

Vol.III
07th May, 1955 (Saturday)

LOK SABHA DEBATES

[Part I—Questions and Answers]

VOLUME III, 1955

(20th April to 7th May, 1955)



सत्यमेव जयते

NINTH SESSION, 1955.

(Vol. III contains Nos. 41—52)

**Lok Sabha Secretariat
NEW DELHI**

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(Part I Questions and Answers)

Date: 06.02.2

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LOK SABHA

Saturday, 7th May, 1955.

The Lok Sabha met at Half Past Ten of the Clock.

[MR. DEPUTY SPEAKER in the Chair]

ORAL ANSWERS TO QUESTIONS

Short Notice Questions and Answers

STEEL PLANT

S.N.Q. No. 17. Dr. Ram Subhag Singh: Will the Minister of Commerce and Industry be pleased to state:

(a) whether the British Steel Mission has submitted its report to the Government of India in regard to the location of the third steel Plant;

(b) if so, the name of the place suggested in this regard; and

(c) if the answer to part (a) above be in the negative, when the report is likely to be submitted?

The Minister of Commerce and Industry (Shri T. T. Krishnamachari):

(a) No, Sir.

(b) Does not arise.

(c) A preliminary report is expected within 10 weeks.

Dr. Ram Subhag Singh: May I know whether the Government of India will consult the Governments concerned in regard to that report before a final decision is taken in regard to the location of the steel plant?

Shri T. T. Krishnamachari: I am not in a position to give any assurance of that nature at the present moment. It will all depend upon the report.

Dr. Ram Subhag Singh: Is it true that according to certain understandings, the Chief Ministers of the States concerned will be consulted before the finalisation of the site?

Shri T. T. Krishnamachari: Well, Sir, if one, two or three alternative sites are recommended, naturally, the Governments concerned will have to be consulted and it is rather difficult for me at this stage to answer a hypothetical question of that nature.

Shri B. K. Das: May I know what are the sites recommended?

Shri T. T. Krishnamachari: No recommendations have yet been made.

Shri Matthen: What portion of the capital is going to be from the private sector?

Shri T. T. Krishnamachari: I do not know. We have not come yet to the stage of considering the project. But, at the present moment, the intention of Government is that Government should find as much of the capital as is necessary.

Shri L. N. Mishra: I want to know whether it is a fact that the Government of Bihar sent representations with regard to the location, and what are the reasons the Government of Bihar have put forward?

Shri T. T. Krishnamachari: The Government of Bihar sent representatives to meet the Mission. What arguments they put forward before the Mission, I am not aware of.

Pandit D. N. Tiwary: May I know whether the attention of the Government has been drawn to the unanimous resolution of the Bihar Assembly in

this respect to locate the steel plant at Sindri or near about?

Shri T. T. Krishnamachari: Yes, Sir.

Shri Joachim Alva: Has the Government come to any conclusion as to what advantages the country will get if it is the British plant or the German plant or the Soviet plant?

Shri T. T. Krishnamachari: The Government is not in a position to evaluate the relative advantages or disadvantages as between these three plants.

Shri B. N. Misra: As the hon. Minister has said that there are three prospective sites which have been recommended, may I know which are these three prospective sites?

Mr. Deputy-Speaker: He did not say so. He said he is not able to assess the relative merits of the British, the Russian and the German steel plants.

CYCLONE OVER MANIPUR

S.N.Q. No. 18. Shri Rishang Keishing: Will the Minister of Home Affairs be pleased to state:

(a) whether it is a fact that a devastating cyclone swept over Manipur on the 29th April, 1955 causing extensive damage;

(b) if so, the extent of damage caused both in the hills and plains as a result thereof;

(c) the area affected by the cyclone; and

(d) the relief measures proposed and undertaken by Government?

The Deputy Minister of Home Affairs (Shri Datar): There was a hailstorm of more than usual intensity but of short duration in and around Imphal on the afternoon of the 29th April, 1955. Some trees were uprooted and houses damaged. There was also temporary interruption of communications but no damage was caused to crops since sowing had not begun in the area. The State Government have received no report or representation to show that in any case damage has been of such a degree as to call for any distress relief measures, but if there is any deserving case, the State Government would do the needful.

Shri Rishang Keishing: May I know if the Government of Manipur has asked the Central Government to send any help?

Shri Datar: As I have stated, we have not received any report at all.

Shri Rishang Keishing: May I know if the information supplied by the hon. Minister is a complete report about the Cyclone?

***Shri Datar:** Sir, may I place the full report before the House as we have received from the Chief Commissioner?

Mr. Deputy-Speaker: Yes.

*From Chief Commissioner, Imphal
To, Home, New Delhi.

"Dated the 4th May, 1955.

Mathew to Sahgal your wireless message received here on 3rd night (.). There was a hailstorm of more than usual intensity but of short duration in and around Imphal on the 29th afternoon (.). Houses trees were uprooted and there was also damage to some houses and also temporary interruption of communications. (.). No damage to crops since sowing has not begun in the area (.). No report received that any other area has been affected (.). No report or representation to Government of damage of such degree or extent as to call for distress relief measures by Government."

Vol. IV
07th May, 1955 (Friday)

LOK SABHA DEBATES

(Part II—Proceedings other than Questions and Answers)



(Vol. IV contains Nos. 46—58)

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LOK SABHA SECRETARIAT
NEW DELHI

SIX ANNAS (INLAND)

TWO SHILLINGS (FOREIGN)

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(Part II—Proceedings other than Questions and Answers)

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LOK SABHA

Saturday, 7th May, 1955

*The Lok Sabha met at Half Past Ten
of the Clock*

[MR. DEPUTY-SPEAKER in the Chair]

QUESTIONS AND ANSWERS

(See Part I)

10-36 A.M.

PAPERS LAID ON THE TABLE

REPLIES TO MEMORANDA OF MEMBERS
re DEMANDS FOR GRANTS, 1955-1956—
RAILWAYS

The Deputy Minister of Railways and Transport (Shri Alagesan): Sir, I beg to lay on the Table a copy each of certain statements containing replies to certain memoranda received from Members in connection with Demands for Grants, 1955-56—Railway [See Appendix XIII, annexure No. 21].

MEMORANDA re POINTS RAISED DURING
BUDGET DEBATE ON IRRIGATION AND
POWER PROJECTS

The Deputy Minister of Irrigation and Power (Shri Hathi): Sir, I beg to lay on the Table a copy of the Memorandum giving information on the points raised during the Budget Debate not covered by the Minister's reply and certain other important points relating to Irrigation and Power Projects. [See Appendix XIII, annexure No. 22.]

STATEMENT re PROGRESS OF ACTION
TAKEN ON IRREGULARITIES IN
HIRAKUD PROJECT

Shri Hathi: Sir, I beg to lay on the Table a copy of the statement showing
150 LSD.—1

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ing the progress of action on cases of alleged financial, accounting and other irregularities, including those of a criminal nature, on the Hirakud Dam Project. [See Appendix XIII, annexure No. 23.]

**CORRECTION OF ANSWER TO
STARRED QUESTION**

The Deputy Minister of Home Affairs (Shri Datar): Reference supplementaries to the Starred Question No. 1750 answered in Lok Sabha on the 31st March, 1955.

The following reply was given to the supplementary question asked by Shrimati Sucheta Kripalani:

"Government are not at present considering the question. But here there is a class of persons known as 'regular temporary establishment'. There we have a certain seniority. That means a certain class of temporary government servants are entitled to appear."

The correct position is that such of the persons of the Regular Temporary Establishment of Assistants who are confirmed in Grade IV of the Central Secretariat Service with effect from the 1st January, 1954 and have seniority in the grade of Assistant or in equivalent grades from a date earlier than the 1st January, 1951, are eligible to sit for the ensuing Limited Competitive Examination for promotion to the Regular Temporary Establishment of Assistant Superintendents. The condition of being permanent in Grade IV has, however, been waived in the cases of permanent

[Shri Datar]

displaced Government servants and members of Scheduled Castes and Scheduled Tribes.

Shri Kamath (Hoshangabad): Why was there this delay of more than a month in making this correction or rectification?

Shri Datar: Sir, the correction had been found out and it had been checked and therefore this time was taken.

STATEMENT RE TEXTILE MILLS IN PONDICHERY

The Minister of Commerce and Industry (Shri T. T. Krishnamachari): I would like to make a statement in regard to the position of the textile mills in Pondicherry. The position is as follows:

There are three textile mills in Pondicherry, namely, Bharathi, Savana and Rodier Mills. These mills have been producing cloth mainly for the requirements of the French African territories and, therefore, are equipped for the production only of certain special varieties of textiles not readily saleable in India or in India's traditional export markets. The work-load and the scales of wages in Pondicherry mills vary as compared to Indian mills. They have besides a pension system for their workers. All these factors go to increase their cost of production. The Pondicherry mills therefore find it difficult to find markets for their products. Savana and Bharathi mills have nearly stopped production, and the Rodier mills have cut down their production by about 50 per cent. The Government of India appreciate the difficulties arising out of such closing down or reduction of production.

The matter was brought to the notice of the Government of India by the Pondicherry Administration and steps were taken to find out if we could, with the help of the French

Government, secure the extension of the concessions in African markets for the Pondicherry textiles for a further period of at least 6 months. Unfortunately, no favourable response has been received from the French Government and we have been given to understand that there is no possibility of the French Government agreeing to any special concessions in favour of Pondicherry textiles for imports into French African territories.

We have been anxious to find other solutions to this rather serious problem. Two officers from the Textile Commissioner's Office visited Pondicherry about two weeks ago and have made certain recommendations which are being considered. The main factor is the high cost of production and difficulty of finding markets at competitive rates. The mill managements find it difficult to reduce the cost of production unless there is some increase in the work-load and some reduction in the pension liability, and there is resistance from the workers in regard to both these factors. While fuller inquiries into the issues raised by the managements and the workers will take some time, the Government of India is anxious to see that these mills continue their production, particularly as that affects the welfare of the workers employed therein. With this consideration in view, the Government of India has certain special measures under consideration. These are:

(1) to allow export of yarn on a liberal basis;

(2) the Ministry of Works, Housing & Supply to examine the possibilities of placing some special orders with the Pondicherry mills to help them in continuing their production;

(3) similarly, the Central Board of Revenue is considering the question of exemption from export duty on the textile products of Pondicherry mills which is likely to promote production and export from Pondicherry mills.

These measures it is hoped will enable the mill managements to maintain production and provide employment for the full complement of the labour force. We also hope that the workers' unions will appreciate the special concessions made in favour of the Pondicherry textile industry and will work in a spirit of understanding and co-operation. In addition to these immediate concessions, the Pondicherry Government will be appointing an Arbitration Commission in accordance with the wishes of the workers and the mill managements. The Commission will be composed of experts and is expected to be able to make recommendations regarding long-term measures for the rehabilitation of the Pondicherry textile industry.

CALLING ATTENTION TO MATTER OF URGENT PUBLIC IMPORTANCE

UNEMPLOYMENT IN CENTRAL EXCISE DEPARTMENT

Shri T. B. Vittal Rao (Khammam): Under Rule 216, I beg to call attention of the Minister of Finance to the following matter of urgent public importance and I request that he may make a statement thereon:

"The threatened unemployment of Central Excise Staff in Madras State as a result of the merger of French territories in the Indian Union."

The Minister of Revenue and Defence Expenditure (Shri A. C. Guha): The House will recall that the same matter was raised in a starred question by Shri Sarangadhar Das on 15-3-1955 on the floor of this House. I invite attention to the statement I laid on the Table of the House in reply to the above question and also to the reply I gave to a supplementary by the same Member. As explained in that statement out of a total of 864 officers of different grades who were working on the borders of

the French Settlements in India at the time of *de facto* transfer of these settlements to the Indian Union, 787 were expected to become surplus to the requirements of the Central Excise Collectorate, Madras, the remaining 77 being absorbed against existing vacancies in that Collectorate itself. In the ordinary course, the surplus staff would have had to be discharged partly on 1-5-55 and partly on 1-6-55. Government, however, decided that all these persons should be found alternative employment as far as possible.

There were a number of vacancies, in the appropriate cadres, in the other Central Excise Collectorates. Other Collectors of Central Excise were asked, as far as possible to fill up the vacancies in their collectorates by the surplus staff from the Madras collectorate. According to the present information, the number of vacancies is in excess of the surplus waiting to be absorbed so that alternative employment in the same grade will be available to the entire surplus staff provided they are prepared to serve in any other collectorate. Simultaneously, the possibility is being explored of placing some of the surplus personnel, particularly the lower paid staff, in the Central Government offices in the Madras area. For instance, the Ministry of Railways, who were approached in the matter, have kindly agreed to find alternative employment for such of the surplus staff as are found suitable, in the offices of the Southern Railway and the Integral Coach Factory at Madras.

Thus, Sir, there is hardly any apprehension of any of the staff in the Madras collectorate being thrown out of employment due to the merger of the French territories in the Indian Union. Further, every effort is also being made to absorb them in the area in which they are now serving and prevent their transfer to distant parts of the country. We fully realise the difficulties involved in such transfer and we have been trying to prevent them.

Shri T. B. Vittal Rao: May I....

Mr. Deputy-Speaker: No questions on statements, please.

Shri T. B. Vittal Rao: Not on this statement. I wish to draw your attention that the other day while disposing of an adjournment motion in connection with the Kanpur textile strike, the Minister of Labour referred to a Nainital Agreement.

Mr. Deputy-Speaker: Order, order. This practice was given up long long ago. I would not allow any of the proceedings to be interrupted. If the hon. Member wanted to raise any question of any importance, he should have given me intimation, I may have allowed him to raise it or may not have allowed him to raise it at a particular point of time.

Shri T. B. Vittal Rao: I am not raising any discussion. I am only drawing your attention to the fact.....

Mr. Deputy-Speaker: No attention.

Shri T. B. Vittal Rao: There is no Nainital Agreement, I made enquiries..

Mr. Deputy-Speaker: The hon. Member will have to confine himself to rule 216.

REPRESENTATION OF THE PEOPLE (AMENDMENT) BILL

The Minister in the Ministry of Law (**Shri Pataskar**): I beg to move for leave to withdraw the Bill further to amend the Representation of the People Act, 1950, and the Representation of the People Act, 1951, and to make certain consequential amendments in the Government of Part C States Act, 1951, as reported by the Select Committee.

I will make a brief statement as to why I am asking withdrawal of this Bill. As hon. Members are aware, it was for only effecting some very

urgent changes in the law relating to elections that this matter was brought forward in 1953 and it was referred to a Select Committee. In the course of the discussions in the Select Committee, it was found that this Bill cannot be confined only to the very objects for which it was brought, and some comprehensive revision of the election law is necessary. In between, as hon. Members are aware, there is the report of the Election Commission with respect to the last elections. I think that the report of Shri Sen has been circulated to all Members. It has, therefore, become necessary that we should rather undertake a comprehensive Bill dealing with all the questions which have arisen on account of the experience that we have gained as a result of the working of the election law during the last elections and other matters. It is for that purpose that I beg leave of the House to withdraw the Bill and bring forward a more comprehensive piece of legislation, regarding the election law. Therefore, I beg leave to withdraw.

Shri N. C. Chatterjee (Hooghly): May we have an idea as to when this Bill will be sponsored as some of the matters are very urgent?

Shri Pataskar: That is why I have made this motion. Unless this Bill is withdrawn, nothing can be done. The other Bill is ready. As soon as this is withdrawn from this House, I am going to request the Speaker to allow that Bill to be published in the Gazette so that people may know what the provisions are and probably we will take it up in next session.

Shri Kamath (Hoshangabad): Do we take it that this new Bill will be introduced early in the next Session?

Shri Pataskar: If we were to introduce the Bill, it will take a long time. I am going to request the hon. Speaker to allow me to publish it in the Gazette so that we avoid that stage of introduction.

Mr. Deputy-Speaker: In that case leave to introduce is not necessary.

The question is:

"That leave be granted to withdraw the Bill further to amend the Representation of the People Act, 1950, and the Representation of the People Act, 1951 and to make certain consequential amendments in the Government of Part C States Act, 1951, as reported by the Select Committee."

The motion was adopted.

CODE OF CIVIL PROCEDURE (AMENDMENT) BILL

The Minister in the Ministry of Law (Shri Pataskar): I beg to move for leave to introduce a Bill further to amend the Code of Civil Procedure, 1908.

Mr. Deputy-Speaker: The question is:

"That leave be granted to introduce a Bill further to amend the Code of Civil Procedure, 1908."

The motion was adopted.

Shri Pataskar: I introduce the Bill.

INDIAN COINAGE (AMENDMENT) BILL

The Minister of Revenue and Defence Expenditure (Shri A.C. Guha) I beg to move for leave to introduce a Bill further to amend the Indian Coinage Act, 1906.

Mr. Deputy-Speaker: The question is:

"That leave be granted to introduce a Bill further to amend the Indian Coinage Act, 1906."

The motion was adopted.

Shri A. C. Guha: I introduce the Bill.

LAND CUSTOMS (AMENDMENT) BILL

The Minister of Revenue and Defence Expenditure (Shri A. C. Guha): I beg to move for leave to introduce a Bill further to amend the Land Customs Act, 1924.

Mr. Deputy-Speaker: The question is:

"That leave be granted to introduce a Bill further to amend the Land Customs Customs Act, 1924."

The motion was adopted.

Shri A. C. Guha: I introduce the Bill.

BUSINESS OF THE HOUSE

Report of commissioner for scheduled castes and scheduled tribes.

Shri Frank Anthony (Nominated-Anglo-Indians): Before we proceed further, may I know whether Government have decided to bury the Report of the Commissioner for Scheduled Castes and Scheduled Tribes and Anglo-Indians? This is about the Report for 1953. I had protested and they said that we would discuss it in the last session. They shunted it to the fag end of the last session and we were given an assurance that it would be given priority in this session. Now, we have come to the end of this session. It would be quite infructuous to discuss the Report for 1953 now. What is the point of discussing it?

The Minister of Parliamentary Affairs (Shri Satya Narayan Sinha): The House is aware that we tried our level best and did all that was physically possible to have this Report discussed. But owing to circumstances over which we had no control—of which the hon. Member is also aware—we could not do it this session. We also consulted our friends, the Scheduled Caste Members. Now the new Report has also been presented to the House. It is much better to discuss

[Shri Satya Narayan Sinha] the new and the old Reports on the first day or the first week of the next session.

Shri S. S. More (Sholapur): Shall we be discussing the Report which has been submitted after the next Report is received?

Shri Satya Narayan Sinha: Such circumstances will not present themselves each time.

HINDU SUCCESSION BILL—contd.,

Mr. Deputy-Speaker: The House will now proceed with further consideration of the motion moved by Shri Pataskar on the 5th May 1955 regarding the concurrence of this House with the recommendation of the Rajya Sabha to join in the Joint Committee on the Bill to amend and codify the law relating to intestate succession among Hindus. Shri Venkataraman will continue his speech.

Shri Venkataraman (Tanjore): On the last occasion, I started by pleading for the inclusion of the *Mitakshara* joint Hindu family within the scope of the Succession Bill. I was saying that the opinions of jurists like Shri S. Varadachariar and Shri Srinivasa Ayyangar were all in favour of the extension of the principle of *Dayabhaga* to the *Mitakshara* school. The hon. Minister was good enough to intervene at that stage and to point out that the Government had not committed themselves either way and that they were open to persuasion or conviction that this law should be extended to the *Mitakshara* school also. In that case, the question naturally arises whether on the extension of this to the *Mitakshara* school, the separation of the family would take place immediately or at a later stage. Now, there are two views in respect of that. In the original Bill, based on the Rau Committee's Report that was introduced, the Government were in favour of the joint family not

immediately separating itself and becoming a *Dayabhaga* family but were in favour of the new line or the law of succession taking effect as and when a death took place in the joint family. That is to say, if in a joint family consisting of A, B, C, and D, A dies, his share would then pass to his heirs and not to his survivors. In that case, it will leave a time lag between the complete annihilation of the joint family system and the switching over to the new system. On the other hand, the Joint Committee, of which you were a Member, was in favour of the other view, namely, that on the appointed date, that is the day on which this law came into force, there shall be deemed to be a separation forthwith and that all the members of the joint Hindu family shall be deemed to hold the property not as joint tenants but as tenants in common.

Mr. Deputy-Speaker: Was that my view?

Shri Venkataraman: You were a Member of the Joint Committee and therefore I thought I might call your attention to that.

Shri S. S. More (Sholapur): That was the Committee's view....

Shri Venkataraman: That was the view of the Committee of which you were one of the most important Members.

Shri S. S. More: Was there any Minute of Dissent?

An Hon. Member: By the Chairman.

Shri Venkataraman: It is not necessary to go into that.

The Minister in the Ministry of Law (Shri Pataskar): We can all think of it afresh.

Shri Venkataraman: My submission is this. The Joint Committee's decision would probably disturb the existing state of affairs to a very great extent, and create a sort of confusion in the existing joint families of the *Mitakshara* school because, overnight people will be told that the new system has

come into existence and that they are holding as tenants in common and not as joint tenants under the rule of survivorship. But if you adopt the procedure recommended by the Rau Committee and embodied in the Bill originally introduced, it will be more advantageous because as and when a death takes place, only that share will devolve on the heirs in accordance with the succession law, with the result that the other members, if they choose to continue, may continue to be members of the joint Hindu family until the last one of them dies and thereafter each family will be governed by the new succession law.

We may also draw some analogy for this from the Estate Duty Bill which we passed. In the Estate Duty Act, the law presumes that on the death of one of the members of the joint Hindu family, his share shall be deemed to be separate on the date of death and that share alone is held liable for the payment of estate duty. So I hope that when the Joint Committee goes into this question, it would prefer the Rau Committee's recommendation and adopt that. It was also provided in the code as it was then introduced that no right by birth to any property after the commencement of the code shall be by survivorship and it shall always be by succession.

Now, certain arguments were advanced against the introduction of the woman as a member, as a sharer, in the property. One of the points made was that it is likely to cause a lot of irritation and disharmony between the brother and the sister. But it can also be argued whether the sister would be very affectionate when she is told that she has no share in the property. If it is argued that by giving the daughter a share in the property, there will be disputes between brother and sister and there will be disharmony between them, it is equally true that if you deny the sister or the daughter a share in the family, she is not going to be very affectionate towards the brother—she

is not going to be very affectionate to the other members of the family. This is not my opinion. I will quote the opinion of no less a person than Shri P. S. Sivaswami Iyer, once a doyen of the Bar in Madras, and a great name in the public life of India. This is from the Report of the Hindu Law Committee:—

"All the above arguments have been effectively met. Mr. A. C. Gupta of Calcutta asked, 'What sort of affection is it that will be effected by putting this little strain on self-interest?' and Sir P. S. Sivaswami Iyer of Madras said: I do not think that when no share is given, there will be greater affection. No, that is not possible' "

So if you deny the woman a share in the property, it is not going to increase her affection towards the family or towards the brother.

Then the next point that was made was that it would lead to fragmentation. This argument about fragmentation really lacks any scientific basis. Fragmentation depends on the number of children that a person gets. Suppose instead of four sons and three daughters, the man had seven sons, would there not be fragmentation? This argument regarding fragmentation is really, as I said, lacking in a scientific basis. And having committed ourselves to a philosophy that the mere accident of birth shall not disentitle any person in this country of ours to any of the benefits, we will be perpetuating the distinction between man and woman if we continue to deny the woman a share.

11 A.M.

Shri Rane (Bhusaval): Do sons take them to heaven?

Shri Venkataraman: I do not believe in the existence of one. The next point I want to mention is this. Even in the Code as presented by Dr. Ambedkar as well as the Code that was originally presented, the clauses dealing with the distribution of property

[Shri Venkataraman]

contained illustrations. I want the hon. Minister to include all these illustrations also in the body of the Act. That will help in the interpretation of the sections. As it is the illustrations as to how the property would be distributed are all included in the notes on clauses, and these notes on clauses will vanish by the time the Report on this Bill comes back from the Select Committee. On the other hand, if they are included as illustrations in the clauses themselves, it will be very helpful in interpretation. I would request the hon. Minister to see that illustrations are included in the relevant clauses, namely clauses 10, 11 and 14.

As regards the share of the daughter I am in favour of giving an equal share to her. I am against any distinction being made between a son and a daughter. That is the opinion which has been very strongly supported in the Report of the former Select Committee also. That will also be in consonance with the present and modern trends of thought. There is, however, one doubt which rather worries me, and it is this.

In the case of a family consisting of, say, three widows, two sons, and four daughters, if you work out the shares of the respective parties, according to the present Bill, you will find that the share of the wife or the widow is less than that of the daughter. I am anxious that in no case should the share of the widow be less than that of the daughter. I shall give an exact illustration. Take the case of a family in which a person had three widows, two sons and four daughters. In that case, the three widows will take only one share, the two sons will take two shares, while the four daughters will take two shares; and the total number of shares into which the property will be divisible is five; and each share will represent one-fifth of the property. As the three widows take only one share, the share of each widow will be only one-fifteenth, as against

the one-tenth that the daughter will get. My suggestion is that a proviso should be added to clause 10 to the effect that the share of the widow shall be one, and if there is more than one widow, the share of the widow shall not in any case be less than that of the daughter in that particular family. This is very important because there is no point in saying that until the death of the husband—the head of the family—she is the owner of almost the whole, and that immediately on the death of her husband, her share gets reduced very much below what even a daughter would get.

The Minister of Law and Minority Affairs (Shri Biswas): But she will also get the share of a daughter from her own father.

Shri Venkataraman: That is true. But what that share is, God only knows. We do not know whether there would be anything to inherit at all from the father. After all what is the property that we distribute? We are taking into account not the property of the father of the widow; we are thinking only of the distribution of the property of the last male holder. In that property, the widow had a great share. But suddenly by the operation of this law, she would find that her share is reduced to something which is less than that of a daughter even. I am anxious that this should not happen. I am in favour, no doubt, of giving an equal share for the daughter along with the son.

Next I come to the rule of succession with regard to the property of a woman. I would not call it *stridhan* because it includes not only the property which she can dispose of but also the limited estate about which I have already made by submission, that by the extension of this principle to the joint Hindu family of the Mitakshara school, she will become a sharer like any other person. You will find that under clause 17 the rule of succession of a property of a Hindu woman is that the property first

devolves on the children and secondly on the husband. This, I consider, is an inequitable discrimination. I think the husband ought to be made a simultaneous heir along with the children. If we are providing for the wife or the widow to get a share in the property of the husband as a simultaneous heir, it is equally reasonable that the husband should also be a simultaneous heir along with the children. For, why should the husband be deprived of a share in the wife's property? After all, in law, the husband and the wife are one. If that is so, why should they be treated as different before Mammon? I think even with regard to the distribution of property, the husband should be included as a simultaneous heir along with the children, and brought under sub-clause (a) of clause 17.

The next point which I want to mention deals with clause 19. According to that clause, those women who are now in possession and in enjoyment of property as women's estate holders will continue to do so, and on their death, the property would revert to the heirs of the last male holder. I consider that it is unnecessary to perpetuate the women's estate. Here and now, all those estates held by women should be made absolute. There is a difference between the women's estate in Hindu law, and life estate in the English real property law. There, there is a vested estate in the person who is the holder of the remainder, but here there is no vested estate at all. In Hindu law, as you are aware, the women's estate is something more than a mere life estate; there is right of disposition but subject to certain restrictions; and the right of the reversioner is only *spes successionis*; it is not a vested interest, but it is a mere expectancy. I think therefore that no great harm will be done if we make the estate a full estate instead of a limited estate.

These are the changes which I would suggest for the consideration of the Joint Committee, and I am sure that they would carry out these things

when they bring the Bill back to this House.

Shri N. C. Chatterjee (Hooghly): This Hindu Succession Bill is of very great and serious import. It is much more important than the Hindu Marriage Bill that we passed the other day. It is bound to have far-reaching consequences. After all, we have protested against the introduction of the divorce clause in the Marriage Bill. Millions and millions of Hindus who divorce may not avail themselves of the benefit of that law, and therefore it can be rendered nugatory. So also, we are providing for inter-caste marriages, *sagotra* marriages and so on. But thousands and thousands of people who do not like this kind of marriage need not marry in that manner. There is no compulsion, and therefore it is a purely optional thing. But this is a compulsory measure of far greater consequence, which will have very serious repercussion on the entire society, and will have very great effect on the agrarian economy of this country. Therefore, this merits the very serious and earnest attention of all the Members of this House.

As a matter of fact, I have got seven reasons—and I shall formulate them one by one—as to why I am saying..

Shri V. G. Deshpande (Guna): *Sapta shila*.

Shri N. C. Chatterjee: *Panch Shila* was fashionable, but after the Bandung Conference, *sapta shila* has come into vogue.

I have given a good deal of earnest thought and very close attention to this measure, and I have passed sleepless nights over this. And I can assure the House....

Shri S. S. More: How many daughters have you?

Shri N. C. Chatterjee: Fortunately three; and two sons.

Shri S. S. More: What will be their probable share?

Shri N. C. Chatterjee: What I am submitting is this. I am asking the

[Shri N. C. Chatterjee]

Joint Committee and this House to consider very seriously as to whether we should make a departure from the law which has ruled Hindustan for two thousand or three thousand years. The Prime Minister the other day paid some tribute to Manu and Yajnavalkya, and accepted my main thesis that marriage is a sacrament. Our law was based upon some principle and that is why we did not allow this system of making the married daughter a simultaneous heir with the son.

I must say that this Bill, if it is enacted in the form it stands, will be a real paradise for lawyers and Mr. Pataskar, a member of our profession, will be blessed by very many members of the legal profession.* It will open the flood-gates of litigation. I am paying a tribute to him. I paid a tribute to him the other day also for his handling of the Hindu Marriage Bill. Certainly as a lawyer, he will deserve the compliments of all lawyers, because this will open the flood-gates, not only floods like Bhakra-Nangal, but something worse like the Brahmaputra flood will flow. I will tell you why.

Firstly, my objection, again I repeat it as a loyal citizen of the Republic of India who has taken the oath of loyalty and fidelity to the Constitution, is that we should not enact this kind of Communal measure. It is against the cardinal principle of the Constitution. You are defying the principle of the Constitution by this kind of communal legislation. The Prime Minister thunders at communalism at every stage. But you are enacting this sort of communal legislation piece by piece. You have taken the pledge that the State shall endeavour honestly to have a uniform civil Code for all the citizens of the Republic throughout the territories of India. Why deviate from that principle? If you have taken the oath of loyalty to the Constitution of India you should implement it and not break it in this manner. You have

not the courage to implement it. Your secularism is skin-deep and your democracy is slogan-mongering. You should not do this in this wanton way.

The second point is, for whom are you passing this legislation? What is the point of enacting a Hindu Succession Bill when 85 per cent. of Hindus will not be governed by this Code? Please remember, Sir, that under the provisions of this Bill, unless it is drastically amended, not one single member of the Mitakshara coparcenary system will be governed by this Bill. That means the bulk of Hindu India is completely out of the picture. Sometimes extremes meet and I am to some extent in agreement with the previous speaker, Mr. Venkataraman. There are many differences of opinion, but here we agree: what is the point of excluding the Mitakshara joint family? What crime have I committed as a Bengali? What crime have the poor people of Assam, Bengal, some portion of Bihar and some portion of Orissa committed, that to every single Assamese and every single Bengali and other people governed by the dayabhaga school of Hindu law, this law shall be applicable compulsorily, but for millions and millions of people throughout the country who are governed by the Mitakshara coparcenary this Bill will be thoroughly inapplicable? See what this section says: "This Act shall not apply to any joint family property or any interest therein which devolves by survivorship on the surviving members etc...."

That means, you are starting by saying that those governed by the Mitakshara rules, i.e. three-fourths of Hindu India, shall not be governed by this Bill. For whom are you legislating? For whom are you making this law. It is only for the Dayabhaga and not for those fashionable people or progressive people of the Mitakshara school who still cling to the concept of unity of possession and unity of ownership! I am pointing out that this is not fair. If you honestly feel that the married

daughter should be made a simultaneous heir and if you honestly feel that that should be the law for the Hindu community, the Hindu society, then enforce it. Don't say that it shall be only binding on the *Dayabhaga* people. I do claim that the *Dayabhaga* is more progressive than the *Mitakshara*. There was a good deal of maritime trade and international trade carried on from Bengal and we had for centuries crossed the Bay of Bengal and had very close commercial intercourse with Java, Sumatra, Borneo, Siam and the Indian Archipelago; and therefore, we have evolved a different system of law. The celebrated Hindu jurist, Jimutavahana, who was a Minister of Justice in the court of one of the Sen Kings, brought about this *Dayabhaga* school and gave a different commentry and a new re-orientation without seceding from the basic concept of Indo-Aryan civilization, and therefore, we have this kind of law. After all, for all practical purposes, I can assure the House that as between *Mitakshara* joint family and the *Dayabhaga* joint family, there is no fundamental difference in practice. Side by side there are lakhs of people in Calcutta governed by the *Mitakshara* and *Dayabhaga* schools. Take for instance the *Marwadi* community who have got most of the wealth of this great industrial city of Calcutta. They would not be governed by this law. Only the middle-class Bengali families will be governed by this kind of law and that shall be called the law of India!

Thirdly, you are having another loophole and that is very important. You are saying that this law can be negated, can be made nugatory by anybody. You say that this Act shall not apply to those governed by the *Mitakshara* school, but only to those governed by the *Dayabhaga* system. Then, if you say that this law can be negated, that means that those people who have got the resources, the intelligence, the capacity and the wherewithal to engage lawyers and make wills, they can nullify this measure. I ask, for whom are you

enacting this wonderful measure? Don't do it for propaganda purposes. Don't say, we are conferring a boon on the daughters of India and at the same time make it nugatory for millions and millions of people, nearly for three-fourths of the people of this country. I am pointing out that this is not fair. If you enact this, what will happen is that the urban people, the intelligentsia, the educated people living in the cities can render it nugatory.

Shri A. M. Thomas (Ernakulam): That is the case with regard to any other law of Hindu succession.

Shri N. C. Chatterjee: Therefore, if you want it, for heaven's sake, do seriously consider whether there should be any difference between *Mitakshara* and *Dayabhaga*. Either have this for all, or don't have this. I strongly plead that it will not be fair to make a married daughter a simultaneous heir. What I am saying is, if you feel that you are doing some great good and that you are conferring a boon, then it can be made nugatory and illusory.

My fourth point is that this will have a very serious effect....

Mr. Deputy-Speaker: The House is unable to know the feeling of the hon. Member. He is arguing like a lawyer saying, this is good and that is not good. The House must know what exactly the hon. Member feels regarding this measure.

Shri N. C. Chatterjee: I feel strongly that a married daughter should not be made a simultaneous heir. That is my basic point. I am pointing out that it is not good to legislate like this, because in effect it will be nugatory for the bulk of the people for whom you are legislating.

Shri Pataskar: So far as my personal opinion is concerned, what I said was this:

"In the circumstances, hon. Members may feel that the Rau Committee came to the only possi-

[Shri Pataskar]

ble conclusion that hereafter there will be one form of succession to all kinds of property passing on intestacy and that the law need recognise only one form of joint family, namely, the joint family known to the *Dayabhaga* system of law. Further on, I might say, if you want to put it, you may do it."

Shri Venkataraman: Read the next sentence also.

Shri Pataskar: The next sentence is:

"In this matter, I would be willing to be guided by the wishes of the House."

Mr. Deputy-Speaker: If the House decides to do away with joint family?

Shri Pataskar: Otherwise, if the House wants to benefit *Mitakshara* families, I have no objection. This matter will be considered by the Select Committee and then decided by the House.

Pandit Thakur Das Bhargava (Gurgaon): To start with, the Bill shall not apply. In the Select Committee it shall apply.

What does it mean?

Shri V. G. Deshpande: Within closed doors they want to do it. The House should not know.

Shri Pataskar: I have made it clear in my speech. At least for this you must give me credit.

Shri N. C. Chatterjee: Let the Ministerial mind be an instructed mind. Let it not be a blank mind on this matter and do not say that it is absolutely open. You are giving no lead to the country. Let us know where you stand. Let not the Law Minister simply say: "I am leaving it to the Select Committee." I have something to say about the Select Committee. After all, it does not represent some of the best lawyers in this House. I wish Pandit Thakur Das Bhargava

was there. I wish Shri Venkataraman was there. I wish Shri S. V. Ramaswamy was there. I wish other Members—Shri Altekar was there. But, there is nobody there. I do not know what kind of Select Committee you are having. But anyhow what I am pointing out is this. It is not fair; it is not right, in such a measure like this, to say: "If you like you can abolish joint family system; if you like you can abolish coparcenary in the Select Committee." This is a fundamental thing. You should now declare where you stand. Let the country think over that. After all you are playing with the destiny of millions and millions of people. It is a fundamental change. It is something which will radically alter the contour of the Bill.

