiwal:** I am coming to clause 19. I will not go deep into that clause; I think on clause 19 there has been a very great deal of debate

[Shri Kasliwal]

and Shri N. C. Chatterjee waxed eloquent over the hardships which are to be caused by clause 19. But I am in entire disagreement with him. I think Shri Chatterjee need not have wasted so much of time. I need not repeat the argument which have already been repeated by so many Members about the necessity for clause 19. There are two points which I want to make. First of all, this clause has been there from the inception of this Act,—since 1923, if I remember aright. Dr. Gour was the Chairman of that Committee, and Dr. Gour was a great Hindu law-giver, as we are told. Dr. Gour was responsible for the insertion of this clause 19 into this Bill. Therefore, there is nothing really to be said as to whether clause 19 should or should not be there. There is another reason why I want clause 19 to remain. Clause 19 would mean that succession will later on be governed by the Succession Act. What does the Succession Act say? Daughter and the son inherit equally. Under survivorship, the daughter has no right at all whatsoever. One of the great reasons why we want clause 19 is this: that the daughter will have equal right of inheritance with the son. I do not wish to advance any further arguments; I only wish to say that in spite of the various minutes of dissent appended by the hon. lady Members of the Select Committee, this House should retain clause 19 as it is.

Dr. Jaisooria: Mr. Chairman, much as I am in sympathy with all the provisions in this Bill, I must regretfully say that there is considerable confusion in the wordings of this Bill on account of the way in which it has been drafted. The reason for it is this: Originally it was drafted on the basis of the old Special Marriage Act, with a few modifications here and there. If I am right, my impression was that with a few modifications here and there, practically all the clauses, except perhaps those which said that you should not belong to this community or that community, of that Act have been reproduced here.

If I remember, also, the divorce clauses were absolutely a copy of the old Indian Divorce Act. That is the fundamental defect of this measure. There is so much confusion because we have been adding here and subtracting there with the result that there is no finality as to what our social philosophy is behind this measure. I do not know the mind of Government; I do not know whether Government itself knows as to what its ultimate outlook will be with regard to several other social measures, e.g., the Hindu Marriage and Divorce Bill, the Inheritance and Succession Bill, etc. All these, perhaps, are in a stage of evolution in which Government itself is groping its way. May I put it in another form? The differentiation of the sexes has not taken place properly; we do not know whether it is going to be a male child or a female child. I think that is the reason why there is so much confusion.

Of course, this is understandable. But that makes our position much more difficult in arguing and supporting the Government. It makes our task more difficult, because we do not know what the mind of Government is. As compared to that I have got here a little pamphlet "*The Marriage Laws of the Peoples' Republic of China*." It is very simple; very clear-cut; no ambiguity; no question of "save as hereinafter stated"—nothing of the sort. That, of course, depends upon the way in which you look at it.

I have heard the various arguments—peculiar arguments, from my point of view,—and objections advanced by hon. Members. For instance, Mr. Chatterjee asked: "Why should there be registration at all?" Well, nowadays, you have got registration of births, deaths and marriages. If you want a passport you have to register your name. You are taking statistics, vital statistics, for everything. Secondly, this Bill is meant for those who are not able, as we have all seen, to conform completely to the old, shall we say, traditional marriage. My hon. friend Mr. Sharma said: "Once a Hindu always

a Hindu; once a Congressman always a Congressman". But Government officials of the British Government have become Congressmen. Do you mean to say they should continue to be admirers of the British?

It has been argued as if there is not already the Act of 1872 which has been long in usage. And hundreds, to my personal knowledge, a large number, have married, without this phobia, this fear, that this will happen or that will happen. Previously we gave 14 days' notice; now we propose to give 30 days. With the original provision, there was, to my knowledge, hardly one or two cases of deception or fraud. From the way in which hon. Members talked about wholesale fraud, etc., it appeared to me that most people who are here never married under the Special Marriage Act and do not know how it actually functions. I had. We certainly should have safeguards, but not safeguards for phobias. For instance, I was surprised at Mr. Tek Chand's objections to clause 18. Here again we are in two minds. The question is this. Two people have undergone a type of marriage, with several people, the whole community, as witnesses. The man gave the woman a saree, and she in turn gave the man a coconut or garland before the whole community. In the Punjab there is a common practice. A man goes to his neighbouring village and says: "I have brought this girl as my wife." There is no sacrament. Among the Scheduled Castes there are no sacramental marriages. Before the community the man says: "I am taking this woman as my wife" and the woman says: "I am taking this man as my husband." Are you going to say it is not recognised form, accepted form? There are so many types of customary marriages. Whoever have lived together with the knowledge of the community, want protection not so much for themselves, but for their children. We have to legalise this and give protection to the children.

Supposing two people get married according to Vedic rites: one of them

is a non-Hindu and the other a Hindu. Now clause 18 says:

".....where a certificate of marriage has been finally entered in the Marriage Certificate Book under this Chapter, the marriage shall as from the date of such entry, be deemed to be a marriage solemnized under this Act, and all children born after the date of the ceremony of marriage (whose names shall also be entered in the Marriage Certificate Book) shall in all respects be deemed to be and always to have been the legitimate children of their parents."

Very unclear. According to the Chinese Law: children born out of wedlock shall enjoy the same rights as children born in lawful wedlock; no person shall be allowed to harm them or discriminate against them.

My hon. friend Pandit Thakur Das Bhargava who spoke yesterday, spoke in Urdu which many people could not understand. His was a very beautiful speech, but not very helpful. He raised two important issues to which I would like the hon. Minister to pay attention to. He drew our attention to some very important points, namely, that if the proposed new Hindu law in regard to inheritance and succession is going to be superior to the present Indian Succession Act, it will act as a deterrent to people who want to get married under this Act, because inheritance is a big problem.

I want to know one thing. I have still no evidence that the Government is going to stick to the present Indian Succession Act and that it is not going to improve it though it is already outdated. There is no evidence that they do not intend to do it and improve it. If we know exactly what the improved Indian Inheritance Act would be, what the ultimate Hindu Succession Act is going to be, then people will know the advantages on the one side and the disadvantages on the other side. I hear people saying all sorts of things. They take it for granted, that young people who will marry are not grown-up, are not able

[Dr. Jaisooriya]

to look after themselves. They must know the implications of this Act; they must know what are the advantages and disadvantages of the Special Marriage Act. It is left to them entirely. They must know the legal implications and how it will affect the succession and inheritance and all that. Since it is for adults, I am sure there are heaps of lawyers always available who will give advice on this point if needed. I say that we must make general laws. It is left to people to accept them.

My friend, Mr. Pocker Sahib, was very alarmed. We have not to think of an Act when two people are of the same community with identical and similar interest. Pandit Bhargava on the one hand has made a very useful suggestion, relating to the succession to the property of parties married under this Act in his amendment No. 274; that is one way out. Take the other way. People of different communities or religions marry. Mr. Pocker need have no worry. When a Muslim woman marries a non-Muslim, she automatically ceases to be a Muslim; she is no longer under the Islamic personal law, under the law of *Shariat*. It is perfectly clear (*Interruptions.*) She ceases to be a Muslim.....

An Hon. Member: You are wrong.

Dr. Jaisooriya: A Muslim woman when she marries a non-Muslim ceases to be a Muslim according to *Shariat*.....

An Hon. Member: As you know it.

Shri Biswas: *Shariat* tyranny is not the same as other forms of tyranny?

Dr. Jaisooriya: I am talking of personal laws. The Succession Act needs modernisation and I have no evidence that they do not intend to modernise it. I am sure that the hon. Minister intends to modify the Succession Act as well as, for instance, the Indian Divorce Act which is completely obsolete and out of date. It is the same case with many of these Acts at

present: neither we have brought in new Acts nor amended old acts suitably. Many of them are completely obsolete; they are repugnant to article 13 of the Constitution. If we only know ultimately what the mind of the Government is, the things will shape themselves. Many of our difficulties, objections, fears and doubts will disappear provided we have got it in the proper shape, in a proper clear-cut way. Therefore, as far as clause 29 is concerned, I must reluctantly—~~not~~ oppose it—but say that there should be a form of modification, so that if you want to come under your own personal law you can choose that; but if you want to get out of it and you think that it is advantageous to come under the Indian Succession Act which, I think, requires a wide scale of improvement and modernisation—I am sure they will do it—then you can choose it. But let them be clear about how exactly things are. That is the difficulty which I find. I wholeheartedly support the measure; I support the Bill but I only want a certain amount of clarification.

Mr. Chairman: Mr. Basu. He should not take more than ten minutes.

Shri K. K. Basu: I will not take longer time. We have been trying to declare only our attitude to the Bill. We have heard several speakers on this subject, somebody saying it is a modern piece of legislation and some others saying that our society is going to be disturbed and so on. I feel that we must take a human view of this social problem because the marriage institution is, after all, mainly a human institution. We have our personal laws. According to some, marriages are contractual, and according to some, these are sacramental marriages, and according to some, married couples continue to be married even beyond life. I am not going into all these things; they may be right or wrong.

The problem is this. After all, marriage is a union between a man and a woman and is meant for the

betterment of life in whatever way they think best. Our whole attitude to this problem should be human. Therefore, I urge upon the House and hon. Members that they should judge this from that angle.

In our country, we know that there are personal laws and some people like them and want to continue and preserve them while some want to reform and amend them. The country today is aiming at social progress and there is a change in the outlook. We have got to accept the diversity in the personal law. Here an attempt is made, I feel, not merely from the utilitarian point of view which was the guiding principle when this Act was enacted first in 1872 but something more. Then the idea was to keep as large number of person as possible within Hinduism and Hindu society. That was the main purpose which I should say was a utilitarian purpose when the original Act was enacted.

But today we should approach it from a different angle. This is 1954 and we are bound by the Constitution where we have accepted that certain rights should be guaranteed to the citizens irrespect of sex, creed or religion. Therefore, we are here coming forward with legislations dealing with a form of marriage which is deemed to be progressive in consonance with the present-day theories of the modern world. This is a permissive sort of legislation which allows persons who want to get the benefit or who want to be governed by this form of marriage to be married under the Special Marriage Act. Therefore, I feel that this provision in Chapter 3 is absolutely important.

