

Thursday
24th February, 1949

THE CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE) DEBATES

(PART I—QUESTIONS AND ANSWERS)

Official Report

Volume I, 1949

(18th February to 17th March, 1949)

Fourth Session
OF THE
CONSTITUENT ASSEMBLY OF INDIA
(LEGISLATIVE)
1949

Chamber Fumigated 18/10/23



CONTENTS

Volume II—18th February to 17th March, 1949

	Pages
FRIDAY, 18TH FEBRUARY, 1949—	
Starred Questions and Answers	806—51
Unstarred Questions and Answers	851—60
MONDAY, 21ST FEBRUARY, 1949—	
Starred Questions and Answers	861—96
TUESDAY, 22ND FEBRUARY, 1949—	
Starred Questions and Answers	897—022
Unstarred Questions and Answers	933—35
Short Notice Question and Answer	985—36
WEDNESDAY, 23RD FEBRUARY, 1949—	
Starred Questions and Answers	937—1060
Unstarred Question	1000
Short Notice Question and Answer	1000—1001
THURSDAY, 24TH FEBRUARY, 1949—	
Starred Questions and Answers	1003—27
Postponed Starred Questions and Answers	1027—29
Unstarred Questions and Answers	1029—30
FRIDAY, 26TH FEBRUARY, 1949—	
Use of the word "Gentlemen" while announcing the speaker to the House	1031
Starred Questions and Answers	1031—68
Unstarred Questions and Answers	1068
Short Notice Question and Answer	1069
MONDAY, 28TH FEBRUARY, 1949—	
Declaration by Members	1071
Starred Questions and Answers	1071—1106
Unstarred Questions and Answers	1107—09
Short Notice Questions and Answers	1109—14
TUESDAY, 1st MARCH, 1949—	
Starred Questions and Answers	1115—47
Unstarred Questions and Answers	1147—64
Short Notice Question and Answer	1154—56
WEDNESDAY, 3RD MARCH, 1949—	
Starred Questions and Answers	1157—91
Unstarred Questions and Answers	1192—94
Transferred Starred Questions and Answers	1194—1225
Transferred Unstarred Questions and Answers	1225—42
FRIDAY, 4TH MARCH, 1949—	
Starred Questions and Answers	1243—80
Unstarred Questions and Answers	1281—85
MONDAY, 7TH MARCH, 1949—	
Starred Questions and Answers	1297—1317
Unstarred Questions and Answers	1317—19
TUESDAY, 8TH MARCH, 1949—	
Starred Questions and Answers	1321—69
Unstarred Questions and Answers	1369—76

CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE)
DEBATES

(PART I—QUESTIONS AND ANSWERS)

Thursday, the 24th February, 1949.

The Assembly met in the Assembly Chamber of the Council House at a Quarter to Eleven of the Clock, Mr. Deputy Speaker (Shri M. Ananthasayanam Ayyangar) in the Chair.

STARRED QUESTIONS AND ANSWERS

ORAL ANSWERS

DEDUCTION OF SUBSCRIPTIONS TO TRADE UNIONS DIRECTLY FROM SALARIES
OF EMPLOYEES

*652. **Shri E. K. Sidhva:** Will the Honourable Minister of Labour be pleased to state the names of companies, corporations and concerns which deduct subscriptions to the Unions registered and recognised under the Trade Union Act directly from the salaries of the employees and pass the amounts on to the Union authorities?

The Honourable Shri Jagjivan Ram: We have no information. Under the Payment of Wages Act the employers cannot deduct such subscriptions from the wages of the employees.

Shri E. K. Sidhva: May I know if such a system prevails in the Labour Unions in England?

The Honourable Shri Jagjivan Ram: I doubt very much.

Shri E. K. Sidhva: Are the Government opposed to the subscriptions being deducted from the salaries of the members of the Unions?

The Honourable Shri Jagjivan Ram: Vehemently.

MIGRATION OF NON-MUSLIMS FROM SIND

*653. **Shri E. K. Sidhva:** (a) Will the Honourable Minister of Relief and Rehabilitation be pleased to state the number of non-Muslims still remaining in Sind and whether they desire to come to India?