Pandit Thakur Das Bhargava: Then you will say, after all the Select Committee consisting of so many people have agreed to it and therefore, the House must agree to it.

Shri V. G. Deshpande: In 18 hours you then want to finish the whole discussion.

Shri N. C. Chatterjee: You will say that 49 Members were there. Therefore, 49 Members have passed it. It is not fair to say like that. Let the country know where you stand. Give a lead to the country. Give it your concrete suggestions.

Mr. Deputy-Speaker: How can the Select Committee change the provisions of the Bill if the Bill is sent to the Select Committee? Here the provision is not to include *Mitakshara* family. How can the Select Committee change it?

Shri N. C. Chatterjee: The hon. Minister has made the position clear that the Select Committee will be entitled to do it.

Shri Pataskar: I do maintain that. In view of the vary nature of the provisions made here, it would be

open to the Select Committee to decide otherwise.

Shri V. G. Deshpande: The Chair should give a ruling on this.

Mr. Deputy-Speaker: How can the Law Minister one-sidedly and single handedly give power to the Select Committee to change the principle of the Bill?

Pandit Thakur Das Bhargava: The principle is that to Mitakshara Joint family it shall not apply.

Shri N. C. Chatterjee: What I am pointing out is this. Even if technically the Select Committee would be competent to do it, it is not a matter which should be left to the Select Committee. This thing should have been placed before Parliament and Parliament should be given ample opportunity to discuss it. The whole country should have known whether you are treating Mitakshara and Dayabhaga on a parity; whether you are treating the suggestion of Shri Venkataraman seriously to do away with all this distinction and apply it in all cases. That we can understand. But, let us know where you stand and let us not simply leave it to the Select Committee consisting of these estimable gentlemen to finally decide the matter.

Shri Venkataraman: May I make a point of order? Is it your ruling that the Select Committee will not be able to do away with the provisions of the Bill?

Mr. Deputy-Speaker: I have not been invited to give any ruling. But, ordinarily, whatever is the principle of the Bill, the principle cannot be modified by the Select Committee. Hon. Members know, that unless in certain matters they are given directions, the principle of the Bill as it proceeds from the House cannot be changed by the Select Committee.

Shri Venkataraman: Sir, this Bill in clause 5 says: that it shall not apply

to X, Y and Z. Is it not open to the Select Committee to say that this clause be deleted or that it shall apply to those things? The principle of the Bill is one relating to succession and the principle is not one relating to joint family.

Mr. Deputy-Speaker: I do not want to commit myself now. When the matter comes up then we will decide.

Shri Venkataraman: I am anxious that you should not commit yourself and that is why I raised this point.

Mr. Deputy-Speaker: Ordinarily there is only one thing which is accepted as the main principle. The only question then will be what is the main principle and what is ancillary. If 4 or 5 persons are there, brothers, cousins, grandson or great grandson, that is not the main principle. But, the property is the main principle. What kind of property; which portion of property is left out; some portion is self-acquired; other kinds of property and so on come under the main principle. That is, as at present, that is only one of the main principles of the Bill. When the Bill comes up we will decide. If the Select Committee has interfered, it is for the House and the Speaker to find out what is the scope of the Select Committee.

Pandit Thakur Das Bhargava: Last time on the occasion of the Hindu Code Bill, when the Bill came up before the Select Committee, Dr. Ambedkar wanted to change something and he took special leave of the House. He laid before us two matters. He called a conference of these Aliyasantanam people and then changed the provisions. It is not, as if by his own will, the Law Minister can thus change the provisions.

Shri Sadhan Gupta (Calcutta South-East): May I make a suggestion? Now, we have a very strong feeling in this House that this Bill should be applied to the Mitakshara Joint family.

Mr. Deputy-Speaker: The hon. Member speaks for himself. If each hon. Member speaks for himself...

Shri Sadhan Gupta: No, no. I speak from a wider sense. I suggest that to avoid difficulties in future, the Minister may bring in an amendment at this stage to instruct the Select Committee to go into that matter also.

Shri Pataskar: After all this discussion, so far as I am concerned, I take it of utmost importance that this matter unless being considered by the Select Committee, a proper solution of the problem would not arise. Therefore, I am certainly of the opinion that the Select Committee must decide the point. The fundamental principle of this Bill is that of giving the right to the daughter to inherit property. For the time being Mitakshara families are excluded. It is certainly open to the Select Committee to include that also. It is for them to see what changes should be made. All these matters will, I think, be within the competence of the Select Committee to consider. I have made it perfectly clear in my speech. I do not think there should be any difficulty.

Shri Lokenath Mishra (Puri): Can Government bring a Bill to the House on which they themselves are not decided?

Shri Pataskar: They are decided.

Shri V. G. Deshpande: They are decided not to include Mitakshara families.

Mr. Deputy-Speaker: It is open to any Member to bring any Bill, however indefinite it may be, and it is for the House to throw it out.

Pandit Thakur Das Bhargava: There is one difficulty. When the Bill goes to the Select Committee, the people at large usually make representation to the Select Committee also. In the country at large people will under-

stand that this does not apply to Mitakshara property. How are they going to come before the Select Committee and make representation? This must be made absolutely clear before it goes to the Select Committee.

Shri N. C. Chatterjee: I am not raising any technical issue. But this is something of vital importance. It is a matter of great import. Sir, if you kindly look at clause 5 it starts by saying: "This Act shall not apply to certain properties". The clause reads like this:

"This Act shall not apply to—

(i) any joint family property or any interest therein which devolves by survivorship on the surviving members of a coparcenary in accordance with the law for the time being in force relating to devolution of property by survivorship among Hindus;"

Therefore, the cardinal principle of the Bill as it stands, as it is framed, is to exclude its application to all cases of Mitakshara coparcenary. Then it says:

"(ii) any property succession to which is regulated by the Indian Succession Act....."

Thirdly it says:

"(iii) any property succession to which is regulated by the Madras Marumakkattayam Act.." and a number of statutes.

One can understand that if one statute of this character has been added it may have been omitted by accident.

Pandit Thakur Das Bhargava: Now, will they be included—number (iii)—within the province of the Bill by the Select Committee?

Shri N. C. Chatterjee: We always thought that these three things are absolutely basic and fundamental. Firstly non-application to Mitakshara coparcenary, non-application to cases

governed by the Succession Act and thirdly to the Madras Marumakkattayam Act and those people who are governed by their own special laws. Now, it will be something fundamental, if you include any of them. It is not really treating the Parliament fairly or the Government treating the country fairly. If there is any intention that you can rope in the joint family Mitakshara coparcenary, then you should make it very clear so that the millions and millions of people—I do not know how many crores; it must be about 25 crores—will know that they may be brought within the scope of this Bill and they can take action accordingly. I take it they will be lulled into a false sense of security because the Bill gives the impression that they are out of the picture so far as this Act is concerned. I am making my submissions on the merits of the proposal. Whether you apply it to 20 per cent or 30 per cent or 40 per cent of the people, or confine it really to the poor peasants and illiterate ryots who cannot safeguard their interests, especially where there is *Dayabhaga* or among people where the *Mitakshara* coparcenary has been disintegrated. What I am saying is you should not impose this law. I am not merely saying this because it is the law from Manu and Yajnavalkya.

Fifthly, I am opposing this Bill on strong economic grounds. It will have a very disturbing effect on the agrarian set-up in this country. If you give the share to the married daughters, are you not making the son-in-law a co-sharer in the family property? It will have a very disastrous effect. It will be impossible for that family to continue as one unit. In the case of *Dayabhaga* everyone knows it, and in the case of other communities also it must happen like that. My father died in 1941. Today it is 1955. The joint family is continuing. The family business is continuing. My brothers are continuing the business. Because I am a barrister I cannot participate in it. But the family business is con-

tinuing. I have only one sister. There is very great cordiality amongst us. But if the daughter was given a share, that business would have not continued and would have been disrupted long, long ago. Suppose there are three sons and three daughters, and the daughters are one in Calcutta, one in Bombay and one in Lucknow. Are you suggesting that those sons-in-law will allow the family business to continue, the family unit to operate? It is not merely in Bengal or Bihar or Punjab, but everywhere the agrarian life will be disrupted.

Pandit Thakur Das Bhargava: And commercial life will be ruined.

Shri N. C. Chatterjee: And business life will be completely ruined. Bengalis in the mercantile field will be hard hit.

If you give a share to the daughter, even if the sister does not want it from her brothers after the father's death, it will have a serious effect. If Mr. Biswas will remember it when Sir Francis Floud came from England to preside over the Land Reforms Commission in Bengal, distinguished leaders of the Muslim community gave evidence before that Commission. They were saying: we cannot build up our agrarian economy, and these are our difficulties. I think Sir Francis Floud and the distinguished members of the Commission said "Under the Communal Award you are now ruling Bengal"—because, you know, by no amount of ballot or democratic domination we could throw out the Muslim League—"you have captured the Legislature, the Ministry, you are the top dogs, why don't you do what you like?" But the Muslim leaders said before the Commission, "The bottleneck is not the Permanent Settlement, the real bottleneck is this system of fragmentation compelled by making the daughter a sharee. Unless that is changed, rural economy in Bengal would be thoroughly imperilled. And we cannot change the law of the Shariat and Islamic law". That is what the big Muslim leaders said before that Commission. When a man dies he cannot be taken to the

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burial ground unless and until you inform the sons-in-law and all of them come—some in a rather aggressive mood, some in another mood—and they would make a complete inventory of all the assets, movable and immovable, and then only the funeral can take place. Within a short time either you must partition the property, the business, and completely pay off the brother-in-law, or there is litigation. Therefore, it is a great charter for litigation for lawyers. But it will be disastrous.

Sixthly, my next point—I am rather unhappy to make this point—is this, that it may lead to very undesirable marriages between first cousins, marriages which are more or less considered to be incestuous. In Bengal there is a proverb:

चाचा अपना, चाची पराई है, चाचा की लड़की अपनी कल्ले ।

That is, although the uncle is your own, the auntie comes from another family, and somehow get hold of the first cousin as your wife, otherwise the family property will go. You know this kind of incestuous marriage, what we call incestuous, may be sanctioned by some communities. But it will be somehow stimulated by this kind of legislation. And that is rather undesirable.

Seventhly, an important point is that it is against our social and religious system which has ruled India for so many centuries. Our inheritance is based not merely on blood relationship or propinquity but really on the religious efficacy of funeral oblation that is offered. Manu said, and for three thousand years it has ruled:

अनन्तर समिष्ठात् यः तस्य तस्य वनं भवेत् ।
अन ऊर्ध्वं सकन्यः स्यात् आचार्यः शिष्य एव ॥

It has been translated by Dr. Bühler like this, that it can only belong to sapindas and they shall get in certain kind of priority. But that sapinda is the person who can offer funeral oblations or pindas to the deceased person.

There is no question of discrimination between sons and daughters. It is absurd to suggest that. I love probably my daughters more. Therefore it is ridiculous to suggest that, there is any question of tyranny or oppression and that this is all slander and propaganda. It is not true. But what we honestly feel is that when you marry your daughter she goes to another family. Spiritual sacrament means a re-birth. She is re-born, and she becomes part and parcel of that family organisation. She ceases to be a part of your family organism both in law and according to religious precept.

Pandit Thakur Das Bhargava: In fact also.

Shri N. C. Chatterjee: Yes, in fact also. What I am saying is our nexus is one peculiar thing. The nexus between ancestor worship and succession to property has been the basic principle of Indo-Aryan civilisation which has determined our law of succession. Do not disrupt that nexus. That nexus should not be done away with in this fashion. It is nothing to be ashamed of. We realise that nexus has ruled India and that nexus should not be broken.

Eighthly, some stable patterns of group life are essential for the orderly development of society, especially in an agrarian set-up. Joint families are based on our personal law of inheritance and meet to a large extent the ever-present need of insurance against famine, unemployment and other contingencies. Even if the brothers are living separately—for instance, I am living separately—the family tie is there. If there is any trouble, one

brother supports the others. This ideal of Hindu family exerts a healthy influence and tends to offer group support for even individual units of the family although they are not living in a common mess.

Your agrarian life will be disrupted. Family business will be ruined. Commercial life will be paralysed. And if you want to avoid that, it will mean a large number of testamentary dispositions, and possibly in every case, the brother-in-law will now have an interest in challenging the will. There will be a very big crop of testamentary litigations. Whatever the daughter will get I do not know, but a good part of it will be dissipated by costly litigation. Giving property to married daughters, you should realise, would be really giving property to the son-in-law. There is no question of oppression or hatred of daughters or women. It is a slander to say that the Hindu father loves his daughter less. We allow the daughters greater facilities than they get from their brothers-in-law or from the relations of their husband's family. This has been my unfortunate experience, and I take it that is the experience of the bulk of the Members. It will disrupt the family tie. Naturally, the father will try to get rid of any future trouble that may be caused by the intrusion of the son-in-law coming from another family, and, therefore, the urge will be to make some testamentary disposition. And this will lead to bitterness and to every testament being challenged and being fruitful source of litigation.

I am submitting that this should not be done and we should think seriously before we allow that measure to be passed. I am of the opinion and I ask the Joint Committee seriously to consider whether the Stridhan law should not be extended and the peculiar concept of limited estate should not be brushed aside. I had a long discussion, prolonged discussion with Shri B. N. Rau. He was a Judge of my High Court and he was dealing with this problem at

great length. I used to tell him that this peculiar concept of woman's limited estate is the creation of British Judges and British jurists and not sanctioned by our *Dharma Shastras*. So far as I have studied our *Dharma Shastras*, it is clearly laid down there that all kinds of property should be on the same level and they make no distinction. Unfortunately, Colebrooke made a mistake in his translation, and Lord Davey on the basis of that translation, in an appeal before the Privy Council observed that a woman's estate is a limited estate, that it is not *stridhana* and that she has got no power of disposition and so on. I always feel that there should be no discrimination made; either you give the property or do not give the property, but if you do give the property, then trust and give her the property as you give it to your son.

Lastly, I would ask the Select Committee and the House to consider this point: Will it be really right to confer this simultaneous inheritance to married daughters? If you feel that the wife should be made a co-sharer and given absolute interests with full power of disposition, then what will happen? She will have two doses—one share from your family and another share from the family where she marries. That would not be desirable. It would mean only more friction, more bitterness, more disharmony, more trouble as between brothers and sisters, and even if the sister wants to respect her father's wish and does not wish to claim any share from her father's patrimony, and is prepared to allow her brothers to enjoy the father's patrimony in order to maintain cordial relations with them, her husband will poke in and say "You must not surrender that, you must fight and get your share." Therefore, it will lead to more breaking up of Hindu homes and more dissolutions, which I deprecate. I am urging, therefore, that serious attention should be paid to this question. In the interest of economy, in the interest of family structure, in the interest of business, in the interest of industry,

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in the interest of continuity of economic and commercial life, this kind of thing should not be done and there should not be any discrimination between *stridhana* and woman's estate. If there is anything, it should be put on a par, and all these limitations put on women's estate should be taken away. They should be trusted and given full power of disposition.

श्री सिंहासन सिंह (जिला गोरखपुर-दक्षिण) : कोई विधेयक जो सरकार की तरफ से या किसी व्यक्ति विशेष की तरफ से भवन के सामने आता है, उसका कोई लक्ष्य तो स्पष्ट रूप से बतलाया जाना चाहिए। हमने हिन्दू कोड के नाम पर एक विधेयक लाने का बहुत दिनों से प्रयत्न किया, वह किसी कारण से सफल न होकर के उसके टुकड़े टुकड़े होकर के आज हमारे सामने आ रहे हैं। एक विधेयक हिन्दू मैरिज बिल अभी हमने पास किया। अब उसका दूसरा संस्करण हमारे सामने यह हिन्दू विरासत का कानून आया है। इस विरासत के कानून से हिन्दू समाज में कोई विशेष प्रगति हांगी, समाज की रूप रेखा बदलेगी या उसके अन्दर कुछ खराबी आयेगी हम समझते हैं कि हमारी सरकार के सामने और इस विधेयक के बनाने वालों के सामने उसका कुछ स्वरूप होगा, लेकिन विधेयक के देखने के बाद यह मालूम होना है कि बिना किसी स्वरूप को देखे हुए यह विधेयक इस भवन के सामने आज प्रस्तुत कर दिया गया है।

अभी हमारे मंत्री महोदय ने कहा कि संयुक्त प्रवर समिति को यह अधिकार होगा कि इसके अन्दर जो धाराएँ हैं, उनमें आमूल परिवर्तन करें या उनमें कुछ इधर, उधर परिवर्तन करें। अगर इस तरह की भावना है तो इसके माने यह होते हैं कि

अभी तक सरकार इस बात पर निश्चित नहीं है कि विधेयक जिस रूप में है, उसमें कुछ इधर, उधर का परिवर्तन करके इसे पारित किया जाय या विधेयक में आमूल परिवर्तन किया जाय। मेरे विचार में यह विधेयक अगर पास हुआ और जैसी कि सम्भावना है कि आगे चलकर यह पास हो जायगा तो समाज में शान्ति पैदा करने और समाज की व्यवस्था को सुधारने के स्थान में समाज में आये दिन रोज ब रोज के झगड़े पैदा करेगा। अभी श्री चटर्जी ने यह बतलाते हुए कि इस बिल के पास हो जाने के बाद बिजनेस पर कैसा प्रतिकूल असर पड़ेगा, स्वयं अपना उदाहरण देते हुए बतलाया कि उनके अन्य भाई आज बिजनेस चला रहे हैं और उनमें आपस में भाईयों और जो उनकी बहिन हैं, प्रेम भाव है और कारोबार सही रूप में चल रहा है और उसकी वजह यह है कि उनकी बहन कारोबार में शामिल नहीं हैं। मैं अपने वहाँ का आपको एक उदाहरण देकर बतलाऊँ कि हमारे वहाँ एक नूरी नाम के मुसलमान सज्जन थे जो शुरू में एक बहुत छोटे आदमी थे और नमक बेचा करते थे। लेकिन भाग्य ने उनका साथ दिया और आगे चल कर वह शस्त्र करोड़पति हो गया और आगे चल कर उनके नाम से कई मिलें चीनी की, चावल की और तेल की चलने लगीं और वह बड़ा भारी आदमी हो गया। उसके मरने पर मुसलमानी कानून के मुताबिक लड़कों के साथ उनकी लड़कियों को भी जायदाद में हक मिला और हमने देखा कि नीबूत यह आगई कि उनकी मिल नीलाम होने लग गयी। उनके दामाद जो मेरे गांव के रहने वाले हैं, उनसे पूछते हैं कि भाई आपस में तय क्यों नहीं कर लेते,

क्यों आपस में लड़ते ही, तो वह जवाब देते हैं कि भाई हम क्या कर सकते हैं, उनके लड़के तसकिया ही नहीं करते, हम क्या करें और लड़कों से पूछो तो वे कहते हैं कि हम क्या करें, दामाद ही झगड़ा तय नहीं करते और इसका नतीजा यह हुआ कि सात, आठ वर्ष से वह मिल जो देवरिया में सबसे बड़ी मिल थी, वह आज बंद पड़ी है। मिल के बंद हो जाने से काश्तकारों को तकलीफ हुई और सब को तकलीफ हुई। अभी मिल १० लाख रुपये पर नीलाम हुई, फिर ऐसा सोचा गया कि आपस में मिल कर के उसका अधिक दाम उन्हें मिल सकता है, लेकिन नहीं मिल सका और नीलाम मसूख हुआ। अभी लाखों रुपया गवर्नमेंट का उस मिल पर बाक़ी पड़ा हुआ है और वह गवर्नमेंट को नहीं मिल रहा है, वही सूरत में समझता हूँ इस विधेयक के क़ानून बन जाने से हिन्दू परिवारों में हो जायगी। हम उम्मीद करते थे कि जब विधेयक आयेगा तो सब हिन्दुओं पर समान रूप से आयेगा और होना भी यही चाहिए था, अगर इस तरह का क़ानून सरकार लाना चाहती ही थी। जितने हिन्दू इस देश में बसते हैं, उनके लिए विरासत का क़ानून समान रूप का होना चाहिए था और उनमें भिन्नता नहीं होनी चाहिए थी। जिस तरह से कि मैरिज का क़ानून हमने बनाया, और उसमें सबको एक समान रक्खा, उसमें हमने मद्रास की औरतों, पंजाब की औरतों और उत्तर प्रदेश या बंगाल के औरत मर्द का कोई भेद नहीं रक्खा और सारे हिन्दुओं को उसमें हमने समान अधिकार दिया, लेकिन हम देखते हैं कि इस विधेयक के अन्दर हमने असमानता बर्ती है। हिन्दुओं के अन्दर हमने कई क़्लास कर

डाले। क्या हम इस बिल के द्वारा हिन्दू, मुसलमानों और सिक्खों को एक सूत्र में पिरो रहे हैं? क्या आज हम हिन्दुओं, सिक्खों और भिन्न-भिन्न इस देश में बसने वाली जातियों को इस विधेयक के द्वारा एक सूत्र में पिरो रहे हैं? मैं समझता हूँ कि हम ऐसा नहीं कर रहे हैं और उस विधेयक में भिन्नताएं हैं और हम उनको अलग अलग और स्पष्ट रूप से करने जा रहे हैं और उनमें विद्यमान भिन्नताओं को कम करने के बजाय उलटे और बढ़ाने जा रहे हैं।

अभी हमारे चटर्जी साहब ने कहा कि यह क़ानून हिन्दू ज्वाइंट फैमिलीज पर लागू नहीं होगा, ठीक है यह लागू नहीं होगा। मगर हिन्दू ज्वाइंट फैमिली तो कहने भर को ही ज्वाइंट फैमिली रह गई है। गेन्स आफ़ लनिंग ऐक्ट पास करके हमने हिन्दू ज्वाइंट फैमिली को बहुत अंशों में तोड़ दिया है। ये जितने हैं उन पर लागू नहीं होगा।

उसके बाद हमने देखा कि मद्रास के अन्दर जितनी जातियां हैं जो कि मरु-मर्तयम ला से या अन्य ला से गवर्न होती हैं, जो जातियां उन १३ क़ानूनों से गवर्न होती हैं जो कि इस विधेयक की दफा ५ में दिये हुए हैं, उन पर यह क़ानून लागू नहीं होगा। यानी विष्णु प्रदेश के नीचे से या हैदराबाद से लेकर उसके नीचे तक की जितनी जातियां हैं उन पर यह क़ानून लागू नहीं होगा। उनके यहां जो क़ानून पहले से मौजूद हैं वही लागू होंगे। इस समय हमारे एक भाई मौजूद नहीं हैं, वह कहा करते थे कि हम हिन्दू कोड बिल का समर्थन इस लिये करते हैं कि लड़कों को भी जायदाद में हक मिल जायेगा जो कि मद्रास के अन्दर आज नहीं मिलता है। लड़कियों को तो पहले से ही मिलता है, वह मिलता

[श्री सिंहासन सिंह]

रहेगा, लेकिन लड़कों को भी मिल जायेगा। लेकिन आज सरकार इस कानून के जरिये उन लड़कों को हक नहीं मिलने दे रही है क्योंकि वहां तो वही पुराना कानून रहेगा। तो एक ही जाति और एक ही समाज और एक ही धर्म के जो लोग हैं, उनके अन्दर भी कानून की भिन्नता करना उचित नहीं है।

श्रीमती शिवराजबती नेहरू (जिला लखनऊ—मध्य) : क्योंकि वहां पहले से ही लड़की को पैतृक संपत्ति में भाग मिलता है।

श्री सिंहासन सिंह : लड़कियों को मिलता है, लड़कों को नहीं मिलता है। तो क्या आप चाहती हैं कि लड़कियों को तो जो मिलता है वह कायम रहे और लड़कों को जो मिलना चाहिये वह न मिले?

अब क्लाज ५ के सब-क्लाज ४ को देखिये :

"Any estate which descends to a single heir by a customary rule of succession or by the terms of any grant or enactment."

उन पर भी नहीं लागू होगा। हमने राजा रइसों को मिटा दिया। बालियां रियासत को मिटा दिया, जमींदारों को मिटा दिया। लेकिन इस कानून के जरिये अगर वह यह क्लेम करें, हमने जमींदारी को खत्म कर दिया लेकिन इस कानून के पास होने के बाद वह यह दावा कर सकते हैं कि अपने कस्टम के अनुसार हम चाहते हैं कि लड़की को हक न मिले बल्कि लड़के को मिले, ऐसी हालत में आप क्या करेंगे? तो इस कानून के जरिये हम हिन्दू समाज को चार भागों में बांटने जा रहे हैं। एक तो वह लोग जिन पर यह कानून लागू होगा, दूसरे वह लोग जिन पर यह

कानून लागू नहीं होगा, तीसरे वह लोग जिनके यहां पुराने तौर तरीके के मातहत लड़का खान्दान का वारिस हुआ करता है और चौथे वह लोग जो दक्षिण में बसते हैं और जिन पर यह लागू नहीं होगा। इन सब बातों को देखते हुए मैं समझता हूं कि इस पर बड़ा विचार करने की जरूरत है। बिल सेलेक्ट कमेटी को जाता है और सेलेक्ट कमेटी इन बातों पर पूरा ध्यान दे और सोचे कि कैसे हिन्दू समाज एक सूत्र के अन्दर बांधा जा सकता है। लेकिन सेलेक्ट कमेटी को इस पर विचार करने का अधिकार है या नहीं, यह सोचने की बात है। अगर इस सब स्वरूप को सेलेक्ट कमेटी बदल देवे और धारा ५ को हटा दे तभी कुछ भलाई इस कानून से हो सकती है। मालूम न ही कि कानूनन यह अधिकार सेलेक्ट कमेटी को है या नहीं, लेकिन अगर हाउस ने उसको इस के लिये आथराइज न किया, उसको यह अधिकार न दिया, तो अधिकार न होने की वजह से सेलेक्ट कमेटी इसमें कुछ नहीं कर सकेगी, और जहां तक मेरा ख्याल है सेलेक्ट कमेटी करेगी भी नहीं। सेलेक्ट कमेटी के सदस्यों का मैं नाम नहीं लेना चाहता, लेकिन जैसा श्री चैटर्जी ने अभी कहा कि सेलेक्ट कमेटी में लोग आ कर बैठते हैं, लेकिन बहुत से सदस्य ऐसे होंगे जो जानेंगे भी नहीं कि क्या वहां हो गया और क्या नहीं हो गया। वह आ कर बैठेंगे और थोड़ी देर बाद उठ कर चले जायेंगे, कानून के झगड़े में कौन पड़ता है? बिल सेलेक्ट कमेटी में ज्यों का त्यों आ जायेगा, और हाउस में पारित हो जायेगा। यह पास न हो सके ऐसी आशा नहीं है। बिल्कुल तो नहीं है तब भी शायद यह पास हो ही जायेगा और पास होने के बाद जो झगड़े चलेंगे उनका

तो कहना ही क्या है? आज हिन्दू अनायालय और मुसलमान अनायालय के झगड़े चलते हैं, दूसरे तरह के झगड़े चलते हैं उसी तरह से हिन्दू समाज में इस तरह के झगड़े भी और बढ़ते जायेंगे।

अभी एक बात श्री चेटर्जी ने बताई और वह मुझे भी लगती है। मैं सोचता हूँ कहीं यह नौबत न आ जाय कि मुसलमानों की तरह से हमारे यहां भी एक घर में शादियां होने लग जायें आज मुसलमान अपने यहां एक घर में शादी कर लेते हैं, इसका खास कारण यह है कि वह नहीं चाहते कि उनके घर की जायदाद दूसरे कुल में चली जाय। जायदाद को बचाने के लिये वह घर में ही दुधबराव कर के शादी कर लेते हैं। क्या आप चाहते हैं कि हम भी दुधबराव का नाम लेकर के उसी श्रेणी में आ जायें जिसमें आज मुसलमान हैं? आज आप किसी ईमानदार मुसलमान से पूछ लीजिये, वह यही कहेगा कि हमारा सिस्टम अच्छा नहीं है, चूँकि कुरान में यह कानून दिया हुआ है इसलिये हम उसको तब्दील नहीं करते, लेकिन हम आर्थिक दृष्टि से इसको अच्छा नहीं समझते। और इसीलिये अपने ही घर में, अपने भाई के लड़के के साथ अपनी लड़की का वह विवाह कर देते हैं, या किसी दूसरे रिश्तेदार के साथ कर देते हैं। क्या आप चाहते हैं कि हम भी उसी मार्ग को अपना लें? आपने जो मैरेज का कानून बनाया है उसके अन्दर भी आपने दायरा कम किया है कि इतनी पीढ़ी से लेकर इतनी पीढ़ी तक शादियां हो सकती हैं, पांच पीढ़ी तक क्यों हों? हमारे यहां इतनी जातियां और उपजातियां हैं और जो एक उपजाति के लोग हैं वह उसी उपजाति के लोगों से विवाह नहीं करते हैं क्योंकि उनमें नमैं एक खून मानते हैं।

मसलन् में एक वर्ग का क्षत्री हूं मेरे वर्ग के क्षत्री जो भी हैं उनसे मैं अपने यहां की शादी नहीं करूंगा। लेकिन कल जब वह कानून बन जायेगा तब इस तरह की शादियां स्वतंत्र रूप से हो सकेंगी। शहरों में तो नजदीक की शादियां भी हुआ करती हैं, लेकिन गांवों में यह चीज देखने को नहीं मिलती है। इस कानून के बन जाने के बाद गांव के गांव में शादियां होने लगेंगी। और ऐसा व्यतिक्रम चलेगा कि जिस समाज को आप ऊंचा उठाना चाहते हैं वह और नीचे गिर जायेगा। इन वजहों से, मैं नहीं कहता कि स्त्रियों को हक न दिया जाय, उनको जितना हक दे सकें उतना जरूर दें, लेकिन ऐसा हक न दें जिस से समाज में झगड़ा हो और वह छिन्न-भिन्न हो जाय। पिता की जायदाद में लड़की को हक मिलने का कानून नहीं बनना चाहिये।

इसके बाद हम देखते हैं कि इसके अन्दर दफा १७ है। मेरी तो समझ में ही नहीं आता है कि वह इसमें कैसे आई। मैं देखता हूँ कि इस कानून के अन्दर आप दफा १७ में स्त्रियों को पूर्ण अधिकार दे रहे हैं, पूर्ण अधिकार अवश्य देना चाहिये, यह मैं मानता हूँ। यहां स्त्री पति से जयदाद पाती है, लेकिन अगर उस स्त्री से उसके पति के कोई लड़का नहीं है तो स्त्री सम्पूर्ण जायदाद पायेगी, लेकिन अगर जायदाद पाने के बाद स्त्री बिना पुत्र या पुत्री के मर जाती है तो वह जायदाद कहाँ जायेगी? वह इस कानून के अन्दर दफा १७ के मुताबिक उसकी मां को चली जायेगी। इस कानून से वह जायदाद उसके पिता के घर में चली जायेगी, उसके शौहर के खानदान में नहीं रह जायेगी। दफा १७ में दिया हुआ है:

"The property of a female Hindu held by her as full owner if she

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dies intestate in respect thereof, shall devolve according to the rules set out in section 18, firstly upon the children including the children of any pre-deceased child; secondly, upon the husband; thirdly upon the mother and father."

हस्बैन्ड की प्रापर्टी मां या पिता पायेगा। उसके मरने पर उसकी प्रापर्टी हस्बैन्ड पायेगा यह तो इसमें कहीं है नहीं। अगर लड़का या लड़की नहीं है तो उसकी प्रापर्टी उसके मां बाप के पास चली जायेगी, यानी जिस खान्दान से लड़की आई हुई है उसके पास चली जायेगी। शौहर के खान्दान की प्रापर्टी उसके पिता के घर चली जाय यह बात मेरी समझ में नहीं आती। आज तक शायद किसी कानून में भी ऐसी नहीं हुआ कि शौहर के खान्दान से मिली हुई प्रापर्टी उस खान्दान में न रह कर उसके पिता के खान्दान में चली जाय, और लड़की के घर के लोग आ कर दामाद पर हावी हो जायें क्योंकि वह आ कर कह सकते हैं कि इस कानून के अन्दर जो जायदाद मेरी लड़की की थी वह मेरी होती है। जब जायदाद मां बाप पायेंगे या उनके खान्दान वाले पायेंगे तो वह आ कर स्त्री के पति के यहां जुट जायेंगे और झगड़ा बढ़ेगा। अभी तक तो यह डर था कि कहीं दामाद न घर में आ जाये, अब साले के आने का डर होगा और साले के पिता के आने का डर होगा। इस धारा के अन्दर यह नई चीज रखी जा रही है जो कि मेरे खयाल में नहीं होनी चाहिये।

दूसरी बात यह है कि हम यहां बहनों को भी अधिकार देने जा रहे हैं। अब तक हम पुत्री को अधिकार दे रहे थे लेकिन अब बहन को भी अधिकार मिलने जा रहा है, और दो दो अधिकार मिलने जा रहे हैं।

एक तो पिता की जायदाद में और दूसरे शौहर की जायदाद में। हम इतने उदार होते जा रहे हैं कि कहां तो लड़की को कोई हक नहीं था और जब हक देने चले तो एक के बजाय दो दे रहे हैं। शौहर मरे तो शौहर की जायदाद मिले और पिता मरे तो पिता की जायदाद मिले, उसको दुतर्फा जायदाद मिलेगी। इस तरह का व्यक्तिगत मेरी समझ में नहीं आता। हमारे यहां जो समाज की व्यवस्था थी उसके कारण इतने आघात लगने पर भी हमारा समाज आज तक सुरक्षित चला आता है, लेकिन आप उसके अन्दर भी अब तोड़ मरोड़ करना चाहते हैं, मैंने ऐसा तो किसी भी ला में नहीं देखा। इन्हेरिटेंस का क्या हो, लड़कियों का क्या हो, यह सब तो मैं ज्यादा जानता नहीं, लेकिन हमारे यहां जो बटवारे का क्रम था वह इतना बुरा नहीं था जितना कि हम आज बनाने जा रहे हैं। हम एक बुराई को दूर करने के लिये दूसरी बुराई रखने जा रहे हैं और ऐसा कांटा बो रहे हैं कि पुरानी बुराई से कई गुनी बुराई समाज में पैदा होगी।

मैं तो कहता हूं कि यह विधेयक सेलेक्ट कमेटी में जा रहा है तो जल्द लेकिन सेलेक्ट कमेटी में भेजने से पहले सरकार इस विधेयक को वापस लेकर फिर से विचार करे और विचार करने के बाद ऐसा स्वरूप इस का कर दे कि यदि स्त्री को हक मिलना है तो अवश्य मिले, तब चाहे सेलेक्ट में भेजे या कुछ भी करे। मैं तो चाहता हूं कि स्त्री को जरूर हक मिले हमारे समाज की व्यवस्था में, कोई भी स्त्री देश में जायदादहीन न रहे, आज श्री विनोबा भावे सब जायदादहीनों के लिये

आवाज उठा रहे हैं, वह कहते हैं कि कोई भी जायदादहीन न रहे। जब सब को मिलेगा तो स्त्री को भी मिलना चाहिये, लेकिन उसकी शादी न हो तब पिता की जायदाद में हक मिले और यदि शादी हो जाती है तो पति की जायदाद में हक मिले, यह बात तो समझी जा सकती है। डाइ-वोर्स हो गया तो वह नहीं रहेगा। अभी कहा गया कि स्त्री के पास कोई जायदाद नहीं होती। मैं कहता हूँ कि होती है, कोई उसको उससे महसूस नहीं कर सकता। जब तक वह पति के पास है तब तक पति के पास जो सम्पत्ति है वह उसके आधे की अधिकारिणी है। अगर वह कुमारी है तो जो अधिकार लड़के को होता है वही उसको रहना चाहिये।

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लेकिन यहाँ तो एक ऐसा कानून बनाया जा रहा है कि स्त्री को पिता की जायदाद में से भी हिस्सा मिले और पति की जायदाद में से भी हिस्सा मिले और फिर उसका भाई भी आधी जायदाद लेकर चलता बने। यह कोई अच्छा कानून नहीं है। जहाँ तक हम ने देखा है...