I do not understand many friends saying that it is completely illogical and irrational to have these provisions in Chapter 3 which allows even marriages performed under the personal law which according to certain sections were sacramental or contractual and according to certain sections were abominable in the case of marriages performed under ordinary laws pre-

vailing in many parts of tribal areas or what are known as backward areas are allowed to be registered. According to the concept of many of the so-called progressive Hindus and Muslims, cousin marriages or many forms of tribal marriages are considered as abominable. They have their own usages and they were accepted by them. Even those people can come forward and take advantage of this particular progressive piece of legislation. Therefore, marriages performed under any other law should be given a chance to be registered under the Special Marriage Act.

Several hon. Members want to cling to the ceremony. They said that the marriages must be under the personal law, but it should also be a recognised form of marriage. Under the Hindu personal laws there are any number of forms of marriages. If we put that rider that it must be a recognised form of marriage, whether it is a recognised form under the customary law will have to be judged by the Marriage court. We do not know what will happen. It may be that the particular couple have been living as husband and wife for quite a number of years. The court may say that it is not a recognised form of marriage. We know, as you also know, Sir, that in Bengal, cousin marriage is considered abominable. But there are Hindu societies which are considered progressive, where cousin marriage or marriage of uncle and niece is accepted. Take the case of Muslims. Cousin marriages are accepted. A large section of Hindus considers that abominable. Do you mean to say that the Muslims have not contributed to the progress of our country and of the world? I feel that there should be a clause which gives an opportunity to Indian citizens, even those who have married under the personal law, to take advantage of the Special Marriage Act. No such rider or qualification should be added that it should be a recognised form of marriage, etc. We know the difficulties. Opinions differ among the Hindus themselves as

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to what is a recognised form of marriage. A form which is recognised in one part of the country may not be a recognised form in another. I strongly oppose all these amendments sought to be moved to qualify this particular provision regarding personal law marriages that they should be in a particular form. We know in the tribal areas, there may be a custom of exchange of garlands or some other custom. Suppose a Hindu from the U.P. goes and settles in the Naga area and marries there in that form. When he wants to get the marriage registered, can it be said, you are a Hindu from the U.P., according to your custom and personal law, your marriage was not in a recognised form and so you cannot take advantage of this legislation? I oppose any such provision being made.

I would like to say a word about the amendment which is sought to be moved regarding prohibited degree. As Shrimati Renu Chakravartty said, according to science, there may be difference of opinion and it may not be scientifically good, we feel that this provision should be there. We have got to look at the reality. However much we may wish, so long as there cannot be one single Marriage law for the whole country and one single social ethics, we have got to accept the personal ethics and personal ideas of the communities that are there in our country, big as it is. We shall propagate through whatever organisation or in whatever form we can and dissuade people from marrying within the prohibited degrees. But, if the customary law is there and allows such marriages, such marriages should be allowed to be registered under the Special Marriage Act. The Special Marriage Act seeks to give two most important advantages. One is the question of divorce. We have known many cases of Hindu families, where the husband and wife find it impossible to live together, but still they have to be tagged on because the Hindu Law does not permit divorce except in very restricted cases. Then, there is

the question of monogamy. This is very important for the Hindu and the Muslim communities. Even today, some Muslims or Hindus can come and ask why should there not be polygamy, why should not a Muslim marry four wives. But, in the modern context, it is abominable for a man to have more than one wife. This is an advantage which the Special Marriage Act affords. As Shrimati Renu Chakravartty also said, I have known in Bengal, in several families, in spite of marrying their children under the Hindu law, the parents want their marriage to be registered under the Special Marriage Act, because of this provision. I fully support the provision enunciated. This is a permissive legislation and opportunity should be given to the Indian citizens to choose the law under which their marriage is to be performed. These are personal matters. In the procedure for appeals, another appeal should not be there. We should try to make it as simple as possible. The Marriage Officer should be a man imbued with human feelings, and a man with a receptive feeling and understanding towards the problems of Indian citizenship.

Regarding clause 18, the other day, when I tried to interject Shri Tek Chand, he said that there are illegitimate children. Even if the parents agree, what right has the society to say that they are illegitimate children and they should not be recognised? I would only request hon. Members in the House to have a human approach to the problem. What wrong have the children done that for the sins of others, they should be put to suffering? We have seen that even in the English society, there may be conception during courtship, but born after the marriage, it is not considered an illegitimate child. The child is recognised as a legitimate child, if the parents consent. Even after marriage, there may be rape. What happened during the days of the Partition? There were many cases of rape. What happened during the riots in Calcutta? Many normal family women were raped. As



a result of that there may be conception. Even according to our friends, if the husband and the family members are willing to accept it as a legitimate child, society must stand in the way and say that it is against all canons of morality and should not be recognised. It should be our effort to stop illegitimacy and all its bestiality. There are human lapses. If the parents, the family and thus society are willing to accept the child as legitimate, why should the legislators stand in the way of progress and normal development of society, which is necessary for the progress of the country?

Regarding Chapter IV, I feel that there will be difficulty if we keep the clauses as they are. As I originally said, if it is a permissible legislation, it should be made as flexible as possible so that the largest percentage of Indian citizens can have an opportunity to take advantage of it, in spite of the fact that a person is within the fold of personal law and custom. Therefore, I fully accept the proposition of Shrimati Renu Chakravartty that there should be an optional clause. It is for the husband and wife who want to get their marriage registered under this Act to decide whether they would be guided by the Indian Succession Act or by their personal law. An absurd proposition was made, which I consider as an abnormality, of parents, after 30 years of married life and after begetting four or five children, coming to register their marriages in order to get a divorce. I do not think that they will come only to see that their sons are deprived of the personal law by which they had been guided. I concede for a moment that such a thing happens. In that case, the persons concerned must choose. If he chooses that I shall be guided by my personal law, he should be allowed to do so. If he says, I shall be guided by the Indian Succession Act, it may be that the sons born prior to the registration may be guided by their personal law. So far as collateral succession is concerned, there is a certain difficulty; but it is not insurmountable. It may be

inequitable among the children born before the registration and children born after registration, so far as sharing is concerned. Those children born prior to registration may follow their personal law and form a coparcenary. I would like to ask Shri Tek Chand what happens if a Hindu becomes a Muslim or a Christian convert. These are exceptional cases and these difficulties should not be placed before the House, to do away with this provision. We have got to have a human approach to the problem and look at the realities of the situation, and the normal tendencies of an average Indian citizen in spite of the civilization and progress. Sometimes there has been progress; sometimes progress has been retarded. I would only urge upon the House to have a human approach to the problem and make this provision as elastic and liberal as possible so that the maximum number of citizens can take advantage of this legislation. The provisions should not be such as to deter our people from registering their marriage under this law. I feel that in Chapter IV, so far as severance and applicability of the Succession Act are concerned, it can be made optional. It is for the persons concerned to decide by what law he should be guided.

3 P.M.

In conclusion, I would urge upon this House to consider this fact that you are here laying down a law with a permissive aspect only. You may have ideas of a uniform civil code for the whole of the country, but we do not know when it will see the light of day. As was pointed out by Pandit Thakur Das Bhargava in the course of his speech, we have no uniform Hindu code for the whole of the country. We have no amendment to the whole Hindu law as yet. We have known the fate of the Hindu law for the last ten years, since 1943. The matter comes up every time just before the elections, but the moment the elections are over, we hear nothing about it.

So long as we are not assured that the whole of the Hindu law will be

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codified, I would urge that we should view this legislation only as a permissive one. The whole of the Hindu law should be codified, and if necessary, even the Muslim law may be amended to keep pace with or to fit in the one uniform civil code, which is our idea. So long as that civil code is not there, we should view this problem from a human angle.

Dr. Jaisooriya was citing the case of China, where there is one law for the whole of the Republic of China, without any ambiguity. Even though the legislation is there, still they have tried to propagate the rights of the parties to the marriage and the children born to them. Similarly, in a country like ours, which is as vast and as backward as the Chinese were, we should have a permissive piece of legislation only. I would urge upon hon. Members to have a human approach to this problem, and see that the law is made as elastic as possible so that the largest number of the citizens of India may be able to take advantage of the benefits of this particular piece of legislation, so long as there is no uniform civil code for the whole of the country.

**The Prime Minister and Minister of External Affairs and Defence (Shri Jawaharlal Nehru):** I venture with some diffidence to intervene, because there are so many able and experienced lawyers here, who have taken an interest in this proposed legislation. That person who dare not speak as a lawyer is at some disadvantage. Naturally, I look upon this matter although it is a law, not from the strictly legalistic point of view, but from the point of view of—I may call it—social reform, or an attempt—not a very big attempt, but nevertheless an attempt—to adopt our social life to the conditions of today as they are arising.

On the last occasion, I ventured to point out that something rather curious had happened to Hindu society in this country, in the course of the last two or three hundred years. Hindu

law was not an unchanging thing. In previous times, it was capable of change, and it did change—either they called it custom or whatever it may be, but it did change. With the coming of the British, it became much more rigid, oddly enough, not that the British were interested in its rigidity, but it so happened—I need not go into the history of it. But they codified it, and they got the praise. Naturally, they codified it, they did away with the customs or the changing character of it, and they consulted learned *pandits*, and learned *maulvis* in regard to the Islamic law, who naturally gave them what was written down in books rather many thousands of years ago. Although that has been changed by custom in many places, still it assumed a certain rigidity, and we cannot get rid of that rigidity of custom now only by legislation. And so we have come up to legislate—and that is right, of course. But we have to remember that the rigidity that we have seen in the last many generations is not an original feature of Hindu society; it is a later development.

