

Tuesday,
17th July, 1956

LOK SABHA DEBATES

VOLUME V, 1956

(16th July to 10th August 1956)



THIRTEENTH SESSION, 1956

LOK SABHA SECRETARIAT
NEW DELHI

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LOK SABHA
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Abdullah, Mulla Taher Ali Mulla (Chanda).
 Abdus Sattar, Shri (Kalna-Karwa).
 Achal Singh, Seth [Agra Distt. (West)].
 Achalu, Shri Sunkam (Naigonda—Reserved—Sch. Castes).
 Achint Ram, Lala (Hissar).
 Achuthan, Shri K. T. (Cranganur).
 Agarwal, Shri Hoti Lal [Jalaun Distt. *cum* Etawah Distt.—(West) *cum* Jhansi Distt.—(North)].
 Agrawal, Shri Mukund Lal [Pilibhit Distt. *cum* Bareilly Distt.—(East)].
 Ajit Singh, Shri (Kapurthala-Bhatinda—Reserved—Sch. Castes).
 Ajit Singhji, General (Sirohi-Pali).
 Akarpuri, Sardar Teja Singh (Gurdaspur).
 Alagesan, Shri O. V. (Chingleput).
 Alekar, Shri Ganesh Sadashiv (North Satora).
 Alva, Shri Joachim (Kanara).
 Amin, Dr. Indubhai B. (Baroda West).
 Amjad Ali, Shri (Goalpara-Garo Hills).
 Amrit Kaur, Rajkumari (Mandi-Mahasu).
 Anandchand, Shri (Bilaspur).
 Ansari, Dr. Shaukatullah Shah (Bidar).
 Anthony, Shri Frank (Nominated—Anglo-Indians).
 Asthana, Shri Sita Rama (Assamgarh Distt.—West).
 Ayyangar, Shri M. Ananthasayengam (Tirupati).
 Azad, Maulana Abul Kalam (Rampur Distt. *cum* Bareilly Distt.—West).
 Azad, Shri Bhagwan Jha (Purnea *cum* Santhal Parganas).

B

Babu Nath Singh, Shri [Surguja-Raigarh—Reserved—Sch. Tribes].
 Badam Singh, Chowdhary (Budaun Distt.—West).
 Bagdi, Shri Magan Lal (Mahasamund).
 Bahadur Singh, Shri (Ferozepore-Ludhiana—Reserved—Sch. Castes).
 Balakrishnan, Shri S. C. (Erode—Reserved—Sch. Castes).
 Balasubramaniam, Shri S. (Madurai).
 Baldev Singh, Sardar (Nawan Shahar).
 Balmiki, Shri Kanhuoya Lal (Bulandshah Distt.—Reserved—Sch. Castes).
 Banerjee, Shri Durga Charan (Midnapore-Jhargram).
 Bansal, Shri Ghamandi Lal (Jajjar-Rewari).
 Bansilal, Shri (Jaipur).
 Barman, Shri Upendranath (North Bengal—Reserved—Sch. Castes).
 Barrow, Shri A. E. T. (Nominated—Anglo-Indians).
 Barupur, Shri Panna Lal (Ganganagar-Jhunjhunu—Reserved—Sch. Castes).
 Basappa, Shri C. R. (Tumkur).
 Basu, Shri A. K. (North Bengal).
 Basu, Shri Kamal Kumar (Diamond Harbour).
 Bhagat, Shri B. R. (Patna *cum* Shahabad).
 Bhakt Dershan, Shri [Garhwal Distt.—(East) *cum* Moradabad Distt.—(North-East)]
 Bharati, Shri Govardanraja Sahdeo (Yeotmal).
 Bhargava, Pandit Mukut Behari Lal (Almer South).
 Bhargava, Pandit Thakur Das (Gurgaon).
 Bhartiya, Shri Shaligram Ramchandra (West Khandesh).
 Bhatkar, Shri Laxman Shrawan (Buldana-Akola—Reserved—Sch. Castes).

B—contd.

Bhatt, Shri Chandreshanker (Broach).
 Bhawani Singh, Shri (Barmer-Jalore).
 Bhawanji, Shri (Kutch West).
 Bheekha Bhai, Shri (Banswara—Dungarpur—Reserved—Sch. Tribes).
 Bhonsle, Shri Jagannathrao Krishna Rao (Raigarh North).
 Bidari, Shri Ramappa Balappa (Bijapur South).
 Birbal Singh, Shri [Jaunpur Distt.—(East)].
 Biren Dutt, Shri (Tripura West).
 Bogawat, Shri U. R. (Ahmednagar South).
 Boovaraghavan, Shri V. (Perambalur).
 Borker, Shrimati Anusayabai (Bhandara—Reserved—Sch. Castes).
 Borooah, Shri Dev Kanta (Nowrangpur).
 Bose, Shri P. C. (Manbhum North).
 Brajeshwar Prasad, Shri (Gaya East).
 Brohmo-Chaudhury, Shri Sutantha (Goalpara—Garo Hills—Reserved—Sch. Tribes).
 Budhnikotaiah, Shri Sanaka (Masulipatnam).

C

Chakravortty, Shrimati Renu (Basirhat).
 Chaliha, Shri Bimalaprosad (Sibasagar—North-Lakhimpur).
 Chanda, Shri Anil Kumar (Birbhum).
 Chandek, Shri B. L. (Betul).
 Chandrasekhar, Shrimati M. (Tiruvallur—Reserved—Sch. Castes).
 Charak, Th. Lakshman Singh (Jammu and Kashmir).
 Chatterjee, Shri Tushar (Serampore).
 Chatterjee, Dr. Sushilranjan (West Dinajpur).
 Chatterjee, Shri N. C. (Hooghly).
 Chattopadhyaya, Shri Harindranath (Vijayavada).
 Chaturvedi, Shri Rohanlal [Etah Distt.—(Central)].
 Chaudhary, Shri Ganeshi Lal [Shahjahanpur Distt.—(North) cum Kheri—(East)—Reserved—Sch. Castes].

Chaudhuri, Shri Tridib Kumar (Berhampore).
 Chavda, Shri Akbar (Banaskantha).
 Chettiar, Shri N. Vr. N. Ar. Nagappa (Ramanathapuram).
 Chettiar, Shri T. S. Avinashilingam (Tiruppur).
 Chowdary, Shri C. R. (Narasaraopet).
 Chowdhury, Shri Nukunja Behari (Ghatal).

D

Dabhi, Shri Fulsinhji B. (Keira North).
 Damer, Shri Amar Singh Sabji (Jebus—Reserved—Sch. Tribes).
 Damodaran, Shri G. R. (Pollachi).
 Damodaran, Shri Nettur P. (Tellicherry).
 Das, Dr. Mono Mohon (Burdwan—Reserved—Sch. Castes).
 Das, Shri B. (Jaipur-Keonjhar).
 Das, Shri Basanta Kumar (Contai).
 Das, Shri Beli Ram (Berpeta).
 Das, Shri Bijoy Chandra (Ganjam South).
 Das, Shri Kamal Krishna (Birbhum—Reserved—Sch. Castes).
 Das, Shri Nayan Tara (Monghyr Sadr cum Jamui—Reserved—Sch. Castes).
 Das, Shri Ram Dhani (Gaya East—Reserved—Sch. Castes).
 Das, Shri Ramananda (Barrackpore).
 Das, Shri Sarangadhar (Dhenkanal—Cuttack).
 Das, Shri Shree Narayan (Darbhanga Cetia).
 Dasaratha Deb, Shri (Tripura East).
 Datar, Shri Bajwan Nagesh (Belgaum North).
 Deb, Shri Suresh Chandra (Cacher-Lushai Hills).
 Deo, H. H. Mahareja Rajendra Narayan Singh (Kalekandi-Bolangir).
 Deogam, Shri Kanhu Ram (Chaitwan—Reserved—Sch. Tribes).
 Desai, Shri Kanayale Nanabhai (Surat).
 Desai, Shri Khandutkhai Kasanji (Halol).
 Deshmukh, Dr. Panjabrao S. (Amravati East).

D—contd.

Deshmukh, Shri Chintaman Dwarakanath (Kol'sa).

Deshmukh, Shri K. G. (Amravati West).

Deshpande, Shri Govind Hari (Nasik Central).

Deshpande, Shri Vishnu Ghaneshyam (Guna).

Dholakia, Shri Gulab Shankar Amritlal (Kutch East).

Dhulekar, Shri R. V. (Jhansi Distt.—(South)).

Dhusiya, Shri Sohan Lal (Besti Distt.—(Central-East) cum Gorakhpur Distt.—(West)—Reserved—Sch. Caste).

Digamber Singh, Shri (Etah Distt.—(West cum Mainpuri Distt.—(West) cum Mathura Distt.—(East)).

Diwan, Shri Raghavendr Rao Srinivas Rao (Oamansbad).

Dube, Shri Mulchand (Farrukhabad Distt. (North)).

Dube, Shri Uday Shankar (Besti Distt. (North)).

Dubey, Shri Rajaram Giridharlal (Bijapur North).

Dutt, Shri Asim Krishna (Calcutta South-West).

Dutt, Shri Santosh Kumar (Howrah).

Dwivedi, Shri Daahrath Prasad (Gorakhpur Distt.—Central).

Dwivedi, Shri M. L. (Hamirpur Distt.).

E

Bacharan, Shri Iyyunni (Ponnani—Reserved—Sch. Castes).

Elenezer, Dr. S. A. (Vikarabad).

Elayaperumal, Shri L. (Cuddalore—Reserved—Sch. Castes).

F

Fotedar, Pandit Sheo Narayan (Jammu and Kashmir).

G

Gadgil, Shri Narhar Vishnu (Poona Central) (Gadilingana Gowd, Shri (Kurnool)).

Gami Msludora, Shri (Visakhapatnam—Reserved—Sch. Tribes).

Gandhi, Shri Feroze (Pratapgarh Distt. (West) cum Rae Bareli Distt. (East)).

Gandhi, Shri Mansukhai Magenial (Panch Mahals cum Baroda East).

Gandhi, Shri V. B. (Bombay City—North).

Ganga Devi, Shrimati (Lucknow Distt. cum Bera, Banki Distt.—Reserved—Sch. Castes).

Ganpati Ram, Shri (Jaunpur Distt. (East)—Reserved—Sch. Castes)).

Garg, Shri Ram Pratap (Patiala).

Gautam, Shri C. D. (Balaghat).

Ghose, Shri Surendra Mohan (Malda).

Ghosh, Shri Atulya (Burdwan).

Ghujam Qader, Shri (Jammu and Kashmir).

Gidwani, Shri Choithram Parabrai (Thana).

Giri, Shri V. V. (Pathapetnam).

Giridhari Bhoi, Shri (Kalahandi-Bolangir Reserved—Sch. Tribes).

Gohain, Shri Chowkhamoon (Nominated—Assam Tribal Areas).

Gopalan, Shri A. K. (Cannanore).

Gopi Ram, Shri (Mandi-Mahasu—Reserved—Sch. Castes).

Gounder, Shri K. Periaswami (Erode).

Gounder, Shri K. (Sakthivadivel (Periyakulam)).

Govind Das, Sett. (Mandla-Jabalpur South).

Guha, Shri Arun Chandra (Santipur).

Gupta, Shri Bedshah (Mainpuri Distt.—East).

Gupta, Shri Sadhan Chandra (Calcutta—South—East).

Gurupadaswamy, Shri M. S. (Mysore).

H

Hansda, Shri Benjamin (Purnea cum Sone Parganas—Reserved—Sch. Tribes).

Hari Mohan, Dr. (Manbhum North—Reserved—Sch. Castes).

Hasda, Shri Subodh (Midnapore-Jhargram—Reserved—Sch. Tribes).

H—contd.

Hazarika, Shri Jogendra Nath (Dibrugarh).
 Heda, Shri H. C. (Nizamabad).
 Hembram, Shri Lal (Santal Parganas *cum* Hazaribagh—Reserved—Sch. Tribes).
 Hem Raj, Shri (Kangra).
 Hukam Singh, Sardar (Kapurthala-Bhatinda).
 Hyder Husein, Chaudhri (Gonda Distt.—North).

I

Ibrahim, Shri A. (Ranchi North-East).
 Iqbal Singh, Sardar (Fazilka-Sirsa).
 Islamuddin, Shri Muhammed (Purnea—North-East).
 Iyyunni, Shri C. R. (Trichur).

J

Jagjivan Ram, Shri (Shahabad South—Reserved—Sch. Castes).
 Jain, Shri Ajit Prasad (Sahearanpur Distt.—West *cum* Muzaffarnagar Distt.—North).
 Jain, Shri Nemi Saran (Bijnor Distt.—South).
 Jaipal Singh, Shri (Ranchi West—Reserved—Sch. Tribes).
 Aisoorya, Dr. N. M. (Medak).
 Ajware, Shri Ramraj (Santal Parganas *cum* Hazaribagh).

Jangde, Shri Resham Lal (Bilaspur—Reserved—Sch. Castes).
 Jatav-vir, Dr. Manik Chand (Bharatpur-Sawai Madhopur—Reserved—Sch. Castes).
 Jayaraman, Shri A. (Tindivanam—Reserved—Sch. Castes).
 Jayashri, Shrimati (Bombay-Suburban).
 Jena, Shri Kanhu Charan (Balasore—Reserved—Sch. Castes).
 Jena, Shri Lakshmidhar (Jaipur-Keonjhar—Reserved—Sch. Castes).
 Jena, Shri Niranjan (Dhenkanal-West Cuttack—Reserved—Sch. Castes).
 Jethan, Shri Kherwar (Palamu *cum* Hazaribagh *cum* Ranchi—Reserved—Sch. Tribes).

Jhunjhunwala, Shri Banarsi Prasad (Raghunathpur Central).

Jogendra Singh, Sardar (Bahrach Distt.—West).

Joshi, Shri Anand Chandra (Shahdol-Sidhi).

Joshi, Shri Jethalal Hanikrishna (Madhya Saurashtra).

Joahi, Shri Krishnacharya (Yedgar).

Joshi, Shri Liladhar (Shajapur-Rajgarh).

Joshi, Shri Moreshwar Dinkar (Ratnagiri South).

Joshi, Shri Nandlal (Indore).

Joshi, Shrimati Subhadra (Karnal).

Jwala Prashad, Shri (Ajmer North).

K

Kachiroyar, Shri N. D. Govindaswami (Cuddalore).

Kajrolkar, Shri Narayan Sadoba (Bombay City—North—Reserved—Sch. Castes).

Kakkan, Shri P. (Madurai—Reserved—Sch. Castes).

Kale, Shrimati Anasuyabai (Nagpur).

Kamal Singh, Shri (Shahabad—North-West).

Karmab, Shri Hari Vishnu (Hooghlyabad).

Kamble, Dr. Devrao Nambevrao (Nanded—Reserved—Sch. Castes).

Kandasamy, Shri S. K. Babie (Tiruchengode).

Kanungo, Shri Nityanand (Kendrapara).

Karmarkar, Shri D. P. (Dharwar North).

Karni Singhji, His Highness Maharaja Shri Bahadur of Bikaner (Bikaner-Churu).

Kaaliwal, Shri Nemi Chandru (Kotah-Jhalsawar).

Katham, Shri Birendranath (North Bengal—Reserved—Sch. Tribes).

Katju, Dr. Kailas Nath (Mandsaur).

Kayal, Shri Parekh Nath (Basirhat—Reserved—Sch. Castes).

Kazmi, Shri Syed Mohammad Ahmad (Sultanpur Distt.—North *cum* Faizabad Distt.—South-West).

Kelappan, Shri K. (Ponnani).

Keshavaiengar, Shri N. (Bangalore North).

K—contd.

Kekar, Dr. B. V. (Sultapur Distt.—South).
 Khan, Shri Sadash Ali (Ibrahimpannam).
 Khurdekar, Shri B. H. (Kolhapur *cum* Satara).
 Khare, Dr. N. B. (Gwalior).
 Khedkar, Shri Gopalrao Bajirao (Buldana—Akola).
 Khongmen, Shrimati B. (Autonomous Distt.—Reserved—Sch. Tribes).
 Khuda Baksh, Shri Muhammed (Muzhidaabad).
 Kiroliker, Shri Wasudeo Shridhar (Durg).
 Kolay, Shri Jagannath (Bankura).
 Kottukappally, Shri George Thomas (Meenachil).
 Kripalani, Acharya J. B. (Bhagalpur *cum* Purnea).
 Krishna, Shri M. R. (Karimnagar—Reserved—Sch. Castes).
 Krishna Chandra, Shri (Mathura Distt.—West).

Krishnamachari, Shri T. T. (Madras).
 Krishnappa, Shri M. V. (Kolar).
 Krishnaswami, Dr. A. (Kanchipuram).
 Kureel, Shri Baij Nath (Pratapgarh Distt.—West *cum* Rae Bareli Distt.—East—Reserved—Sch. Castes).
 Kureel, Shri Piare Lal (Banda Distt. *cum* Fatehpur Distt.—Reserved—Sch. Castes).

L

Lakshmayya, Shri Psidi (Anantapur).
 Lal Singh, Sardar (Ferozepur-Ludhiana).
 Lallanji, Shri (Faizabad Distt.—North-West).
 Laskar, Shri Nibaran Chandra (Cachar—Luhal Hills—Reserved—Sch. Castes).
 Lingam, Shri N. M. (Coimbatore).
 Lotan Ram, Shri (Jalsun Distt. *cum* Etawah Distt.—West *cum* Jhansi Distt.—North—Reserved—Sch. Castes).

M

Mediab Gowda, Shri (Bangalore South).
 Mahapatra, Shri Sibnaryan Singh (Sundargarh—Reserved—Sch. Tribes).

Mahare, Shri Bhajahar (Manbhumi South *cum* Dhalibhum).
 Mahadeva, Shri Vejanath (Nimar).
 Maitra, Shri Mohit Kumar (Cuttack—North West).
 Majbi, Shri Chaitan (Manbhumi—South *cum* Dhalibhum—Reserved—Sch. Tribes).
 Majhi, Shri Ram Chandra (Mayurbhanj—Reserved—Sch. Tribes).
 Majithia, Sardar Surjit Singh (Taran Taran).
 Melevi, Shri Keshava Deva (Gonda Distt.—East *cum* Basti Distt.—West).
 Malliah, Shri U. Srinivasa (South Kanara—North).
 Malvis, Shri Bhagub-Nandu (Shajapur-Rajgarh—Reserved—Sch. Castes).
 Malviya, Pandit Chatur Narain (Raisen).
 Malviya, Shri Motilal (Chhatarpur-Datia-Tikamgarh—Reserved—Sch. Castes).
 Mandal, Dr. Pashupati (Bankura—Reserved—Sch. Castes).
 Mascarene, Kumari Annie (Trivandrum).
 Masuodi, Maulana Mohammad Saeed (Jammu and Kashmir).
 Masuriya Din, Shri (Allahabad Distt.—East *cum* Jaunpur Distt.—West—Reserved—Sch. Castes).
 Mathew, Shri C. P. (Kottayam).
 Mathuram, Dr. Edward Paul (Tiruchirappalli).
 Mathen, Shri C. P. (Thiruvellai).
 Mavalankar, Shrimati Suahila (Ahmedabad).
 Maydeo, Shrimati Indira A. (Poona South).
 Mehta, Shri Asoka (Bhandara).
 Mehta, Shri Balwantray Gopaljee (Gohilwad).
 Mehta, Shri Balwant Singh (Udaipur).
 Mehta, Shri Jawanraj (Jodhpur).
 Menon, Shri K. A. Damodara (Kozhikode).
 Minimara, Shrimati (Bilaspur-Durg-Raipur—Reserved—Sch. Castes).
 Mishra, Pandit Suresh Chandra (Monghyr North-East).
 Mishra, Shri Bibhuti (Saran *cum* Champaran).
 Mishra, Shri Lalit Narayan (DARBHANGA *cum* Bhagalpur).

M—contd.

Mishra, Shri Lokerath (Puri).
 Mishra, Shri Mathura Prasad (Monghyr—North-West).
 Mishra, Shri Shyam Nandan (Darbhanga—North).
 Misra, Pandit Lingarai (Khurda).
 Misra, Shri Bhupendra Nath (Bilaspur—Durg-Raipur).
 Misra, Shri Raghuber Dayal (Bulandshahr Distt.).
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 Missir, Shri Vijineshwar (Gaya North).
 Mohd. Akbar, Sofi (Jammu and Kashmir).
 Mohiuddin, Shri Ahmed (Hyderabad City).
 Morarka, Shri Radheshyam Ramkumar (Ganganagar-Jhunjhunu).
 More, Shri K. L. (Kolhapur cum Satara—Reserved—Sch. Castes).
 More, Shri Shankar Shantaram (Sholapur).
 Muchaki Kosa, Shri (Bastar—Reserved—Sch. Tribes).
 Mudaliar, Shri C. Ramaswamy (Kumbakonam).
 Muhammed Shafee, Chaudhuri (Jammu and Kashmir).
 Mukerjee, Shri Harendra Nath (Calcutta—North-East).
 Mukne, Shri Y. M. (Thana—Reserved—Sch. Tribes).
 Muniswamy, Shri N. R. (Wardhikash).
 Muniswamy, Shri V. (Tindivanam).
 Murli Manohar, Shri (Ballia Distt. East).
 Murthy, Shri B. S. (Eluru).
 Muzafir, Giani Gurmukh Singh (Amritsar).
 Musher, Shri Kirsu (Bhagarpur cum Purnea—Reserved—Sch. Castes).
 Muthukrishnan, Shri M. (Vellore—Reserved—Sch. Castes).

N

Naidu, Shri Nalla Reddi (Rajahmundry).
 Nair, Shri C. Krishnan (Outer Delhi).

Nair, Shri N. Sreekantan (Quilon cum Mavelikkara).
 Nambiar, Shri K. Ananda (Mayuram).
 Nanadas, Shri Mangalagiri (Ongole—Reserved—Sch. Castes).
 Nanda, Shri Gulzarilal (Saberkantha).
 Narasimham, Shri S. V. L. (Guntur).
 Narasimhan, Shri C. R. (Krishnagiri).
 Naskar, Shri Purnendu Sekhar (Diamond Harbour—Reserved—Sch. Castes).
 Natawadkar, Shri Jayantrao Ganpat (West Khandesh—Reserved—Sch. Tribes).
 Nathani, Shri Hari Ram (Bhilwara).
 Nathwani, Shri Narendra P. (Sorath).
 Nayar, Shri V. P. (Chireyinkil).
 Nehru, Shri Jawaharlal (Allahabad Distt.—East cum Jaunpur Distt.—West).
 Nehru, Shrimati Shivraj Vati (Lucknow Distt.—Central).
 Nehru, Shrimati Uma (Sitapur Distt. cum Kheri Distt.—West).
 Nesamony, Shri A. (Nagercoil).
 Neewi, Shri T. R. (Dbarwar—South).
 Nevatia, Shri R. P. (Sahjahanpur Distt.—North cum Kheri—East).
 Nijalingappa, Shri S. (Chitaldrug).

P

Palchoudhury, Shrimati Ila (Nabadwip).
 Pande, Shri Badri Dutt (Almora Distt.—North—East).
 Pande, Shri C. D. (Naini Tal Distt. cum Almora Distt.—South-West cum Bareilly Distt.—North).
 Pandey, Dr. Natesar (Sambalpur).
 Pannalal, Shri (Faizabad Distt.—North-West—Reserved—Sch. Castes).
 Paragi Lal, Chaudhari (Sitapur Distt. cum Kheri Distt.—West—Reserved—Sch. Castes).
 Paranjpe, Shri R. G. (Bhiv).
 Parekh, Dr. Jayantilal Narbheram (Zalawad).
 Parikh, Shri Shantilal Girdharilal (Mehsana Bast).

P—contd.

Parmar, Shri Rupeji Bhavji (Panch Mahals cum Baroda East—Reserved—Sch. Tribes).
 Pataskar, Shri Hari Vinayak (Jaigaon).
 Patel, Shri Bahadurbhai Kunthabhai (Surat—Reserved—Sch. Tribes).
 Patel, Shri Rajeshwar (Muzaffarpur ~~cum~~ Darbhanga).
 Patel, Shrimati Maniben Vallabhbhai (Kaira South).
 Pateria, Shri Sushil Kumar (Jabalpur North).
 Patil, Shri P. R. Kanavade (Ahmednagar North).
 Patil, Shri S. K. (Bombay City—South).
 Patil, Shri Shanmargauda Veeranagauda (Belgaum South).
 Patnai, Shri Uma Charan (Ghumsur).
 Pawar, Shri Vyanhatrao Pirajirao (South Satara).
 Pillai, Shri P. T. Thanu (Tirunelveli).
 Pocker Saheb, Shri B. (Malsopuram).
 Prabhakar, Shri Naval (Outer Delhi—Reserved—Sch. Castes).
 Punnoose, Shri P. T. (Allenney).

R

Rachiah, Shri N. (Mysore—Reserved—Sch. Castes).
 Radha Raman, Shri (Delhi City).
 Raghavacbari, Shri K. S. (Premikonda).
 Raghavaiah, Shri Pisupati Vekata (On-gole).
 Raghubir Sahai, Shri (Btah Distt.—North-East ~~cum~~ Budaun Distt—East).
 Raghubir Singh, Choudhary (Agra Distt.—East).
 Raghunath Singh, Shri (Banaras Distt.—Central).
 Raghuramaiah, Shri Kotha (Tenali).
 Rahman, Shri M. Hifzar (Moradabad Distt.—Central).
 Raj Bahadur, Shri (Jaipur-Sawai Madhopur).

Rajabhoj, Shri P. N. (Sholapur—Reserved—Sch. Castes).
 Ramachander, Dr. D. (Vellore).
 Ramanand Shastry, Swami (Unesco Distt. ~~cum~~ Rae Bareli Distt.—West ~~cum~~ Hardoi Distt.—South-East—Reserved—Sch. Castes).
 Ramananda Tirtha, Swami (Gulberga).
 Ramananu, Shri M. D. (Arruppukkottai).
 Ramaseshaiah, Shri N. (Parvathipuram).
 Ramaswamy, Shri P. (Mahbubnagar—Reserved—Sch. Castes).
 Ramaswamy, Shri S. V. (Salem).
 Ram Dass, Shri (Hoshianpur—Reserved—Sch. Castes).
 Ram Krishan, Shri (Mohindergarh).
 Ramnarayan Singh, Babu (Hazaribagh West).
 Ram Seran, Shri (Moradabad Distt.—West).
 Ram Shankar Lal, Shri (Basti Distt.—Central-East ~~cum~~ Gorakhpur Distt.—West).
 Ram Subhag Singh, Dr. (Shahabad South).
 Ranbir Singh, Ch. (Rohilkhand).
 Randaman Singh, Shri (Shahdol-Sidhi—Reserved—Sch. Tribes).
 Rane, Shri Shivram Rango (Bhusaval).
 Ranjit Singh, Shri (Sangrur).
 Rao, Dr. Ch. V. Rama (Kakinada).
 Rao, Shri B. Rajagopal (Srikakulam).
 Rao, Shri B. Shiva (South Kanara—South).
 Rao, Shri Kadyala Gopala (Gudivada).
 Rao, Shri Koneru Mohana (Rajahmundry—Reserved—Sch. Castes).
 Rao, Shri Kondru Subba (Eluru—Reserved—Sch. Castes).
 Rao, Shri P. Subba (Nowrangpur).
 Rao, Shri Pendyal Ragbava (Warangal).
 Rao, Shri Rayaram Seshaigiri (Nandyal).
 Rao, Shri T. B. Vittal (Khammam).
 Raut, Shri Bhole (Saran ~~cum~~ Champaran—Reserved—Sch. Castes).
 Ray, Shri Birakisor (Outsack).
 Razmi, Shri Said Ullah Khan (Sehore).

* R—contd.

Reddi, Shri B. Ramachandra (Nellore).
Reddi, Shri C. Madhao (Adilabad).

Reddi, Shri Y. Eswara (Cuddapah).

Reddy, Shri Baddam Yella (Karimnagar).

Reddy, Shri K. Janardhan (Mahbubnagar).

Reddy, Shri Ravi Narayan (Nalgonda).

Reddy, Shri T. N. Vishwanath (Chittoor).

Richardson, Bishop John (Nominated—Andaman and Nicobar Islands).

Rishang Keishing, Shri (Outer Manipur—Reserved—Sch. Tribes).

Roy, Dr. Satyaban (Uluberia).

Roy, Shri Bishwa Nath (Deoria Distt.—West).

Rup Narain, Shri (Mirzapur Distt. *cum* Banaras Distt.—West—Reserved—Sch. Castes).

S

Sahaya, Shri Syamnandan (Muzaffarpur Central).

Sahu, Shri Bhagabat (Balasore).

Sahu, Shri Rameshwar (Muzaffarpur *cum* Darbhanga—Reserved—Sch. Castes).

Saigal, Sardar Amar Singh (Bilaspur).

Saksena, Shri Mohanlal (Lucknow Distt. *cum* Bara Banki Distt.).

Samanta, Shri Satis Chandra (Tamluk).

Sanganna, Shri T. (Rayagada-Phulbani—Reserved—Sch. Tribes).

Sankarapandian, Shri M. (Sankaranayinarkovil).

Sarma, Shri Debendra Nath (Gauhati).

Sarmah, Shri Debeswar (Golaghat-Jorhat).

Satish Chandra, Shri (Barailly Distt. South).

Satyawadi, Dr. Virendra Kumar (Karnal—Reserved—Sch. Castes).

Sen, Shri Phani Gopal (Purnea Central).

Sen, Shri Raj Chandra (Kotah-Bundi).

Sen, Shrimati Sushama (Bhagalpur South).

Sewal, Shri A. R. (Charuba-Sirnur).

Shah, Her Highness Rajmata Kamleelu Mati (Garhwal Distt.—West *cum* Tehri Garhwal Distt. *cum* Bijnor Distt.—North.)

Shah, Shri Chiranjit Chakraborti (Gohilwad-Sorath).

Shah, Shri Raichand Bhai N. (Chhindwara).

Shahnawaz Khan, Shri (Meerut Distt.—North-East).

Shakuntala Nayar, Shrimati (Gonda Distt.—West).

Sharma, Pandit Balkrishna (Kanpur Distt.—South *cum* Etawah Distt.—East).

Sharma, Pandit Krishna Chandra (Meerut Distt.—South).

Sharma, Shri Diwan Chand (Hoshiarpur).

Sharma, Shri Khushi Ram (Meerut Distt.—West).

Sharma, Shri Nand Lal (Sikar).

Sharma, Shri Radha Charan (Morena-Bhind).

Shastri, Shri Algu Rai (Azamgarh Distt.—East *cum* Ballia Distt.—West).

Shastri, Shri Raja Ram (Kanpur Distt.—Central).

Shivananjappa, Shri M. K. (Mandya).

Shobha Ram, Shri (Alwar).

Shriman Narayan, Shri (Wardha).

Shukla, Pandit Bhagwaticharan (Durg-Bastar).

Siddananjappa, Shri H. (Hassan Chikmagalur).

Singh, Shri C. Sharan (Surguja-Raigarh).

Singh, Shri Digvijaya Narain (Muzaffarpur—North-East).

Singh, Shri Dinesh Pratap (Brahmapur Distt.—East).

Singh, Shri Girraj Saran (Bharatpur-Sawai Madhopur).

Singh, Shri Har Prasad (Ghazipur Distt.—West).

Singh, Shri L. Jogeswar (Inner Manipur).

Singh, Shri Mahendra Nath (Saran Central).

Singh, Shri Ram Nagina (Ghazipur Distt.—East *cum* Ballia Distt.—South-West).

S—contd.

Singh, Shri Tribhuan Narayan (Banaras Distt.—East).
 Singh, Shri Shri Chand (Aligarh Distt.).
 Sinha, Dr. Satyanarain (Saran East).
 Sinha, Shri Anirudha (Darbhanga East).
 Sinha, Shri Awadheshwar Prasad (Muzaffarpur East).
 Sinha, Shri Banarsi Prasad (Moaghly Sadr cum Jamui).
 Sinha, Shri Gajendra Prasad (Palamau cum Hazaribagh cum Ranchi).
 Sinha, Shri Jhulan (Saran North).
 Sinha, Shri Kailash Pati (Patna Central).
 Sinha, Shri Nageshwar Prasad (Hazaribagh East).
 Sinha, Shri S. (Pataliputra).
 Sinha, Shri Satya Narayan (Samastipur East).
 Sinha, Shri Satyendra Narayan (Gaya West).
 Sinha, Shrimati Tarakeshwari (Patna East).
 Sinha, Thakur Jugal Kishore (Muzaffarpur—North-West).
 Sinhasan Singh, Shri (Gorakhpur Distt.—South).
 Siva, Dr. M. V. Gangadhara (Chittoor—Reserved—Sch. Castes).
 Snatak, Shri Nardeo (Aligarh Distt.—Reserved—Sch. Castes).
 Sodhia, Shri Khub Chand (Sagar).
 Somana, Shri N. (Coorg).
 Somani, Shri G. D. (Nagpur-Pali).
 Subrahmanyam, Shri Kandala (Vizianagaram).
 Subrahmanyam, Shri Tekur (Bellary).
 Subramania Chettiar, Shri (Dharmapuri).
 Sundaram, Dr. Latha (Visakhapatnam).
 Sunder Lall, Shri (Saharanpur Distt.—West cum Muzaffarnagar Distt.—North—Reserved—Sch. Castes).
 Suresh Chandra, Dr. (Aurangabad).
 Suriya Prasad, Shri (Morena-Bhind—Reserved—Sch. Castes).

Swami, Shri Sivamurthi (Kushtagi).

Swaminadhan, Shrimati Ammu (Dindigul).

Syed Mahmud, Dr. (Champaran East).

T

Tandon, Shri Purushottamdas (Allahabad Distt. (West)).

Tek Chand, Shri (Ambala-Simla).

Telikar, Shri Shankar Rao (Nanded).

Tewari, Sardar Raj Bhanu Singh (Rewa).

Thimmaiah, Shri Dodda (Kolar—Reserved—Sch. Castes).

Thirani, Shri G. D. (Bargarh).

Thomas, Shri A. M. (Ernakulam).

Thomas, Shri A. V. (Srivaikuntam).

Tivary, Shri Venkatesh Narayan (Kanpur Distt.—North cum Farrukhabad Distt.—South).

Tiwari, Pandit B. L. (Nimer).

Tiwari, Shri Ram Sahai (Chhatarpur-Datia-Tikamgarh).

Tiwary, Pandit Dwarika Nath (Saran South).

Tripathi, Shri Hira Vallabh (Muzaffarnagar Distt.—South).

Tripathi, Shri Kamakhy Prasad (Darrang).

Tripathi, Shri Vishwambhar Deyal (Unnao Distt. cum Rae Bareli Distt.—West cum Hardoi Distt.—South-East).

Trivedi, Shri Umashanker Mulji bha (Chittor).

Tulsidas Kilachand, Shri (Mehsana West).

Tyagi, Shri Mahavir (Dehra Dun Distt. cum Bijnor Distt.—North-West cum Saharanpur Distt.—West).

U

Uikey, Shri M. G. (Mandla-Jabalpur—South—Reserved—Sch. Tribes).

Upadhyay, Pandit Munishwar Dutt (Pataigarh Distt.—East).

Upadhyay, Shri Shiva Deyal (Banda Distt. cum Fatehpur Distt.).

Upadhyaya, Shri Shiva Datt (Satna).

V

Veishnav, Shri Hanumantrao Ganeshrao (Ambed).

Vaishya, Shri Muldas Bhuderdas (Ahmedabad—Reserved—Sch. Castes).

Vellatharao, Shri K. M. (Pudukkottai).

Verma, Shri B. B. (Champaran North).

Verma, Shri Manik Lal (Tonk).

Veerawamy, Shri V. (Mayuram—Reserved—Sch. Castes).

Velayudhan, Shri R. (Quilon cum Mevdikka—Reserved—Sch. Castes).

Venkataraman, Shri R. (Tanjore).

Verma, Shri Bulaqi Ram (Hardoi Distt.—North-West cum Parrukhabad Distt.—East cum Shahjahanpur Distt.—South—Reserved—Sch. Castes).

Verma, Shri Ramji (Deoria Distt.—East).

Vidyalankar, Shri Amarnath (Jullundur).

Vishwanath Prasad, Shri (Azamgarh Distt.—West—Reserved—Sch. Castes).

Vyas, Shri Radhe Lal (Ujjain).

W

Waghmare, Shri Narayan Rao (Parbhani).

Wilson, Shri J. N. (Mirzapur Distt. cum Benaras Distt.—West).

Wodeyar, Shri K. G. (Shimoga).

Z

Zaidi, Col. B. H. (Hardoi Distt.—North-West cum Parrukhabad Distt.—East cum Shahjahanpur Distt.—South).

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The Deputy-Speaker

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Shri Raghbir Sahai.

Shri Asoka Mehta.

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 Pandit Dwarka Nath Tiwary.
 Shri C. R. Narasimhan.
 Shri Raghubir Sahai.
 Pandit Aligu Rei Shastri.
 Shri Abdus Satter.
 Shri Lakshman Singh Charak.
 Shri N. Rachish.
 Shri Radheshyam Ramkumar Morarka.
 Shri Mangalagiri Nanadas.
 Shri T. B. Vittal Rao.
 Shri Y. Gadilingana Gowd.
 Shri Jaswantraj Mehta.
 Shri A. E. T. Barrow.
 Shri Choithram Parasbrai Gidwani.

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 Shrimati Sushama Sen.
 Shri K. S. Raghavachari.
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 Shri V. B. Gandhi.
 Shri Satya Narayan Sinha.
 Shri N. C. Chatterjee.
 Shri Kotha Raghuramaiah.
 Shri G. S. Altekar.
 Shri U. S. Malliah.
 Shri A. K. Gopalan.
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Shri Uma Charan Patnaik.
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Shri Raj Chandra Sen.
Shri K. Ananda Nambiar.
Shri M. S. Gurupedaswamy.

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Shri Diwan Chand Sharma.
Shri Jagan Nath Koley.
Shri G. H. Deshpande.
Shri Nemi Chandra Kasliwal.
Shri N. C. Chatterjee.
Shri P. T. Punnoose.
Shri Asoka Mehta.

Rajya Sabha

Shri H. C. Dasappa.
Shri D. Narayana.
Shri R. P. N. Sinha.
Shrimati Chandraswati Lakhampal.
Shri V. K. Dhage.

Library Committee

Lok Sabha

Sardar Hukam Singh. (Chairman)
Shri V. N. Tivary.
Shri M. L. Dwivedi.
Shri U. C. Patnaik.
Shri M. D. Joshi.
Shri H. N. Mukerjee.

Rajya Sabha

Shri R. D. 'Dinkar' Sinha.
Shri Theodore Bodra.
Shrimati Lilavati Munshi.