(b) What arrangement has been made for their transport to India?

(c) At what places are they mostly living?

(d) How many refugees have migrated during the year 1948?

(e) What is the transport facility existing at present for their migration?

The Honourable Shri Mohan Lal Saxena: (a) to (c). There are about 2.5 lakh non-Muslims still remaining in Sind, mostly in the Upper Sind, Hyderabad and Tharparkar districts. It is understood that a substantial proportion of them desire to evacuate to India. Evacuation is at present possible only by sea and arrangements are made from time to time for the necessary shipping to carry the displaced persons from Karachi to Indian ports. I may inform the

House that the Government of India have decided not to use the word 'refugees'; and in its place to use the words 'displaced persons' or *Sharanarthi*.

(d) About seven Lakhs.

(e) Normal railway transport to reach Karachi from where they are evacuated to India by sea.

Shri E. K. Sidhva: May I know whether representation has been made by these displaced persons that they would like to go to Cutch from the Mirpur side, which the Honourable Minister has referred to and required certain arrangements to be made, and may I know whether the Government contemplate considering this question favourably?

The Honourable Shri Mohan Lal Saksena: As a matter of fact, the Government have been considering this question. Because of the water famine, it is not possible and it is not thought desirable to evacuate them to Cutch.

Shri H. V. Kamath: Is it a fact that many of them are desirous of leaving Pakistan for India and the Pakistan Government is standing in their way and they are being kept there under duress more or less?

The Honourable Shri Mohan Lal Saksena: It is not correct to say so. Most of them, who want to evacuate, own cattle. The Pakistan Government has prohibited cattle being taken out, and that may act as a force standing in their way. That is the only consideration. There is no other law by which they are prohibited.

Shri E. K. Sidhva: If they migrate, will their cattle which is their only wealth be allowed to be taken?

The Honourable Shri Mohan Lal Saksena: As a matter of fact, under the present conditions, the Pakistan Government is prohibiting the export of any cattle.

Shri Ajit Prasad Jain: May I know whether the Hindus remaining in Sind are of the poorest section of society, mostly Harijans, who deserve much larger assistance than what is being provided by the Government of India?

The Honourable Shri Mohan Lal Saksena: It is true most of these persons are Harijans. It is not correct to say that they want to come out and they are not given assistance. If they want to come out without the cattle, they can be taken out.

Shri Raj Bahadur: Is it a fact that a large number of Hindus left behind in Sind are being forcibly converted to Islam?

The Honourable Shri Mohan Lal Saksena: It is not so. My submission is that about 400 persons have been converted and from enquiries made, I think, that is the normal conversion.

Shri H. V. Kamath: How many of them?

The Honourable Shri Mohan Lal Saksena: 458.

Sardar Hukam Singh: We have been told that the Pakistan Government is prohibiting the Hindus remaining in Sind from taking out their cattle. May I know what is the policy of our Government regarding this: whether our Government will allow Muslims to take away their cattle?

The Honourable Shri Mohan Lal Saksena: No Muslims are going out with their cattle.

Shri H. V. Kamath: How many of the two and a half lakhs are urban people and how many rural?

The Honourable Shri Mohan Lal Saksena: About one lakh are urban and about one and a half rural.

Sardar Hukam Singh: My question has not been answered. I enquired what was the policy of our Government if the Muslims wanted to go to Pakistan with their cattle.

The Honourable Shri Mohan Lal Saksena: Is it not a hypothetical question, Sir?

Mr. Deputy Speaker: That is a hypothetical question.

Shri E. K. Sidhva: What is the intention of our Government, as the Government of Pakistan is not making it convenient for them to bring their cattle?

The Honourable Shri Mohan Lal Saksena: As a matter of fact, we can negotiate with the Pakistan Government. Their contention is this: a large number of cattle have been slaughtered and therefore on account of shortage of cattle, they are not allowing cattle to be taken out.

Shri Kishorimohan Tripathi: Were the 453 persons converted by force?

The Honourable Shri Mohan Lal Saksena: I have no information.

Babu Ramnarayan Singh: With regard to this matter of conversion, will the Honourable Minister enquire what was the reason, what was the occasion of this conversion at this moment.