Mr. Deputy-Speaker: I have allowed sufficient time to the hon. Member; there are many other hon. Members who want to speak.

श्री सिंहासन सिंह : सिर्फ एक मिनट और। जहाँ तक हमने देखा है, उससे हम इस परिणाम पर पहुँचे हैं कि यह बिल समाज को आगे बढ़ाने के बजाय पीछे हटायेगा। इस विषय में अभी और विचार करने की जरूरत है और हमें विश्वास है कि सिलेक्ट कमेटी इसको ध्यानपूर्वक देखेगी कि कहीं इस बिल से समाज में

कुकर्म न होने लग जायें और फिर सरकार से सिफारिश करेगी कि वह इसका रूपान्तर करके इस हाउस के सामने पेश करे। मैं कहना चाहता हूँ कि एक दो साल की देर से यह समाज बिगड़ नहीं जायगा। वह सदियों से चला आ रहा है, अब दो चार बरस और भी चल जायगा। शादी और डाइवोर्स के बारे में बिल तो हमने पास कर ही दिया है, लेकिन अब जायदाद के सवाल पर हमारे समाज को विघटित न करें।

Mr. Deputy-Speaker: Shri Bibhuti Mishra; if I call out by inadvertence the name of any hon. Member whose name appears on the list of Members of the Select Committee, he will kindly, of his own accord, deny himself the pleasure or privilege of speaking on this occasion.

श्री बिभूति मिश्र (सारन व चम्पारन) : हमारे ला मिनिस्टर साहब ने यह जो विधेयक पेश किया है, मैं समझता हूँ कि इसको बगैर सोचे विचारे यहाँ पर रख दिया गया है। अगर सरकार इस पर विचार करती तो उसको पता चलता कि हमारे समाज में इसका कहाँ तक असर होगा। मैं मिताक्षरा उसूल को मानने वाला हूँ इस बिल में से मिताक्षरा को हटा दिया गया है, लेकिन हमारे ला मिनिस्टर ने अपने भाषण में कहा है कि मिताक्षरा वालों के बारे में सोचा जायगा और सिलेक्ट कमेटी में इस विषय पर विचार होगा। इसका मैं विरोध करता हूँ। आप देखिए कि मिताक्षरा के अनुसार चलने वाले एक खानदान में यदि बीस तीस आदमी हैं, तो उन सब का शेयर निश्चित है, जो लड़का पैदा हुआ है, उसका हक भी निश्चित है और जो कल पैदा होने वाला है, उसका हक भी निश्चित है। कोई काम करे या न करे, लेकिन हक सब का निश्चित है। इसलिए मिताक्षरा वालों के बारे में विचार न किया जाय।

[श्री विभूति मिश्र]

श्री चैटर्जी ने अपनी राय जाहिर की है कि यह मिताक्षरा वालों पर भी लागू होना चाहिए। वह गलत है मैं समझा हूँ कि सरकार को इस बिल को वापिस ले लेना चाहिए। इस बिल के पास करने से गांव का कोई भी हिन्दू घर—चाहे वह ब्राह्मण हो, या क्षत्रिय, वैश्य हो—बगैर झगड़े के नहीं रहेगा। उदाहरण के लिए किसी हरिजन के पास दो बीघे जमीन है। उसके चार लड़के हैं और एक लड़की है और उस लड़की की शादी हो गई है। दामाद आयेगा और अगर उसको हक नहीं दिया जाता है तो वह किसी दुश्मन के हाथ बेच देगा। किसी घर में मांस-मछली खाने वाला दामाद आयेगा, वह घर को बेच देगा और सारा घर बरबाद हो जायेगा। इस तरह गांव-गांव में होगा और हिन्दुस्तान की आर्थिक स्थिति खराब हो जायेगी। मैं अपने लीडर पंडित जवाहरलाल नेहरू से प्रार्थना करता हूँ और अपील करता हूँ कि इस कानून को वापिस ले लिया जाय।

सच बात तो यह है कि हमारे नेता या तो यहां पर पार्लियामेंट में रहते हैं और अगर कहीं जाते हैं, तो हवाई-जहाज पर। अगर वे गांवों में जाते और स्थिति देखते, तो उन्हें पता चलता कि इसका कितना असर होने वाला है। आज हमारे गांवों में छोटे-छोटे परिवार हैं। मैं विनोबा जी के साथ भू-दान का काम करता रहा हूँ, इसलिए मैं गांवों की स्थिति को भलि भाँत जानता हूँ। वहाँ हम ने ऐसे परिवार देखे हैं, जिन के पास खाने-पीने को भी नहीं है। जब उन लोगों में जमीन बाँटी जायेगी, तो दामाद आयेगा और अपना हिस्सा ले लेगा। गांवों में घरों में इस प्रकार के बहुत झगड़े होते हैं, लड़ाई होती है।

इस तरह तो सारे का सारा परिवार बरबाद हो जायेगा। इसलिए मैं लामिनिस्टर से कहूँगा कि यह कानून नहीं लागू होना चाहिए। और इसको वापिस ले लेना चाहिए।

दूसरी बात यह है कि क्लॉज २८ में आपने विडो को हक दिया है। इसका परिणाम यह होगा कि जब तक उसके हाथ में हक है, तब तक वह अपने हिस्से को बेच देगी और फिर विवाह कर लेगी तब आप क्या कर सकते हैं? इस प्रकार तो वह परिवार बरबाद हो जायेगा। हमारे भागव जी ने बताया है कि इस बिल का असर अधिकतर तीन प्रांतों पर होगा : पंजाब, उत्तर प्रदेश और बिहार पर। इस बिल से इन प्रांतों में रहने वाले किसानों की हालत खास तौर पर खराब हो जायेगी। उनके छोटे छोटे परिवार हैं, उनके हाथ में बहुत थोड़ी-थोड़ी जमीनें हैं। अगर बेटी को हक दे दिया गया और विडो को हक दे दिया गया, तो उनका सर्वनाश हो जायेगा। यह बात बिल्कुल गलत है कि औरतों को हक न मिलने की वजह से आज उनकी हालत खराब है। मैं चैलेंज करता हूँ कि आज ब्राह्मण, क्षत्रिय, वैश्य और शूद्र, इनमें से किसी के घर में भी औरतों की हालत खराब नहीं है—सभी जगह औरतों की इज्जत होती है और उनको सब प्रकार की सुविधा है। किसी को कोई कष्ट नहीं है। फिर दूसरी बात यह है कि कांग्रेस के हम ३६४ मेम्बर हैं, क्या हम में लड़ाई नहीं होती है? खिला कांग्रेस कमेटियों और प्रांतीय कांग्रेस कमेटियों में क्या लड़ाई नहीं होती है? सब जगह होती है, लेकिन इसका यह मतलब नहीं है कि हम काम नहीं करते हैं और अपना कर्तव्य नहीं पूरा करते

हैं। अगर किसी हिन्दू तेस्वी के साथ अच्छा बर्ताव नहीं किया, तो इसका मतलब यह नहीं है कि यह बिल सब के ऊपर लागू कर दिया जाय। यह बात ठीक नहीं है।

इस कानून के पास करने से परिवार में आपस में मन-मुटाव हो जायगा और आज लड़की के प्रति जो भावना रहती है, वह खराब हो जायगी। मान लीजिए कि मेरे चार लड़के और एक लड़की हैं और लड़की की मैंने शादी कर दी। लड़कों को यह विश्वास नहीं होगा कि हमें हमारा हक मिलेगा या नहीं और वे मेरी सेवा नहीं करेंगे। उपाध्यक्ष महोदय, आप सोचिए कि यह कितनी दर्दनाक बात होगी कि मैं बूढ़ा हूँ, लेकिन मेरे लड़के इस कारण मेरी सेवा नहीं करते कि मैं जायदाद लड़की को दे दूँगा। मैं कहना चाहता हूँ कि कोई भी हिन्दू परिवार ऐसा नहीं है, जो अपनी लड़की की शादी अपनी औकात से ज्यादा नहीं करता है और अच्छे घर में भोजन का प्रयत्न नहीं करता है।

इन कारणों से मैं समझता हूँ कि यह कानून एकदम नाजायज है और सरकार को इसे नहीं लाना चाहिए। अगर हमारी सरकार समझती है कि इसको लाने से वह प्रगतिशील कहलाती है, तो वह बात गलत है। यदि यह कानून जनता के सामने रखा जाय, तो चाहे कोई सरकारी मेम्बर हो, चाहे प्राइम मिनिस्टर हों और चाहे राष्ट्र-पति हों, किसी को वोट नहीं मिलेगा—जनप्रतिशील कहलाने के लिए आप ऐसा बिल यहां लाए हैं, जो हिन्दुस्तान की आर्थिक स्थिति को बरबाद कर देगा।

आज जमींदारी खत्म हो गई है और बकीलों के लिए कोई जीविका नहीं रह गई है। आज-कल उनकी कोई पूछ नहीं है। कचहरियों में कोई मुकद्दमें नहीं हैं, लेकिन

इस हिन्दू सक्सेशन बिल के पास होने से वकीलों की जेबें गरम होंगी और उनको खूब आमदनी होगी। वकीलों से छुटकारा पाने के लिए यह जरूरी है कि इस कानून को न पास किया जाय और अगर इसको पास किया गया, तो हर घर में लड़ाई झगड़े होंगे ?

डा० सुरेश चन्द्र (औरंगाबाद) : कैसे होंगे ?

श्री विभूति मिश्र : हक के लिए होंगे। आपकी लड़की है, आपकी बहिन है। आपने उनकी शादी कर दी है। दामाद आयेंगे और लड़ाई करेंगे। और मैं यह कहना चाहता हूँ कि इससे हमारे जो हरिजन भाई हैं उनकी हालत और भी खराब हो जाएगी। जो लोग यह समझ रहे हैं कि इससे हरिजनों की हालत सुधरेगी वे गलती पर हैं। जो थोड़ी बहुत जमीनें इस वक्त उनके पास हैं इस बिल के पास हो जाने के बाद उन जमीनों के और भी छोटे-छोटे टुकड़े होने शुरू हो जायेंगे जिस से उनको नुकसान होगा। वे समझते नहीं हैं लेकिन मैं कहता हूँ कि उनकी हालत और ज्यादा खराब हो जायेगी।

उपाध्यक्ष महोदय, एक क्लाज है नम्बर १८ जिसके मूताबिक जब मां मर जायेगी तो जितनी भी जायदाद उसके पास उसके नाम पर होगी उसके बच्चों को मिलेगी, फिर पति को जाएगी, पति के बाद स्त्री की माता और उसके बाद पिता को जाएगी। इसके बाद हसबैंड को जायेगी और इसी तरह से दूसरे सम्बन्धियों को जायेगी। अब आप देखिये कि यह कितने झगड़े की बात है। जो आजकल लोगों की

[श्री विमूति मिश्र]

अधिक हालत है वह आप जानते ही हैं। सुबह से शाम तक परिश्रम करने के बाद भी पेट भर खाना नसीब नहीं होता। आज वे गुजारा नहीं कर पाते। अपनी जीविका नहीं चला पाते। अब जो यह झगड़े पैदा होंगे तो इनको तै करने के लिये उनको वकीलों की सहायता लेनी पड़ेगी जिस से उन पर और भी खर्चा पड़ जायेगा और उनकी हालत और भी खराब हो जायेगी। उनकी स्त्री उनसे छूट जाएगी, वे अपनी जायदाद की देखभाल नहीं कर सकेंगे। इस तरह से उनका सारे का सारा काम नष्ट हो जायगा इस वास्ते मैं ला मिनिस्टर से प्रार्थना करता हूँ वे इस तरह का कानून न बनायें।

उन्होंने अपनी स्पीच में कहा कि बम्बई में कानून हूँ और इसी तरह से और जगहों पर भी कानून हूँ। मैं कहता हूँ कि उनको जो सुख दुःख हो रहा है वह उनको भोग रहे हैं और उन को भोगने दीजिये। हम पर आप इस तरह का कानून क्यों लागू करते हैं। वे कहते हैं कि सारे हिन्दुस्तान के लिये एक कानून होना चाहिये। मैं उनको बताना चाहता हूँ कि सब लोगों के एक जैसे चेहरे नहीं होते, सबके भिन्न भिन्न चेहरे होते हैं। इसी तरह से हर जगह एक जैसे रीति रिवाज नहीं हैं। इसलिये अगर एक ही कानून सारे हिन्दुस्तान के लिये न हो तो कोई बुरी बात नहीं है। मैं तो कहता हूँ कि अगर इस बिल के जरिये हिन्दुस्तान की स्वाधीनता में जो बाधाएँ हों और वे इस बिल के द्वारा दूर की जाने वाली हैं तो हम इसे जरूर मंजूर करेंगे। हम हिन्दुस्तान की स्वाधीनता में बाधाएँ नहीं

डालना चाहते। लेकिन ऐसी कोई बात नहीं है।

मेरे विचार में बाकी सबका ऋण चुकाया जा सकता है लेकिन माता का ऋण चुकाया नहीं जा सकता। आज भी हम माता को प्रणाम करते हैं, माता की सेवा करते हैं। आज हमारे हृदयों में स्त्रियों के प्रति बहुत आदर है। हम उनका निरादर नहीं करते। मैं पूछना चाहता हूँ कि कितनी ऐसी स्त्रियाँ हैं जो इस बिल का समर्थन करती हैं। मेरे विचार में उनकी तादाद बहुत ही कम है। आज भी हम जितना अपनी पत्नियों का आदर करते हैं वह आप सब को मालूम ही है। आज भी हम जितना कमा कर लाते हैं और उसको जिस तरह से खर्च करते हैं वह स्त्रियों से पूछ कर ही करते हैं। दो चार ऐसे परिवार होंगे जहाँ पर लड़ाई झगड़े होते हैं लेकिन अधिकांश घरों में कोई ऐसी बात नहीं होती। इसके साथ ही साथ मैं पूछना चाहता हूँ कि कितनी जमीनें अब लोगों के पास रह गई हैं। मेरे विचार में तो बहुत ही कम जमीनें अब लोगों के पास हैं। मैं अपनी मिसाल दे सकता हूँ। मेरे पास जो जमीन थी वह जब जमींदारियाँ खत्म हुई हैं और उसका मामूली सा मुआवजा दिया जायेगा जो कि दो चार हजार के लगभग होगा। मैं कहता हूँ कि इस बिल से हिन्दू परिवार नष्ट हो जायेंगे, छिन्न भिन्न हो जायेंगे।

पंडित ठाकुर दास भार्गव ने एक सजेशन दी है, मैं उसको मानता हूँ। जब लड़की की शादी हो जाये तो उसका हक उसके पति की जायदाद में हो जाये तो कोई बात नहीं है। यह सीधा मामला है। लेकिन जो फारमूला हमारे ला मिनिस्टर

साहब ने हमारे सामने रखा है अगर उस पर अमल किया गया तो मेरे विचार में सिवाये अगड़े के उसमें से कुछ भी नहीं निकलेगा। मैं चाहता हूँ कि हमारे सदन के जो ५०० मੈम्बर हैं वे इस कानून को अच्छी तरह से पढ़ें और फिर देखें कि कितने खतरनाक परिणाम इसके हो सकते हैं। आज पार्लियामेंट का इजलास खत्म हो रहा है। मैं चाहता हूँ कि वे गांवों में जायें, शहरों में जायें और उसके बारे में लोगों की राय पूछें। मैं विश्वास के साथ कह सकता हूँ कि वे बहुत ही कम लोग ऐसे पायेंगे जो लोग इस बिल का समर्थन करते होंगे। हम गांधी जी के अनुयायी हैं। गांधी जी एक व्यावहारिक आदमी थे, वे प्रैक्टिकल आदमी थे। हमें भी प्रैक्टिकल बनना चाहिये। हम प्रैक्टिकल आदमी तभी बन सकते हैं जब हम लोगों को इस बिल के संबन्ध में जानकारी करें और उनकी इच्छाओं के मुताबिक चलें। मैं तो कहता हूँ कि इस बिल से हमारे परिवार डिसरप्ट हो जायेंगे। आपको अच्छी तरह से विचार करना चाहिये और देखना चाहिये आया इससे आपके परिवार सुखी होंगे या दुखी होंगे। मेरे विचार में तो इससे अगड़े ही पैदा होंगे और दुख ही बढ़ेगा।

मैं इस हाउस में तीन साल से देखता आया हूँ कि जो भी विधेयक यहां पर उपस्थित किया जाता है उसके उसूल मान लिये जाते हैं और जब वह सिलैक्ट कमेटी में जाता है तो वहां पर इसके उसूल को चेंज नहीं किया जाता। सिलैक्ट कमेटी को उसूल चेंज करने का अस्व्यार नहीं है। अगर इस विधेयक को जब यह सिलैक्ट कमेटी में जायेगा यह फैसला किया गया कि इसको मिताक्षरा ला के मानने वालों पर

भी लागू किया जाये तो मैं समझता हूँ कि यह गैर कानूनी होगा।

आज क्या होता है। अगर एक खान्दान में सात या आठ भाई होते हैं तो एक कलकत्ता में काम करता है, दूसरा बम्बई में काम करता है तीसरा कहीं और काम करता है। उसमें से एक आदमी जायदाद की देखभाल भी करता है। अब इस बिल के लागू होने से यह होगा कि विवाहित लड़की को भी उस जायदाद में हिस्सा मिलेगा और उन में अगड़े पैदा होने शुरू हो जायेंगे। इससे कई परिवार नष्ट हो जायेंगे।

इसलिये मैं तो कहूंगा कि इस कानून की आवश्यकता नहीं है। सरकार बहुत से ऐसे काम करती है जिन की कि बिल्कुल भी जरूरत नहीं होती है। इस पर फिर विचार किया जाना चाहिये। सरकार को कोई ऐसा कानून हमारे सामने लाना चाहिये जिस से कोई गड़बड़ी पैदा न हो। आप कहते हैं कि यह बिल सुधार करने के उद्देश्य से लाया जा रहा है लेकिन मैं कहता हूँ कि इससे गड़बड़ी पैदा होगी। इस कानून की कोई आवश्यकता नहीं है। अगर इस कानून को पिछले चुनावों से पहले लोगों के सामने रखा जाता तो मेरे विचार से लाखों की तादाद में लोग हमें वोट न देते। आपने हिन्दू मैरेज बिल पास कर दिया जिसमें कि डाइवोर्स की व्यवस्था की गई है। वह कानून १५ या २० परसेंट लोगों पर लागू होता है। हिन्दुस्तान के सब लोगों पर वह लागू नहीं होता। अगर यह बिल जो कि तकरीबन सब लोगों पर लागू होता है पहले लोगों के सामने आ जाता तो हमें इतनी ज्यादा तादाद में वोट न मिलते।

[श्री विभूति मिश्र]

अब फिर चुनाव होंगे और यह चुनाव बहुत दूर नहीं है। अब भी आप इस पर दोबारा सोच विचार कर सकते हैं और देख सकते हैं कि इससे लाभ होगा या हानि होगी। मैं तो चाहता था कि इस बिल को इस सदन में लाने से पहले ला मिनिस्टर साहब पार्लियामेंट के कुछ मंत्रियों को बुलाते और उनसे इस बिल के बारे में राय पूछते और उनकी दलीलें सुनते और अपनी दलीलें उनके सामने रखते। लेकिन उन्होंने ऐसा नहीं किया। उन्होंने तो सीधे इसे पार्लियामेंट के सामने पेश कर दिया। हमारे बैकटरामन् साहब तो जो भी कानून सरकार की तरफ से पेश होता है उसको अच्छा ही बताते हैं। लेकिन मैं उनसे कहता हूँ कि वे गांवों में जायें और लोगों की राय पूछें। उनको पता लगेगा कि लोग इसके हक में नहीं हैं। आज तक कांग्रेस लोगों की इच्छाओं के अनुसार चलती आई है। मैं भी सन् १९२० से कांग्रेस की सेवा करता आया हूँ और करता रहूंगा। लेकिन मैं चाहता हूँ कि सरकार को इस बिल को वापस लेना चाहिये क्योंकि लोग इसे नहीं चाहते।

अन्त में इतना ही कहना चाहता हूँ कि अगर इस बिल को पास होना ही है और सिलेक्ट कमेटी में जाना ही है तो सिलेक्ट कमेटी में कोई ऐसी बात नहीं होनी चाहिये जिससे कि इस बिल को मिताक्षरा ला के मानने वालों पर लागू हो सके और दायभाग वाले जो हैं उनके बारे में भी हान करें।

Shri H. N. Mukerjee (Calcutta North-East): I rise to welcome this Bill which is, on any computation, an important measure. The Hindu Code, once so widely trumpeted, comes to us

in tardy, sometimes, irritating, instalments. But, there is no doubt about it that this Bill, in spite of its gaping lacunae, is a sizable chunk.

I was reading with much appreciation the speech which the Minister in the Ministry of Law, Shri Pataskar, made the day before yesterday, but I find that in spite of having made what I thought, was an eminently reasonable speech—or perhaps because he made a very reasonable speech—he seems to have put his foot into the trap laid by the sophistry of my learned friend, Shri N. C. Chatterjee. I find from Shri Pataskar's speech that he showed a very welcome readiness to accept the view of the House—particularly because this measure is going to a considerably numerous Joint Committee—Shri Pataskar showed his readiness to accept the view of the House in regard to several important matters. In regard, for example, to the quantum of the daughter's share, Shri Pataskar said that it would be for the House to decide because in this Bill there is a deviation from the Report of the Select Committee of 1948 which had laid down that the daughter's share should be equal to that of the son while in this Bill the daughter is to have only half the share of the son. Shri Pataskar said that it would be for the House to decide, it would be for the Joint Committee, in the first instance, to say something about it, and then finally the House would decide. I am very happy to have noted this and I hope that in the Joint Committee Shri Pataskar's influence will be exerted in the direction of seeing to it that the daughter gets the share which was recommended for her by the 1948 Select Committee.

Now, Shri Pataskar also said in regard to this controversy between the Dayabhaga and the Mitakshara systems that in this matter also, he would be willing to be guided by the wishes of the House. I found nothing exceptionable in that statement; on the contrary, I took that as a measure of

the Minister's good intentions. But I find that an attempt is sought to be made on that basis to delay the passage of this Bill. Shri N. C. Chatterjee has suggested, for example, that it would not be open to the Joint Committee to change essentially clause 5 as it has come to us at the present moment. Now, Shri N. C. Chatterjee of course was careful to add that he was not going to make much of a purely technical point, and I am very happy that he added that proviso to his original formulation. I feel that there is nothing either in law or in reason—though I do not profess to have any standing in the region of law—I do not see that there can be any objection in law or in reason if the Joint Committee chooses to delate sub-clause (i) of clause 5. I feel that in regard to this point, in regard to the necessity of co-ordination between the Dayabhaga and the Mitakshara systems of law, it is necessary that the Joint Committee takes note of the view expressed in this House. In this connection, I would like also to be sure about Shri N. C. Chatterjee's position. At one time, he appeared to me to suggest that the Bill was defective because it did not apply to the generality—as far as we can get them into the orbit of this legislation—of Hindus, and his objection seemed to me to be that the Mitakshara joint family also should have been incorporated in the provisions of this Bill. Of course, I knew that that was not really at the back of his mind—later it became quite clear that that was not his intention at all. He did not want to see a co-ordination of the two systems as far as succession was concerned. He had only raised that point in order to put up a hurdle in the way of this legislation. Now, I would ask Shri N. C. Chatterjee, if he is serious about his desire that this Bill should apply to as large a chunk of Hindu society as possible, if he is serious about his desire—as far as I understand it—to instruct his leading colleague, Shri V. G. Deshpande, who is on the Joint Committee to see to it that this particular sub-clause is deleted and that what the Select

Committee of 1948 had reported is incorporated in the provisions of the Bill as it comes back to us from the Joint Committee.

Now, in regard to this point, opinions have been expressed already and I need not amplify. We have found how many eminent judicial authorities, particularly from Madras, have pointed out unequivocally that the joint family, as it is today, is a prolific source of litigation, and if there is today a kind of adaptation of the two different schools of succession, then that would be at least a step in advance. I have seen also that Shri N. C. Chatterjee pointed out at one stage of his speech that this Bill was not going to apply to the generality of Hindus—and that he seemed to regret—and he said after that that it is open to a man on account of his rights of testamentary disposition to circumvent the provisions of this Bill. Now, unless Shri N. C. Chatterjee was making a debating point, for the sake of it, I do not understand the essence of this argument. Do I take Shri Chatterjee to mean that he is against the idea of a person having the right of testamentary disposition? Is he willing and ready, here and now, in the present posture of social relations to come forward with a suggestion that a man should not have the right of testamentary disposition? I know the answer; he possibly can't have that idea in mind. The fact of the matter is that in the present context of social relations and economic relations, the right of testamentary disposition is a right which Government cannot take away even if—it is very inconceivable in the present context—even if Government is minded in that direction, and therefore, has to remain on the statute-book of the country a provision in regard to testamentary disposition, and that, necessarily, would make a kind of inroad into this kind of legislation. So it is not arguing really and essentially against the provisions of the Bill when Shri N. C. Chatterjee points out that many Hindus would try to get out of the orbit of this

[Shri H. N. Mukerjee]

particular Bill if they have the right of testamentary disposition. So I feel that the points which Shri N. C. Chatterjee was making, at least in the first half of his speech, were arguments merely of a sophisticated description, arguments which partook of a certain pseudo-technical tinge and their only objective was to delay, if not to prevent, the passage of legislation of this sort.

Now, I have said that we welcome this law because it is on any computation an important measure. The introduction of the daughter as a simultaneous heir along with the son and the widow is really a matter of very great importance, and for this, not only women but all progressive and democratic sections of society have been agitating for so long. I am sure that there have been Shri N. C. Chatterjee's 'doubles' who had opposed the idea of the widow having any share in the husband's estate. So from time to time they change their arguments, they change their skin, they appear under different guises; but the basic character of reaction and obscurantism remains the same, and that is the character which, I am very sorry to have to say, Shri N. C. Chatterjee displayed earlier this morning.

Now, the Minister in the Ministry of Law—I am sorry I have to use this rather pedantic expression because of the welcome presence of my hon. friend, the Law Minister himself—Shri Pataskar, had very rightly laid emphasis on the point that there are so many Members of this House, particularly from the side which Shri N. C. Chatterjee pre-eminently represents, who were trying to point out, when they were opposing the Hindu Marriage Bill, that divorce would be a matter militating against the interests of women because Hindu women did not have economic independence. They appeared to shed a lot of tears, crocodile or no, I do not know, but they did shed a lot of tears in regard to the economic dependence of women

upon men. If that is so, there is no reason why they should not come forward today, as Shri Pataskar pointed out, to support the legislation which has been placed before us in this House. Actually, women have a role in society about which I need not amplify. Only the other day, the Prime Minister said that women are a greater asset to India than men are. I do not know. I do not wish to put it in exactly that kind of terms, but after all, it is undeniable that women are likely, more likely than men to suffer on account of destitution and want. And chivalry demands that they should be better provided for economically than men, if we can do that. But in our country, chivalry is perhaps confined to poetry and to fiction, and to the occasional eloquence of Shri N. C. Chatterjee when the mood takes him; but otherwise, we forget the real condition in which our women have been living for so many ages. Whatever that may be, democracy and decency demand that women should not be treated as inferiors in the matter of inherited wealth. I need not argue this point; I need not try to formulate special reasons why today we cannot say what Manu did, that a woman does not deserve to be independent.

I found towards the end of his speech Shri N. C. Chatterjee hopped back to what is really a very important item in his scheme of thought, and that is that he is against this whole idea of succession being regulated in the manner which is suggested by this Bill, because he is, like all orthodox Hindus, a believer in the doctrine of spiritual efficacy, and he believes that allocation of property should correspond to the capability of a person, who for some mysterious reason usually happens to be a male, to perform services of spiritual efficacy to the ancestor. I have nothing to say against the doctrine of spiritual efficacy. So many hundreds of thousands of our people believe in it with devotion, and I do not wish to say anything which even remotely would injure their sentiments. But

I do not understand why when we talk about things like spiritual efficacy, we should stand up for a system which seems to imply, according to the legalists of our day and also of the mediaeval Indian period, that you perform an act of spiritual efficaciousness to the benefit of some ancestor of yours, because you happen to inherit a certain amount of property from that source. Inheritance of property and the performance of spiritual obligations seem to be bracketed together, and I would say that there can be nothing more unspiritual than this kind of conception particularly at a time when we are moving in a very different direction, when the whole idea of property is being changed very drastically, in spite of whatever obscurantists might say or might not say. At that time, to talk about the doctrine of spiritual efficacy, to revive the absolutely ridiculous idea that women are incapable of performing oblations which are of spiritual significance to an ancestor, or to talk in that strain is abracadabra, is so much moonshine and nonsense. That is why I say that this is another way of reaction putting on a different kind of cloak in order to rouse revivalist emotion in our country, to prevent the passage of social legislation.

Only the day before yesterday I happened to be talking quite accidentally to a very highly placed Member of this House, who is not present here at this moment. He was saying that as a very dutiful father, he had married his daughter to a very rich family, and he said there was no reason why on earth that daughter, who is very well off because of the father having behaved so dutifully and so wonderfully, should now come and try to share her patrimony. He seemed to be very much hurt. He was a very responsible Member of the ruling party in this House, but he was seriously disturbed at the idea that his daughter might get a share of her patrimony.

Today also, we heard Shri N. C. Chatterjee quoting Sir Francis Floud

as having said in private conversation to somebody that what was the trouble with Bengal's agrarian system was not the Permanent Settlement but the fragmentation of holdings. All these peculiar ways of bringing back support of a completely outmoded thing like the Permanent Settlement, well, all these methods have been practised. Fragmentation of holdings is a very bad thing. And so, Shri N. C. Chatterjee and his friends are very much worried over the fragmentation of property. Who are actually worried? Most of us have hardly any property. We are not going to inherit much of a property. If my sister shares in what little property I might or I might not get—might not get is very much more likely—I do not care a rap. It is only those who have enormous properties, who look forward to large legacies, and who try to deprive X or Y or Z, brother, or sister, or whatever it may be, who fight for their gains in law courts. That is why Shri N. C. Chatterjee knows very well our behaviour in the law courts is a standing ignominy to the character of our race, and that is why Indo-Anglican jurisprudence has produced such enormities whose results we are ruing from day to day, from year to year, and I do not know for how long we shall have to rue the results of Indo-Anglican jurisprudence. These are the things about which we are worried. Only the other day the Prime Minister....

Mr. Deputy-Speaker: Whatever might have been said about the Anglo-Indian jurisprudence, for the hon. Member to have said that our law courts are a standing ignominy is wrong. I would not like such a statement to be made on the floor of the House. Law courts are an asset. They are one of the wings, or one of the instruments by which rights are safeguarded under the Constitution. No expression of opinion of such kind ought to be made from the floor of this House.

Shri N. C. Chatterjee: That is their stock-in-trade.

Shri H. N. Mukerjee: I do not know how objection can be taken to any particular sentence or word or expression.

Mr. Deputy-Speaker: It is not a word. It is an expression which is full of import. The hon. Member might say that Anglo-Indian jurisprudence did not fit into our picture, and he can say anything against that. But so far as our law courts today are concerned, they merely carry out whatever directions are given by whatever legislation is passed. So, what is the good of hitting at the law courts?

Shri H. N. Mukerjee: I would like very seriously to submit that you should please be good enough to point out where exactly there was any specific reflection even by implication on the law courts.

Mr. Deputy-Speaker: Law courts are a standing ignominy. That is how I understood.

Shri H. N. Mukerjee: The working.

Mr. Deputy-Speaker: Yes, the working of the law courts is a standing ignominy. That is a statement which cannot be tolerated. The law courts are an important one of the three wings, namely the legislature, the executive and the law courts. So, the law courts are very important. If we discredit the law courts, then what remains? So, on their working or otherwise, no aspersion ought to be cast on the law courts. The hon. Member might say that during the previous regime, the law courts were not independent. Even then to say anything against them will be an aspersion upon the law courts; but it does not matter; they were the handmaid of the previous regime. But today to say that the law courts are a standing ignominy or that their working is a standing ignominy is a serious aspersion. It ought not be said.

Shri H. N. Mukerjee: If you would permit me, there was not the slightest reflection on the law courts as operating through the judges and others. But what I said was that because of

the passion for property between even brothers and sisters, they are fighting against each other: and that is why in the law courts we find a state of affairs which is a slur on our character in these days. And I related that to the work of Indo-Anglican jurisprudence, which has occasionally made spiritual mince-meat of our law. That was what I had said, and I do not understand how this can be considered to be a reflection on our law courts as they operate at present.

Mr. Deputy-Speaker: I do not know. The hon. Member may look into that portion. I heard that the hon. Member said that the working of the law courts is a standing ignominy. That means standing ignominy today. Of course, he referred to the Anglo-Indian jurisprudence. I have no objection to that. Let him say anything against Anglo-Indian jurisprudence, but the work of the law courts cannot be a standing ignominy. Law courts are being taken advantage of by all. They only administer the law as it is. It is for the hon. Member to make the law here. If he did not mean it that is a different matter. I am not here to find fault with the hon. Member. I only want to avoid any misunderstanding regarding the speech of an hon. Member who is a very important Member in this House representing a group.

Shri H. N. Mukerjee: I would beg of you to go through the proceedings yourself, not now in the heat of the discussion as it goes on; and if you find out anything which you consider to be objectionable, you may very well call me, and you can then decide what you have to do with regard to expunction. But I do submit that if you order expunction of certain portions of what I have said, the whole texture of my speech would be so distorted that the whole thing would be rather unfair to the proceedings of the House.

Mr. Deputy-Speaker: I would not order expunction *ex-parte*. I will look into the matter and have a discussion or talk with the hon. Member.

Shri H. N. Mukerjee: So, to resume, I have not got very much more to say, because I do not wish to prolong the proceedings. But I do feel that the objection to this Bill is coming from reactionary sections of society, is coming from those who fight for the loaves and fishes which follow the question of inheritance, and succession, and so and so forth, I wish that the House remembers something which the Prime Minister said the other day that in life's journey it is better to be lightly laden. There was a lot of truth, and there was a lot of beauty in that kind of formulation which I recommend for anxious thought for all Members of this House who are so enamoured with the idea of property that they come forward to oppose even progressive legislation of this sort.

There is one other point. We have heard from the defenders of property that property is a function of personality. Actually, Sir, the only justification of property can be that personality cannot develop unless a person has command of the wherewithal of existence, that is to say that he has control of certain property. Capitalist private property is not a function of personality; on the contrary, it drains life out of humanity. But personal property, property which you need for your own development, is something which is sacrosanct, something which is in order, and which social order will certainly ensure to the individual. I say this, because on this point there is so much confusion, there is so much of unmerited and uneducated attack on the Communists, so much slander that we are against all property as such. We are not against all property as such. We are only against those forms of property which lend themselves necessarily and inevitably to exploitation of the freedom and the physical and emotional powers of other people. So, capitalist private property is not a function of personality. But if you give to a man his private property, the personal property of the sort which is essential to his humanity, then, it is absolutely irrational to deny it to a woman. Today

all the world accepts certain canons of behaviour and in that code, woman is accepted as man's equal by the democratic and decent opinion of our country. Democracy and decency demand that we should put, as soon as we possibly can, this kind of legislation with all necessary amendments of the sort which I have, generally speaking suggested, on the statute book.

Shri N. R. Muniswamy (Wandiwash): I welcome this Bill on more grounds than one. Only the day before yesterday we passed the Bill giving the right of divorce to women. Today we are discussing the Bill giving her the right to succession to certain properties. There had been a good deal of controversy over the applicability of this Act to the *Dayabhaga*, *Mitakashara* and other schools of thought. On a cursory reading of this Bill, I find that we are unnecessarily confusing ourselves with regard to *Dayabhaga* and *Mitakashara* or any other school of thought. What I find from this cursory reading is that it is an Act which is applicable only to the self acquired property of a man who dies intestate. It is by a chance or by an accident that it is not applicable to the *Mitakashara* system. But in fact, the pith and marrow of this Bill is that it applies to only the property of an individual who has acquired the property by his own efforts and who dies intestate. We are not bothered about other kinds of property. We are confusing ourselves about the applicability of the Bill because of section 5 which says that this Act shall not apply to any joint family property or any interest in the joint family. As I said, it applies to the property of an individual who dies intestate and we should not confuse this with the *Dayabhaga* or *Mitakashara* law. Mr. Chatterjee has been dealing with this point for a long time and I do not make out anything from his argument. Even during the third reading of the Hindu Marriage Bill, I heard him saying that nobody in this House or in the Ministry had answered this point,

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viz., that when the women had the right of divorce under the Special Marriage Act, what was the need to have such a provision in the Hindu Marriage Act. I fail to understand the logic behind it, because the Special Marriage Act is applicable to Uncle Sam, John Bull or anybody. But this is the Hindu Marriage Act which is applicable only to Hindus. In Hindus, we do not have the right of divorce, though by customs and manners, about 80 per cent of the Hindus followed that practice; so far as the remaining 20 per cent is concerned, they do not have it because they consider it unorthodox. The Hindus did not have the right of divorce. I fail to understand how such an eminent person like Mr. Chatterjee can say that there is no answer to his point.