Public Accounts Committee

Lok Sabha

Shri V. B. Gandhi. (*Chairman*)
 Shri K. G. Deshmukh.
 Shri U. Srinivasa Malliah.
 Shri Diwan Chand Sharma.
 Shri C. D. Pande.
 Shri Kamal Kumar Basu.
 Shri V. Booveraghessamy.
 Dr. Indubhai B. Amin.
 Shri Niberan Chandra Laskar.
 Shrimati Tarkeshwari Sinha.
 Shri Tribhuan Narayan Singh.
 Shri Radhelal Vyas.
 Shri C. P. Matthen.
 Shri J. B. Kripalani.
 Shrimati Shakuntala Nayar.

Rajya Sabha

Shri G. Ranga.
 Shri R. M. Deshmukh.
 Shrimati Pushpalata Das.
 Shri Shyam Dhar Misra.
 Shri P. T. Leuva.
 Shri B. C. Ghose.
 Shri J. V. K. Vellabharao.

Rules Committee

Shri M. Ananthesayyanam Ayyangar. (*Chairman*)
 Sardar Hukam Singh.
 Pandit Thakur Das Bhargava.
 Shri Satya Narayan Sinha.
 Shri N. Keshavaiengar.
 Shri Shivram Rango Rane.
 Shri Gharamdi Lal Bansal.
 Shri Khushi Ram Sharma.
 Shri Kotha Raghuramaiah.
 Shri Satish Chandra Samanta.
 Dr. N. M. Jaisoorya.
 Shri N. C. Chatterjee.
 Shri Bhawani Singh.
 Shri Kamal Kumar Basu.
 Shri K. S. Raghavachari.

GOVERNMENT OF INDIA

Members of the Cabinet

Prime Minister and Minister of External Affairs and also in charge of the Department of Atomic Energy—Shri Jawaharlal Nehru.

Minister of Education and National Resources and Scientific Research—Maulana Abul Kalam Azad.

Minister of Home Affairs—Pandit Govind Ballabh Pant.

Minister of Communications—Shri Jagiyan Ram.

Minister of Health—Rajkumari Amrit Kaur.

Minister of Finance—Shri C. D. Deshmukh.

Minister of Planning and Irrigation and Power—Shri Gulzarilal Nanda.

Minister of Defence—Dr. Kailas Nath Katju.

Minister of Commerce and Industry and Iron and Steel—Shri T. T. Krishnamachari.

Minister of Law and Minority Affairs—Shri C. C. Biswas.

Minister of Railways and Transport—Shri Lal Bahadur Shastri.

Minister of Works, Housing and Supply—Sardar Swaran Singh.

Minister of Production—Shri K. C. Reddy.

Minister of Food and Agriculture—Shri Ajit Prasad Jain.

Minister of Labour—Shri Khandubhai Desai.

Minister without Portfolio—Shri V. K. Krishna Menon.

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Minister of Parliamentary Affairs—Shri Satya Narayan Sinha.

Minister of Defence Organisation—Shri Mahavir Tyagi.

Minister of Information and Broadcasting—Dr. B. V. Keskar.

Minister of Trade—Shri D. P. Karmarkar.

Minister of Agriculture—Dr. Panjabrao S. Deshmukh.

Minister in the Ministry of External Affairs—Dr. Syed Mahmud.

Minister of Legal Affairs—Shri Hari Vinayak Pataskar.

Minister of Natural Resources—Shri K. D. Malaviya.

Minister of Revenue and Civil Expenditure—Shri M. C. Shah.

Minister of Revenue and Defence Expenditure—Shri Arun Chandra Guha.

Minister of Rehabilitation—Shri Mehr Chand Khanna.

Minister of Consumer Industries—Shri Nityanand Kanungo.

Minister in the Ministry of Communications—Shri Raj Bahadur.

Minister in the Ministry of Home Affairs—Shri B. N. Datar.

Minister of Heavy Industries—Shri M. M. Shah.

Deputy Ministers

Deputy Minister of Defence—Sardar S. S. Majithia.

Deputy Minister of Labour—Shri Abid Ali.

Deputy Minister of Rehabilitation—Shri J. K. Bhonsle.

Deputy Minister of Railways and Transport—Shri O. V. Alagesan.

Deputy Minister of Health—Shrimati M. Chandrasekhar.

Deputy Minister of External Affairs—Shri Anil Kumar Chanda.

Deputy Minister of Food and Agriculture—Shri M. V. Krishnappa.

Deputy Minister of Irrigation and Power—Shri Jaisukhlal Hathi.

Deputy Minister of Production—Shri Satish Chandra.

Deputy Minister of Planning—Shri Shyam Nandan Mishra.

Deputy Minister of Education—Dr. K. L. Shrimali.

Deputy Minister of Finance—Shri Bali Ram Bhagat.

Deputy Minister of Education—Dr. Mono Mohon Das.

Parliamentary Secretaries]

Parliamentary Secretary to the Minister of External Affairs—Shrimati Lakshmi N. Menon.
Parliamentary Secretary to the Minister of Railways and Transport—Shri Shah Nawaz Khan.

Parliamentary Secretary to the Minister of External Affairs—Shri Jogendra Nath Hazarika.}

Parliamentary Secretary to the Minister of Production—Shri Rajaram Giridharlal Dubey.
Parliamentary Secretary to the Minister of External Affairs—Shri Sadath Ali Khan.

Parliamentary Secretary to the Minister of Information and Broadcasting—Shri G. Rajagopalan.

Parliamentary Secretary to the Minister of Works, Housing and Supply—Shri Purnendu Sekhar Nasir.

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LOK SABHA

Tuesday, 17th July, 1956

The Lok Sabha met at Eleven of the Clock.

[MR. SPEAKER in the Chair]

ORAL ANSWERS TO QUESTIONS

Kalka Strike

*35. **Shri Shree Narayan Das:** Will the Minister of Railways be pleased to state :

(a) the total estimated loss suffered by the Railways as a result of strike at Kalka and other places during the months of May and June, 1956 ;

(b) the number of workers involved at each place and the period of strike at each place ;

(c) the number of passenger and goods trains that were cancelled as a result of the strikes ;

(d) what were the grievances for the redress of which the workers went on strike ;

(e) steps taken by Government in the matter ; and

(f) whether any action was taken against those who took part in the illegal strikes ?

The Deputy Minister of Railways and Transport (Shri Alagesan) : (a) Approximately 40 lakhs.

(b), (d), (e) and (f). A statement is placed on the Table of the House. [See Appendix I, Annexure No. 12].

(c) Passenger Trains 582
Goods Trains 972.

Shri Shree Narayan Das : May I know the number of persons arrested in connection with these strikes at all these places and may I also know whether they have been prosecuted so far ?

Shri Alagesan : That information is given in the last column (I) of the statement placed on the Table of the Sabha. Information relating to Secunderabad Division, Kharagpur etc. are all given there.

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Shri Radha Raman : May I know whether it is a fact that these strikes at certain places were a result of the work of some persons who were either ex-employees or dismissed personnel of the railways, and, in view of the experience of the Government in this connection, may I know whether any new arrangements are thought of to avoid mischief from them ?

Shri Alagesan : Whoever has instigated these illegal strikes and misguided the railwaymen has done a wrong thing. More than that I am not able to say whether they are dismissed employees or otherwise.

Shri H. N. Mukerjee : May I know what steps Government propose to take to rectify the failure of Government's own negotiating machinery in Kalka and other places, where certain simple demands are reported to have been pending ineffectively for nearly three months, and, also, what Government propose to do in regard to the refusal in Kalka by the Chairman of the Railway Board to address the workers with whom Government wants association of the administration and who neither wanted nor expected trouble ?

Shri Alagesan : I am sorry to find that the hon. Member is misinformed even at this distance of time after the facts relating to the situation have been placed before the public. It is wrong to assume that the permanent negotiating machinery that has been working at various levels has failed. It is there and is working. It is for the workers and their leaders to place these things for discussion before this permanent negotiating machinery and help in discovering solutions for these things.

As far as the Kalka affair goes, the Chairman did meet the workers and hear what they wanted to say. The demands that were raised are given in the statement. He duly assured the workers to have their demands considered both by the railway administration and the Railway Board. Even in spite of that assurance they were misled into wrong acts and violent demonstrations the consequences of which are known.

Shri P. C. Bose : Arising out of part (a) of the question where it is said "Kalka and other places", may I know what are the other places and what were the causes of these strikes at those other places ?

Shri Alagesan : I have placed a long exhaustive five-page statement wherein details of each and every strike are given. They are 42 in number and the origin of the strike, date, duration, steps taken by the Government and the grievances of the workers are all stated therein.

Shrimati Renu Chakravarty : In the statement it has been given that in the question of Kharagpur the steps taken by Government were to explain to the staff that since the Railway Workers Classification Tribunal Award 1948 was there nothing more could be done about it. May I know whether it is not a fact that the question came up about the interpretation of the Railway Workers Classification Tribunal Award and, if so, whether at any point of time, during the 24 months' time this dispute was going on, the administration accepted the proposal of the union to refer the matter to adjudication or to the negotiating machinery?

Shri Alagesan : It was open to the union to take this up at the negotiating machinery level and have the matter thrashed out. It was explained, as is stated in the statement, that this classification has been there as a result of the recommendations of the Railway Workers Classification Tribunal. Therefore, there was no need for referring this matter to adjudication and it could have been very well taken up at the negotiating machinery level.

Shri B. S. Murthy : May I know whether, apart from the unhappy incidents at Kalka and Kharagpur, the hon. Minister is aware that there is a spirit of dissatisfaction amongst these workers because of the high-handedness of the officers and whether the Minister is making any attempt to see that this dissatisfaction is being removed?

Shri Alagesan : I am sorry for this very unhelpful statement of the hon. Member. If at all there is any spirit it is the spirit of indiscipline and violence in the sit which has to be nipped in the bud.

Shrimati Renu Chakravarty : May I know the method by which the negotiating machinery functions? Is it that once a dispute arises either the union or the administration can refer the matter to the negotiating machinery; otherwise, what is the use of having the negotiating machinery?

Shri Alagesan : The procedure has been laid down and it has been now working for a few years. Whenever the union feels that it has a number of things to discuss with the administration, it should put them down on an agenda paper and send it to the administration earlier before the meeting of the negotiating machinery takes place. Then all those things are considered on a date fixed with the union by the officers of the administration.

Shri A. M. Thomas : May I enquire whether any recognised union was associated with any of the strikes? May I also know whether the troubles can in any way be traced to rivalry between the various unions?

Shri Alagesan : Of course, there is rivalry also, but how far these troubles can be directly traced or attributed to rivalries among the unions is not for me to say. If there is rivalry, and that too unhealthy rivalry, naturally it leads to undesirable consequences.

Shri Radha Raman : May I know at what stage the judicial enquiry at present is? May I also know whether out of the long list of grievances given in the statement any of them has since been accepted or redressed by the Government?

Shri Alagesan : The enquiry is proceeding. I am not able to say when it will be over.

Dr. Rama Rao : The statement says that one of the demands of the workers at Kalka was for the starting of a primary school for the children of the Railway employees. Is it a fact that this demand has been there for a long time and the callousness of the administration is responsible for the irritation? May I also know what compensation the Government propose to give to families of persons shot dead there?

Shri Alagesan : I am unable to say whether the simple demand for a school has been overlooked. This can be certainly considered and it should not be difficult to have a school if there is need for it. There should be absolutely no difficulty about providing a school. But with regard to the other thing, which the hon. Member has gone further on to infer, I do not agree.

Shri V. Muniswamy : May I know whether it is a fact that Perambur was also one of the places of strike and may I also know whether it is a fact that the strike was due to recovery of certain payments all at one time against the agreement entered into by the trade union and the Government to recover the amount in six instalments?

Shri Alagesan : There was a stoppage of work at Perambur also. That was due to the fact that certain amount were recovered. This was done in consultation with the union office-bearers. Though that was done some time back, the accounts had to be looked into and the recovery was made some time later. The excuse of the workers is that they were not aware that such a commitment was given to the administration by their own leaders.

Dr. Rama Rao : Sir, the hon. Minister has not replied to the second part of my question regarding compensation.

Mr. Speaker : The hon. Member referred to persons shot dead and all that.

Shri B. D. Pande : Are the Government aware that their policy has been a weak-kneed one in these strikes and that every union ought not to be recognised? The Government ought to be very strict in these matters. Every 'Tom, Dick and Harry union' ought not to be recognised. Only men of higher standards.....

Mr. Speaker : The hon. Member is giving a suggestion and not putting a question.

Shri B. D. Pande : It is a useful suggestion, Sir.

Train Derailment

*39. **Shri Dabhi :** Will the Minister of Railways be pleased to refer to the reply given to Starred Question No. 2572-A on the 28th May, 1956 and state:

(a) whether the report of the Government Inspector of Railways, who held his statutory enquiry into the derailment of No. 340 Down Rajkot-Okha mail on 19th May, 1956 has been finalised; and

(b) if so, the result of the enquiry?

The Deputy Minister of Railways and Transport (Shri Alageean) : (a) Not yet.

(b) Does not arise.

Shri Dabhi : May I know how long will it take for the report to be presented to Government?

Shri Alageean : The matter is under consideration of the Railway Board, and the comments of the Chief Government Inspector are also awaited. There is a difference of opinion between the Government Inspector who enquired into this matter and the General Manager. All these points have to be reconciled.

Shri Dabhi : What about the compensation to those who were killed and to those who were injured?

Shri Alageean : That will be disposed of in the usual course.

वक्तुओं प्रति निर्देश रोकने वारे में समिति

*40. श्री भक्त बर्हान : क्या काव्य और हृषि मंडी ६ मार्च, १९५६ के तारीकित प्रश्न संस्था ४८५ के उत्तर के सम्बन्ध में यह बताने की कृपा करेंगे कि :

(क) पशुओं के प्रति निर्देश को रोकने व अन्य सम्बन्धित विषयों के बारे में नियुक्त की गई समिति ने क्या अपना प्रतिवेदन प्रस्तुत कर दिया है;

(ख) यदि हो, तो क्या उस प्रतिवेदन की एक प्रति समा पट्टि पर रखी जायेंगी;

(ग) उस समिति की सिफारिशों पर क्या 'नियंत्रण' किये गये हैं; और,

(घ) यदि समिति ने अभी तक अपना प्रतिवेदन नहीं दिया है तो उस समिति ने अपने काम में अब तक क्या प्रगति की है तथा कब तक उस का प्रतिवेदन मिलने की आशा है?

हृषि मंडी (डा० प० शा० देशमुख) :

(क) जी नहीं।

(ल) तथा (ग), प्रश्न नहीं होते।

(घ) ६ मार्च, १९५६ से समिति की तीन बैठकें, अप्रैल, मई और जूलाई १९५६ में हुई हैं। इस के अतावा, जांच संबंधी गवाही लेने के लिये समिति मार्च और अप्रैल १९५६ में बरेली, लखनऊ और जैपुर गई। मार्च और मई १९५६ में दिल्ली में भी गवाहियां ली गई जबकि पशुओं के प्रति निर्देश रोक के प्रश्न पर विभिन्न मतों के २६ व्यक्तियों के बयान लिये गये। समिति अब अपनी टिपोट तैयार कर रही है और आशा है कि तगड़ा एक मास में यह टिपोट ऐसा कर दी जायेगी।

श्री भक्त बर्हान : क्या यह सत्य नहीं है कि इस समिति को स्थापित हुए दो बर्ष होने जा रहे हैं और क्या मैं जान सकता हूँ कि इतना सम्भा समय इस समिति ने क्यों लिया?

डा० प० शा० देशमुख : यह बत सत्य है कि १६ अगस्त, १९५६ को हस समिति को नियुक्त हुए दो साल हो जायेंगे; मगर काफी दिनहोते भाई और कमेटी के कार्य की व्याप्ति भी काफी बड़ी थी। कमेटी के सुपुर्ण यह काम भी कर दिया गया था कि वह जांच करे कि किन किन देशों में कैसी कैसी व्यवस्थाएँ हैं, क्या कानून हैं। इस का जान प्राप्त करने के लिये काफी असर आये।

श्री नवाज शर्फ़ी : क्या गवर्नमेंट के ध्यान में यह बात शाई है कि अभी दो या तीन दिन पहले दिल्ली के ४४ गदहों के मालिकों को निर्दयता के घटपराष पर २०, २० हॉ प्रति गदहा के हिसाब से जुमाना किया गया, इस के अतिरिक्त तीन महीने तक उन्हें प्रति दिन १ हॉ प्रति गदहा के हिसाब से उन के इलाज के लिये देना होगा । क्या यह गदहों के मालिकों के प्रति निर्दयता नहीं है ? और क्या इस प्रकार की कठोर सजाओं के बिना कोई रोक-वाप की जा रही है ?

जात्य और जूहि मंडी (श्री अ० प्र० जैन) : यह तो गदहों भीर गदहों के मालिकों के बीच निर्दयता का सवाल है ।

दा० ए० शा० देशनुज़ : यह सब जानवर और उन के पालने वाले दिल्ली स्टेट के सुपुर्व है ।

Shri Kamath : In the cases referred to by my hon. friend Shri Bhakt Darshan, is it a fact that, as reported in a section of the Delhi press, when the SPCA wanted to prosecute the owners of those animals for atrocious ill-treatment, the Union Minister or his Ministry or some other Member of the Cabinet or his Ministry tried to interfere in the course of justice and wanted to prevent the SPCA from filing a case against the owners of animals and, if so, may I know if it is a matter of habit with Ministers to so interfere in the course of justice?

Mr. Speaker: So far as this question is concerned, if really a Minister has done so, it may not be right, but one should not assume that a Minister has done so and then go on adding whether it is a habit with the Minister and so on. These are serious matters and unless the hon. Member has got a definite information regarding this matter, such questions are not to be put. I am entitled to ask the hon. Member what the source of his information is, before serious charges are made against responsible people. Once a charge is made, whether it is true or false, does not matter, because the charge is made all the same. When a question, attributing serious charges, is put to the hon. Members on the Treasury Benches, particularly the Ministers, the hon. Members must be responsible for the questions which are put. Whether they are responsible outside or not is another matter. The mere fact that privileges are allowed so as to put all sorts of questions and that the hon. Members putting them are not liable to defamation, ought not to encourage or ought not to be taken

as a shield for the purpose of putting any question. I hope the hon. Member has sufficient information with him, on which anybody can rely and with which he can satisfy me in regard to this matter.

Shri Kamath: On a point of order—I am deeply indebted to you for your wise remarks and for your sound judgment. But may I point out to you that I said in the course of my question that I relied on the information given by the press in Delhi. I did not say "as reported in the Delhi press". I will produce that newspaper.

Mr. Speaker: I wanted to know whether it was based on any definite information.

Shri Kamath: Yes; in the press. The question can be answered. As reported in the press, can a Ministry nullify the course of justice ?

Mr. Speaker: Does the press also report that it has become a habit with the Minister?

Shri Kamath: No; no. I asked, "If so, is it a habit," etc.

Mr. Speaker: Let us not go into that matter.

Shri Kamath: The first part of my question may be answered.

Mr. Speaker: The hon. Member will kindly make a report later on.

Dr. P. S. Deshmukh: I repudiate the insinuation. So far as my knowledge goes, there is no truth in this allegation.

Shri Kamath: In what?

Mr. Speaker: In the statement that the SPCA has been influenced by any Ministry.

Shri Kamath: I said that a Minister is alleged to have tried to interfere in the course of justice and tried to prevent the SPCA from prosecuting the owners of the animals.

Mr. Speaker: There is no truth in that matter. That is what the Minister said.

Shri Kamath: You are putting it in a different manner. I had put it in a different manner.

Mr. Speaker: I am sorry the hon. Member did not patiently hear what was said. Possibly, there is no 'foundation'. I used the word 'truth'.

Shri Kamath: On a point of order again. The way you put was, whether the SPCA has tried to influence the Minister.

Mr. Speaker: After saying 'influenced' I gave an opportunity to Shri Kamath to say once again what, according to him, was the question. I allowed him to do so. The question is clear and the answer has been given. Next question.

Shri Kamath: The Minister has not answered.

Mr. Speaker : I have called the next question.

काठमाडू में विमान दुर्घटना

*४२. पंडित द्वारा नाम तिवारी : क्या संचार मंत्री १८ मई, १९५६ के अल्प सूचना प्रपन संस्था १७ के उत्तर के सम्बन्ध में यह बताने की हुपा करेंगे कि १५ मई, १९५६ को काठमाडू में हुई विमान दुर्घटना की जांच के क्या परिणाम निकले ?

संचार मंत्री (धी जगदीशन राम) : जांच समिति इस परिणाम पर पहुंची है कि दुर्घटना का कारण विमानचालक द्वारा विमान को गलत तरीके से उत्तरना था जिससे कि विमान उछल पड़ा । विमान चालक ठीक समय पर उचित सुधार की कार्रवाई न कर सका । उसने बाद में विमान को ऊंचा उठाने की चेष्टा भी की परन्तु तब तक बहुत देर हो चुकी थी ।

पंडित द्वारा नाम तिवारी : क्या मैं जान सकता हूं कि इस दुर्घटना में कितनी अति हुई और गवर्नेंट लोगों की अति पूर्ति के लिये क्या कर रही है ?

धी जगदीशन राम : इस सम्बन्ध में तो पहले भी इस सदन में जवाब दिया जा चुका है कि कितने लोगों की जाने गई और कितने लोग जल्दी हुए, और विमान नष्ट हो गया । जहां तक लोगों की अति पूर्ति का संवाल है, अभी तो कोई ऐसा नियम नहीं है कि इस तरह की दुर्घटना में जो सोग कष्ट पाते हैं, उन की अति पूर्ति की जान ।

वं० द्वारा नाम तिवारी : क्या मैं जान सकता हूं कि विमानचालक दुर्घटना के समय अपने होश हवास में था या किसी चीज के नशे में अपने होश हवास लो चुका था ?

धी जगदीशन राम : जांच में तो कोई ऐसी बात है नहीं कि यह अपने होश हवास में नहीं

Shri R. P. Garg: May I know whether it is a fact that the air-field at Gruchar in Kathmandu is ineffective and not fit for bigger aircraft and, if so, what steps

have the Government taken for preventing further mishaps ?

Shri Jagdish Ram: I would refer the hon. Member to the reply I gave a few days ago when this accident took place. I do not propose to repeat that very answer and I would refer him to the proceedings of the House.

श्री द्वारा नाम सिंह : क्या मैं जान सकता हूं कि विमान चालक नया प्रादमी था, या कि पहले से उस की काफी एक्स्प्रीरिएंस (अनुभव) था ?

धी जगदीशन राम : यह तो मैं पिछले अवसर पर बता चुका हूं लेकिन फिर दोहरा देना चाहता हूं कि यह नया प्रादमी नहीं था, उस का पूरा अनुभव २७६० घंटे २५ मिनट का था ।

बीमती कलालेन्ड्रुमति जाह : मैं जानबा चाहती हूं कि क्या यह सच है कि जो ग्रायरेट विमान चला रहा था उस ने उस विमान को उतारते बहत अपने साथी को दे दिया था और लुट उसे चलाना बद कर दिया था ? प्रगत यह सच है तो सरकार आगे के लिये इस किस्म की चीजों को रोकने के लिये कोई कार्रवाई करने का विचार रखती है ताकि यात्रियों की रक्षा का ठीक प्रबन्ध हो सके ?

धी जगदीशन राम : यह बात बिल्कुल असत्य है, इस की कोई बुनियाद नहीं है । उस ने विमान की स्वयं ही उतारा था न कि उस के साथी ने । शायद माननीय सदस्य किसी दूसरी दुर्घटना के साथ इस को निला रही हैं जहां पर ऐसा हुआ होगा । लेकिन इस केस में तो चालक ने स्वयं ही उतारा था । उस के साथी ने नहीं उतारा था ।

Shri Bansal: May I know whether the attention of the Minister has been invited to a letter in the *Statesman* that the number of rough landings has increased now compared to last year or the year before last ?

Shri Jagdish Ram: I repudiate this generalisation. Those who have the experience of travelling by air in this country or even outside in airliners piloted by Indian pilots will bear testimony that the landing and take off by Indian pilots is perhaps the best in the world.

Death of Indian Seamen in Glasgow Docks

*44. **Shri H. N. Mukerjee**: Will the Minister of Transport be pleased to refer to the reply given to Started Question No. 962 on March 29, 1956, and state whether any report has been received from the High Commission of India in London with regard to compensation for the families of Indian seamen burnt to death last February on board the British freighter "Clan Alpine"?

The Deputy Minister of Railways and Transport (Shri Alagesan): The High Commission of India in London has reported that the matter has been taken up with the Clan Line, the owners of the ship, and that it is under their sympathetic consideration.

Shri H. N. Mukerjee: May I know if the Government is aware by what time the final decision in regard to compensation would be reached?

Shri Alagesan: We have asked our High Commission to inform the people so that they might expedite the matter.

Shri H. N. Mukerjee: May I know if the Government has satisfied itself that it was a case of avoidable accident and to that extent the compensation should be computed accordingly?

Shri Alagesan: There was a committee of enquiry which went into this matter and their finding is that the owners of the ship are not to blame in any way. But still, they are considering the question of giving compensation.

Conversion of Public Call Offices into Exchange Centres

*45. **Shri Jhulan Sinha**: Will the Minister of Communications be pleased to state:

(a) whether there is any programme for converting the recently opened public call offices into exchange centres, especially so where the public call offices have proved to be very remunerative; and

(b) if so, the conditions these centres have to fulfil to be qualified for conversion into exchanges?

The Minister of Communications (Shri Jaglivan Ram): (a) and (b). Public Call Offices are converted into telephone exchanges wherever there is sufficient demand and the scheme also does not involve any loss to the Department.

Shri Jhulan Sinha: May I know after the starting of this programme of converting public call offices into exchanges, how many of them have been converted into exchanges?

Shri Jaglivan Ram: Quite a number of the public call offices have been converted into exchanges. If I give the figures of the number of new exchanges opened during the last five years, the hon. Member will see that the progress has been quite impressive. The numbers are as follows: In 1951-5

52; in 1952-53, 45; in 1953-54, 42; in 1954-55, 104 and in 1955-56, 125. The total for the five years is 347.

Shri Jhulan Sinha: I want to know what is exactly meant by "sufficient demand". Is any particular quota fixed for it or is it left to the discretion of the officer concerned?

Shri Jaglivan Ram: Sometimes discretion has to be exercised by the Officers but it is based on the condition that if there are at least 30 subscribers on the exchange, the exchange will run on a no-loss basis. So, if there are at least 30 subscribers, it is convertible into an exchange.

श्री य० ल० द्विवेदी : क्या यह सत्य है कि पाई० टी० प्राई० में १०, १५, २० और २५ काल बाले एक्सचेंज तैयार हए हैं? में जानना चाहता हूँ कि क्या सरकार यह सोचती है कि १०, १५, २० और २५ काल बाले एक्सचेंज उन क्षेत्रों में लगाये जायें जहाँ उनको मांग है?

श्री जगलीवन राम : जो हाँ, प्रयत्न तो इसी बात का हो रहा है। लेकिन प्राई० टी० प्राई० में जो हम बना रहे हैं वे प्राटो-मेटिक एक्सचेंज हैं और उनके लिए भी जहाँ से १० या ११ प्रादर्शियों की तरफ से मांग होती है, हम प्रयत्न करते हैं कि उनको है। लेकिन बहुत से इलाकों में इनके लिए मांग बहुत कम है।

Shri Thimmaiah: Is it a fact that the opening of public call offices and telephone exchanges is delayed for want of adequate supplies of materials? If so, what steps have the Government taken to see that the public call offices and exchanges are opened within the time prescribed under the scheme of the Communications Ministry?

Shri Jaglivan Ram: It does happen sometimes that the opening of public call offices and exchanges is delayed for want of equipment and materials. We are taking all possible steps to get the necessary stores, but there are certain stores for which we have to depend on other countries. Until we become self-sufficient in the manufacture of stores and equipment, I cannot say that the opening of public call offices and exchanges will be exactly according to the schedule.

Soni Erwana

*46. **Shri S. C. Samanta**: Will the Minister of Food and Agriculture be pleased to refer to the reply given to Started

Question No. 2468 on the 23rd May, 1956 and date:

(a) whether detailed schemes and estimates on afforestation to prevent soil erosion have been received from West Bengal and Orissa States;

(b) if so, how many and of what amount; and

(c) the number of schemes from each State that have already been implemented?

The Minister of Agriculture (Dr. P. S. Deshmukh): (a) Not yet.

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

Shri S. C. Samanta: May I know whether in cases where the States have submitted their schemes, money has been sanctioned?

Dr. P. S. Deshmukh: Yes, Sir. Wherever schemes have been approved, money has been sanctioned. We are also anxious that the money should be spent.

Shri S. C. Samanta: May I know whether the allotted sum will be spent in the present year or whether it will be distributed over the plan period?

Dr. P. S. Deshmukh: As I have already said, we are anxious that the maximum amount available should be spent as soon as possible. It all depends upon the scheme of the State Governments when it is proposed to spend the amount. If they are prepared to spend the whole amount during the current year, we will allot the whole amount.

Shri S. C. Samanta: May I know the reasons for all the States, especially Rajasthan, not submitting their schemes as yet?

Dr. P. S. Deshmukh: It would be difficult for me to venture to answer this question. It may be probably for want of personnel.

Shri R. P. Garg: May I know the decisions arrived at at the Srinagar Conference of the State Food and Agriculture Ministers for proceeding with the afforestation work?

Dr. P. S. Deshmukh: The whole question was discussed and the particular point which we wanted to impress on the Ministers of the various States was that they should send as many candidates as possible for training in the soil conservation work and also expedite the schemes.

Shri N. B. Chowdhury: In view of the need for soil conservation work in West Bengal and also in view of the fact that the work on the Second Five Year Plan has already started, may I know whether the Central Government will remind the West Bengal Government to submit their schemes at an early date?

Dr. P. S. Deshmukh: Not only in the case of the West Bengal Government, but in the case of every Government, we propose to try the scheme. One scheme has already been sanctioned and there are two other schemes which are under consideration.

रेलवे यात्रियों के सुवाद

४५७. श्री अनिल तिहू : क्या रेलवे मंत्री १५ मई, १९५६ के तारीखित प्रश्न संस्था २२०६ के उत्तर के सम्बन्ध में यह बताने की कृपा करेंगे कि :

(क) रेलवे-यात्रियों से प्राप्त सुझावों की संख्या कितनी थी और क्या उन का वर्गीकरण किया जा चुका है ; और

(ख) उन सुझावों का ध्योरा क्या है भीर किस प्रकार के सुझावों पर अमल करने का सरकार का विचार है ?

रेलवे तथा वित्तमंत्री (श्री अलगोराम) : (क) तथा (ख) एक विवरण सोक सभा के पटल पर रख दिया गया है। [वेलिये परिविष्ट १, अवधानन्द सं० १३].

श्री अनिल तिहू : क्या रेलवे प्रशासन रेल यात्रा की सुविधा के सम्बन्ध में यात्रियों से सुझाव मांगने के कार्यालय को स्थायी रूप देने का विचार कर रहा है ?

रेलवे तथा वित्तमंत्री (श्री ला० ब० शास्त्री) : जी नहीं, इस बीज को स्थायी रूप देने का आभी कोई विचार नहीं है।

श्री वृत्तेश्वर : एक सुझाव ऐसा भी दिया गया था कि यद्य पैसेंजर्स के लिये बड़े जंकशान्स पर तथा दूसरे बड़े स्टेशनों पर एक कंडक्टर ऐसा भी मुकर्रर किया जाय जो यात्रियों को यह बता सके कि आगे के दिन में जगह है या पोखे के दिन में ताकि यह यात्रियों की सहायता कर सके। क्या इस सुझाव पर भी गोर किया गया है ?

श्री ला० ब० शास्त्री : कोई अलग से इस बीज को करने का विचार तो नहीं है। लेकिन जिन ट्रेन्स पर हम ने कंडक्टर रखे हैं उन से यह यात्रा की जाती है कि

वे मुसाफिरों को यह बतायें कि किसर जगह है और किसर नहीं है। ऐसे टिकिट स्टेटस जो स्टेशनों पर होते हैं उन का भी यह कर्तव्य है कि वे मुसाफिरों की इस काम में मद्दत करें।

Dr. Rama Rao: Among the large number of suggestions that have been received, is there one for starting more Annapurnas on the railways? Has the Government taken any steps to increase the Annapurnas or other catering cars on the long-distance passenger trains?

Shri Alagesan: It is true that one of the suggestions relates to having more Annapurnas and dining cars on these trains. We would await the suggestion from the Annapurna Organisation itself and see how far this is feasible.

Shri Veerawamy: May I know whether the suggestions made by the passengers on the Southern Railway have been accepted and if so, whether all the suggestions have been accepted and whether they will be implemented?

Shri Alagesan: Suggestions have been made by passengers from all Railways. I find from the list before me that the number of suggestions is the largest from the Southern Railway. All these suggestions are under examination by the Railways concerned and they are competent to take action on all the suggestions.

Ferozepore and Bhatinda District Line

*48. **Sardar Iqbal Singh:** Will the Minister of Communications be pleased to state:

- whether it is a fact that interruption is very frequent in the Ferozepore and Bhatinda district line;
- if so, the reasons therefor; and
- the steps that have been taken for its proper working?

The Minister of Communications (Shri Jagjivan Ram): (a) No. There are very few interruptions on Ferozepore-Bhatinda line.

- Does not arise.
- Does not arise.

Sardar Iqbal Singh: May I know whether the hon. Minister will be pleased to lay on the Table of the House the number of calls booked from these stations in the last six months, and the number of calls that were cancelled because there were always interruptions on the line?

Shri Jagjivan Ram: Now it is a question of fact. I have to rely on my facts more than the hon. Member's information. I say there were not many interruptions.

Sardar Iqbal Singh: Will the hon. Minister make an enquiry as to the number of calls that were booked for July and beyond July from these two districts and the number of calls that were connected and the number of calls that were cancelled?

Shri Jagjivan Ram: I have got information with me as to the number of interruptions that took place every month for the last six or seven months. On the basis of that I can say that the efficiency of this particular exchange varies from 96.6 per cent. to 100 per cent. during the months of December, January, February, March, April and May. With this high percentage of efficiency, I do not think there is occasion for going into further statistics.

Shri Bansal: How is this efficiency measured?

Shri Jagjivan Ram: It is measured by the total number of calls and the total number that materialised.

राहित द्वारा लिखारी: अभी माननीय मंत्री महोदय ने कहा है :

"I rely more on facts with me than the experience or information of hon. Members."

क्या मैं जान सकता हूँ कि क्या माननीय मंत्री जी को ऐसी शिकायतें भिली हैं कि उन को गलत इन्कॉर्शन (सुचना) दी जाती है और येस्टर्डे (सदस्यों) की इन्कॉर्शन द्वारा एक्सप्रीरियंस (अनुभव) सही होते हैं और उन की इन्कॉर्शन गलत होती है?

श्री जगजीवन राम : जी नहीं, मैं इस जेनरलाइजेशन (सामान्यीकरण) को कभी भी कबूल करने के लिये तैयार नहीं हूँ।

Underground Railway for Bombay

*49. **Dr. Ram Subba Singh:** Will the Minister of Railways be pleased to state:

- whether it is a fact that Government propose to construct an underground Railway system in Bombay City;
- if so, whether the plan for the same has been Prepared;
- the estimated cost for constructing that Railway system; and
- when the construction work is likely to be undertaken?

The Deputy Minister of Railways and Transport (Shri Alagesan): (a) The Ministry of Railways have no such proposal.

- to (d). Do not arise.

Dr. Ram Subhag Singh: The Deputy Minister said that the Government is not having any proposal of this nature. May I know whether anybody else is having any proposal of this nature?

Shri Alagesan: We only saw the information in the press that the B.E.S.T. have such a proposal which they have submitted to the Bombay Government.

Dr. Ram Subhag Singh: May I know whether the B.E.S.T. had any correspondence with the Ministry of Railways and if so, what proposal it has placed before the Railway Ministry?

Shri Alagesan: We are not aware of their suggestions.

Sardar Iqbal Singh: May I know whether the Government has any proposal for underground railway for any city, and if so, the name of the city?

Shri Alagesan: No.

श्री महत बड़ानं: क्या गवर्नेंट इस सुसाव पर विचार करेगी कि इस तरह की खर्बीली और एक प्रकार से विलासित की योजनाओं को आगे न बढ़ा कर पहले उन इलाकों में रेलवे-लाइन बनाई जायें, जोकि पिछले हुए इलाके हैं और जो रेलवे की सुविधाओं से बचित हैं?

रेलवे तथा परिवहन बंडी (श्री ला० ब० शास्त्री): हम तो इस रेलवे को बना ही नहीं रहे हैं।

Food Situation

गो. श्री B. D. Pande: Will the Minister of Food and Agriculture be pleased to state the quantity of wheat and rice that has been imported in the current financial year so far from outside and the countries from where imported?

The Deputy Minister of Food and Agriculture (Shri M. V. Krishnappa): During the first three months ending 30th June, 1956 of the current financial year the following quantities of wheat have been imported on Government account:—

Australia 88.5 inclusive of 9.0 thousand tons diverted to Karachi.
U.S.A. 58.4 thousand tons.

No rice or any other grain was imported during this period.

Shri B. D. Pande: We are told times out of number that we have become self-sufficient in food. Why is there this scarcity of food and this import from outside? I want to know from the Minister.

Shri M. V. Krishnappa: We have decided to build up a reserve of two million tons in the country. The Planning Commission has decided that we must import nearly 6 million tons of food in five years. In food matters, it is difficult to say whether a country is self-sufficient or not. Even a country like Russia is importing wheat from Canada and rice from Burma. China imports rice from Burma and still they are exporting rice to some other countries. It is difficult to say whether we are self-sufficient or not. It may be that in one year we may export and in another year, we may have to import a little rice.

श्री ला० ला० द्विवेदी : मैं यह जानना चाहता हूँ कि गल्से को भंटारों में रखने की योजना में अब तक क्या प्रगति है ताकि हमारा जो गल्ला बरसात में बरबाद हो जाता है, वह बच सके?

श्री और हस्ति बंडी (श्री ला० ब० जैन) : कुछ गोदाम बनाये जा रहे हैं और कुछ बन गये हैं। इतनी काफी मिक्कार में गोदाम बनाये जायेंगे कि जिस में गल्ला अच्छी तरह से रखा जा सके।

Shri Debendra Nath Sarma: May I know whether we have attained self-sufficiency in food or not?

Shri A. P. Jain: The question has been answered. I may add, firstly the population of India is increasing fairly fast. Secondly, there are seasonal variations. Thirdly, with this large amount of deficit financing and increase in currency, there is more and more demand for food. In the case of labour and lower middle class people, food constitutes 70 per cent. of their family budget. If people have a little more money, they want more food. Therefore, it is difficult to say whether at a particular stage, India is or is not self-sufficient. In fact, the factors which constitute self-sufficiency today may, tomorrow, account even for an insufficiency.