The Honourable Shri Mohan Lal Saksena: As a matter of fact, it is not possible to make enquiries like that. But we gather from the reports and we have been informed by the High Commissioner there, that in a large number of cases, the conversion has not been forcible.

Seth Govind Das: Has our High Commissioner there got some figures of the conversion before partition and after partition? The Honourable Minister said that it is normal conversion. How do we know that that is normal conversion?

The Honourable Shri Mohan Lal Saksena: That is an impression.

Shri Raj Bahadur: Is it a fact that directly or indirectly restrictions are placed on Hindus in the practice and profession of their religion?

Mr. Deputy Speaker: That does not arise from this question. Next question.

ANNUAL MEETINGS OF CENTRAL BOARD OF IRRIGATION

*654. **Shri E. K. Sidhva:** (a) Will the Honourable Minister of Works, Mines and Power be pleased to state whether the annual meeting of the Central Board of Irrigation was held at Delhi in 1947 and also in 1948?

(b) What were the proposals discussed in the 1947 conference and how many of them were executed?

(c) Are these conferences of engineers from all over India convened only to exchange views on various irrigation problems or for specific purposes?

(d) What is the cumulative result of such meetings?

The Honourable Shri N. V. Gadgil: (a) Yes.

(b) and (c). The Central Board of Irrigation is not entrusted with the execution of works. The Board comprises Chief Engineers Irrigation and Hydro-electric from all over India and they meet once a year to discuss the results of research carried out in the Central and Provincial Irrigation Research Stations and other developments in technique that have taken place during the year. They also lay down the research programme for the following year. The recommendations of the Board are purely advisory.

(d) The cumulative result of these meetings has been the extensive development in India of research connected with irrigation and river control problems and a general development in the technique connected with irrigation

engineering. The personal contacts established by these meetings which have been a regular feature for the last nineteen years have brought together irrigation engineers from different parts of the country and it is often that problems that arise in one part of the country are solved as a result of the experience already gained on similar problems in other parts of the country.

Shri R. K. Sidhva: May I know whether the Central Board of Irrigation has recommended that factories be set up for the manufacture of power plants in India, so that their production may be stepped up by not later than 1951? If that is so, what steps have been taken and whether the target of 1951 will be fulfilled?

The Honourable Shri N. V. Gadgil: That is one of the recommendations which is being considered.

Shri R. K. Sidhva: The point is whether the target will be borne in mind. I want to know whether by 1951 it will be completed.

The Honourable Shri N. V. Gadgil: It will be borne in mind; but whether it will be possible is another question.

Shri R. K. Sidhva: I want to know whether the Government consider this a serious matter and whether the Government have taken any steps. That is the question.

The Honourable Shri N. V. Gadgil: I have already replied: The Government is considering.

Shri R. K. Sidhva: With what results? When the Government themselves consider the position serious, I want to know what steps have been taken, when this recommendation was made last year.

Mr. Deputy Speaker: The Honourable Minister has already said that all possible steps are being taken. Next question.

INDIAN NATIONALS IN WAR ZONE IN CHINA

*555. **Shri R. K. Sidhva:** (a) Will the Honourable the Prime Minister be pleased to state the number of Indian nationals in the fighting area in China?

(b) How many are in Shanghai, Hongkong, Nanking and Canton?

(c) Are our nationals affected in any way on account of the war in China?

(d) Have Government made sufficient arrangements for their safety and evacuation, if necessary, in the event of emergency?

(e) If so, what are the details of the arrangements made?

Dr. B. V. Keshkar (Deputy Minister for External Affairs and Commonwealth Relations): (a) The number of Indian Nationals in areas where there have been fighting are as follows:

	Peiping	18
	Tientsin	42
	Tsingtao	53
(b)	Shanghai	592
	Hongkong	2,500
	Nanking	98
	Canton	12

(c) Our nationals have not suffered any special disabilities but inevitably some of the consequences of the war affect them also.

(d) and (e). The question was answered by the Prime Minister on the 8th of this month in reply to a short notice question by Shri H. V. Kamath.

Shri H. V. Kamath: Have any Indians lost their lives in these riots and disturbances that have swept over large tracts of China recently?