Shri N. C. Chatterjee: The principle on which the Special Marriage Act was introduced makes it applicable to sacramental marriages and Hindu marriages.

Shri N. R. Muniswamy: As regards *Dayabhaga* and *Mitakshara*, there is no mention of it in the Bill; clause 5 indicates that this Act is not applicable to any joint family property or any interest therein. Incidentally it means that millions and millions of people are segregated from the operation of this law. If you closely follow it, it means that the Act will apply only to the self acquired property of a man who dies intestate. I do not have so much legal acquisition as my friend, but on a cursory reading, any lay man can understand it only in this manner. My hon. friend has sought some support by citing the name of Mr Venkataraman also. Mr. Venkataraman was equally to blame, because he too confused himself in regard to this aspect. As regards the allocation of rights in the share of property, I do not agree that the daughter should be given only half the share of the property, as against the son getting the full share. If you want to give some rights to the daughter, in giving such a right,

the son and daughter must not be discriminated in regard to share of property. Clause 10 gives the details regarding the distribution of property among preferential heirs in class I. I say that these details must be radically changed.

The other thing which my learned friend has brought to the notice of this House is about married daughters. As a daughter, she gets a share of the property and after marriage, if she becomes a widow, she gets a share as widow of her deceased husband in the property of the father-in-law. The objection was that the girl should not be given two rights, one in her own family and the other in the family where she is married. I fail to understand the reason behind it, because she does not get the two shares in the same capacity. One share she gets as a daughter in her own family and the other share she gets in her capacity as a widow and not as a daughter-in-law.

Shri Venkataraman: Hindu women's right to property will have to be abrogated in that case.

Shri N. R. Muniswamy: I understand it; but she does not get the two shares in the same capacity. She gets her shares by different rules, one as a daughter and the other as a widow and not as daughter-in-law.

The other point which I wish to bring to the notice of this House is regarding clause 29. A murderer even if not disqualified under Hindu law from succeeding to the estate of the person whom he has murdered is so disqualified upon principles of justice, equity and good conscience. The murderer is not to be regarded as the stock for a fresh line of descent, but should be regarded as non-existent when the succession opens.

Here, the murderer commits a murder. Certainly, I can understand that by equity of justice he ought not be given any share. How can we understand that so far as sons and daughters are concerned, they are not included? It is not very

clear in this Act. Supposing a person commits a murder, then he is not entitled to have the property. I can understand that. But what about his sons and daughters?

Mr. Deputy-Speaker: What does it matter to him if he gets or his sons get the property?

Shri N. R. Muniswamy: I want to know from the Law Minister whether his heirs also are debarred from getting any share. The Act is not very clear in that. Even under the present law a murderer cannot get a share of the property because the object with which he commits the murder is to take away the property.

Mr. Deputy-Speaker: As soon as he commits the murder does he commit suicide?

Shri N. R. Muniswamy: No. But so far as his sons and daughters are concerned, he is dead. For all practical purposes it is civil death. He is not in existence. Because he commits the murder his children take it for granted that he is dead. Therefore, so far as the Bill is concerned, it is very silent. My point is that the children should not be debarred from getting their share. This change has to be effected by way of an amendment in the Joint Select Committee.

Mr. Deputy-Speaker: It is there, somewhere.

Shri N. R. Muniswamy: It is not there. Still I place it before the hon. Minister to look into this aspect. My point is that the sons and daughters should not be debarred. If they are not debarred, then there is no flaw in this Act.

Mr. Deputy-Speaker: Clause 31 says:

"If any person is disqualified from inheriting any property under this Act, it shall devolve as if such person had died before the intestate."

Evidently it may appear that if a man committed the murder, some other person wants to take away his

property. Therefore, a man who murders must be deemed to have died before the murder of the person. So his son will get the property.

Shri N. R. Muniswamy: Therefore succession opens and that is what it means.

Shri Sadhan Gupta: The son will get it.

Shri N. R. Muniswamy: If sons are eligible, then I can understand. But it is not very clear from the provisions of the Act.

Mr. Deputy-Speaker: I think it is better to provide that the sons should not get it because the murder is committed for the sons to get the property.

Shri N. R. Muniswamy: How can the sons be made liable for the sins of the father! Because the father committed a murder how can the sons and daughters be debarred from getting the property. This may be an argument for the lawyers. On the basis of equity, good conscience and justice we do not want that the sons and daughters should be debarred. If they are not debarred, I can understand that there is nothing wrong in the Act. But, that must be made clear. Of course, clause 31 is very clear according to the interpretation of the Chair as well as Shri Sadhan Gupta.

The other aspect mentioned by some Members is with regard to preferential heirs as given in clause 10 of this Act. By going through this, one fails to understand very easily what the real nature of the surviving heirs is and how they get property. While analysing the entire thing I find that sometimes the son gets very much less than others and sometimes the daughter gets more than the widow. I do understand that there is some difficulty behind it. In case we reallocate the shares equally between the sons and daughters as well as the widow, then such a difficulty would not arise. Just as in the Mohamedan Law sometimes the birth of a daughter reduces the share of other persons and sometimes the birth

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of a son reduces the share of a daughter, similarly here I find that in the way in which it has been catalogued giving illustrations under clause 10, there is a good deal of fraction even to the extent of one-twentieth and one-sixtieth. In order that there may be no confusion at the time of division I want that it should be made very easily understandable by putting the son, the daughter and the widow on equal footing rather than giving them shares like one half; all widows put together will get as much as the son and so on. Sometimes it so happens that there are so many widows. Nowadays I do not know whether anybody will marry more than one wife, but as regards past marriages we are likely to come across two or three widows in many cases. In those cases their share would be reduced very much than the sons. Therefore, they must also be given an equal share and this provision has to be reallocated at the time of consideration by the Joint Select Committee.

श्रीमती शिवराजवती नेहरू : बड़ी प्रतीक्षा के बाद आज वह शुभ दिन आया है जिस दिन हिन्दू समाज में स्त्रियों के साथ शताब्दियों से जो अन्याय होता चला आया है, उसका अन्त होने जा रहा है और लड़कियों को भी उनके पिताओं की सम्पत्ति में कुछ भाग मिलने की व्यवस्था की जा रही है और केवल स्त्री होने के नाते उनके साथ अन्याय न किया जाय ।

उपाध्यक्ष महोदय, आज न जाने कितने लोग हमारे यहां से बाहर विदेशों में जा रहे हैं और इंटरनेशनल कामर्सेज में भाग ले रहे हैं और वहां जा कर भारत की ओर से ह्यूमन राइट्स और इक्वेल ट्रीटमेंट आदि सिद्धान्तों का संदेश दे रहे हैं और इसका प्रचार कर रहे हैं कि संसार में मनुष्य मनुष्य के बीच में एकता हो और आपस में समानता हो और हम देखते

हैं कि आज संसार पर हमारे इस संदेश का काफी प्रभाव पड़ रहा है और यदि आज ऐसी सूरत में हम एक ऐसे विधेयक को जो सरकार लाई है और जो ह्यूमन राइट्स और इक्वेल ट्रीटमेंट के ऊपर आधारित है जो न्याय पर बेस्ड है, उसको हम आज पास नहीं करेंगे तो बहुत दुर्भाग्य की बात होगी । इस कारण आज हम सदस्यों को इस बिल को तुरन्त ही पास कर देना चाहिये जिससे कि यह लागू हो और जो अन्याय हम लोग एक स्त्री के साथ महज स्त्री होने के नाते करते रहे हैं, इस धब्बे को आज उस कलंक को हमें भारत माता के माथे पर से धोना होगा । समाज के लिये यह बिल बहुत ही ज्यादा आवश्यक और लाभदायक है । हम स्त्रियों को यदि इकोनोमिक इक्वेलिटी नहीं देंगे, कुछ थोड़ी सी उनको एकोनोमिक सहायता नहीं देंगे तो हमने जो अभी 48 हिन्दू मैरिज बिल पास किया है, उसका पास करना ही बिलकुल बेकार हो जायेगा । कुछ लोगों को जो इस बात का भय हो रहा है कि लड़की को बाप का जायदाद में यदि कुछ भाग मिल गया तो समाज का तत्ता उलट जायेगा, पारिवारिक जीवन उलट जायेगा और भाई बहनों में प्रेम नहीं रहेगा और कलह पड़ जायेगी, तो मैं उन भाइयों से पूछना चाहूंगी कि आषा जिन जातियों में बहनों को हक दिया जाता है, जैसे कि मुसलमानों और इसाईयों में लड़कियों को पिता की प्रापर्टी में हिस्सा मिलता है, तो क्या उनके वहां भाई बहनों में प्रेम भाव नहीं रहता ? क्या हमारे हिन्दू समाज के जो भाई हैं वे केवल पैसे के ही मोत हैं ? इसके अलावा आज हम देखते हैं कि जो पुराने कुटुम्ब और संयुक्त हिन्दू परिवार चले आ रहे थे वह आज हैं कहां शहरों में से तो नापंदे हैं और देहात में जो कुछ थोड़े रह गये हैं वह भी टूटते जा रहे हैं, जवाईट हिन्दू फ़ेमलीज का स्ट्रक्चर गिरता ज

रहा है। और पुराना समाज का ढांचा वर्षों से बदलता जा रहा है आज के प्रगतिशील जमाने में भिन्न भिन्न विचारों के लोग हैं जो अपने उद्देश्यों और विचारों के अनुकूल ही अपना जीवन व्यतीत करना चाहते हैं और ऐसी सूरत में एक परिवार में सब लोगों अथवा बहुत अधिक लोगों का साथ रहना असंभव है। आज लड़के घरों में रहते कहाँ हैं? आज रेल का जमाना है, हवाई जहाज का जमाना है और रोजगार की कमी है। इन कठिन समस्याओं के कारण हम देखते हैं कि लड़के घन कमाने जहाँ कहीं उनको रोजगार या नौकरी मिलती है चले जाते हैं और साथ में अपनी अपनी स्त्रियों को लेकर दूर दूर नौकरियों पर चले जाते हैं। मैं तो समझती हूँ कि जो पुराने परिवार और कुटुम्ब थे वह हमेशा से ही एक लड़ाई और झगड़े की जड़ थे। यह सही बात है कि जहाँ पांच बर्तन होते हैं वहाँ खटकते अवश्य हैं और आज के जो स्त्री पुरुष हैं, उन में न तो माता पिता ही यह चाहते हैं कि वे सब कुटुम्ब को ले कर एक साथ रहें और न बहू, बेटा ही यह चाहते हैं कि वे सबके साथ एक कुटुम्ब में रहें, इस तरह की भावना आज हर एक पढ़े लिखे शहर के लड़के लड़कियों की हो रही है और देहातों के लोगों में भी यह कहावत है कि : मैं और मेरा भर्तार, दूसरा आवे तो फोड़ूँ कपार। और फिर अगर परिवार रह भी जायें तो आज जायदादें किसके पास रह जायेंगी जिन के कि बंट जाने का भय हो रहा है। आज देश में सोशलिस्टिक पैट्रन की सोसाइटी की स्थापना होने जा रही है, पूँजीवाद सीमित हो रहा है, फिर अब किसी एक व्यक्ति के पास इतना धन व जायदाद न रहेगी जिसके कि सम्बन्ध में यह सारी समस्याएँ उपस्थित होंगी और खड़ी होंगी।

I P. M.

अगर कोई बहुत धन कमायेगा भी तो
सारे उपायों से उसको ले लिया जायेगा

जैसे हैवी टैक्सेशन है जमींदारी का उन्मूलन तो हो ही गया है, डेथ ड्यूटी लगाई गई है, कोई भी प्रापर्टी यदि सरकार चाहेगी तो अपनी इच्छानुसार ले लेगी, यह बिल अभी इस सदन में हम पास कर चुके हैं, तो फिर आपको अपनी बहन या लड़की को ही कुछ थोड़ा सा दे देने में क्या आपत्ति है? फिर यदि कोई चाहे कि ऐसा न हो, वह अपना कुल कमाया हुआ धन अपने पुत्र को ही देना चाहे और अपनी लड़की को न देना चाहे तो इसके लिये भी इस बिल में प्राविजन है, वह चाहे तो विल कर सकता है और धन अपनी लड़की को न दे कर अपने बेटे को ही दे सकता है। तब फिर इसमें क्या डर की बात है। यह कहना कि स्त्री निर्बुद्धि है, उसमें इतनी समझ नहीं है कि वह जायदाद की देखभाल कर सके, यदि उसको धन का भाग मिल जायेगा तो वह उसकी रक्षा नहीं कर सकेगी, वह उसको लुटा देगी यह गलत है। मैं कहती हूँ कि पुरुषों को अपनी बुद्धि के सम्बन्ध में बड़ी गलतफहमी है, भ्रम है। हमने देखा है बहुत से ताल्लुकदारों की जो विधवायें हैं उन्होंने अपनी जायदादों का बहुत सुचारू रूप से प्रबन्ध किया है और अपने पुरुषों से अच्छा किया है। पुरुष धन को उड़ा देते हैं, स्त्री किफायतशार होती है, हमेशा धन को संभाल कर अपने कुटुम्ब पर खर्च करती है, उसको बेकार नहीं जाने देती है। हज़ारों स्त्रियों के जो व्यभिचारी पुरुष हैं, बड़े बड़े ताल्लुकदार हैं, जायदाद वाले हैं, जो शराबी हैं, व्यभिचारी हैं, जिन्होंने सारी जायदादों को बिगाड़ा है, उन से भी जायदादों को अपने हाथ में ले कर स्त्रियों ने बचाया है, घर को सम्भाला है। ऐसी स्त्रियों को अबला कहा जाता है। मैं कहती हूँ

‘जिसके आगे सब गये हार,
अबला बल को है नमस्कार’।

[श्रीमति शिवराजवती नेहरू]

अगर यह कहा जाये कि जायदादों के सम्बन्ध में वे पुरुषों से सहायता लेंगी, तो मैं कहना चाहती हूँ कि जायदादों के सम्बन्ध में तो पुरुषों को भी मुंशी, मुहूरिर, कारिन्दों, खजान्चियों इत्यादि से सहायता लेनी होती है। जहाँ बड़ी जायदादें होती हैं, वहाँ दूसरे लोगों से क्या सहायता नहीं ली जाती है? हाँ, अब इसका विचार करना कि लड़की को कितना भाग दिया जाय, यह अवश्य ही बड़ी कठिन समस्या है। हमें ठंडे दिल से इस पर विचार करना है और ऐसा निर्णय करना है जिससे माई, बहन, मां बाप और समाज सबका हित हो। हमको ऐसा काम करना चाहिये जिस से सांप भी मर जाये और लाठी भी न टूटे। हमारी बहुत सी बहनें कहती हैं कि लड़की और लड़के को समान भाग मिले, बहुत से हमारे भाई भी हैं जो कि शिवेलरी में आ कर यह कहते हैं कि लड़के और लड़की को समान भाग मिलना चाहिये। लेकिन कई कारणों से मैं लड़की और लड़के को बराबर भाग देने के पक्ष में नहीं हूँ। बात ऐसी है कि गोयम मुश्किल, व गर न गोयम, मुश्किल। लेकिन कुछ भी हो, जब मैं इस सभा में खड़ी हुई हूँ तो अपने विचार जरूर रखूंगी। क्या उचित है और क्या अनुचित है इस पर सिलेक्ट कमेटी विचार करेगी। उसमें सभी योग्य व्यक्ति रखे गये हैं और उसकी जो राय होगी, उसको मैं आशा करती हूँ, सदन मंजूर करेगा, परन्तु सिलेक्ट कमेटी से मैं यह आशा करती हूँ कि निर्णय करते समय जो भी हम सदस्य इस सभा में राय दे रहे हैं उस पर भी वह ध्यान देगी और विचार करेगी। मेरा विचार यह है कि कभी कभी लड़के को बाप के ऋण और दूसरी देनदारियों भारों व जिम्मेदारियों पड़ता है। उनकी जिम्मेदारी लड़की पर नहीं होती, लड़की तो अपना भाग ले कर च

येगी, लेकिन ऋण और दूसरी कठिनाइयों की जिम्मेदारी लड़के के सिर पर ही होती है, बूढ़े माता पिता हैं, या विधवा मां है, नाना हैं, नानी हैं, दादी है अगर माता बुढ़ी हो गई तो वह लड़के के पास ही रहना चाहेगी, कोई भी लड़की के पास नहीं रहना चाहेगी।

श्री टेकचन्द (अम्बाला-शिमला) :
उनको निकाल दिया गया है।

श्रीमती शिवराजवती नेहरू : हिन्दू माता पिता कभी भी दामाद के घर पसन्द न करेंगे यह हमारी भारतीय संस्कृति के विरुद्ध है क्योंकि कोई भी माता पिता अपने दामाद को उतना नहीं चाह सकते जितना कि लड़के को क्योंकि यह प्रकृति के विरुद्ध है। लड़का अपना खून है, अपना पोस्त है, माता को जो प्रेम उससे हो सकता है, या लड़के को माता से हो सकता है वह दामाद के लिये सास को नहीं हो सकता है और नहीं दामाद को सास के लिये हो सकता है। लड़के के घर में मां ज्यादा आजादी से रह सकती है, लड़के पर मां को ज्यादा हक होता है। वह उसको समझ सकती है, डांट सकती है और यदि कभी लड़का कोई भली बुरी बात कह दे तो वह उसको माफ भी कर सकती है और इसमें अपना अपमान नहीं मानती। लेकिन अगर दामाद के घर जा कर रहे तो सास को दब कर रहना पड़ेगा और अगर दामाद कोई अनुचित बात कहे तो उसको उस अपमान को भी सहना पड़ेगा। लड़की जरूर अपना खून पोस्त है, लेकिन वह दामाद के आसरे रहती है और दामाद उतना प्रेम सास से नहीं कर सकता जितना कि लड़की अपनी मां से करती है। मैं यह नहीं कहती कि सब दामाद एक से होते हैं : 'तुलसी या संसार में भाति भाति के लोग'। लेकिन वास्तव में जो कुछ देखने में आता है वह यही है इससे हम कैसे इन्कार कर सकते हैं? जिन मुल्कों में सासों जा कर लड़कियों के साथ

रहती हैं, जैसे बोरप में, उन जगहों पर भी आ देख लीजिये, सासों का कितना मज़ाक उड़ाया जाता है, उनका कितना अपमान किया जाता है, मरर इन लॉज को दामाद हमेशा अपमान की निगाह से देखते हैं, उनका आदर नहीं करते और हमेशा यह समझा जाता है कि लड़की के घर में जो सास रहती है वह झगड़े की जड़ होती है और लड़की और दामाद में झगड़ा करवाती है।

दूसरी बात यह है कि ब्याही और बिना ब्याही लड़की को एक ही पैमाने पर रखा गया है। मेरी अल्प बुद्धि में यह आता है कि ब्याही लड़की को क्यों दोहरा हिस्सा दिया जाय और बिना ब्याही लड़की क्यों घाटे में रहे? जब हम स्त्रियाँ ही अपने भाइयों के बराबर का अधिकार चाहती हैं, बराबर का भाग चाहती हैं, तो हम अपनी बहनों के साथ क्यों अन्याय करें? जब पिता मर जायेगा और लड़की जो बिना ब्याही है, उसकी शादी करने का सवाल आयेगा तो भाई अपनी बहन की शादी बहन के भाग में से कर देगा। क्योंकि जब जायदाद का हिस्सा बांट हो रहा है तो वह क्यों अपने भाग में से बहन की शादी करेगा? इसके लिये कोई प्रोविजन इस विधेयक में होना चाहिये। मेरी राय तो यह है कि अपने समाज की सब बातों को देखते हुये बहनों और भाइयों को समान या आधा भाग जायदाद में नहीं मिलना चाहिये। ब्याही हुई लड़की को अपने बाप की जायदाद का $\frac{1}{4}$ हिस्सा मिले और बिना ब्याही लड़की को अपने बाप की जायदाद का $\frac{1}{8}$ हिस्सा मिलना चाहिये। अगर ऐसा हो गया तो मैं समझती हूँ कि जो देहात में रहने वाले हैं उनकी भी समस्याएँ और कठिनाइयाँ कुछ दूर हो जायेंगी। और जो भाई हैं, वे आसानी से अपनी बहनों के खेत और जमीन के भाग खरीद सकेंगे। हमारे कुछ भाइयों ने कहा है कि यदि बहन को हिस्सा मिला, तो हमारी

सोसाइटी टट जायेगी। कोई यह भी कह सकता है कि मेरे पुत्र हैं, मैंने लड़की की शादी अभी घराने में कर दी है, उसको अब हिस्सा क्यों मिले? मैं आपको मिसाल दे सकती हूँ। आज हजारों घनी माँ बाप के लड़के चैन कर रहे हैं परन्तु उनकी बहनों की शादी गरीब घराने के लड़कों से हो गई है और वे आज वर्तन माँज रही हैं। जब माँ-बाप घनी हैं, तो लड़की को क्यों न हिस्सा मिले? उसे यह हक अवश्य मिलना चाहिये।

इन चन्द शब्दों के साथ मैं इस बिल को हृदय से स्पॉट करती हूँ।

श्री टंडन (जिला इलाहाबाद—पश्चिम)
इस विधेयक पर मुझे कुछ नई बातें नहीं कहनी हैं। मैं इसलिये खड़ा हुआ हूँ कि मैं अपनी सम्मति इस सदन के सामने रख दूँ—चाहे वह सम्मति बहुत कुछ उसी प्रकार की हो, जो मेरे दूसरे भाई प्रकट कर चुके हैं।

मैं इस विधेयक को पढ़ कर कुछ चकित हूँ। मेरे भाई मंत्री जी, जो इस विधेयक को इस भवन में उपस्थित कर रहे हैं, इस बात को मानने वाले हैं कि हमें केवल शब्दों, पुरानी बातों और रस्मों की अपेक्षा बौद्धिक क्रम के ऊपर अधिक ध्यान देना है। मैं उनकी इस बात को स्वीकार करता हूँ यह मैंने उस दिन भी निवेदन किया था। मैं यह चाहता हूँ कि जो बात बुद्धि में न आये, युक्ति में न आये उस को पकड़ने का प्रयत्न हम न करें। यह उचित नहीं है कि हम उसको ही चलाये जायें। परन्तु मुझे लगता है कि इस विधेयक में उन्होंने कई चीजों में पुरानी बातों को पकड़ा है, कई बातों में उन्होंने हस्तक्षेप करने का प्रयत्न किया है, परन्तु साथ ही कोई उन्होंने ऐसी नई बात निकाली हो, जो आज की स्थिति और बुद्धि के अनुकूल हो, ऐसा मुझे नहीं लगा। मैं कुछ समझ नहीं पाया कि क्या उनको

(श्री टंडन)

सका पता नहीं है कि हमारे देश में किस प्रकार के लोग रहते हैं। यह कल्पना करना कि जिस प्रकार हमारे मुसलमान भाइयों में होता है कि लड़की को जायदाद में कुछ हिस्सा दे दिया तो लड़के आदि जो लोग रह जायेंगे, वे उसको रुपया दे देंगे—इससे कुछ ऐसा लगता है कि वह देहात की स्थिति को अधिक जानते नहीं हैं। जहां पर बहुत अधिक पैसा हो, बहुत रुपया छोड़ा गया हो, वहां पर यह बात संभव है, लेकिन साधारण रीति से हमारे यहां जनता रुपये वाली नहीं है। यह जितना भी आप कानून बनाते हैं, जो सम्पत्ति—दाय—बचती है, उसके विभाजन का जितना भी आपका कानून है, वह लगभग पांच या सात सैकड़ें आदमियों के लिये है। जनता की अधिक संख्या हमारे यहां पैसे वाली नहीं है। हमारे यहां की औसत आमदनी २५५ रुपये प्रति साल निकाली गई है। जिस देश की साल में इतनी कम आमदनी है, जिसमें करोड़पतियों और लक्षपतियों की संख्या भी है, जिनकी आमदनी दो या तीन या चार पांच लाख की है, उसके विषय में हम अनुमान कर सकते हैं कि वहां पर करोड़ों आदमी ऐसे हैं, जिनकी आय बहुत ही कम है—२५५ रुपये भी नहीं है, केवल ४० या ५० रुपये साल की आमदनी है। आखिर देहात के लोगों के पास है क्या? क्या उनकी जायदाद है और क्या उनकी आय है! यह जितना विधेयक आप बना रहे हैं और जिस सम्पत्ति की यहां पर चर्चा हो रही है, उसका सम्बन्ध बहुत थोड़े से गिने दूये शहरी आदमियों से है—अथवा कुछ ऊंचे ऊंचे जमींदारों से है। यदि यह विधेयक उन्हीं तक सीमित होता, तो मुझे बहुत चिन्ता नहीं होती। यह कानून वहां जायेगा, जहां बहुत थोड़े थोड़े कच्चे घर हैं, और दो एक बीघे जमीन है। आपने व्यवस्था की है कि देहात में भूमि का कुछ

हिस्सा दामाद के घर में भी पहुंचे। मुझे ऐसा लगता है कि यह बात बहुत बुद्धि की नहीं है आप यह क्या करने जा रहे हैं? क्या हमारे देश में इस बारे में बहुत पुराने समय से विचार नहीं किया गया था? क्या अब तक हमारी लड़कियों के साथ अन्याय ही होता रहा है? जब हमारी कुछ बहनें यह बात कहती हैं, तो मुझे हंसी आती है और आश्चर्य होता है। क्या उनको यहां की स्थिति का ज्ञान नहीं है? क्या वे विलायत से आई हैं?

श्री टेक चन्द : दिमाग विलायत से आये हैं।

श्री टंडन : पुत्री के विवाह के लिये हम अपने को बच देते हैं। न जाने कितने भाई और पिता जन्म भर गुलामी करते हैं इसलिये कि लड़की के विवाह से उच्छृण्व हों इतना लड़की के लिये करते हैं! लड़की हमारे यहां लक्ष्मी का स्वरूप मानी जाती है। उसके साथ अन्याय का प्रश्न ही क्या है? परन्तु इसमें भी कोई सन्देह नहीं है—और यह वास्तविकता है—कि लड़की दूसरे घर का धन। चूंकि लड़की को दूसरे घर जाना ही है, इसलिये हमारे यहां कहावत है कि लड़की दूसरे घर का धन है। लड़की को कोई अपने घर बिठा नहीं लेता। लड़की के लिये हमारे ऊपर एक बड़ा दायित्व होता है कि कहीं न कहीं से पैसा लायें, उसकी रक्षा करें और फिर उसका विवाह करें। जब लड़की का विवाह होता है, तो लक्षपति और करोड़पति उसको लाखों देते हैं और देहात का वह आदमी, जिस के पास अधिक पैसा नहीं है, सौ दो सौ रुपये में ही लड़की का विवाह कर देता है, परन्तु प्रायः लड़की को कुछ न कुछ देता ही है। इसके अपवाद अवश्य होते हैं, उनकी चर्चा में नहीं करता। और अपवाद केवल यहां नहीं हैं, दूसरे देशों में भी ऐसे लोग हैं, जो लड़की के बदले पैसा लेते हैं यह केवल यहां

की बात नहीं है। मैंने यूरोप की एक देश की बात सुनी है। जार्जिया की कथा बहुत प्रसिद्ध है। वहां सुन्दर लड़कियां होती हैं। दूसरे लोग वहां जाते हैं, लड़कियां लेते हैं और उनके पिता को भेंट करते हैं। बहुत जगह यह प्रथा है।

मैं यह कहना चाहता हूं कि लड़के और लड़की का स्वरूप बिल्कुल एक नहीं होता है। इकनामिक ईक्वेलिटी—आर्थिक बराबरी—की बात एक बड़ी सस्ती बात है। क्या कोई देश सचमुच आर्थिक बराबरी स्थापित करने का दावा कर सकता है? यह कहिये कि अवसर दिया जाय, परन्तु आर्थिक बराबरी का नाम ले कर क्या कोई बहुत सच्ची बात कहेगा? क्या यूरोप में आर्थिक बराबरी है? आज भी यूरोप और अमेरिका में स्त्रियां तड़पती हैं, जब वे जवान होती हैं, कि हमारे लिये पति मिले, चारों ओर वे पति-आकांक्षिणी होती हैं—इस कारण से कि आर्थिक आवश्यकता उनकी होती है और हमारे यहां तो वह है ही। क्या इसमें कोई सन्देह है? आज भी स्त्रियों का आदर मान बराबर होता है, लेकिन कुटुम्ब का बोझ पुरुषों के ऊपर ही होता है, पिता पर होता है, लड़कों पर होता है—स्त्रियों के ऊपर कोई बोझ नहीं डाला करता है। इस स्थिति को हमें भूल नहीं जाना चाहिये। ऐसी दशा में थोड़े से पैसे के लिये, जायदाद के लिये, ऐसा रूप देना कि कलह उत्पन्न हो, कोई बुद्धिमानी की बात नहीं है। इसीलिये मैं मंत्री महोदय को इस बिल के ऊपर बघाई नहीं दे सकता हूं। मुझे इसमें युक्ति और बुद्धि की ओर अपने देश की स्थिति की जानकारी की गहरी कमी लगती है। बम्बई, कलकत्ता आदि शहर जहां बड़े बड़े धनी लोग रहते हैं, वह तो हमारा देश नहीं है। वहां हो सकता है कि जहां लड़कों को पिता की मृत्यु के बाद २, २ लाख या ४, ४ लाख रुपये बंटें, तो लड़की को भी लाख डेढ़ लाख मिलना चाहिये

और जो प्रायः दे भी देते हैं। परन्तु जैसा हमारे और भाइयों ने कहा एक व्यापारी के लिये भी यह कठिन है कि उसके व्यापार का बंटवारा हो और उसमें झगड़ा और टंटा उठ खड़े होने की सदा संभावना बनी रहेगी। इसी तरह एक देहाती आदमी जिसके पास एक छोटी सी झोंपड़ी है, जब उसकी लड़की का विवाह हो जाता है, वह दूसरे के घर चली जाती है उस ग्रामीण का दामाद अथवा दामाद का पिता अपने हिस्से का बंटवारा कराने के लिये लड़की के पिता के दरवाजे पर लट्ट ले कर आये, तो इस तरह तो झगड़ा और टंटा खड़ा करना है।

एक माननीय सदस्य : उसका परिणाम कोर्ट में जाना होगा।

श्री टंडन : वर्तमान रूप में विधेयक को पास करना झगड़े और टंटों को खड़ा करना है और मैं मंत्री महोदय को इस विधेयक के लिये बघाई नहीं दे सकता। उन्हें इस बिल को वापिस ले लेना और इस पर फिर विचार करना चाहिये। मैं तो इस पक्ष में हूं कि सिलेक्ट कमेटी प्रवर समिति में यह जाने के योग्य नहीं है, इसके ऊपर उन्हें फिर से विचार करना चाहिये, उसको दूसरा रूप दे कर वह सदन में लायें।

एक बात और है जिसके विषय में उन्हें सोचना चाहिये। जिन्हें अपनी लड़की को कुछ जायदाद अथवा सम्पत्ति देनी होती है कभी कभी वह बसीयत से देते हैं, परन्तु फिर भी प्रायः यही देखा जाता है कि लोग यह पसन्द करते हैं कि जायदाद उनके लड़कों के बीच में ही रहे और इस कारण उन्हें लड़की को जो देना होता है वह अपने हाथ से उठा कर दे देते हैं। ऐसा करने में एक कारण यह रहता है कि आदमी की यह स्वाभाविक इच्छा रहती है कि उसका जो कुटुम्ब और परिवार है वह चले, और कुटुम्ब लड़के से चलता है, लड़की

(श्री टंडन)

की तरफ कुटुम्ब के लिये नहीं देखा जाता है। एक पिता अपने कुटुम्ब के चलने के लिये अपनी लड़के की ओर देखता है, लड़की की ओर नहीं देखता क्योंकि लड़की शादी के बाद दूसरे घर में चली जाती है और उस घर की हो जाती है। इसका यह अर्थ न समझ लिया जाय कि मैं स्त्रियों को उनके अधिकार देने के पक्ष में नहीं हूँ, हमें उनको उचित मात्रा में देना है और उनको हर प्रकार से समर्थ बनाना है। मैंने पहले ही कहा कि मैं युक्ति के साथ चलना चाहता हूँ और आख बन्द करके मैं शास्त्रों और स्मृतियों में जो संकड़ों और हजारों वर्ष पहले उस काल के अनुसार लिखा गया था, उससे मैं अपने को बांधने को तैयार नहीं हूँ। पुरानी बात तो यह थी कि पत्नी को कोई अधिकार नहीं था और वह बात आधुनिक काल में उचित नहीं थी। अब थोड़े दिन पहले एक अधिनियम पारित करके आपने पत्नियों को जो अधिकार दिया, उसका मैं स्वागत करता हूँ और उसको रहना ही चाहिये मैं इस मत का बिल्कुल पोषक हूँ कि पति की जायदाद में पत्नी का गहरा अधिकार रहना चाहिये और मैं तो कहूँगा कि पति के बाद अगर आप सारी जायदाद उसकी पत्नी को दे दें और लड़के को न दें, तो मैं उसका विरोध नहीं करूँगा और आप भले ही ऐसी व्यवस्था कर दें कि पति के बाद पत्नी सारी जायदाद की मालिक होगी और लड़के के स्थान पर लड़के की माता का सारा अधिकार होगा, कुल अधिकार आप माता को दे दीजिये, लड़के को कोड़ी मत दीजिये, माता स्वयं ही उसको देगी, आखिर वह उस लड़के की माता जो ठहरी माता होने के नाते वह अपने लड़के को स्वयं देगी। आप स्त्री मात्र के प्रति इस तरह आदर दिखलाइये कि मरद के मरने के बाद सारी जायदाद को हकदार उसकी औरत हो। पत्नी पूर्ण अधिकारिणी हो उसका, बंटवारा

लड़के के साथ न हो, "शामलटेनियस एयर" नहीं, मुख्य भाग उसका हो; मैं तो इसका पक्षपाती हूँ। आपने इस विधेयक में रखा है कि लड़के के साथ उसको एक हिस्सा मिलेगा, मैं तो कहता हूँ कि पत्नी को पूरा अधिकार दिया जाय। जहाँ तक लड़कियों को पिता की जायदाद में हिस्सा देने की बात है मैं कहूँगा कि लड़की अविवाहित है तो अवश्य उसको हिस्सा मिलना चाहिये क्योंकि संभव है आगे चल कर उसका विवाह आदि करने में कोई झंझट आदि उठ खड़ा हो, इसलिये आप अविवाहित लड़की को उसके पिता की जायदाद में पूरा अधिकार दीजिये, परन्तु जहाँ तक विवाहिता स्त्रियों को हिस्सा देने की बात है यह देखना पड़ता है कि जब लड़की की शादी हो जाती है तब वह दूसरे घर की हो जाती है वह स्वतन्त्र नहीं होती और उसके ऊपर उसका पति रहता है जो उसको रास्ता दिखलाता है और यह हो सकता है कि स्त्री को उसका पति प्रेरणा करे या समुर प्रेरणा करे और दूसरे कुटुम्ब वाले उस स्त्री के पिता के कुटुम्ब में आ कर उनके घरेलू मामलों में हस्तक्षेप करें और झगड़ा टंटा उठ खड़ा हो। मेरा निवेदन है कि आप ऐसी व्यवस्था करके झगड़ा बढ़ा रहे हैं और इसलिये विवाहिता स्त्री को जो हिस्सा पिता की जायदाद में देने की बात आपने रखी है, वह ठीक नहीं है। जिस लड़की को कुछ देना होता है वह उठा कर अपने हाथ से अपने जीवन काल में दे जाता है।

अब दूसरी बात मुझे यह कहनी है कि आपने प्रथम श्रेणी में, जिसको आपने अंग्रेजी में क्लास १ लिखा है, जिन लोगों का बराबर का हिस्सा है, उनमें आपने माता, पिता को रखना उचित नहीं समझा। बात यहाँ पर हो रही थी स्त्रियों के आदर की, तो क्या आपके सामने माता उतनी आदरणीय नहीं

है जितनी कि लड़की बा लड़की की लड़की ? जो दूसरे कुटुम्ब में चली गई है उसका हिस्सा लड़के के साथ है, परन्तु उसकी माता का आप आदर नहीं करते, यह बहुत अनुचित है। हमारे देश में माता पिता का जो आदर है उसको देखते हुये मैं यह कहना चाहता हूँ कि आप उसको पहली श्रेणी में रखें, माता को पहली श्रेणी में रखें, माता और पिता दोनों पहली श्रेणी में रखे जायें और उनका अपने लड़के की जायदाद में अधिकार हो।

श्री बोगावत (अहमदनगर दक्षिण) :
उसको लम्बा डकेल दिया है।

श्री टंडन : उनको आपने पहली श्रेणी से हटा कर दूसरी श्रेणी में कर दिया है और इसके अर्थ यह हुये कि उन्हें कुछ नहीं मिल सकेगा। उनका नम्बर तो जब आवेगा जब प्रथम श्रेणी में लेने वाला कोई न बचे। अब यह जो प्रथम श्रेणी में लड़की की लड़की को हिस्सा देने की बात है तो वह तो इस तरह होगी कि मान लीजिये मेरी लड़की का विवाह कलकत्ते में हुआ और मेरी लड़की की जो लड़की है उसका विवाह आसाम में हुआ, मेरे मरने के बाद उन सब का तो मेरी सम्पत्ति में अधिकार होगा लेकिन मेरी जायदाद पर मेरे माता, पिता को कोई अधिकार नहीं होगा। यह क्या बुद्धिमानी है ? मुझे तो यह बात बहुत दिवित्र लगी और मुझको तो ऐसा लगता है कि हमारे पाटस्कर जी मानो इस विधेयक के बनाने वाले हैं ही नहीं, और यह किसी और की बनाई वस्तु उनके ऊपर डकेल दी गई है और उसको उन्होंने हम लोगों के सामने रख दिया है। मुझे विश्वास नहीं होता कि यह पाटस्कर जी की बुद्धि का परिणाम है। मैं चाहता हूँ और उन से अपील करता हूँ कि वे इसको वापिस लें। मैं अपने साथियों से यह कहूँगा कि वे

सिलेक्ट कमेटी का जो यह प्रस्ताव है, उसके विरुद्ध वोट करें। मैं इसको सिलेक्ट कमेटी में भेजना ही नहीं चाहता, यह तो एक बहुत ही रद्दी वस्तु है। सिलेक्ट कमेटी में तो एक ठीक विधेयक जाना चाहिये जिसे सिलेक्ट कमेटी इधर उधर थोड़ी बहुत काट छांट करके भेज दे, इस प्रकार से यह विधेयक वर्तमान रूप में प्रवर समिति के पास भेजे जाने के योग्य नहीं है। मैं और अधिक नहीं कहना चाहता। मुझे आशा है कि हमारे भाई स्वतन्त्रता के साथ इस पर अपना मत व्यक्त करेंगे, इसके ऊपर सचेतक का कोई ह्विप नहीं है और यह ठीक भी है कि ऐसे विषयों पर सदस्यों को अपना स्वतन्त्र मत प्रकट करने और मतदान देने की छूट होनी चाहिये। सदस्य जैसा उचित समझें, करें। हम सब कहें कि यह विधेयक संयुक्त प्रवर समिति को न भेजा जाय और हम यह मांग करें कि श्री पाटस्कर जी इसको वापिस ले जायें और फिर विचार करके अधिक बुद्धिमानी की एक वस्तु हमारे सामने लावें।

Shri Lokemath Mishra: I am extremely grateful to you for giving a chance to speak on this very important social reform Bill. Before I go into the merits of this Bill, I shall express a fundamental suspicion that arises in my mind, and that is this. We have just passed the Hindu Marriage Bill in this House in the course of two days—a Bill that took six days in Rajya Sabha with half of our strength. That has been rushed through. Soon after that this Bill again comes. I do not really understand what is the reason of this unseemly haste with which the hon. Minister of Law brings this Bill, again at the fag end and wants it to go the select Committee especially when, according to his own confession, he has not yet made up his mind on the fundamentals of this Bill. Were it not so, he would not have been candid enough to say that whatever might

[Shri Lokenath Mishra]

there be in the Bill, the Select Committee will be free to alter it as they like.