श्री ला० ब० पाठे : हमारे यहाँ हिमाचल में एक जड़ी-बूटी मिलती है, जिस को हस्ते-माल करने से भूल नहीं सकती है। क्या सरकार उस जड़ी-बूटी को मंगाकर हिन्दुस्तान में उस का प्रचार करेगी ताकि लोगों को भूल न लगे और प्रभ्रा बाहर से न मंगाना पड़े?

श्री ला० ब० जैन : मुझे आशा है कि प्रान्तरेवस मेल्डर ने उस का प्रयोग किया

होगा और अब उन की अनाज की जहरत न होगी।

Shri H. N. Mukerjee: In view of the fact that the high level of food imports planned for the next three years is by no means reassuring, can the Minister give us some idea as to how the expectation expressed at Mussoorie recently regarding general improvement in agricultural practices and awakening in rural masses would bring about an increase of production which would enable us to do away with this kind of rather dangerous imports?

Shri A. P. Jain: The question is rather involved and I have not been able to catch what the hon. Member means. Of course, all the schemes which were discussed in Mussoorie and which are contained in the Second Five Year Plan are calculated to increase production of food, as rapid a pace as possible. In fact, at Mussoorie, we gave a second thought to the schemes included in the Second Five Year Plan and we came to the conclusion that with additional allocations, it may be possible to increase food production over and above the targets prescribed in the Second Five Year Plan. Even so, in order to safeguard ourselves, we have made provision in the Plan for the import of foodgrains during the next five years so that we may be able to meet any possible emergency that may occur in the country.

Tree Plantation

***52. Shrimati Kamiendu Mati Shah:** Will the Minister of Food and Agriculture be pleased to state the steps taken by Government to plant quick growing trees in the forest and rural areas to provide firewood for the use of rural populations?

The Minister of Agriculture (Dr. P. S. Deshmukh): A statement is laid on the Table of the Lok Sabha. [See Appendix I, annexure No. 14].

बीमती कामलेन्द्रनाथ शाह : क्या भी जान सकती है कि जैसे हरल एतियाज के लिये कुछ उपाय किये गये हैं, वैसे ही प्रदून एतियाज के लिये भी जलाने की सकड़ी के विषय में क्या उपाय किये जायेंगे?

डा० पं० शा० देशमुख : इन सब उपायों की तक्षील में इस समय तो नहीं दे सकता हूँ, यार हमारी कोशिश यह है कि शहरों में भी और बाहर जांबों में भी ज्यादा से ज्यादा ई-प्लान्टेशन हो।

मी भक्त बहान : क्या गवर्नरेंट के ध्यान में यह बात आई है कि जहां एक और बन महोत्सव और इसी तरह से दूसरे उत्सव मनाये जा रहे हैं वहां दूसरी और बड़ी निरंयता से जंगलों का सफाया किया जा रहा है? क्या इस सम्बन्ध में रोकथाम करने के लिये राज्य सरकारों को कोई प्रादेश दिया गया है, या और कोई कदम उठाया जा रहा है?

डा० पं० शा० देशमुख : हमारी जितनी भी मीटिंग्स होती हैं और हमारा जो पत्रश्वाहार होता है उसमें हम राज्य सरकारों पर इस बात के लिए जोर देते हैं कि वे अपने बनों की अच्छी तरह से रक्खा करें। इस दिशा में कुछ सुधार मी हुया है, कम से कम ऐसी भैरी राय है। बन महोत्सव का भी यहो उद्देश्य है कि जो बनों का नुकसान हो रहा है वह न हो।

Price of Rice in West Bengal

***53. Shrimati Renu Chakravarty :** Will the Minister of Food and Agriculture be pleased to state:

(a) the increase in the prices of rice in the districts of Midnapur and 24-Parganas of West Bengal; and

(b) whether Government proposes to support the policy of opening fair price shops for all areas in Bengal which are flood-affected and water-logged?

The Deputy Minister of Food and Agriculture (Shri M. V. Krishnappa):

(a) The increase in the average retail price of rice was of the order of Re. 1/- to Rs. 1/8/- per maund since the end of May, 1956 when these districts were affected by floods.

(b) Fair price shops have already been opened by the West Bengal Government in all the flood-affected and water-logged areas of West Bengal.

Shrimati Renu Chakravarty : In view of the fact that very few fair price shops have yet been opened in the towns and almost none in the villages, especially in 24-Parganas, may I know if the Central Government has given any help towards expediting this?

Shri M. V. Krishnappa : We have given as much rice as the West Bengal Government asked for in the first instalment. Now they have started nearly 1,000 fair price shops in Calcutta and the mofussil. They have told us that as and when they feel it necessary, they are prepared to start these fair price shops in all other areas of West Bengal. They are going on starting every day.

Shrimati Renu Chakravarty : In view of the statement made by the Minister yesterday that he would see that the price of rice would not go above Rs. 16 and in view of the fact that all over Bengal and especially in the flood-affected areas as the price of rice has risen to anywhere between Rs. 20 and Rs. 22, what steps do the Central Government propose to take to bring down the price of rice to Rs. 16?

Shri M. V. Krishnappa : We are prepared to give as much rice as the West Bengal Government asks for. The day before yesterday myself and the Food Minister of West Bengal had been to 24-Parganas and Nadia District. We toured nearly 300 miles on the Pakistan border on both sides of the river. On our side, they have got lots of stocks. In the fair price shops also we have got rice. We paid surprise visits to the *mandis* and merchants' shops. They are selling good quality rice at 8 annas per seer. So, we are prepared to supply any amount of rice they want and they are starting depots.

Shri N. B. Chowdhury : Is it not a fact that powers asked for the West Bengal Government from the Government of India to deal adequately with hoarding and speculation were refused by the Government?

Shri M. V. Krishnappa : There is no necessity to seize the stocks of the merchants. There are other ways of bringing the stock into the open market. As our Minister stated yesterday at Bhopal, if we release rice at Rs. 16 per maund, there is no necessity to seize the stocks of the merchants. They are there in the normal economy. We cannot call it hoarding. They have to hold stocks to meet lean periods. If the price is one rupee or two rupees more, when we start releasing at Rs. 16, the rice with the merchants is bound to come to the open market.

Shri Kelappan : It has been the experience of the country that these fair price shops do not help to bring down the price. Have the Government any other suggestion to bring down the price, to insist on the merchants declaring their price and selling at the price fixed by the Government?

Shri M. V. Krishnappa : The number of fair price shops opened at present is not adequate. So, they will be increased very soon.

The hon. Member Shri Kelappan is referring to Malabar. In Malabar, as the monsoon starts generally the prices go up, so also in Bengal. During the monsoon period people cannot bring their produce to the market because of communication difficulties. Prices go up generally by one rupee or Rs. 1/8/- per maund during the monsoon period. As soon as the monsoon stops generally the prices come down. So, we are prepared to start more fair price shops so that the prices in the open market will come down.

Shrimati Renu Chakravarty : In view of the fact that in most of the areas which I have mentioned in my question there is no cultivation and most of the peasants have lost their cultivation, and in view of the fact that the next three months are the hardest for the peasants, in what way can we bring down the price to Rs. 16 at the earliest date? No question of Rs. 17-8-0 above the normal. The question is they have no purchasing power. How to bring it down quickly to Rs. 16? The Government of West Bengal is saying Rs. 17-8-0, you are saying Rs. 16, but it is nowhere near either Rs. 17-8-0 or Rs. 16.

Shri M. V. Krishnappa : In Midnapore the conditions are a little worse because of cyclone etc. In some parts of 24-Parganas and Nadia District the *hans* crop is excellent. I saw with my own eyes that both in Nadia and parts of 24-Parganas districts the *hans* crop is excellent and is going to be harvested in 45 days. In Midnapore the West Bengal Government has taken up a number of relief works to provide purchasing power, and we are prepared to start fair price shops.

Shrimati Renu Chakravarty : 24-Parganas and Nadia are not the same place.

Shri H. N. Mukerjee : In view of the admission by the West Bengal Food Minister that there has been speculative trade and the statement by Shri T. T. Krishnamachari in Madras in regard to hoarding, may I know why no steps have been taken by Government so far against at least the larger speculative traders who must be recognizable, or do we take it that speculative trade and Government inaction are normal, both of them?

The Minister of Food and Agriculture (Shri A. P. Jain) : The hon. Member would be aware that steps have already been taken by the Reserve Bank. They are three-fold. No further advances are being made against stocks of paddy and rice. Wherever there were joint accounts, the paddy and rice accounts have been split up for the purpose of freezing them at that level, and further margin money has been called from the stockists. That is, formerly

the margin was 25 per cent. or so, now it is 35 per cent. These are the steps that have been taken to discourage speculative holding.

Training of Craftsmen

*54. **Shri Hem Raj** : Will the Minister of Labour be pleased to state :

(a) whether the working group of experts appointed by Government to advise it on the training of craftsmen has submitted its report ; and

(b) if so, the main recommendations and the action taken thereon?

The Deputy Minister of Labour (Shri Abid Ali) : (a) The Working Group is a kind of Standing Committee set up for advising the Ministry of Labour from time to time on matters relating to procedure and policy of training of Craftsmen which may be referred to it, it does not submit reports.

(b) Does not arise.

Shri Hem Raj : May I know whether it has made any recommendations so far, if so, what are the recommendations?

Shri Abid Ali : I said that it does not submit any report but recommendations. It meets and decides ; on the basis of that action is taken. The last meeting of the committee was held in April and it proposed some action to be taken with regard to setting up the National Council for Vocational Training, the Craftsmen Training Scheme, reorganisation of the Central Training Institute and such other items.

Shri Hem Raj : May I know whether it has taken any census of the technical personnel in the country in the different grades?

Shri Abid Ali : No, Sir. No such census has been taken.

Water Supply Schemes in Andhra

*55. **Dr. Rama Rao** : Will the Minister of Health be pleased to state :

(a) the amount granted for 1956-57 to Hyderabad and Andhra for Water Supply Schemes; and

(b) the amount proposed to be granted for this purpose in the Second Five Year Plan?

The Deputy Minister of Health (Shrimati Chandrasekhar) : (a) and (b). Proposals received from these State Governments are under examination and the amounts to be granted to them will be decided shortly.

Dr. Rama Rao : The hon. Minister stated that the proposals are under consideration for 1956-57. When is the amount to be granted and when is it to be spent in 1956-57?

Shrimati Chandrasekhar : We addressed the State Governments to send the schemes. From Hyderabad we received a reply on the 26th April, 1956 and from Andhra on the 26th May, 1956 and even then the schemes that they sent were without the technical data. So, we have asked them to send the technical data in full. They are yet to be received. As soon as they come, they will be examined and besides this I would like to say that the grant would be allotted to the State Governments on the basis of the requirements of all the State Governments that we have addressed. All the State Governments have not replied. Only some have replied, and we have to receive replies from the others yet.

Dr. Rama Rao : May I know the amount requested for by the State Governments of Andhra and Hyderabad?

Shrimati Chandrasekhar : The Andhra Government propose to spend about Rs. 171.26 lakhs during 1956-57 on spill-over schemes, and Rs. 14.17 lakhs on new ~~ryed~~ schemes. The Hyderabad Government propose to spend about Rs. 69.926 lakhs on the spill-over schemes and Rs. 62 lakhs on the new urban water supply schemes.

Shri B. S. Murthy : May I know whether the sanctioning of the amounts to the States of Andhra and Hyderabad will depend on the receipt of the replies from the other State Governments?

Shrimati Chandrasekhar : Yes. Since a certain amount has been allotted for giving aid to the various State Governments, we have to take into consideration the demands from the other States also.

Shri B. S. Murthy : Is it not the position that the needs of certain States will have to be taken into consideration in accordance with their requests? Since the Andhra and Hyderabad States have already sent their schemes and they are in great need, why should the Central Government wait until the other States also submit their demands?

Mr. Speaker : The hon. Member is trying to argue the matter. The Central Government have to distribute the amount throughout India.

Shri B. S. Murthy : That is why....

Mr. Speaker : I am not allowing arguments on this matter. The Minister has already said that the Central Government have to consult the other States also in regard to their demands. As to 'why' and 'why not', another day may be allotted.

Dr. Rama Rao : May I know whether the amounts mentioned by the Minister relate to 1956-57 or the Second Five Year Plan Period?

Shrimati Chandrasekhar : 1956-57 is in the Second Five Year Plan Period.

Mr. Speaker : It is part of it.

Dr. Rama Rao : My question has not been replied to.

Mr. Speaker : The hon. Member wants to know whether the amounts are for the whole of the Second Five Year Plan Period or only for 1956-57.

Shrimati Chandrasekhar : It is said in the answer itself that it is for 1956-57.

Aerodrome at Hubli

***56. Shri Wodeyar** : Will the Minister of Communications be pleased to state:

(a) whether it is a fact that Government are anxious to complete early the work of construction of an aerodrome at Hubli in Karnataka;

(b) whether detailed estimates are being prepared by the Central Public Works Department and are expected to be finalised shortly; and

(c) if so, the probable date of its inauguration?

The Minister of Communications (Shri Jagjivan Ram) : (a) Yes, Sir.

(b) The estimates have already been prepared by the Central Public Works Department.

(c) The work of construction will start after the necessary land has been acquired and taken possession of. Thereafter, it will take about 18 months to complete the project.

Shri Wodeyar : May I know whether the site for the aerodrome has been settled, and if so, whether it will be Dharwar or Hubli? May I also know the total estimated cost of the aerodrome?

Shri Jagjivan Ram : A site has been selected which is more or less equidistant from Dharwar and Hubli. The estimated cost is nearly Rs. 18 lakhs.

Shri Joachim Alva : May I know whether whilst surveying the possibilities of the Hubli aerodrome and arriving at a decision, Government surveyed the neighbouring area of Karwar which is backward and where transport facilities are not present?

Shri Jagjivan Ram : I do not think in backward areas, such as the one my hon. friend has in view, there will be enough traffic for having an air service.

Collapse of Overbridge at Ballygunge Station

***57. Shri Sadhan Gupta** : Will the Minister of Railways be pleased to state:

(a) whether the overbridge at Ballygunge station in Calcutta collapsed on the 1st July, 1956;

(b) if so, the reasons for the collapse; and

(c) the number of casualties?

The Deputy Minister of Railways and Transport (Shri Alagesan) : (a) Yes, Sir; a portion of about 6' in length collapsed and fell down.

(b) The findings of the Committee appointed to enquire into the cause of the accident is awaited.

(c) Seventeen, none fatal, of which 12 were discharged from the Hospital after First-aid.

Shri Sadhan Gupta : May I know the personnel of the committee that is being appointed to enquire into the matter?

Shri Alagesan : It is a junior administrative officer's enquiry that has been ordered.

Shri Sadhan Gupta : May I know when this particular bridge had been last repaired?

Shri Alagesan : I do not have that information with me now.

Shri Sadhan Gupta : May I know whether this bridge is a wooden bridge about half a century old, and whether any steps are taken to see that it is properly maintained and kept safe for passengers?

Shri Alagesan : May I request the hon. Member to await the findings of this enquiry? In the meanwhile, I can assure the hon. Member that all these bridges are being maintained. I do not know what particular defect has contributed to this mishap.

Shri N. B. Chowdhury : In view of the accidents due to the collapse of the Ballygunge railway bridge and also the Tala railway bridge within a very short period of one month, may I know whether Government propose to take any steps to instruct the persons concerned to examine other railway bridges near the Calcutta area?

Mr. Speaker : The hon. Member wants to know whether the other railway bridges also will be examined. That is a suggestion.

The Minister of Railways and Transport (Shri Lal Bahadur Shastri) : It is not necessary. It is true that this foot overbridge is a very old one, and it will have to be reconstructed. As regards the

other bridge, I am not quite sure about the facts. But I think a bus struck against the wall and therefore the bridge was damaged, and the passengers fell down.

Shri Kamath : Considering that these overbridges are constantly subject to heavy human and vehicular traffic, may I know who is responsible for the maintenance and repair of the bridges? Is the responsibility that of the Central Government, or is it shared by the Central and the State Governments?

Shri Lal Bahadur Shastri : So far as the foot overbridge is concerned, the railways are responsible for them. As regards the other overbridges, the State Governments are responsible for their maintenance except for the bridge structure proper.

Shri H. N. Mukerjee : May I know whether Government are considering the idea of giving a reward or giving some kind of recognition to the services of the station official in Ballygunge whose prompt action prevented a very serious accident which would have inevitably followed the collapse of the overbridge?

Shri Lal Bahadur Shastri : I was in Calcutta the other day, and I had a talk with the General Manager. His attention has also been drawn to that fact, and probably he might do something.

Insecticides

***60. Shri Dabhi :** Will the Minister of Health be pleased to state:

(a) whether it is a fact that thirty-two countries have expressed anxiety that insecticides not only are becoming useless but have helped in creating insects and microbes which have built up resistance to chemical substances and are now proof against D. D. T. and other chemical products;

(b) that the W. H. O. has enumerated malaria-bearing mosquitoes, body lice which carry typhus, fleas that spread plague and several other insects as those which are immune to D. D. T.;

(c) if so, whether Government have carried on any investigations regarding the efficacy of D. D. T. in India; and

(d) the result of these investigations?

The Deputy Minister of Health (Shrimati Chandrasekhar) : (a) Resistant strains of insects to D. D. T. and other chlorinated hydrocarbon insecticides have been reported in various parts of the world where these insecticides have been in continuous use for a number of years.

(b) Yes, in some countries but not in India.

(c) A team of specialists from the Malaria Institute of India, Delhi visited various parts of the country last year to determine whether any resistance had appeared amongst the mosquitoes and such susceptibility studies are continuously in progress.

(d) There is no evidence of malaria carrying mosquitoes having developed any degree of resistance to D. D. T. in India. A close watch is being kept on the situation.

Shri Dabhi : May I know for how long the effect of this DDT spraying lasts?

Shrimati Chandrasekhar : I require notice to answer that.

Shri Dabhi : What is the ground for saying that while in other countries, the mosquitoes have built up resistance to DDT, in our country, they have not done so?

The Minister of Health (Rajkumari Amrit Kaur) : We have carried out investigations in this regard, and we find that no resistance has yet been built up in India, whereas the other countries have reported resistance. The effect of DDT lasts for a considerable time, and where the spraying is done properly, it is very effective.

Dr. Rama Rao : In view of the fact that the mosquitoes develop resistance, have Government drawn the attention of the officers concerned to see that spraying and other things are done effectively in actual field work, so that there is no danger of half-hearted treatment which may allow these mosquitoes to develop resistance?

Rajkumari Amrit Kaur : Yes, the attention of all the officers in charge of the anti-malaria programmes has been drawn to this; they have been alerted, and they have been asked to keep a strict watch on the efficacy of their programmes.

टेलीप्रिटर के लारक्षण

***61. श्री भक्त दासन :** क्या संचार मंत्री १६ अप्रैल, १९५६ के तारांकित प्रश्न संस्था १४५६ के उत्तर के सम्बन्ध में यह बताने की हुया करेंगे कि टेलीप्रिटरों के निर्माण के लिये एक कारखाना स्थापित करने की योजना को कार्यान्वित करने की दिशा में अब तक क्या प्रगति हुई है?

संचार मंत्री (श्री जगदीश राव) : टेलीप्रिटरों के निर्माण करने वालों से योजना की विस्तृत रिपोर्ट मांगी गई है।

श्री भक्त दासन : यहां तक मुझे जात है यह फैक्टरी किसी विदेशी कम्पनी की सहायता से स्थापित की जा रही है तो क्या वे जान सकता हूँ कि यह विदेशी कम्पनी

कौन है और किन शरौं पर उस के साथ बताती ही जा रही है ?

श्री ज्ञानीदेव राम : प्रगत माननीय सदस्य ने प्रश्न का उत्तर सुनने की हृषा की होती तो यह जो प्रश्न उन्होंने भर्ती किया इस के करने की भावशक्ता ही नहीं होती ।

WRITTEN ANSWERS TO QUESTIONS

Employees State Insurance Act

*36. Shri T. B. Vittal Rao : Will the Minister of Labour be pleased to state :

(a) whether the scheme to liberalise benefits to the insured workers suffering from T. B. covered by Employees State Insurance Act, 1948 has since been finalised;

(b) if so, the nature of the scheme;

(c) when it will be brought into force; and

(d) if not, the reasons thereof?

The Deputy Minister of Labour (Shri Abid Ali) : (a) Yes.

(b) An insured person, suffering from Tuberculosis and who has put in a continuous service of 2 years in a factory will, after exhausting his 56 days' sickness benefit, be entitled to additional sickness benefit at a reduced rate of about 12 annas for 18 weeks more. An insured worker, who has been in 3 years' continuous service will also receive medical benefit, i. e., free medical treatment, for an extra period of about one year.

(c) The benefit has already come into force from 1st June 1956.

(d) Does not arise.

Eviction of Tenants in Travancore-Cochin State

*37. Shri A. K. Gopalan : Will the Minister of Food and Agriculture be pleased to state :

(a) the total number of cases registered in Travancore-Cochin State under Prevention of Eviction of Kudikidappukars Act during the year 1954-55;

(b) whether it is a fact that the Government of the Travancore-Cochin State received a deputation from the Kisan Sabha for extension of final date of registration of 'Kudikidappukars' ;

(c) whether Government propose to give permanency to 'Kudikidappukars' who have registered their names so far as per the Act ; and

(d) the total number of cases of eviction registered in the Courts of the State in the year 1955 and upto March, 1956?

The Minister of Food and Agriculture (Shri A. P. Jain) : (a) 13012.

(b) No.

(c) Yes, in accordance with the provisions of Section 7 of the Travancore-Cochin Prevention of Eviction of Kudikidappukars Act, 1955.

(d) 970.

Mica Mines Labour Welfare Fund

*38. Shri D. C. Sharma : Will the Minister of Labour be pleased to state :

(a) whether it is a fact that only 50 per cent. of the income of the Mica Mines Labour Welfare Fund is spent on the various welfare schemes every year and the rest is deposited in the Reserve Fund;

(b) if so, the reasons therefor; and

(c) whether any steps are being taken by Government to utilise the fund ?

The Deputy Minister of Labour (Shri Abid Ali) : (a) to (c). It is a fact that upto 1953-54, the schemes of welfare begun under this Fund had a slow start and only a portion of the annual income was being utilised. But the position has altered in the last two years. The income and reserves are now being utilised.

कोसी में बाढ़

*40. श्री रमेश लिह : क्या ज्ञानी और हृषि भंडी यह बताने की हृषा करेंगे कि यह जून मास में कोसी नदी की बाढ़ से बच, जन और हृषि की किसी हानि हुई ?

ज्ञानी और हृषि भंडी (श्री अ० प्र० भंडी) : जून के महीने में कोसी नदी में बाढ़ आने से हृषि योग्य और बंजर लगभग २ साल ५० हजार एकड़ भूमि में पानी आ गया जिस का ३ लाख की आवादी पर धसर पड़ा। एक नाव के डूब जाने से ४ प्रादूर्मियों की जानें गईं। वर्तों की लगभग ४ साल और फसल की लगभग ६० साल

एप्ये की मूलमानित हानि हुई। अन्य सम्पत्ति की हानि के विषय में जानकारी मौजूद नहीं है।

India-Tibet Link Road

*43. **Shri Bibhuti Mishra:** Will the Minister of Transport be pleased to state:

(a) the expenditure so far incurred on the construction of India-Tibet link road; and

(b) when the road will be completed and opened for public traffic?

The Deputy Minister of Railways and Transport (Shri Alagesan): (a) Rs. 71.26 lakhs up to the end of February 1956.

(b) It will take about five years to complete the road in all respects upto Chini and another five years to the Tibet border. Each section of the road is being opened to vehicular traffic as soon as it is able to take the same even though the road may not be complete in all respects. So far the road has been opened to vehicular traffic upto Rampur.

Railway Equipment Committee

*51. **Shri Jethalal Joshi:** Will the Minister of Railways be pleased to state:

(a) whether the Railway Equipment Committee has submitted its report to the Government; and

(b) if so, the recommendations that the Government propose to adopt?

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

(b) Action has already been initiated in respect of all the recommendations made by the Committee, a number of which are in the process of implementation.

In respect of one of the more important recommendations of the Committee regarding the creation of additional capacity for wagon building, steps have been taken to implement this, and educational orders have also been placed for coach underframes.

Other recommendations are still being examined in consultation with the Ministries concerned.

Ramagundam-Nizamabad Rail Link

*58. **Shri T. B. Vittal Rao:** Will the Minister of Railways be pleased to state:

(a) whether the comprehensive traffic survey of Ramagundam-Nizamabad Rail link project has since been received;

(b) if so, whether the same has been examined; and

(c) when the preliminary engineering survey will be carried out?

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

(b) Does not arise.

(c) Final Location (Engineering) Survey for the Latur-Ramagundam Project of which Nizamabad—Ramagundam forms part had already been carried out in 1945-46. Hence no fresh engineering survey for this project is necessary. The costs are, however, being brought up-to-date.

Trade Unions in Travancore-Cochin State

*59. **Shri A. K. Gopalan:** Will the Minister of Labour be pleased to state:

(a) whether it is a fact that the Government of Travancore-Cochin State have ordered that applications from Trade Unions and individual workers to the Industrial Tribunal and Industrial Courts must bear Court Fee Stamps to the value of Rupees two and Annas eight;

(b) if so, the reasons therefor; and

(c) whether the Union Government propose to withdraw this order which causes inconvenience to the industrial employees of the State?

The Deputy Minister of Labour (Shri Abid Ali): (a) and (b). It is reported by the Travancore-Cochin Government that, under the Travancore-Cochin Court Fees Act, 1925, petitions presented to Government, the State High Court and the Heads of Departments, are liable to a court fee of Rs. 2/- each and those presented to an officer in charge of the executive, administration of a division, to a court fee of annas eight each, but that such fees have been made payable only in respect of petitions which call for the exercise or non-exercise by the officers of some power or authority conferred upon them by some law or rule having the force of law. Accordingly applications presented to Industrial Tribunals by Trade Unions or individual workers should bear the prescribed court fee stamps, if such applications fall under the above category.

(c) The Government of Travancore-Cochin are considering the question of exempting petitions presented under the various labour enactments from the levy of Court fee.

Sleeping Accommodation in Trains

*62. **Paadit D. N. Tiwary:** Will the Minister of Railways be pleased to refer to the reply given to Unstated Question No. 577 on the 16th December, 1955 and state:

(a) whether there has been any improvement in the income from reserva-

tion of sleeping accommodation in various sections since September, 1955 upto March, 1956; and

(b) whether there has been further extension of this facility in other trains?

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

(b) This facility has been extended to the Madras-Howrah Janata Express, once a week, when the Vestibuled rake runs.

Ayurveda

***63. Shri Bibhuti Mishra:** Will the Minister of Health be pleased to state:

(a) whether Government have formulated any scheme under Second Five Year Plan to develop *Ayurveda*; and

(b) if so, the details thereof?

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

(b) A statement is laid on the Table of the Lok Sabha. [See Appendix I, annex. No. 14 A].

Sakri-Hasanpur Railway

***64. Shri Anirudha Sinha:** Will the Minister of Railways be pleased to refer to the reply given to Starred Question No. 1122 on the 3rd of April, 1956 and state whether final decision has been taken on the question of approval of construction of Sakri-Hasanpur Railway line on the North-Eastern Railway in North Bihar?

The Deputy Minister of Railways and Transport (Shri Alagesan): Not yet; however the chances of this line being undertaken during the 2nd Five Year Plan are remote.

Paper Manufacturing

***65. Shrimati Kamiendu Mati Shah:** Will the Minister of Food and Agriculture be pleased to state:

(a) whether it is a fact that paper made out of *Bhoj Patra*, (bark of Bhoj tree) found in the Himalayan regions, is much sought and appreciated by foreigners as well as Indians; and

(b) if so, whether Government propose to develop this industry?

The Minister of Food and Agriculture (Shri A. P. Jain): (a) and (b). The information is being collected and will be laid on the Table of the Lok Sabha.

Food Situation in Bihar

***66. Shri Shree Narayan Das:** Will the Minister of Food and Agriculture be pleased to state:

(a) the present food situation in Bihar generally and in flood affected areas of North Bihar in particular;

(b) whether the Government of Bihar have submitted their demands for supply of food grains from Central reserve to meet the situation arising out of recent floods there;

(c) if so, the nature and extent of such demands; and

(d) the extent to which the Central Government have accepted to meet such demands?

The Minister of Food and Agriculture (Shri A. P. Jain): (a) Though prices have gone up to some extent the general supply position of foodgrains in Bihar is satisfactory.

(b) to (d). Apprehending that North-Bihar may be visited by floods this year also, the State Government approached the Centre for an allotment of 12 lakh maunds of foodgrains to stock both North and some deficit pockets of South Bihar. This demand has been accepted in full and actually 6.58 lakh maunds have already been despatched. Balance quantity is under despatch.

Indian Officers in Indonesia

***67. Shri Bibhuti Mishra:** Will the Minister of Labour be pleased to state:

(a) whether it is a fact that Government have sent officers to Indonesia to assist the Indonesian Government to improve statistics on employment, unemployment, wages, hours of work, and cost of living; and

(b) if so, the names and designations of the Officers?

The Deputy Minister of Labour (Shri Abd Ali): (a) and (b). The Indonesian Government made a request to the I. L. O. for an expert to organise a labour force sample survey under the Indonesian Ministry of Labour. The I. L. O. selected a permanent officer of the Madras Government and until recently Director, Labour Bureau, Simla, for this assignment. The officers proceeded to Indonesia in June, 1956.

इंजन का पटरी से उत्तरण

२६. श्री रघुनाथ सिंह : क्या रेलवे मंत्री यह बताने की कृपा करेंगे कि :

(क) क्या यह सच है कि - जून, १९५६ को बम्बाला-गंगल सवारी गाड़ी का इंजन आनन्दपुर साहिब रेलवे स्टेशन पर पटरी से उत्तर गया था ;

(क) यदि हां, तो इंजन किसी पुर्जे की खराबी से उत्तरा या या पटरी की खराबी से ; और

(न) इस दुर्घटना के लिये कौन उत्तरदायी है और उसे क्या दंड दिया गया ?

रेलवे तथा परिवहन उपचारी (बी अलगेश्वर) : (क) ८-६-१९५६ की रात को लगभग १० बज कर ११ मिनट पर, जब ६३० डाउन नांगल ईम-भ्राताला फैट हॉस्प्रेस उत्तर रेलवे के भानुद्धुर साहिब और भरतगढ़ स्टेशनों के बीच जा रही थी, उस का इंजन मील नं० ४४।१-२ पर पटरी से उत्तर गया ।

(क) तथा (ग). दुर्घटना के कारण का पता लगाया जा रहा है । इसलिये भी किसी को उत्तरदायी ठहराने और आमे की कार्रवाही करने का सवाल नहीं उठता ।

रेलवे स्टेशन पर आक्रमण

२७. श्री रघुनाथ सिंह : क्या रेलवे मंत्री यह बताने की हुपा करेंगे कि :

(क) क्या यह सच है कि बूहस्पतिवार ७ जून, १९५६ को उत्तर रेलवे पर नवीदादाद के पाल फजलपुर स्टेशन पर हो नकाब-पोश आकुणों ने आक्रमण किया था ; और

(क) यदि हां, तो इस घटना का विवरण क्या है ?

रेलवे तथा परिवहन उपचारी (बी अलगेश्वर) : (क) जी हां, ५-६ जून १९५६ की रात को न कि ७ जून, १९५६ को ।

(क) रात को १ बजकर १० मिनट पर तीन हृष्किरण डाहू स्टेशन मास्टर के दफ्तर में पुस गये और उस समय ड्यूटी पर जो सहायक स्टेशन मास्टर थे उनसे रेलवे का नकद हथाया मांगा । सहायक स्टेशन मास्टर ने उन्हें जावियां दे दीं । कहा जाता है कि डाकुणों ने टिकिट ट्यूब से २५ रुपये निकाले जैकिन बाद में बापिंव कर दिये ।

रेलवे पुलिस मामले की जांच कर रही है ।

मिलमपुर से निकट दुर्घटना

२८. श्री रघुनाथ सिंह : क्या रेलवे मंत्री यह बताने की हुपा करेंगे कि :

(क) क्या यह सच है कि १० जून, १९५६ को दोपहर के समय राजकोट और जूनागढ़ के बीच मिलमपुर के समीप एक मिली-जूली गाड़ी दुर्घटना-मर्स्ट हो गई जिस के कारण यात्री गाड़ी के तीन डिब्बे पटरी पर से उत्तर गये ।

(क) यदि हां, तो दुर्घटना का क्या कारण है और हताहतों की संख्या क्या है ; और

(ग) दुर्घटना के लिये छोन उत्तरदायी है और इस सम्बन्ध में भ्रमी तक क्या जांच हुई है ?

रेलवे तथा परिवहन उपचारी (श्री अलगेश्वर) : (क) जैसा प्रश्न में कहा गया है मिलमपुर के पास ऐसी कोई दुर्घटना नहीं हुई । यह स्टेशन परिवहन रेलवे के राजकोट-जूनागढ़ स्टेशन पर नहीं बल्कि मध्य रेलवे के इटारसी-जूनागढ़ स्टेशन पर है ।

११-६-१९५६ को (न कि १०-६-१९५६ को जैसा प्रश्न में कहा गया है) ११ बज कर १५ मिनट पर, जब ६३४ डाउन तेज मिली-जूली गाड़ी परिवहन रेलवे के राजकोट-जूनागढ़ के बीचपुर और नवागढ़ स्टेशनों के बीच जा रही थी, १६२।२-३ मील पर उस के पिछे तीन डिब्बे पटरी से उत्तर गये ।

(क) तथा (ग). इस दुर्घटना में न कोई मरा न कोई घायल हुआ । रेलवे जिला अधिकारियों की कमेटी ने इस की जांच की । उन का कहना है कि यह दुर्घटना एक माल डिब्बे के पुर्जे में कुछ खराबी आ जाने के कारण हुई । कमेटी ने गाड़ी की जांच करने वासे कुछ कर्मचारियों को इस के लिये जिम्मेदार ठहराया है क्योंकि वे समय पर इस खराबी का पता न लगा सके । ट्रिपोर्ट पर भ्रमी विवार किया जा रहा है ।

Ware-Housing Corporations

29. **Shri Ram Krishan:** Will the Minister of Food and Agriculture be pleased to state:

(a) the names of the places where 16 ware-housing Corporations will be established during the Second Five Year Plan period; and

(b) the names of the places where 250 ware-houses will be set up during the Second Five Year Plan?

The Minister of Food and Agriculture (Shri A. P. Jain): (a) Each State (except the Centrally Administered areas), after reorganisation will have a Ware-housing Corporation. The place where the Head Office of the Corporation will be located will be decided by the respective State Governments. The Central Ware-housing Corporation will be located at New Delhi.

(b) The places where the ware-houses would be set up will be decided by the Corporations when established.

Japanese Method of Rice Cultivation

30. **Shri Ram Krishan:** Will the Minister of Food and Agriculture be pleased to state:

(a) the total area State-wise brought under the Japanese Method of rice cultivation during the year 1955 so far; and

(b) the total area State-wise to be cultivated under this method during the Second Five Year Plan?

The Minister of Food and Agriculture (Shri A. P. Jain): (a) The total area State-wise brought under the Japanese method of rice cultivation during the agricultural year 1955-56 is laid on the Table of the Lok Sabha [See Appendix I, annexure No. 15]. The Kharif rice cultivation season for 1956 has just started and figures of acreage brought under the method are not yet available with the Government of India.

(b) It is not possible to fix the total area State-wise to be brought during the Second Five Year Plan at this stage. Tentative target for each State on year-wise basis is fixed on the performance of the campaign during the past year. It is contemplated that an area of 40 lakh acres would be brought under the Japanese method of rice cultivation at the end of Second

Five Year Plan. It is hoped, however, that this target may be much exceeded.

New Railway Lines

31. **Shri Anirudha Sluba:** Will the Minister of Railways be pleased to state:

(a) the total mileage of new railway lines recommended by the Government of Bihar for construction during the Second Plan period;

(b) the names of the new routes proposed; and

(c) the names of the recommended routes approved so far?

The Deputy Minister of Railways and Transport (Shri Alagesan): (a) to (c). It is not usual to lay such correspondence on the Table of the House. The following new lines mostly lying in the State of Bihar have, however, been approved for construction:—

(i) Rourkela to Dumaro.

(ii) Rourkela to Phusro via Ranchi and Muri. In addition to these, the following lines are under active consideration:—

(i) Branch lines to Karanpura Coal-fields;

(ii) Darbhanga-Muzaffarpur.

All the above lines are in connection with steel plants, development of coalfields or improvement of operational capacity.

Employment Exchanges in Travancore-Cochin State

32. **Shri A. K. Gopalan:** Will the Minister of Labour be pleased to state:

(a) the total number of persons who have registered their names in the Employment Exchanges in Travancore-Cochin State during the year 1955 and upto March, 1956;

(b) the total number in each of the above who have passed the following examinations, (1) S. S. L. C., (2) B. A., (3) B. Sc. (4) M. A. and (5) M. Sc.; and

(c) the total number out of them who secured employment through Employment Exchanges?

The Deputy Minister of Labour (Shri Abid Ali): (a) to (o) The required information is given below:—

Year/Period	Number registered						Total Cols. & 6
	Matricu- lates/ S.S.L.C.	Inter- mediates	Gradua- tes and above	Total educated	Others	7	
1	2	3	4	5	6		
1955 . . .	11,779	446	1,308	13,533	31,139	44,672	
1956 (Jan.-March) .	3,243	161	373	3,777	4,528	8,305	
TOTAL . . .	15,022	607	1,681	17,310	35,667	52,977	

Year/period	Number placed						Total Cols. & 6
	Matricu- lates/ S.S.L.C.	Inter- mediates	Gradua- tes and above	Total educated	Others	7	
1	2	3	4	5	6		
1955 . . .	662	44	152	858	5,358	6,116	
1956 (Jan.-March)	625	28	54	707	1,035	1,742	
TOTAL . . .	1,287	72	206	1,565	6,293	7,858	

Labour Disputes in Travancore-Cochin

33. **Shri A. K. Gopalan :** Will the Minister of Labour be pleased to state :

(a) the total number of labour disputes and points of disputes that arose in Travancore-Cochin State during the months of March, April, May and June, 1956, separately;

(b) the total number of lock-outs and strikes during the above period and the number of workers involved; and

(c) the action taken by Government and the total number of disputes settled so far?

The Deputy Minister of Labour (Shri Abid Ali): (a) and (b). The statement below gives the required information. As regards points of disputes, necessary information is being awaited from the Government of Travancore-Cochin and it will be placed on the Table of the House as soon as it is received.

Period	No. of disputes	No. of strikes	No. of workers involved in the strikes	No. of lock-outs	No. of workers involved in the lock-outs
March 1956	306	11	3,238
April 1956	417	54	7,627
May 1956	431	15	4,198	2	13,497
June 1956	450	12	1,999

*Matriculates and above.