Dr. B. V. Keshkar: Not to our knowledge.

METAL DEPOSITS IN STATES

4655. **Seth Govind Das:** (a) Will the Honourable Minister of Works, Mines and Power be pleased to state whether the attention of Government has been drawn to a letter to the Editor in the *Hindustan Times* dated 6th December, 1948 regarding precious and rare metal deposits in various states?

(b) If so, what is the information of the Geological Department on such deposits?

(c) Do Government propose to instruct the Geological Department to conduct inquiries and undertake a preliminary survey of such States?

The Honourable Shri N. V. Gadgil: (a) Yes.

(b) A list of the published and unpublished reports of the Geological Survey of India containing the geological information on the deposits referred to is laid on the table.

(c) The Geological Survey of India is conducting investigations systematically all over India, including the States referred to in the letter. In the current Field Programme (1948-49), the Department is taking up the following investigations in the States referred to:

- (i) Daribo Copper Mines, Alwar.
- (ii) Investigation of Limestone deposits in Kotah State (and in Jhalawar State) for cement making.
- (iii) Investigations for oil, limestone and salt in Kangra District, Mandi and Suket States.
- (iv) Examination of lead-zinc-silver mines at Zawar, Udaipur State.

STATEMENT

List of Published and Unpublished Reports

1. *Alwar State.*—(a) Manganiferous iron-ore in Alwar State. Mem. Geological Survey of India, Vol. XXXVII, p. 1157.

(b) Barytes, Alwar State. Rec. G.S.I., Vol. LIV, p. 236.

(c) Marble, production—1924-26, Rec. G.S.I., Vol. LXIV, p. 408.

(d) Slate, production—1924-26, Rec. G.S.I., Vol. LXIV, p. 430.

(e) Barytes, production—1924-26, Rec. G.S.I., Vol. LXIV, p. 365.

(f) Report on Daribo Copper Mines, Alwar State, by Dr. H. Crookshank (unpublished).

(g) Recent visit to Daribo Copper Mines, Alwar, by Dr. H. Crookshank (unpublished).

(h) A short note on his recent visit to Daribo Copper Mines, Alwar, by Dr. H. Crookshank (unpublished).

2. *Bijawar State.*—Steatite, Bijawar State, production for 1924-26, Rec. G.S.I., Vol. LXIV, p. 439.

3. *Orchha State.*—(a) Barytes, Orchha State, Rec. G.S.I., Vol. LX, p. 431.

(b) Barytes, production for 1924-26, Rec. G.S.I., Vol. LXIV, p. 396.

4. *Suket State.*—Preliminary note on coal in Duhar, Suket State, and the proposed mineral survey of the State, by Dr. Sahni (unpublished).

5. *Udaipur State.*—(a) Copper ore, Rec. G.S.I., Vol. LX, p. 28.

(b) Garnet, production for 1929-33, Rec. G.S.I., Vol. XLVI, p. 271.

(c) Iron ore, Rec. G.S.I., Vol. LXV, p. 61.

- (d) Lead ore, Rec. G.S.I., Vol. LXV, p. 66.
 (e) Marble, Rec. G.S.I., Vol. LXII, p. 32.
 (f) Steatite, Rec. G.S.I., Vol. LXV, p. 67.
 (g) Zinc mines, Zawar, Rec. G.S.I., Vol. LXIII, p. 79.
 (h) Report on the lead-zinc mines at Zawar, by J. E. Auden (unpublished).
 (i) Report on ancient lead-zinc ore mines near Zawar by V. Hodgson (unpublished).
 (j) Report on the mineral Resources of Udaipur State, by H. Nandi (unpublished).
 (k) Note on Zawar zinc-lead mine, Udaipur State, by E. L. G. Clegg and P. Cowen (unpublished).
 (l) A short note on his visit to Zawar mines by Dr. Crookshank (unpublished).

Seth Govind Das: Are Government aware that as far as Vindhya Pradesh is concerned, and as far as Bastar State is concerned which has just been merged in the Central Provinces, there are big deposits, and that in Bastar State there are oil deposits too? Are Government making any particular efforts to have investigations made in Vindhya Pradesh and Bastar State?