Now, I do not wish to say anything which might hurt any colleague of mine here. But I do submit that this extreme reverence shown to what is called personal law seems to me completely misplaced, whether it is the Hindu personal law or the Muslim personal law or any other. In fact, on the one hand, it means that you are extending the sphere of religion to all kinds of minor and temporary and changing situations in society. There may be certain basic concepts in a religion, which you accept. Now, if you go on adding all kinds of non-basic concepts to it, the result is that you are likely to weaken the basic concepts of it, if you put them at the same level. The second thing is that if you admit that society changes—and I do not see how anybody can deny that society changes or that a social organisation changes—to tend to bind it down with a certain organisation which might have been exceedingly good at a certain time under certain



circumstances, but which does not fit in with the later age, is itself not wise, for certainly it comes in the way of any advance or progress. And ultimately you put this alternative before the people governed by that society, that if you do not allow them to grow into something different, the only way out for them is to break away from it, to break away into some other society or into some other religion, when there is no society, or whatever it is. It is a bad thing to give this alternative to any social organisation. It should develop according to its own genius. It would be wrong, of course, to compel it or to force it to develop in any other way. And my own reading of our history is that in the past, there was that capacity for adaptation, for change, and that gave a certain stability to Hindu society.

I was reading the other day a very able interpretation by a very able Muslim scholar in Arabic, of the personal law of the Muslims. His interpretation was,—we are not considering that—his contention was that it was quite wrong interpretation to consider the personal law of the Muslims as an essential part of Islam. It was something which was good, or whatever it was, at that time. It may or may not change, but to tie it with the fundamental concepts of Islam was in a sense to do injury to those fundamental concepts. Anyhow, it should not be there. That interpretation may not be a widespread interpretation, but I believe that it is gaining wider acceptance, at any rate among thinking people today.

Now we are dealing with certain clauses of this Bill, namely clauses 15 to 21. What do we think this Bill is for? Many of the criticisms applied to certain of these clauses seem to me to go almost to the basic character of the Bill. This Bill is not a mere extension of the old civil marriage Bills. First, there was the old civil marriage Bill. Then, Dr. Gour amended it, and there it was, even now a very restricted one. Well, one could amend it, and one could make it some-

what wider so as to include in its scope every Indian, who need not forswear his faith before he marries under that Bill. That would have been easy enough by amending that Bill. We are not amending that. We are replacing it by something wider, i.e. this does not merely give a chance for any Indian if any religious community to marry in their own religion by this method, and to get a divorce afterwards. It is not merely that, but it is something more than that. It is a first step, or if you like, a second step, towards bringing about a certain uniformity in India,—voluntarily thus far, for there is no compulsion about it. Nobody is forced. People say sometimes, why do you force them to sever, if they marry under this Act, why do you force them to break up their undivided Hindu family, if they marry in this way. Nobody is forcing anybody. All this is voluntary. If they marry in this particular way, they do so with the knowledge that certain consequences flow from it; they may or may not do it. The object, therefore, is to have the first step towards bringing some uniformity. Why only uniformity? I think that in the process of our building up a nation in this country, it is essential that we should aim at a certain uniformity in certain social observances and the like I am not entering into the narrow sphere of religion. As for that, of course, everybody has his own practices of religion. But if you do not break down the barriers, first of all in the Hindu Community itself, these caste barriers and the rest that keep each group apart, and secondly as between the Hindu and the Muslims, and the Christians and the Parsis and the Buddhists and the Jains and all others who live in this great country, you will never build up that basic law, that national concept that we talk about so much. There is no doubt about it, that these barriers come in the way of them, and what we call communalism, or something else by that name, essentially represents those barriers. We must not mix up religion with them. I know of

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countries; if I may just mention one country—not a big country in size, but nevertheless, a good country—take Ceylon. There are many religions there; Buddhism, of course, is there, then Christianity, Islam and others. As regards Hindus, of course, they have plenty of Hindus there. Have you ever heard of any kind of religious conflicts in Ceylon? Never. In the same family, you will be introduced to so and so who is a Hindu, so and so who is a Buddhist and so and so who is a Muslim. There they do not consider that unusual; here it would be unusual; we are not used to this kind of thing. Now, from that point of view they in Ceylon, in spite of other difficulties which they may have, at least have not got that barrier which comes in the way of their nationality; they may have other barriers. Now, we have these barriers. We cannot do away with them suddenly, it is true, and we cannot do away with them forcibly either; at least, we cannot apply too much compulsion. A slight compulsion here or there may be applied. This is a voluntary way of taking the first step in that direction. That is, those who are willing to join a kind of community to which all Indians can belong, to join it without giving up their religion in any way—except in regard to certain of these functions etc. of marriage which are important and the subsequent succession that follows the marriage—well, if they are so willing voluntarily, they join it. They do not give up their religion, their faith or anything, but certainly they give up their personal law in regard to succession etc.

Some friends have said: 'We would be completely agreeable to this if you introduce a civil code and apply it to everybody'. I should like a civil code which applies to everybody.

**Shri S. S. More:** What hinders?

**Shri Jawaharlal Nehru:** What hinders? Wisdom hinders.

**Shri S. S. More:** It is reaction which hinders, not wisdom.

**Acharya Kripalani:** Want of wisdom.

**Shri S. S. More:** Yes, want of wisdom.

**Shri Jawaharlal Nehru:** The hon. Member is perfectly entitled to his view on this subject. If he brings forward a Civil Code Bill, it will have my extreme sympathy. But I will confess this: I do not think that at the present moment, the time is ripe in India for my trying to push it through. I want to prepare the ground, not that I am opposed to it. And this kind of thing is one method of preparing the ground; step by step, we go in that direction. But the result of this kind of argument, which, they say, is progressive and advanced, is that it prevents us from taking even one step in that direction, which is a very extraordinary kind of progressiveness—not to go there at all till you are able to hop to the ultimate goal and, therefore, not to take any step towards it! Surely that is not logical or reasonable. Anyhow, we are not discussing that matter.

I do submit this so far as these clauses are concerned. Take clause 15. I might mention that so far as we are concerned, we are prepared to accept the amendment of Shri Dabhi, No. 315, which restricts the registration of marriages performed within the prohibited degrees according to customary law, to those before the commencement of this Act. If this amendment had not been there, I would not have complained. But some people thought that this might be a device to subvert the straight course of action, to encourage people to adopt all the devious ways. That does not apply to the marriages which have taken place previously, that is marriages under customary law, within what are considered in this Bill as prohibited degrees; if they are under custom, surely they are perfectly legal. Can they register? I say 'yes'; I would have said 'yes' too afterwards. But there is something to be said in this, that that might be just a device. Therefore, I am prepared to accept this amendment of Mr. Dabhi's which says

that such marriages performed according to customary law, even within the prohibited degrees, will be registered only if they have taken place before the commencement of this Act.

Then in regard to clause 18, effect of registration, we are also prepared to accept the amendment No. 320 by Mr. Venkataraman which says:

"Provided that nothing contained in this section shall be construed as conferring upon any such children any rights in or to the property of any person other than their parents in any case where, but for the passing of this Act, such children would have been incapable of possessing or acquiring any such rights by reason of their not being the legitimate children of their parents".

Now, for my part, I hope the time will come when no distinction would be made so far as rights are concerned between legitimate and illegitimate children. But again...

**Shri K. K. Basu:** Then withdraw it.

**Shri Jawaharlal Nehru:** ... here we must remember the scope of this Bill. It is no good my trying to push in my views or fads into the Bill, or any other Member doing that. We must remember the scope. If we have anything else, let us bring forward a separate Bill and consider it. Here the argument was raised and objection was taken that by this Bill we are depriving some people of their existing rights in regard to succession to property. We do not want that argument to remain unanswered. Therefore, although we do not recognise that anybody will suffer from the so-called illegitimacy, in regard to succession to property, we do not wish to deprive others because then this Bill will become something which is a little more than it was meant to be, and other difficulties will arise. Therefore, we are prepared to accept this amendment to clause 18.

Apart from these two amendments that I have suggested, I do submit

that these clauses—15, 16, 17, 18, 19, 20, 21—except some minor amendments relating to Parsis etc., should be adopted as they are.

**Dr. Rama Rao:** May I ask a question of the hon. Prime Minister? I am referring to clause 15(e). He wants permission to be refused registration for the marriages that will take place hereafter. He must be knowing that thousands of marriages take place normally by-passing this law. Why prevent those people from taking advantage of this? If they marry after this Act is passed, why prevent them from taking advantage of this Act?

**Shri Jawaharlal Nehru:** Having some difficulty myself, I happen to agree with the hon. Member on this point. I do not wish to prevent them; I think we should not prevent them. But I recognise that there is some validity in the objection that has been raised. I have agreed to it as a matter, frankly, of accommodation. It is open to them in future to marry under this law. Why should they go by the diverse curious route and come in?

**Shri V. G. Deshpande:** With this amendment, it would not be possible.

**Shri Jawaharlal Nehru:** Anyhow, as I have said, my answer is, this is accommodating people's wishes.

**Shri Biswas:** This is not the last speech on the passing of this Bill, at least not in this House. I cannot say, it will be very rash for me to predict that this will be the final stage of passing the Bill.

**Shri Gadgil (Poona Central):** There is no finality anywhere in the world.

**Shri Biswas:** We may be creating history and there may be a joint sitting for the first time over this Bill. I have spoken at least five times on this measure here and in the other House: and, on each occasion I took particular care to draw special attention to the special features of this Bill. It appears they have produced no effect.

**Shri Algu Rai Shastri:** All prophets have the same fate.

**Shri Biswas:** I shall limit my remarks on the present occasion and not repeat my arguments and submissions at great length. Some repetition is unavoidable; that, of course, cannot be helped.

The picture that has been drawn—judging from the speeches that have been made by quite a large number of hon. Members—is that a revolutionary change is being made which will have disastrous consequences and devastate the social fabric (*Interruption*). I very humbly and respectfully suggest that that is not the object and that will not be the effect of this Bill.

**Babu Ramnarayan Singh:** What is the use of this Bill then?

**Shri Biswas:** I only hope that the House will show by its vote that it welcomes this measure as a step in the right direction. First of all, as the hon. Prime Minister has pointed out, it is an honest advance towards the objective set out in article 44 of the Directive Principles of State Policy in the Constitution.