NOTE.—Separate information relating to applicants who have passed B. A., B.Sc., M. A. and M.Sc. is not available.

(c) The Conciliation Machinery of Government intervened and the number of disputes, which they settled, is as follows :—

Period	No. of disputes settled
March 1956	279
April 1956	388
May 1956	374
June 1956	381

स्लकों और डाकियों की भरती

३४. श्री बाल्मीर : क्या संचार मंत्री यह बताने की कृपा करेंगे कि :

(क) १९५३-५४, १९५४-५५ और १९५५-५६ में होने वाली स्लकों और डाकियों की भरती की परीक्षा में कितने कितने उम्मीदवार शामिल हुये ;

(ख) उनमें से कितने अनुभूतिज्ञ जाति के थे;

(ग) क्या यह सच है कि स्लकों और डाकियों की पदाली में अनुभूतिज्ञ जातियों के उम्मीदवारों के लिये रक्षित पदों का कोटा पूरा नहीं हुआ है ; और

(घ) यदि नहीं, तो उसे पूरा करने के लिए क्या प्रयत्न हो रहे हैं ?

संचार मंत्री (श्री बल्मीर राम) : (क) से (घ). जानकारी उपलब्ध की जा रही है और क्या समय समान्य पर रखी जायेगी ।

D. T. S. Bus Shelters

३५. श्री D. C. Sharma : Will the Minister of Transport be pleased to state :

(a) the number of D. T. S. bus shelters built during 1955-56 ; and

(b) the number of D. T. S. bus-shelters proposed to be built during 1956-57 ?

The Deputy Minister of Railways and Transport (Shri Alagesan) : (a) Seventeen shelters were built during 1955-56. These are in addition to thirty-nine shelters constructed before 1955-56.

(b) Sixty-eight.

Indian Names for Delhi Roads

३६. श्री D. C. Sharma : Will the Minister of Health be pleased to state :

(a) whether it has been decided that some more main roads of Delhi and New Delhi should be given Indian names ;

(b) if so, the names selected for different roads ; and

(c) the date when these names would come into force ?

The Minister of Health (Rajkumari Amrit Kaur) : (a) and (b). It was decided by the New Delhi Municipal Committee to change the name of Roberts Road to Tin Murti Marg. No other changes have been made.

(c) This change has already come into force.

Posts and Telegraphs Offices

३७. श्री D. C. Sharma : Will the Minister of Communications be please to state :

(a) the number of (i) Posts and (ii) Telegraphs Offices opened in the Hoshiarpur District during each year of the First Five Year Plan period ;

(b) the expansion programme of the Postal services and facilities in this District for the Second Five Year Plan ; and

(c) the details thereof ?

The Minister of Communications (Shri Jagdish Ram) : (a) to (c). A statement showing the requisite information is placed on the Table of the Lok Sabha [See Appendix I Annexure No. 16].

Medical Colleges

३८. श्री D. C. Sharma : Will the Minister of Health be pleased to state :

(a) whether it is proposed to start another medical college in the Punjab ; and

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

The Minister of Health (Rajkumari Amrit Kaur) : (a) There is no such proposal.

(b) Does not arise.

रेलवे स्टेशनों पर टेलीफोन

३९. श्री महत बहान : क्या रेलवे मंत्री ३ अप्रैल, १९५६ के तारीखित प्रश्न में स्पष्ट १०६० के उत्तर के सम्बन्ध में यह बताने की कृपा करेंगे कि :

(क) उत्तर रेलवे के किन-किन स्टेशनों पर तब से टेलीफोन लगा दिये गये हैं ; और

(ख) शेष स्टेशनों पर कब तक टेलीफोन लग जाने की घासा की जा सकती है ?

रेसवे तथा परिवहन उपमंडी (श्री अलगेशन) : (क) विल्सन किलोनगंगा, पालमपुर, भगतावाला, मारवाड़ पासी;

(ख) डाक और तार विभाग को नीचे लिखे सात स्टेशनों पर टेसीफोन लगाने के लिये कहा गया है :—

नोहर, गुडगाड़, सम्मल, हातिम सराय, सब्जी मंडी, शहदरा, मैमपुरी ।

लेकिन अभी यह मालूम नहीं कि टेसीफोन किस तारीख तक लग जायेगे ।

Herbal Farms

40. Shri Madiah Gowda : Will the Minister of Health be pleased to state :

(a) which are the States that are being helped by the Ministry of Health for growing herbal farms ; and

(b) how much help is given in each case ?

The Minister of Health (Rajkumari Amrit Kaur) : (a) The Ministry of Health are not helping the States for growing herbal farms as such. Under the scheme for research in indigenous systems of medicine, financial aid was sanctioned to the Governments of Madras and Himachal Pradesh for carrying out research in medicinal plants including the cultivation of herbs.

(b) The following grants were sanctioned during 1955-56 :—

	Rs.
1. Madras	4,500
2. Himachal Pradesh	34,240

National Highways

41. Shri Madiah Gowda : Will the Minister of Transport be pleased to refer

to the reply given to Starred Question No. 2346 on 18th May, 1956 and State :

(a) whether any definite rules are laid regarding planting, protection etc., of road side trees in the National Highways ;

(b) whether any attempt has so far been made to collect the figures regarding the number, nature, condition and value of the existing trees ; and

(c) the amount of money allotted for planting of trees during the Second Five Year Plan period ?

The Deputy Minister of Railways and Transport (Shri Alagesan) : (a) No Planting and maintenance of trees of National Highways are the responsibility of the State Governments, who have been asked to plant an alternative row of trees on these Highways to replace the old trees in due course.

(b) In October 1952 the State Governments were requested to furnish information regarding the number of trees at the commencement and end of the year 1952-53 and the expenditure incurred in planting and maintaining the trees during the year. This as well as similar information in respect of subsequent years is awaited from several State Governments.

(c) No specific funds have been allotted for the purpose. The cost of planting of trees is met from the grants placed at the disposal of State Governments every year for the maintenance of National Highways and no separate accounts are kept.

Additional Train Services

42. Shri Jhulan Sinha : Will the Minister of Railways be pleased to state the number of additional trains introduced during the first Five Year Plan period on each of the zonal Railways ?

The Deputy Minister of Railways and Transport (Shri Alagesan) : During the period from 1-4-51 to 31-3-56, a total of 791 additional trains were introduced and runs of 550 existing trains were extended involving an equivalent daily train mileage of 37,655 and 21,547 miles respectively. Details are indicated below:

Railway	Number of trains introduced	Equivalent daily train mileage	Number of trains whose runs have been extended	Equivalent daily train mileage
Central	91	2,232	2	16
Eastern	114	3,380	88	1,573
Northern	162	9,249	77	4,048
North Eastern	77	4,790	97	4,335
Southern	214	9,067	167	6,350
South Eastern	17	1,609	27	1,434
Western	116	7,328	92	3,791
TOTAL	791	37,655	550	21,547

Railway Passes

43. **Dr. Satyavadi:** Will the Minister of Railways be pleased to state whether the Railway employees who held 2nd class passes before the abolition of 1 class are now allowed to travel by the Rail Motor on the Kalka-Simla section of Northern Railway?

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

Communications in Tripura

44. **Shri Biren Dutt:** Will the Minister of Communications be pleased to state:

(a) whether it is a fact that the State of Tripura was completely cut off from any communication from 2nd June to 5th June, 1956;

(b) whether the air services upto Kailashgarh became most irregular from 2nd June till 7th June, 1956; and

(c) if so, the reason therefor?

The Minister of Communications (Shri Jagjivan Ram): (a) Wireless telegraph communication between Calcutta and Agartala was working during the major portion of each day. A few air services were operated between Calcutta and Agartala on the 3rd and 5th June, 1956. Otherwise communications with Tripura were interrupted during this period.

(b) Yes.

(c) Incessant rain, flood and bad weather.

Shipping

45. { **Sardar Iqbal Singh:**
 Sardar Akarpuri:

Will the Minister of Transport be pleased to state:

(a) the number and names of the ships which have been employed by the Indian companies on the different routes; and

(b) names of the new routes which Indian companies propose to start in the near future?

The Deputy Minister of Railways and Transport (Shri Alagesan): (a) A Statement is laid on the Table of the Lok Sabha [See Appendix I, Annexure No. 17].

(b) India-Poland.
 India-Red Sea.

Technical Training Centres in Punjab and P.E.P.S.U.

46. { **Sardar Iqbal Singh:**
 Sardar Akarpuri:

Will the Minister of Labour be pleased to state the number of scholarships awarded this year by Government to

the trainees receiving training in technical training centres (Institutions) run by the Union Government in Punjab and P.E.P.S.U?

The Deputy Minister of Labour (Shri Abid Ali): The number of scholarships awarded to trainees in technical training centres is 337 for Punjab and 134 for PEPSU.

Extension and Agricultural Training Centres

47. { **Sardar Iqbal Singh:**
 Sardar Akarpuri:

Will the Minister of Food and Agriculture be pleased to state the number of Extension Training Centres and Basic Agricultural Schools with their location in the State of Punjab and PBPSU?

The Minister of Food and Agriculture (Shri A. P. Jain): In Punjab there are two Extension Training Centres located at Nilokheri and Betula. Besides two Basic Agricultural Schools at Batala and Sirsa there is one Basic Agricultural wing at Nilokheri in that State.

In PEPSU, an Extension Training Centre and a Basic Agricultural School are located at Nabha.

New Telephones and Public Call Offices

48. { **Sardar Iqbal Singh:**
 Sardar Akarpuri:

Will the Minister of Communications be pleased to state:

(a) the total number of telephones including non-exchange telephones installed from 1st January, 1956 to the 30th June, 56; and

(b) total number of public call offices opened during the same period?

The Minister of Communications (Shri Jagjivan Ram): (a) and (b). The information is being collected and would be placed on the Table of the Lok Sabha shortly.

Overtime Allowance to Operative Staff

49. { **Sardar Iqbal Singh:**
 Sardar Akarpuri:

Will the Minister of Communications be pleased to state:

(a) whether Government have agreed to the extension of overtime allowance scheme to all operative staff of the Civil Aviation Department; and

(b) if so, when it is likely to come into force?

The Minister of Communications (Shri Jagjivan Ram): (a) and (b). The Government is examining the question in detail.

Railway Claims

50. **{Sardar Iqbal Singh:
Sardar Akbarpuri:**

Will the Minister of Railways be pleased to state:

(a) the number of claims division-wise registered during the year 1955-56 on the Northern Railway; and

(b) the total amount claimed by the claimants during this year?

The Deputy Minister of Railways and Transport (Shri Alageean): (a) and (b). These statistics are not maintained by the Northern Railway division-wise, but separately for each Claims Office. A statement giving the information as available, is laid on the Table of the Lok Sabha [See Appendix I, Annexure No. 18].

Crop Damage by Heavy Rain

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

(a) whether Government are aware that widespread damage has been caused to fodder and food crops in Assam and some other States in the country owing to the unusually heavy rains in the months of May and June this year; and

(b) if so, the estimated value of the damage done in different States?

The Minister of Food and Agriculture (Shri A. P. Jain): (a) and (b). Information is being collected and will be laid on the Table of the Lok Sabha.

Malaria

52. **Shri Jethalal Joshi:** Will the Minister of Health be pleased to state:

(a) the toll of life on account of malaria in 1955-56; and

(b) the names of other epidemics that have taken a higher toll in the same year.

The Minister of Health (Rajkumari Amrit Kaur): (a) and (b). The information is not available.

फैफना स्टेशन

53. **श्री राम नूर तिहू:** क्या रेलवे मंत्री यह बताने की कृपा करेंगे कि :

(क) क्या सरकार ने पूर्वोत्तर रेलवे के बनारस-झपरा सेक्शन के फैफना स्टेशन पर जो कि शाहगंज तथा बनारस-झपरा लाइन का जंक्शन स्टेशन है त्वेटफार्म शेड बनवाने का निष्पत्ति किया है;

(ख) यदि नहीं, तो क्यों; और

(ग) वहां पर प्रतिदिन बिकने वाले टिकटों की तथा गाड़ी बदलने वाले यात्रियों की श्रीतत संख्या क्या है?

रेलवे तथा परिवहन उपलब्धी (श्री असगेशान): (क) जी नहीं।

(ख) रेलवे की यात्रा-सुविधा-समिति की सिफारिश पर, जहां जैसी ज़रूरत समझी गई, बड़े स्टेशनों के ट्वेटफार्म पर छूट तगाने की व्यवस्था की जा रही है।

(ग) इस स्टेशन पर रोजाना घोस्तन ५४० टिकट बिकते हैं और घोस्तन १०८ यात्री गाड़ी बदलते हैं।

फैफना स्टेशन

54. **श्री राम नूर तिहू:** क्या रेलवे मंत्री यह बताने की कृपा करेंगे कि :

(क) क्या यह सच है कि फैफना स्टेशन पर पीने के पानी की सुविधा प्राप्त करने के लिये जनता ने सम्बन्धित प्राविकारियों के पास कोई प्रार्थना-पत्र भेजा है; और

(ख) यदि हां, तो क्या यह सुविधा प्रदान की गई है?

रेलवे तथा परिवहन उपलब्धी (श्री असगेशान): (क) जी नहीं।

(ख) फैफना स्टेशन पर पीने के पानी का समुचित प्रबन्ध है, इस का ब्यौरा इस प्रकार है :—

(१) पीने का पानी रखने के लिये २ मटके और ६ बड़े,

(२) यात्रियों को पानी पिलाने के लिये एक स्थायी और एक अस्थायी पानी वाला (गर्मियों के लिये), और

(३) पानी सप्लाई करने के लिये स्टेशन के पास ५ फुट ब्याम के दो कुएं।

स्टेशन प्लेटफार्म पर एक गहरा नुज्जक्ष (Tube well) बनाने की व्यवस्था भी की जा रही है।

Training Centres in U. P.

55. **Shrimati Kamlaendumati Shah :** Will the Minister of Labour be pleased to state the names of places and number of technical training centres opened in Uttar Pradesh during 1955 and proposed to be opened during 1956?

The Deputy Minister of Labour (Shri Abid Ali) : (1) No training centre was opened in Uttar Pradesh during 1955; and

(2) The number and location of new training centres to be opened during 1956 have not been decided.

National Highways

56. **Shrimati Kamlaendumati Shah :** Will the Minister of Transport be pleased to state the progress made so far in regard to the Highway works which were sanctioned on the Himalayan Tibetan area during 1955-56?

The Deputy Minister of Railways and Transport (Shri Alagesan) : National Highway No. 22 which runs upto the Indo-Tibetan border has been made motorable upto about 14 miles beyond Rampur. From Rampur to Chini a 6 ft. track has been cut for most of the length and the work of widening the road to 24 ft. to make it motorable has also been started in certain sub-sections.

As regards the Chini-Shipkila section, the work of surveying and cutting 2 ft. trace from Chini to Khab village is in progress.

Mail Service between Jasidih and Godda

57. **Shri Bhagwan Jha Axad :** Will the Minister of Communications be pleased to state whether the Government's decision to carry mail directly between Jasidih and Godda in the district of Santal Parganas has been implemented by the Posts and Telegraphs Department of Bihar circle?

The Minister of Communications (Shri Jagjivan Ram) : No, as no direct motor service operates between Jasidih and Godda, a mail motor service between Deoghar and Godda will be established shortly.

Postal Inspectors in U. P.

58. **Shri Dhurba :** Will the Minister of Communications be pleased to state:

(a) the total number of Postal Inspectors in U. P. at present;

(b) whether further recruitment and training of such Inspectors has been stopped;

(c) if so, why and from which date;

(d) the number of such Inspectors in the waiting list; and

(e) how many Scheduled Caste persons are working as Postal Inspectors and what is their number in the waiting list?

The Minister of Communications (Shri Jagjivan Ram) : (a) 89.

(b) The recruitment of Inspectors of Post Offices and R. M. S. has been stopped in U. P. Circle. No training except telegraph training for Inspectors of Post Offices is prescribed and that has not been stopped;

(c) Due to excess of approved candidates from June, 53.

(d) 14.

(e) Nil.

Construction of Seed and manure Godowns

59. **{ Sardar Iqbal Singh :** **Sardar Akarpuri :**

Will the Minister of Food and Agriculture be pleased to state:

(a) whether Government have given during the current year any loan to PEPSU for the construction of seed and manure godowns;

(b) if so the amount of the loan; and

(c) the terms on which that loan has been given?

The Minister of Food and Agriculture (Shri A. P. Jain) : (a) and (b). Yes. A loan of Rs. 17,500/- for the construction of seed stores has been agreed to. No separate loan for the construction of manure godowns has been given.

(c) The loan is repayable in ten equated annual instalments, the first instalment starting from the first anniversary of the grant of the loan.

DAILY DIGEST
 [Tuesday, 17th July, 1956]

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LOK SABHA

Tuesday, 17th July, 1956

The Lok Sabha met at Eleven of the Clock.

[MR. SPEAKER in the Chair]

QUESTIONS AND ANSWERS

(See Part I)

12 NOON.

PAPER LAID ON THE TABLE

REPORT OF INDIAN DELEGATION TO NINTH WORLD HEALTH ASSEMBLY

The Deputy Minister of Health (Shrimati Chandrasekhar): I beg to lay on the Table a copy of the Report of the Indian Delegation to the Ninth World Health Assembly, held in Geneva in May, 1955 [Placed in Library See No. S-240/56]

PETITION RE: STATES REORGANISATION BILL

Shri Sivamurthi Swamy (Kushtagi)
I beg to present a petition signed by 6668 petitioners relating to the States Reorganisation Bill, 1956.

HINDU MINORITY AND GUARDIANSHIP BILL—Concl'd.

Mr. Speaker: The House will now take up further consideration of the motion for consideration of the Hindu Minority and Guardianship Bill as passed by Rajya Sabha.

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I may inform the House that the Business Advisory Committee at its sitting held on the 5th September 1955, during the Tenth Session had recommended three hours for this Bill. The time allocation was not, however, reported to the House as the Committee had further recommended that the Bill might not be taken up during that session.

I take it that House agrees with recommendations of the Business Advisory Committee in respect of this Bill, namely, that three hours may be allotted for this Bill.

Shri N. C. Chatterjee (Hooghly): We have already saved about 24 hours yesterday. We finished one Bill very quickly. I am suggesting that a little extension of time may be allowed for this Bill, as it is an important Bill. There are some clauses which require very careful attention. I hope the House will agree that we should extend the time by 1 or $1\frac{1}{2}$ hours.

Shri Raghavachari (Penukonda): I also want an extension of time, excluding the half hour already spent.

The Minister of Legal Affairs (Shri Pataskar): I have no objection.

Mr. Speaker: We had put down 3 hours. We will allot 4 hours now.

Shrimati Renu Chakravarty (Basirhat): There are a number of amendments. Therefore, 4 hours will be the minimum that will be required, because the second reading should be taken clause by clause.

Shri N. C. Chatterjee: Even if we extend it by $1\frac{1}{2}$ hours, we shall have saved 1 hour, because we saved more than $2\frac{1}{2}$ hours yesterday.

Mr. Speaker: I take it that the House is agreeable to extension of the time from 3 to 4½ hours. We spent half an hour yesterday. How long will the general consideration take and how much time should be devoted to clause by clause discussion?

Shrt U. M. Trivedi (Chittor): Three hours for general consideration.

Mr. Speaker: That means 1½ hours for the clauses. Whatever time remains will be for the third reading.

Shri Pataskar: There should be more time for the clauses than for the general consideration, because so far as the general consideration is concerned, there are only two points of considerable importance.

Sardar Hukum Singh (Kapurthala-Bhatinda): I may point out that yesterday there was not much willingness on the part of hon. Members to take part in the general discussion. So perhaps they might reconsider the time allotment.

Mr. Speaker: How many hon. Members like to take part in the general discussion?

Some Hon. Members—stood up.

Mr. Speaker: Let us have 1½ or 2 hours for general discussion and 2 hours for the clause by clause consideration. If we are able to save any time in the clause by clause consideration, it will be devoted to the third reading.

Shri N. C. Chatterjee: Yesterday, I was making some submissions on clause 6. Clause 6 says:

"The natural guardians of a Hindu minor, in respect of the minor's person as well as in respect of the minor's property (excluding his or her undivided interest in joint family property, are—

(a) in the case of a boy or an unmarried girl—the father, and after him, the mother: provided that the custody of a minor who

has not completed the age of five years shall ordinarily be with the mother;

(b) in the case of an illegitimate boy or an illegitimate unmarried girl the mother and after her, the father;

(c) in the case of a married girl—the husband."

There is a serious lacuna which I shall ask the hon. Minister to consider. Supposing a young girl is married, automatically the husband becomes the guardian. But supposing she becomes a widow—the husband dies—there is no provision. So something has got to be done there, because if you look at clause 6(a), only in the case of an unmarried girl, the father, and after him, the mother, will come in. Sub-clause (c) says that the husband shall be the natural guardian in the case of a married girl. Therefore, there must be some provision in the case of a girl who is married but who is widowed later. There are many such cases, as you know, in this country,

There is one other clause which makes me thoroughly unhappy, namely, clause II. It makes a serious departure from the present law.

"After the commencement of this Act, no person shall be entitled to dispose of, or deal with, the property of a Hindu minor merely on the ground of his or her being the *de facto* guardian of the minor."

Therefore, we are saying that only the father and the mother shall be the natural guardians and they shall have certain rights, but apart from them, we practically put out of the pale of guardianship anybody else.

First of all, I will deal with the guardianship of wife. I am reading from Mayne's *Hindu Law and Usage*, 11th edition. According to it, the husband is the lawful guardian of his minor wife and is entitled to require her to live with him, however young she may be, unless there is a custom

enabling the wife to live with him until she has attained the age of puberty. After the husband's death, the guardianship of the wife, if she is a minor, devolves on the husband's relations in preference to the paternal relations. You know that has been the Hindu law and it has been settled by a number of cases. I think it was decided in the year 1889 in 16 Calcutta 584. Since then, for the last 70 years, this has been the law in India, that if a girl becomes a widow and if she is a minor, then the guardianship of that wife will develop on the husband's relations. Generally it devolves on the sapinda relations. This is a very important point, and I shall ask the hon. House to consider this matter. Specially in unfortunate cases of kidnapping and abduction, this point comes up. I am reading one judgment delivered by Mr. Justice Rattigan, who was a judge of great experience. He held in AIR 1915 Lahore 390(2) that the husband's relations, if any, exist within the degree of a sapinda, are the guardians of a minor widow in preference to her father and his relations. This is from the Lahore High Court. If you go to Calcutta, it is given in 16 Cal. 584. This point becomes very pertinent in the case of molestation of women. Unfortunately, such cases happen sometimes.

"Where a minor Hindu widow takes up her residence with her deceased husband's mother with the consent, express or implied, of her husband's brother, the husband's mother is the lawful guardian of the girl for the purpose of section 361 of the Indian Penal Code." 1915 Lah. 301).

I would like the House to consider that as this law stands, if you pass it in this form, the position will be that all these unfortunate girl widows will have no guardian. Will it be said from tomorrow or from the date of commencement of the Act that if there is any case of kidnapping, then the accused will be at liberty to say that there is no lawful guardian? Because you are saying here that there is no question of any other guardian at all. I

am submitting that there is a lacuna which requires careful consideration.

Shrimati Renu Chakravarty has made a suggestion in respect of sub-clause (a) by means of her amendment. Sub-clause (a) of clause 6 says:

"in the case of a boy or an unmarried girl the father, and after him, the mother: provided that the custody of a minor who has not completed the age of five years shall ordinarily be with the mother."

She has recommended, and there is something in her point of view which merits consideration, that this age ought to be raised because 5 years seems to be too low.

There is one other point affecting which I want the hon. Minister to consider and that is this. Should not there be some expansion of the list of natural guardians if you shut out completely the de facto guardians?

Mr. Speaker: What happens if there is a joint Hindu family and the father is there and the son has died just leaving his widow and children?

Shri N. C. Chatterjee: The Bill as passed by the Rajya Sabha, in clause 6 says:

"The natural guardians of a Hindu minor, in respect of the minor's person as well as in respect of the minor's property (excluding his or her undivided interest in joint family property)....."

Therefore this Act would not operate in regard to coparcenary or joint family property. At least so far as property is concerned, it would not come within the purview of clause 6.

Shri Pataskar: At this stage may I point out to the hon. Member that we are all interested in seeing that there is no lacuna? The hon. Member is aware that under the existing law, only parents are the natural guardians. In the case that was just now referred to, it was held that in the case of a minor widow her

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mother-in-law was her *de facto* guardian. What does clause say? It says:

"After the commencement of this Act, no person shall be entitled to dispose of, deal with, the property of a Hindu minor merely on the ground of his or her being the *de facto* guardian of the minor."

So far as such cases are concerned. I do not think the wording of clause 11 will stand in the way at all. What is said is that *de facto* guardians shall not automatically be entitled to dispose of the property of the minor on the ground that he or she is the *de facto* guardian.

Mr. Speaker: What about personal guardian? What he means is that if a kidnapping case arises, who will be the personal guardian.

Shri Pataskar: Under the present law the natural guardians are the parents. This clause only says that after the commencement of this Act nobody shall be able to say that he can dispose of the property on the ground that he or she is a *de facto* guardian.

Shri Altekar (North Satara): Also deal with.

Shri Pataskar: We are on quite a different point now.

Mr. Speaker: What about the personal guardian?

Shri U. M. Trivedi: The point put by the hon. Speaker is, what about the guardian to the person of the minor.

Shri Pataskar: Supposing there is no natural guardian and there is no court guardian; is there anything to say that anybody is prevented from being the guardian of the person of the minor or from taking care of the minor? Let that ruling be carefully looked into. I believe there would be no difficulty.

Shri N. C. Chatterjee: I am asking the hon. Minister to carefully remember these difficulties which may arise and I am quite sure that he will give some thought to it. Kindly see clause 11. It says:

"After the commencement of this Act, no person shall be entitled to dispose of, or deal with, the property of a Hindu minor merely on the ground of his or her being the *de facto* guardian of the minor."

The present law is that a *de facto* guardian of an infant's estate has, in case of necessity or benefit to the minor, power to sell or mortgage his property. This was laid down in that famous case of Hunooman Persaud v. Mussummat Babooee in 1856. From that date up till today this has held the field. Otherwise what happens? Supposing the father is dead and the mother is dead and there is the grandfather. The grandfather is a man who has got no property but there is ample property of the minor. Supposing the son had left property which has devolved upon the minor and then a daughter has to be married or some money has to be paid for some purpose or for educating the son or for sending him for foreign studies, then he has got no power to raise money or do anything of the kind. What I am saying is, either extend the list of natural guardians or you do something for the purpose of recognising this point of Hindu law. It is quite fair that a *de facto* guardian should have that power in case of necessity. These are generally the cases of the grandfather or the grandmother when the parents are dead or the case of an elder brother or of a paternal uncle who is the *karta* of the family. In such cases, it will be desirable for the House to consider whether it should completely do away with the present law.

In a recent Federal Court judgement, Chief Justice Kania said that the expression *de facto* guardian was

not quite proper. But, we know what a *de facto* guardian is. In the case of absence of the natural legal guardians, when you have got the grandmother or the grandfather of a minor or an elder brother, then, he or she is the person to deal with it. That is all right. You know this point came up some years ago and was considered at great length by the Madras High Court, by Justice Odgers and Justice Viswanatha Sastri. It was held:

"An alienation by a *de jure* guardian or a *de facto* guardian is voidable and as the powers of natural and *de facto* guardians are similar, a transaction entered into by a *de facto* guardian not for necessity is only voidable at the option of the minor on attaining his age. But an alienation for necessity is binding."

The other point is a little more serious. Kindly see what you are doing. Clause 8 deals with the powers of the natural guardian. You say that from tomorrow there will be no *de facto* guardian. In clause 8, you say that even a father and a mother cannot do anything with regard to the property of the minor. Supposing the son or the daughter has got some property from the grandfather or grandmother—may be a maternal grandfather or grandmother. Suppose for the girl's marriage or for the boy's education some mortgage has got to be created, then the natural guardian, according to sub-clause (1) of clause 8, has power, subject to the provisions of this section, to do all acts which are necessary or reasonable and proper for the benefit of the minor or for the realization, protection or benefit of the minor's estate; but the guardian can in no case bind the minor by a personal covenant. So far as it goes, it is consonant with our concepts of Hindu law. But, look at sub-clause (2). It says:

"The natural guardian shall not, without the previous permission of the court,—

mortgage or charge, or transfer by sale, gift, exchange or otherwise, any part of the movable property of the minor."

It also says:

"or lease any part of such property for a term exceeding five years or for a term extending more than one year beyond the date on which the minor will attain majority."

I am appealing to your experience and to the experience of lawyer members of this House. You know what happens in these guardianship proceedings. When an application is made, it is referred to some officer, generally, the Nazir of the District Court and certain investigations or enquiries start. If you are actually confining natural guardianship only to the father and the mother and do not allow anybody else to function, is there any necessity for actually asking them to get the imprimatur of the court for the purpose of raising some money for necessity, for education and other things which are absolutely beneficial and for the welfare of the minor? I submit that you should not drive the parents to a court of law.

Mr. Speaker: Does the hon. Member suggest that the natural guardian may dispose of the private property of the minor without the permission of the court? Under the existing Guardians and Wards Act a court can appoint a guardian for the private property of the minor.

Shri N. C. Chatterjee: Today the father and mother have got certain rights. You say that nobody except the father and mother, shall be one natural guardian clothed with certain powers. The grandparents or the paternal uncle or an elder brother who is there will be incapacitated from dealing with the property. But if you confine it purely to the parents, then I submit with great respect that it is not necessary to drive them to courts of law. It may be that somebody will put in an objection and whenever

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there is no objection, it means a protected area. I respectfully submit that the Hindu law is perfectly clear in this respect. I am not trying to expand that thing. What I am saying is that the natural guardian of a Hindu minor has power to sell or mortgage any part of the property in case of necessity or benefit of the minor and that is a settled law from Hunooman Persaud case up till today. All High Courts are following it not because it is a Privy Council decision but because it is a beneficial provision. Of course, Hindu law as it stands gives the *de facto* guardian also the same power. Assuming that you eliminate the *de facto* guardian from having that power and that you incapacitate him completely, then I submit that there is no object in driving the parents to the courts of law for the purpose of getting the sanction. As you know, the sanction is more or less a formality and sometimes a costly formality, and I do not know what benefit it will do. I do not think any judicial authority or any court authority can be more solicitous of the real welfare of the infant than the father or the mother. I submit, therefore, that this point should be carefully considered, that is, whether it would be desirable to put them on the footing of certificated guardians under the Guardians and Wards Act. There may be also cases of dissipation of the minor's property, but I do not think that it is the case when the guardians are the father and the mother. Generally in cases where there has been dissipation of property or misappropriation of assets or diversion of usufructs, it has been done by people other than the father and the mother or by *de facto* guardians. If in its wisdom Parliament wants to have a clause like clause 11, then I submit that there is no necessity for clause 8. You should not make the father and the mother suffer from the same disabilities from which every certificated guardian under the Guardians and Wards Act suffers. There is no necessity for reducing them to that position

and there is, therefore, no need for having clause 8. Clause 8 can, therefore, be deleted. Of course, if you expand the category of natural guardians, then that is a different point. I would refer you to some of the dissenting minutes and they have also been saying that this will be operating very harshly. I think, there is some force in that observation. Therefore, the House should be perfectly careful before it allows this thing to be done because it means more litigation and more cost.

I was reading this morning a book recently published by Sir Ivor Jennings containing the lectures delivered as Alladi Krishnaswami Lecturer in the University of Madras. Sir Ivor Jennings has said that he finds that a major industry in this country is litigation and it is so because the Constitution of India is so voluminous. It is on account of that constitution that this industry will thrive. He has said that he had been a Vice-Chancellor and a Professor for many years and that his only satisfaction is that due to the Constitution being very big and voluminous, the longest and the biggest in the world, some of his students are getting something out of this industry. I submit that industry should not flourish under clause 8 at the cost of the Hindu minor. Therefore, you should not drive every father and mother even for the purpose of raising money for marriage or for education of the minor. That should be left to their discretion and it should not be made compulsory for them to go to court. This invocation of the jurisdiction of the court should not be made compulsory and it really does not mean much. Therefore, I submit that it is not fair to have this compulsory access to court.

Shrimati Reea Chakravarty: This matter is the least controversial of the Hindu Code, and it deals with the Hindu minority and guardianship. This is a very important Bill because it deals with the upbringing of young

minors at their most impressionable age, and hence we are to give great thought to it. Not only have we to see to the protection of the material interests of the minor but also we have to ensure that we give to him an environment of affection, understanding and well being in which he or she can flourish into a useful citizen of this country. As such, it is a very important Bill.

I would, however, have liked that the Adoption Bill which is to be introduced had also been there before us because I would like this House to remember that up till now, no female child can be adopted according to Hindu law. Up till now only a male child can be adopted, and as such, over here the guardianship clause naturally deals with the guardianship of an adopted child only if it is a male child. Therefore, I feel that if the Adoption Bill also had been passed or been there for us to consider, we would also have been able to include the case of the female adopted child, and its guardianship could have been included over here.

After the Bill had gone to the Joint Committee, there were certain very welcome provisions included in the Bill and I personally am in favour of having done away with the de facto guardianship. Some pertinent questions have been raised regarding the case of minors who have neither father nor mother. What will happen to them? This is a very pertinent question. There is, of course, the testamentary guardianship, and I am glad that the Joint Committee has given in clause 9 the right to the mother also to appoint a guardian. The Bill has ensured that the mother's right of becoming a guardian cannot be taken away by the father by appointing a guardian by will. This, I think, is a good point. I am also glad that Joint Committee and Rajya Sabha have also given the right to the mother both over the person of the minor as well as the property, under clause 9. This, I think, is also something that had been propounded by

many of us in the stage when the Bill was referred to the Joint Committee.

There is also court guardianship, but my point is that in most cases, people will not like to go to court. In such cases, what will happen? Normally what happens is this. Whether the list of natural guardians is expanded or not, the ties of natural affection lead the relations to look after the child—it may be the maternal grandfather or paternal grandfather or the uncles. The ties of affection are the ties which really bind the family of those who are nearest to them to look after the child. If there is no tie of natural affection, making a legal provision and forcing them to take up guardianship, I think, does not improve matters because we have seen the cases of unwanted children. Therefore, these are unfortunate cases, and I think that expanding the list of natural guardians will not improve matters very materially in these unfortunate cases.

What is important, however, is this and it is a point on which I want to dilate and request the House to consider it very seriously. The one point on which I would like this Bill to be changed is the question of the custody of the minor child. This is a point which I emphasised even during the Hindu Marriage Bill. It is very important that a minor child should remain in the custody of the mother. Shri Chatterjee has differed from me on many other points but he has on this point felt the same way. This Bill seeks to give to the mother the custody of a minor till the age of five. Whether the father is the guardian or not, the custody of the child should always be with the mother till a much later age—I should say, till the child becomes a major. But if the House feels that a boy of sixteen or seventeen could not so well be controlled by the mother and that it is better to have a man to look after him, I would agree to the amendment of Shrimati Jayashri to the effect that the custody of a minor who has not completed the age of 14 years shall normally be with the mother. The

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influence of the mother is very important. I know certain cases. Often the court decides correctly and gives the child to the mother. But, there have been cases where it has decided otherwise because a mother happens to be poorer than the father and he argues that the child would not be brought up according to the status to which he belonged, in such cases the child was given over to the father though he was a totally bad person and was unfit to bring up the child in the proper manner. That is why I feel that clause 6(a) should be changed and I would urge the House to consider this point very seriously.

Then, there is the case of the married girl whose natural guardian is the husband according to this Bill. Many speeches have been made in both the Houses pointing out that in most cases the age of the daughter, when she is married, is about fourteen. That is the law also.

Mr. Speaker: Fifteen is the age.

Shrimati Renu Chakravarty: It strengthens my contention. In this two or three years' period, if she is in a position to indicate her mind whether she wants her father to continue to be her guardian during this period, she should be able to do so. I feel there should be some sort of an amendment that in the case of a married girl the husband and the father should jointly look after the property of a married minor girl unless specifically desired by the minor girl that the father should remain the sole guardian of her property till she becomes a major. This would meet the objections raised by the various speeches in both Houses.

In clause 6 it is said that no person shall be entitled to act as the natural guardian of a minor under the provisions of this Bill if he ceased to be a Hindu. The natural guardians are the father and mother. Nobody else is included here. I cannot understand why a person who changes his religion is automatically supposed to change his attitude or affection

towards his child. After all there are the natural ties of blood, birth affection and it transcends those of the religion. Religion deals with one's relation with God but the relation between a father and his children is something that cannot be transcended by a change of religion. I may become a Christian but yet I may continue to love my children with the same affection as I did when I was a Hindu. When we are accepting more and more the secular idea, this clause should not be allowed to stand. Similarly it is one of the duties which have been laid down by this Bill that a guardian must bring up the minor as a Hindu. That may be all right. If he is born a Hindu, until such time as he is able to make up his mind as to what religion he should belong, he should be in that fold. But we should also enjoin that he should also be brought up physically and morally healthy.

According to clause 8, the natural guardian cannot, without the previous permission of the court, mortgage or transfer or sell the immovable property of the minor. Many speeches have been made that the movable and immovable property should be brought within the scope of this clause. After hearing Shri Chatterjee I see that there is some logic in not including the movable property. The natural guardians have been restricted. We do not expect them to fritter away the money that is there. For the education of the child or for the marriage of a daughter, the mother or father will have to go to the court and get the permission. Of course there are exceptions and there may be fathers who squander away the money of the children. But generally, it is not so and it should not be necessary that he or she should take the previous permission of the court provided the disposal of immovable property should not only be voidable but it should be void if it contravenes sub-clause (i). The controlling factor should be that if there is a

contravention of sub-clause (i) then the transaction becomes void if the minor or any person claiming interest thereof makes an application to the court and shows that it contravenes the provision here. The parents should be able to incur expenditure for certain justifiable causes such as the upbringing of the child or the marriage of the daughter. There is also one other case which is a little complicated. There may be a case of a father who may have minor children by his first wife and he may marry again. Yet, according to this Bill, the father is the natural guardian. It often happens, in the presence of the step-mother, one is not able to do the justice which is due to the child. In such cases it often happens that a much better guardian would be the maternal grand parents. In actual life also we find that this is so. So I feel that in this case some sort of a right of appeal should be given for a court to appoint a natural guardian. If they think that the children are being neglected then they may decide that the maternal grand parents or the maternal uncle may become the natural guardian of the children even when the father is living.

Shri Pataskar: In such cases the maternal grandfather can easily apply under the Guardians and Wards Act and get himself appointed as the guardian. There is a clause for that. This is only about the natural guardian and anybody can be appointed in the best interests of the minors.

Shrimati Renu Chakravarty: If that is so, then of course I have no objection. I was feeling, in the case of the father marrying again or the mother marrying again, the children may be neglected even under the father or the mother and as such some sort of a way out should be there. If it is already there in the law, then it is all right.