The Honourable Shri N. V. Gadgil: So far as these areas are concerned, they will be taken up for investigation in due course.

Seth Govind Das: When will be the "due course" because the Honourable Minister has just given information about certain States which are now under investigation? When will these particular areas be taken in hand?

The Honourable Shri N. V. Gadgil: I cannot say just now. It may be possible within a period of five years.

Shri H. V. Kamath: Is it a fact that in some of these States the Rulers, before accession, merger or integration, converted some of these precious and rare metal deposits into private property?

The Honourable Shri N. V. Gadgil: I require notice of that.

Shri E. K. Sidhva: What is the number of Geologists in the Government of India?

The Honourable Shri N. V. Gadgil: There are 120.

Shri Raj Bahadur: Is the Honourable Minister aware that substantial deposits of mica and copper ore are obtainable in Bharatpur State?

The Honourable Shri N. V. Gadgil: It may be so. I cannot say.

Shri E. K. Sidhva: Would Government consider this number of 120 sufficient for survey purposes?

The Honourable Shri N. V. Gadgil: As a matter of fact an extension programme has been put up before the Government and it is being considered.

ENFORCEMENT OF PROVISIONS OF ELECTRICITY SUPPLY ACT.

†657. **Shri V. C. Kesava Rao:** (a) Will the Honourable Minister of Works, Mines and Power be pleased to state what action Government have taken to enforce the provisions of the Electricity Supply Act. 1948?

(b) What progress has been made by the Provincial Governments in the regulation of rates and acquisition of power houses?

† Answer to this question laid on the table, the questioner being absent.

The Honourable Shri N. V. Gadgil: (a) In October 1948, the Provincial Governments were requested to take immediate action to implement the provisions of sections 1, 3, 4, 57, 58 and 77, the VI Schedule and the Table appended to the VII Schedule of the Electricity (Supply) Act, 1948, which came into force from 10th September 1948. In addition, the Government of India are actively considering the question of the constitution of the Central Electricity Authority under section 3 of the Act.

(b) The financial provisions of the Electricity (Supply) Act, 1948, which govern private undertakings, come into force only from the commencement of the accounting year of the Licensee following the passing of the Act. Consequently, Provincial Governments will not be in a position to take steps to regulate the rates of private undertakings till a period of one year is over following the application of the Act.

The Act does not empower Provincial Governments to acquire Power Houses except under certain conditions.

NATIONAL MEMORIAL TO MAHATMA GANDHI AT RAJGHAT

*658. **Pandit Mukut Bihari Lal Bhargava:** (a) Will the Honourable Minister of Works, Mines and Power be pleased to state whether Government of India have taken any decision to erect a suitable National Memorial to Mahatma Gandhi, Father of the Nation, at Rajghat, the place where his remains were cremated?

(b) If so, has any scheme been evolved, and if not do Government propose to consider the advisability of taking suitable action in the matter?

The Honourable Shri N. V. Gadgil: (a) Yes. It has been decided to lay out a park and erect a memorial on the site at Rajghat where Mahatma Gandhi's body was cremated.

(b) Government have recently sanctioned a scheme costing Rs. 4,55,000 for protecting an area of about 12 acres at Rajghat against inundation by means of bunds. The area so enclosed will be raised by 3' by earth filling. Two terraces will be made inside the plot by raising the central 2 acres by another 4' and the inner-most 1/5th acre by a further 3'. The terraces so formed will be grassed and hedges and shrubs grown around them. Flowers and trees will also be planted. The platform for the *Samadhi* will be surfaced with marble with a railing all round and 20' away from it. Water supply and staff quarters will also be provided.

The form of the memorial itself has not yet been decided.

Seth Govind Das: Have the Government received various designs of the memorial and has any of them been approved so far?

The Honourable Shri N. V. Gadgil: Various designs are still with the Government of India and invitations will be issued for many more designs.

Seth Govind Das: By what time is it expected that this work will begin?

The Honourable Shri N. V. Gadgil: It will take some time. I cannot give any idea because we want to have the best possible memorial. Naturally it will entail some time.