In other words, it means that the hon. Minister is yet vacillating about the fundamentals of this property law. Whatever it is, I will now come to some of the salient points of this Bill.

And, before that, again, I would submit that as I have just heard the discussions going on over this Bill, I feel as if there is a growing conflict, a conflict engineered from some quarters. Between whom? Between man and woman, as if, in India, after independence, there is a class war between man and woman. Man, the hunter, the monster, the exploiter is up against woman and the woman must be released and redeemed, and that in the name of equality and freedom of the individual. Were it not so, the speeches that I have heard from the hon. lady Members of this House would not have been a relentless challenge to man, and his doings, to which as if the woman had no contribution. My conception of man and woman is very different. To me, man and woman together make up a whole. They make up one personality (*Interruption*). I also believe that there can be no conflict between man and woman. They are complementary. They supplement each other to such an extent that without the fullest union between the two, there can be no perfection for either of them. In fact, I believe, if there is any single man who has got a proper woman as his wife or a woman who has got a proper man as her husband, if that union is perfect, that in itself is salvation, according to me.

And yet, what is our conception of woman so far as this property is concerned? I am a member of a joint Hindu Mitakshara family. I am very much proud of it and I am sorry that it is gradually breaking down, breaking down by the impact of economic

causes, by the impact of time and yet, I believe that the little that still remains of the joint Mitakshara family is nothing but an ideal pattern of a communist society. If property has any value to a member of a joint Mitakshara family, it is only this that nobody in the family is the owner of the property; everyone is the trustee and the *karta* of the family, as trustee of the family, holds the property for the good of the family because family is the unit of our society. According to me, if family is not the unit, if the individual is the unit then our society goes to pieces. Therefore, before we grant our accord to this Bill, we must first of all be clear in our mind as to where we are going. Are we going to bid good-bye to anything that was good in our society? In fact, I feel as if there is a great clash between the past and the present and all that was there in the past was intolerable and bad and must be given the go-by and anything that is modern, anything that we have recently learnt must be put on the pedestal and must be the deity of our temple. To my mind, this position does not augur well for India that is going to build itself up again on ages, India that is going to lead the whole world and not that India which begins just from the year 1947. I do not believe that this 8 years old India, that became free in the year 1947, is the India that can ever do any good for the world. India of the ages, India of thousands of years is our asset. If rightly or wrongly we disown that asset, may be we will be starting with a clean slate. But then, however speedily we may start, from nothing, whatever speed we may give to our Second Five Year Plan, we will always be going behind others we copy, that is be second-rate. Russia will be going ahead, America will be going ahead, the West will be going ahead. By going their ways we will be certainly behind them, however speedy our march may be. I will, therefore, humbly request this House in the name of truth, in the name of those past great builders of our society to be

more circumspect—I know there are so many things bad; but I think these bad things could be corrected and India's past is not incorrigible; everything human has something bad and something good; India's past has more of greatness than smallness. In that perspective, let us take the property law.

My hon. friend Mr. Mukerjee has said something about property. I respect him like anything. I feel even that his communism is much better than our so-called newfangled confused state of things. We are going in for a socialist pattern of society. I can understand his communism much better than a socialist pattern of society which gives us no idea of anything either of property or of man or of society or anything else. We want something to go by. I, therefore, say that if Prof. Mukerjee's communism says property has no place except private property or personal property that is required for the development of man, for the self-expression of man, if that only is property, I accept it whole-heartedly. It is India that decided first that property is a load and burden if it goes beyond a limit. If we accept that position, if that is the foundation of this Bill—it is only by that yardstick it must be judged—in other words, we should once for all make up our minds as to what is the value of property for the development of the individual, for the development of society and for the development of the nation, as a whole. But, I do find that that is not the basis of this Bill.

This Bill assumes that there will be more and more property hoarding, and unless there is hoarding, there is no inheritance. It is only on that basis that this Bill comes. Now, if that is the basis, let us be clear on that point. On the basis that property is good, that property must be acquired and must be kept, it is only then that the question can come as to what is the share of the man and what is the share of the woman. On this assumption, not on the assump-

tion of the communist philosophy of property, on the assumption of a real and independent value of property, which to my mind is embodied in this Bill, I would argue whether this distribution, this process of inheritance is right or wrong.

This Bill wants to show to the world or wants to show to all of us that we are taking away the inequality that was perpetrated against women, against the womanhood of our country. I say I have no quarrel with women. In fact, I take them as our mothers. I am a devotee more of the mother than of the father because I may have doubts about my father but I am quite sure of my mother. In that sense, I am very fond of my mother. My mother is my deity. Therefore, there will be no quarrel for any of us with the mother, the sister, the daughter or anybody of that kind having any share in the property. But, what is it then? What do you mean by this? The property must belong to somebody. In our conception, it belongs to the family. It does not belong to the individual. If it belongs to the family, then we shall see what is the family. Who manages the family, whose burden it is to manage the family? In my conception, however much a man and a woman may be equal, there is some difference between the two. Their aspirations might be the same; there might be many things similar. But, there is a fundamental dissimilarity. There is a fundamental difference created, not by man, but by God who created both men and women. That we must not forget. In our new-fangled ideas, we must not say that men and women are the same, and as in the case of the American foreign policy, they must fight and negotiate through strength. It is not proper that women should fight against men and negotiate through strength. I do not think that this is a proper psychology for a nation that is reviving its previous glory.

Therefore, when we consider the property law, we must first of all think who is in charge, who will be

[Shri Lokenath Mishra]

in charge of the family, and who will look after the affairs of the family. Is it the man or the woman? Is it the father or the mother? If you say it is the father, give everything to him. If you say it is the mother, give everything to her. I have no quarrel. That must be decided first.

Again, as has already been pointed out, if a family is the unit, what is the place of the daughter in that family? We certainly know that ordinarily a girl or a daughter has to go to another's house. If she remains otherwise, so far so good; such cases would be exceptional cases. In ordinary cases, so far as the family is concerned, a daughter is supposed to go to another's house. There she is the queen; there she is the deity. If that is the position, we must see where her position is dominant. In other words, so long as a girl is not married, she is certainly as much as a son in the family. That is her right. The moment she goes to another family, there she is entitled to have as much a share as her own husband or as anybody else. She cannot have a share both this way and that. We may say that she gets half here and half there and so half and half make one. It may be mathematically correct. But, one has to see that once a woman becomes a wife and then a mother, her allegiance is to that new family and we cannot expect that she will look back to the family from where she had gone. This is the fundamental question to be decided. If this House is pleased to find that a married woman owes more allegiance to her husband, it is dead certain that her interests either in the property or in anything else must be there and not here. If this means fighting against women, if this means discriminating against women, I am sorry, that position is not acceptable to me.

There is another point which, to my mind, is not generally relevant, but which is relevant to this matter, because this is a Hindu Succession Bill. The Hindu law of inheritance

has got some guiding principles. One of these guiding principles, rightly or wrongly, is religious efficacy. You may change that; you have every right to change that. I do not have much of agreement with that idea; that may be right or wrong. I have not seen life after death. But, the fact remains that a conservative Hindu, an orthodox Hindu believes in an after life. He wants that his sons and grandsons should do him some justice even after his death. This is a point which is relevant from one humanitarian Standpoint. There may be a life after death or not. But, one fact remains that we do not want to say good-bye to our parents as soon as they are dead. Just to remember them and keep up their memories, we want to perpetuate the race. This perpetuation of the race is a fundamental fact. In this context, an individual is not sovereign. He is but a link in the chain. We want to perpetuate the line in terms of *gotra* and *pravara*. We want to be proud of our past and also live in it. Thousands of years ago, there was one good man who allowed this race to go and we want to go in his name, which perpetuates him, perpetuates the line to perfection. In other words, just to perpetuate the past, we have accepted this principle of religious efficacy. Religious efficacy is not a dogma; it is a matter of fact. We simply want to arrange the family in such a way that the family will perpetuate itself in the memory of the past and the things that come afterwards. If the daughter has to go to another family, she has to perpetuate that family, not this family. In this context, it is necessary that the son should have a different right, a right different from that of the daughter, because the daughter is ultimately a wife and after that, a mother. It is that mother which we want to worship; it is that mother who is the object of our love.

In the new context, we are going to have a socialistic pattern of society. Can I ask the Minister of law how this piece of legislation helps that socialistic economy? If it does that,

I shall bid good bye to every thing. Please let me see how this law helps our socialistic pattern of society. I am not a man of a city; I come from a village. We know what is the meaning of property in a village: just a small house, some ordinary movables, and a few acres of land, and that not for everybody. If you make this law applicable to everybody, to every citizen, to every Hindu, I can conceive that by this Act you will reduce so many little fragments of land into so many small bits that they will be really uneconomic. To my mind, we have not yet solved the land problem. We are hovering between this and that; we have not yet decided this main question. If agricultural economy is to improve, whatever may be the law, whatever may be the development plans, consolidation of holdings is a first necessity. Can I, therefore, ask the Law Minister to tell me what effect this law will have on fragmentation or consolidation of holdings? This is a practical proposition. I submit that by passing these laws, we may have the queer satisfaction of taking up the challenge to break the rigidity of our society. It is not really there. We do not want to have a rigid society. Nothing can be rigid in a world which perpetually is in a flux. To take that challenge is merely kicking in the air. That may be bravado or bravery; but that does not show any outlook for a distant future. In these circumstances, I would submit to the hon. Minister to again study this Bill, revise, to ponder over this matter as to whether it is mere wishful thinking or whether this piece of legislation is going to do good.

[PANDIT THAKUR DAS BHARGAVA in the Chair]

The hon. Minister himself said that the Joint Committee may change it. If the Joint Committee is to change it, why have you brought forward a Bill which, according to your own assumption, is going to be changed? At least, we expect the Government to come with a decisive mind, not with a vacillating mind. We have to

understand what is the Government's point of view. Instead of that, in a goody goody manner he says, here is a Bill, please pass it on to the Joint Committee so that they may sit in the recess, so that the wishes of the Rajya Sabha may be fulfilled. To my mind, *prima facie*, this is not good to the country. With all respect, I would again, through you, request the hon. Minister to take time—I do not want him to withdraw it—during the recess to ponder over it, consult his advisers and then bring forward a Bill which will be more easily acceptable to us.

Shri P. Subba Rao (Nowrangpur): Some years ago in South Africa, President Kruger entered a club when the members were discussing whether there was gold in the moon. President Kruger immediately said, 'I will prove that there is no gold in the moon'. On being interpellated, he said, 'If there is gold in the moon, the English would long ago have annexed it. The fact that the English have not annexed the moon shows that there is no gold in the moon'. So that was the attitude of the Englishman. Wherever there is profit, he goes there; where there is no profit, he would not touch. Similar is the case with my communist friends. As the congress fully knows, it was attributing all the disorders, disruption and strikes in the country to the communists; and if there is a chance of creating confusion, creating chaos and disruption in society, they would come to the forefront. The fact that the Communist Party is supporting these pieces of legislation one after the other shows that these are out for destruction of the society, and that should serve as a warning to the congress Government, if they require any such warning.

While the Congress Government are interfering and bringing forward Bill after Bill where there is no necessity to set right any corrupt practices or dangers to the society, where some evils have crept in and where other people are keen in setting them right

[Shri P. Subba Rao]

by means of legislation, they are scrupulously silent. Take, for example, the Dowry Restraint Bill, which most of the lady Members and others brought in, prohibiting the giving and taking of dowry; though one of the Ministers gave an assurance that the Government would bring forward legislation to put an end to this evil, still we see no hope about that. On the other hand, where there is no necessity to disrupt society, they are out to bring in Bill after Bill. More able and better advocates than me, like Shri N. C. Chatterjee, have spoken about the evils of the disruption that this Bill will bring about. So I will not go into that, nor will I cover ground that has already been covered by my friends.

I do not support this Bill. All the same, I have not stood here for criticising the Bill because I know full well that the Bill will be carried through because it is a Government Bill. The Government have given the liberty to vote to its party Members, but that will be very little. I know several of the Congress Members—though a few might come to this side—will support the Government through thick and thin. So I have no hope. But I have one ray of hope that whatever comes out of the Joint Committee will be carried through. So I rise here to throw one suggestion and to point out one omission so that the Joint Committee might take cognisance of it. Now, they are giving a share to the daughters and such others. How it will bring in complications has been sufficiently explained by my friends. The Partition Act has got a word to say about the division of property where house property is concerned. Where the house property is incapable of being divided, there is a provision saying that money compensation can be given and the right of a member purchased. But the Partition Act does not touch land. Suppose there is a man who possesses three or four acres of land. He has two sons and two daughters.

Mr. Chairman: In this Act there is no provision so far as land is concerned. So the question of compensation comes only in regard to houses.

Shri P. Subba Rao: I believe the Partition Act deals only with house property. But I may be wrong. But whatever it may be, I am pointing out an omission here. If a portion of the land is to be taken by the daughters, they evidently cannot remain there and cultivate two small bits of land, especially when the property consists of four or five acres of land, and they, necessarily, have to part with them. The brother who has to pay compensation may not find ready money. He may have to mortgage the land. Mortgage is always a mortgage and in course of time he loses that little bit of land he has. Suppose somebody else is able to pay, of course the sister will take it away and waste it, in a few minutes, and the land will be lost to him, and an uncomfortable tenant may become a partner of these small pieces of land. What is to be the remedy when such things happen, especially in Southern India? So far as Northern India is concerned, there is the right of pre-emption. I do appeal to the Minister to put in a clause to give the right of pre-emption to the male members so that it will at least preserve the remaining family and would exclude strangers from sharing the land or house with them. That is a necessary provision that should be made for the other members. Of course, that does not solve the difficulty. But anyhow, that will go some way to remove some of the evils that will arise. I have nothing more to say.

Mr. Chairman: I am sorry I made a wrong statement. Clause 25 applies to any immovable property.

Shri Lakshmayya (Anantapur): This is a welcome measure, though it is of a revolutionary character. Yesterday we passed another piece of social legislation, the Hindu Marriage Bill. This is the second thing of that sort. In a Bill of this sort, we cannot expect unanimous opinion, either

from the House or in the country. But we have to consider the opinion and view of the majority of the people in the country. The Bill seeks to codify the law relating to intestate succession for all the Hindus, secondly to confer equal rights on women and to introduce the daughter as a simultaneous heir and to give absolute right over her property to the woman. These are the main features of the Bill.

Now, I want to examine whether there is any necessity for the codification of this law. Our present Hindu law is based upon several judicial decisions of the various High Courts, the Federal Court and the Privy Council and also age-honoured customs and usages having the force of law. Of course, the judicial decisions vary from High Court to High Court, from region to region and from one school of thought to another school. Our law of intestate succession is governed by either the Mitakshara law or the Dayabhaga law. As one of the hon. Members said yesterday, the fortunate Bengal is governed by the Dayabhaga law and the remaining 80 per cent of the people are governed by the Mitakshara law of succession. Even in the Mitakshara law, there are various slight alterations. There is the Mitakshara law of Maharashtra. That is called the Maharashtra school of thought, then there is the Banaras school of thought, the Mithili school of thought, the Andhra school of thought, the Dravidian school and so on and so forth. Several succession laws are there, with only slight variations. But the Dayabhaga law applies to the whole of Bengal. I need not enter into the question of the right of the daughter at present to inherit property of the father's family. When there are various decisions of the High Courts and when the law varies from place to place, it is better to have a uniform code of law, of succession, for all Hindus.

2 P.M.

Now, the Sanatanists say that on account of these judicial decisions, the law of succession is quite definite

and there is no need for codification of this law. But with the dynamic progress of society, our progressive elements have felt a necessity that the status of women should be raised and there should also be one law for all the Hindus in regard to intestate succession. Therefore this Bill has been introduced. It is necessary that our country should develop on the political plane, as well as on the economic and social planes.

With the achievement of Independence we have achieved political objective. Then to develop on economic plane, the five year programme is in progress. This Bill seeks to develop the Social plane. Therefore this measure is the result of that noble idea. If one goes through the high court decisions on the law as it exists one would find that it is essential that the law of intestate succession should be codified.

With regard to succession by the female, the hon. Minister wants to confer by this Bill equal rights on them, and also to give absolute right over the properties of the women. The two common sources of litigation, according to the judges of several high courts, are two in number; one is the joint family system, and the other is the limited nature of the women's estate. These are the two factors which are responsible for wasteful litigation. Joint family system is a breeding ground for much of litigation. For my part, with my personal experience, I feel that the joint family system has outlived its usefulness, and therefore it should be done away with. The manager of the joint family, as you are aware, mismanages and swindles and wastes the property of the joint family, with the result that the other members are very much ruined. That has been my personal experience. The sooner it is done away with, the better it will be for the country, and for the people.

The only fear expressed by the framers of this legislation and majority of the people is that joint family is the foundation-stone or the unit of Hindu society, and therefore if the joint family system is disrupted, the

[Shri Lakshmayya]

Hindu society will go to dogs. What ever that may be, in order to lessen the number of wasteful litigations, and also to remove this evil, it is better that the law should apply to all the properties, irrespective of whether they are governed by the *Mitakshara* or by the *Dayabhaga* law. Therefore, I submit that clause 5 (i) of this Bill should be deleted, so that this Bill will apply to both types of properties.

With regard to clause 8, I would like to say that I am opposed to this clause. Under this clause, parents have been relegated to class II preferential heirs' list. You are aware, Sir, parents, mothers and fathers, have been worshipped, revered, and adored by our Hindus. So, it is opposed to human sentiment to relegate them to class II preferential heirs, after the daughter's daughter. As it is, they come tenth or eleventh in the list. We Hindus have a great regard for both father and mother. As the saying goes, they are earthly gods for men.

मातृदेवो भव पितृदेवो भव ।

There is also the saying:

वृद्धा च मातापितरौ ।

Even Manu has said that they should be worshipped as two out of three gods. Therefore, it is necessary that after son and daughter, parents should be placed as preferential heirs in list one. If we allow this clause to remain as it is, then we shall be doing injustice to them, and it is also unfair, unjust and opposed to public sentiment. That is my submission with regard to clauses 8 and 10.

Coming to clause 7, I would request the Joint Committee to modify it suitably and properly. In the present provision in this clause, no distinction is made between an unmarried daughter and a married daughter. You know well how in a family the father or the son has to shoulder the burden of the whole family, and how an unmarried daughter is to be maintained by them. The daughter is also given an equal amount of education along with the son, and later on, the father or the manager of the family

goes in search of a suitable bridegroom; then the marriage expenses are there, besides jewellery and customary presents. I am told dowry will be prohibited under this law or some other law. Thank God that is one saving feature or relieving feature for the parents. These are all very heavy and burdensome, and therefore the family generally has to run into heavy debts. When such is the case, if an unmarried daughter is to be given the same share along with a married daughter, then in my humble opinion, it is unfair. Some provision should be made for the marriage and maintenance of the unmarried daughter, and after deducting these expenses from the whole property, only the residual property should be divided equally between the married daughters and unmarried daughters. Falling this, the unmarried daughter may be given half the share of a son, while a married daughter may be given one-fourth share. If it is proportioned like that, then that may do some justice.

With regard to the divided son, and the undivided son, I would like to point out that the undivided son has to protect his old parents, who will generally be with him. So, I would submit that some difference must be made between a divided son and an undivided son, in regard to the distribution of joint family property.

My next submission is that when the females are given equal status and equal shares along with the males there is no need to have different law of succession for them. The order of succession must be one and the same both for males and for females.

There is a fear that if the daughter and the daughter's daughter etc. are given shares in the immovable property, it will result in new elements coming into the family, the family system will be disrupted, there will be disorder in the family, and it will breed illwill, hatred etc. in the family, and so on. For these things, there is clause 25 no doubt; but it is not com-

prehensive enough. It must be suitably modified so that the right of pre-emption is made available in order to avert or avoid the fragmentation of the landed property and other properties of the family.

With these humble suggestions, I welcome this Bill. There are a few more defects, drawbacks and flaws in this Bill, and I want that they should also be rectified. If it comes back with suitable and appropriate amendments and modifications, it can be accepted. With these suggestions, I support the Bill.

Shri Bogawat: This Bill changes the whole conception about division of property. Now, if we want to change the law of inheritance, we must first see whether the change that we are bringing about would bring harmony, affection, love, happiness and peace as between the different members in a family. Judged from that point of view, I am quite sure that if this Bill is passed as it is, it will be the worst type of a Bill ever passed by a legislature, because it will bring in a lot of litigation. It will be the worst type of legislation which will cause nuisance to the family. The brothers-in-law and the persons who belong to the family wherein our daughters are given will pounce upon the property of the father-in-law of the father-in-law's family. We know under the Mohammedan law wherein the daughters and the sisters are given property rights, what type of litigation is going on; how they are in the hands of their legal advisers; what amounts are spent by them and how they lose the bulk of their property by fighting even up to the High Court. It is a very bad experience.....

Mr. Chairman: Hindus marry outside their family and several degrees on the mother's side as well as on the paternal side are excluded, whereas Mohammedans do not do so. Why should there be litigation there?

Shri Bogawat: There are litigations because the daughters get the property. Females are not educated and they have not had the experience of

litigation. When there are so many heirs, they cannot come to terms. Some heirs will want a particular property, and the others also will want it. Therefore, in order to get the property divided, there is litigation. In such litigations, the experience is that they lose thousands and thousands of rupees; the litigations go on for years and years and the matter is taken even to the High Court, and then there is the preliminary decree, final decree, partition and division. In all these proceedings, much time is wasted and all the affection towards each other is lost. Even among brothers who are agriculturists, when there is a dispute over the property, there are cases where one brother kills another. That is the love of property among poor people and at least for lands there is too much affection. That is the experience. If such things happen with regard to persons belonging to the same family, what about the persons who, after marriage, go to the other family? It is but natural that the husbands of such females would like to have the loaf of the property of the family from which the female has come to the other family. This would cause a great nuisance and great unhappiness and trouble to the society.

The heirs which are mentioned in class I are, son; widow; daughter; son or daughter of a predeceased son; son or daughter of a predeceased daughter; widow of a predeceased son; son of a predeceased son of a predeceased son; widow of predeceased son of a predeceased son. It is evident that when these widows are there, they are quite young and when any holder of the property dies, these heirs spring up; they are after the properties and somebody is after these inexperienced young widows or daughters. That causes trouble. In these circumstances, among the preferential heirs in class I as mentioned in the schedule, the rights that are given to the females who go to the other family on account of marriage, are of no use and they would be a nuisance to the society. Suppose the owner of some property having one son and four daughters dies. Then, there is the son,

[Shri Bogawat]

the widow, the four daughters and some other branch heirs for the property, with the result that the son will get only one-sixth or one-seventh of the property; the property would not go to the son, as it would have under the existing law. I say, that would not bring in any good.

Just now Tandonji said, give the property to the mother. The mother and the father are in class II. That also is not good and proper. I say I like to give property rights to females in our family, either they are mothers or widows, because their rights must be protected. But it is monstrous to allow rights to the females who go outside the family and who would be protected in the other families.

Somebody has said that there is no objection to give property rights to a daughter. I do agree to it if she does not marry. There are some ladies who do not like to marry and in such exceptional cases, the daughter should be given some share in the property. But the daughter whose marriage has been performed should not be given any share, because at the time of performing the marriage, it is the duty of the father who makes *kanya dan* to give some property to his daughter; and in future also, whenever she visits the house of the father, she is given some presents like *chhori bangri* and so on. That creates some love and affection. But this law, I am sure, instead of creating love and affection, will create much trouble.

If we look to the II class, brother is given a place with son's daughter's son, son's son's daughter, son's daughter's daughter and sister. Brother means the son of the same father and when the brother dies, the other son of the father, i.e., the brother, should not be able to get the property of the deceased brother; but, all these grand daughters should get the property and not the brother. That is also not equitable and just.

I find that the other relations such as father's brother etc. are given places which are far away, i.e. the sixth place in class II. This is also not proper.

So, the whole line of inheritance is placed in such a way that it would create disturbance in the society. It would create trouble, unhappiness and disaffection. If the introduction of this Bill causes great trouble in the society, I think we must think hundred times, not only hundred times, but thousand times and must be very prudent before we pass such a Bill. Let us have the public opinion. Let this Bill be sent to every village patil in the language of the area and let us know how far the people like such a law. What is the use of putting this Bill before some educated people and getting the support of some educated females? This type of Bill is of no use. I think the proper method would be to let the Bill go to the whole country, to every village in the local language and ascertain the opinion even of the females. I am quite sure, that the country will throw away this Bill. There will be a number of persons, thousands and crores of people who will be opposed to this Bill. There will be reaction.

Shri N. Rachiah (Mysore—Reserved—Sch. Castes): No.

Shri Bogawat: It is no use saying 'No'. Go to the mofussil and you will find that there is too much discontent against this Bill. You will find that the people would rise up if the Parliament passes such a Bill. That is important and you will have the experience of that.

Shri N. Rachiah: We will welcome it.

Shri Bogawat: If you welcome it, you will not only be thrown away in the elections, but you will not be allowed to stand.

Shri N. Rachiah: I will be the first man to be elected.

Shri Bogawat: You are in a dream. You must not be in a dream. If you are in a dream then have it.

Mr. Chairman: The hon. Member should address the Chair who is certainly not in dream.

Shri Bogawat: Let there not be interruptions. Let me put in my own way, my humble suggestion.

Shri C. K. Nair (Outer Delhi): If it is so unreasonable, why do you go to the villages to ascertain their opinion? The intellectuals are here.

Shri Bogawat: The intellectuals will not find it so hard or difficult. Therefore, the proper method according to me is that, let it go to the villages. Let the villagers know what the Bill is and how their property will be divided after their death. If this method is adopted and if the majority of the people, like such a type of Bill, then I will be very glad. Before that, it will not be of any use to have such a legislation.

Sir, I humbly submit that before sending it to the Select Committee let this Bill be circulated throughout the country in the local languages. That is my humble submission.

श्री एस० एन० दास (दरभंगा—मध्य): जिस विधेयक पर आज इस समय वाद-विवाद हो रहा है, उसका विषय अत्यन्त ही महत्वपूर्ण है। जहाँ तक मेरा ख्याल है, हमारे देश में सम्पत्ति के उत्तराधिकार का प्रश्न जितना व्यापक है, उतना व्यापक कोई दूसरा प्रश्न नहीं है। बहुत से माननीय सदस्यों ने कहा है कि सम्पत्ति के सम्बन्ध में कुछ लोगों की धारणा ठीक नहीं है। किसी व्यक्ति-विशेष की कुछ भी धारणा हो सकती है कि सम्पत्ति रहे या न रहे, लेकिन समाज में अभी भी इसका बहुत ज्यादा महत्व है। जो हमारी सरकार है, या हम लोग जो यहाँ पर बैठे हुये हैं, भले ही ऊपर से कुछ कह दें, लेकिन हमारे जीवन में सम्पत्ति का इतना गहरा प्रभाव है कि वह उससे अलग नहीं हो सकता है। जब भी कोई ऐसा विधेयक इस सभा में या दूसरी सभा में उपस्थित होता है, जिसका प्रभाव हमारे व्यक्तिगत जीवन पर पड़ता है, तो अपने सिद्धान्त के विपरीत, अपने सिद्धान्त को एक ओर रख कर हम उस पर विचार करते हैं।

एक माननीय सदस्य : जैसे सैलेरीज बिल ।

श्री एस० एन० दास : संत्री महोदय ने अपने भाषण में कहा है—और सदस्यों से अपील की है—कि हमने अपने संविधान की प्रस्तावना में अपना आदर्श यह माना है कि हम अपने देश में एक ऐसी व्यवस्था कायम करेंगे, जिस में सामाजिक न्याय, आर्थिक न्याय और राजनीतिक न्याय सब लोगों को उपलब्ध हो और इसी आधार पर उन्होंने इस सामाजिक कानून को स्वीकार करने पर जोर दिया है। मैं विधि मंत्री से यह कहना चाहूंगा कि उन्होंने इस बारे में विचार नहीं किया कि वह किस काम को पहले करना चाहते हैं और किस को पीछे। यह जो विधेयक हमारे सामने है, वह मनुष्य के व्यक्तिगत जीवन से ज्यादातर सम्बन्ध रखता है। समाज से सम्बन्ध रखने वाले बहुत से ऐसे विषय हैं, जिन पर हम न्याय की दृष्टि से अभी तक विचार नहीं कर सके हैं। सामाजिक न्याय की स्थापना के विषय में हम को जिस गहराई से विचार करना चाहिये, हमने अभी तक वह नहीं किया है। आर्थिक न्याय के सम्बन्ध में तो हम ने अभी तक कोई कदम भी नहीं उठाया है। इस विधेयक के सम्बन्ध में कुछ विचार प्रकट करने से पहले मैं विधि मंत्री से कहना चाहूंगा कि अगर हम पहले आर्थिक न्याय की स्थापना पर अधिक जोर देते और लाखों और करोड़ों लोगों के लिये उन के व्यक्तिगत जीवन से सम्बन्ध रखने वाले विषय पर जो कानून हम बनाने जा रहे हैं, अगर उसको कुछ दिन के लिये स्थगित कर दिया गया होता, तो कुछ नुकसान न होता। मैं व्यक्तिगत रूप से इस बिल की बहुत सी सिद्धान्त की बातों पर सहमत हूँ, लेकिन फिर भी मैं जनता

[श्री एस० एन० दास]

का प्रतिनिधि होने के कर्तव्य को छोड़ नहीं सकता हूँ। हमारे देश में और विशेष कर* जिस क्षेत्र से हम निर्वाचित हो कर आये हैं, उस में एक बहुत बड़ी तादाद में लोग चाहते हैं कि इस तरह के विषय में अभी दस्त-अंदाजी न की जाय और पहले उनकी गरीबी और शिक्षा के सवाल और दूसरे आवश्यक सवालों को लिया जाय।

इस संसद् को इस बात का पूरा अधिकार है कि वह मनुष्य के व्यक्तिगत जीवन के सम्बन्ध में कानून बनाये। मैं उसके कानूनी अधिकार को अस्वीकार नहीं करता हूँ, लेकिन मैं कहना चाहता हूँ कि इस तरह के कानून के बारे में अभी बहुत मत-भेद हैं, उसके अचिन्त्य और अनौचित्य के विषय में भी मतान्तर है। इस में बहुत सी बातें ऐसी हैं, जिनके पक्ष में लोग हैं और बहुत सी ऐसी हैं, जिनके पक्ष में नहीं हैं।

मैं कहना चाहता हूँ कि जब शिक्षा का अभाव होता है और लोग मांग करते हैं कि दस वर्ष में इस देश के सभी स्त्री पुरुषों को शिक्षित करना चाहिये, तो हमारी सरकार कहती है कि यह सम्भव नहीं है। जब आर्थिक सवाल आता है, तो हमारी सरकार कहती है कि यह कार्य हम धीरे धीरे करेंगे और हम को डेमोक्रेटिक (प्रजातांत्रिक) तरीके से आगे बढ़ना चाहिये। तो फिर यह उचित है कि इस मामले में भी हम डेमोक्रेटिक (प्रजातन्त्रिक) तरीके से ही आगे बढ़ें और इसको सिलेक्ट कमेटी में न भेजें। हम जो भी कानून बनाते हैं, सो में से नब्बे आदमी उसका समझते नहीं हैं। राजा के राज में यह सम्भव हो सकता था कि सैकड़ों में नब्बे आदमी कानून को न जानें,

लेकिन एक प्रजातांत्रिक देश में, जिस में हम ने प्रतिज्ञा की है कि हम हिन्दुस्तान के सभी नागरिकों को शिक्षित बना देंगे, ऐसा होना लज्जा का विषय है। आज अधिकांश लोग ऐसे कानूनों के विरुद्ध हैं। गांवों में जब हम जायें, तो लोग कहते हैं कि अगर विवाह सम्बन्धी कानून को कुछ दिन के लिये स्थगित कर दिया जाय, तो क्या नुकसान है, अगर उत्तराधिकार कानून को अभी न बदला जाय, तो क्या हानि है? इसी तरह से व्यक्तिगत जीवन से सम्बन्धित विषयों के बारे में हमारे यहां जो रीति-रिवाज हैं, जो नियम इस समय हैं, अगर वे रहें, तो उस से आकाश नहीं गिर सकता है। इसलिये, जैसा कि टंडन जी ने कहा है, इस बिल को हटा दिया जाय और इस बारे में पुनः विचार किया जाय और फिर संसद् के सामने लाया जाय। इसी पृष्ठ भूमि में मैं इस विधेयक के सम्बन्ध में अपने विचार प्रकट करना चाहता हूँ।

सभापति महोदय, इस बात की खुशी भी है और दुःख भी है कि मिताक्षरा की जो संयुक्त परिवार की जायदाद है, उसको इस कानून के दायरे से अलग रखा गया है। खुशी इस लिये है कि जिस भाग से मैं आया हूँ, उसमें अधिकांश लोग मिताक्षरा को मानने वाले हैं। वे कहेंगे कि कुछ हद तक हम इस से बचे रहेंगे। दुःख की बात यह है कि हमारी सरकार ने अपने सामने यह आदर्श रखा है कि हम सारी जनता के लिये एक सिविल कोड बनायेंगे, लेकिन जैसा कि पूज्य टंडन जी ने कहा है, यह वह नहीं है—यह तो दाय भाग वालों के लिये है और या मिताक्षरा के उन लोगों के लिये है, जिनकी परिवार से अलग कुछ व्यक्तिगत सम्पत्ति है, इस लिये इसका नाम घोषा देन वाला है।

इसका नाम स्पष्ट होना चाहिये। जिस हद तक इस कानून को जाना है उसी प्रकार का नाम होना चाहिये। साथ ही साथ उद्देश्य की जो धारा यहाँ पर है वह कहता है :

"to amend and codify the law relating to intestate succession among Hindus."