Also, I had been suggesting—I do not know what is actually there in the Guardians and Wards Act—that children over the age of 10 should

have the right, if the father marries again, to choose their guardian. Some such sort of thing should be there so that in such cases the children could be saved from being ill-treated even if they were under the guardianship of their father.

With these few words, Sir, I hope that this House will consider this very important Bill in the light of the suggestions that I have made. I again want to place before this House, the question of considering the custody of the children remaining with the mother ordinarily up to at least the age of 14, which is the amendment that has been proposed by my hon. friend, Shrimati Jayashri. It is a very important thing, very important for the well-being of the children and the natural course of affection between the mother and her children.

Shri Raghavachari: Mr. Speaker, Sir, I feel that the general prejudice against the way in which the minors' properties have been dealt with so far under the existing law, often leaving very little to the minors and wasting away much of the property, has led to be the basis of this legislation. But one should naturally feel that this suspicion or dissatisfaction of the existing state of affairs must not lead us to go to the other extreme and provide safeguards which practically make the life of the minors very difficult. In fact, the existing system now provides natural guardians, *de facto* guardians, court guardians and testamentary guardians. These are the four types of guardians that now exist. The present Bill does away with *de facto* guardians, and all those who are interested in the welfare of the minor in the absence of natural guardians, which list included not only the father and mother but a few more under the existing law.

Mr. Speaker: It does not prevent the existence of a *de facto* guardian, but only says that a *de facto* guardian shall not sell or deal with the property. A *de facto* guardian can be there and apply to the court for permission to sell or deal with the property.

Shri Raghavachari: What I say is this. The difference is like this. A *de facto* guardian could deal with the property under the existing law and when the question arises as to whether he has dealt with it legally and in a way binding on the minor, the question whether he has done it in the interest of the minor also arises. Now the Bill says that he—the *de facto*—cannot deal with the property at all. That is one thing. If you examine the provisions, you will see that even the natural guardian, who also under the existing law could deal with the property—and the question whether it is binding or not came up mostly when the minor attained majority,—cannot deal with the property unless he goes to a court under this Bill. In other words, as I said to begin with, this Bill is based on the prejudice and experience that the guardians have not always dealt with the property safely and well. We have gone to the other extreme and said that everything is to be done only through the court even by the father and the mother. I am perfectly aware that under the existing law, if the natural guardianship is confined only to father and mother, and husband in some cases, the other guardians who were acting so far under the existing law can all come up and be appointed by the court. It is open to all the maternal relations and others to go to the court, urge their preferential claims and get appointed as guardians. But the question in most of these cases will be, when you want to limit the powers of guardianship only to the father and the mother, we do not ordinarily expect anybody to take the risk of trying to protect the minor. In fact, under the existing law the dealings of *de facto* guardians were mostly questioned though they were bona fide cases. It is generally done by the minors when they attain majority. Now he cannot at all deal with the property. Therefore, it really acts as a kind of prejudice against the interests of minors. But, whether we must permit the unsatisfactory state of affairs that now exists is another matter—I am sure the tilting to the other

extreme by insisting upon even the natural guardians to obtain permission of the court for every little act is really going to be not only inconvenient to interests of the minor but, I am afraid, will practically compel wasting of his property. Under clause 8 you will see it is provided that the permission of the court has to be obtained for any disposal of property. So for every little thing even the father or the mother has to go to a court.

That is what is provided under the Bill. We know that if a man has to go to a court of law it means a lot of money. Even for a formal application has to leave his place and go to a distant court, engage a lawyer and then attend the court though it may be an *ex parte* proceeding. It all means a lot of money for each matter. The property may be under jurisdiction of various courts and he will have to file applications in the respective courts when he has to deal with the properties concerning them.

Shri Barman (North Bengal—Reserved—Sch. Castes): Sir, I rise on a point of order. Shri Raghavachari was a member of the Joint Committee. From the report submitted to this House we do not find that he has raised any of the objections, that he is now raising, in the Joint Committee. In the absence of any dissenting note on these points, the House is entitled to think that Shri Raghavachari agrees with the majority report. He is now making new points on which he has not submitted any dissenting note. If that is the case how are we to take the views of the members of a select committee?

Shri Raghavachari: I have appended a note of dissent upon some particular points that arose then. But these are matters that arise out of the subject for general consideration and amendment. I have also moved some amendments about that matter. Anyhow a member of a Select Committee is not prohibited from talking on a

thing which comes from that committee

Mr. Speaker: I think the object of a Bill being sent to a Select Committee is for the purpose of having the considered opinion of its members. Whoever has got a difference of opinion on material points like this must state it to influence the Members here. Hon. Members come to the House under the impression that the hon. Member is also a party to what has been recommended in the report. Now for the first time to say something quite contrary to what has been said in the report, or something which he has not mentioned earlier, is not the way to lead the House. Members of a Select Committee are expected to give a lead to the House, either they agree with the report or they do not agree. If every member of a Select Committee, by passes the report of that Committee, what is the object of having sent the Bill to a Select Committee? Whose opinions are we considering here? Therefore, it is proper that any Member who differs from the majority reports must append a note of dissent. Unless it is an extraordinary thing which he contemplated only now and which he did not contemplate earlier and which nobody could have contemplated, such points ought not to be made now, at this stage. I was under the impression that the hon. Member was not a Member of the Joint Committee and that what he has been saying thus far are his first impressions. But having been a party to the Joint Committee, I expect him and all Members who were members of the Joint Committee to stand by the report. Otherwise, the whole thing will be a waste and it will result in a false impression being given to this House. I do not say they are debarred from expressing their views now. They may say by announcing that "I am very sorry; I am not aware of it and I did not see it earlier and so I would like to place those views now," in which case, there is no objection. Of course, there is nothing legally barring a member of the Joint Committee from changing his views. But to say things

as if he has not been a party to the Joint Committee at all would be giving a wrong impression or lead to this House.

Pandit Thakur Das Bhargava (Gurgaon): So far as this Bill is concerned, it has been passed by the Rajya Sabha. Therefore, no question of Select Committee or Joint Committee arises. When a Bill comes here from the Rajya Sabha, then we are at perfect liberty to say what we like to say on the Bill. The motion is: "That the Bill ... as passed by Rajya Sabha, be taken into consideration." The consideration there and the consideration here are quite different. This is a Bill which comes here from the other House. So, everything that one wants to say on this Bill can be said now. Supposing there is no change, even then, when the Bill comes here from the other House, it is perfectly open to any Member here to say what he is pleased to say. There is no question of a Select Committee or a Joint Committee, Member being bound by what he has said in the Select Committee or the Joint Committee. Even in the case of a Select Committee or a Joint Committee, the person may vote there differently and he may not put in a minute of dissent in regard to every point. In many cases the question is settled there by votes, and it is not in every matter that a minute of dissent is appended. Therefore, my submission is that there is no strict rule saying that if a minute of dissent is not given or if a minute of dissent is not given on every point, no contrary opinion on those points should be expressed now. If that were the rule, it would be very difficult to agree to it.

Mr. Speaker: I do not agree that an hon. Member who has not given a minute of dissent or who has not expressed any disagreement with the important provisions of the Bill in the course of the discussion at the Joint Committee, should speak contrary to the report of the Joint Committee. He is entitled to stand by the report of the Joint Committee and he cannot just go on saying things as if he had

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nothing to do with the Joint Committee. If he does so, he puts the whole House in a wrong position and gives the House a wrong impression. If he does not contribute the amount of lead that is expected of him as a Member of a Joint Committee, he might as well be not a Member of the Joint Committee. As a Member of the Joint Committee, he is expected to look into the matter and give his views, as he is considered to be an expert. Because the whole House cannot go into the matter deeply, it is entrusted to some selected Members so that they can deal with the provisions in detail. It is not right that a Member of the Joint Committee, not having made the point in the Joint Committee, should say the point differently here and not even prefacing his remarks at least by saying "Though I was a Member of the Joint Committee, this escaped my notice; it was not brought to my notice earlier and so I have to give a different opinion upon it now" and so on. So, normally, an hon. Member of a Select Committee or a Joint Committee, unless he has appended a dissenting note on the points that he wished to say here, ought not raise a matter which is controversial and which is opposed to the report of the Select Committee or the Joint Committee to which he had been a party. Otherwise, there is no purpose in referring a matter to the Joint Committee, and every hon. Member can rise up and say something different from the report of the Joint Committee, in which case the Select Committee or the Joint Committee has to be scrapped.

So far as this matter is concerned, it is true that there was a Joint Committee of both the Houses and the Bill was initiated in the other House. Therefore, the Joint Committee's report is naturally placed before the other House. We agreed on a prior occasion that if a Bill is initiated in one House and the motion for reference to the Joint Committee is agreed to by the other House, the latter is not committed to the provisions of the Bill.

because the Bill has not been introduced in that House. That is for the Members in general. But if an hon. Member agrees to be a Member of the Joint Committee and takes part in the proceedings of the Joint Committee, he continues to be a party to the report of the Joint Committee. We have not evolved a rule by which a Bill can be introduced simultaneously in both the Houses. It can be introduced only in one House. Whoever is a Member of the Joint Committee, even though the Bill in question might have been considered in the House to which the Member does not belong, having been a Member of the Joint Committee, he is a party to the report of the Joint Committee. It is this House that recommended the inclusion of the hon. Member's name in the Joint Committee and he sits in the Joint Committee in the place of the whole House. He is a representative of this House on the Joint Committee and as such, he must say why he differs from the report of the Joint Committee and why he could not include the point in the minute of dissent. The hon. Member cannot choose to apply his mind differently at the present stage and suddenly get up and say something different from what the report of the Joint Committee may contain and something which he has not included in his minute of dissent. Even if a Bill is introduced in the other House, having been a Member of the Joint Committee, the Member has the responsibility to stick on to what he had said in the Joint Committee, unless he has the leave of this House to say something specially which he could not point out in the Joint Committee. In just formal and trivial matters, what I said does not apply, but in matters of major importance like the present one, where the provision says that a natural guardian should not be allowed to deal with the minor's property—a fundamental or radical change from the existing law on the subject—the point made by the hon. Member of the Joint Committee must be what he had already mentioned in the Joint Committee. That, I think, should be the

proper course to be adopted so far as a Member of the Joint Committee of this House or of the other House is concerned, and whether the Bill is initiated in this House or in the other House.

Shri U. M. Trivedi: I want to make a suggestion. The Members of the Joint Committee get an opportunity of presenting their views in the Joint Committee. Then, when the debate starts here, they again repeat the same views here. The other Members are precluded from participating in the debate, owing to lack of time or some other reason, and expressing their views. While I do not object to the Members of the Joint Committee taking part in the debate, I suggest that they must be left over at least till such time as the other Members have spoken so that the other Members might express their views.

Mr. Speaker: I have been adopting that rule. The Members of the Joint Committee or the Select Committee will be kept in reserve. Other hon. Members who may not agree with the report of the Joint Committee or the Select Committee will have an earlier opportunity and the Members of the Joint Committee or the Select Committee will have an opportunity to explain their position and satisfy the House as to why their recommendations ought to be accepted. I used to adopt that course and I still adopt that course, and I would advise whoever sits in the Chair to adopt that course. Because Shri Raghavachari felt a personal inconvenience and requested me to give him an earlier chance. I allowed him to speak earlier.

Shri U. M. Trivedi: I do not object to that.

Shri A. M. Thomas (Ernakulam): In view of what the hon. Speaker has said on this question, I should like to have a clarification. As you mentioned, it is a question of propriety, but, due to various circumstances, as mentioned by Pandit Thakur Das Bhargava, a Member might not have appended a dissenting note. Does your

ruling extend to putting an absolute bar on moving any amendment to the Bill as reported by the Joint Committee and also speaking against the provisions?

Mr. Speaker: The whole conception with regard to this matter must be divided into two categories. One is of major importance pertaining to substantial portions of the Bill, the principles of the Bill, the clauses of the Bill, etc. The other concerns the formal amendments to the Bill. In major matters, I feel that if an hon Member who had a particular view in the Joint Committee and who had not appended a minute of dissent speaks here on the Bill, he ought not to change the provisions differently, unless he explains to the House in detail the new ideas that have compelled him to plead for a change. Normally, he ought not to move an amendment to that effect. Otherwise, the whole thing will be a waste. But every Member of the Joint Committee will have an opportunity to say that what he said in the Joint Committee was not accepted that he could not give a minute of dissent, and that therefore he wishes to move an amendment.

धीमती शिवराजवती नेहरू (जिला लखनऊ भर्ता) : वया में पूछ सकती हूँ कि प्रेसेट कमेटी बनाने से क्या कायदा हुआ था गर वहां पर एक राय दें और यहां पर आ भर दसरी राय दें ?

Mr. Speaker: Shri Raghavachari will continue his speech now.

Shri Raghavachari: I am as far as possible guided by the almost moderate aspects towards a measure. I was only pointing out that the way of approach to the existing affairs has led to too much of a shift on to the other side and that it is inconvenient. I started that way. The point is, if in the process so much restrictions are placed upon the exercise of those powers, we defeat the purpose for which the Bill is brought forward. That was the point which I was making. I had also added

[**Shri Raghavachari**]

· a note of dissent on one or two matters I shall now explain those points.

1 P.M.

So far as natural guardianship is concerned, they want the father and the mother to be the natural guardians in the case of an unmarried girl and the husband in the case of a married girl. Other members have already referred to it and I do not wish to dilate on it. I am also aware that the Law Minister might say, "any other guardian can be appointed by the court; where is the inconvenience?". When the girl is married, the guardianship of the parents ceases and passes over completely to the husband. Once that is done, if the girl becomes a widow, she is left without a guardian. Until another guardian is appointed by the court, there is no guardian for her. Therefore, I have proposed that in the case of any unmarried daughter and also in the case of the widowed daughter, the parents must be the guardians.

Mr. Speaker: Who is the guardian today?

Shri Raghavachari: Under the law, the guardian is the husband's relation.

Mr. Speaker: Husband's relations are not the natural guardians. Even under the existing Hindu Law, except the husband in the case of a married girl and the parents in the case of an unmarried girl, none other can be a natural guardian.

Shri Raghavachari: They are only *de facto* guardians.

Mr. Speaker: Nobody exercises a *de facto* right.

Shri Raghavachari: It is perfectly open to anybody to say that any other man can get himself appointed as guardian by the court. The difficulty will be....

Shri Patankar: The point is this. Supposing there is a child who has neither father nor mother, there is

nothing to prevent anybody else acting as the guardian of the person of the minor and even of the property. What is prevented by clause 11 is the alienation of that right.

Mr. Speaker: The hon. Minister may consider the words "deal with."

Shri Raghavachari: I would request the hon. Minister to consider the combined effect of clause 8 (1) and clause 11. Clause 8 (1) says:

"The natural guardian of a Hindu minor has power, subject to the provisions of this section, to do all acts which are necessary or reasonable and proper for the benefit of the minor or for the realisation, protection or benefit of the minor's estate...."

The word "estate" is there; this clause seems to cover both movable and immovable property. But, according to sub-clause (3), the disposal of immovable property must be only with the court's permission. Clause 11 says that even the powers of the natural guardian are confined to certain things. Anyway, that is only a point of digression. My simple point is that in the case of a minor widowed girl, some natural guardian must be fixed immediately. It should not be a dilatory process, later on somebody being appointed and so on. Immediately she becomes a widow, some natural guardian must be provided lest she may be kidnapped.

My other amendment relates to proviso (a) to clause 6. It is provided there that if the father changes his religion from Hinduism, because this is Hindu Minority and Guardianship Bill, he is not competent to be the guardian. But I say that the mother also has the right to change her religion. Therefore, I want the word "she" to be added there. A clause was specifically provided by the Joint Committee that guardianship must cease if there is a change in the religion of the parent. But that clause was omitted by the Rajya Sabha; advanced notions must have persuaded

them to omit it. Nevertheless, clause 6 is there and my amendment seeking to add the words "or she" after the word "he" may be accepted.

Mr. Speaker: Can the guardian change the religion of the boy?

Sbri Raghavachari: No; the courts will take care to see that a proper guardian is appointed so as not to prejudice the religious sentiments.

The other point is this. Clause 8(4) reads;

"(4) No court shall grant permission to the natural guardian to do any of the acts mentioned in sub-section (2) except in case of necessity or for an evident advantage to the minor."

I want the words "or his estate" to be added at the end, because the benefit of the minor may not necessarily be the benefit of the estate also. Some kind of difference can be made. My personal feeling is this. The phrase "evident advantage to the minor" is capable of expansion. Originally the word "benefit" was there and that has been changed into "evident advantage". I submit "evident advantage" is a phrase which is capable of expansion and all kinds of things being brought there. It is necessary to consider this question because it is only any act which is not permitted by a court that can be questioned later. When permission of the court is sought, generally the proceedings are *ex parte*, because the minor is not there. Sub-clause (3) of clause 8 reads as follows:

"(3) Any disposal of immovable property by a natural guardian, in contravention of sub-section (1) or sub-section (2) is voidable at the instance of the minor or any person claiming under him."

The other things are not. Therefore, by an *ex parte* earlier order obtained later on, a minor may be prevented from questioning it, particularly so when the phrase is 'evident advantage', which is rubber-like expanding. More harm may be done by this

phrase. Will the guardian do all this and will the court make an order without much consideration? Almost every Hindu minor's property will have to go to court. Probably we will have to establish more courts or the courts will be overcrowded with applications and the attention given would be very little. In the *ex parte* proceedings, if some permission is granted, the minor is barred. We want to protect the minor from what might turn out to be a danger and obstacle.

Some Hon. Members rose.

Mr. Speaker: Whoever was not a Member of the Joint Committee may.....

Shri Bagawat (Ahmednagar South): I was not a Member of the Committee.

Pandit Thakar Das Bhargava: I was not only not a Member, but I was sought to be appointed one and I declined to be a Member as I thought then and think now that this law is not necessary.

Mr. Speaker: I will call him next.

Hon. Members will go on with the general discussion till 2 o'clock. We started at 12 o'clock. Thereafter, we will take up clause-by-clause consideration.

Shri Achutban (Crangannur): Then, there must be some time limit.

Mr. Speaker: Therefore, I am asking hon. Members to confine their remarks to 10 minutes. In proper cases, I will give more time.

Shri Bogawat: This Bill has not been properly thought of so far as some clauses are concerned. We have passed the Hindu Succession Bill and we have allowed inheritance to daughters and sons of pre-deceased daughters and pre-deceased sons and widows of pre-deceased sons, etc., up to the third generation. The cases of many minors would come up now. We must have provisions in this Bill in the light of the Hindu Succession Bill. If such provisions are not there, matters would become more complicated and it would be confusion worse confounded. Formerly, there

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was a law under which, if there was legal necessity, the natural guardian was allowed to deal with the property. Under this Bill, it is very strange that even the father or mother, who are the only guardians of the minor, are not allowed to deal with the property in case of necessity or emergency. In the case of business matters, this would be a great obstruction against the interests of the minor. The present Bill is not a good law. It must be changed. If it is not changed, there would be difficulties in the day-to-day transactions. I only submit that the Minister of Legal Affairs would give deep thought to these very important matters. If it is desired that all should be driven to the courts, there would be no justice. It would be sheer injustice to the minors. I say that in the interests of the minors, at least this clause 8, which is a bad clause, should be deleted and nobody should be asked to go to court in cases of necessity. There is a very good law, the law of legal necessity. Persons who take a mortgage of the property or take a sale of the minor's property think ten times before entering into the transaction. These transactions can always be questioned in a court of law if they were not for legal necessity. The former law was good. Under the present law, the father, the natural guardian who is the best judge, who knows the interests of the minor even better than the court, is asked to go to a court and seek the permission of the court to deal with the property. There may be important business matters which may suffer on account of this. I have very strong objection to clause 8 of this Bill which must be deleted. Otherwise, there would be difficulties. A number of minors would be getting properties according to the new Hindu Succession Act.

My second objection is this. The only natural guardians mentioned in this Bill are the father and mother. What about other guardians? Take the paternal grandfather or grandmother. Will they do anything against

the interests of the minor? If the father or mother is not there, is any person to go to the court and seek guardianship of the minor? This is not proper. The grandfather or grandmother will always act in the interests of the minor. The minor's interest will be protected by them. I think that the list of natural guardians should be expanded. At least the elder brother paternal grandfather and grandmother should be included in the list of natural guardians.

Thirdly, there is no provision in the case of a minor widow. Of course, it may be argued that such marriages will be very few. Even if there are only a few cases, there would be very great difficulty if no natural guardian is mentioned. I think that in the case of a widow, the natural guardianship must go to her father or mother who have the best interests of the minor at heart. That must be mentioned, and not the *de facto* guardian such as the father-in-law or mother-in-law. In this respect also, there must be an amendment to clause 6.

Then, I come to clause 11. Clause 11 says:

"After the commencement of this Act, no person shall be entitled to dispose of, or deal with the property of a Hindu minor merely on the ground of his or her being the *de facto* guardian of the minor."

Why not? The *de facto* guardians are bound to take care of the interests of minor. In a very few cases, there may be exceptions. If the existing law is left as such, the interests of the minor will be protected. Unless there is legal necessity or the transaction is in the interests of the minor or it is for the benefit of the estate of the minor, no transaction would be upheld by a court. It would be set aside. Again, there is a provision that the minor, after he comes of age, he can question these transactions. They are all voidable. A minor is not bound by all these transactions. He can bring a suit and if there was no necessity, all

the transactions entered into by either the natural guardians or the de facto guardians will be set aside. There have been hundreds and thousands of cases where there was no proper proof of necessity, or the mortgagee or the purchaser was not able to produce proper proof, and the transactions have been set aside. This is a good provision. Why should there be a change which would only be an impediment or obstruction in the way of the minor? My humble submission is that we should not be hard and harsh to the minors. At least in the case of persons who are doing business or where big companies are concerned, there would be so many difficulties created. So many minors would be inheriting property and there would be difficulties in the day to day transactions. All these things must be considered before making any amendments.

There are also some minor amendments which are needed. For instance, in clause 6, only 'he' is mentioned: "...if he has ceased to be a Hindu". I submit that "she" also ought to be mentioned. Shri Raghavachari has given an amendment that "she" also ought to be mentioned.

Shri U. M. Trivedi: Mr. Speaker, "He" will include "she".

Shri Pataskar: There is the General Clauses Act.

Mr. Speaker: How can it apply when "mother" has been mentioned here separately?

Shri U. M. Trivedi: The proviso is very clear.

Shri Bogawat: If there is no difficulty, I have nothing to say. But if there is difficulty because we have separately mentioned "father" and "mother", then these words must be there.

My main objection is that there is no uniform civil law. I have said that formerly also. What harm is there if we have a uniform law with regard to minors so far as Muslims, Chris-

tians, Parsis and Jews are also concerned? In respect of all the communities we can mention particular persons as natural guardians. We are a secular Government. We do not observe anything religious so far as the property of the minors is concerned. That also must be considered and these words Muslim, Christian, Parsi etc. should be deleted and changes should be made. After all, this is a Bill which must be thought over and the important suggestions that I have made should be brought into effect.

पंडित ठाकुर दास भार्गव : जनाब स्पीकर साहब, जब यह बिल हाउस के सामने आया और सिलेक्ट कमेटी की मोशन हुई उस वक्त मेरा नाम भी सिलेक्ट कमेटी में दर्ज किया गया था, और मैंने यह कह कर इनकार कर दिया था कि मेरे सिलेक्ट कमेटी में

Shri N. R. Muniswamy (Wandiwash): He may speak in English so that we may also follow.

Pandit Thakur Das Bhargava: When this Bill was brought before the House for reference to the Select Committee, my name was also included as one of the Members to serve on the Select Committee, but I declined to accept it on the ground that in my humble opinion this Bill was quite unnecessary and that the introduction and passage of this Bill by the House were not justified. I would like to mention one of the main reasons that I advanced then, with your permission.

Our Constitution enjoins upon us to have a civil code for all the communities in India, and if there is any matter in which we can have a uniform civil code applicable to all the communities in India, it is guardianship and minority. So far as the Mohammedan and Hindu minors are concerned, their personal laws have been abrogated so far as age is concerned. According to the Hindu law, a person becomes a major at 16, and

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according to the Muslim law also the age of majority is not 18. The law already stands changed for the better. Today, the Guardians and Wards Act is in vogue and it has got provisions which are of a very salutary character and they deal with the situation in the country very well. Nobody has ever complained since 1890 that that act has not worked well. And I would like to know from the hon. Minister why this Bill is necessary. Hindus, Muslims, Parsis, all are governed by the Guardians and Wards Act. There is no difficulty whatsoever. Therefore to my mind this is an absolutely unnecessary Bill, and it also goes against the principle of a common civil code for the whole country. For other matters like marriage, succession etc., I can understand the necessity for having a Hindu code, but for this matter, to say the least it was not at all necessary that we should have a separate Hindu Minority and Guardianship Bill. Therefore, my first objection is that this is unnecessary and uncalled for and at the same time we shall have to introduce similar Bills for Muslims, Christians etc., if we proceed on the lines on which we are proceeding in this matter. Therefore, not only is it unnecessary, but this is a mischievous Bill in so far as the provisions of the Guardians and Wards Act will not apply uniformly to all the nationals of this country and will introduce some kind of discrimination as I am going to point out.

Firstly, I would bring it to the notice of the House that a "minor" has been defined in this Bill as follows:

"minor" means a person who has not completed the age of eighteen years;

In the Guardians and Wards Act it has been defined otherwise. We know under the Majority Act a person does not become a major if a guardian has been appointed for him till 21 so far as his property is concerned. According to this Bill, every person will cease to remain a minor at the age of

18. What would happen to the provision of the Majority Act between the ages of 18 and 21. A Hindu will become a major at 18 whereas a Muslim similarly circumstanced will become a major at 21 for the purposes of his property.

Mr. Speaker: In clause 2 it is said.

"The provisions of this Act shall be in addition to, and not, save as hereinafter expressly provided, in derogation of, the Guardians and Wards Act, 1899."

Shri U. M. Trivedi: But clause 5 cancels that.

Mr. Speaker: The whole thing is subject to the Guardians and Wards Act.

Pandit Thakur Das Bhargava: Kindly see clause 5. It is not saved. It is inconsistent.

Mr. Speaker: This and clause 2 have to be read together.

Shri U. M. Trivedi: Sub-clause (b) of clause 5 reads:

"any other law in force immediately before the commencement of this Act shall cease to have effect in so far as it is inconsistent with any of the provisions made in this Act."

Mr. Speaker: But clause 2 is there saying that this is in addition to and not, save as expressly provided, in derogation of the Guardians and Wards Act.

Pandit Thakur Das Bhargava: That will only create a conflict. It will mean clauses 2 and 5 are inconsistent provisions in this Bill.

Mr. Speaker: That has to be modified to some extent.

Pandit Thakur Das Bhargava: Either clause 5 may be modified or, if it is intended...

Mr. Speaker: I will ask the hon. Minister to consider it. I am also of the same opinion. Clause 2 says:

"The provisions of this Act shall be in addition to, and not, save as hereinafter expressly provided, in derogation of the Guardians and Wards Act, 1899."

Sub-clause (b) of clause 5 expressly makes a provision in derogation of the provisions of the Guardians and Wards Act.

Shri Pataskar: I see the force of that argument that sub-clause (b) of clause 5 may have to be examined, but the whole basis of this legislation is, I may make it clear, that so far as the Guardians and Wards Act is concerned, which is applicable to all classes of people throughout India, we do not propose in any way to abrogate any of its provisions. If there is any chance of its being misinterpreted, I shall see what I can do.

Pandit Thakur Das Bhargava: There are other sections also in which what is expressly provided in this Bill is contrary to the provisions in the Guardians and Wards Act.

Mr. Speaker: We are discussing that. Therefore, he has got opportunities of looking into that.

Pandit Thakur Das Bhargava: I am only submitting for his consideration.

Shri U. M. Trivedi: Before the amendments to the clauses are taken up, we may be given an opportunity to bring them to his notice.

Mr. Speaker: He is listening. They may be taken up when the clauses come up.

Shri U. M. Trivedi: When the clauses are reached, the whole thing gets shut out.

[**MR. DEPUTY-SPEAKER** in the Chair]

Pandit Thakur Das Bhargava: I was submitting that this Bill as it has emerged from the Rajya Sabha does derogate from many of the provisions of the Guardians and Wards Act. Clause 2 clearly says that the provisions of this Act shall be in addition,

and not, save as hereinafter expressly provided, in derogation of the Guardians and Wards Act, 1899, so that if there is no provision in this Bill, the Guardians and Wards Act shall apply, but if there is a provision in this Bill which goes counter to the provisions of the Guardians and Wards Act, this Bill shall have preference.

Shri Pataskar: In so far as it recognises natural guardians.

Pandit Thakur Das Bhargava: Where is it said? Where is this distinction?

Shri Pataskar: You can point out in what way it derogates.

Pandit Thakur Das Bhargava: Whether natural or unnatural, even in this Bill you have provided that this Bill shall have force and not the Guardians and Wards Act. Whether it is in regard to a natural guardian or a guardian other than a natural guardian is provided for. Then, it means that the Minister has a mental reservation, he has got at the back of his mind the words 'so far as the natural guardian is concerned' and he wants to add these in clause 2.

Shri Pataskar: It is not only that. I only pointed out one instance. I shall hear you and then reply.

Pandit Thakur Das Bhargava: The first point that I would like to submit is that in so far as the definition of 'guardian' is concerned, the definition is really opposed to the definition given in the Guardians and Wards Act, provided it is read with clause 5(b). Then, it would mean that there will be several kinds of minors in this country now. According to the Guardians and Wards Act, there is only one kind of minor known to the law, and all the nationals of this country, who are minors, until they come within the definition of the Indian Majority Act, are under the Guardians and Wards Act. Now a Hindu minor will be quite different from a Muslim minor and a Christian minor. Therefore, my submission is that it creates more distinctions than

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are there in the present law. Therefore, my submission is that this Bill should not be taken into consideration and should not be passed by this House. That is my humble submission, because I do not find in any particular that this Bill improves the position, so far as the position under the Hindu law is concerned.

You know that in our country the people in general live in the villages and are quite illiterate. This Bill applies as much to those who live in the cities as to those who live in the villages. May I humbly enquire from the Minister the number of wills, which appoint guardians, and which are made by fathers and mothers in this country, so far as guardianship is concerned? My humble submission is that if the cities are taken away from the list, and we go to the villages where eighty or eighty-three per cent. of our population lives, we shall find that only in very few cases the parents appoint guardians by will. I should say, their number must be negligible.

According to this Bill, there are four kinds of guardians, natural guardian, guardian appointed by the will of the minor's father or mother, guardian appointed or declared by court, and guardian appointed under the Guardians and Wards Act. So far as the Guardians and Wards Act is concerned, we know that very few persons are appointed under that Act; their number is extremely negligible, I should say; only persons with very big properties come under this. So far as guardians appointed by the will of the minor's father and mother are concerned, as I have submitted already, leaving aside big cities, they are very few in number. The question now remains of natural guardian or a guardian appointed or declared by the court.

Second, I fail to see how the joint Committee thought that the father and mother only are the natural guardians, and a grandfather who supports the father also in some cases

is not a natural guardian. I do not understand how they have thought like this.

Sbri Pataskar: But is he now a natural guardian under the Hindu law?

Pandit Thakur Das Bhargava: Under the Hindu law, there is nothing like a natural guardian, if you would ask me, in the sense in which you have meant it here. As a matter of fact, you have taken away the naturalness of the guardianship. Every person is a good guardian to a minor under the Hindu law. He is a *de facto* guardian, and he brings up the child and nurtures it up, and he saves the property. Every *de facto* guardian is a good guardian. But now, according to you, the father and the mother alone are the only persons who can look after the children in the family. You have thought that India has developed to that extent that in this country, there is no relationship except that of the father and the mother. But there is also the grandfather, the maternal uncle and so on, and there are many others who are interested in the child, who bring up the child after the father and mother are dead, and look after the property. It is a question of fact. I do agree that there are cases in which property of the minor is taken over, tampered with, destroyed or even taken away by some persons, but those are very rare cases, and even then the minor has got the remedy under the law.

But now in a country in which the will habit has not developed to a very large extent, in which nearly eighty per cent. of the people do not know what a will is, and many people are illiterate, do you want to say that in every case in which the father and the mother are not there, the minor cases must go to court and get a guardian appointed? How many guardians are there even now in the whole of India? Their number is infinitesimal. You would remember, any person who has practised in these

courts knows fully well that these guardianship applications are treated with contempt. They do not count appreciably towards the quota of work done by judges which is expected from senior sub-judges or district judges, and thus they are not properly looked after. For years, the matter goes on. If you grease the palm of some mazir, permission is granted; otherwise, it will go on for years and years, and there is almost endless litigation. It is not as if we are belonging to a country in which the Attorney-General or the entire government is anxious to act as the guardian of the child.

Who would apply for the guardianship of the child, after the father and the mother are dead? What would happen to the property? Is there any provision here to the effect that every collector is bound to apply for the guardianship of the child after the father and mother are dead, so that in every case, there may be a guardian? There is no such provision in this Bill. Who would apply for guardianship in that case? Who is interested in the child? If the grandfather and others are not natural guardians, then who would apply?

Shri N. R. Muniswamy: The de facto guardian would apply for it.

Pandit Thakur Das Bhargava: The de facto argument does not even exist in the imagination of the Minister. Where is the de facto guardian? The Minister has taken him away. He is not there at all.

Shri Pataskar: I have not taken him away. He is quite safe.

Pandit Thakur Das Bhargava: If he has not taken him away, then he has substituted him in this way that he wants...

~~and that~~ ~~he~~ ~~should~~ ~~not~~ ~~have~~ ~~prevented~~ ~~him~~ ~~from~~ ~~doing~~ ~~wrong~~

Pandit Thakur Das Bhargava: So far as that goes, I congratulate you. If you have succeeded there, you have done a very wonderful thing, because we all want this. By doing that, you

have only effectuated our intention. But my difficulty is that in your noble efforts to effectuate your intention, you have also eliminated the de facto guardian, who used to do all kinds of work for the child, and who used to nurture him and do everything else for him. Now, may I enquire who will apply for guardianship? Who is interested in the child? At least, you have to make a provision that in every case when the father and the mother are dead, the collector of the district or some officer appointed by you will look after the boy, will go to the court and get a guardian appointed so that the guardian appointed by the court will work. And how will that guardian work? He will work under section 22 of the Guardians and Wards Act, which you say you still keep. Under that section, every guardian is entitled to get some fees. Even if a court officer is appointed as the guardian, he also gets appointed as the guardian, he also gets minor's property, because the guardian is supposed to benefit for his labours. But in the case of a de facto guardian, such as a grandparent with whom the young boy lives, he is not supposed to get anything out of the minor's property, though you say under section 22 of that Act that every guardian shall ask for fees by way of remuneration. I suppose you will make it the rule that from the government treasury, every guardian of a minor will be given these fees etc.; I shall be very happy if that is done.

But there is one other point in regard to the Guardians and Wards Act. According to section 28 of that Act, if a father and mother appoint a person to be a guardian after their death, then the powers of the guardian are regulated by the instrument of the will. If the father wants to give some powers to a guardian, then that guardian will exercise those powers in the interests of the minor he can mortgage, sell or do anything else with the property, which a father could do, provided the father is armed with those powers. Now, when you take away the father's power

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even, and you say that even a father and a mother cannot mortgage or sell or do anything else with the minor's property, how can the person appointed by will do any of those things? So, the position now is that any person appointed by will, will not be able to exercise those powers which were previously exercised by him under the provisions of the Guardians and Wards Act.

Again, there is a conflict between this Bill and the Guardians and Wards Act. My hon. friend was saying that the Guardians and Wards Act will be there in addition to this. I would like to tell him that it is not in addition to, but in derogation of this Bill. It means that those powers also are taken away.

Let me examine this question now in a little greater detail. I was submitting that in our country, in the conditions as they exist now, either when the parents are dead or even when the parents are there, a child is supposed to be a person whose interests are to be looked after by a large number of people. It is particularly so, in the case of the joint family system. I find here that so far as the Hindu joint family is concerned, so far as the undivided interest in the joint family is concerned, it is specifically referred to in clause 6, and clause 12 and a guardian need not be appointed so far as that interest is concerned. So far, it is safe yet. But at the same time, in regard to other interests, a *de facto* guardian, that is, any person who acted as a guardian, was a good guardian in the eye of the law. For instance, supposing a person was abducted or kidnapped from custody, according to the present law, because it has been regarded as a valid guardianship, I think the provisions of the criminal law would have been enforced, as if he was a good guardian. Now, he is not a good guardian, since there are only four types of guardians under this Bill. Clause 4 of the Bill defines who are the guardians and there *de facto* guardians are not included. In spite of what my hon.

friend says, I take it that if clause 4 is to be enforced, *de facto* guardianship will not be known to the law, which would mean that any person could abduct or kidnap any minor, if there was nobody appointed by the court. I know that in spite of this Act, in lakhs of cases there will be no guardians appointed by the court. In fact, this Bill just gives us an example of the manner in which, though present conditions do not justify a law, yet you impose a law and there will be nothing but confusion in this country. We do not want this law at all, because conditions are such that nobody has ever complained that such a law was wanting.

Mr. Deputy-Speaker: Is this not in consonance with the changes we have made in other portions of the Hindu Code?

Pandit Thakur Das Bhargava: As a matter of fact, when this Bill was originally brought, I said the same thing. Why do you have a separate law for the Hindus? We are also for reform, but so far as the Indian guardianship law is concerned, it was the Guardianship and Minority Act which held the sway. This applies equally to all communities. There was no necessity for any such denominational law or Hindu law. I submit that in a matter like this, at least we should not have a separate law, and we would have been justified in having a general law of the country enacted.

I said this then and I am repeating it now. In all humility, I submit to the hon. Minister kindly to consider this from another standpoint. I know he is committed to every provision of the Constitution. I know his mentality. He really wants to enact a general law for the whole of India. But in so far as that is concerned, he is unconsciously giving away his point. If he has certain laws for certain aspects of a case which apply to the whole of India, we are on solid ground and we have got a basis on which we can evolve a general law

for the whole country. For instance, like the Sarda Act, the Majority Act or even the Guardianship Act.

This is against the Muslim law and against the original Hindu law. In so far as we make those principles, when we by-passed the Hindu and Muslim law, we are really preparing the ground for a general civil code for this country. But the present Bill takes that attempt away and places us in a worse position.

We find that for the rest of India there is a general law. *De facto* guardianship is there, but for Hindus there will be no *de facto* guardianship. This is entirely wrong.

Even apart from this argument, taken as it is, my submission is that a *de facto* guardian is necessary in this country for a very long time because the country is illiterate, we do not want to have recourse to law in every case. In a matter of this nature, only lawyers know that the attempt is a futile one. I have seen some guardianship cases and I know how the court works. To force the people to have recourse to law in a matter of this nature is to deal with them in a very heartless and very tyrannical way. Who will go to court?