Secondly, it is a sincere endeavour on our part to bring the law in consonance with the changed conditions of society. These are the two main objectives. Dr. Jaisooria said the Government have not explained what is the social philosophy behind all this social legislation they are undertaking.

**Dr. Jaisooria:** Ultimate and clear-cut.

**Shri Biswas:** "Ultimate and clear-cut" i.e. you cannot give a comprehensive picture unless you are prepared to fill it in with details. But the general picture is there.

As a matter of fact, as the Prime Minister has pointed out, there are so many communities with so many personal laws in this country (*Interruption*). The day we can get rid of these personal laws and bring all these communities under one Code, that will be a great day for India and that is the day towards which we are making an attempt to advance. That is the social

philosophy behind this legislation (*Interruption*). As a matter of fact, we have got to profit by experience.

**Shri Algu Rai Shastri:** That will be Doomsday.

**Shri Biswas:** For many years the Hindu Code Bill has been before the country and have we been able to make any substantial advance? Therefore, if we suggest that we should take up all the personal laws of the different communities and achieve something by a stroke of the pen, that is something which I cannot imagine as a possibility.

**Shri S. S. More:** We accept your statement.

**Shri Biswas:** I hope you will show that by your vote and not merely by saying that you accept my statement. I know that, like my hon. friend, there are others who will make a vociferous demand for a uniform civil code in the country (*Interruption*); at the same time, they will show, as they have shown already, an almost fanatical zeal and say, 'Oh, you cannot touch without being charged with pollution; they are *sacrosanct* and they are not to be touched and you cannot do anything about them'.

Dealing with this Bill, one basic question you must be prepared to face clearly and squarely is this: whether or not you will permit marriages between two persons who do not profess the same religion. I concede this is an innovation in the marriage law of this country. But, this is the fundamental basis of this legislation. You must make up your mind about it. If you do not want it, say clearly and throw the Bill out.

**Shri Algu Rai Shastri:** We accept it.

**Shri Biswas:** If you accept it, then there are certain consequences which you have also to accept (*Interruption*). The Bill does not prevent marriages between persons of the same religion. They are free to marry either according to their personal law or according to this law, whichever they like. But,

in so far as it permits a person of one religion to marry a person of another religion, you must be prepared to abandon the personal law of the parties to the marriage. You cannot have one personal law to govern the two parties to the marriage if they belong to two different religions. If you apply the personal law of one of the parties in such a case, that will be misfit.

Then there is the question of registration of marriages. That again is an innovation; there is no doubt about that. This registration is not for any statistical purpose. The Bill has a definite object and that object is not to deprive persons who have already married in any other form of certain benefits and advantages of this special law, if they choose to avail themselves of these. Whether they are benefits or advantages, leave it to the parties to decide that question. Do not pretend or profess to decide that yourself, on their behalf. There is no compulsion and people are free to marry or not to marry under this Act.

This leads me to the third fundamental fact about this Bill, which hon. Members should not forget. And, yet, I am sorry to find sufficient emphasis was not laid on this feature by some of our critics. Do not forget that those who will marry for the first time under this law or register an existing marriage under the provisions of this law, will not be mere children being drugged or dragooned into a course of action of which they do not understand the implications, or as some hon. Member would like to say, the dangerous possibilities of this legislation. They will act with their eyes open, as open as, I hope, as those of their critics (*Interruption*).

This brings me to a specific consideration of some of the criticism which have been made. I wish first of all, to deal with those relating to clause 15. The main objections regarding this clause have come from Pandit Thakur Das Bhargava—amendments 260, 370 and 371, and from Shri Pataskar who has moved no amendment but made only a general statement.....

**Shri Pataskar (Jalgaon):** No amendment, but my remarks.

**Shri Biswas:**... from Shri N. C. Chatterjee, amendment No. 187.

Before I take this up, I wish to draw attention to the provisions in clause 50(2) of the Bill. It says that notwithstanding the repeal of the previous Special Marriage Act of 1872,

"all marriages duly solemnized under the Special Marriage Act, 1872 (III of 1872), or any such corresponding law shall be deemed to have been solemnized under this Act;"

So, under clause 15, you need not deal with marriages solemnized under the special Marriage Act. They will automatically be deemed to have been solemnized under this Act. A number of amendments have been tabled as if there was no such provision; that is what I am seeking to point out.

Then, Sir, the effect of the amendments to which I have referred will be to practically exclude from registration marriages which had taken place according to personal law or according to any other law. That is, if there has been a valid marriage already contracted, it should not be possible for the parties to apply for registration under this new law so as to attract some of its provisions. Shri Chatterjee has not gone so far as Pandit Thakur Das Bhargava because he will limit the exclusion only to sacramental Hindu marriages. I have tried to follow the arguments very carefully, but I am sorry to say, I remain unconvinced. As already explained, registration is optional, it is open to parties either to register or not to register. Adequate safeguards have been provided in the Bill itself so that no thoughtless or irresponsible exercise of this right may take place. For instance, it is provided that the application for registration shall be made jointly by both the parties to the marriage. Secondly, it is provided that both of them should have completed 21 years. I submit that this is very adequate safeguard. If the conditions laid down in Chapter III are examined

[Shri Biswas]

carefully, it will be further seen that one of the effects of registration will be that marriages about which doubts may exist may be validated. But who will decide whether there are any doubts or not. I must say that the parties themselves are the best persons to decide. If they have been living as husband and wife and find that doubts have been cast upon their marriage, they are the best persons to decide whether they should apply for registration or not. If you can trust the parties to decide such a question as to whether their marriage was valid or not, why should you not also allow them sufficient discretion to decide whether they should apply for registration at all.

The other effect is that registration will serve to enforce in an indirect manner a uniform law of divorce, succession etc. It will also help women marrying under any other form of marriage—it may have been a bigamous or polygamous marriage at the time it was contracted, but all other wives may have gone and only one remains—and in that case, if the husband and the surviving wife decide to register the marriage it will stop the husband from bringing another wife into the family.

**Shri Gadgil:** Who can see to the future?

**Shri Biswas:** It will serve as a check and stop the husband from enjoying the luxury of a plurality of wives after registration. It also secures, what the parties may consider to be better rights for the children. Comments were made that the provisions regarding rights of succession and so on were not sufficiently attractive. I say, leave it to the parties to decide. Who are you to say whether they are attractive or not? They are going to make some provision for themselves and for the children who will be born to them. Are they not the best persons to come to a decision on such matters? You may not but the parties to the marriage may think that the provisions made for

divorce in this Bill—supposing they were Hindus—are more liberal than what we are going to provide in the Hindu Marriage and Divorce Bill.

**Shri Gadgil:** Make them liberal.

**Shri Biswas:** That may be their opinion and not yours. Therefore, leave it to them.

**Mr. Chairman:** The Law Minister may please address the Chair.

**An Hon. Member:** That he never<sup>e</sup> does.

**Shri Biswas:** It has been argued that if the parties have already been validly married there is no point in getting the marriage registered, as if there was going to be a second marriage. That is not the position. It only provides that after a valid marriage under some other form the parties find that the additional rights under this Act are worth securing, then they may get their marriage registered, and not otherwise.

**Shri Algu Raj Shastri:** Why keep this right? It is useless.

**Shri Biswas:** No child should be kept away from temptation. No merit lies in avoiding temptation, and then pretending you are very virtuous men.

Therefore, I say that hon. Members need not be so solicitous about the welfare of these persons and seek to interfere with their freedom of action. I know there are certain persons like children, illiterate women and the like who, according to law, require to be protected. I do not think that this Bill contemplates that persons who will wish to register under this Act will be persons belonging to such category.

Some of my hon. friends have even made a suggestion that Government on set purpose have made these provisions just to encourage a course of action which is definitely against the interest of those who had married under some other form. Sir, I should most strongly repudiate such a charge. That was not the Government's object and



that was not their policy. They wanted to make marriage easier between persons belonging to different religions. That is the change we are making and we are not doing it in a hide and seek manner. We are doing it openly and with the consent of the House. Of course, if the House is against it, it will throw it out. But, we assume that the House would consent to a measure like this.

So far as my own view is concerned, I might just as well say that no marriage solemnized either before or after this Act ought to be excluded from registration. The only exception I would make—and that also by way of a compromise as the Prime Minister was good enough to suggest—will be as to the proviso to clause 15—(e)—if the parties are within the degrees of prohibited relationship. I would personally, as I have said before, prefer the complete omission of this provision as suggested by my hon. friends Shri Chatterjee, Shri Dabhi and Shri Deshpande in amendments numbers 43, 193 and 265, so that if any marriage had been contracted between parties who would be within the prohibited degrees as specified in the Schedule attached to this Bill, the marriage would not be registered. That would be the logical course, there is no doubt about that. But, I should be prepared on my part as a measure of practical politics to accept the compromise amendment of Shri Dabhi, number 315, to which the hon. Prime Minister also referred. I shall accept amendment number 315 on behalf of Government.

Then, Sir, I might refer briefly—if I have the time—to some of the other amendments. As a matter of fact, I made a list of these amendments and also separate notes on them. If I have the time, I will go through them. I shall try to hurry up. Amendment number 186 by Shri Raghavachari says that instead of 'celebrated' substitute the word 'solemnized'. We have made a distinction between these two words and therefore the word 'celebrated' is quite all right in its place. Next comes

amendment number 261 by Shri Mukund Lal Agarwal, who says that for words 'whether before or after' substitute the word 'before'. As I said before, our object is not to confine this Chapter only to pre-Act marriages. The only restriction will be regarding the prohibited degrees under proviso (e). Then I come to amendment number 39 by Shri B. P. Sinha. There he wants to insert the words "only six months", whereby he wants to say that marriages solemnized within six months before the commencement of the Act should alone be registered. The amendment is ambiguous. It is not clear whether he means before commencement or after commencement of the Act. On that ground be thrown out.