मेरे समझता हूँ कि यह बिल्कुल गलत है। यह न तो हिन्दू कानून को संहिताबद्ध करने के उद्देश्य से लाया गया है और न ही इस में संशोधन करने के उद्देश्य से लाया गया है। यह तो केवल हिन्दुओं में कुछ लोगों के जीवन पर असर डाला जा रहा है। इसलिये यह जो हैडिंग है यह भी गलत है।

अब मैं जो क्लॉज २ है उस के बारे में कुछ कहना चाहता हूँ। इसके मूलाधिक आप इस बिल को हिन्दुओं, जैनियों, सिक्खों इत्यादि पर लागू करने का विचार रखते हैं। मैं तो चाहता हूँ कि इस बिल को लाने से पहले आप जनता को अपने पक्ष में करते। लेकिन ऐसा नहीं किया गया। इस के साथ ही साथ हिन्दुस्तान के दूसरे धर्म के मानने वालों को जैसे मुस्लिम हैं, ईसाई हैं, पार्सी हैं उन को इस बिल के अन्तर्गत नहीं लाया गया है। जैसा कि आप कहते हैं कि इस का ध्येय हिन्दुस्तान में एकता कायम करना है लेकिन मैं पूछता हूँ कि इस से एकता कैसे कायम होती है। यदि आप सब जातियों के लिये एक ही बिल लाये होते तो यह आदर्श की बात होती। लेकिन आप ने ऐसा नहीं किया।

अब मैं क्लॉज ५ की तरफ आता हूँ। इस क्लॉज को देख कर भूख दुःख भी होता है और कुछ खुशी भी होती है। इसे पढ़ने के बाद खुशी क्यों होती है इस का कारण मैं पहले ही बता चुका हूँ। दुःख इसलिये होता

है कि नाम तो आप ने इसे *The Hindu Succession Bill* दे दिया लेकिन जब हम धारा ५ को देखते हैं तो मालूम होता है कि इस से सारे का सारा बिल खोखला हो गया है। अभी कम्युनिस्ट पार्टी के उपनेता न कहा कि यह उचित होता अगर इसे हटा दिया गया होता। मैं तो कहता हूँ कि इस बिल की ५वीं धारा सारी की सारी व्यर्थ है। सब के लिये एक सिविल कोड यदि लाया जाता तो भी कुछ खुशी की बात हो सकती थी। लेकिन ऐसा भी नहीं किया गया।

अब मैं उत्तराधिकार का जो हक दिया गया है उसके बारे में दो तीन बातें कहना चाहता हूँ। पहली बात तो मैं यह कहना चाहता हूँ कि जैसे टंडन जी ने कहा कि यह स्पष्ट मालूम नहीं होता कि किस ब्याल से, किस बात को सामने रख कर, किस सिद्धांत को सामने रख कर पिता माता को उत्तराधिकारियों की पहली श्रेणी से हटा दिया गया है। यह बात मेरी समझ में नहीं आई। यदि देखा जाये तो स्नेह से, प्रेम से और सानिध्य से उत्तराधिकार की बात चलती है। सानिध्य का ब्याल किया जाये तो माता पिता पुत्र के नजदीक हैं, प्रेम का ब्याल किया जाये तो भी पिता माता बेटे के नजदीक हैं और यदि प्रेम का ब्याल किया जाये तो पिता बेटे के निकट और बेटा पिता के निकट आ जाते हैं। इस से कोई इन्कार नहीं कर सकता। उन में सानिध्य भी है, प्रेम भी है और स्नेह भी है। इतना ही नहीं पुत्र का यह धर्म है कि पिता की वृद्ध अवस्था में उसकी सेवा करे। इसलिये जब हम उत्तराधिकार की बात करते हैं तो हमें उत्तरदायित्व का भी ब्याल रखना होगा। इस वास्ते पुत्र की सम्पत्ति में माता और पिता का स्थान विधवा, या बेटे या लड़की से कम नहीं होना चाहिये। इस लिये मैं कहता हूँ कि यह

[श्री एस० एन० दास]

बिल्कुल अनुचित है और इस पर जरूर गौर होना चाहिये ।

अब जब यह कानून हमारे सामने आया है और अब जब इसे प्रवर समिति के पास जाना है तो मैं उन से कहना चाहता हूँ कि पहले उन को इस बात पर विचार करना चाहिये कि हमारे समाज का क्या ढाँचा वे कायम करेंगे । इस बात का कुछ आभास तो जो हम ने विधान बनाया है उससे मिलता है । लेकिन जितने भी विधायक यहां बैठे हुये हैं यदि उन से पूछा जाये तो वे अलग अलग राय देंगे । यह भी कहा गया है कि हम सोशलिस्टिक पैटर्न आफ सोसाइटी कायम करना चाहते हैं । सोशलिस्टिक पैटर्न आफ सोसाइटी का भिन्न भिन्न व्यवस्थाओं में भिन्न भिन्न अर्थ होता है । इस लिये जब तक हम स्पष्ट रूप से यह तै न कर लें कि हमारे समाज का भावी ढाँचा क्या होगा तब तक मैं समझता हूँ दूसरा घर बनाने की पूरी तैयारी किये बिना, सारा सामान इत्यादि तैयार किये बिना पहले घर को तोड़ना उचित नहीं है । इस तरह का कानून लाने से पहले जिस तरह का समाज हम कायम करना चाहते हैं उस का ढाँचा हमारे दिमाग में होना चाहिये और फिर उस किस्म की समाज कायम करने की तरफ हमें कदम उठाने चाहिये । मैं कहता हूँ कि स्त्रियों के प्रति हमारे दिलों में बड़ा सम्मान है । यह भी हम जानते हैं कि हमारी माताओं और बहनों के साथ दुर्व्यवहार भी होता है और विधायक की हैसियत से इन की रक्षा करना हमारा कर्तव्य है । इस लिये जहां हमारा यह कर्तव्य है कि स्त्री, बेटी और पुत्र सब के सब हिन्दुस्तान के नागरिक हैं और नागरिक होने की

हैसियत से उन के बराबर के अधिकार भी हैं, तो हमें इस के साथ ही साथ यह भी देखना है और विचार करना है कि क्या उन के उत्तरदायित्व भी बराबर बराबर हैं । यदि ऐसा नहीं है तो उन के अधिकार भी बराबर नहीं हो सकते । इस बात को हमें ध्यान में रखना चाहिये । जैसी हमारे समाज की रचना है उस के मृताबिक बेटी का उत्तरदायित्व कम होता है । जब उसका विवाह हो जाता है और वह दूसरे परिवार में चली जाती है उसके बाद उसका उत्तरदायित्व उस परिवार के साथ हो जाता है । यदि पैत्रिक सम्पत्ति में उसको बराबर के अधिकार देने हैं तो वहां उसका उत्तरदायित्व भी बराबर बराबर होना चाहिये । विवाह के बाद बेटी का उत्तरदायित्व बाप के यहां न के बराबर रहता है । इसलिये मैं कहता हूँ कि जब तक बेटी पिता के परिवार में रहे, उसका विवाह न हो जाये, तब तक उसका बराबर का अधिकार रहना चाहिये, आधा नहीं । जिस परिवार में अविवाहित बेटी है उसका अधिकार बराबर पुत्र के समान होना चाहिये । जिस दिन उसका विवाह हो जाये और वह परिवार से चली जाये, पिता की सम्पत्ति में उसका कोई अधिकार नहीं रहना चाहिये । अपने पति की सम्पत्ति में स्त्री का पूरा अधिकार होना चाहिये । यही उचित बात है ।

अब मैं क्लाज ७ के बारे में कहना चाहता हूँ । जो पुत्र पिता से अलग हो जाये उसको भी उस पुत्र के, जो अलग नहीं हुआ, बराबर के अधिकार, पिता के मरने के बाद प्राप्त होंगे । मैं समझता हूँ यह अनुचित है । जो पुत्र अपने पिता के साथ रहता है, उसके सुख दुःख में शामिल होता है, उसको पिता के मरने के बाद उस

पुत्र के साथ जिस ने अपने कर्तव्य का पालन नहीं किया बराबर के अधिकार देना उचित नहीं है। डिवाइडिड (विभक्त) और अनडिवाइडिड (अविभक्त) में जरूर भेद होना चाहिये। इसी तरह से ७वीं धारा की दूसरी उपधारा में कहा गया है कि पिता की सम्पत्ति के उत्तराधिकार में विवाहित और अविवाहित लड़कियों में कोई भेद नहीं किया गया है। यह भी बहुत अनुचित है। एक परिवार में पिता की दो लड़कियां हैं। एक का विवाह हो चुका है, उसको पढ़ा लिखा दिया गया है और दूसरी का अभी विवाह होने को है और उसे अभी पढ़ाना लिखाना बाकी है। उसका निर्वाह का खर्च, जब तक कि उसका विवाह नहीं हो जाता, होता है। अब इन दोनों लड़कियों को एक से जायदाद में अधिकार देना सर्वथा अनुचित है। हां यह तो हो सकता है कि उस के खाने का खर्च, पढ़ाई का खर्च और विवाह इत्यादि का खर्च निकाल कर बाकी की जायदाद उन में बांट दी जाये तो कोई हर्ज नहीं है।

एक और बात कह कर मैं समाप्त कर दूंगा। यहां पर कहा जाता है कि साहब हम न्याय स्थापित करने जा रहे हैं। मैं पांचवीं धारा की चौथी उपधारा को लेता हूं। इस में कहा गया है :

"Any estate which descends to a single heir by a customary rule of succession or by the term of any grant or enactment."

मह जो मिताक्षरा की तरह अलग रहेंगे, मैं विधि मंत्री महोदय से पूछना चाहता हूं कि यह किस बात को ध्यान में रख कर किया जा रहा है। अगर कोई राजा मर जाता था तो उसका बड़ा लड़का उत्तराधिकारी होता। पहले जब राजे

महाराजे थे उस वक्त तो ऐसा होता था लेकिन अब जब वे नहीं रहे तो यह कहाँ का न्याय है कि 'लड़के को' अधिकार दिये जायें और छोटे लड़कों को उन से वंचित रखा जाये। जिस बाप के ४ बेटे हों तो उन में से जो बड़ा होगा और बाकी ३ छोटे होंगे। अब वह बड़ा लड़का ही उत्तराधिकारी हो और छोटे लड़कों को कुछ न दिया जाय, मैं पूछना चाहता हूं कि यह किस सिद्धांत को सामने रख कर किया जा रहा है। यह भी सर्वथा अनुचित है।

अन्त में मैं विधि मंत्री जी से निवेदन करना चाहता हूं कि इस बिल को लाने का यह उचित समय नहीं है। आप लोगों को पढ़ाने लिखाने की बात छोड़ दीजिये। आप को चाहिये कि जब तक आप जनता को यह समझा न दें कि यह बिल उन की भलाई के लिये है और जब तक उन को विश्वास न हो जाये कि यह उन की भलाई के लिये तब तक आप को इस बिल को पास कराना उचित नहीं है। इसमें मैं अपनी व्यक्तिगत राय सदन के न रखने के साथ ही साथ अपने निर्वाचन क्षेत्र की जनता की राय भी मंत्री महोदय को बताना चाहता हूं। जनता अभी तक इस के लिये तैयार नहीं है और वह नहीं चाहती कि ऐसा कोई बिल इस समय इस सदन के सम्मुख लाया जाय। इसलिये मैं विधि मंत्री जी से, जैसा कि टंडन जी ने और दूसरे सदस्यों ने कहा, प्रार्थना करता हूं कि वे इस पर पुनः विचार करें, इस में जल्दी न करें और यदि उन्होंने फिर भी फंसला किया कि इस को पास करवाया जाय तो मैं समझता हूं कि यह देश के लिये, समाज के लिये और औरतों के भी हित में नहीं होगा।

Shri M. D. Joshi (Ratnagiri South):
The highest ideal of the Hindu society has been mentioned in the first mantra of Isavasya Upanishad:

ईशा वास्यमिदं सर्वं यत्किञ्च जगत्यां जगत् ।
तेन त्ववतेन भुजीथाः मा गृधः कस्यस्त्विन् घनम्॥

Property has been looked upon, not as something to be coveted but as something to be abandoned. That is the highest ideal placed before Hindus from times immemorial. However, we know that in the day to day life we have to acquire property, and all our dealings are to be in property, and property later on came to be regarded as sacred as religion itself. I shall, with your permission, quote a few lines from the Science of Society, where the author says:

"The struggle for property is the struggle for liberty. The effort to get property stimulates social virtues. Property is sacred as marriage is sacred. It is a great stabiliser and equilibrator of them all. It is not to be handled airily or lightly by irresponsibles. It has the dignity conferred by ages of inestimable service to men."

Therefore, whatever our views and whatever the great philosophic sages may have said in former ages, we have to bear in mind that it is property that confers status on an individual and it is the lack of property which takes away that status. I can understand the great chagrin and the great sentiment felt by our sisters here when they see the sad plight of the widow especially in a joint family—when the husband dies, the widow is left a helpless victim to the wolf-like instinct of relatives. Therefore, the Central Legislature long ago—I believe in 1937—gave equal share to the widow along with the sons, and it was very proper. I do admit that the widow deserves to be given her full share not only as a limited estate but as absolute estate, and that change must come as early as possible. We are quite at one there and we do support this measure, but when we look at the other ideas

or things put up in this measure, I feel a good deal of hesitation. I do not look merely to the educated class, merely to a handful of people who are centuries ahead of the present generation of their own poor uneducated countrymen, but we have to look at the present state of society, the society which has sent us here to legislate such measures as will be to their benefit, as will advance their cause and as will bring about real progress in society. When I look at the electors who sent me here and not at the few educated and enlightened sisters and brothers, I am filled with trepidation. I am filled with a certain fear that the very basis of the Hindu society is going to be shattered or shaken to its foundation, if this Bill is enacted as it is. Certainly I can quite see that the Minister himself has expressed amply that he is prepared to examine any changes that the House may require. We quite understand that; but what I have to urge is that many of the provisions or almost all the provisions are objectionable and it is not right trying to hurry such a kind of legislation without complete and due circumspection. We are rather in haste; we want to wipe out the injustice that has been done to women. Our sisters' anxiety to rush this legislation through, come what may, is quite understandable. But Hindu Law, as administered in the present Hindu society, has persisted for ages. In the remote past, it was a liberal law; as stated by our Prime Minister, it was a dynamic law, but in later ages its liberalism and dynamism went away and it became wooden and static. We have got to change it. The Law Courts have changed it a good deal and we have to change it further, but let us change it in such a way that a solid, good building will be constructed on the old foundation. It is no use shattering the foundation to its base. Why I say that the foundation is being shattered I shall make quite clear. It has been pointed out by several speakers before me that in trying to give the daughter recognition as an heir, we do not sufficiently recognise the evil or harm that will

accrue from rushing through that kind of provision. In the different volumes that have been supplied to us of opinions of legal experts and associations, almost all of them, except a few enthusiastic reformers and except a few ladies' associations, have pronounced themselves vehemently against that kind of change. Why are they opposed? That also has been explained by Shri Tandonji and many before me. In the first place, I have already explained that the widow does deserve consideration, but what about the daughter? The daughter's case is peculiar. Formerly the son was regarded as the only person who could save his forefathers or forbears from hell.

। पुन्नाम नरकात् त्रायते इति पुत्रः ।

The daughter had not got that right or that capacity. But now our ideas have changed; we have come to regard the daughter as on a par with the son. I do not think there is anybody in this House who denies to the daughter equality of status. In fact almost all of us here who have got sons and daughters are giving them education. Not only that; we also try to incur debts—every poor father is incurring debts—to see that his daughter is given into a decent and good family so that her life may be happy. What will happen if the unmarried daughter, as well as married daughter is given a share? If the unmarried daughter is given a share, there is at least some ground for it. But we have to remember that, if the daughter is given a share, the father's affection will remain but the brother's affection will undergo a distinct change. That affection will be affected. The brothers will say: "Now you have got a share; it is no part of our duty to see that you are well married; you look after yourself and your own interests". That is likely to happen. I do not say that brothers will be callous. I do not say that family affections will go away. But property is the cause of evils in this world as it is said and therefore, it will bring about this evil which is non-existent today. It is nobody's case that daughters are being

maltreated. In fact while Shrimati Uma Nehru's Anti-dowry Bill was being discussed here, sister after sister stood up and described in pathetic tones the miserable conditions to which the father was reduced when exorbitant dowry was demanded.

Shrimati Jayashri (Bombay—Suburban): Do away with dowry.

Shri Atlekar (North Satara): But what will be the actual practice in the society?

Shri M. D. Joshi: Yes. Who does not remember the Snehalata case? Who does not have sympathy for such families and for such a father? Then our sisters admit that mankind has after all some kind of affection for woman-kind and fathers for their daughters; but when it comes to succession, then they say that men are monsters. I cannot understand this kind of mentality and this kind of reasoning. If we want to do real justice to women, let us do so; but let us not do injustice to the son also. In this measure we are trying to do some imaginary justice in trying to give her double or treble share—first as a daughter, then as a widow and then as mother, etc. But we are trying to do injustice to the son by taking away from him what is necessary to discharge the responsibility as head of the family.

The time at my disposal is very short and therefore, I shall simply say that a Bill of this kind should not be rushed through in a day and full scope should be given to the discussion.

One more thing I have to say about the composition of the Select Committee. This Select Committee should have been better; it could have been better. This is a Bill on which the presence of experts is absolutely necessary—legal experts. I am not one. I do know that there is a good deal of hair-splitting on the part of the lawyers and personally I am against it. However, it is they who are to give good shape to our laws and their presence should have been there in good numbers in the Select Com-

[Shri M. D. Joshi]

mittee. It is a matter of regret that this has not been the case and I would urge on the hon. Minister to see that it is revised, if possible.

But my request to him is this. This Bill should not be pressed for a division. This Bill, as suggested by Shri Tandon may be withdrawn or if at all it should be revised it should be examined by a Select Committee of experts. I am not at all happy over the provisions of this Bill and I would wish it to be withdrawn.

श्रीमती गंगादेवी (जिला लखनऊ व जिला बाराबंकी—रक्षित—अनुसूचित जातियाँ) : आज मैं अपने मंत्री महोदय को धन्यवाद देना चाहती हूँ कि उन्होंने ऐसा विधेयक यहां उपस्थित किया जिसके कारण मुझे एक बड़े गूढ़ और सामाजिक प्रश्न पर अपने विचार प्रकट करने का अवसर मिला ।

इस बिल के सम्बन्ध में हमारे कई भाइयों ने अपने विचार प्रकट किये और विशेष कर इस सम्बन्ध में कि लड़कियों को पिता की सम्पत्ति में हिस्सा मिलना चाहिये या नहीं । इस बारे में मैं अपने थोड़े से विचार प्रकट करना चाहती हूँ । मेरा कहना यह है कि जहां एक पिता के दो बच्चे हैं, एक लड़का और एक लड़की है, तो क्या वजह है कि लड़की का कोई खयाल न किया जाय, लड़की को पिता की सम्पत्ति का कोई हिस्सा न दिया जाय ? इस तरह का एक पक्षीय विचार छोड़ कर दोनों को एक समान अधिकार देना चाहिये । स्त्री समाज के ऊपर आज यह बड़ा भारी और घोर अन्याय हो रहा है कि स्त्रियों के लिये कहीं भी कुछ नहीं है । अभी यहां पर टंडन जी ने अपने विचार प्रकट किये । उन्होंने कहा कि हम लड़कियों के लिये सब कुछ करते हैं । पुत्रियों के लिये सब कुछ करते हैं । मैं मानती हूँ कि पिता हृदय से अपनी लड़कियों को चाहता है और उनके लिये सब कुछ करता है,

लेकिन मेरा कहना यह है कि जहां पिता अपनी लड़कियों को बड़ी बड़ी डावरी देते हैं, बड़ा बड़ा दान करते हैं, विवाह में बहुत कुछ देते हैं, वहां उस डावरी को न देकर, ५० हजार, ६० हजार या १ लाख, या जो भी धन लड़की को देना चाहते हैं, उस को प्रापर्टी के हिस्से के रूप में लड़की को दे दिया जाय और लड़की को उसके ऊपर पूरा हक्क हो, तो ज्यादा अच्छा है । क्योंकि जो धन लड़कियों को दिया जाता है विवाह के अवसर पर वह लड़कियों के किसी काम में नहीं आता है । वह सब सुसराल वाला, देवर, जेठ, सास, नन्द, सब ले लेती है । वह लड़की के किसी फायदे का नहीं होता है । यहां तक होता है कि लड़के डावरी के लालच में एक लड़की से शादी करते हैं, और उस धन को लेने के बाद जहां कहीं भी उन की इच्छा होती है दूसरी शादी कर लेते हैं । इससे क्या होता है कि जितना धन माता पिता लड़की को दान देहेज में इसलिये देते हैं कि उनकी लड़की की सहायता होगी, उन की लड़की के काम में आयेगा, वह लड़की के किसी मतलब का नहीं होता है । इसलिये मैं इसके विरोध में हूँ कि डावरी लड़की को दी जाय । डावरी न दे कर जो कुछ धन लड़की को देना हो वह उसके हक्क के रूप में दिया जाना चाहिये और लड़की के नाम से होना चाहिये । उस पर लड़की का ही अधिकार होना चाहिये । डावरी में धन देने से लड़की को उस पर कोई हक्क नहीं होता है, वह अपने पिता के धन को भी अपनी इच्छा के माफिक खर्च नहीं कर सकती ।

दूसरी चीज जो मैं कहना चाहती हूँ वह यह है कि लड़की जब अपने ससुर के यहां जाती है तो उस को अपने ससुर की सम्पत्ति में उतना ही हक्क मिलना चाहिये जितना कि उसके पति को अपने पिता की सम्पत्ति में होता है क्योंकि ऐसा भी होता है कि स्त्रियों से उसके

पति के भाई, बहन और कभी कभी तो यह होता है कि पति भी कह देता है कि यहां तुम्हारा कुछ नहीं है, यहां से चली जाओ, अपने पिता के यहां जाओ, जहां से कि आई थीं। इस प्रकार की कितनी ही बातों का सामना लड़कियों को करना पड़ता है। इसलिये लड़कियों को अपने ससुर के धन में उतना ही हक होना चाहिये जितना कि उनके पति को अपने पिता की सम्पत्ति में हक होता है।

मान लें कि पति को एक हिस्सा मिलता है, उस हिस्से के दो हिस्से कर के दोनों को बराबर हक मिलना चाहिये। मैं समझती हूं कि इससे स्त्री समाज की ताकत बढ़ेगी। आज कल तो बड़ी आसानी से स्त्री को दुतकार दिया जाता है कि "यहां पर तुम्हारा कोई हक नहीं है, यहां से चली जाओ।" अगर ससुर की जायदाद में बहु का भी हक होगा, तो उससे कोई इस तरह का व्यवहार नहीं कर सकेगा। अगर लड़ाई होती है, अभी हमारे यहां हिन्दू मैरिज बिल पास हुआ है, उसके अनुसार अगर विवाह-विच्छेद होता है, तो लड़की का ससुर की जायदाद में हक होने के कारण कोई उसे चले जाने के लिये नहीं कह सकेगा। मेरा सजेशन है कि यह ज्यादा अच्छा होगा कि लड़की को ससुर की जायदाद में हक दिया जाय, क्योंकि लड़की उसके परिवार की एक सदस्या बन जाती है, पिता के यहां से वह चली जाती है, उसी परिवार में उसको रहना है, वहां ही उसे अपना सारा जीवन बिताना है। इसलिये क्यों न ससुर की प्रापर्टी से एक हिस्सा देकर लड़की के भविष्य को मजबूत और सुन्दर बनाया जाय ?

श्री योगवत : उसकी प्रापर्टी में तो है।

Mr. Chairman: Order, order; where is that right? There is no right to the son's wife as such in the Bill.

Shri Bogawat: She has.

श्रीमती गंगा देवी : जो लड़की विधवा हो जाती है, उसको निकाल दिया जाता है और परेशान किया जाता है, इसलिये अगर उसको ससुर की जायदाद में हक हो, तो उसे कोई निकाल नहीं सकेगा। इसलिये मैं चाहती हूं कि लड़कियों को ससुर की प्रापर्टी में हक दिया जाय और वे वहीं पर रहें।

The Minister of Defence Organisation (Shri Tyagi): Very, very logical, Sir.

श्रीमती गंगा देवी : पति के मरने के बाद पत्नी को उसकी सम्पत्ति का हकदार बनाया जाय न कि लड़के को, क्योंकि लड़के धन का दुरुपयोग करते हैं और मनमाने ढंग से खर्च करते हैं और फिर माता का आदर भी नहीं करते हैं। हमने बहुत दफा देखा है और देख रहे हैं कि जो स्त्री पति के जीवित रहते घर की स्वामिनी है, घर की लक्ष्मी है, सर्वेसर्वा है, पति के मरने के बाद उसका कोई आदर नहीं रह जाता है, क्योंकि सम्पत्ति का मालिक उसका पुत्र हो जाता है और उस पर उसका कोई हक नहीं समझा जाता है। इसलिये पति के मरने के बाद उसकी प्रापर्टी का होल-सोल मालिक उसकी पत्नी को होना चाहिये। जब तक वह जीवित रहे वही स्वामिनी हो। कोई भी माता ऐसी नहीं है, जो अपने पुत्र को दुखी देख सके। अपने सारे सुखों का त्याग कर के वह अपने पुत्र को पाल पोस कर बड़ा करती है, क्या वह उस धन को कहीं और ले जायेगी या खराब करेगी ? नहीं, वह उसे अपने पुत्र को ही देगी। अन्तिम समय में जो कुछ उस के पास होगा, वह अपने पुत्र को दे देगी। इस कानून में स्त्रियों को ऐसे हक दे कर हम स्त्री समाज की शक्ति को बढ़ायेंगे। साथ ही साथ हम हिन्दू समाज के गौरव को भी बढ़ा सकते हैं।

इन बातों के साथ ही मुझे एक बात और

[श्रीमती गंगा देवी]

कहनी है और वह यह है कि इस बिल में उन गरीब लोगों के लिये कुछ नहीं कहा गया है। इन के पास कोई प्रापर्टी नहीं है। यह बिल उन्हीं लोगों के लिये है—और उन्हीं लोगों पर लागू होना चाहिये—जो बड़े बड़े प्रापर्टी-होल्डर हैं, पूंजीपति हैं, अमीर हैं और अपनी जायदाद में से एक दो शेयर लड़की को दे सकते हैं लेकिन जो गरीब हैं, अपने खर्च के लिये भी जिनके पास धन नहीं है, उनका क्या होगा? उनके लिये क्या व्यवस्था की गई है? इस बात को साफ कर देना चाहिये कि ऐसे लोगों के लिये क्या होना है, जिनके पास कोई धन नहीं है, कोई प्रापर्टी नहीं है, कोई पूंजी नहीं है। अगर यह बात साफ नहीं की जायेगी, तो इस बिल के पास हो जाने से बड़ी गड़बड़ और झगड़े फ़साद होंगे। मैं तो यह कहूंगी कि जो लोग अमीर हैं, अपनी लड़कियों को बड़ा बड़ा दहेज देते हैं, पैसा खर्च करते हैं, उनको अपनी लड़कियों के लिये भविष्य के लिये ऐसा धन निर्धारित कर देना चाहिये, जो कि उस के काम आए और किसी का उस पर अधिकार न हो और वह इंडिपेंडेंट हो कर अपना जीवन बिता सके।

इतनी ही बात कह कर मैं इस बिल का हृदय से स्वागत करती हूँ और मंत्री महोदय को बधाई देती हूँ।

श्री कामन (होशंगाबाद) : चेरमैन साहब, आपसे निवेदन है कि सभा में कोरम का अभाव है।

Mr. Chairman: I am ringing the bell. Now there is quorum.

Shri S. C. Samanta (Tamluk): We are glad that provision for women has been made in this Bill. First of all, I ask the hon. Minister whether statistics were taken before this Bill was drafted to the effect that how many people of this country are governed by the *Dayabhaga* and how many by the *Mitakshara* and how many by other systems. And, I would like that

in his reply to this consideration motion, he should put before the House the figures so that we will be able to justify the reason for putting this clause 5 in the Bill. If *Dayabhaga* is in the minority, for whom this Bill has come? I would urge with modesty that this Bill should be called the Hindu *Dayabhaga* Bill and not the Hindu Succession Bill. If the Government want this *Dayabhaga* system, those who are governed by this system should get the benefit for their women, then it is welcome. Let Government come with that Bill. But, if most of the people in India are not benefited, then how can it be called the Hindu Succession Bill?

I have no quarrel with the idea that some provision should be made for women. But in the provision that has been made, we are finding so many difficulties. If the daughter shares the property of her father then when she goes to her father-in-law's house, there are two properties.

Pandit K. C. Sharma (Meerut Distt.—South): How?

Shri S. C. Samanta. One at her father's house and another with husband in her husband's house. The husband and the wife and the daughter will look after these two estates. When the son-in-law will come to look after the estate of his wife, naturally some disputes will arise. So, I would suggest this. There will be no property given to the daughter in her father's house. As soon as the daughter is married, half of the share belonging to the husband should accrue to her. Immediately, that would accrue to her. She will be economically advanced. We say they are helpless. Why should we bring discord here and there? It is true that the son-in-law may go to his father-in-law's house and sell property to other persons with whom the brothers cannot coalesce or co-operate. Why should we act in that way? We want to provide for girls for the rest of their lives. If we provide in the way I have suggested, we will be doing some good to the girls for whom we are so anxious.

Friends in this House are saying that the majority of the Members of this House are in favour of this Bill. It is evident. Because the Members governed by the *Dayabhaga* system are in a minority and the others will not be affected, why should they not support this measure? But, what do we find? Up till now, excepting Shri H. N. Mukerjee, all Members are speaking against this Bill, against certain sections or against every section. We have no objection to refer the Bill to the Joint Committee if the Law Minister gives a word that section 5 will be duly considered and changed by the Select Committee. Or else, looking at the speeches of the Members of this House, Government should think over it. If the Government think it wise, they may take back the Bill and bring it in an amended form. All of us, without any exception, are very anxious to give some rights to the womanhood of our country.

With these suggestions, I request the Government to do the needful.

Shri Altekar: The evolutionary character of the Hindu society and the progressive outlook of our writers of *Dharma Shastras* is nowhere better exemplified than in the evolution of this right of succession particularly for women.

I will not go into the history of it, but I will briefly narrate it. In the olden times, when the joint family was the general feature and there were a large number of coparceners therein, there was thought to be no space, practically, for the women to go into the management or to inherit. So, in those olden times they said:

तस्मात्स्त्रियो निरिन्द्रिया अदायादीः । नै० ब्रा०

That women are not entitled to have initiation into the sacred learning and that they are unfit to inherit. That was the attitude that was taken previously.

When the families began to split and there were smaller families, ultimately a situation arose sometimes when there were no male members, and the

question of the inheritance of women came prominently before their eyes. Then, we find in *Manu* and in the old *dharma sutras* and even in *Kautilya*, that a place is being assigned to women. To whom was it assigned? Firstly, it was assigned to the mother:

अनपत्यस्य पुत्रस्य माता दास्यमान्यात् ।

The mother inherits if the deceased had no son.

मातर्यपि च वृत्तायां पितुर्मता हरेद्वनम ॥ मनु

If there is no mother, then, the father's mother inherits. Then, the case of the widow came up. The wife of the deceased was not being properly looked after. The later *Dharma Shastrakars* said:

यस्य नोपरता भार्या देहार्धं तस्य जीवति ।

They said, may be he is dead, but his half body remained there in the form of his wife and she must get the inheritance.

जीवनैत्यर्धशरीरेतु कथमन्यः स्वमाप्नुयात् ॥

How can any one else inherit when the better-half is alive? They vigorously pleaded the case of the widow. They said that she must get the right to inherit. Therefore we find that when, in the society, circumstances arose where there were females only, there were no male members, there were mothers, there were daughters, their cases came to be considered. The widow or the mother was given a share. So also the daughter's right came to be admitted. They said:

यथैवात्म्यं तथा पुत्रः पुत्रेण दहिता समा ।

तस्यामातः कथमन्यः स्वमाप्नुयात् ॥

—*Manu*.

Just as one's own self, so the son, and daughter also is equal to the son. That was the view that was taken and ultimately she was given a share also. Thereafter came the sisters and others.

If we go towards south, we find that in the Bombay Presidency, more ladies are admitted to succession: daughter's

[Shri Altekar]

daughter, son's daughter have also been admitted. Again, the widows of collaterals have also been admitted.

What is the principle that underlies this outlook towards the right of women? In what way was that right being given? We find that it was being given according to a certain principle, underlying this evolution. It was thought that justice must be done to women and at the same time, the family should be kept intact. Right of succession was given to the daughter; it was given to the sister. This was given only in circumstances where there was no male descendant in the family and the family did not exist. Then, the daughter took the whole property, and the sister took the whole property. That was how it was looked upon by them. They wanted to keep the family intact as far as possible. Only in circumstances when there was no one to continue the family, the daughters and sisters came in. We have to take this into consideration. I humbly submit that when this particular right was given, it was not with any hesitation or reservation. It was given fully. The daughter succeeded fully to the estate; so also the widow and the sister. It is only the interpretation of the Privy Council that has mangled the law that has been laid down by the *Dharma Shastras*. I would like that all females should take the full proprietary right in the property. I would like that every woman should inherit property where she is permanently stationed. I would like that no family should be disrupted in any way. I would not like any step to be taken which would cut through the whole structure of economic process that is going on.

I would like to put this to my sisters. How are marriages arranged? If there is a person who has got some lands and a house of his own, what does he do? He tries to give his daughter in marriage in a family which is better or at least similar to his, economically and otherwise. When the daughter is given in marriage, she

gets a firm footing in that family and is there entitled to a share. We are, as a matter of fact, enacting in a way that the daughter should take a fraction of her father's property.