I find there is an amendment also to cover movable and immovable property. Whenever a person deals with a property—and the word 'deals' is much wider than the word 'transfers'—if a person deals with any person's property, he must go to court first and get himself appointed as a guardian. This is too much. I should say this will only remain on paper and will never be effectuated.

Mr. Deputy-Speaker: I do not want to interrupt the hon. Member. But I am told that the Speaker fixed some time also for this discussion.

Pandit Thakur Das Bhargava: He did. He said that ten minutes would ordinarily be allowed to a Member. I do not want to make a trespass on the time of other people, but in a matter of this nature, I must submit for your

consideration that Members must have their full say.

Shri U. M. Trivedi: The time may be extended further by half an hour. We saved 2½ hours yesterday.

Mr. Deputy-Speaker: I have no objection, if that is the wish of the House....

Some Hon. Members: Yes.

Shri Nand Lal Sharma (Sikar): So many Members want to speak.

Mr. Deputy-Speaker: Even if there is a half-hour extension, so many people will not be able to speak.

Pandit Thakur Das Bhargava: I am bound by your order and the order of the Speaker. But at the same time, there is a rule made by this House which says that when the bills are for consideration, nobody should be debarred from expressing his views and there is no time limit.

Mr. Deputy-Speaker: I am putting it to the House. It is no order of mine. The House itself had put a limit that we would finish this by 4 O'clock. If the House wants to take more time, I would have no objection. The hon. Member may continue now for some more time.

Pandit Thakur Das Bhargava: I was submitting that the question of *de facto* guardianship is important in many other ways. We find that so far as the question of the powers of the parents are also concerned, they stand curtailed. This is a great innovation again. After all, we want that in this country, the general powers of the parents must be of the same nature. Can you find a better guardian than the father or mother? Is it contended that the parents, from whom the minor usually gets property, will not look after his interests more than the court will look after his interests? The court is not going to administer the property. The court will appoint a person, possibly a nazir, possibly some other person. Here parents are not to be trusted more than those persons! The manner in

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which the things are done is perhaps known more to you than to me. The judge may be sleeping and the nazir gets his orders.

My submission is that nothing has been placed before us, no evidence has been adduced to show that parents are not taking care of the minors and they are not behaving properly. If that were so, I would have agreed to the country's Government being the guardian of the minors even as opposed to the parents. But there is no evidence to the effect that the parents are not looking after minors. In the absence of such evidence, I should think it is wrong to suggest that parents should not be allowed to look after the property of minors.

It may be that when the property is there, the minor's property may be sold and another property bought for his advantage. But then he cannot do that. No parent should do it when this provision exists, because ultimately he may be brought to book. But the remedy suggested is not very rigorous. He can bring in a case under the Guardianship Act, but if it is proved justified by legal necessity or otherwise, nothing will happen.

My humble submission is that these powers are too drastic. With these powers being taken and the *de facto* guardian not being there, I should think such a position will arise as will make the Bill absolutely unworkable. It will not only be unworkable but it will work mischief. It will produce confusion and at the same time, the property of the minor will not be looked after. Rightly, my hon. friend wants that all property of the minor should be looked after. But I submit that the remedy that he proposes is worse than the disease, and in many cases the property of the minor will not be looked after at all.

Then there is the question of the custody of the minor, married woman, the male child and widowed girl also. In our country, it is very unfortunate that there are widows even of the age of 1 and there are a large number of

widows upto the age of 18. What would happen to them? There is an amendment of Shri Raghavachari in which he says widows also may be included along with unmarried girls. I do not know. The disparity is there, as Shri Bogawat said. We have changed the law so far as succession is concerned and now the son's widow or the son's son's widow is also an heir and she gets property from the grandfather and she is supposed to live in the grandfather's family when she gets the property. Still they want the guardianship to go to the father and mother. I do not know how this will work. Ordinarily, when the previous succession law was there I could understand it easily. The husband and the husband's father are the proper guardians. I do not know to whom her guardianship should be given. I think that in cases of this nature, it should be as some of my friends want it to be. I would rather like that if she belongs to the husband's family and the husband's father is there, and she is a proper heir to the husband's father and grandfather, the property should be properly looked after by the elder members of that family rather than by the father and mother.

Then, again, there is a provision in the Guardians and Wards Act that a minor can also be the guardian of a minor and the property of the minor. Under section 21, it is so provided. But this says that a minor shall be incompetent to act as guardian of the property of another minor. I will read clause 10 of the Bill.

"A minor shall be incompetent to act as guardian of the property of any minor."

In this country, minors have children. Lakhs of minors have got children. (Interruption). From 1923 this has been said. Now, my friend does not know that even after the Sarda Act there are lakhs of people who are married at the age of 5, 6 and 10.

An Hon. Member: When do they have children?

Pandit Thakur Das Bhargava: There are many such husbands beneath the age of 18 who have got children. Section 21 of the Guardians and Wards Act says:

"A minor is incompetent to act as guardian of any minor except his own wife and children or where he is the managing member of a Hindu undivided family, the wife and children of any other minor member of the family."

According to this, a boy of 18, if he is unfortunate to lose his parents etc., can be the guardian of the property of the other members of that family if he is the *karta* of that family. He is also the guardian of his own wife and children and their property. But, now, I do not know whether this section 21 or the new law that we are passing will have application. If clause 5(b) remains as it is, then this Bill shall hold the sway. Under these circumstances, I would ask the hon. Law Minister to say what he has to say about section 21 of the Guardians and Wards Act. How does he reconcile both? This is a thing which ought to be looked into.

I have taken more time of the House than I intended to and I must thank you for your indulgence. I may submit that there are some amendments which may improve the Bill to some extent. Still, I submit that this is an unnecessary Bill and should be withdrawn. This has got so many lacunae and it will create havoc in the country and great mischief also. Ultimately, in spite of the best of motives of the hon. Law Minister, the country will not congratulate him if he succeeds in enacting this measure.

Shri U. M. Trivedi: I would also request the hon. Minister to withdraw the Bill. I will try to be brief and will not overstep the limitations. (Interruption).

The difficulty about this Bill is this. Once you go through it, you will find that it creates conflict of laws at every point. Its application is limited to India and it does not apply to Jammu and Kashmir and yet it is said that it applies also to Hindus domiciled in the territories to which this Act extends. That is to say, Hindus born here in the States other than Jammu and Kashmir, if they go and live in Jammu and Kashmir, this will apply to them. If Hindus born in Jammu and Kashmir come here and get themselves domiciled here, to them also this will apply. Then, why is it that it is not being applied to Jammu and Kashmir? You are creating unnecessary litigation and conflict of laws when a person dies there. I cannot understand the reasoning behind all this. Once you have made it an extra-territorial law, certainly, it must include a territory which is included in India, which is defined in the Constitution as part and parcel of India. There is no reason why that area should be kept out.

Shri Sinhasan Singh (Gorakhpur Distt.—South): So long as article 390 is there.

Shri U. M. Trivedi: I am sorry that my hon. friend has not followed the argument. You yourself say that it is going to apply to persons domiciled in the territories outside the whole area and then you are going to apply it to all the Hindus who are born and bred up in India, who are citizens of India by birth and who go over there to that territory. Then, why keep this out?

A very important point has been made by my predecessor Pandit Thakur Das Bhargava. There may not be any idea of having different types of minors. The equality article will apply in all cases. Such a provision of a discriminatory nature is made only for women and children. You cannot discriminate between a Hindu woman and a Muslim woman, similarly, you cannot discriminate between

{Shri U. M. Trivedi}

a Hindu child and a Muslim child. In the case of a Hindu child you say that he is a minor as long as he does not attain the age of 18 years. But a Muslim boy under the provisions of the Guardians and Wards Act will remain a minor upto the age of 21. It would have been something had you said by one stroke of the pen that a minor means a person who has not completed the age of 21 years. Certainly, it will be in consonance with the laws obtaining in other countries. In the United Kingdom they have not got two ages of majority. A boy or girl attains majority only at the age of 21. The same provision must have been made in this as in the Guardians and Wards Act. Even then it would have created other difficulties. In one breath it has been suggested that the provisions contained herein shall be in addition to those already in the Guardians and Wards Act. You say:

"The provisions of this Act shall be in addition to, and not, save as hereinafter expressly provided, in derogation of, the Guardians and Wards Act, 1890."

The express provision is:

"any other law in force immediately before the commencement of this Act shall cease to have effect in so far as it is inconsistent with any of the provisions made in this Act."

In this Act, you have made the provision that a Hindu boy will become a major at the age of 18. This is certainly an express provision and therefore this provision of the Guardians and Wards Act, 1890, shall not apply. I am at one with the demand that has been made by my hon. friend Pandit Thakur Das Bhargava that there ought to have been a general law, a common Guardians and Wards Act. Here there is no question of religion; here it is merely a question of dealing with children below the age of eighteen. It makes no difference whatsoever that the child

is a Christian or a Muslim or a Hindu or a Jew. Therefore, if a common law had been made it would have been an achievement for us. But this Government has always fought shy of making any law for Muslims. Christians and Jews are not to be counted. They do not count for anything. You make any law and they will swallow it. But to offend against the law of Muslims is beyond the power of this Government. They get funky when it comes to a question of touching the Mohammadan law. Therefore, they have made this discrimination between an ordinary Muslim boy and a Hindu boy. Why this difference is called for, it passes my comprehension.

2 P.M.

Now this provision made in clause 8 is a slur on the national character of every Indian and I should say it hits every Hindu with any self-respect. Does it lie in the mouth of anybody to say that a judge sitting in court will look after the interests of children more than their parents themselves? That the father and mother are not capable of looking after the interests of their children, and it would be a judge who would be able to look after their interests better, is beyond my comprehension. What is the necessity of making this provision. Whosoever wants an order from the court will go before the court and make an application. And who is there to contest? Which other party will go to contest the application? The application will certainly be granted. Why should you make such a provision and create litigation where no litigation ought to arise at all. You know how lawyers will take advantage of the situation. From where will the money necessary for the litigation come? That money will be a charge on the property of the minor. Why this money is to be spent on behalf of this minor, I do not know. I do not know why the natural guardians are not to be trusted in this respect. It is therefore high time that we relied more on our

own national character that we are also capable of doing things prudently. In one breath you say that he shall not do certain things; in another breath you say that it is voidable at the instance of the minor. You create an illegality to begin with and then you make a provision to wipe it out. Whosoever reads this will be prepared to act more according to his own wish, as he knows that nobody is going to make an application. But this measure is bound to lead to litigation.

If you read all these measures you find a subconscious mind working. As you, Mr. Deputy Speaker, observed that this is in consonance with the law that has been previously made, the Hindu Succession Bill, which has created the greatest mischief in this country. According to the provisions of that law the daughter will go out, go into the hands of another man and then he will make the application upsetting what the natural guardian has done. It is this thing that is the root cause of this provision. That means you are trying to bring about factions in the Hindu community by the back-door. I say that this law ought not to have been made. I still implore you to reconsider the matter. You in your personal capacity are wise. I would request you to apply your mind to this subject and rectify a mistake which has been committed and withdraw this measure altogether.

Mr. Deputy-Speaker: The hon. Member must now conclude.

Shri U. M. Trivedi: I would ask for some more time.

Mr. Deputy-Speaker: My concern is that we may not be able to dispose of this Bill in time.

Shri U. M. Trivedi: I would request you to extend the time by half-an-hour.

Mr. Deputy-Speaker: It is not in my power. The decision has already been taken by the House with the Speaker in the Chair.

Shri U. M. Trivedi: Then I shall be brief and conclude shortly. Now sub-clause (4) of clause 8 says that a court shall not grant permission to a guardian to do a thing mentioned in sub-section (2) except in case of necessity or for an evident advantage to the minor. Can this 'evident advantage' not be decided by anybody who is a sort of a trustee? Anybody who becomes a trustee is governed by the ordinary principles of the laws of a trustee. Even a bailee of a certain property will protect its property as a prudent man will.

Supposing for some reason there are some shares standing in the name of a child; there are some ornaments standing in the name of the child and the father finds that the value of gold or silver is going down. Should he rush to the court from his village and get the order of the court? It cannot be granted in a day, which any practising lawyer knows. Should he wait for ten or fifteen days by which time the value of gold or silver would have fallen so low that it would not be worthwhile selling it.

Shri Pataskar: We are told that the villagers have not got so much gold.

Shri U. M. Trivedi: We know that the villagers do not go to court.....

Shri Pataskar: I said they have not so much gold.

Mr. Deputy-Speaker: Order, order, there should not be cross argument by Members.

Shri U. M. Trivedi: I am not arguing with the Minister; I am only replying to the points that he raised.

Mr. Deputy-Speaker: It would have been better if he had addressed the Chair.

Shri U. M. Trivedi: But the villagers now have more gold than we possess. Therefore this difficulty is bound to arise. Whatever it may be, you are creating difficulties for the Hindu society where none existed and the whole thing could have been allowed to rest where it was under the Guardians and Wards Act of 1890.

[Shri U. M. Trivedi]

At any rate this Bill is not going to serve the purpose you have in view, and it ought to be withdrawn. As was very aptly pointed out by my hon. friend Shri N. C. Chatterjee the very fact that it contains 13 clauses shows its ominous character; better make it 14 or 15 and what is more important agree to certain of our amendments which will do away with certain vicious things that are there.

Mr. Deputy-Speaker: I find that there are some Members who are anxious to speak.

Shri Pataskar: I have no objection. I understand the idea is to conclude this by 2.30 and I would require at least 15 or 20 munites, if I am to answer the points raised by hon. Members.

Mr. Deputy-Speaker: The hon. Minister will no doubt get 15 or 20 minutes. My difficulty is that there are some Members who are very keen to speak. But we have in any case to keep within the limits that we have put on ourselves. The overall limit must be maintained, but within that the time can be adjusted.

Shrimati Jayashri (Bombay Suburban): I welcome this Bill. It is a progressive measure like the previous two Bills, the Marriage Bill and the Succession Bill, and aims at removing the disabilities under which Hindu women are suffering.

I am surprised to hear Shri Trivedi asking for a common law. I would have welcomed that. Most of the women's associations had asked for a common law for all India, but as we had the Hindu Succession Bill and the Marriage Bill, the two other remaining parts will naturally follow. If we had accepted the Indian Succession Act, then I would have said that there was no necessity of a separate Bill and the Guardians and Wards Act would have sufficed. Both of these hon. Members are supporters of joint family system. This Bill will

be treated in a way so that the property of the minor, who is governed by the joint family system, will also have to be taken into consideration. I think that this Bill supports the idea of *de facto* and natural guardians; it limits the guardians to parents and does not go very further. Still it does not deprive the natural guardians, the parents, from appointing other guardians if they think they are necessary. It does not do away with the idea of having *de facto* guardians. Only these guardians are limited, and I am glad to say that in this Bill, better status is given to women, the mother. We are all aware that all these years, women were suffering from disabilities and they were considered as mere chattel. They were not entitled to look after their own children. Social habits are similiar in various countries, and the modern view throughout the various countries is that it is impossible in the case of a young child to find any adequate substitute for the love and care of the natural mother. The mother's position is considered much more important in modern times than it was in the former days. I am glad that the previous speakers have also stressed this point.

The other important thing is that this Bill considers not only the right of the parents but the welfare of the child. I am glad that more stress is laid on the welfare of the child. There may be a clash between the father and the mother, but the court will be careful to see whether the child's welfare should rest in the hands of the father or the mother. We are glad that this Bill envisages that the court will be given power when such a clash arises. In natural conditions such things may not arise, but we are aware that perhaps in the case of separation or divorce, such a situation may arise. The court has to interfere then in order to say to whom the custody of the child should be given. I am glad that the right of the mother is given importance in the Bill.

As I have only a very short time at my disposal, I am unable to cite some of the cases in our courts in which the court given custody of the child to the mother. Sometimes the custody of a girl upto the age of 14—the right age when both boys and girls reach their age of puberty--should be given to the mother. In case the father is not fit, the custody should be given to the mother. I would like to suggest that this particular clause should be changed so that the word "unfit" also should find a place there. There are many occasions when the father might have been imprisoned for theft, might have committed some crime, or might have been a lunatic, and in such circumstances the custody of the child should not remain with the father. I have therefore given notice of an amendment so that the clause will read "the father, and after him, the mother in case the father though living is unfit or unwilling to act or incapable of acting, the mother". I have also given notice of another amendment for the addition of these words in clause 6:

"and after the death of the father the custody of a minor who has not completed the age of 14 years shall normally be with the mother".

Those two amendments are very necessary in case the father is not fit. I agree that so long as we have to see to the education, health and maintenance of the child, naturally the custody would remain with the father, but in certain circumstances, when the father is unfit, I recommend that the custody should remain with the mother in spite of the fact that another guardian might have been appointed by him.

With these words I commend my two amendments for acceptance. I hope the House will agree that this measure is not at all controversial. It is a very necessary measure, and as all Members have said, I hope that in future we might bring forward a comprehensive Bill for all communities,

because this guardianship Bill is also necessary for other communities, for instance, in respect of the Muslim community, in their law they have also not given a proper place to women. If our laws will include all the communities, I should be very happy. If we can have a Bill modelled on the Indian Succession Act which would apply to all communities, it would be very desirable to have this Guardianship Bill and also the Adoption Bill, because that is also a very important chapter in the Hindu Code Bill. Both these can be taken up in a common law. Till that time, after the passing of this Bill, the Law Minister may kindly see that the Adoption Bill is also brought forward, because that is also a very important part of the Hindu Code Bill. I support the present measure.

श्री नन्द लाल शर्मा :

नमोऽस्तु रामाय सत्त्वमणाय

देव्यं च तस्य जनकात्मजाय ।

नमोऽस्तु रुद्रेन्द्रयमानिलेम्यो

नमोऽस्तु चन्द्राकं महद्गणेभ्यः ॥

माननीय उपाध्यक्ष महोदय, यह हिन्दू कोड बिल को जीसरी किस्त इस रूप में प्रति भयंकर है क्योंकि इसके द्वारा अल्पवयस्क हिन्दू बातकों प्रौढ़ बलिकाओं के ऊपर एक भयंकर आधात प्रौढ़ दुष्प्रभाव पड़ने वाला है। बातकों के हित की हत्या करने का श्रेय हमारे पाटकर जी को अवश्य मिलेगा। जिस समय माता पिता दोनों को मृत्यु हो जाये और आज तक जहां बड़े भाइ यथवा काका, माया और दूसरे सम्बन्धी जो कि उनको अपने बातकों की तरह पासते रहे हैं और मैं समझता हूँ कि कितने ही अविष्ट यहां होंगे जिनको कि इस दाठ का अनुवर्त द्वारा, उनको इस सूची में से हटा कर उनके अधिकारों और उनके कर्तव्यों से रोके रखना मैं समझता हूँ कि उनके लिए उतना हानिकर नहीं है

[श्री नन्द लाल शर्मा]

जितना कि बातकों के लिये हानिकर है। प्रश्न यह उठेगा कि वह कोट में क्यों न जायें। माता की मृत्यु हुई, पिता की मृत्यु हुई अथवा दोनों की मृत्यु हुई, सम्पत्ति में भेद हुआ और सम्पत्ति भेद होने के बाद भाइयों की सम्पत्ति और बहनों की सम्पत्ति भाग प्राप्त में बंट गई, ऐसी परिस्थिति में कोई एक रुटा की नी (परिवार) का नहीं रहा और पिसका कि कोई कर्ता नहीं होगा तो कोई भी व्यक्ति अपनी यह जिम्मेदारी नहीं समझ सकता है कि मैं दूसरे की सम्पत्ति को किस तरह से तंचातित करूँ। स्वयं भाषके इस विल के द्वारा भी उस माइत्र (यत्पवयस्क) की सम्पत्ति में डील बताने का निषेच किया गया है और मैं समझता हूँ कि ऐसी परिस्थिति में कोई व्यक्ति अथवा बड़ा भाई भी जा कर के कोट तक पहुँचे और कहे कि मुझे उसका डिफँक्टो अथवा कोट गार्जियन डिक्लेयर कर दिया जाये, ऐसा परिस्थिति कोई नहीं करेगा और फल पह होता कि यत्पवयस्क बातक और बालिकाओं का जोवन, उनका व्यक्तित्व और उनकी सम्पत्ति दोनों पर भयंकर भाघात पहुँचेगा। श्री पाटस्कर के सामने शास्त्र की बात का उनके सामने कोई मूल्य नहीं रह गया है और वे ऐसा समझते हैं कि मनु, याज्ञवल्क्य इत्यादि अपने प्रपने समय में भले ही ठीक रहे होंगे लेकिन आज के जयाने में उनको आवश्यकता नहीं है। लेकिन मैं उनको बताना चाहता हूँ कि यहों तक उनको आवश्यकता हमारे पूर्व विदेशी शासकों ने अनुब्रव की जिन्हों कि हमारे कांडेसी बन्धु यदवाच अंग्रेज कहा करते थे और जो हिन्दू धर्म पर आकात किया करते थे, वे अंग्रेज सोण मी शिवी छौसिंह के जव्हरेंट्स (निर्णय) में मनु, याज्ञवल्क्य और मिदासर कानून को भाषार मान

कर उसके अनुदार उपरने जव्हरेंट दिया करते थे। मैं कहता हूँ कि पाटस्कर चाहब जो धर्मशास्त्रों की आवश्यकता नहीं समझते उनको कम से कम न्यायपूर्वक यह चीज़ भी देखनी चाहिये कि यह जो धारा धर्मशास्त्र बदलते हैं तो उसके द्वारा पाप पुण्य जो होने चाहता है वह भी क्या बदलने का धारपक्ष अधिकार है? कोई व्यक्ति मरेगा तो उसके मरने के बाद उसको स्वर्ग और नरक में भेजने का भी अधिकार क्या हमारे पाटस्कर जो को है? जब तक उनको यह अधिकार नहीं है तब तक मैं समझता हूँ कि उनको धर्म शास्त्रों को भी बदलने का कोई अधिकार नहीं है। हिन्दू धर्म के अनुसार हमारे यहां तो यह सिद्धान्त प्रतिशादित किया गया है :

“पिता पितामहो भ्राता

माता मातामहस्त्वता”

अर्थात् पिता के अभाव में पितामह और पितामह के अभाव में ज्येष्ठ भ्राता को रखा गया है। अगर बड़ा भाई विद्यमान हो तो उसको चाहिये कि छोटे भाइयों और बहनों का पुत्रों की तरह पातत करे और छोटे भाइयों और बहनों का कर्तव्य है कि उसको पिता के समान मानें और अगर वह ऐसा नहीं करते हैं तो दोनों के दोनों पाप के भागी बनते हैं और फिर अगर अनुभूती कन्या घर में बैठी है और रजस्वला होने पर उसके विवाह का कोई प्रयत्न नहीं किया गया तो हमारे धर्मशास्त्र यह कहते हैं :

“माता चैव पिता चैव ज्येष्ठो भ्राता तप्यवच ।

तप्यस्ते नरकं यान्ति दृष्ट्वा कन्या रजस्वलाय् ॥

अर्थात् कन्या को रजस्वला देखने के बाद पिता, माता और ज्येष्ठ भ्राता यह तीनों कर्त्ता में जारेंगे। मैं पूछता चाहता हूँ कि इसके स्थान पर पाटस्कर साहब कोन विद्यान दें? मैं समझता हूँ कि यह अधिकार स्वर्व और नकं देने का न तो पार्निवामेंट के ५००

वा ७०० सदस्यों की है और न ही हमारे सारे मिनिस्टर को है। ऐसी परिस्थिति में जब उनके ऊपर से आप हिंदूस्टो गार्जियनशिप (यथायं संसाक्ता) का जो नाम भाज तक विद्यमान था उस नाम को भी आप हटा लेते हैं तो मेरी समझ में नहीं आता कि उन बातों की अवधा उन ग्रन्त्यवयस्क बातिकाओं की रखा कौन करेगा। मैं समझता हूं कि ऐसी परिस्थिति में हमको एक शब्द "दले श्री राधवान्नारी द्वारा कहा जा चुका है कि धर्म परिवर्तन की परिस्थिति में क्या करें। धर्म परिवर्तन की परिस्थिति में पिता को अधिकार नहीं है कि यह अपने बातों के सम्बन्ध में किसी प्रकार की गार्जियनशिप करे लेकिन माता को बैसा ही अधिकार इसमें दे दिया गया है और इस पर हमारो कम्प्युनिस्ट सदस्या बड़ी प्रसन्न हुई कि चलो कहीं न कहीं हिन्दू जाति को लात तो लगो परन्तु मैं बड़ी निपत्रता से निवेदन करता हूं कि आप बिल्कुल किसी प्रकार का हिन्दू कानून का नाम न रख करे एक जनरल कानून बनारें तो मुझे उसमें कोई अपराजित नहीं हूं परन्तु प्रश्न यह है कि हिन्दू के नाम से आप हिंदू कानून बनायें और फिर हिन्दू धर्मशास्त्र को अवधा हिन्दू समाज को खुल्लमखुल्ला लात मारने की चेष्टा करे तो यह कुचेष्टा होगा और यह हिन्दू जाति के साथ ग्रन्त्याय रखना होगा और इसलिये इस में "ही" और "शी" का देना आवश्यक होगा।

इसी के साथ माय इस विधेयक के क्लाइन ८ के ग्रन्दर जहां स्मरण करताया है कि किसी प्रकार का शापर्टी के ग्रन्दर मोर्टोज (बन्धक), लीख (कृप्ति) और छिस्टोवल (बेचना) इत्यादि नहीं हो सकेगा तो उसके सम्बन्ध में मेरा यह कहना है कि आज हमारे जीवन में वह देखा जाता है कि पिता कभी कभी कोई सम्पत्ति अपने पुत्र के नाम पर लारीद देता है और उसके स्नेहपूर्वक उसके पुत्र के नाम से कर देता है और भावशक्ता पड़ने

पर उसको अपनी फैमिली के सिवे प्रयोग भी कर सकता है परन्तु भाज के बाद उसके लिये यह परिस्थिति लड़ी हो जायेगी कि यदि उसने स्वयं अपनी सम्पत्ति लारीदी हो अथवा पुत्र के नाम से लारीदी हो तो उस सम्पत्ति को बिना कोटं की आज्ञा और कोटं की आज्ञा से भी नहीं ले सकेगा। ऐसी परिस्थिति में मैं चाहता हूं कि श्री पाटस्कर मेरे इस संगोष्ठी को "Provided that the above restriction shall not apply to the self-acquired property of the natural guardian transferred to or named after the minor." जो मैं ने प्रतावित किया है उसको स्वीकार करने की कृपा करे अलवता उस संगोष्ठी की शब्दावलि में जैसा चाहें बैसा परिवर्तन कर सकते हैं। मैं चाहता हूं कि पिता माता के स्नेहपूर्वक अपनी संतान के लिये कुछ कार्य करने पर उनके पार्न में आगे के लिये ऐसी रकावट न आ जायें कि वे स्नेहपूर्वक कुछ कार्य न कर सकें।

एक जो युनिफार्मिटी (समानता) का प्रश्न था उसके लिये भी कहा जा चुका है कि जम्मू और काश्मीर पर इसको एप्लाई (लागू) नहीं करेंगे। हिन्दू ला मैं समझता हूं कि युनिफिकेशन के लिये हो रहा है और मैं समझता हूं कि ऐसे हिन्दू जो हिन्दुस्तान से बाहर रहते हैं और भारतवर्ष के ग्रन्दर जो हिन्दू रह रहे हैं, जम्मू और काश्मीर में बसने वाले हिन्दुओं को इस कानून की परिधि से बाहर रखना यह कोई युनिफार्मिटी लाना नहीं हुआ। आपकी किसी एनायली (असंगतता) की वजह से और मैं समझता हूं कि इसके लिये कांप्रेस पार्टी दोषी है कि काश्मीर पर भाज भारत के कानून लाना नहीं हो रहे हैं और यह इस प्रकार का नया जगह सड़ा न करते तो जैसे बाकी स्टेट्स के रूससे ने वहां के राजा, महाराजाओं

[बी कन्द लाल शर्मा]

ने मंजर पर हस्ताक्षर कर दिये थे और उसी तरह महाराजा हरिसिंह ने भी इंडियन यूनियन के साथ मंजर (विलय) पर हस्ताक्षर कर दिये हैं और उसके पश्चात् कोई कारण नहीं रह जाता कि कांगड़ीर को क्यों इस तरह से अलग रखा जा रहा है । हर कानून बनाते बक्त उसमें यह लफज़ जोड़ देते हैं “except the State of Jammu and Kashmir” अगर आप यह शब्द न जोड़ कर यही तिला रहने दें कि “extends to the whole of India”, तो उसमें कोई फक्त पड़ने वाला नहीं है । अगर कोई बाधा वैधानिक या किसी किस्म की बाद में उस कानून को वहां पर लागू करने के रास्ते में पड़े तो आप उसको वहां पर न एस्टेंड करें । कांगड़ीर के सम्बन्ध में इस तरह का मेंदमाव बताए करके आप वहां के हिन्दुओं को हिन्दू ला से बंचित करना चाहते हैं और मैं समझता हूं कि यह हिन्दुओं के साथ अन्याय है और जहां तक हिन्दुओं के पसंनत ला की है वहां भारत के समस्त हिन्दुओं को एक युनिफार्म ला के ढारा गवर्न करने की आपको प्रतिज्ञा भी भयं होती है ।

इसी प्रकार से बलाज ३ के पाटं बी० खण्ड ३ के भाग ख ढारा हम यह पाते हैं कि बुद्धिस्त, जैन और सिक्ख को इस कानून से अलग रखा गया है जो कि बिल्कुल अनुचित कायं है, ऐसा करके आप उनको अबदंस्ती हिन्दुओं से अलग करना चाहते हैं । जैन आज तक अपने आपको हिन्दू कहते रहे हैं लेकिन आप उनको धीरे धीरे हिन्दुओं से अलग करना चाहते हैं । हम लोग निरन्तर परिष्म करते हैं और मास्टर ताराचिह्न भी कई बार कहते रहे कि हम लोग हिन्दुओं से अलग नहीं हैं फिर भी आप एक पोलिटिकल जनड़ा खड़ा करके हिन्दुओं और सिक्खों में मेंदमाव पैदा कर रहे हैं । इन्हीं

प्रकार से बुद्धिज्ञ का भी प्रश्न आता है । मैं समझता हूं कि पुनर्जन्म को स्वीकार करने वाले, भ्रोकार को मानने वाले और ग़ज़ पर शढ़ा रखने वाले, जितने भी लोग हैं, वे सब हिन्दू जाति के पन्तर्गत आते हैं और हिन्दू संस्कृति के भन्दर आते हैं और उनको हिन्दुओं से अलग नहीं रखना चाहिये, यहीं मेरा निवेदन है । उनको अलग रूप से नहीं रखना चाहिये, यह मेरा एक और निवेदन है । इसके लिये मेरा यह निवेदन है कि जिस तरह बार बार पंडित ठाकुर दास भागव और श्री त्रिवेदी कहते हैं, मैं भी उनके साथ अनुहंकरण करता हूं, आपने मंजर के द्वारा अयवा उत्तराधिकार के द्वारा जो लात मारो वह तो हिन्दू वयस्क पर थी, वह तो बेचारे किसी प्रकार से सह लेंगे, और हो सकता है कि आपको बात मानें या न मानें, उनकी बात और है । लेकिन बच्चा तो अपने लिये कुछ कर नहीं सकता है । इस से उसके ऊपर आधात पहुंचेगा । जब तक वह २१ वर्ष का होगा तब तक संसार बदल जायेगा, न जाने आप कहां होंगे, हम कहां होंगे । इसलिये उचित यह है कि हिन्दू बालकों और नालिकाओं के लिये आप कृपा करके कोई और अच्छा सा बिल लावें । इस विषेषक को आप लौटा लें क्योंकि इस में बहुत से दोष हैं । संभवतः, जैसा अभी कहा गया, यदि माता पिता न रहे, तथा ऐसा कोई गांधियन न बन सका, ऐसी परिस्थिति में यद्यपि कोई बच्चों को उठा भी ले जाय तो किउन्हें पिंग (अपहरण) की बात कहने वाला कोई नहीं होगा कि किसकी कस्टडी से ले गया । कोई गांधियन ही नहीं है तो फिर कस्टडी कौसी ? ऐसी परिस्थिति में उसको रक्षा करने वाला भी कोई नहीं रहेगा । कोटं भी स्वयं बिना किसी के आवेदनपत्र के कोई कायं नहीं करेगा । ऐसी परिस्थिति में आप उन बालकों के साथ अन्याय कर रहे हैं और उनका अहित

कर रहे हैं : हृषा करके अगर सचमुच आपके प्रन्दर कोई भावना उनके लिये रह यह है और हिन्दू जाति को अंकुर मात्र से ही नहीं उत्थाना है, तो बच्चों के लिये कोई अन्द्रा बिल लावे और इस विषेयक को लोटा लें ।

Mr. Deputy-Speaker: I now propose to call the hon. Minister, but I assure all those hon. Members who have been disappointed that I will give them time during the second reading.

Shri Pataskar: Mr. Deputy-Speaker, to some extent I might say that it has really pained me to hear some of the remarks which have been levelled by some hon. Members against a measure which, I still maintain, is innocent in character and cannot on any stretch of rational thinking be regarded as striking on anything which can be said to be the essence of Hindu religion. It is very easy to make vague charges. Because the Bill relates to minors it can be said: "Oh! why are you hurting the minors? Why are you killing them?" But I fail to find a single argument as to how the unfortunate minors amongst the Hindus are going to be hard hit by any of the provisions contained in this Bill. Well, I shall leave it at that.

I now come to the other argument which my esteemed friend Pandit Thakur Das Bhargava advanced. I would make it clear to him that I am also one of those who want to see that, ultimately, whatever has been laid down in the Constitution as directive principles of our State policy—that there shall be uniform legislation—should not be allowed, at any rate, to be retarded by whatever we do in this piece of legislation.

What is the present position? There is the Guardians and Wards Act passed in the year 1899. It applies¹⁸⁹⁰ to all Hindus, Muslims, Christians and everybody. It has been made perfectly clear in clause 2 of this Bill "that the provisions of this Act shall be in addition to, and not, save as hereinafter expressly provid-

ed, in derogation of, the Guardians and Wards Act, 1899". There is one thing which I am prepared to examine. If there is anything which is inconsistent with the very fundamental object with which this Bill has been brought forward as a result of anything which might be put as interpretation on sub-clause (b) of clause 5, I am prepared to consider the position when we come to that clause, because I make it perfectly clear that it is far from my mind that I should be a party to doing anything which will be a retrograde step from that point of view. I still think that probably it may not be open to that interpretation. However, I am prepared to consider it when we come to the discussion on that clause.

Why then, I am asked, is it necessary to bring a Bill like this with respect to Hindus? My argument is that it is necessary because of what has now come to be regarded as part of the Hindu law in respect of the provisions of the Guardians and Wards Act. Unlike in respect of other communities, natural guardians have come to be recognised by a long process of decisions of courts for the last so many years. I am further charged that instead of trying to have a sort of an evolution or improvement upon the existing thing I am trying to do something which will destroy the Hindu society and that I am actuated by that desire. Well, Sir, so far as my knowledge goes, even under the Hindu law as it is administered now the natural guardians are only the parents. Here it is said: "The father is the natural guardian of the separate property of minor children and next to him the mother. Unless the father has by will appointed any other person as guardian no relation except parents is entitled the right to the guardianship of minors". That is the law as it stands now.

What I am trying to do by this Bill is to give a recognition. We have not as yet been able to evolve a common law applicable to the whole of the country and we are going by

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a certain process. It is more to preserve, and not to destroy, immediately what is being done. It is from that point of view that I have tried in this Bill to recognise the natural guardians to the extent possible, because at the present moment I have not brought forward a Bill which will be applicable to all people. Even in the case of succession and measures relating to other things we have not been able to do it. After all it is a move in the right direction and we are doing that. The object is that, when the time comes, instead of having a Hindu Code we will have a Civil Code. At the present moment it is out of regard for what has come to be recognised among the Hindus that a special measure, not applicable to any other community, has been brought forward and I have recognised in this Bill the natural guardians as they are recognised today. Still it is said that this is no mercy for the Hindus or their children. That is the cry made.

Having recognised that, what is the other thing that I have done? There is another clause to which I will refer and then I will sum up. Why is there the question of de facto guardians? They are never recognised. Father and mother have come to be recognised as natural guardians and there is no dispute on that. These de facto guardians are peculiar only to the Hindus, again by that process of law which has come to be administered. There are rulings and all my lawyer friends know it. There are no such de facto guardians amongst Muslims, Christians and others. Why is that so? There was a ruling in 1856 in that famous case Hanuman Prasad versus the manager of the estate of a joint family. There some words were used very loosely and as a result of that a certain peculiar position has come to be recognised in respect of this. I will just quote something as to what this de facto guardian is. I will only quote a short passage from the report of the Federal Court about the scope and decision in Hanuman Prasad's case. It is a famous case held, I think

in 1857. Since, then there has been a fair interpretation in India about judgment law. This de facto aspect has nothing to do with any of the slogans which my learned friend can find in the old and ancient books of Sanskrit. Manu was never aware of it. He did not know Hanuman Prasad nor his case. This is what the judgment says:

"I would like to make a few observations about the phrase 'de facto' guardian. In my opinion, it is a loose phraseology for the expression 'de facto manager' employed in Hanuman Prasad's case".

It was a case—relating to the appointment of a de facto manager who was not appointed by law.

"Their Lordships, in different parts of the judgment, used the words 'guardian, de-jure and de-facto manager'. This phrase is certainly not known to any text of Hindu law, but it aptly described the relations and friends who are interested in a minor and who for love and affection to him, assumed supervision over his estate".

I shall not read from it further.

This was followed by a long stream of decisions of law. So, if I may say so, what is or who is a de facto guardian is a hazy thing. It all depended upon the facts of each case. There have been cases in which it has been held that unless the person has been actually doing the necessary duties, he is not a guardian in the de facto sense. There have been cases in which it has been decided that he is a de facto guardian. Who is a de facto guardian? Therefore, what has been done here is that the de facto guardian should not deal with minor's property. Supposing there is a minor, unfortunately he loses his parents, and somebody should take care of that minor. I am not a demon incarnate to say that these minors should not

be protected. How am I interested in *bal hatya*? After all they are just poor, innocent children of whom somebody should take care. Why should I indulge in *hatya*? I want to avoid using bad language and urging any argument in bad language. But I would say this much. What is there to show this argument against this measure? It is want of grasp of the real situation. I do not say that in the case of the absence of the father and the mother, nobody should take care of that unfortunate child. Where is that provision in the Act? What I say is, there may be *de facto* guardian; somebody has to take care of the child. What I further say is, where is the guarantee that such a *de facto* guardian shall not alienate the property of the guardian? If there are good people coming forward to take care of the minors, I can understand. But what is the objection to the provisions that are made? The wording in regard to certain things may be changed later. But what I say is, in the name of taking over the interests or protecting the interests of the minor who is unable to look after himself, I do not wish that anybody should come forward and offer help. He would after all see that the property is sold away. So, I do not want that such a man should be appointed as guardian. Of course, I shall go into the details later on. There must be some restriction on the powers of those who constitute themselves as guardians. If one goes to the court under the guardians and Wards Act, somebody gets appointed as guardian. I have no objection to that, but I do not want that everybody should go to the court, because there are uncles, aunts and other good relations who could take care of the minors. I do not believe that Hindus have gone so bad that there will be no good people. There will be very few people, Hindus, who will contend and fight for the right to alienate the property of the minors over whom they want to be guardians. I regard such people as bad guardians. There must be protection given to the minors against such people. That is

what is being done by this Bill. Nothing more. Nobody is going to prevent people from being *de facto* guardians.