Then, I come to amendment number 372 by Shri Tek Chand. That also is not acceptable. We have said that anyone who had been married according to some ceremonies and so on, should be allowed to register, whereas he wants to make it 'recognised ceremonies'. What does it matter whether the ceremony of marriage was a valid ceremony or recognised ceremony? We are allowing registration and if it is registered, it will be a good and a legally valid marriage. Therefore, all that is unnecessary.

Then, I come to Dr. Jaisooriya's amendment 188. Now the parties will be twenty-one and, therefore, it is not necessary to say "of their own free will and consent at the time of registration".

Then I come to two or three amendments by Shrimati Jayashree—73 and 75. She says that in deciding the duration of marriage, temporary absence must be excluded. I suppose she is not serious. As a matter of fact, A marries B and so it is not stipulated that A must remain with B 24 hours every day. With regard to No. 75, she seeks to add the words "the woman is not an *akanya*"—that is an obsession with her not only in this Bill but in the other Bill also. Let me point out that the word '*akanya*' is not necessary.

[Shri Biswas]

The word 'impotent' includes many forms of deformity, which will cover *akanya*. I am reading from Eversley's *Domestic Relations*, page 24. The word 'impotent' has been explained and it includes the following:

Impotency may be of either party.

It may proceed from malformation, frigidity, disease of some other like cause.

It may arise from invincible repugnance or mere nervousness on the part of the woman.

In general terms, it includes all kinds of impediments to practical consummation which cannot be removed.

I hope my hon. friend will be satisfied with this explanation.

**Mr. Chairman:** The Law Minister has got about 15 or 20 minutes more to finish his speech.

**Shri Biswas:** I shall go on as long as time will allow me. Members have covered a very wide ground and I will reply to their points as best as possible. It is not my habit to speak from notes, but I have taken the trouble to prepare a list of the amendments and notes on each of these amendments. If I have not the time, I cannot place them all.....

Then I come to amendment No. 76, which requires that the age of registration should be twenty-one for the male and eighteen for the female. The age for this purpose need not be the same as for marriage.

Amendment No. 130 is not acceptable and that also relates to the question of age.

Amendment No. 264 requires the omission of lines 13 to 16 on page 6. It is not acceptable. This deals with the condition of degrees of prohibited relationship only. That cannot be done, because all the conditions which have been laid down in this clause are cumulative, and registration will

be allowed only after all of them are satisfied.

**Shri Bogawat:** May I know from the Law Minister when we have passed the law of the age of eighteen and twenty-one, why do you insist on the age of twenty-one years at the time of registration?

**Shri Biswas:** I have just pointed out that the age for marriage need not be the same as the age for deciding as to whether you should register the marriage under clause 15.

Amendment No. 131 is a minor one and it requires fourteen days in place of thirty days with respect to the period the parties should have been residing within the district of the Marriage Officer. I do not accept it.

There is no amendment to clause 16 at all.

In regard to clause 17, there is only one amendment and it requires the right to be given to the objector to file an appeal. I do not think that is called for. This is not marriage. The parties who desire to register their marriage are the persons interested and if registration has been refused, they will go and file an appeal. What have objectors to do with this. They have been given the right to object, but there is no reason for providing the right of appeal also in their case.

In regard to clause 18, only three amendments have been moved, two by Pandit Bhargava and one by Mr. Venkataraman. I do not quite understand amendment No. 268 of Pandit Bhargava. What exactly would the effect of this amendment be, I do not know. Would the effect be to shut out the children from succession to the property of their parents? Look at the language of the amendment.

**Pandit Thakur Das Bhargava:** The marriage registration will be valid from the date of registration or from the date of marriage?



**Shri Biswas:** From the date of registration. The marriage under this Act will be from the date of registration, but it will not invalidate the marriage if it was contracted at that time.

**Pandit Thakur Das Bhargava:** The Law of Succession will apply to the children born previous to the registration if you do not amend clause 21 or accept my amendment to clause 18.

**Shri Biswas:** The Succession Act will not apply. The Succession Act will apply only when it becomes a marriage under this Act, when it is deemed to be solemnized under this Act. That will be the date of registration.

**Shri S. S. More:** May I ask one question? For solemnization that will be the date, but as far as the legitimacy of the children born before the registration is concerned, it will date back to the original marriage.

**Shri Biswas:** If you look at the language of clause 18, it would be clear

**Shri S. S. More:** This clause has two periods: one runs from the date of registration for other purposes, and the other is from the date of the ceremony of the original marriage for the purposes of legitimacy.

**Shri Biswas:** If you look at sub-clause (a) of clause 15, the words are: "a ceremony of marriage has been performed between the parties and they have been living together as husband and wife ever since." The words "ceremony of marriage" have been used. These words have been repeated in the second part of clause 18, but different expression has been used in first part. This clause says:

"Subject to the provisions contained in sub-section (2) of section 24, where a certificate of marriage has been finally entered in the Marriage Certificate Book under this Chapter, the marriage shall as from the date of such entry."

that is, the date of registration.

"be deemed to be a marriage solemnized under this Act."

All the consequences flow from the effect of such a marriage.

Another part of this clause says,

"and all children born after the date of the ceremony of marriage."

That is to say, it dates back to the original date of marriage. Therefore, in regard to legitimacy, this will take effect from the date when the marriage was actually performed.

**Pandit Thakur Das Bhargava:** Will the issues of the marriages under this clause come under clause 21, for the purposes of clause 21, or not?

**Shri Biswas:** The children who are born before the date of registration will not be entitled to succeed under the Indian Succession Act.

**Pandit Thakur Das Bhargava:** Then you must accept the amendment and bring the law into line with your statement.

**Shri Biswas:** The Indian Succession Act will apply only after the date of registration.

**Pandit Thakur Das Bhargava:** Then, in clause 21, you must accept an amendment.

**Shri Pataskar:** The former children will be illegitimate.

**Shri Biswas:** They are made legitimate by virtue of the last portion of clause 18. Please do not confuse the two parts of clause 18. One part deals with the date from which the Act will take effect. The other part deals with the date from which legitimacy will be reckoned.

**Pandit Thakur Das Bhargava:** Only one will apply.

**Shri Pocker Sahab (Malappuram):** May I know whether the children who were born prior to the solemnization of the marriage which is referred to

[Shri Pocker Saheb]

In clause 18, are not to be governed by the Indian Succession Act according to the provisions contained in clause 21 of the Bill?

**Shri Biswas:** Clause 21 says: "the issue of such marriage." That is, the marriage which is referred to in the earlier part of this clause. That means, the marriage solemnized or deemed to have been solemnized under this Act. That cannot refer to any other marriage. Therefore, if the marriage is solemnized under this Act, then the children of such a marriage will be governed by the Succession Act. If, on the other hand it was a marriage contracted at an earlier date but has since been registered, then, the Succession Act will apply only to the children born after the date of registration.

**Shri V. G. Deshpande:** Will it apply to the children out of the marriage under clause 21?

**Shri Biswas:** If I am to enter into a discussion with every hon. Member I cannot cover the ground. The words are there. The language is there. And if you are not satisfied with the language, I should have expected you to table an amendment to make it clear. On the other hand, the amendments are not made with the purpose of improving the language but with the purpose of opposing the whole idea. Most of the amendments are like that.

**Shri N. C. Chatterjee:** I want to point out to the hon. Law Minister that this clause 21 is a reproduction of the clause which was introduced by Dr. Gour's Amending Act of 1923. That section has been constructed by the Allahabad High Court this way. The case is reported in *All-India Reporter* 1952 Allahabad. There, the learned Judges have taken the view that even under the wording of this clause, the question will arise. What would happen if a man married under this Act? There was a son, a previous son, born from the marriage as

a result of the Hindu Marriage. He then married a lady and that lady survived him. The question was, what will be the position of that son. The Allahabad Judges have held that that son will get two-thirds of the property and the widow would get only one-third. A Hindu son born out of a Hindu marriage as a result of a sacramental marriage, will get two-thirds as a lineal descendant and the widow will get one-third, under the Indian Succession Act. This section will also be governed by the Indian Succession Act. He becomes a lineal descendant under sections 32-33 of the Indian Succession Act.

**Shri Biswas:** With due deference to my hon. friend, an eminent lawyer, I must say we are concerned here with the construction of clause 31. That did not find a place in the earlier Act, because the provision of registration was not there. Therefore, we are not troubled with the difficulty which is troubling many of my friends. This clause reads:

"Notwithstanding any restrictions contained in the Indian Succession Act, with respect to its application to members of certain communities,"—

like Muslims, Hindus, Parsees and so on,—

"succession to the property of any person whose marriage is solemnized under this Act and to the property of the issue of such marriage,"—

not of a marriage which shall be deemed to have been solemnized under this Act,—

"shall be regulated by the provisions of the said Act."

There it is. Its language is clear, and if my hon. friend thought that there was any ambiguity, he might have cleared it by means of an amendment of which I would then have got notice.

The time is drawing near. I have already said—and I shall accept Mr.

Dabhi's amendment. The other amendment relates to clause 18. Now, in regard to clause 15, my friend wants to substitute this: "the parties are not within the degrees of prohibited relationship:

Provided that in the case of a marriage celebrated before the commencement of this Act, this condition shall be subject to any law, custom or usage having the force of law governing each of them which permits of a marriage between the two; and"

This is amendment No. 315, at page 4 of the list which has been circulated today. I accept this amendment on behalf of Government for reasons which have already been made clear and I need not repeat them—they are the same reasons which were stated on many occasions previously.

The next amendment is No. 320 which also I am prepared to accept. That is an amendment to clause 18. It is this:

"Provided that nothing contained in this section shall be construed as conferring upon any such children any rights in or to the property of any person other than their parents in any case where, but for the passing of this Act, such children would have been incapable of possessing or acquiring any such rights by reason of their not being the legitimate children of their parents."