She goes into another family. As a widow some share is being provided for her. Some share is to be given to her daughters as well. There will be disruption in that family also. Will that in any way be beneficial? I would like that every woman should get a proprietary interest, a proprietary right completely where she is stationed, and such sort of fragmentation, such sort of disruption should not occur. What is the trend of our legislation? What is the trend of our tenancy laws? What are we doing? We are legislating in such a way that absentee landlordism should be abolished. We are legislating in such a way that if there are certain brothers who live actually in the village and they only cultivate the lands—it should be their right to do so—and that others who have gone for service elsewhere should not be entitled to cultivate and they will not get any land. That is the position, that is the trend of the present legislation. What is the trend that we are following here? It is exactly to the contrary. It is not in any way suitable and it will not in any way work beneficially in the interest of society and the process of production. Therefore, I would submit that the legislation should be of such a type as is in line and in tune with the other legislation which we are undertaking. It should be for the purpose of giving a sort of impetus, a helpful turn to the process of production and our planning. I would like that those brothers who are going outside and do not stay in the village and cultivate the land should not get any share in the land. They should not get any share in the landed property; only those who are cultivating should get that property and no others. At the same time, I would like to say this—and this is also the desire of so many persons whom I have seen in the various cases of litigation that I

have fought—that if there is a brother who is married to a lady in another family and there is no male member there and his mother-in-law takes him as the heir, he stays there and cultivates the property and ultimately becomes the owner of that because his wife is the heir of that lady, then in that case he should not claim any share in his family property, that is, his father's property. I would say that in the same way a daughter should not get any share in the property of her father when she is married, the brother who acquires the property of his wife and is stationed there, cultivating that property, should not get any share in the father's property. That is the general desire, that is the general intention and expectation of all. If we do not give any share to the person who goes out of the village and does some service elsewhere, it will be more in tune and in consonance with the desire of the people and also consistent with the process of production that we are following here. So that principle should obtain. That is the most important point. If we legislate in that way, if we approach the problem in that way, we shall, of course, be doing a good service, and approaching the problem in the right spirit. From this point of view a married daughter should not inherit when there is a son or widow in her father's family.

As I have already stated, in the class number one of heirs, there should be son, widow, son's widow, son's son's widow—all together—but not daughter or daughter's daughter or daughter's son. Why should the daughter's son come in? If the daughter is married in another family, she should get the father-in-law's property there. Why should she come back when there are the brothers here? That would lead to disruption. I fail to understand the logic of this whole legislation. I fail to see how these things can work properly. It can only be for the purpose of creating all sorts of discord and disruption in the family. That is what it ultimately comes to. Therefore, I would like that there should be the

right of inheritance to a daughter if she is unmarried. In that case, let her take along with the son a full equal share in the father's property—a full and complete share in the father's property equal to that of the son. But when she is married, it should revert back to the brothers or the unmarried sisters. If she remains there in the family, if she does not want to marry, then she will get a share along with the son, which our Vedas had also envisaged:

अमाजुर्वि पित्रोः सखा सती सभानादा
सदसस्त्वामिये वनम् ।

This is contained in the *Rig Veda*. When a woman grows old, she takes a share in the father's property, and she takes the share because she is stationed there. They did not want the disruption of the family, they wanted the vocation of the family to go on in a safe and uninterrupted manner. Some ladies were included in the list of heirs; their right is respected but not of all. If it was not so far respected, it was because of slavery, it was on account of foreign domination for several centuries before. At that time, this process of evolution of the law of succession and so many other things came to an end and we had a period of stagnation. Now, that period has gone. It has disappeared once for all. Let us now address ourselves to the task, let us now go into the question in such a way as will be conducive to the growth of society and also for the benefit of women in this country. It should in no way impair our rights in any form whatsoever. That is what I would like to submit.

We see that there is such a sort of right to the daughter along with the son in Muslim society. Have the daughters or the sisters in the Muslim society a better standing on account of this? Have they got any greater economic independence than their counterparts in the Hindu society?

An Hon. Member: No.

Shri Altekar: Are they in any way better by that right? What greater advantage have they had? In Muslim

[Shri Altekar]
 society, what do they do? In order that the property may not go to another family, what is done is that cousins marry each other. As a matter of fact, under our law of marriage, there is prohibition of marriage between *sapindas* and *sagotras*. Certain degrees of prohibition have been laid down. In order to overcome the difficulty of fragmentation, cousins or near relations in the Muslim society marry between themselves. That is not allowed here in our law of marriage. Therefore, as a matter of fact, in order to obviate all such difficulties, we must look at the law of inheritance in a way which is consistent with the degrees of prohibition that we have laid down for Hindu marriages. We cannot put Hindu society, the Hindu law of inheritance on the same footing as the Muslim law, because our fundamental approaches regarding marriage laws are entirely different. From that point of view. I would like to submit that we have to approach this question from a different angle of vision. I would like that ladies must be treated equally with men. But the point is this. Equality does not mean equality on paper. There is a sort of dissimilarity, there are different roles which men and women have to play, and each is supreme in his or her own sphere. Men also have got their own sphere. They have to work in different ways. When there is a trading concern, the brothers carry on the work; they have got different sorts of vocations like business and so on. Ladies do not look after those affairs. When a married daughter is brought in as an heir, what can she do from a distant place like that? If she is in the same family, of course that is a different thing. Let the right be given to her. She will be a sharer along with the other members in the family. But after marriage she has no right to go and claim the father's property along with the brothers in the town or village or whatever it may be, to claim a share in the particular business or trade or whatever profession they may be carrying on. Under these circumstances, what I submit is that

a lady should get a full proprietary right equal to that of the husband, equal to that of son or son's son—whatever he may be—and if she is ill treated, let there be a right in her to ask for partition and separation and have her share of the property. Let her reign supreme in the family where she is. Let her remain complete queen of the family where she is:

सम्राज्ञी स्वधुरे भव सम्राज्ञी स्वधवां भव ।
 नानादिर सम्राज्ञी भव सम्राज्ञी अविदेवृष ॥

Let her reign as a supreme queen in the family where she is going. It was merely a pious directive. Let that now be given legal status by our legislation. Let her get a legal right, full and complete. That is what I would like to submit.

Pandit D. N. Tiwary (Saran South): What will happen in the case of divorce?

Shri Altekar: If the divorce is for no fault of hers, then she will be entitled to maintenance, she will be entitled to have a provision. If there is any fault on her part, of course, she will have to lose that.

Mr. Chairman: This provision is bound to act as a very salutary check on divorce also.

Shri Barman (North Bengal—Reserved—Sch. Castes): I think after the passage of the Hindu Marriage Bill, the necessity to give a definite shape to the law of succession obtaining amongst Hindus has become all the more urgent and essential. I am given to understand that in Madras, a law has been passed whereby if there be a marriage contracted as between one governed by the *Mitakshara* law and another who is governed by the *Marumakkattayam* law, then it is the *Marumakkattayam* law which will prevail finally. My hon. friend Shri Venkataraman says that it is true.

Let me then consider the effect of our having passed the marriage Bill. What is the principle underlying that

legislation? It is that there should be marriages contracted between any two Hindus, including Buddhists, Sikhs, Jains, etc. freely. That is well and good. But what would be the consequence, when a marriage is contracted between two parties who are governed by different schools of law obtaining in different and sundry parts of India? What will be the law governing the succession rights of their children? That will be another bewilderment added to the present state of things which obtains so far as succession is concerned according to the Hindu law as it obtains at present in different parts of India.

The *Dayabhaga* system is based on the principle of religious efficacy. The *Mitakshara* system is based generally on propinquity; both succession and survivorship obtain there. In the case of the *Dayabhaga* also, it is not always religious efficacy that obtains in regard to succession; there are cases where propinquity also comes in. This is a very unsatisfactory state that obtains in regard to succession, both under *Dayabhaga* and also under *Mitakshara*, and more so under *Dayabhaga* because almost 90 to 95 per cent of the cases are based on religious efficacy.

I would like to place before this House the condition under which Madras had to pass a separate law. But before doing so, I would like to ask: What will become of these marriages that we want should be contracted between persons living in different parts of India and following different schools of law? The whole purpose underlying this Bill is that our whole law of succession should be so modified that no disruption will arise, and no further complication will arise in the matter of succession. If you go through the civil cases that went up to the high courts, and even up to the Privy Council, you will find that most of those cases arose out of succession disputes, and a majority of them were cases where the parties could afford the cost of litigation. We do not want such a state of things to

continue any further. That is the first point that I would like to make.

Secondly, as regards our sisters, many a view has been expressed. But may I say that one law does not govern all the people? The mentality of a brother is not the same everywhere. I know of a very pitiable case in this regard. There was a father who had left vast property which was giving an income of some lakhs. He had some sons and also a daughter. The daughter was married to a legal practitioner, and he was almost my next door neighbour. That legal practitioner was not a successful one, and therefore he could not earn much. I should not state the conditions in which they were living, but I should say that it was in a very miserable condition that that family lived. The sons also lived in the same town. After some time, that lady's husband also died; and that poor old lady with a number of children was living in the most pitiable and miserable condition. I do not know whether her brothers gave her something or not. But the overall condition in which they lived was extremely miserable. I ask: Where is the affection of the brother in that case? My hon. friends have argued that if the sister claims a share in the property, then the affection of the brother towards the sister will become less. But what is the position? Of course, these are particular cases, and I do not like to generalise from them. At the same time, I would ask my other hon. friends also not to generalise from instances here and there.

The main thing is that if all the world over there has been no disruption of society, and the heavens have not fallen because of the fact that inheritance right has been given to women, we cannot think that this Bill will create any disruption in our society. After all, what is the ideal? The ideal is something which changes with the change of time, the change of circumstances and the changes of society. There is no fixed ideal which is true for ever.

[Shri Barman]

In the northern part of India, there is the *Dayabhaga* system which is based on patriarchal principles. But in the south, there are the *Marumakkattayam* and *Aliyasantana* systems which are based on the matriarchal system of society. So, we have two systems which are just the reverse of each other, in two corners of the same country. Which is good, and which is bad? We cannot lay down definitely that this is the good thing, and that the other is bad. Whatever a person is accustomed to is good for him. If a society becomes accustomed to a particular thing, then it thinks that that system is good for itself. Therefore, when there is a change suggested, everyone begins to think that something serious is going to happen. I do not for my part think that way. While agreeing with the proposition that there should be a change in our law of succession, and that it has become all the more important and urgent in view of our having passed the Hindu Marriage Bill, yet I am not in favour of this Bill, because this Bill does not recognise the principle of unification of the laws of succession in different parts of India.

You will find that under clause 5, joint family property has been excluded from the scope of this Bill. You will find there that impartible estates are still kept as they are, as if they are something sacrosanct which are ordained by God and which should never be changed. I do not quite understand that idea. What is this impartible estate? Is there any *samskara* or any sacrament or any religious sanctity behind it? It has been brought into existence by certain persons who wanted that property should remain intact, so that they may hold it and then rule over others: for, if the property is split up, then they will become economically weak, and the influence of the family will go. I think that is the only thing that is behind this idea of an impartible estate. That should go now.

At the same time, when we are conceding the right of property to our womenfolk, I say let it be full. Let us not be half-hearted in this. Let there be no halting measure in this regard. Let the son and the daughter have an equal share. And let the *Marumakkattayam* and *Aliyasantana* systems be done away with. If the persons who belong to the *Dayabhaga* and *Mitakshara* schools, which are based on the patriarchal system, can come down to this position that sisters and brothers will have equal shares, why cannot our brothers who follow the *Marumakkattayam* and *Aliyasantana* systems also come down to the same position, so that the position will be the same in the two cases? Once that position is accepted, we may then make the necessary changes in the Schedule, saying who shall be the class I preferential heirs, and who shall be the class II preferential heirs, and so on; and whatever changes are necessary can be made by the Joint Committee.

But if we do not accept this principle of unification of the law of succession in India, then this Bill is of no consequence, and it should not get the support of this House.

I would not like to take up the time of the House any more on this point, but I would like to controvert one point which has been made by Shri N. C. Chatterjee, namely that if we make any such changes as are contemplated now, then this Bill will become a paradise for the lawyers. I do not think so. We can make the necessary amendments both in the body of the Bill as also in the Schedule. But at the same time, it is necessary that it should simplify the law of succession. At present, even a lawyer of standing cannot say who is the legal heir, and who is the proper heir.

If these general principles and simple rules of interpretation of this Bill are applied, the whole position will be very clear. What is the present condition when there is any property? It is said that it is the lawyer whose share in the property

is supreme. It may be that the actual sharers may not get anything after a series of litigations, but it is the lawyer who is sure to get his share. I do not think that that kind of saying is altogether wrong. But the present Bill, I think, is not intended to be a lawyers' paradise. The Schedule regarding the preferential heirs and the rules of interpretation are much more simple than the present law. In that sense, I think that such a law should be passed; but at the same time, the hon. Minister should make it clear on the floor of this House that so far as the principle of clause 5 is concerned, the Select Committee is not bound by it in any way and that the Select Committee is free to make any changes.

पंडित सी० एन० मालवीय (रायसेन) :
मैं, टंडन जी ने जो विचार इस सदन के सामने रखे हैं उनका घोर विरोध करने के लिये खड़ा हुआ हूँ। टंडन जी ने कहा कि इस बिल को वापस ले लिया जाय और अगर यह तजवीज इस हाउस ने मान ली तो मैं समझूंगा कि हमारी समाज के ५० प्रति शत धर्म के साथ एक जबर्दस्त जुलम किया जा रहा है। आज यहां पर हमारी बहनों की तादाद कम है लेकिन फिर भी जितनी भी स्पीचेज उन्होंने दी हैं उन सब में उन्होंने इस बिल का समर्थन किया है। इस बिल के खिलाफ जितनी भी स्पीचेज हुई हैं उन सब में हिन्दू धर्म, शास्त्र और पुरानी हिन्दू संस्कृति इत्यादि का नाम लिया गया है। लेकिन इसके पीछे न तो हिन्दुत्व का प्रेम है और न ही धर्म शास्त्रों के प्रति प्रेम है। इन विचारों के पीछे सिर्फ जायदाद की मुहब्बत है। इस जायदाद के प्रति मुहब्बत ने ही आज तक हमें इस काबिल बनाये रखा कि हम अपनी बहनों को गुलामी की जंजीर में जकड़ रखें। इनको अपने बस में रखने के लिये हमने बड़े सुन्दर सुन्दर शब्द भी बड़े रखे हैं :

बन्ध नारयस्तु पूज्यन्ते रमन्ते तत्र देवताः

जहां पर नारियों की पूजा होती है वहां पर देवता वास करते हैं। हमारे यहां एक मुहावरा है :

घर-बार तेरा, कोठी मंडीला से हाथ मत लगाना—

यानी घर की लक्ष्मी हो मगर तुम्हें किसी चीज से हाथ लगाने का कोई अधिकार नहीं है।

कहने को तो कहा जाता है कि कब्जा रखने का अधिकार तो लक्ष्मी को है लेकिन वास्तव में उनको खर्च करने का कोई अधिकार नहीं होता। यह सारा अधिकार हमने अपने पास रखा हुआ है। हम जब मेरेज एंड डाइवोर्स बिल पास कर चुके हैं तो हमें इस बिल का पास करना बिल्कुल जरूरी है। जब उस पर बहस हो रही थी उस वक़्त इस बिल के विरोधियों में से बहुत से सदस्यों ने यह दलील हमारे सामने रखी थी कि डाइवोर्स करने का बिल तो हम पास कर रहे हैं लेकिन स्त्रियों को वह अधिकार कहाँ है कि जिससे वे अपना तालन पालन कर सकेंगी, जीवन व्यतीत कर सकेंगी। आज उन्हीं के मुँह से इस बिल के विरुद्ध यह दलीलें सुन कर मेरी हैरत की इन्तहा नहीं है और मैं समझता हूँ कि यह केवल साजिश मात्र है और वे चाहते हैं कि किसी न किसी तरीक़े से स्त्रियों को यह अधिकार न मिले। मैं तो कहूंगा जो इस तरह की बात करते हैं उनके तो दिल में स्त्रियों के प्रति नफ़रत है..

श्री बल्लुकर (जिला सांसी—दक्षिण) :
शलत है।

पंडित सी० एन० मालवीय : शलत नहीं, सही है। हम पतिव्रत धर्म का नाम ले कर एक बहुत उच्च आदर्शवाद की बात करते हैं। मुझे कोई भिसाल बताइये कि जहां पर पुरुषों को पत्नी की चिता के ऊपर जलाया

[पंडित सी० एन० मालवीय]

गया हो। इसके मुकाबिले में हमने कितनी माताओं और बहनों को उनके पतियों की चिताओं पर जलाया। मैं तो कहता हूँ कि शायद किसी ही पुरुष को अपनी पत्नी की चिता पर जलाया गया होगा और आप जानते हैं कि किस तरह से पुराने जमाने में माताओं और बहनों को चिताओं पर जलाया जाता था।

यहां पर कहा गया है कि पाटस्कर साहब शहर में रहते हैं और उनको देहातों का कोई तजुर्बा नहीं है। और उनको पता नहीं कि जमता क्या चाहती है जब कि ऐसा कहने वाले स्वयं इलाहाबाद और दिल्ली जैसे शहरों में रहते हैं और मोटरों में घूमते फिरते हैं। मैं तो कहता हूँ जो लोग यह कहते हैं कि जनता इस बिल को नहीं चाहती उन्हें देहातों का अनुभव नहीं है। एक अजीब सी सूरत बना कर आज यह कह दिया गया कि उन्हीं एक दो आदमियों को यह मालूम है कि जनता क्या चाहती है, गांव वाले क्या चाहते हैं। मैं उनसे पूछना चाहता हूँ कि क्या वे जानते हैं कि आज स्त्रियों की हालत कैसी है? आज स्त्रियों की हालत हमारे समाज में बदतर हो रही है। मैं आपको बताना चाहता हूँ कि आप आज भी स्त्रियों को पिछड़ा हुआ रखने की जो कोशिश कर रहे हैं उसमें आप सफल नहीं हो सकते। इसके साथ ही साथ मैं यह भी कहना चाहता हूँ कि जो लोग इस बिल का विरोध कर रहे हैं वे हिन्दू धर्म की सेवा नहीं कर रहे हैं। हम जानते हैं कि हिन्दू धर्म एक इतना ऊंचा धर्म रहा है कि इसने सारे संसार को सूर्य की तरह प्रकाश दिया। लेकिन आज वेदों का नाम ले कर, शास्त्रों का नाम ले कर हम गलत प्रचार करें इससे हमें फायदा होने के बजाय नुकसान ही होगा। ऐसे लोग जो शास्त्रों को गलत इन्टरप्रेट कर रहे हैं, मैं तो कहता हूँ, हिन्दू धर्म को गिरा

रहे हैं। आज अगर दुनिया में हिन्दू धर्म को कोई जानता है और कद्र करता है तो वह महात्मा गांधी और श्री नेहरू के नाम पर ही कद्र करता है। मैं कहता हूँ कि जिस तरह का प्रचार श्री देशपांडे जी करते हैं उस तरह के प्रचार से हिन्दू धर्म के प्रति नफरत ही बढ़ती है, कद्र नहीं बढ़ती।

आज वह जमाना नहीं है जब हम स्त्रियों को दबा सकें। आज वह जमाना नहीं है जब कि हम लड़कियों की जब उनकी ८ साल की उम्र हो शादी कर दें। आज वह जमाना भी नहीं है जब उनको उनके अधिकारों से वंचित रखा जा सके। आज वे पढ़ लिख रही हैं। आज उनकी छोटी उम्र में शादी नहीं की जा सकती। पहले जमाने में स्त्रियों को पढ़ाया नहीं जा सकता था, केवल एक नाम अंग्रेजी का ले लिया जाता है। आज जमाना बदल गया है। आज हमें उनको प्रापर्टी में हक देना होगा। आज अगर हम चाहें भी तो भी लड़की की जब उसकी आठ वर्ष की आयु हो शादी नहीं कर सकते। यदि हम ऐसा करेंगे तो हमें जो सजा रखी गई है उसको भुगतने के लिये तैयार रहना होगा। आज स्त्रियां समझदार हैं और जानती हैं कि उनके क्या अधिकार हैं। यदि हम आज कोशिश करें और उनको उनके अधिकारों से वंचित रखें तो मैं आपको बताना चाहता हूँ कि हम इस में कामयाब नहीं हो सकेंगे। स्त्रियां अपने अधिकार ले कर रहेंगी और हमें देने पड़ेंगे। इसलिये ज्यादा उचित होगा यदि हम अपने आप खुशी से उनको उनके अधिकार दे दें।

यहां पर बोटों की बात की गई है और शायद विभूति मिश्र जी ने कहा है कि यदि यह बिल पिछली इलेक्शन से पहले लोगों के सामने होता तो हमें इतने अधिक वोट नहीं मिल सकते थे। मैं दावे से कहता हूँ कि हमें

जो वोट मिले हैं वे जो हमारे उसूल हैं, जो हमारे सिद्धान्त हैं उनकी बिना पर मिले हैं।
भागे से भी

श्री बिभूति मिश्र : क्या मैं जान सकता हूँ कि लास्ट इलेक्शन में आपको स्त्रियों के कितने वोट मिले ?

पंडित सी० एन० मालवीय : आपने उनको पदों में रखा है, घर से बाहर जाने नहीं दिया और आप यह कहते हैं कि कुटुम्ब की नाक कट जायेगी। इसलिये वे अधिक संख्या में वोट नहीं दे सकीं—फिर भी जितनी आजाद हो सकीं उन्होंने वोट का भ्रूक्षार इस्तेमाल किया।

महात्मा गांधी ने जब हरिजनोद्धार की आवाज उठाई तो लोगों ने धर्म का नाम ले कर, वेदों का नाम ले कर महात्मा गांधी के जलसों में लाठियां बरसाईं, भारने की कोशिश की लेकिन फिर भी कांग्रेस ने रिफार्म लाने की तरफ कदम बढ़ाये और यही वजह है कि हिन्दू समाज ने कांग्रेस को वोट दिये।

वोट इसलिये नहीं दिया है कि रीएक्शनरी ध्योरीज को ले जा कर उनके सामने रखें। मैं बिल्कुल साफ कर देना चाहता हूँ कि आप गलतफहमी में हैं अगर आप समझते हैं कि हिन्दू लोग रीएक्शनरीज हैं। हिन्दू यूथ्स रीएक्शनरी नहीं हैं। समाज में कुछ मुट्ठी भर लोग झूठे और बहकाने वाले नारे लगा कर हिन्दुओं को भड़काना चाहते हैं और हिन्दुओं का नाम नीचा करना चाहते हैं, उनको अपने इस कृप्रयत्न में निराश होना पड़ रहा है और हिन्दू बल्क उनके भाज पीछे नहीं हैं और पिछले इलेक्शन के समय यह चीज बहुत साफ हो गयी थी कि हिन्दूज की ओवर-वेलिंग मेजरिटी कांग्रेस के साथ है। मुझे पूर्ण विश्वास है कि अगर आप जनता को ठीक तरह समझायें और उसको शिक्षित

करें तो आपको आपके कार्यों के लिये पूर्ण समर्थन मिलेगा और आप दिल में यह स्थिति मत करिये जैसा कि कुछ लोगों ने डर दिखाया है कि अगर हमने इस तरह का विधेयक पास कर दिया और डाइवोर्स बिल पहले ही पास कर दिया है, तो इस कारण हम लोगों को आयन्दा इलेक्शन में वोट नहीं मिलेंगे, इस तरह का डर आप अपने दिलों से निकाल दीजिये। पिछले इलेक्शन का मुझे तजुर्बा है जब कि विरोधी तत्वों ने काफी विषैला प्रचार हमारे विरुद्ध जनता में फैला रखा था और कहा जाता था कि कांग्रेस वाले तो हिन्दू कोड बिल पास करके हिन्दू समाज को छिन्न भिन्न करने जा रहे हैं, और इसके द्वारा भाई बहनों में शायी कराने जा रहे हैं। इस तरह का गलत प्रचार जनता में किया जा रहा था, लेकिन मैं आपको बतलाऊँ कि मैं जरा भी विचलित नहीं हुआ और खुलमखुल्ला ढंके की चोट पर मैंने कहा कि हाँ हम हिन्दू कोड बिल पास करना चाहते हैं और जनता को उसका सही रूप समझाया और उसी बुनियाद के ऊपर हम इलेक्शन लड़ें और जनता के वोट प्राप्त किये और सब जानते हैं कि कांग्रेस को चुनावों में कितनी शानदार कामयाबी मिली। आखिर हमारे देशवासी इतने तो मूर्ख नहीं हैं कि उनको बेवकूफ बना लिया जाय। देश के लोग जानते हैं कि कांग्रेस का ध्येय क्या है और वह क्या क्या सामाजिक सुधार लाना चाहती है। हमारे जो विरोधी थे उन्होंने कोई कसर उठा नहीं रखी और उन्होंने हमारे विरुद्ध गंदे से गंदा प्रोपेगंडा किया और एक सेम्पलेट निकाला गया है जिसमें नेहरू जी और डाक्टर काटजू बंटे हुये हैं और उनके सामने गाय मरी पड़ी हुई है.....

Shri Dhulekar: On a point of order, Sir.

पंडित सी० एन० मालवीय : गरज कि हमारे खिलाफ गंदे से गंदा प्रचार किया... :

Mr. Chairman: Order, order. A point of order has been raised.

Shri Dhulekar: My point of order is this. We are discussing the Succession Bill. Now, about 'succession' he has said nothing. He is preaching whether we were on this side or that side.

Mr. Chairman: Order, order. The hon. Member is replying to certain arguments. He is perfectly in order.

पंडित सी० एन० मालवीय : मैं समझता हूँ कि मेरे दोस्त शायद आर्युर्बेदिक के मसले पर सोच रहे होंगे, इसलिये उन्होंने ठीक से मेरी बात को सुना नहीं होगा।

चुनावे इस तरह का पर्चा निकाला गया, गंदे से गंदा प्रचार किया गया कि कांग्रेस वाले यह हिन्दू कोड बिल पास कर के भाई बहन में आपस में शादी कराना चाहते हैं। लेकिन हमने देखा कि इन सब बातों के बाद भी जनता उनके बहुकामे में नहीं आई और उन्होंने कांग्रेस को वोट दिये और वे लोग केवल मुट्ठी भर कहीं इधर उधर ही चुन कर विधान मंडलों में आ सके हैं। इसलिए मैं अपने मित्रों से कहूँगा कि आप इस तरह के सामाजिक सुधार वाले विधेयकों को पास करते समय यह मत सोचिये और डरिये कि अगर हमने ऐसा किया तो हमको आइन्दा चुनावों में हिन्दुओं के वोट नहीं मिलेंगे, उचित तो यह है कि आप साहस से डट कर अपना कर्तव्य कीजिये और जो कुछ लोग आपके खिलाफ जनता में तरह तरह का गलत और विवेला प्रचार करते फिरते हैं, उनका सामना कीजिये और जनता को आप अपनी बात समझाइये कि हम क्या कर रहे हैं और इन विधेयकों से हम अपने देश और समाज में क्या क्या सुधार ला सकेंगे। यह हकीकत है और इस से कोई इंकार नहीं कर सकता कि हमारे समाज में स्त्री जाति की अब तक बहुत उपेक्षा होती आई है और आज अगर हम उनको कुछ ऊपर उठा रहे हैं और उनको अधिकार

दे कर पुरुष समाज के बराबर स्तर पर लाना चाहते हैं, तो हम अपने आदर्शों की ही पूर्ति कर रहे हैं। औरतों को प्रोपराइटरी राइट्स मिलने चाहिए, उनको पूर्ण अधिकार होने चाहिए। आज जब औरतों को जायदाद में हिस्सा देने की बात चलती है तो कुछ लोग तरह तरह के डर और शक जाहिर करते हैं कि ऐसा करने से यह हो जायगा और वह हो जायगा लेकिन मैं पूछता हूँ कि पुरुषों ने सदियों से बराबर जायदादों में उलट पलट की लेकिन किसी ने आप पर कोई इसारा नहीं किया और सामोसी से हमारी बहनों ने उस बात को बर्दाश्त किया लेकिन आज जब हमारी उन बहनों को अधिकार मिलने की बात चलती है तो हमारे बहुत से मित्र आदर्शों और सिद्धान्तों के नाम पर जिन्दगी की हकीकतों से आँखें मूंद देना चाहते हैं। मैं पूरे तरीके से इस बिल का समर्थन करता हूँ। जहाँ तक तफ़्तीलात की बात है, और उस के रूप की बात है, सेलेक्ट कमेटी जो कुछ भी तक्रारें यहां पर हुई हैं उन पर गौर करे और विचार विनिमय कर के जो कुछ इसमें कमी रह गई हो, उसको पूरा करे।

मैं एक चीज और कह देना चाहता हूँ और वह यह है कि मैं भी चाहता हूँ कि मिताक्षर ला को जो इससे अलग रक्खा गया है उस से हमारा एकसां सब के लिए क़ानून बनाने का जो मक़सद है वह पूरा नहीं होता और मैं चाहता हूँ कि उसको भी इसमें शामिल कर लिया जाय। हमारे टंडन जी ने जो इस विधेयक के बारे में कहा कि इसको संयुक्त प्रवर समिति न भेज कर वापिस ले लेना चाहिए, और इसको फिर विचार कर के दुबारा लाना चाहिए, मैं उसका घोर विरोध करता हूँ। मैं चाहता हूँ कि यह बिल प्रवर समिति को भेजा जाय और जो कुछ इसमें सुधार आवश्यक जान पड़े, वे वहाँ पर किये जाय और यह मांग कि इसको सरकार को सेलेक्ट कमेटी में न भेजना चाहिए

और इसको वापिस ले लेना चाहिए, यह डिस्टिंग टैक्टिक्स वाली बात है, इसलिए मैं इस बिल का समर्थन करता हूँ।

Shri Mulchand Dube (Farrukhabad Distt.—North): Sir, the basic principle for all laws should be the preservation of society, both economically and socially. I am in full support of giving the fullest rights to the women. The question, however, is whether the remedy suggested by this Bill is at all adequate for the giving of those rights. If it has the effect of disrupting the entire society, both economically and socially, I submit that this Bill should not be passed or even referred to a Select Committee.

To begin with I will refer to the Schedule. In class I, there are 10 sub-classes. If in every sub-class there are more than one person, the result will be that the estate will be divided sometimes into 20, in others into 30 and in other cases into 40 and even more. If the estate is divided in such small fragments, how is it going to help either the women, or the men or even the society. It has been said—and I think it is an admitted fact—that there are many small holdings and many small properties. The majority of men living in this country—say, 95 per cent.—have only a house, a few acres of land or even a few bighas of land. If those few bighas of land or a house is to be divided into small fragments, I wonder what will happen to the society as it is. Our economic condition is very bad. Our holdings are not economic and if we still further sub-divide them, the result will be that we shall be—what shall I say—reduced to a very bad economic condition. Therefore, we have to prevent this kind of fragmentation.

In giving the women equal rights I am of the opinion as some other hon. Members have also expressed it, that she should have the full right equal to that of her husband in her husband's family. If we only do that, I think the entire difficulty that is at present felt will be solved.

As regards the daughter, the trouble at present is that an unmarried

daughter depends to a certain extent on the moral obligation of the brother. So far as the father is concerned this Bill does not affect her; but after the death of the father, she has to depend on the moral obligation, to maintain her and get her married, of her brother, brothers or the near relations. I should, therefore, think that she should be given a share equal to the son if she is unmarried. If she is married she should not have any share in the property.

Similarly, in the case of daughter's daughters or daughter's sons, or wife's brothers, they should not have any share in the property; because, instead of benefiting them, it will cause—as I said—fragmentation and will not be economically beneficial either to the daughter or to the sons.

There is one other aspect of the question and that is, as pointed by the revered Tandonji, the mother has been placed in class II which means that the mother will not have any share so long as any of the heirs in class I are present. Mother's position should be in class I and my submission, therefore, is that the son, widow, unmarried daughter, daughter-in-law and even the grandson's wife or widow should have a share in the family property. But, the daughter, daughter's daughter, daughter's sons and others they belong to a different family.

There is another difficulty that I feel. A daughter is married in another family. A brother marries in another family. Therefore, the brother's wife will get a share of property of a different family. The daughter will take her share to another family. The result will be that every one of them will be fighting for the share of the property that they have got. This is going to create a state of affairs which does not seem to me to be beneficial either to the persons concerned or the society.

The only redeeming feature in this Bill that I see is that the joint family property is excluded. This joint family has been in existence from very ancient times and has played a very

[Shri Mulchand Dube]

useful part in society; it has succeeded in bringing the members of the family together, so that they have a common sympathy and they are helpful and of assistance in times of distress to every other member of the family. Because, if one member of the family suffers in any way, it also brings about suffering to the other members of the family. Therefore, in case of unemployment, want, distress and any other case, it is the family that helps them.

If a share is given to the daughter in the joint Hindu family property what will be the result? The result will be, first of all, that the daughter, after getting married in another family, will not be able to manage the property. She will be like the absentee landlord. Apart from her being unable to manage the property, the son-in-law or the person to whom she is married will bring about trouble and dissensions in the family. This may be the result to a certain extent in cases where the estates are very large, of the value of lakhs and lakhs of rupees. But in the case of small properties, as in the case of villagers, this will not only cause distress but dislocation and disruption of the society.

श्री बी० पी० सिंह (मुंगेर सदर व जमुई) : मैं इस बिल के प्रवर समिति में जाने के विरुद्ध हूँ। यह विरोध मैं इस कारण से करता हूँ कि मैं स्त्रियों को उत्तराधिकार देने के विषय में हूँ, क्योंकि इस विषयक के पास होने से समाज में ऐसी उथल-पुथल मचेगी और ऐसा असन्तोष फैल जायेगा जिस की कोई सीमा नहीं है। इस बिल को जिन लोगों ने बनाया है, मैं समझता हूँ कि उन का दिमाग इस सम्बन्ध में साफ नहीं था। स्त्रियों को उत्तराधिकार देने से समाज में उथल-पुथल मचेगी, इस में कोई सन्देह नहीं है। दूसरे मैं इस सुझाव का जोरों से समर्थन करता हूँ जिस में यह कहा गया है कि जब तक लड़की कुमारी हो तब तक उस को पिता की सम्पत्ति में उत्तराधिकार

मिले, लेकिन जब वह विवाहिता हो जाती है तब उस को उस के पति की सम्पत्ति में अधिकार हो। मैं उन मित्रों से जानना चाहता हूँ जो कहते हैं कि इस विचारधारा के लोग स्त्रियों को उत्तराधिकार के विरुद्ध हैं कि उन्होंने क्या कभी वास्तविक बात को जानने का भी प्रयत्न किया है? हम में से हर एक आदमी देहातों के बारे में जानने का दावा करता है, लेकिन मैं कहता हूँ कि जो आदमी इस तरह की बातें यहां करते हैं उन को देहातों का कोई भी अनुभव नहीं है। वह नहीं जानते कि देहातों की आर्थिक समस्या कैसी है। एक देहात में एक छोटे से मकान में एक परिवार रहता है और एक छोटी सी पंसारी की दूकान करता है जब तक उस के घर में लड़की रहती है तब तक वह अपने भाई के साथ प्रेम से रह सकती है लेकिन अगर उस को पिता की छोटी सी सम्पत्ति में अधिकार दिया जायगा तो पति के घर में जाने के बाद चूंकि वह पति के अधीन हो जायेगी इसलिये उस का पति उस के पिता की सम्पत्ति को ले कर उस से फायदा उठाना चाहेगा। आज हम प्रगतिशीलता की बहुत सी बातें सुनते हैं आज हम ने हिन्दू मैरिज बिल पास किया हम ने स्पेशल मैरिज बिल पास किया, उस में उन्नति की बहुत सी बातें हैं। यह भी कहा गया कि वेद को बने हुए ४,००० वर्ष हो गये उस समय की परिस्थिति में और आज की परिस्थिति में बहुत अन्तर है, इसलिये उस समय की बातों का कोई असर हमारे ऊपर नहीं पड़ता है। मैं समझता हूँ कि जिस प्रकार से राहुल सांकृत्यायन ने अपनी पुस्तक "बोल्गा से गंगा" में यह साबित करने की चेष्टा की है कि पुराने जमाने में लोग गोमांस खाते थे, उसी प्रकार से आज हम यहां जितनी बातें करते हैं उन में डाइबोर्स के सिवा कोई बात नहीं होती है। आप ने इस के लिये हिन्दू मैरिज बिल पास किया, स्पेशल मैरिज बिल पास किया और उस

में डाइवोर्स का हक दिया। लेकिन मैं कहना चाहता हूँ कि प्राचीन हिन्दू काल में भी डाइवोर्स था और उस समय पराशर ने यह कहा था कि डाइवोर्स देने के पांच कस्टम्स हैं। आप को विवाह पद्धतियों का ख्याल होगा कि जो विवाह घाठ नम्बर का है उसमें डाइवोर्स की आज्ञा है, दूसरे नम्बर पर जो विवाह होता है उसमें डाइवोर्स नहीं होता है। आज हिन्दुओं में करीब ८० प्रतिशत लोगों में किसी न किसी प्रकार का डाइवोर्स है, केवल २० प्रतिशत में नहीं है। लेकिन इन २० प्रतिशत में भी इस का दरवाजा बन्द नहीं है। आप इस उन्नतिशीलता के नाम पर बहुत सी बातें करते हैं और गलतफहमी फैलाने की बातें करते हैं। आज आप स्त्रियों को अधिकार देने की बात सोचते हैं। मैं समझता हूँ कि आज इस हाउस में कोई भी ऐसा सदस्य न होगा जो कि स्त्रियों को अधिकार देने के विपक्ष में हो, लेकिन अधिकार के नाम पर आप देश में बदगुमानी फैलाना चाहते हैं, देश में अशान्ति फैलाना चाहते हैं। मैं समझता हूँ कि आप को अपने देश की अवस्था का कोई ज्ञान नहीं है। यदि ज्ञान होता तो आप इस तरह की बातें न करते। आज पति के घर में लड़की को पूरा अधिकार होगा और उस के पिता के परिवार के साथ उस का प्रेम का सम्बन्ध भी बना रहेगा। आज हम महज पाश्चात्य सम्प्रदाय में रंगे हुए हैं, आज हमारे सामने केवल बौद्धिक बातें ही रही हैं, आध्यात्मवाद की कोई कद्र हमारे सामने नहीं है और न हम उस को समझने की चेष्टा ही करते हैं। मैं अपने दोस्तों से बहुत नम्र शब्दों में निवेदन करना चाहता हूँ, अपनी अन्तरात्मा की प्रेरणा से इस बात को निवेदन करना चाहता हूँ कि यह बिल समाज को विघ्न करने वाला है, समाज को तोड़ने फोड़ने वाला है, इस से कोई उपकार किसी का नहीं हो सकता है। वास्तव में यदि हमारे मंत्री महोदय इस बिल को पास कराने के लिये

परेशान हैं, और उन को परेशान होना चाहिये, तो बहुत समझदारी के साथ हमारे सामने ऐसा बिल ले आवें जिस में कोई दोष न हो। इस बिल के सम्बन्ध में तरह तरह की बातें कही जाती हैं, माताओं का स्थान और पिता का स्थान गौण किया जा रहा है और जिस परिवार से हमारा कोई संसर्ग नहीं है उस को सम्पत्ति का हिस्सा दिया जा रहा है। इस लिये मैं बहुत नम्र शब्दों में विधि मंत्री महोदय से निवेदन करना चाहता हूँ कि वह इस बिल को वापस ले लें और बहुत जोरदार शब्दों में इस का अनुरोध करता हूँ कि इस बिल को विचार के लिये प्रवर समिति में न भेजा जाय। यदि वह इस बिल को लाभदायक बनाना चाहते हैं और स्त्रियों को अधिकार देने के सम्बन्ध में लालायित हैं, जैसे कि कोई भी सदस्य यहां हो सकता है, तो इस के लिये वह इस विधेयक को ठीक करने का प्रयत्न करें। इस विधेयक के अन्दर बदगुमानी है, इस के अन्दर समाज का विघ्न करने की भावना है, इस भावना को मिटा कर और बहुत ईमानदारी के साथ और दिलचस्पी के साथ दूसरा बिल लावें जिस में स्त्रियों को जो अधिकार दिये गये हैं उस से भी अधिक अधिकार दिये जा सकें उनके पति की सम्पत्ति में। उस समय सदन का कोई भी सदस्य इस के लिये असहमत नहीं होगा और सदन आनन्दपूर्वक इस बिल का समर्थन करेगा।

Shri Sarangadhar Das (Dhenkanal:—West Cuttack): I am rather surprised that there is so much discussion about property. The property that we have in India, under the feudal system I should say, is very small. It is no property considered from the point of view of an industrial society. And that property mostly is landed property. The zamindari system is gone. Land is now going into the hands of the people who till the soil. Therefore very little will be left. And in that connection there is so much made out by various speakers, both on this side as well as on the Congress side, that:

[Shri Sarangadhar Das]*

the joint family system will break up. I have seen, and I have no doubt every Member in this House knows, that during the last half a century or so the joint family system has been breaking up. The great exponent of the joint family system, Shri N. C. Chatterjee himself in his speech says that he lives separate from his family. Why does he live separately? He is an admirer of joint family, and yet he lives separately. Of course he means that his ancestral property has remained as a whole and he still has a share in it. But through his own efforts he is amassing lots and lots of money in which his brothers and other members of the family will not have a share. That is why he is living separately.