Pandit Thakur Das Bbargava: Is there any proection left now?

Sbrl Pataskar: I am not going to yield. I have heard all the hon. Members patiently and I think I am entitled to be heard with equal patience. I would request the Members to hear me.

So, what is this natural guardian? I say I have recognised them as a special case, because they are being recognised by some people. I am not entering into the details about it. What really pained me was the discussion about the nature of this guardian. In the first place, we do not want to do anything which will conflict with the salutary provisions of the Guardians and Wards Act.

The most important clause is clause 13 wherein it is laid down that the welfare of the minor will be the paramount consideration. Probably, No. 13 is considered to be a bad number, but I am not a numerologist and I have no particular liking for one number or the other. Clause 13 reads as follows:

"(1) In the appointment or declaration of any person as guardian of a Hindu minor by a Court, the welfare of the minor shall be the paramount consideration.

(2) No person shall be entitled to the guardianship by virtue of the provisions of this Act or of any law relating to guardianship in marriage among Hindus, if the Court is of opinion that his or her guardianship will not be for the welfare of the minor".

Therefore, let us consider the provisions of this Bill coolly. What is there in this Bill which has really created such an amount of vehement opposition, I do not understand. I would say that so far as this Bill is concerned, far from a desire to withdraw the Bill, it is a very useful piece

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of legislation. I would request the hon. Members of this House, irrespective of party and irrespective of their pre-conceived ideas, to support this measure.

As I said at the beginning, probably, matters like succession, etc., have been different, but what is there in this Bill that is objectionable? We are trying to do something consistent with the law as it stands, in order that the minors' interests should be protected. It has been asked: "Why do you put restrictions on the powers of the natural guardian?" It is very easy to understand. For instance, take a husband and wife who have a son. Here, there is no question of a conflict arising. But many of the cases are those where the wife dies and the husband is left with children and he marries again. Then, he naturally becomes the guardian of the unfortunate children who have been left without the mother. In that case, the man has got another wife and some other children too. I would like my lawyer friends to consider this. In numerous cases I find that the father and the mother have to take care of the whole family. They have got their children and also other interests. It is in the interest of the minor in the property that is sacrificed in all these cases. That is the thing which I want to guard against by the provision contained in this Bill. It is not anybody's desire that there should be any hitch put in the way of bringing up these children by the father. What is it that we can do to guard the minors in such cases? The general rule is that there should be a third party who can screen it, *prima facie*. That is the provision in general. If there is a natural guardian and if he wants to dispose of the property of the minor and alienate it, should it not be guarded against? I am told that the words "deal with" are not necessary. It may be that there is difficulty in phraseology also. We can consider them at the proper stage.

Now, I have heard some Members suggesting that the properties may be

leased out, for a hundred years but then, the properties may not be sold out or be mortgaged. There also, we do not want such things to happen. The whole idea is that the property which belongs to the minor, who is incapable of taking interest in his property. We want to see that till the children attain majority, their property should be cared for and that the property should enure to them. It is for this that we have made provisions in this Bill.

Now, the same argument that has been made in regard to some other Bills has been repeated in this case also and that is about the inclusion of Jammu and Kashmir. I may inform the House that it is on account of technical difficulties which have been explained so many times that we cannot pass a law for that State. There are so many complications into which I need not enter. But I am glad to inform the House that the Hindu Marriage Bill which we have passed is now applied to the Government of Jammu and Kashmir. They have since adopted that measure. That process of adoption is going on. Probably they will adopt our Hindu Succession Act also. We have to make proper approaches and we should not confuse the approaches with the other kinds of approach that lurk in our minds. I believe that there will be no objections to the provisions contained in the Bill in the light of my explanations. The Bill is satisfactory so far as I can see and if we really pass it into law, I am sure it will be accepted by the country. Some objections have been raised to some of the provisions; I will deal with them when we come to the discussion of the clauses. All that I wish to say now is that this Bill which has been passed by the Rajya Sabha will have to be passed by us in the interests of the minors.

Mr. Deputy-Speaker: The question is:

"That the Bill to amend and codify certain parts of the law

relating to minority and guardianship among Hindus, as passed by Rajya Sabha, be taken into consideration."

The motion was adopted.

Clause 2 was added to the Bill.

Clause 3—(Application of Act)

Shri Nand Lal Sharma: I beg to move:

(i) Page 1, line 14—

for "or Arya Samaj" substitute: "Arya Samaj, Jaina, Sikh or Buddhist".

(ii) Page 1—

omit lines 15 and 16.

(iii) Page 2—

omit lines 11 to 15.

As far as amendment No. 23 is concerned, I want that Jainas, Sikhs and Buddhists should not be separated from Hindus. Hindu religion in all its forms includes all of them. Jainas, Sikhs and Buddhists have formed part and parcel of the Hindu culture and they should be considered as such. Therefore, I have said that the words "Jaina, Sikh or Buddhist" should be added after the words "Arya Samaj". The next one, amendment No. 24, is a consequential amendment.

My amendment No. 25 seeks to delete the following sub-clause:

"(2) Notwithstanding anything contained in sub-section (1), nothing contained in this Act shall apply to the members of any Scheduled Tribe within the meaning of clause (25) of article 366 of the Constitution, unless the Central Government, by notification in the Official Gazette, otherwise directs."

I want these lines to be deleted, because, as has already been stated, those persons who have been governed by the Hindu Law till now or who have not been governed by any other law like the law of the Muslims, Christians, Parsis or Jews, should be construed as Hindus. The Scheduled Tribes have so far formed part and

parcel of the Hindu culture and they should be considered as such.

Mr. Deputy-Speaker: Amendments moved:

(i) Page 1, line 14,—
for "or Arya Samaj" substitute:

"Arya Samaj, Jaina, Sikh or Buddhist."

(ii) Page 1.—

omit lines 15 and 16.

(iii) Page 2,—

omit lines 11 to 15.

Shri K. L. More (Kolhapur cum Satara—Reserved—sch. Castes.): I beg to move:

Page 1, lines 21 and 22—

for "which provision is made" substitute "dealt with".

This amendment will bring the language of the sub-clause in accord with the language of the corresponding sub-clauses in the Hindu Marriage Act and the Hindu Succession Act.

Mr. Deputy-Speaker: Amendment moved:

Page 1, lines 21 and 22—

for "which provision is made" substitute "dealt with".

Shri Pataskar: I accept amendment No. 10 moved by Mr. K. L. More, because it brings the definition into uniformity with the definitions already contained in the two Acts—the Hindu Marriage Act and the Hindu Succession Act.

As regards Mr. Nand Lal Sharma's amendments, I only want to say that the definition contained in the Bill has already been accepted. The clause relates to the application of the Act, and the definition has been the subject-matter of long discussions. Let us stick to the definition which has been arrived at after a good deal of consideration. I am not, therefore, accepting amendments Nos. 23, 24 and 25.

Mr. Deputy-Speaker: The question is:

Page 1, line 21 and 22—

for "for which provision is made" substitute "dealt with".

The motion was adopted.

Mr. Deputy-Speaker: The question is:

Page 1, line 14—

for "or Arya Samaj" substitute:

"Arya Samaj, Jaina, Sikh or Buddhist".

The motion was negative.

Mr. Deputy-Speaker: The question is:

Page 1—

omit lines 15 and 16.

The motion was adopted.

Mr. Deputy-Speaker: The question is:

Page 2—

omit lines 11 to 15.

The motion was negative.

Mr. Deputy-Speaker: The question is:

"That clause 3, as amended, stand part of the Bill".

The motion was adopted.

Clause 3, as amended, was added to the Bill.

Clause 4—(Definitions)

Shri K. L. More: I beg to move:

Page 2—

(i) line 26, omit "or";

(ii) line 28, omit "or"; and

(iii) line 29, for "or" substitute "and".

If this amendment is accepted, it will make the clause a little more elegant.

Shri Nand Lal Sharma: I want to move amendment No. 26. The amendment printed here is just the opposite

of what I gave. I said, for "father and mother" substitute "natural guardian". Here it is printed, for "natural guardian" substitute "father and mother".

Mr. Deputy-Speaker: Perhaps it is a typographical error. He may move it in the correct form.

Shri Nand Lal Sharma: I beg to move:

Page 2, line 28—

for "father or mother" substitute "natural guardian".

My intention is that we should not restrict the guardianship only to the father and the mother, but other guardians also should be added.

Mr. Deputy-Speaker: Who are the other guardians?

Shri Nand Lal Sharma: Eldest brother, paternal grandfather etc.

Shri Pataskar: So far as Mr. Nand Lal Sharma's amendment is concerned, according to the present Hindu Law, parents are the natural guardians. Therefore, I am unable to accept his amendment.

I accept Mr. More's amendment, because it is more or less a drafting adjustment.

Mr. Deputy-Speaker: The question is:

Page 2—

(i) line 26, omit "or";

(ii) line 28, omit "or"; and

(iii) line 29 for "or" substitute "and".

The motion was adopted.

Mr. Deputy-Speaker: The question is:

Page 2, line 28—

for "father or mother" substitute "natural guardian".

The motion was negative.

Mr. Deputy-Speaker: The question is:

"That clause 4, as amended, stand part of the Bill".

The motion was adopted.

Clause 4, as amended, was added to the Bill

Clause 5—(Over-riding effect of Act)

Shri K. L. More: I beg to move:

Page 3, line 3—

for "made" substitute "contained".

The purpose of this amendment is to make the language of this clause conform to the language in the corresponding clauses in the Hindu Marriage Act and the Hindu Succession Act.

Mr. Deputy-Speaker: Amendment moved:

Page 3, line 3—

for "made" substitute "contained"

3 P.M.

Shri Nand Lal Sharma: I beg to move:

Pages 2 and 3—

for clause 5 substitute:

"5. Notwithstanding the provisions of this Act, the original texts of the Hindu Shastras and immemorial traditions of the Hindus shall continue to have the same force as heretofore and the provisions of this Act shall be construed as a mere interpretation and codification thereof."

I know already that the hon. Minister is not going to accept it. In spite of that, I have moved it. As I have already submitted, heretofore, even the Privy Council and all other High Courts in India have been basing their judgments on the Hindu Shastras including Mitakshara, Yagnyavalkya and Vedas. I have therefore substituted this clause for the present clause 5. I think one of the laudable ideals of the Minister of Legal Affairs...

Mr. Deputy-Speaker: The Parliament shall pass a law and it should be construed as an interpretation..

Shri Nand Lal Sharma:...of the Hindu Shastras and traditions. He said that he was simply codifying

the Hindu Law that had not been codified till today. Therefore I say that this should be construed as an interpretation and codification of the Hindu Shastras. The Hindu personal laws should not be wiped by one stroke. A Hindu should not be cut off from the Hindu scriptures and Hindu Shastras. I appeal to the Minister of Legal Affairs to that and adjust himself so that the Hindu community is not cut off from its original sources.

Mr. Deputy-Speaker: Amendment moved:

Pages 2 and 3—

for clause 5 substitute:

"5. Notwithstanding the provisions of this Act, the original texts of the Hindu Shastras and immemorial traditions of the Hindus shall continue to have the same force as heretofore and the provisions of this Act shall be construed as a mere interpretation and codification thereof."

Shri Pataskar: I regret again that I am not able to accept the amendment moved by my hon. friend Shri Nand Lal Sharma. I think for obvious reasons he will realise that so far as this Bill, particularly the provisions regarding natural guardians and de facto guardians are concerned, I have already explained that it has nothing to do with the original texts of the Shastras, for which I have great regard, probably as much as he.

Shri Nand Lal Sharma: It is clearly mentioned.

Shri Pataskar: Therefore, I am unable to accept any such amendment.

There is one point that I would like to take up.

Mr. Deputy-Speaker: What about amendment No. 12?

Shri Pataskar: I am coming to that I refer to sub-clause (b) of clause 5. I find from the arguments of Pandit Thakur Das Bhargava and one or two other friends that this sub-clause (b) might be interpreted in such a manner as to say that it will affect any of the provisions of the Guardians and Wards Act which is already there. I take it that the position is clear that that is not so. The only object is to make a change so far as the existing law is administered. It is not the intention in any way to make any change so far as the provisions of the Guardians and Wards Act are concerned. If you will kindly permit me, I would like to retain sub-clause (a) and delete sub-clause (b). Shri K. L. More's amendment may not be necessary.

Mr. Deputy-Speaker: What is the amendment?

Shri Pataskar: Clause 5 may read like this:

"Save as otherwise expressly provided in this Act, any text, rule or interpretation of Hindu Law or any custom or usage as part of that law in force immediately before the commencement of this Act shall cease to have effect with respect to any matter for which provision is made in this Act."

There the clause ends. Sub-clause (b), I think, is redundant. There is no other law.

Mr. Deputy-Speaker: You move for the deletion of sub-clause (b)?

Shri Pataskar: Yes.

Mr. Deputy-Speaker: How about the amendment of Shri K. L. More?

Shri Pataskar: It is not necessary.

Pandit Thakur Das Bhargava: May we know the effect of this amendment? The hon. Member wants to take away sub-clause (b).

Shri Pataskar: The effect will be this. I would like my hon. friends also to consider it from that point of view. I have heard the hon. Members say that the provision

reads as if we are making a change in the existing law. It is true that we are making a change. Sub-clause (b) says:

"(b) any other law in force immediately before the commencement of this Act shall cease to have effect in so far as it is inconsistent with any of the provisions made in this Act."

I do not think that we have really made any provisions which are inconsistent with the Guardians and Wards Act. It may be that some people may raise this argument. So far as I am concerned, there is no other law which has to be amended. It is not the intention of the Government to give room for any argument about any particular matter. So, I have consented to the deletion of sub-clause (b), so that nobody may be able to say that by introducing this sub-clause we are trying to do anything inconsistent with what we have already done in clause 2 that the provisions of this Act shall be in addition to, and not, save as hereinafter expressly provided, in derogation of, the Guardians and Wards Act.

Mr. Deputy-Speaker: A peculiar position, it seems.

Pandit Thakur Das Bhargava: I will get it explained by the hon. Minister. I understand his motive. He wants the Guardians and Wards Act to remain in force as it has remained for the rest of the community. My difficulty is this. We have passed clause 2 which runs as follows:

"The provisions of this Act shall be in addition to, and not, save as hereinafter expressly provided, in derogation of, the Guardians and Wards Act, 1899."

As long as these words "save as hereinafter expressly provided" are there, I do not think that we could improve matters by deleting sub-clause (b). I do not think that

what the hon. Minister has in mind will be implemented by taking away sub-clause (b), and retaining the words "save as hereinafter expressly provided" in clause 2. I have no objection. But, my fear is, so long as these words are there, they are only a paraphrase of what is contained in sub-clause (b). For instance, take the definition of minor. As it is expressly provided, a minor shall have to come within the meaning given in this Act and not within the meaning given in the Guardians and Wards Act. Similarly in some other matters we know there is conflict between the express provisions of this Act and the Guardians and Wards Act. The words which you have been pleased to use in clause 2 will have force. So long as you keep these words in clause 2, the taking away of sub-clause (b) will not improve the position. As long as this expression is there in clause 2, this amendment is out of order. This has got no meaning whatsoever as long as you keep clause 2 as it is.

Mr. Deputy-Speaker: No question is out of order. Then, it would mean that it would not fit in. A provision is considered redundant by the Minister. He thinks it may be deleted.

Pandit Thakur Das Bhargava: So long as we have passed clause 2, any amendment which has the effect of nullifying the effect of that clause will not lie. He says that he wants to keep the Guardians and Wards Act in force. Since you have passed clause 2, this amendment is out of order. We should take away these words, 'save as hereinafter expressly provided' from clause 2. I would rather request the hon. Minister to take away those words from clause 2 also, so that they may have the same meaning. Then, your intention will be fulfilled. If you do not take away those words from clause 2, in spite of your best intentions, the position will remain as it is.

Shri Patankar: It is only out of deference to the wishes of the hon.

Members that I consent to this amendment. I have no desire to make any change so far as this clause is concerned. I only wanted to move this amendment in order to satisfy some apprehensions in the minds of some hon. Members. Probably, my hon. friend wanted something else. I am not able to accept that. I might accept Shri K. L. More's amendment and we may proceed. It makes no difference.

Mr. Deputy-Speaker: It has been brought to my notice that there is no quorum. Let the bell be rung.

Now, there is quorum.

The question is:

Page 3, line 3,—

for "made" substitute "contained".

The motion was adopted.

Mr. Deputy-Speaker: The question is:

Pages 2 and 3,—

for clause 5 substitute:

"5. Notwithstanding the provisions of this Act, the original texts of the Hindu Shastras and immemorial traditions of the Hindus shall continue to have the same force as heretofore and the provisions of this Act shall be construed as a mere interpretation and codification thereof".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

"That clause 5, as amended, stand part of the Bill".

The motion was adopted.

Clause 5, as amended, was added to the Bill.

Clause 6—(Natural guardians of a Hindu minor)

Shri K. L. More: I beg to move: Page 3—

for lines 17 and 18 substitute:

"(b) if he has renounced the world by entering any religious order".

[**Shri K. L. More**]

This is the phraseology adopted in the divorce section of the Hindu Marriage Act, and therefore I move this amendment.

Shri Nand Lal Sharma: I beg to move :

Page 3, line 8—

after "mother" insert:

"Grandfather paternal, eldest brother, paternal uncle, Maternal Grandfather and Maternal uncle".

The reasons have been already stated. In case both the father and mother die, the children should not be left unprotected, especially the girls, and somebody must be able to look after them. Therefore, the paternal grandfather should be considered a natural guardian, and after him the eldest brother and the paternal uncle who live in the same family and after that the maternal grandfather and the maternal uncle.

Shrimati Jayashri: I beg to move:

(i) Page 3, lines 7 and 8—

after "the father, and after him, the mother" insert "in case the father though living is unfit or unwilling to act or incapable of acting, the mother".

(ii) Page 3, line 10—

add at the end—

"and after the death of the father the custody of a minor who has not completed the age of 14 years shall normally be with the mother".

(iii) Page 3—

omit line 13.

Shrimati Renu Chakravarty:

I beg to move:

Page 3, line 9—

omit "who has not completed the age of five years".

I want that the custody of the minor shall ordinarily be with the

mother. I have already stated the reason for it and I state it once again. I feel that the minor child should be normally under the care and guidance of the mother because it needs the mother most of all in the formative period of its life. That is why I very strongly recommend this amendment.

I should also like to add my voice in support of amendments 3 and 4 moved by Shrimati Jayashri because I do feel that those two additions will clarify certain things that are not there already. In case the father is living and yet is unfit or is unwilling or is incapable of acting as the proper guardian, the mother should become the guardian. That lacuna should be filled and I trust the Minister will accept the amendment.

I also support amendment 4 because although the principle which guides my amendment 17 is the same as that of Shrimati Jayashri, I know that many conservative people will argue that to lay it down that the custody should be with the mother right up to the age of majority may be a little too much. Though I do not agree with it, at least let it be categorically stated that a minor who has not completed 14 shall normally be with the mother.

Mr. Deputy-Speaker: Amendments moved:

(i) Page 3—

for lines 17 and 18, substitute:

"(b) if he has renounced the world by entering any religious order".

(ii) Page 3, line 8—

after "mother" insert:

"Grandfather paternal, eldest brother, paternal uncle, Maternal Grandfather and Maternal uncle".

(iii) Page 3, lines 7 and 8—

after "the father, and after him, the mother" insert "in case the father though living is unfit or unwilling to act or incapable of acting, the mother".

(iv) Page 3, line 10—

add at the end:

"and after the death of the father the custody of a minor who has not completed the age of 14 years shall normally be with the mother".

(v) Page 3, omit line 13.

(vi) Page 3, line 9—

omit "who has not completed the age of five years".

Shri Tek Chand (Ambala—Simla): I oppose the amendment moved by Shri K. L. More because I feel that the language of (b) as at present in the Bill is more precise and less likely to cause difficulties. According to my friend, a person forfeits the right of becoming the guardian if he happens to enter any religious order. This, to my mind, deprives unnecessarily a father of the guardianship of the child. There may be religious orders which a person may enter without being, as the lawyers would say, civilly dead. Therefore, the Minister has designedly put in the words "if he has completely and finally renounced the world by becoming a hermit (varaprastha) or an ascetic (yati or sanyasi)." Therefore, entering into any religious order should not ban or bar a father's guardianship of his child.

Shri Nand Lal Sharma: Vanaprastha is not a religious order.

Shri Tek Chand: I support amendment 28 of Shri Nand Lal Sharma. One serious flaw that we find in this Bill is that a Hindu child is being deprived of a very necessary protection. No doubt the Bill is styled as the Guardianship Bill, but so far as certain clauses are

concerned, you might as well style it with reason as Guardianship Depriving Bill. I wish in all humility to invite the pointed attention of the hon. Minister to section 361 of the Indian Penal Code which makes kidnapping an offence. Kidnapping is done when a minor is deprived of lawful guardianship. For the benefit of some of my friends who may not be aware, and to whom the provisions of section 361 may not be very fresh, I may read the section:

"Whoever takes or entices any minor under fourteen years of age, if a male, or under sixteen years of age, if a female, or any person of unsound mind, out of keeping of the lawful guardian of such minor, without the consent of such guardian, is said to kidnap, for which the penalty is prescribed in section 363."

Kindly see the position now. *De facto* guardian is an entity which will be unknown to our law, if clause 11 becomes a part of the Act. Therefore, in the case of a Hindu minor, male or female, the only guardian known to such a child is either the natural guardian, which definition is confined to father, and failing the father the mother or such guardian as the court may appoint, maybe a relation or maybe a stranger. But in the case of a person who has got a *de facto* guardian under the mohammedan law or any other species of Indian law that we are aware of, if any person were to kidnap the male or female child, he does a criminal offence under section 363 of the IPC, because he removes the child out of keeping of the lawful guardian—and a *de facto* guardian is as lawful for purposes of the IPC as a *de jure* guardian. What therefore happens is that a kidnapper of a Hindu child from the custody of uncle, brother, or grandparents can do so without any fear of coming within the clutches of criminal law. Therefore, whereas I am very keen that a *de facto* guardian is a very

[**Shri Tek Chand**]

necessary person, because there is hardly a child of impressionable years without a guardian....

Mr. Deputy-Speaker: A granddaughter living with a grandfather will be without lawful guardianship for purposes of the IPC?

Shri Tek Chand: Yes. I am grateful to you for having put this question. Now, kindly examine it. Please read clause 11 which says that a de facto guardian is not going to function.

Mr. Deputy-Speaker: Not alienate property.

Shri Tek Chand: True. But so far as guardianship is concerned, it is now confined to legal guardian and to natural guardian. Therefore, I am keen, when I am supporting the amendment of my hon. friend, that among the natural guardians, if the father is no more, if the mother is dead, then there should be in that group the relations mentioned by him, because all those relations are such relations as have got the welfare of the child nearest their heart. It is for this reason that I am keen that they should also be treated as coming within the class of natural guardians. If you deprive them of natural guardianship then what happens is that with the best of motives there will be a time-lag, there will be an interval of time, when the child would remain without a guardian, before a guardian is given to him by a court of law, assuming that somebody applies to become a court guardian. Therefore, it will be most desirable if the list of natural guardians is enlarged.

There is one thing more that I would like to submit; that is that in explanation to clause 6, you say:

"In this section, the expressions 'father' and 'mother' do not include a step-father and a step-mother".

I wish this Explanation had been omitted. My reasons are these. Let us assume now that we are getting very up-to-date and very civilised, in our matrimonial laws. Let us assume that the Hindu parents of a minor child are divorced. Suppose it happens to be a male child, and suppose the divorce is due to the reason that the mother of the child has been faithless, or disloyal or has been living in adultery with another person, and suppose in a case like that, the man remarries, and the child is brought up by the step-mother, and the father dies; then you say that the mother living in adultery is a better guardian than the step-mother. Now, reverse the illustration. Again, you say that a step-father is a good guardian as against the man who is misbehaving himself otherwise. Now, there will be cases where a natural guardian is dead, and the only relation is a step-father or a step-mother. Do not deprive the step-father or the step-mother of guardianship in such cases. Deprive him of the guardianship by a specific provision if you find that in a particular individual case, he forfeits the right of being a guardian, because he is not looking after the interests of the child or because the child's welfare is not in his becoming a guardian.

I would say, among the list of guardians, retain the step-father and the step-mother. They come only after the death of the father or the mother. So, retain them. But exclude them by a specific provision which you have laid down already. You can even deprive a natural father of the guardianship, when you find that he is unworthy of bearing that responsibility.

Shri Barman: I have an amendment to clause 7, but I think it is more proper if I speak at this moment when clause 6 is being discussed.

In clause 6 (a), natural guardianship for a boy or an unmarried girl has been provided for. The material point that I want to draw your attention to is that it is also provided therein that the custody of a minor who has not completed the age of five years shall ordinarily be with the mother. If you compare this provision in clause 6 with that in clause 7 regarding an adopted son or daughter, you will find that in the case of an adopted son or daughter, no provision has been made to the effect that in case the age of the minor is below five, the guardianship of the minor will be primarily with the mother. I do not find any reason why this distinction should be made between a son or daughter born out of lawful wedlock and one that is being adopted to the family. Under the Hindu law, as soon as a boy is taken into the family of another by way of adoption, he loses all his ties, both temporal and spiritual, with the family in which he was born, and all rights and obligations accrue to him inside the family in which he is adopted. Therefore, I do not find any reason why the provision that is made regarding a minor under the age of five in sub-clause (a) of clause 6 should not equally apply to clause 7 also.

If the Minister agrees to the contention I am making in favour of an adopted minor son or daughter, it would be appropriate to include that provision in clause 6 itself, in which case there will be no necessity for clause 7. If we want to make a provision in clause 7, I think there will be a little complication, not only as regards the language but also as regards other provisions of this Bill.

Shri U. M. Trivedi: We have not followed the hon. Member's argument.

Shri Barman: My point is this. In the case of a son or daughter born out of lawful wedlock, provision has been made in sub-clause (a) of clause 6 that in case of a minor under five years of age, it would be

the mother who would primarily be the guardian. We have dealt with the case of an adopted son in clause 7. It is an entirely different section. While dealing with the adopted son in clause 7, no provision has been made as is made in sub-clause (a) of clause 6. I do not find any reason why this invidious distinction should be made. Under all sanctions of our religion and also of the law prevailing at present, the adopted son is treated just as a natural born son in the family of the adoptive father.

So what I submit is that in clause 6 itself there should be a provision that both in the case of the son or daughter born out of lawful wedlock as well as in the case of an adopted son, the clause will apply, that is, in case the minor be under five years of age, the mother will primarily be the guardian.

If the hon. Minister concedes this proposition of mine, it would be better to make this amendment in clause 6 because that will simplify other matters.

In clause 9, we have made a provision for testamentary guardianship. There the words used are 'legitimate children'. Whether the words 'legitimate children' will also include an adopted child is a point that may come up for contention because in the *Oxford Dictionary*, I find that the word 'legitimate' has been defined as 'a child born out of lawful wedlock'. Now, the adopted son was not born in the family of the adoptive father out of lawful wedlock. Therefore, that difficulty may arise. But if we simplify the matter in clause 6 by saying that that clause will apply equally to an adopted son, the difficulty may be solved.

Pandit Thakur Das Bhargava: Before we are asked to vote, may I know from Shrimati Jayashri, the mover of the amendment that sub-clause (c) be deleted, through you, as to whom she wants to be the guardian in the case of a girl who is married and is minor? Does she

[Pt. Thakur Das Bhargava]

want it to be the father or somebody else?

Mr. Deputy-Speaker: The hon. Member may vote against it.

Pandit Thakur Das Bhargava: I want to understand. There is no question of voting it down. We must consider everything.

Shrimati Jayasbri: We have given separate and equal status to women. We think that they can look after themselves, and there is no necessity of having that provision.

Pandit Thakur Das Bhargava: If the husband is a minor and the married girl is a major, then she may be appointed the guardian of that husband. I have no objection to that from the point of view of equality.

Mr. Deputy-Speaker: Perhaps she might agree to that because there is equality.

Shrimati Jayashri: In the case of the married daughter, I think the father should be the guardian.

Mr. Deputy-Speaker: The husband might suffer to have the wife as guardian.

Shri M. S. Gurupadaswamy (Mysore): She is the best guardian.

Shri Pataskar: So far as amendments Nos. 3, 4 and 13 are concerned, what Shrimati Jayashri wants is this. Amendment No. 3 says:

"after 'the father, and after him the mother', insert 'in case the father though living is unfit or unwilling to act or incapable of acting, the mother'."

I think there is some misconception on this point. As I have been already saying, clause 6 gives recognition to what are termed as natural guardians, and they are, naturally, the father and the mother. So we say:

"in the case of a boy or an unmarried girl—the father, and

after him, the mother: provided that the custody of a minor who has not completed the age of five years shall ordinarily be with the mother."

This is the law as it stands now. What the hon. lady Member wants is that in case the father, though living, is unfit or unwilling to act or incapable of acting, the mother should be the guardian. What we are trying to provide is in respect of natural guardians. So far as guardians appointed by court under the Court of Wards Act or the Guardianship and Wards Act are concerned, that is altogether a different matter. Here there are certain persons who are recognised. Supposing we incorporate a provision like the one that the hon. lady Member has in view, there will be complications. There should be somebody to decide as to whether he is unfit, whether he is willing and all those things. That can only be gone into by the court.

Pandit Thakur Das Bhargava: Clause 13 covers that.

Shri Pataskar: If really the father is unfit or is unwilling to act as guardian, there is recourse to the ordinary provisions of the Guardianship and Wards Act. That is the only way it can be decided. By inserting this provision, the matter is not still improved. I sympathise with the object that the hon. lady Member has in view, but that cannot be served by making a provision of this nature. There is already a provision in the Act which can decide the matter by reference to court. Otherwise, if you put in this provision here, it will lead to interminable quarrels between the parties concerned. The father might say that the mother is unfit, and the mother might say that the father is unfit.

So the object cannot be served by making this amendment, but by the appropriate procedure prescribed in the Guardianship and Wards Act. Therefore, I hope the hon. lady Member will withdraw that amendment.

Then in amendment No. 4, she says that after the death of the father, the custody of a minor who has not completed the age of fourteen years shall normally be with the mother. What is the provision here?

"in the case of a boy or an unmarried girl—the father, and after him, the mother: provided that the custody of a minor who has not completed the age of five years shall ordinarily be with the mother."

When will this situation arise? Not when the father and mother are both living together. Then there will be no such question. But it will arise when there is a dispute between the father and the mother. If he has not completed the age of five years, ordinarily the custody shall be with the mother. It is only a guidance to the court. We are not going to interfere with what the court decides. Perhaps, there may be cases in which the court finds that both the father and the mother of the child are bad and that the custody should go to a third party. This is only an indication to the court if, unfortunately, the minor has got a father and a mother who are quarrelling about the custody of the child. Even now this is the principle followed by the courts. There is no point whether the daughter should continue with the mother or the son with the father or whether the girl should remain with the mother until she attains puberty: all these are besides the point. We indicate that normally until the child has completed the age of five years the custody shall be with the mother.

Before coming to the point raised by my friend, Shri Tek Chand. I will answer the point raised by Shri Barman. I want to point out to him that under the General Clauses Act, son includes the adopted son also. There is no difficulty so far as clause 6 is concerned. In the case of the adopted son the question comes only when there is the natural father and the adoptive father. Therefore, it was put in. It has been put in in clause 7

because cases might arise where in spite of the fact that son includes adopted son, the natural father may claim that he should be the guardian. We say that for the purposes of this Act, the natural guardian of an adopted son who is a minor shall be the adoptive father. Naturally, when a boy passed from one family to another by adoption, we want to make it clear that the right of natural guardianship which is a special feature of Hindu law, will pass to the adoptive father and adoptive mother. The adopted son is as good as any other son. I shall explain more, if necessary, when we come to clause 7. There is no definition of son given here and so the General Clauses Act will apply.

The other point on which much argument was based by Shri Tek Chand is this—section 361 of the Indian Penal Code. He thinks that by the deletion of the *de facto* guardians disastrous consequences will follow. What is the provision of section 361 of the Penal Code?

"The words 'lawful guardian' in this section include any person lawfully entrusted with the care or custody of such minor or other person."

There are no natural guardians amongst the Muslims and the Christians. What happens to those minors who have no parents living? Is it that they could not be easily kidnapped? That is a wrong way of trying to interpret the section. There is no question of trying to take away something which was already there. In this we are trying only to recognise the natural guardians who are already recognised by the Hindu law.

There was an argument, what about the definition in clause 4. The definitions in this Act are for the purposes of this Act. You cannot try to utilise them for the purposes of other Acts with which we are not dealing now. (Interruption).

Taking a realistic view, I think, this clause 6, as it stands, does not need any amendment. If we look at it in the proper perspective, we will see

[**Shri Pataskar**]

that what we are trying to do is only to recognise the natural guardians already recognised by Hindu law.

With respect to the amendment of Shri More, the only object is that he wants to bring it in conformity with the wording in the other Act. I am more impressed with the argument of Shri Tek Chand. I am inclined to look at the matter from a different point of view. It may be that a man has renounced the words or entered some religious order and yet, probably, may be in a position to look after the minor. I would prefer not to accept the amendment hastily. When time comes for codifying and to have uniformity, at that stage, I would like to disturb it. Therefore, I oppose all the amendments that have been moved and I hope the hon. Members would withdraw the amendments in view of the explanation that I have given.

Shrimati Renu Chakravarty: The hon. Minister said that the general desire of those who have framed this Bill is that the custody of the minor shall ordinarily be with the mother. That is the explanation given. If that is so, in view of the fact that he is sympathetic and that all sections of the House, including those who are opposed to the other provisions of the Bill, feel that the age of five years is too low, will he do away with it altogether or would specify a higher limit? I wonder why he is opposing this particular amendment—either mine or that of Shrimati Raiji.

Shri Pataskar: As I have tried to explain, no purpose would be served. It is only that we give an indication. The interest of the minor will always be kept in view. It is generally to say that a child who is suckling should not, as a matter of prudence, be weaned away from the mother.

Shri Nasd Lal Sharma: The hon. Minister was just now saying that de facto guardianship was nowhere stopped. In clause 4, there is reference only to 4 classes of guardians, the

natural guardian, the guardian appointed by will, the guardian appointed or declared by a court and a person empowered by any enactment. There is no fifth class.

Mr. Deputy-Speaker: We have gone much farther now. The hon. Member is taking us back.

Pandit K. C. Sharma: (Meerut Distt.—South): He is coming from dreamland.

Shri Nand Lal Sharma: *De facto* guardian is found nowhere.

Mr. Deputy-Speaker: Can I take it that all these amendments may be put together?

Shrimati Renu Chakravarty: I would like that Shrimati Jayashri's amendment No. 4 be put separately.

Mr. Deputy-Speaker: The question is:

Page 3, line 10—

add at the end:

"and after the death of the father the custody of a minor who has not completed the age of 14 years shall normally be with the mother."

The motion was negatived.

Mr. Deputy-Speaker: The question is:

Page 3—

for lines 17 and 18, substitute:

"(b) if he has renounced the word by entering any religious order."

The motion was negatived.

Mr. Deputy-Speaker: The question is:

Page 3—

for lines 17 and 18, substitute:

"(b) if he has renounced the word by entering any religious order."

The motion was negatived.

Mr. Deputy-Speaker: The question is:

Page 3, lines 7 and 8—

after "the father, and after him, the mother" insert "in case the father though living is unfit or unwilling to act or incapable of acting, the mother."

The motion was negatived.

Mr. Deputy-Speaker: The question is:

Page 3, omit line 13.

The motion was negatived.

Mr. Deputy-Speaker: The question is:

Page 3, line 9—

omit "who has not completed the age of five years."

The motion was negatived.

Mr. Deputy-Speaker: The question is:

"That clause 6 stand part of the Bill."

The motion was adopted.

Clause 6 was added to the Bill.

Clause 7—(Natural guardianship of adopted son)

Mr. Deputy-Speaker: Does Shri Barman wish to move his amendment, No. 15?

Shri Barman: No. Sir; I am not moving it.

Shri Nand Lal Sharma: I have an amendment No. 29 to this clause.

Mr. Deputy-Speaker: The hon. Member may move it.

Shri Nand Lal Sharma: I beg to move:

Page 3, line 23—

add at the end:

"and in their absence to his natural parents in the same order as indicated in clause (6)."

क्लाउज ७ में मेरी जो अमेंडमेंट २९ है उसके हारा मैंने वह चाहा है कि एडाप्टिड चाइल्ड (दत्तक बच्चे) के एडाप्टिड माता तथा पिता को मृत्यु के बाद उनका जो एडाप्टिड मान्यन (दत्तक भवयस्क) है वह प्रमुखता न रह जाये। इस बास्ते उसके जो अपने पिता माता है उनको भी उसके नेचुरल गार्डियन (स्वामाविक संरक्षक) होने का प्रविधिकार प्राप्त होना चाहिये। इस प्रयोजन को सिद्ध करने के लिये मैंने इस क्लाऊज में ये शब्द जोड़े हैं: मेरा धारा करता हूँ कि इस में कोई विशेष सम्बन्ध की बात नहीं है और माननीय मंत्री महोदय इसे स्वीकार कर लेंगे।

Mr. Deputy-Speaker: Amendment moved:

Page 3, line 23—
add at the end.

"and in their absence to his natural parents in the same order as indicated in clause (6)."

Shri Pataskar: I am sorry I cannot accept the amendment and probably it does not fit in. The scheme is that the natural guardianship of an adopted son, who is a minor, passes, on adoption, to the adoptive father, etc. Having passed that, I do not want to revert it.

Shri Nand Lal Sharma: Supposing both the adoptive father and adoptive mother are dead, what will happen?

Shri Pataskar: There is the guardian.

Mr. Deputy-Speaker: Such arguments should not proceed further after the hon. Minister has answered.