You know under the personal law, in the case of Hindus, for instance, illegitimate children are not entitled to succeed. Now, we are going to say that children, whether they are legitimate or illegitimate, will all be deemed to be legitimate. That being so, the question is raised whether that will also confer on them rights of collateral succession. Suppose there are three brothers. One of them marries under this Act. So far as his children are concerned,

they are his illegitimate children. So far as he or the spouse of whom the child is born, is concerned, it is not for them to object that these children, although illegitimate, will not be entitled to succeed. Therefore, so far as the parents are concerned, the right of succession is recognised expressly, even if they are illegitimate children. One may very well say, "Why should I allow an illegitimate child of my brother to have a share in the inheritance which children?" That objection was considered and that was considered reasonable. At any rate, we ought to hasten slowly. At the first stage, we ought to respect sentiments of those who are members of the family, who are not quite willing to accept illegitimate children as legitimate and give such children full rights of succession. We have accordingly provided that nothing contained in this section shall be construed as conferring upon any such children any rights in or to the property of any person other than their parents. That is the substantive portion. I hope the House will accept that amendment.

The last amendment which I shall accept on behalf of Government is No. 82—amendment to clause 21. That is a new clause. You will find from clause 21 that we have provided:

"Notwithstanding any restrictions contained in the Indian Succession Act, with respect to its application to members of certain communities..." and so on.

The amendment says:

"and for the purposes of this section that Act shall have effect as if Chapter 3 of Part V (Special Rules for Parsi Intestates) had been omitted therefrom."

4 P.M.

If hon. Members turn to the Succession Act they will find one Chapter devoted to intestate succession, from which Parsis have been exempted,

[Shri Biswas]

We want to do away with that exemption. So, I accept this amendment No. 82 on behalf of Government.

The amendments which I am prepared to accept on behalf of Government are: Amendment No. 315 of Shri Dabhi to clause 15; amendment No. 320 of Shri Venkatraman and Shri Kotha Raghuramaiah to clause 18; and amendment No. 82 of Shri Venkatraman and Shri Kotha Raghuramaiah to clause 21.

**Shri K. K. Basu:** Why the last one?

**Shri Biswas:** That is what I have been explaining till now. Parsis have been exempted from the operation of the Succession Act itself.

**Pandit Thakur Das Bhargava:** It is done to secure uniformity.

**Shri K. K. Basu:** This provision should be made applicable to all those who marry under this Act.

**Pandit Thakur Das Bhargava:** Parsis have a particular mode of succession, as given in the Succession Act; to secure uniformity it is sought to exclude them from the operation of the part of the Succession Act.

**Shri S. S. More:** That is, a Parsi, if he marries according to this Act will be governed by the other provisions of the Succession Act, minus this particular Chapter.

**Shri Biswas:** That is the position.

In fact, we had a representation from the Parsi community and we thought that it was a reasonable prayer which they made. This is really an omission on the part of Government. This amendment should have been incorporated in the Bill itself.

The new clauses 18A, 18B and 18C which are sought to be incorporated in the Bill by Pandit Thakur Das Bhargava call for a word of comment. Sir, the effect of marriage on

property rights is a very difficult question. We can talk about it—it is quite easy to do so. But it is not quite so easy to make a legal provision in regard to that, because there are so many questions to be considered in that connection. Unfortunately, even today there are so many communities with personal laws of their own. I hope the day will soon come when these divergent personal laws will cease to exist. But that stage has not yet come: we have to prepare for it. Therefore, it would be wrong to try to incorporate a provision dealing with the question of property rights which may be affected by marriages of this type. I am quite in sympathy with his amendment. But, unfortunately, there are so many points to be taken into account that I cannot accept his amendment.

**Mr. Chairman:** I shall now take up amendments to clause 15 first. Those hon. members who wish to press their amendments may indicate them.

**Pandit Thakur Das Bhargava:** I would like to press my amendment No. 371.

**Shri N. C. Chatterjee:** I would like to press my amendments No. 187 and 193.

**Shri C. R. Chowdary (Narasaraopet):** I would like to press my amendment No. 76.

**Shri Tek Chand:** I would like to press my amendments No. 372 and 375.

**Shri Dabhi:** I am pressing my amendment No. 315.

**Mr. Chairman:** So these are the amendments that are going to be pressed.

**Pandit Thakur Das Bhargava:** Amendment Nos. 371, 183.....

**Mr. Chairman:** We will first take amendments to clause 15.

**Pandit Thakur Das Bhargava:** Amendment No. 371.

**Mr. Chairman:** So these are the only amendments to clause 15 which hon. Members are going to press: 371, 187, 193, 76, 372, 375 and 315...

**Pandit K. C. Sharma:** My amendment No. 508.

**Mr. Chairman:** All the other amendments that have been moved to clause 15 will be treated as withdrawn with the leave of the House.

*The amendments were, by leave, withdrawn.*

**Mr. Chairman:** Now, I will put these amendments, one by one, to the vote of the House. I shall first put the amendment No. 371 moved by Pandit Thakur Das Bhargava. The question is:

In page 6, line 1, after "under this Act" insert:

"or under the personal law of the parties or under the provisions of any other law,"

*The motion was negatived.*

**Mr. Chairman:** I shall put amendment No. 187 moved by Shri N. C. Chatterjee. Does he want to put both the amendments Nos. 187 and 193 together, or separately?

**Shri N. C. Chatterjee:** Amendment No. 187 relates to the first part of clause 15 and No. 193 refers to clause (3).

**Mr. Chairman:** Then I shall put them separately. The question is:

In page 5, line 48, after "other than" insert:

"a sacramental marriage solemnized under Hindu Law of any custom or usage having the force of law and"

*The motion was negatived.*

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

In page 6, lines 14 to 16, omit "unless the law or any custom or usage having the force of law, governing

each of them permits of a marriage between the two."

*The motion was negatived.*

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

In page 6, for lines 11 and 12, substitute:

"(d) the male has completed the age of twenty-one and the female the age of eighteen at the time of registration;"

*The motion was negatived.*

**Mr. Chairman:** I shall put both the amendments—Nos. 372 and 375—of Mr. Tek Chand. The question is:

In page 6, line 4, after "marriage" insert "valid under law or custom having the force of law".

*The motion was negatived.*

**Mr. Chairman:** I shall now put amendment No. 375. The question is.....

**Dr. Rama Rao:** But it is already covered.

**Shri Biswas:** That is barred already.

**Mr. Chairman:** Then, that is barred. I am not putting it. The next amendment is No. 315 of Shri Dabhi.

**Dr. Rama Rao:** May I submit that this amendment is also covered by the amendment under clause.....

**Mr. Chairman:** How is it barred?

**Dr. Rama Rao:** We have already considered whether this condition should be allowed or deleted, or modified. We have now accepted that.....

**Mr. Chairman:** This is quite another matter. Mr. Dabhi's amendment covers a much wider field. It cannot be barred by the earlier amendments. The question is.....

**Shri S. S. More:** It looks like barred.

**Shri Raghavachari (Penukonda).** Mr. Chairman, may I invite your attention...

**Mr. Chairman:** I have already decided that this is not barred.

**Shri Raghavachari:** Mr. Chairman, I wanted to bring to your notice a point of order. There has been a ruling in this House in a similar situation with respect to a clause relating to age and when later on we wanted to press an amendment which related to the consent of guardian, the Speaker has ruled that all the amendments were discussed together and they have accepted an amendment about the clause and that the others are therefore barred.

**Mr. Chairman:** This is a matter about registration of marriages which have been performed before.

**Shri Raghavachari:** I was only bringing to your notice that.....

**Shri Biswas:** You have given your ruling already.

**An Hon. Member:** There is no point of order.

**Shri Raghavachari:** It is not for you to decide, please.

**Mr. Chairman:** What is the point that you want to bring to my notice?

**Shri Raghavachari:** I wish to bring to your notice a previous ruling of the Chairman in similar circumstances; the other day, when matters were discussed together, and a particular amendment had been accepted, the other things were ruled out.

**Mr. Chairman:** Which is the amendment accepted which rules out? This is entirely a new matter. It says that only certain kinds of marriage will be eligible for registration under clause 15. This matter has not been discussed before.

**Shri S. S. More:** May I bring to your notice.....

**Mr. Chairman:** I do not think it is necessary.

**Shri S. S. More:** I am not referring to that point. We have already ruled

out or defeated amendment No. 193, that is, Shri N. C. Chatterjee's amendment. According to the defeat of that amendment, the House has decided that there should not be any restrictions over marriages performed before this Act or after.

**Shri N. C. Chatterjee:** Sub-clause (c) should stand.

**Shri S. S. More:** It should stand. Amendment No. 315 is again going to restrict that provision which has been accepted by the House defeating that amendment.

**Mr. Chairman:** Which is the amendment?

**Shri S. S. More:** 193.

**An Hon. Member:** They are different.

**Shri S. S. More:** I think there are too many persons rushing to give a ruling. They are potential Chairmen, I know.

**An Hon. Member:** You interrupt so often.

**Shri S. S. More:** Amendment No. 193 has already been defeated. The implication of that defeat is that we have accepted that there should not be any restriction regarding such customary marriages. Of course, your ruling prevails.

**Mr. Chairman:** I do not think so. It is an entirely different matter. The question is:

In page 6, for lines 13 to 16, substitute:

"(e) the parties are not within the degrees of prohibited relationship;

Provided that in the case of marriage celebrated before the commencement of this Act, this condition shall be subject to any law, custom or usage having the force of law governing each of them which permits of a marriage between the two; and"

The motion was adopted.

**Shri Bogawat:** I have got something to say. My amendment was there. But, I was not given an opportunity to speak. Can I have an opportunity now?

**Mr. Chairman:** No, no. There is no time now.

**Shri K. K. Basu:** No further debate can be had now.

The question may be put to the House.

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

"That clause 15, as amended, stand part of the Bill."

*The motion was adopted.*

*Clause 15, as amended, was added to the Bill.*

*Clause 16 was added to the Bill.*

**Mr. Chairman:** Clause 17. There is only one amendment by Shri Tek Chand. Does the hon. Member press it?

**Shri Tek Chand:** Yes.

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

In page 6, line 33, after "Chapter" insert:

"or rejecting the objections if may made under section 16".

*The motion was negatived.*

**Mr. Chairman:** There is no other amendment. The question is:

"That clause 17 stand part of the Bill."