Pandit K. C. Sharma: Gains of learning!

Shri Sarangadhar Das: During the British period, with Western education, almost all of us hankered after service, either Government service or service in commerce, industry and other professions, and we have left our families and been living separately somewhere else, may be hundreds of miles away from our homes. There is one thing in the joint family system which I do not believe anyone has mentioned. I have seen and I have felt that the joint family system produces a certain number of parasites. If there are four brothers, there may be one or two of them who work hard to increase the property or to maintain it in the same condition as they had inherited from their father, but there are two others who feel that they are co-sharers in the property. They cannot go and they cannot be driven out as legally they are partners. They simply sponge on the working brothers. One old friend of mine talks of unemployment. The moment you say parasites, he talks of unemployment. In the present order of society that you are planning to build, all of you are for industrialisation. There is no place for any people who do not work and everyone has got to work

and make his own living, or else die out, because begging is made illegal. Therefore, these parasites, which are bred by the joint family system, have no place in an industrial society, and the sooner the institution of joint family disappears, the better. In consequence of that I come to the small status that is being given to women, particularly of the *Dayabhaga* system. It is not being extended to other women all over India living under different systems of succession, but it is given only to women of the *Dayabhaga* system. For that little benefit or status which is being given to women. I welcome this measure, but for nothing else. Many speakers have spoken and I need not repeat those statements that it should be extended to all kinds of succession that we have in India and that the law should be uniform for all Hindus. Until that is done this piece-meal measure will not do any good. I am of the opinion that Government are afraid of treating on the toes of too many people and that is why they have spotted on *Dayabhaga* and not touched *Mitakshara*, which is prevalent in the major portion of the country. I understand *Dayabhaga* is prevalent only in Bengal, parts of Bihar and Orissa and nowhere else, while the rest of India, excluding South India, is ruled under *Mitakshara*. When it comes to giving a share in the property to women, that is where all the hue and cry is raised by the orthodox friends on this side as well as on the other side that everything is going to be upside down. I will give instances of two countries. In Switzerland, for instance, when the father dies, the mother and all the sons and daughters get equal shares. If the daughter has been married and is dead and has children, they inherit her share. They have the details but I do not want to go into them now, and their society has not deteriorated. On the other hand, during the last couple of centuries, the social system in Switzerland has progressed tremendously and is looked upon as one of the best, stablest and most advanced democratic countries

in the world. Then again, in the United States, they have the same system by which the sons, daughters and mother inherit the property, but because of the highly industrialised society in the United States—I had myself seen that—nobody thinks of father's property; everyone works and makes his own property, and when the father dies and a part of the property comes to the son or the daughter, it is so much pin-money that comes to them. They do not depend upon this ancestral property; they make their own property during their life-time because of the splendid opportunities they have of making their living and putting by something for the future. That will happen in India also, and, therefore, I would appeal to my friends, who have expressed themselves to be against the measure, to look into the future and see what full industrialisation will do, what opportunities it will bring to everybody and how there will be full employment—I do not say in five or ten years, it may be in 25 years—and not grudge the small status that is being given to the women, the daughters and the daughters-in-law, in a small section of Indian society.

There is also another thing that must not be lost sight of and that would, in my view, be the break-up of the joint family system. With the marriage law that this House has passed and with various other measures like the removal of untouchability, they will help us in getting social mobility. Because of various restrictions, social and economical, we were shut up in compartments and not able to move about. The carpenter could not go and become a lawyer; the washerman could not go and become a carpenter. When all these restrictions are removed and our society becomes mobile, the whole society will move forward from one step to another, and, therefore, our progress will be assured.

I personally support every measure, no matter how small it may be, that gives us that social mobility and will

ensure our progress. I support, therefore, this measure to that extent—whatever little it has given to a small section of women.

Shrimati Sushama Sen (Bhagalpur South): I welcome the Bill. At the same time I must express my disappointment with some of the provisions which have been put in the Bill, and we feel that it has to be overhauled from beginning to end, because there are some things in it which are most repulsive and we never expected this.

For years it has been held out that the Hindu Succession Bill will give something to the women. But when I see this Bill I feel surprised. It has to be modified on proper and progressive lines indicated by some of the previous speakers. The Bill in the name of codification is only creating more division by excluding certain categories and communities and by excluding *Mitakshara* Hindu joint family and properties under the Indian Succession Act, and certain other Acts so that a large majority of women could not benefit by the provisions. What kind of codification would this be? That is what I want to know. Because though it is meant to bring relief for the women of the country, more than half population or even three-fourths will be left out of the purview of this Bill. It will only affect a small portion of the *Dayabhaga* families in Bengal and in some parts of Bihar and Assam. In the name of justice to the women I say that this should be altered so as to keep it in line with the promises which had been held out to the women of the country.

The Constitution has laid down the objective of a uniform Civil Code with the civil rights for the majority of the people, so that they would all be drawn towards these principles and a uniform code would emerge.

The exclusion of the joint family from the scope of the Bill was justified by some on the ground that the family property would be fragmented and the family broken up. The idea of

[Shrimati Sushama Sen]

a joint family was not peculiarity of Mitakshara system but of Indian society as such, whether a Hindu or a Muslim the joint family has now become a fiction, and there is hardly any joint family as has just been pointed out. The Constitution recognised only individuals and individual's rights and it was the duty of the State to take responsibility for matters originally looked after by the joint family. This matter is to be looked into very carefully and thoroughly by the Select Committee.

The exclusion of certain categories will mean that only families governed by, as I said, Dayabhaga benefit by it. What about the millions of other women who will be excluded? Where is the relief that the women are going to get from this Hindu Succession Bill?

The other point is this. The Bill proposes for the daughter half a share of the father's property. The Rau Committee had laid down half share and the Select Committee also endorsed this view but in the Rajya Sabha it was held that the daughter should get full share and the Law Minister held out some assurance that if the House was so inclined he would seriously consider this question. The question has been raised whether a daughter should be entitled to her full share. She has to be married into another family and she belongs to another family and not to the family of the father. I do admit this. But as soon as she gets into the husband's family she should inherit the full share there at least in the husband's property or the father-in-law's property. Let her get it one way, from the father or from the father-in-law from the husband's side, but she must have a full share of the property. I hope that the Law Minister will consider this question. The women of this country had been looking forward to this measure for years and years and it is time now that she was given her due. When the Hindu Marriage Bill was under discussion, much had been

said about this and the question was asked: how can she get a divorce when she has not got economic independence? This is the time to give her economic independence and to put her on the status which she is fully entitled to under our Constitution. So, I would request the hon. Minister to look into these details and to make this Bill a perfect Bill and not a fragmentation or a sort of scrap so that it will benefit none at all. With these few words, I support this measure and I hope that these points will be looked into.

Shri Achuthan (Cranganur): From the trend of the speeches on this very important measure, I have formed an opinion that all hon. Members are not thinking in terms of their parties and that many feel that the joint family system does not benefit now. It might have delivered the goods once but now, in this era, not only India but all the other countries, the attitude is different. The joint family system had been in England; it is there even now. The land is not abundant there.....

An Hon. Member: Is it abundant here?

Shri Achuthan: I did not say so.

Mr. Chairman: The hon. Member may move forward; he is not audible to Reporters.

Shri Achuthan: I was saying that even in England there is a system called the law of primogeniture by which the eldest member has got the right to immovable property—the real estate. Because of the industrialisation and development in other economic activities, that does not matter much. But India is an agricultural country mainly and we may have to depend upon agriculture at least for a quarter century. Out of the total national income of this country, more than 50 per cent is from agriculture. We have necessarily to take that aspect into account before we come to any conclusion, whether the old joint family

system giving full right to the *karta* or *karanavan* and the other junior members having the right by birth and there is a system of joint tenancy. That means survivorship has to continue. According to me it is not at all applicable under the present state of affairs, we want to see that every human being whether male or female must manifest herself or himself to the fullest extent possible so that we can be proud of our country and our people. If you analyse, you will find that the junior members of the joint family simply depend upon the *karanavan* for their existence. That is the experience in our parts of the country. They have no desire to go up or to undertake any economic activities because they are sure of their meals and their abode and so they become indolent, lazy and idle and what not.

It is a fact that in our State there is a Christian community. They have not got the joint family system and by legislation they had stated that unless the head of the family dies intestate, there is no right over the property for the junior members. What is the economic position of the community? Every person with or without education tries his best to become chivalrous and he dares in any economic activity and what is the present position? The Hindu brothers cannot compete with him economically even to one-tenth. We realise the difficulty. You can see from this Bill that we are providing legislation by which gradually the joint family system will go out of existence. See what is happening among other Hindu communities. They are only dependent upon their families for education, but when they get educated and majors they dare out in industry or anything else and take other steps to see that they earn their livelihood in any part of the country. According to me, the system of joint family will not have a place in Indian economics. We need not expect that to continue. To me, it will be, so to say a degeneration to our nation if we still stick to it and patronise the joint family system.

What is the provision in this Bill? Even though we say in clause 5 that this will not apply to *Mitakshara*, in effect, according to me, within 10 or 15 years, this *Mitakshara* system will itself go out of the scene. Because when anybody gets partition under that system, it becomes his own absolute property, so that from thereafter, as soon as this Bill becomes law and partition takes place among the Hindu families, after a few years, according to my estimation, there will not be any system of common property to which will apply the law of survivorship. The moment one member gets his share by partition he becomes the sole proprietor (*Interruption*). That means he is the complete owner of the property so that, according to me, at that stage he can dispose of that property as if it is his own property. There is no principle of survivorship then remaining because, suppose I get my share from the joint family I will claim that I am the complete owner of the property.

Dr. Rama Rao (Kakinada): With your son you cannot.

Shri Raghavachari (Penukonda): The moment father dies and one gets the property it is not his property; it is the family property.

Shri Achuthan: In due course that attachment to joint family and that principle of survivorship will loosen its tie. I think, here in India, in Hindu society, we are not going to stick to the joint family system which is bad to our nation.

Moreover, what is the underlying principle? I can understand that in a joint family there is the principle of co-operation, there is the principle of the stronger supporting the weaker and all that. But, our State is developing into a Welfare State. That is the point. In all human activities, the State's attention is drawn to any aspect, unemployment, medical facilities, educational facilities, old age pension, female education; in all these aspects of life the State steps in and provides facilities for human beings to develop themselves. I have no support

[Shri Achuthan]

for the existence of the joint family system.

Then, with regard to shares being given to females. The general cry throughout the country is that females are treated as chattels. We may say we base our arguments on Manu Smriti and Dharma Shastras; but that age has gone. They are equal partners in society; they are equal partners in the development of the nation. According to me, though we may say that daughters will have their share, that is not going to disrupt the family. Many members have stated that the right of partition or a share given to the daughters will disrupt the family, will dislocate the economic system, will disrupt business and all this was referred to by Mr. Chatterjee. I do not agree. In our State, we have such a system of law even now in force and that does not mean that our State is backward in economic activities. Certain communities have legislated even 15 or 20 years back. This Bill speaks of the Cochin Marumakkathayam Act. The Cochin State Assembly passed it 15 years back. We specifically said that daughters must be given share; that is almost in this legislation. With regard to classes I, II and III some more rights were given to class I people. This law has been in force for the last 15 years and that community has not gone to the dogs. They are coming up.

Mr. Chairman: It appears from hon. Member's speech that the law there is just in accordance with the provisions of this Bill.

Shri Achuthan: Certain provisions of this legislation.

Mr. Chairman: Then why has this area been excluded by this Bill?

Shri Achuthan: With regard to the right to partition and other things, there are certain other provisions which are not in this Bill. So far as Marumakkathayam law is concerned it goes far ahead. There all the children of the daughters are given per capita right in the property just like the maternal uncle. Suppose there is

a family with one son and one daughter. The daughter has got four children. The property will be partitioned into six shares and the daughter and her children will get 5 shares and the son one share.

Mr. Chairman: If there are brother's sons?

Shri Achuthan: They will not get any share. The daughter's sons will get one share each. My point is this. Even though many Members of this House may not have experience of that, yet we have practical experience which will go to show that the right to property given to daughters will not alienate that co-operative feeling or brotherly feeling in the family. That is our experience. Moreover, suppose, as is stated by some Members, a father has got one son and four daughters. The father is worth Rs. 5 lakhs. These four daughters are married away. What is the position as it is? The son is the heir to this Rs. 5 lakh worth of property. The daughters have got their husbands' families. They have got children and they are in poor circumstances. As it is what can they do? The whole property of the father is enjoyed by one son and the daughters in their families are suffering like anything. What is the additional right of the son to say that the whole of the Rs. 5 lakh worth of property should be enjoyed by him alone, his wife and children at the expense of the daughters who are living in distressed circumstances. There is practically no moral reason except to say that when they are married and go to their husbands' families, they are more interested in the husbands' families than in their brother's family.

An Hon. Member: What if there are only 5 acres of land?

Shri Achuthan: Since he has got so many children, he has to divide his wealth among his children, 5, 6 or 10. They have to adjust themselves. What right has he to say that because there are only 5 acres of land and the daughters have been married they are not to receive a single pie out of that.

property? We say that practically there is no ground whatsoever for denying the daughter's rights. Here also we have some exception. She will get half the share of the son. It is also justified. As you say, it must take some time; the time-lag must be there. As time passes on, we will say that daughters are equal partners as sons. After a few years' time you can say that the daughters and sons can be brought on the same level as is obtaining in other parts of the country. That is my view.

With regard to qualification of sharers, there can be some changes according to me. But, the Joint Committee can look into the matter. With regard to the right of full ownership given to the females in property, I am in full agreement. The widow's right was not full right. According to the provisions of this Bill, they have become complete owners of the property. They can dispose of the property as if it were their own. This is an improvement.

So far as the rights in the properties of females are concerned, I find that in the case of the wife's property, the husband has not got any right as the son. The son gets a preferential share over the husband. According to me, the husband must be treated on the same level. Even though it continues in the same family, the son gets a preferential right over the husband. The husband and wife must be in an identical position. For the husband's property, the wife and sons have equal rights. So also in the wife's property, the husband and the children should have equal rights, so that the relationship and rights over properties may be kept intact. It is not so here. With regard to types of female's properties, some change will do good.

Disqualifications with regard to hermits, the provision about murderers are minor matters, which will not effect the whole system. I welcome this Bill generally. If there are some difficulties in the working of

this Bill, it could be amended. But, one thing must be clear with regard to the definition of heirs. It is a summarised form. It must be very clear. It does not matter if we have some more sections. Otherwise, it will lead to complications. I was referring to the Marumakkathayam Act. We had summarised how rights to property descended. That led to a number of complications. Then, we elaborated the provisions stating one after another in an elaborate way. By simply reading it, the layman can find out how the heirs are to inherit the property. In cases where the owner of the property dies intestate, it will be simpler and easier. Otherwise, it will give more food to the lawyers and there will be more materials for disputes.

Generally I welcome the Bill. I hope the Joint Committee will look into these matters and bring forward a better Hindu Succession Bill.

सरदार अकरपुरी (गुरुदास पुर): मैं इस बिल की मुखालिफ़ करता हूँ। मैं समझता हूँ कि यह बिल हमारी सोशल हालात की जरूरियात के खिलाफ़ है। इस बिल में बन्द बातें ऐसी हैं कि मैं उनमें से किसी को भी दुरुस्त नहीं खयाल करता।

जब मैं इस बिल को देखता हूँ और पंजाब के गरीब किसानों को देखता हूँ तो हैरान होता हूँ कि इस बिल के बनाने वालों ने उन बजुहात पर क्यों गौर नहीं किया जो मुहब्बत और प्यार की बिना पर, पुराने रस्म व रिवाज के मुताबिक़ कायम किये गये हैं। मैं देखता हूँ कि पंजाब में एक एक फैमिली के पास ५, ५, ७, ७ एकड़ तक जमीन है। जिस फैमिली में तीन-तीन चार चार भाई हैं और एक बहन है, उसमें जब तकसीम का वक़्त आयेगा तो एक क के पास एक-एक एकड़ के करीब आयेगा जिसकी कोई कीमत नहीं होगी। जब सड़की अपने ससुराल जायेगी तो उसको अपने पिता की जायदाद में से हिस्सा मिलेगा। एक तरफ़

[सरदार अकरपुरी]

तो यह कहा जाता है कि जमीन की तकसीम को रोकना है, उसके छोटे-छोटे टुकड़े नहीं बनाने देने हैं, और दूसरी तरफ ऐसा किया जा रहा है कि उस जमीन की तकसीम ही नहीं होगी बल्कि भाई के साथ बहन के लड़ाई झगड़े की बुनियाद भी कायम हो जायगी। मैं तो देखता हूँ कि पंजाब में एक रिवाज है बल्कि सच पूछा जाय तो सारे हिन्दुस्तान में है कि जो बहन भाई का प्यार है वह मां और बेटे में भी नहीं है। बहन हर भाई की तकलीफ और मुश्किलों में हिस्सा बटाने वाली और गरीबी भरी में साथ देने वाली होती है। लेकिन इस बिल से उन दोनों में मुकदमेबाजी की जड़ कायम कर दी गई है। मैं तो एक ही नतीजा इससे निकालता हूँ कि चूँकि देहातों में पंचायतें बन गई हैं देहातों के मुकदमात कचहरियों में बहुत कम जायेंगे इसलिये इस बिल के बनाने वाले भाइयों ने वकील साहबान की मदद की है ताकि उनको अदालतों के लिये मुकदमे मिल जायें। भाई बहनों का राजीनामा खत्म करने के लिये यह बिल बनाया गया है।

यह बिल हिन्दू कोड बिल की एक शाख है। अंग्रेज हमारे दर्म्यान् फूट डालने में कारगर नहीं हो सके लेकिन इस हिन्दू कोड बिल की शाख के जरिये उसने मनमें एक ऐसी चिन्मारी फंका दी है कि बहन और भाई के साथ कोई प्यार बाकी नहीं रहेगा, मां का बेटा के साथ कोई प्यार नहीं होगा। पंजाब में हमने बहुत कोशिशों के बाद लड़कियों को मारने का रिवाज खत्म किया था वह रिवाज अब फिर कायम होगा। भाई बहन को मार देगा, मां बेटा को मार देगी। इसलिये आपने जो कहा कि सेलेक्ट कमेटी के मेम्बर इस पर गौर करेंगे, मैं उन मेम्बरों से अर्ज करूँगा कि वह इस बिल के ऊपर सोच विचार करें और इस तरीके पर इस को बनायें जिससे हमारे दर्म्यान् जो मुहब्बत और प्यार का रिश्ता है वह कायम रहे। मैं

तो एक ही बात समझता हूँ कि इस बिल से मुहब्बत और प्यार की जड़ पर कुल्हाड़ा चलाया जा रहा है। इस वास्ते मैं ला मिनिस्टर साहब की सेवा में अर्ज करूँगा कि अंग्रेजों ने यह काम किया है, आप उनकी सक्तीर के फकीर न बनिये। देश की मौजूदा हालात में यह ठीक नहीं है उसको आप सोचें। मैं समझता हूँ कि जो गैर मनकूला जायदाद है उस पर लड़की को यह हक न दिया जाय, मनकूला जायदाद पर दिया जाय, जो पैसा देना है उस पर दिया जाय। यहां हम क्या देखते हैं कि अगर एक आदमी के तीन लड़के हैं और चौथी लड़की है और उसकी जायदाद २० हजार रुपये की है तो ढाई हजार रुपया लड़की के हिस्से में आ गया। जायदाद ऐसी बुरी चीज है कि हो सकता है कि लड़की का तो बाप के साथ था अपने भाई के साथ प्यार भी हो लेकिन जो जमाई आयेगा वह उनके साथ मुकदमेबाजी करेगा। जो बाप की जायदाद २० हजार रुपये की है लेकिन वह कहेगा कि नहीं वह वह तो ३० हजार रुपये की है या ४० हजार रुपये की है। इस तरह से झगड़ा बढ़ जायेगा।

ऐसे गरीब लोग भी हैं जिनके पास एक ट्रक है, लारी है, जिसकी कीमत मान लीजिये १५,००० रुपये की है। वह अपनी लड़की को कहाँ से उस लारी के हिस्से की कीमत दे सकेंगे? पैसा तो वह दे नहीं सकेंगे क्योंकि उसके पास है ही नहीं। बहन कहेगी कि हमारा इतना पैसा है वह दो। नतीजा यह होगा कि उनका लारी का रोजगार जो था जिससे वह अपनी रोटी चलाते थे, वह भी बन्द हो जायेगा, और उनका काम नहीं चलेगा। इन छोटी छोटी बातों को भी देखते हुए मैं कहना चाहता हूँ कि यह जो बिल है वह हमारे मुल्क की हवा के मुताबिक नहीं है, हमारी बिरादरी की हालत के मुताबिक नहीं है इसको बिल्कुल

इसकी मौजूदा सूरत में नहीं पास होना चाहिये। इससे आप एक बड़ा खराब तूफान खड़ा कर देंगे। अगर हम ऐसे सब मेम्बरों से जो कि इस तरह की बातें करते हैं यह कह दें कि इसको पास करो, तो यह पास हो जायेगा, लेकिन मैं यह समझता हूँ कि यह पास करने के काबिल नहीं है, यह हमारे मुल्क में हालात के खिलाफ है।

अभी जो हमारी बहन ने कहा कि लड़की को ससुर की जायदाद में भी हिस्सेदार बनायें। अगर वह चाहें तो ऐसा कर सकती हैं, लेकिन उनको दो जगह हिस्सेदार न बनायें। कहीं ऐसा न हो कि वह बाप की जायदाद में भी हिस्सेदार हो जायें और ससुर की जायदाद में भी हिस्सेदार हो जायें। इस वास्ते मैं अर्ज करूंगा कि आप इस बिल को पास करने का नतीजा अच्छी तरह सोच लें, तब पास करें। इसके खिलाफ मुल्क में बड़ी हवा है और इस मुस्लाफि हवा के होते हुए इसको पास कर देना मुल्क के नुकसान में होगा, फायदे में नहीं होगा।

श्री चित्तारिथा (महेन्द्रगढ़) : मैं इस बात के विरुद्ध तो नहीं हूँ कि बहनों को जायदाद में हक न हो। उन्हें हक जरूर होना चाहिये और जमाना यह बताता है कि हर वक्त होना चाहिये लेकिन जिस तरह यह हक दिया जा रहा है इस बिल में, मैं उसके बिल्कुल विरुद्ध हूँ। इससे सिवा इसके कि समाज में फस्टेशन आयें, गड़-बड़ी आयें, और कोई मरसद पूरा नहीं हो सकता कोई सामाजिक सुधार का काम तब बनता है जब उसकी मांग हो : मुझे नहीं दिखता कि इसकी मांग देश के अन्दर है। खैर मांग न सही जरूरत तो हो, लेकिन मुझे जरूरत भी नहीं दिखाई देती। यहां बहुत सी दलीलें दी गई हैं, मैं उन सबके हक में हूँ, लेकिन उनको दोहराना नहीं चाहता।

मैं इसके बारे में एक दो बातें बता देना चाहता हूँ। इससे बहनों को कोई फायदा

होना नहीं है। जायंट फ़ैमिली रहे या न रहे, इसकी मुझे परवाह नहीं है। यह बिल शास्त्रों के अनुसार चलता है या विरोधी है, इसकी भी मुझे कोई परवाह नहीं है। लेकिन हमें सोचना चाहिए कि हम जो प्लानिंग कर रहे हैं, देश में उन्नति कर रहे हैं, और प्रयत्न कर रहे हैं कि देश की उपज बढ़ाई जाय उसमें यह हमारा कार्य कितना मददगार साबित होगा। सबसे पहले मैं अपने दोस्त मालवीय जी को मुबारकबाद देता हूँ और साथ ही अपनी बहनों को भी मुबारकबाद देता हूँ कि उनका पक्ष लेने वाले मौजूद हैं और मुझे उम्मीद है कि अगले इलैक्शन में बहिर्न जरूर उनको ही वोट देंगी खैर, यह तो एक जुमला मोतर्जा था।

एक तरफ तो हम चाहते हैं कि जमीन टिलर आफ दि स्वाइल के पास जाय, ताकि वह ज्यादा काम करे और उपज बढ़ाए और साथ ही हम यह भी चाहते हैं कि हम भिन्न भिन्न टुकड़ों में बंटी हुई भूमि को एक टुकड़े में कर दें—उनको कान्सालिडेट कर दें, ताकि वहां ज्यादा अच्छी तरह से काम हो सके। लेकिन यह बिल दोनों बातों के खिलाफ है : एक गांव में मील घाघा मील के फ़र्क से टुकड़े होते हैं, लेकिन इसके बाद लड़की का हक होने से पांच सौ या एक हजार मील पर बें टुकड़े हो जायेंगे। तो क्या अब उन टुकड़ों को वहां से उठा कर कान्सालिडेशन किया जायगा या दो टुकड़े कर के दोनों जगह काश्त करायेंगे ? इस तरह उपज बढ़ेगी नहीं, बल्कि वह घटेगी।

सिर्फ यही बात नहीं है। मैं आपको एक छोटी सी मिसाल देता हूँ। हमारे दोस्त कहते हैं कि हम देहात में फिरते हैं। लेकिन अगर वे बाकई फिरते होते, तो यह न कहते कि इससे देहात में खराबी नहीं होगी। हमारे गांव में एक एक दो दो घर ऐसे होते हैं, जिनके यहां श्रीलाद नहीं होती और बें अपनी सड़की और जमाई को अपने घर बिठा देते हैं। आज

[श्री चिन्तारिया]

नहीं बल्कि दस दस पुस्तें हो गईं, अगर झगड़ा चलता है, तो उस घर के साथ तमाम गांव का विरोध चलता है और पुस्तों चलता रहता है और आज जबकि इस कानून के जरिये घर घर में जमाई बिठाए जा रहे हैं घर घर में लड़ाई झगड़ा होगा। जिन लोगों को देहात की हालत मालूम है वे महसूस करेंगे कि इस बिल को किसी हालत में पास करना ठीक न होगा। लेकिन जिन्होंने हमारे देहात की हालत नहीं देखनी है सिर्फ यह देखना है कि बाहर की दुनिया—पश्चिमी मगरबी दुनिया—हम को प्राप्ति के बंधन में तो बंधक इस कानून को पास कर लें—लेकिन मुल्क में इस की कोई जरूरत नहीं है, मुल्क कभी इस की तारीफ नहीं करेगा। हम तो उसी काम को प्राप्ति के बंधन में जिससे देश की कोई जरूरत पूरी हो। जो मुल्क को झगड़े तकरीक गलती बुराई और लोगों की आमदनी कम करने की तरफ ले जाता है, वह रेडिफाइड स्टेप ही कहलायगा, प्राप्ति के बंधन में नहीं यह मेरा ख्याल है।

यह देश गरीबों का है। इस में ६५ प्रतिशत लोग गरीब हैं। फिर भी यहां पर गरीब से गरीब बाप अपनी लड़की के लिए अपनी हैसियत से ज्यादा करने की कोशिश करता है। उसके बच्चे चाहे गुदड़ी में सोते हों, लेकिन शादी के वक्त वह अपनी लड़की को रेशमी रजाई और रेशमी बिस्तर देता है। बच्चे चाहे टूटी खटिया पर सोते हों लेकिन लड़की को वह निवारी पलंग देता है। घर में चाहे वह मिट्टी के बर्तनों में खाना खाता हो लेकिन लड़की को वह पीतल और चांदी का सैट देता है। घर की बहू चाहे फटी साड़ी में लिपटी हो बच्चे चाहे पुराने कपड़े पहने हों, लेकिन लड़की को वह पांच दस जोड़े दे ही देता है। जिन लोगों की जमीन है—दो चार एकड़ जमीन है वे जमीन की आमदनी से—जमीन की कीमत से भी इतना कर्ज लेकर लड़की को देते हैं कि बेटे पुस्तों तक उतार नहीं सकते।

फिर भी हमारे दोस्त कहते हैं, हमारी बहनें कहती हैं कि स्त्रियों को कोई हक नहीं है। आज आप उन्हें उनके असली हक से वंचित कर रहे हैं। चार पांच ऐसे लोग होंगे, जो मालदार होंगे और लड़की को पूरा हक नहीं देते होंगे, लेकिन ६५ फीसदी गरीब आदमी अपने अपने सारे लड़कों के होते हुए अपनी लड़की के लिए अपना सर्वस्व निछावर कर देते हैं। ऐसा होते हुए भी अगर हमारी बहनें और उनके पक्षपाती कहें कि उनको कुछ नहीं दिया जाता है और वे ऐसी बुरी हालत में हों तो मुझे ताज्जुब होता है और ख्याल आता है कि या तो वे यहां की हालत की तरफ आंखें बन्द किए हुए हैं या खोले नो हुए हैं लेकिन कुछ देखना नहीं चाहते हैं। मैं मंत्री महोदय और गवर्नमेंट से कहूंगा कि वे इस बिल को सिलेक्ट कमेटी को न भेजें, बल्कि इस को वापिस ले लें। यहां पर कोई प्रेस्टीज का सवाल नहीं है और न ही होना चाहिए मुल्क की जरूरत, पार्टी की जरूरत और तमाम जरूरतों को देख कर ही काम करना चाहिए।

साथ ही मैं यह भी अर्ज करूंगा कि अगर हम से पार्टी लाइन पर वोट दिलाया गया, तो वह हमारी कान्फिडेंस के खिलाफ होगा, हमारी कांस्टीच्युशन के खिलाफ होगा, डेमोक्रेसी के खिलाफ होगा। इस लिए आप सोच समझ कर व्हिप इशू करें और हम को आजादी-ए-राय का हक दें। अगर आप पार्टी के सलाह और मशविरों से काम करना चाहते हैं, तो इस को वापिस ले लें। बस मुझे इतना ही कहना है।

श्री के० आर० शर्मा (जिला मेरठ-पश्चिम) : यह अजीब किस्म का बिल हमारे सामने पेश किया गया है। इस बिल के जरिये हमारे ला मिनिस्टर साहब एक बहुत अच्छा काम बहुत गलत तरीके से करने जा रहे हैं। मेरे ख्याल से जिस हालत में यह बिल है, मैं

उसका किसी तरीके से समर्थन नहीं कर सकता ।
यह कहने से मेरा मतलब यह नहीं है कि मैं
लड़कियों और स्त्रियों को.....

4-58 P.M.

Shri Chinaria fainted in his seat.

Mr. Chairman: What has happened?

An Hon. Member: Shri Chinaria has fainted and is collapsing.

Mr. Chairman: The House now stands adjourned for a few minutes.

The Lok Sabha then adjourned.

The Lok Sabha re-assembled at a Quarter to Six of the Clock.

[Mr. DEPUTY-SPEAKER in the Chair.]

DEATH OF SHRI CHINARIA

The Prime Minister and Minister of External Affairs (Shri Jawaharlal Nehru): Mr. Deputy-Speaker, we have all been witnesses to a tragedy in this House. A Member whom we all have known well and who has often taken part in our proceedings here and elsewhere, soon after finishing his speech collapsed. The Chairman at that time adjourned the meeting of the House for a few minutes hoping that this was a temporary collapse and that he would recover or at any rate that he would go to rest and recover. The period lengthened and he did not recover. And now it appears to be certain according to the opinions of doctors who examined him that there is going to be no other recovery.

It is a sad thing when any of our Members of this House or any of our colleagues dies anywhere and it is usual for the House to express its

regret and sorrow in various ways. But it is a much sadder thing when such a death should occur actually in the precincts of this House in the discharge of the duties of the Member. We have been witnesses to this very sad occurrence and all of us are obviously greatly moved by it—not only by the loss of the comrade and colleague but by the circumstances in which this has taken place almost before our eyes. We have to express our deep sorrow at this and to convey this sorrow to the Members of his family.

It is obvious, Sir, that in these circumstances, it would be improper for the House to continue any business and I therefore ask you to adjourn the House.

Mr. Deputy-Speaker: I fully associate myself with all the sentiments expressed by the Leader of the House and I am sure every one of you will equally associate yourself with these sentiments. Shri Chinaria died practically in harness. As soon as he concluded his speech he sat down and was no more. A more sad incident could never have occurred. There was only one previous incident a number of years back. It is very sad and I hope in token of his memory all of you will kindly stand in your seats.

The Lok Sabha then stood in silence for a minute.

Mr. Deputy-Speaker: As a mark of respect the House will now adjourn. It is the last day of the Session and the House will stand adjourned sine die.

The Lok Sabha then adjourned sine die.