Shri L. Krishnaswami Bharathi: What will be the estimated cost of raising the area so enclosed by 3' by earth filling?

The Honourable Shri N. V. Gadgil: I have already said Rs. 4,55,000.

Shri H. V. Kamath: In view of the fact that Mahatma Gandhi devoted his whole life to the service of *Devidra Narayan*, will this national park be

open to the poorest, the lowliest and the lost, freely, and without let or hindrance?

The Honourable Shri N. V. Gadgil: Obviously!

The Honourable Shri Jawaharlal Nehru: May I say a word or two about this matter of the memorial at Rajghat? Some of us are of the opinion that it would be far more fitting that this memorial should be as little of a memorial as possible—of the usual type of memorials. What I mean is that it should retain the simplicity and ruggedness that exists there today, and not be converted into a pleasure garden with marble and the rest of it. What exactly the final form should be is a matter for very careful consideration. But there is that to be considered; whether it should retain its present form subject to certain changes or whether we should put up something ornate. For my part I am entirely against ornateness.

Seth Govind Das: Are Government considering putting the kind of exhibition which is now being shown as the Gandhi Mandap Exhibition on a permanent basis?

The Honourable Shri Jawaharlal Nehru: As regards a real exhibition of all things pertaining to Gandhiji, I suppose the Gandhi Memorial Fund will consider that matter. It may have to be a big exhibition but our little experience of the present small exhibition has led us to certain conclusions. First of all, that the way this exhibition has been organised—I mean to say the structure that has been built and the internal organisation—has been so good and so much in keeping with, if I may say so, Gandhiji's own idea on the subject, that we should like to give some permanent habitation to it. We cannot keep this present structure there, partly because it is on low-lying ground and partly because it is not strong enough to resist rain and tempests, etc. It was built hurriedly. It is a very beautiful structure but it is very weak and cannot withstand any strong winds. So the idea is that that structure should be removed to a place just across the road not far from it on the higher ground, and erected in a more permanent way, but having the same external appearance as it has got now, but more permanent.

* **Shri H. V. Kamath:** In view of the educative and edifying value of the Gandhi Mandap Exhibition, is it proposed to make it a moving one and take it around the country?

EFFORTS BY HIGH COMMISSIONER FOR INDIA IN LONDON FOR SECURING LODGING FOR INDIAN STUDENTS

*659. **Pandit Mukut Bihari Lal Bhargava:** Will the Honourable the Prime Minister be pleased to state what has been or is being done by the High Commissioner for India in London, to get lodging for Indian students in boarding houses and hostels?

Dr. B. V. Keshkar (Deputy Minister for External Affairs and Commonwealth Relations): The High Commissioner for India in London affords every possible assistance in arranging accommodation for Indian students in the United Kingdom. A Welfare Officer has been specially appointed in his office for this purpose. Hostels have been started for Indian students in London and Edinburgh and it is proposed to establish another hostel in London to serve as a Reception and Transit Camp. A hostel for Indian women students has also been taken over on lease.

Shri H. V. Kamath: Have any instances come recently to the notice of Government where Indian students have been refused admission into British boarding houses by landladies there?

Dr. B. V. Keshkar: I am not aware of any.

Mr. Frank Anthony: Are there any cases of students going abroad for further studies without having secured reservations in institutions and colleges?

Dr. B. V. Keskar: Yes, there have been many such cases and probably this is one of the reasons why we have to cope with these difficulties and there are complaints that students do not receive admission. Generally it happens that students go without making prior arrangements or writing to the High Commissioner's Office and afterwards they complain that they have not got admission in the institution they wanted to join.

Shri H. V. Kamath: Is not the Minister aware of any homes which are open to Whites and closed to coloured peoples?

Mr. Deputy Speaker: It does not arise out of this question.

Shri H. V. Kamath: It does in connection with boarding houses.

Shri Ajit Prasad Jain: May I know whether there are any Indian students in London without any accommodation or with inadequate accommodation and if so, what is their number?

Dr. B. V. Keskar: London at present is a very crowded place and it is possible that not only Indian students but other Indians also like the British people suffer for want of accommodation.