*The motion was adopted.*

*Clause 17 was added to Bill.*

**Mr. Chairman:** Clause 18. There are certain amendments. I would ask if any of the Members who have moved these amendments want to press them.

**Pandit Thakur Das Bhargava:** I press amendments 268, 269 and 270.

**Shri Venkataraman:** Amendment No. 320.

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

In page 6, line 47, add at the end:

"but they shall not be regarded the issues of such marriage with in the meaning of section 21."

*The motion was negatived.*

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

In page 6, after line 47, add:

"Provided that nothing contained in this section shall be construed as conferring upon any such children any rights in or to the property of any person other than their parents in any case where, but for the passing of this Act, such children would have been incapable of possessing or acquiring any such rights by reason of their not being the legitimate children of their parents."

*The motion was adopted.*

**Pandit Thakur Das Bhargava:** My amendments 269 and 270 are there.

**Mr. Chairman:** All right. I shall put them to the House. The question is:

In page 6, after line 47, add:

"(2) The parties to the marriage or any of them may revoke the registration made under section 16 and on such revocation being made, the marriage shall be deemed to have not been registered at any time under this Act and the party shall be relegated to the position which they had prior to the date of registration and the children if any born after the registration, shall be deemed to be and always to have been the legitimate children of such parents."

*The motion was negatived.*

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

"That clause 18, as amended stand part of the Bill."

*The motion was adopted.*



Clause 18, as amended, was added to the Bill.

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

In page 7, after line 2, insert:

"18A. In the absence of contract to the contrary the parties to the marriage solemnized or registered under this Act shall acquire equal rights to each other's property and become joint owners of the property existing or acquired at the time of marriage.

18B. In the absence of contract to the contrary the future acquisition of property by the husband or wife shall be deemed to be joint unless, by express declaration, the property has been separately acquired or separate acquisition can necessarily be inferred from the conduct of the husband or wife.

18C. Notwithstanding any provision of law to the contrary, the parties to the marriage shall be governed by their personal law in regard to succession and other matters but in case of conflict of the provisions of such law, the law to which the husband is subject, shall govern such succession and other matters. The personal law to which the husband is subject, shall be the personal law of the issues of such marriage."

*The motion was negatived.*

**Mr. Chairman:** Clause 19. Do any of the Members press their amendments?

**Shrimati Renu Chakravartty:** Amendment No. 136.

**Shri Bogawat:** Amendment No. 134.

**Mr. Chairman:** Any other Members who want to press their amendments? None. These are the only two amendments that are pressed. All other amendments that have been moved are withdrawn with the leave of the House.

*The amendments were, by leave, withdrawn.*

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

In page 7,—

(i) line 6, after "shall" insert "not"; and (ii) after line 6 insert:

"Provided that at the time of the marriage either party to the marriage or any other member of the family demands such severance."

*The motion was negatived.*

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

In page 7, line 6, add at the end:

"Provided either party makes a declaration to that effect at the time of registration."

*The motion was negatived.*

**Mr. Chairman:** That disposes of the amendments to clause 19.

**Shri Bogawat:** When a Member is not allowed to speak on his amendment, I think he is entitled to speak on the clause. I could give you the instance of what happened yesterday. When some other person was in the Chair, when a particular Member did not get an opportunity to speak on his amendment to clause 12, he was allowed to speak on that clause.

**Mr. Chairman:** I am afraid it is not possible to do so now. The time allotted for this is already over. The question is:

"That clause 19 stand part of the Bill."

*The motion was adopted.*

*Clause 19 was added to the Bill.*

**Shri Tek Chand:** I beg for leave to withdraw my amendment No. 378.

*The amendment was, by leave, withdrawn.*

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

"That clause 20 stand part of the Bill."

*The motion was adopted.*



**Mr. Chairman:** Now, I shall put the amendments to clause 21 to the vote of the House.

**Shrimati Jayashri:** I would like to withdraw my amendment No. 80.

**Mr. Chairman:** Has the hon. Member the leave of the House to withdraw her amendment?

**Several Hon. Members:** Yes.

*The amendment was, by leave, withdrawn.*

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

In page 7, for clause 21, substitute:

"21. *Succession to property of parties married under Act.*—The parties to the marriage shall be at liberty to contract and declare at the time of marriage what law whether the personal law of any of the parties or the Indian Succession Act, 1925 (XXXIX of 1925) or any special conditions and terms shall govern the devolution of property and such personal law or special terms and conditions or Indian Succession Act, 1925 (XXXIX of 1925) notwithstanding any restriction contained in the said Act, with respect to its application to members of certain communities shall govern the devolution of property. In the absence of any such contract and declaration the personal law to which the husband is subject, shall govern the devolution of property and such law shall govern and regulate the relatives and properties of the issues of such marriages."

*The motion was negatived.*

**Mr. Chairman:** Then, there is amendment No. 379 by Shri Tek Chand.

**Shri Tek Chand:** I beg for leave to withdraw it.

*The amendment was, by leave, withdrawn.*

**Shri Bhogawat:** I do not want to press my amendment No. 138.

**Mr. Chairman:** Has the hon. Member leave of the House to withdraw his amendment?

**Several Hon. Members:** Yes.

*The amendment was, by leave, withdrawn.*

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

In page 7, line 19, add at the end:

"and for the purpose of this section that Act shall have effect as if Chapter 3 of Part V (Special Rules for Parsi Intestates) and been omitted therefrom."

*The motion was adopted.*

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

"That clause 21, as amended, stand part of the Bill."

*The motion was adopted.*

*Clause 21, as amended, was added to the Bill.*

**Mr. Chairman:** Now we shall take up clauses 22 to 26.

**Shri S. V. Ramaswamy (Salem):** What about clause 1? If you are decided that clause 1 should be voted upon along with clauses 15 to 21, it may be put to vote now. The only amendment is that of Pandit Thakur Das Bhargava.

**Shri V. G. Deshpande:** There was no discussion on clause 1. So, there is no question of putting it to vote. Convenience is the guiding principle. That was the ruling given yesterday. The rules are made only for helping the debate.

**Mr. Chairman:** What is the sense of the House?

**Shri V. G. Deshpande:** Clause 1 is very important.

**Shrimati Renu Chakravartty:** The House has already said that clause 1 has to be considered side by side with clauses 15 to 21. So, there is no question of its being held over.

**Mr. Chairman:** There are only two amendments to clause 1. I shall dispose of them now, by putting them to the vote of the House.

**Shri V. G. Deshpande:** Not clause 1 without discussion.

**Mr. Chairman:** I am putting the two amendments to the vote of the House. The question is:

In page 1, after line 10, add:

"Provided that it shall not apply to Muslims."

*The motion was negatived.*

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

In page 1, after line 10, insert:

"(2A) This Act shall only apply to marriages contracted between persons belonging to different religions."

*The motion was negatived.*

**Shrimati Jayashri:** I have also got an amendment to clause 1. It is amendment No. 56.

**Mr. Chairman:** Has it been moved? Clause 1 is not being disposed of now. That will come at the end. Only the two amendments that were moved have been disposed of. The other amendments will be made later.

We shall now take up clauses 22 to 26. The time for discussion of these clauses is two hours.

**Shri Raghavachari:** May I seek a clarification? Are we to understand the Chairman to mean that later on we will go on with amendments to clause 1?

**Mr. Chairman:** Only the two amendments to clause 1 have been disposed of. The clause itself is not disposed of.

**Shri S. S. More:** Naturally, since the clause is not disposed of, the ground is still open for us.

**Shri Biswas:** Did you not declare that clause 1 stand part of the Bill?

**Mr. Chairman:** No.

**Shrimati Renu Chakravartty:** Does it mean that we can bring forward new amendments to clause 1? It was decided by the House that clause 1 will

be disposed of and voted upon along with clause 15. That was the decision. If you will read the minutes of the Business Advisory Committee meeting, you will find that that is the decision. Shri N. C. Chatterjee will bear me out. Clause 1 has to be disposed of with clauses 15 to 21.

**Pandit Thakur Das Bhargava:** Clause 1 was not to be disposed of. Only amendments to it were to be voted upon. Clause 1 must come last of all. *(Interruptions).*

**Shri N. C. Chatterjee:** What happened was that Pandit Thakur Das Bhargava's amendment was very controversial. Therefore, we took 3 hours over that. Then we lumped together everything within the balance. It was a question of limiting the scope of the Bill; that was the main purpose. That cannot be reopened.

**Mr. Chairman:** Yes. Other amendments may come.

**Shrimati Sushama Sen:** We wanted to speak on clause 19, but we were not given a chance.

[**MR. DEPUTY-SPEAKER in the Chair**]

**Shri R. K. Chaudhuri (Gauhati):** By the way, may we know, Sir, why you were absent so long from the House?

**Mr. Deputy-Speaker:** I am very sorry I was absent on account of a personal inconvenience. When I started on the 16th of August, my mother, who is aged 85 years, suddenly fell ill and developed dropsy and I had to be by her side. Therefore, I had to stay on. Then a daughter of mine, unfortunately, has contracted tuberculosis. She had to undergo a major operation of the lung and I am just rushing from there. These circumstances have prevented me from coming here.

**Shri R. K. Chaudhuri:** We are very sorry to hear that.

**Clause 22.—(Restitution of Conjugal rights).**

**Clause 23.—(Judicial separation).**

**Clause 24.—(Void marriages).**

**Clause 25.—(Voidable marriages).**

**Clause 26.—(Legitimacy of children of void and voidable marriages).**

**Mr. Deputy-Speaker:** The House will now take up consideration of clauses 22 to 26. Hon. Members who have got amendments may kindly communicate them.

**Acharya Kripalani:** It is very strange that in a Bill which is supposed to be progressive, clause 22 should find a place. It is about restitution of conjugal rights. May I submit that this is making marriage merely a physical union? Marriage is also a spiritual union. Apart from this, as years pass, even the physical union develops into a spiritual union.