Shri Tek Chand: I do not want to allude to anything which the hon. Minister has said. I do not want to take up long but only a minute with a view to invite his attention to what, in my mind, appears to be a terminological inexactitude, and that is this. You have in clause 7 the adoptive father and after him, the adoptive mother. As the hon. Minister knows the Hindu law of adoption, in those

[Shri Tek Chand]

cases where the mother is not entitled to adopt, there is only one person, the adoptive father. If the adoptive father adopts, then the wife of the adoptive father is not the adoptive mother just as he has no adoptive brother and no adoptive uncle and no adoptive grandfather and so on. Therefore, the relationship between that lady and the adopted child of the adoptive father is that she happens to be the wife of the adoptive father but she is not the adoptive mother of the child. I suggest that 'adoptive mother' will not be a precise way of describing this person.

Mr. Deputy-Speaker: This exactly conveys what the hon. Minister has said.

Shri Pataskar: So I need not reply to it.

Mr. Deputy-Speaker: The question is:

Page 3, line 23—add at the end.

"and in their absence to his natural parents in the same order as indicated in clause 6".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

"That clause 7 stands part of the Bill."

The motion was adopted.

Clause 7 was added to the Bill.

Clause 8—(Powers of natural guardian).

Shrimati Renu Chakravarty: I do not wish to move my amendment Nos. 18 and 19, but I shall only move my amendment No. 20.

I beg to move:

Page 3, line 37—

for "voidable" substitute "void".

I am trying to substitute the word "void" for the word "voidable" in order to make things simpler to prove

the voidability. I have nothing further to say in this connection.

Shri Nand Lal Sharma: I beg to move:

Page 3,—

after line 41 add:

"Provided that the above restrictions shall not apply to the self-acquired property of the natural guardian transferred to or named after the minor."

मैं यह बाहता हूँ कि यदि कोई गतिविधि (संरक्षक), कोई पिता या माता स्वेच्छा कोई सम्पत्ति जो उसने अपने ही धन से खरीदी हो या स्वयं प्राप्त की हो उसको अपनी संतान के नाम पर लगा देता है तो ये सारे के सारे प्रतिबन्ध उसके ऊपर नहीं लगने चाहिये और आवश्यकता पड़ने पर उसके ग्रन्थाता उपयोग करने की आवश्यकता उसे होनी चाहिये। मैं आवश्यकता हूँ कि गंत्री महोदय इस मामूली सी अमेंडमेंट (संशोधन) को तो अवश्य ही स्वीकार कर देंगे।

Mr. Deputy-Speaker: Amendments moved:

(i) Page 3, line 37—

for "voidable" substitute "void"

(ii) Page 3,—

after line 41 add:

"Provided that the above restrictions shall not apply to the self-acquired property of the natural guardian transferred to or named after the minor"

Shri Pataskar: The amendment moved by my opponent of this Bill is a bit strange considering the fact that he is one of those who believe in the ancient traditions of our dharma. What does his amendment mean? What he wants to do is this. Supposing there is the father and he has transferred his property in the name of his son, then if something happens, that should

not be the son's property but it should revert to the person concerned. That brings in the question of what I would call the *devam* transaction. I do not want to complicate this matter. There is a saying true of all people who are given to the correct ancient traditions being followed, and in Marathi we have a saying which means that when once a thing is given away by you, if you take it back, it is the worst sin that a Hindu can commit. It is strange for a protagonist of ancient culture to say that having transferred his property, it should be open to him to take it back as otherwise it would go to the same minor person.

Regarding Shrimati Chakravarty's amendment, I should like to explain what the significance of the present provision is.

[SHRI BARMAN in the Chair]

As matters stand at present, natural guardians can alienate property for certain definite purposes, for the benefit of the minor, for education and so on and so forth. What we have decided is that normally he shall not do so without approaching the court for a *prima facie* examination as to whether there is a real necessity for such transfer. Supposing there is a father who wants to spend money for the education of his son and under certain circumstances he can dispose of that property—it is really for the benefit of the minor and so he can do it. The whole idea underlying the disposal of the minor's property is that it should be open for the minor, after he attains majority, either to ratify the transactions entered into by the guardian or to say that they are not binding on him. When we say it is voidable, we leave it to the option of the minor after he attains majority. Suppose there is a case in which the alienation of the property by the natural guardian is done in the interest of the minor but without taking the permission of the court, then we do not want to say that such a transaction will automatically be void. The option is given to the minor, after he attains majority, to decide whether it can be

ratified or whether he should say that it is not binding on him. So, I think "voidable" is the proper word to be used. I hope Shrimati Renu Chakravarty will also withdraw her amendment.

Mr. Chairman: The question is:

Page 3, line 37—

for "voidable" substitute "void".

The motion was negative.

Mr. Chairman: The question is:

Page 3, after line 41 add:

"Provided that the above restrictions shall not apply to the self-acquired property of the natural guardian transferred to or named after the minor."

The motion was negative.

4 P.M.

Mr. Chairman: I shall now put clause 8 to the vote of the House.

Shri Tek Chand: What was debated was the amendment of my hon. friend. I wish to say something on this clause if you will allow me, especially when the hon. Deputy-Speaker has said that the time for the general discussion was short and that he would allow those who wished to take part, to speak at this stage.

Mr. Chairman: When the amendments were moved, it was quite open to any hon. Member to speak generally. Now, the hon. Minister has replied to amendments Nos. 20 and 30. They have been disposed of. It is quite open to hon. Members to speak generally on the clause or on the amendments before the hon. Minister replies. That should be the ordinary procedure. But, if the hon. Member is very keen to speak, I will allow him.

Shri Tek Chand: I am grateful to you because clause 8, if I may say so, is the pivotal provision of this Bill. There are certain provisions here which are going to be very harsh. I am not here saying anything with respect to the offended dignity of the parent whereby you make him the target of tremendous suspicion. It is

[Shri Tek Chand]

not so much from that point of view as from the interest of the minor, that I wish to say something.

Clause 8(2) says:

"The natural guardian shall not, without the previous permission of the court, mortgage or charge.... the immovable property of the minor."

Kindly take this fact into consideration that the meaning of 'natural guardian' is now confined to a father; failing father, the mother. You think that the father's judgment is false and you put an embargo upon him. For the sake of educating his child he may have to mortgage the property. In order to meet any other pressing necessity to the advantage of the child, he may have to alienate some property. To ban it absolutely and to subject it to a previous permission of a court will be a dilatory process and thereby the interests of the minor will suffer. I can understand if sub-clause (a) were confined to gifts. One has no right to gift away a minor's property and you may have said the same thing with respect to sale because it is a permanent and irrevocable alienation. But you place difficulties in the way of even mortgaging or charging or exchanging when there is no loss. In fact, I feel that it is hard upon the minor whose interest you seem to subserve by this Bill.

Clause 8(b) empowers the guardian to lease any part of the minor's property for a term not exceeding five years. That is, to my mind, again wrong. Take for instance a case like Delhi. There is a tempting offer made. A lessee is prepared to pay a tempting rent provided he lets him stay for ten or fifteen years. But, the father cannot do so. Every time he has to go to the court.

What is worse is this. In clause 8(4) it is said that the permission of the court shall not be granted except in case of necessity or for an evident

advantage to the minor. It may be genuine and real advantage, yet not evident. Evident means apparent on the face. Therefore, a thing may be real and yet not evident. The advantage is there. The court will say this: 'The law requires us to find out if the advantage is evident. It may be genuine and real but in so far as it is not evident, we withhold permission much as we would like to help you as the law has tied us down by its language'.

Clause 8(3) says:

"Any disposal of immovable property by a natural guardian in contravention of sub-section (1) or sub-section (2) is voidable at the instance of the minor or any person claiming under him."

You may as well have added: "...or claiming on his behalf". The reason is that a minor as such cannot institute a suit and therefore, the language will not be precise when you say 'at the instance of the minor'. It should be: 'unless the suit is at the instance of the new guardian of the minor'. The minor as such cannot figure as a plaintiff; he figures as a plaintiff through his guardian and therefore, it may not be at the instance of the minor. The minor can come in after having attained majority within a stated period. He may say: "I have become a major today. I realise that something to my detriment had been done by my natural guardian. Therefore, that alienation of his is being contested today, now that I am a major." That may be at the instance of the same person but on the date of the suit if he has attained majority; one cannot say that it is at the instance of the minor. Therefore, perhaps a certain amount of clarification is necessary. I would, therefore, in all humility and earnestness request the hon. Minister to see that in the interest of the minor these alienations are not unnecessary clogged.

Shri Pataskar: I believe that the arguments advanced by the hon. Member are not very correct. In the

first place, there is no disrespect shown to the parents. On the contrary, any natural guardian—father or mother—who is respectable will try to see that any immovable property which comes under his or her management is not alienated by him or her. So, this is a procedure provided in the interest of protecting the property for the minor till he attains majority. I think no self-respecting father should ever think that all this that is being done in this Bill is in any way derogatory. On the contrary, he will welcome this measure as he will be saved from temptations on account of pressure from the minor's step-mother or on account of some other forces. I think there will hardly be any complaint on that score.

As far as possible we want to keep the property which is inherited by a minor and prevent it from being alienated so that it should go to him when he attains majority, when he may choose to do anything he likes. That is the whole idea underlying the Bill.

Similar is the question of lease. My friend knows the provisions of the Guardians and Wards Act. If we allow lease for larger periods and if one finds that one cannot alienate the property, there would be leases for such periods that there would be no real advantage to the minor. If in a particular case a lease is very advantageous to the minor, what is there to prevent the guardian from going to a court and saying: 'I am here in Delhi. This lease for twenty years will be to the evident benefit of the minor'? The court may grant that permission.

With respect to the wording, there has been a considerable amount of comment. But, there is nothing new in this phraseology. It is already used in the Guardians and Wards Act. The object of using these words: "except in case of necessity or for an evident advantage to the minor" is that we really want that advantage to be evident; otherwise I have known cases in which they have frittered away some very valuable property. I

have known of a case where a property which was situated about 50 miles away from the place where the minor resided was sold away and another one purchased which was near to the place of the guardian on the question of more convenience for management. Who knows whether the minor would have, when he attained majority, chosen to go and stay in the property which was away from his guardian and utilised it for his own benefit? That is why we have put the words "evident advantage". We do not want at that stage the court to go into all questions and say *prima facie* whether there is a good case. Supposing somebody is going to be sent to England and he has got some immovable property, then obviously it is to the advantage of the minor concerned. In such cases there is no difficulty in getting the necessary permission.

On the whole, therefore, I think the clause, as it is worded, need not offend the sentiments of any respectable father or mother, because that has been done with the intention of safeguarding the interests of their ward. From that point of view I say that the clause as it is should be passed.

Mr. Chairman: The question is:

"That clause 8 stand part of the Bill."

The motion was adopted.

Clause 8 was added to the Bill.

Clause 9—(Testamentary guardians and their powers)

Shrimati Reau Chakravarty: I have sent in an amendment which says:

Page 4, line 24,—

after "father" insert "or mother".

Here, I would like some clarification from the hon. Minister. I have added the word "mother" because I want that a Hindu father as well as a mother should not only be entitled to act as the natural guardian of his or

[Shrimati Renu Chakravarty]

her minor legitimate children, but he or she may, by will, appoint a guardian for any of them in respect of the minor's person or in respect of the minor's property. In sub-clause (1) of this clause only "a Hindu father" is mentioned. Later, down in sub-clause (3) of the same clause it is said:

"A Hindu widow entitled to act as the natural guardian of her minor legitimate children, and a Hindu mother entitled to act as the natural guardian of her minor legitimate children by reason of the fact that the father has become disentitled to act as such, may, by will, appoint a guardian for any of them in respect of the minor's person or in respect of the minor's property..."

Actually, this is what I want to know. Why is this difference in sub-clause (1) and sub-clause (3)? Is it only a question of making clear the Hindu widow's and the Hindu mother's right to appoint a guardian in two different places? If that is so, then I do not move my amendment.

Shri Pataskar: I think that is so. The clause reads like this:

"9(1) A Hindu father entitled to act as the natural guardian of his minor legitimate children may, by will, appoint a guardian for any of them in respect of the minor's person or in respect of the minor's property (other than the undivided interest referred to in section 12) or in respect of both."

That is done on principle. Then we come to sub-clause (2) which says:

"An appointment made under sub-section (1) shall have no effect if the father predeceases the mother, but shall revive if the mother dies without appointing, by will, any person as guardian."

I think there is no difficulty about that also. Then there is sub-clause (3) which says:

"A Hindu widow"—supposing she is a widow—"entitled to act as the natural guardian of her minor legitimate children, and a Hindu mother entitled to act as the natural guardian of her minor legitimate children by reason of the fact that the father has become disentitled to act as such..."

The words "Hindu mother" are deliberately put here because she is in that case the mother and not a widow. The words "Hindu widow" are put because that is not covered by sub-clause (1). I think the wording is consistent with the provisions that we have already passed.

Shrimati Renu Chakravarty: Then I do not move my amendment because it is actually covered.

Mr. Chairman: Then I will put the clause to the vote of the House. The question is:

"That clause 9 stand part of the Bill."

The motion was adopted.

Clause 9 was added to the Bill.

Clauses 10 to 13 were added to the Bill.

Clause 1—(Short title and extent)

Shri K. L. More: I beg to move Page 1, line 4—
for "1955" substitute "1956".

Shri Nand Lal Sharma: Sir, I beg to move:

Page 1, lines 5 and 6—
omit "except the State of Jammu and Kashmir."

Mr. Chairman: That point has already been discussed.

Shri Pataskar: I am not going to accept amendment No. 22. I accept amendment No. 8 because the yea has to be changed.

Shri U.M. Trivedi: But there is one thing. I raised that point to some extent in my speech, but I do not know why the hon. Minister has not tried to explain that.

Shri Pataskar: I explained it fully, but, unfortunately, the hon. Member was not present in the House then.

Shri U. M. Trivedi: I want this specific question to be answered. Extra-territorial jurisdiction has been created for those who have been domiciled here in any part of India. Even if they go and live outside India this jurisdiction has been extended to them. So far as this Act is concerned, even if those Hindus were born and brought up there, or they hold double citizenship so to say, it will apply. For example, if they are citizens of Jammu and Kashmir, even if they come and stay here in India this law can apply. If this law can apply to our nationals who go there and those nationals come here, what is wrong in applying the whole of the Act to the Hindus of Jammu and Kashmir? That was the specific question that I raised; I do not know whether the hon. Minister has answered that.

Shri Pataskar: The point is very simple. Clause 1, sub-clause (2) says:

"It extends to the whole of India except the State of Jammu and Kashmir and applies also to Hindus domiciled in the territories to which this Act extends who are outside the said territories."

What my learned friend wants to point out is that even to those people who are really citizens of India but who have gone and domiciled in Kashmir this law will apply. I think there is nothing wrong in it. He also does not object to that. What he objects to is that it does not automatically apply to Jammu and Kashmir. He wants to know why it does not automatically apply to Jammu and Kashmir. As I have already pointed out there are some constitutional difficulties which prevent us from legislating in regard to this matter

for the State of Jammu and Kashmir. All the same, I have already pointed out that so far as the Hindu Marriage Act is concerned, which was part of the Hindu Code, they have adopted it. I am sure they will shortly adopt the Hindu Succession Act also. I am also sure that the Hindus there will also adopt this Act in due course. So there is practically no difficulty. The difficulty is only in the procedure to be followed and it is more constitutional than trying to make any difference between the people of Jammu and Kashmir and the people of India.

Shri Nand Lal Sharma: The difference between an adopted father and a natural father.

Mr. Chairman: The question is :

Page 1, line 4—

for "1955" substitute "1956"
The motion was adopted.

Mr. Chairman: The question is:

Page 1, lines 5 and 6—

omit "except the State of Jammu and Kashmir".

The motion was negative.

Shri Nand Lal Sharma: I suggest that the words "as passed by the Rajya Sabha" may be deleted. Again, for "Sixth Year of the Republic of India" "Seventh Year of the Republic of India" may be substituted.

Mr. Chairman: That will be done by the office.

Shri Pataskar: When I move that Bill be passed, everything that is necessary will be carried out.

Mr. Chairman: I shall now put clause 1, as amended, to the vote of the House. The question is:

"That clause 1, as amended, stand part of the Bill".

The motion was adopted.

Clause 1, as amended, was added to the Bill.

Enacting Formula**Amendment made:**

Page 1, line 1—

for "Sixth Year", substitute:

"Seventh Year".

—[Shri K. L. More]

Mr. Chairman: The question is:

"That the Enacting Formula, as amended, stand part of the Bill".

The motion was adopted.**The Enacting Formula, as amended, was added to the Bill.****The Title was added to the Bill.****Shri Pataskar:** I beg to move:

"That the Bill, as amended, be passed".

Mr. Chairman: Motion moved:

"That the Bill, as amended, be passed."

Shri Achuthan: I am very glad that we have come to the last stage, practically, of the series of Hindu Law which we have been legislating upon for the past few years. In fact, the credit goes to the hon. Minister of Legal Affairs, Shri Pataskar, who took keen interest in splitting up the voluminous piece of legislation into compartments and who took great pains to see that the laws were well discussed in both the Houses. We have now come to pass the Hindu Minority and Guardianship Bill in the same series.

Even though we cannot say that these laws may be very good, so far as this Bill goes, it is really an improvement upon the existing law on the subject. In the question of Hindu marriages also, we have affected a number of improvements and it has already been enacted and has come into force a few months back. With regard to the Hindu Succession Act also it will work wonders in this country, more especially when we realise that our women are given full

right over the property of their fathers or their family. Complete, independent rights to dispose of the property as they wish has been given to the women. In fact, the All-India Women's Conference, from its very inception, was clamouring and agitating for the rights to be bestowed upon the females of our country and they have been since given the rights.

With regard to the Hindu minority and guardianship also, this Bill has codified and compressed the lengthy and voluminous Hindu law on the subject which has come into existence by a number of decisions and commentaries. As it is, the subject of Hindu minority and guardianship has been compressed into 13 clauses. Some Members said that 13 is a bad or inauspicious number but then the Minister himself has, I am glad to say, observed that he has no liking for one number or the other.

I want to point out one important thing. Previously, all the members of a joint Hindu family, so far as Mitakshara system of law was concerned, had a right by birth. After the Hindu Succession Act came into force, that right is needed and unless the father can will away his property. Hereafter, the father will have complete right over his property. He can of course will away his property as he likes. Thus, there will not be any litigation in that respect over the matters concerning Hindu minority and guardianship also.

Shri Raghavachari: The moment the child is born, he has the right over his share.

Shri Achuthan: At least for sometime, the father will have the right. So, there will be less litigation in that respect. Previously there was a lot of litigation over that aspect. Hereafter, the father has got a complete right over his share even though children are born to him.

Shri Raghavachari: No. So far as the ancestral property is concerned, the moment the son is born, he is given his share. The father can will away his own share only.

Shri Achuthan: That will continue only for one generation. For sometime there will be some litigation. Subsequently, it will be his own property by partition. After some time, the question of his ancestral and self-acquired property will dwindle into insignificance and the father will be complete owner, and there will be less scope for litigation. Here, it has been clearly stated that father or mother will be the guardian. They can will away the property. If the property is willed away, and if he states that it must be managed in such and such a way, then there is no question of guardianship coming up. According to me, this provision in the Hindu Minority and Guardianship Bill goes to the advantage of the minors. I visualise less of litigation even though Shri Tek Chand may say with regard to clause 6(a) that the father and the mother are more competent than the court to look after the minor children. Even then, to make a provision that the father must get the sanction of the court for disposal of the property would add to the interests of the minor concerned.

Moreover, our lawyer friends know that a number of cases are coming up in this regard. I know of cases where the father is actually alienating the property for the benefit of his son and when the son becomes major, the father stands behind. The poor assignee or the mortgagee has just to produce evidence, get things done and sometimes the party has again to shell out some money. Hereafter, all such things will be set at rest. For these reasons, I welcome the Bill and I hope that it will have its due effect on society in the years to come.

Mr. Chairman: According to the time-schedule fixed by the Speaker, we have exhausted the time available for this Bill. A number of Members have already expressed their views

on many occasions over this Bill, and it appears to my mind that it is the provisions of the Bill that were very important. As regards general observations, they have already been made.

Shri Tek Chand: How much time can be allowed for the Members to speak now?

Mr. Chairman: Shri Tek Chand has already spoken. Has he got any new points?

Shri Altekar: rose.—

Mr. Chairman: Let Shri Altekar speak.

Shri Altekar: So far as this Bill is concerned, the propriety for its provisions has arisen on account of the Hindu Code being split up into compartments.

Mr. Chairman: Do we propose to take the next Bill after, say, ten minutes, or do we propose to proceed with this Bill for the rest of the day?

The Minister of Revenue and Defence Expenditure (Shri A. C. Guha): If there is not sufficient time for the speech at the introduction stage to be finished—it may require about 30 minutes—I do not think it will be of any use to take up the other Bill and leave it half-way during the introductory speech.

Mr. Chairman: How many Members are there to speak? I see Shri Tek Chand, and Shri S. N. Das standing. All right. Let us continue with this Bill.

Shri Altekar: The change that has been made in this Bill is that though the hon. Minister would not like *de facto* guardians to be abolished, they have been practically ignored. The situation is that in a large number of cases, there are minors who have no parents and who have to be cared for by near relatives like uncles, brothers and grandfathers. These near relatives on account of their natural affection and love for the minors, take over the guardianship

[Shri Altekar]

in the natural course. By the provision that has been made, they are not recognised as natural guardians. They are not even recognised as de facto guardians. As a matter of fact, they will be functioning all along in the society because there will be minors who have no parents and who live with uncles, brothers and grandfathers.

In clause 11, we have said that de facto guardians cannot dispose of or deal with the property of the minors. According to this Bill, even uncles, brothers or grandfathers will have to go to the courts and get themselves appointed as guardians. We know the conditions in the rural areas. There are millions of families living there and they do not know how the law is being administered. They will not go to the courts simply for the purpose of getting themselves appointed as guardians, because the properties may be so small. So, this will prove to be a great difficulty and handicap. Disposing of property is one thing and dealing with property is an entirely different thing. If a brother is taking care of the property of the minor brother, he will have to pay the taxes and paying taxes also is dealing with property. He will have to maintain his brother, purchase small things for his daily necessities, pay school fees etc. All these will be dealing with property and these will be illegal because he is prevented from dealing with the property of the minor. Therefore, I think that the words "deal with" should have been omitted from clause 11. Unfortunately I was not here at the time this clause was passed; I had to attend some committee meeting. So far as the alienations are concerned, there may not be many, because generally the guardians take care of the children and they look to their necessities. The difficulty arises when they have to incur expenditure for meeting the daily needs of the minor.

Mr. Chairman: I think management of the property is also covered by that clause.

Shri Altekar: The property of the minor will have to be used for meeting his own needs, but that will be prevented because the guardian cannot "deal with" the property according to clause 11. In most of the cases, the guardians will be dealing with the property in a normal way and when the minor comes of age, he usually does not go to the court complaining against the guardians. But if there is a mischievous intention on the part of someone, it might create difficulties. Anyhow, I submit that this particular phrase "deal with" should not be there.

Our approach towards the de facto guardians is not very reasonable. Provision ought to have been made in the case of those who are taking care of the minors in the natural course of events. They do not come from another place; the minors are living with them. When the minor has no parents, he is living with his uncle or with his grandfather. There is absolutely no change in the status of the family and the uncle or grandfather takes care of the minor as a natural course of events. So, though this piece of legislation is forward, it will bring about a great disturbance in the every day functioning of the relationship between the various ingredients of our society. I will not object to the permission of the court being necessary for de facto guardians to dispose of the property of a minor. But, in the case of guardians of the type I have mentioned, who come to take care of the minor in the routine natural course of events, the day-to-day management of the property should not be hindered. The burden also lies on the person who purchases the property of the minor. I have seen so many cases in the courts; I have found that only in cases where it can be proved by means of documents or by evidence that the alienation was for the purposes of benefiting the minor and in the interests of the

minor, then alone the alience will succeed. So, as far as protecting the interest of the minor is concerned, it need not be anything more than what it was till now. According to this Bill in a number of cases the people will be forced to go to the district courts and it will be a terrible hardship for the people to go from the remote villages to the district courts for getting permission to manage the property of the minor, if the property is of a small size. So, in a large number of cases, rather than securing any protection of the interests of the minor, there will be hardship and difficulty. That will be the ultimate result of this particular attitude towards the *de facto* guardians.

I think that the legislation that we are passing now will not be ultimately regarded by the society to be in the general interest of the minors. That is what I feel about the matter. Now that the legislation is being passed, it has become rather a matter of great concern, and we shall have to watch the developments. If we find ultimately that it is not working in the interests of the minors, probably we may have to revise it again.

श्री शीतारायण दास (दरभंगा मध्य) : सभापति महोदय, जो विधेयक अभी लोक सभा द्वारा संयुक्त प्रवर समिति को सुपुर्द किया जा रहा है उसके महत्व के सम्बन्ध में मुझे कुछ विशेष नहीं कहना है। जो अल्पवयस्क लोग हैं वे, जो कानून आजकल हैं, उसके अन्दर अनेक तरह से उपेक्षित कहे जा सकते हैं। उन की सम्पति और स्वार्थ का जैसा संरक्षण होना चाहिये, वैसा नहीं हो रहा है। माननीय मंत्री ने इस विधेयक को संसद के सामने रख कर उत्तर उपेक्षित लोगों के साथ व्यापक करने का प्रयत्न किया है। यह जो विधेयक पैश है, इसका मैं समर्थन करता हूँ। लेकिन एक दो विधेय हैं जिनकी ओर मैं सरकार का ध्यान आकर्षित करना चाहता हूँ और मैं समर्थना हूँ कि उनके

सम्बन्ध में यदि इस विधेयक में कुछ बातें कह दी गई होतीं तथा उनके अनुसार इस विधेयक की धाराओं में कुछ सुधार कर दिया गया होता, तो बहुत बच्चा रहता।

इस विधेयक में जहाँ दूसरी प्रकार की सम्पत्ति का ठीक प्रबन्ध करने के बारे में जिक्र किया गया है वहाँ पर संयुक्त परिवार में अल्पवयस्क लोगों के अधिकारों का तथा उनके हितों का कहीं भी जिक्र नहीं किया गया है। हो सकता है कि संयुक्त परिवार का जो कर्ता है वह उस माइनर (अल्पवयस्क) के संयुक्त परिवार में जो हित है, उसके जो सम्पत्ति पर अधिकार है, उनको देसमात भी करे। लेकिन हो सकता है कि संयुक्त परिवार का जो कर्ता है और उस परिवार में जो अल्प वयस्क की सम्पत्ति है उसके स्वार्थ हैं, उसकी रक्षा न कर सके और उस संयुक्त परिवार में अल्पवयस्क के अधिकारों में किसी प्रकार का हस्तक्षेप हो। इस बास्ते मेरा विचार है कि इस सम्बन्ध में इस विधेयक में कुछ जिक्र रहना चाहिये। गाजियन और वार्डर एक्ट (संरक्षक तथा प्रतिपालक अधिनियम) की मुझे कोई लास जानकारी नहीं है और मैं नहीं जानता कि अल्पवयस्क की संयुक्त परिवार में जो सम्पत्ति है उसके सम्बन्ध में गाजियन नियुक्त करने का अधिकार स्वतः हाई कोर्ट या किसी दूसरों को है या नहीं। मैं समर्थना हूँ कि हाई कोर्ट को इस बात का अधिकार होना चाहिये कि जब कभी कोई

श्री शाटस्कर : हाई कोर्ट को यह पावर है।

श्री शीतारायण दास : जहाँ तक मैं या लाया हूँ हिन्दू कोड की जो शाला है माइने-रिटी और गाजियनसिप के बारे में उल्लेख करा गया है :

“Provided that nothing in this section shall be deemed to affect the jurisdiction of High Court to appoint a guardian in respect of such interest”.

[बी शीलारायण दास]

That is, the interest of a minor in joint family property.

श्री पट्टस्कर : ब्लाज १२ को पढ़िये, इसको भभी भी रखा गया है।

श्री शीलारायण दास : मुझे दुःख है, मैं ने उसकी तरफ व्यापार नहीं दिया।

यह मैं आपका व्यापार एक और विषय की ओर दिलाना चाहता हूँ। अभी हमारे मित्र आत्मकर साहब ने कहा कि जो डिफ़ैन्टो गार्डियन (वस्तुतः संरक्षक) हैं उनके अल्पवयस्क की सम्पत्ति के साथ किसी प्रकार का व्यवहार करने का जिक्र नहीं किया गया है। वैसे हिन्दू समाज के अन्दर जो सामाजिक सम्बन्ध हैं उनके अनुसार एक अल्पवयस्क का चाचा या मामा या उसके मातायाधीय पितामह जो हैं वे उनके डिफ़ैन्टो संरक्षक हो सकते हैं और उसके ऊपर इस बात की विभेदारी आ सकती है कि वे किसी भी अल्पवयस्क का पालन पोषण भरण पोषण, देख रेख, शिक्षा दीक्षा का प्रबन्ध करे।। लेकिन इस विधेयक में जो चारायें दी गई हैं, मैं समझता हूँ उनके द्वारा अल्पवयस्क के प्रति व्याय नहीं किया गया है। वैसे जो सामाजिक सम्बन्ध हैं उन में उन लोगों का यह कर्तव्य है कि वे उस अल्पवयस्क के हितों की रक्षा करें और उसके अधिकारों का दुरुपयोग न करें। मैं नहीं चाहता कि किसी भी संरक्षक को यह अधिकार हो कि वह उसकी सम्पत्ति का दुरुपयोग करे। लेकिन डिफ़ैन्टो गार्डियन जो है उसकी इस बात का अधिकार रहना चाहिये था कि वह कोटि की आज्ञा से ही सही उस अल्पवयस्क की भलाई के लिये तथा अपने कर्तव्य पालन में सुविधा लाने के लिये उसकी सम्पत्ति के साथ कुछ अदल बदल कर सके तथा सम्पत्ति की व्यवहार में ला सके। माननीय मंत्री जी ने जो इस बिल में डिफ़ैन्टो गार्डियन

को सभी प्रकार के अधिकारों से बंचित कर दिया है और कह दिया है कि किसी प्रकार का अधिकार अल्पवयस्क की सम्पत्ति में उसका नहीं रहेगा। मैं समझता हूँ यह उसको व्यवहार में परिणित किया जायेगा तो भलाई होगी। इससे अल्पवयस्क को शिक्षा दीक्षा देने में, उसका भरण पोषण करने में उसकी देख रेख में अवश्य ही कठिनाइयां उत्पन्न होगी। इसके बारे में इस बिल में कोई भी व्यवस्था नहीं की गई है। सरकार कानून तो बना देती है लेकिन उसका असर देश के विभिन्न भागों पर और लास तौर से देहातों पर क्या पड़ेगा इस और कुछ विचार नहीं किया जाता है। ग्रामीण के रूप में यह ठीक है कि अल्पवयस्क की सम्पत्ति का किसी प्रकार से दुरुपयोग नहीं होना चाहिये उसकी किसी भी प्रकार की क्षति नहीं पहुँचनी चाहिये। लेकिन इस समय जो हमारी सामाजिक व्यवस्था है, जो सामाजिक सम्बन्ध है, या जो सामाजिक विभेदारियां हैं उन में यदि हम यह चाहते हैं कि माइनर्स के जो स्वाभाविक अभिभावक हैं या संरक्षक हैं वे न रहें और उनकी जगह पर जो दूसरे डिफ़ैन्टो गार्डियन हैं, संरक्षक हैं वे रहें तो उनको अपना कर्तव्य पालन करने में सुविधा हो इसको भी इस कानून में व्यवस्था होनी चाहिये थी। डिफ़ैन्टो गार्डियन को यह अधिकार भी मिलना चाहिये था कि यह अल्पवयस्क की सम्पत्ति तथा उनके स्वायों की रक्षा करने के साथ साथ उसको शिक्षा दीक्षा, उसके पालन पोषण, उसकी देख रेख, उसका भरण पोषण करने के लिये उसकी सम्पत्ति में अदल बदल भी कर सकता। अगर इस बिल में इस चीज़ की व्यवस्था भी हो जाती तो मैं समझता हूँ यह बिल और भी अच्छा हो जाता। इस समय तो इसकी व्यवस्था इस में नहीं है और मैं समझता हूँ किसी दूसरे समय पर पट्टस्कर साहब द्वारा या जो भी उस समय दूसरे मंत्री होंगे उन के द्वारा इस चीज़ की

अवस्था इसमें कर दी जायेगी। जहां तक देहातों का सम्बन्ध है और जहां तक वहां बसने वाले लालों करोड़ों लोगों का सम्बन्ध है, मैं समझता हूँ इस विषय में काफी कठिनाइयां उत्पन्न होंगी और जो डिफेंसो गार्जियन होंगे उनको ग्रपना कर्तव्य पालन करने में काफी घसिराधा होंगी और वे समुचित रूप से अल्पवयक्तों की शिक्षा दीक्षा, उनके अरण पोषण, उनकी देल रेख कर सकेंगे या नहीं?

इस बिल का तो मैं समर्थन करता हूँ और मैं आशा करता हूँ कि अल्पवयक्त के स्वार्थों और उसको सम्पत्ति की रक्षा होगी लेकिन साथ ही साथ जिन कठिनाइयों को ओर मैंने ध्यान आकर्षित किया है, मैं आशा करता हूँ उन पर भी विचार कर लिया जायेगा।

Mr. Chairman: How long will the hon. Minister take for his reply?

Shri Pataskar: Whatever you give. I think I require at least 7 or 8 minutes.

Mr. Chairman: There is no time. You may begin.

Shri Pataskar: Another hon. Member may speak. Leave me some time.

Shri Tek Chand: Mr. Chairman, without any mental reservation, I extol the hard work done by the hon. Minister. But, I cannot share his enthusiasm or his optimism. I feel that this Bill bears the stamp of futility indelibly fixed upon it on every section. I wish that the great talent which the hon. Minister undoubtedly possesses had not been wasted on this measure. The hon. Minister says that this is an innocent measure. I entirely agree with him. It is certainly innocent of logic, it is innocent of justice.

Pandit Thakur Das Bhargava: Innocent of good results also.

Shri Tek Chand: I adopt the suggestion of my hon. friend, innocent of results. I feel that it will let loose the doors of litigation. For every little

alienation, the guardian must engage counsel, must lead evidence, must argue out the case and must await the decision of the case. It may take many months. There is a four-worded latin maxim. I wish that the hon. Minister should know it by heart and those who are associated with him: *Summum jus summa injuria*: the more the law, the greater the injustice. We are having an overdose of legislation which brings in its train expense, litigiousness, waste of time, colossal waste of national funds.

Shri M. S. Gurupadswamy: You are a lawyer.

Shri Tek Chand: That shows that a lawyer can dispassionately bring to bear logic and principles of justice in anything that he cares to examine.

Shri A. C. Gaha: So even a lawyer can be impersonal?

Shri Pataskar: And can have logic!

Shri Tek Chand: I feel, as indicated by my hon. friend Shri Altekar, that clause 11 can lead to very serious results. A *de facto* guardian dare not deal with the property. If it is in a state of disrepair, he dare not touch it. If it wants a tenant and one is available, he cannot arrange it even if it happens to be the property of his grand-child or brother or nephew. I hope in good time the hon. Minister will be in a position to bring forward a real, good, logical and proper measure which would protect every minor in this land, be he Hindu, Muslim, Christian or anybody else.

Shri Pataskar: Generally I try to avoid using harsh words against any one so far as I can, but when some lawyers begin to speak in the name of logic and justice, it is a bit difficult. I find unfortunately Shri Altekar is a lawyer, Shri Tek Chand is a lawyer and probably Shri Shree Narayan Das is also a lawyer.

Shri Bhagwat Jha Azad (Purnea cum Santal Parganas): No, but he supported you.

Shri Pataskar: Prejudices and habits die very hard. As a matter of fact, the *de facto* guardian for whom everybody has shown such an amount of sympathy is a modern creation dating back 100 years, resulting from a certain decision of a High Court.

Then they say, supposing there is an uncle or a brother who is living in the village, and there is nobody else, what will happen? Nothing will happen. If he is a good man, he will try to look after the interests of the minor. If he wants to deal with or alienate immovable property, then we say that a *de facto* guardian should not do it. Who are the *de facto* guardians? Are they always uncles and brothers? A halo is being created around them by people who ought to understand better, because according to the law as it stands now, a *de facto* guardian may be anybody, a neighbour, a friend, a relation or anybody on earth, who can come forward and deal with the property of an unfortunate minor who has no parents.

Then they say, if he has to get himself appointed as guardian by a court of law, it would involve cost. To say that a person who is and ought to be in a position of a trustee of the property should not be asked to go to a court for getting himself appointed as guardian is a thing difficult to understand. The only reason is that probably we have got accustomed to it.

I think there are five or six crores of Muslims in this country, they are also living in the rural areas. There is a recent decision of the Supreme Court that there is no such thing as a *de facto* guardian among the Muslims. Who are the *de facto* guardians and what are their powers? In many cases the transactions that were entered into by them in respect of the minor's properties were set aside.

If the property is big enough, I think there should be no difficulty in the *de facto* guardian getting himself appointed. If it is too small, is it desirable that anybody in the name of being *de facto* guardian should waste it

before the boy has a chance of becoming a minor and trying to get what belongs to him? These are the hard facts. It proposes to impose no hardship on anybody. Unfortunately people have become accustomed to it and the only argument put forward by them is the question of the rural population. I do not blame anybody, but whenever there is a change, there is a natural tendency to resist it. Because this forms part of the Hindu Code, my friend Shri Nand Lal Sharma opposes it, though if he were to study it, he would find it has nothing to do with the ancient Hindu shastras. Naturally prejudices, sentiments and habits die very hard and that is the only justification.

To err is human, and I do not claim that this may not cause any hardship, but I appeal to hon. Members to take a more dispassionate, rational and clear view of what we are doing, what is happening in the rest of the world, and not try to perpetuate what has been an anachronism so far as our society is concerned. I hope that the measure which we are today passing will ultimately enure to the benefit and interest of the minors for whom it is intended. After all, as I have already stated, there is the Guardians and Wards Act, and subject to that we are going to recognise certain fundamental features broadly with respect to the parents who are natural guardians.

I have nothing more to add. I thank all those who have generally accorded support and even my critics because, after all, there must be critics. I still maintain that in my humble opinion it is an innocent measure which is likely to yield good results.

Mr. Chairman: Shri Altekar raised one point, viz., whether the words "deal with the property" mean the ordinary management also.

Shri Pataskar: It is not a newly coined phrase for the purpose of this Act. It is also used in the *Guardians and Wards Act*. The object it that

people may not dispose of the property, but should try to act in such a manner that the interests of the minor are ultimately served. That is the intention.

Shri Altekar: Is collecting revenue or rent and even making some disbursements in connection with the routine daily life "dealing with the property"?

Shri Pataskar: I would rather avoid trying to give an interpretation to a

phrasology which is already there in other Acts, which is being interpreted and which might be interpreted in future by the courts. I think I must resist the temptation.

Mr. Chairman: The question is:
"That the Bill, as amended, be passed".

The motion was adopted.
5 P.M.

The Lok Sabha then adjourned till Eleven of the Clock on Wednesday, the 18th July, 1956.