**Shri N. C. Shatterjee:** The Law Minister should hear it.

**Acharya Kripalani:** I think our ancients were even more scientific than the moderns who want to proceed beyond them. They declared that after the age of 50, a man went into *vanaprasth* and he was free from the bonds of family life. But today if a man or a woman, if he or she wants to be free from the bonds of family life, anyone party can requisition the provisions of this Act and have the restitution of conjugal rights. And this is considered scientific and up-to-date legislation!

I say this clause relating to restitution of conjugal rights is physically undesirable, morally unwarranted and aesthetically disgusting. I believe that even in married life, a man who insists upon living the family life when the woman is unwilling, commits an act of adultery. I do not know what is the word used for the reverse case, when the woman wants the restitution of conjugal rights even when the spouse is unwilling. If this provision is passed, our great reformers and *rishtis* would come under its provision, and a

man like Buddha would have been called back from his retirement and been at the disposal of his wife for carrying on the householder's duty.

**An Hon. Member:** Not necessarily

**Acharya Kripalani:** Swami Ramakrishna Paramahansa would have been in the same position. Our great philosopher who was living in Pondicherry, the great *yogi* Aurobindo Ghosh, would have been in the same position. He could have been dragged back to the householder's life by his wife, insisting upon the provisions of this Act. Mahatma Gandhi, who gave up the *grahasth* life at the age of thirty-five, would have been dragged back by his wife to be a householder, under penalty of this clause. The restitution of conjugal rights is a most absurd provision that could have been made in this scientifically unscientific Bill.

Progressively, marriages are considered from other points of view than the mere physiological point of view. I also say that as people advance in years, the physiological element disappears and the moral and spiritual unity remains. Therefore, if our legislators are going to be scientific, let them not be even less scientific than our ancients who did not recognise these carnal rights.

Again, I submit that this provision will act against our sisters more than against men. Why insist upon the restitution of conjugal rights? It should be enough that a man and wife live together. So far as conjugal rights are concerned, they should depend upon both the parties co-jointly. No one party should be obliged to submit to them; it is enough for a marriage that people live together. Specially when they have a few children, it would be absolutely cruel, immoral—I say, unspiritual—to insist on the restitution of conjugal rights by anybody. I submit that this is a barbarous provision, an uncivilised, an unhygienic provision, an immoral provision. (*Interruption*). It should not find a place in this Bill. If the framers of the Bill insist upon it, let them say that they

[Acharya Kripalani]

are not modern people, that they are even more antiquated than the ancient people, that they want people who have given up the physical element of marriage to indulge in it—that physical element which has no meaning, no purpose except by mutual consent. I think it is the most reactionary provision that could have been conceived and I am sure that at least all my sisters will agree with what I have said.

**Shri Pataskar:** I would like to know from the hon. Law Minister—I do not want to make a long speech—where is the necessity for this clause 22, for restitution of conjugal rights. I think, under the common law, a suit for the restitution of conjugal rights can lie, and even without such a provision there have been suits in the past where decrees have been passed. If I remember right, sometime back, not quite recently, under the Civil Procedure, as Mr. Kripalani was saying, even physically the wife could be taken possession of and handed over to the husband. The authorities thought it fit that such a provision should be taken away from the Code of Civil Procedure and since then only a decree could be passed. I do not understand why, in a Bill of this nature, we should have a provision for the enforcement of a common law right, which is applicable to all. Even if this provision was not there, I am sure a suit for the restitution of conjugal rights could be possible in a court of law.

It may be argued that we have in clause 27 a sub-clause (j), which says:—

“has failed to comply with a decree for restitution of conjugal rights for a period of two years or upwards after the passing of the decree against the respondent;”

Supposing this provision in clause 22 is not there, still it is open to a party to file a suit for restitution of conjugal rights and (j) can be there. I would, therefore, like to know the necessity for this clause 22.

**Mr. Deputy-Speaker:** It is already in the common law. This is only to make this complete.

**Shri Pataskar:** The practice so far as my knowledge goes is that in cases where there is a common law right, unless we want to vary that, with regard to its enforcement etc., you make no special provision, in new legislation. But, to reiterate a right which is already existing in a new piece of legislation is unnecessary. It unnecessarily adds to the burden of the whole Act and might be interpreted at times in a different way.

My further objection to it is this. I am not opposing the provision of (j) in clause 27. In common law there is the right and one can sue for restitution of conjugal rights. Probably, the framers of the Act thought that as they were providing for 27(j), why not provide for this here. To that, I would say that it is suggesting something to the people. People do not live in the cities alone. A number of people live in the villages. I am not afraid of the husbands. To give such a power in the hands of many of these people who want to do away with their wives, who are poor ignorant women is a mistake. (Interruption). What I mean is this. Even in cities, it is possible to obtain a decree by pasting the summons on somebody's door and doing so many things. My lawyer friends know all that. Therefore, to make this provision is rather incongruous. To my mind, clause 22 is unnecessary.

**श्री इन्द्रजीवकला (भागलपुर मध्य) :** उपाध्यक्ष महोदय, आचार्य कृपालानी जी ने कहा है कि यह जो संकशन २२ यहाँ पर रक्खा गया है उसके लिये कहा जाता है कि यह ऐसा पीस आफ लीजस्लेशन है जो कि बड़ा प्रोग्रेसिव मंजर है। भले ही इस को प्रोग्रेसिव मंजर कहा जाता हो, लेकिन मेरी समझ में यह बड़ा बरबोरिक संकशन है। इस से आप किसी भी सभ्य आदमी को वा सभ्य स्त्री को ऐसा

काम के लिये मजदूर करते हैं जिस के लिये उसकी इच्छा नहीं है ।

एक माननीय सदस्य : किस काम के लिये ?

श्री शुनशुनबाबा : रंस्टोरेशन आफ कन्जुगल राइट्स । इस के लिये आप किस तरह से कम्पेल कर सकते हैं ? आज आप ने यह प्राविजन कर दिया कि डाइवोर्स (तलाक) करने का अधिकार है । आपने कह दिया कि इतने दिन तक वह अलग रहे तो वह डाइवोर्स कर सकती है । जब आपने यह अस्त्यार द दिया है तो इस तरह की चीज कौर्ट में ले जा कर असभ्यता दिखलाना होगा । जो भी चीजें फारन कन्ट्रीज में हैं उन सब चीजों को हम यह समझ लें कि वे प्रोग्रेसिव हैं, वे सिविलाइज्ड हैं, वे सभ्य हैं, जो भी वे काम करें, वे कैसे ही हों, अच्छे हों या बुरे, वे हमारे लिये आदर्श चीज हैं और जो हम यहां पर एक्ट बनावें उन सब में बाहर की चीजों को चाहे वह अच्छी हों या बुरी हों, उनको हम मान लें कि वह आदर्श चीजें हैं हमारे लिये, और ऐसा मान कर हम उनको जरूर रक्खें, यदि हम ऐसा नहीं करेंगे तो बाहर जा कर कैसे मुह दिखलायेंगे यह सोचें, ग्रह मेरी समझ में नहीं आता । बाहर वाले कहें कि तुम्हारा देश बड़ा असभ्य है, यह सेक्शन तो तुम्हारे यहां है ही नहीं, किसी को तुमने यह अधिकार नहीं दिया कि वह कन्जुगल राइट रंस्टोर कर सके, इस लिये तुम लोग बड़े असभ्य हो, बड़े अनसिविलाइज्ड हो, यह सब बातें हमारे मन में आती हैं । लेकिन इन सब बातों का मन में आना यह तो हमारी कमजोरी है । हमारे आचार्य कपालानी जी ने अभी आप लोगों को समझाया कि यदि यहां पर इस प्रकार के प्राविजन होते तो भगवान बुद्ध के लिये घर से बाहर जाना बड़ा मुश्किल होता । हमारे पूज्य बापू महात्मा गांधी के लिये जो व्रत उन्होंने लिया देश की सेवा करने का, उसका लेना बड़ा मुश्किल

हो जाता । अतएव मैं ला मिनिस्टर साहब से प्रार्थना करूंगा.....

सरदार हुक्म सिंह (कपूरथला भंडा) : आप भी तो ऐसा व्रत नहीं लेना चाहते ?

श्री शुनशुनबाबा : हमारे हुक्म सिंह जी पछते हैं कि आप तो व्रत नहीं लेना चाहते । हो सकता है । इस प्राविजन को उठा देने पर श्री हुक्म सिंह जी व्रत लेवें अभी उन को डर लगता है ।

बाबू राजनारायण सिंह : लेने नहीं पायेंगे ।

श्री टी० एन० सिंह (जिला बनारस पूर्व) : कामन ला को बदल दीजिये ।

श्री शुनशुनबाबा : तो मैं आपसे यह प्रार्थना करना चाहता हूं कि जो भी चीज बाहर की है उसको आदर्श मान कर ही इसमें न रक्खें । उस में अच्छापन है या बुरापन है इसके ऊपर भी आप ख्याल करें ।

अतएव मैं ला मिनिस्टर साहब से प्रार्थना करूंगा कि वे इस सेक्शन को यहां से निकाल दें ।

**Shrimati Sushama Sen:** Sir, I agree with the previous speakers who have opposed this clause. I think we should not have this clause in this Bill. In the Select Committee I had objected to this clause in the Bill. I think it would be very difficult for the women, especially those women who are illiterate and do not understand the implications. I think a clause like this should be deleted.

**Shrimati Jayashri:** Sir, the Law Minister had said that he wants to have an innovation in this law. I expected that this kind of innovation will be introduced in this Bill also. We all know that in a society which

[Shrimati Jayashri]

can claim itself a refined society, this kind of statute would be unsuitable.

5 P.M.

The Women's Committee of the National Planning Society in their report have protested against having this in the statute.

Several Hon. Members: Sir, the hon. Member may continue tomorrow: the time is up.

Mr. Deputy-Speaker: I thought the hon. Lady Member will conclude in a few minutes.

Shrimati Jayashri: I will continue tomorrow.

Mr. Deputy-Speaker: Does the House want to continue for some more time today?

Several Hon. Members: No.

*The Lok Sabha then adjourned till Eleven of the Clock on Wednesday, the 15th September, 1954.*

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