Pandit Hirday Nath Kunzru: Is it a fact that when some students succeeded in gaining admission to a university or college through their own efforts, the Indian Embassy asks the institution concerned why they granted admission without previous reference to them?

Dr. B. V. Keskar: We do not know of any such instance. If it is brought to our notice we will look into it.

PROVISION FOR WORKERS' QUARTERS IN CONSTRUCTION OF NEW FACTORIES

†460. **Prof. N. G. Banga:** (a) Will the Honourable Minister of Labour be pleased to state whether it is the policy of Government to insist upon the construction of workers' houses or quarters with the necessary sanitary and other public conveniences as a condition to be fulfilled simultaneously with the construction of new factories?

(b) How many new factories have been constructed and licensed since 1945?

(c) How many of them are provided with the complement of workers' quarters?

(d) What progress has so far been made in general, in the implementation of Government's policy in ensuring construction of workers' houses wherever new factories are constructed?

The Honourable Shri Jagtvan Barn: (a) Not at present.

(b) There is no provision in the Factories Act, 1934 for the licensing of factories but the information collected from the annual Provincial reports on the working of the Act, shows that the numbers of factories brought on the registers during the years 1945, 1946 and 1947 were 1387, 1468, and 1588 respectively.

(c) We have no information.

(d) Government are preparing a scheme for the construction of industrial housing, the details of which will be announced after they have been fully worked out.

† Answer to this question laid on the table, the questioner being absent.

EVACUEE'S PROPERTY IN INDIA AND PAKISTAN

† 881. **Shri M. Ananthamayan Ayyangar:** (a) Will the Honourable Minister of Relief and Rehabilitation be pleased to state what is the total extent of property left by non-Muslims in Pakistan who have migrated to India?

(b) What arrangements have been made to manage that property or to dispose it of?

(c) What is the corresponding extent of property left behind by Muslims who migrated to Pakistan from India?

The Honourable Shri Mohan Lal Saxena: (a) The information is not available.

(b) Both the Dominions have appointed Custodians of Evacuee Property to look after the interests of evacuee owners. Evacuee Property, both movable and immovable, situated within the jurisdiction of a Custodian vests in him for the purposes of management.

At the Inter-Dominion Conference held in Karachi in January, 1949 both the Governments have agreed to: (i) allow sales and exchanges of urban immovable property belonging to evacuees, and (ii) the restoration of movable property in all cases where the property has not been requisitioned or acquired for a public purpose, or the export of which has not been banned under the general orders of the Dominion Government. For any property which is acquired or requisitioned for a public purpose, the evacuee owners are entitled to the payment of fair compensation. When export is forbidden the property has to be sold inside the Dominion concerned.

As regards Eastern Pakistan, Evacuee Property Management Boards are to be set up in Districts or areas from where a substantial exodus has taken place. These Boards will assume management of properties only on the definite request of the owners. Their functions will be of a managerial character.

(c) A statement giving the information so far received is laid on the table of the House.

STATEMENT

Extent of Property left behind by Muslims who have migrated to Pakistan from India

East Punjab	Houses—1,10,732, Shops—17,542, Factories—1,495. 43 Lakhs acres of land.
Bihar	Houses—958 and 1,214 bighas of land.
U.P.	Houses and Shops—3,966, Factory—1, Land 14,221 Acres and one tea estate.
Orissa	3 Motor vehicles, 2 Rice Mills.
Assam	Nil.
O.P.	406 Houses.
Madras	Nil
Bombay	} Information is being collected.
West Bengal	
Delhi	
Ajmer	Houses—26,000, Agricultural lands—17,800 acres. Buildings—43,000, Industrial concerns—41, Agricultural land—4,800 bighas.
Patiala	Agricultural land 7,10,038 acres. Houses—50,786 (Rural areas) Houses—30,431 (Urban areas) Shops—2,881 (Urban areas). 4.2 lakhs acres of land.
Alwar	Property worth Rs. 35,000
Jodhpur	Houses—823.
Jaipur	} Information is being collected.
Bikaner	
Rajkot	

† Answer to this question laid on the table, the questioner (Mr. Deputy Speaker) being in the Chair.

LABOUR INVESTIGATION COMMITTEE'S REPORT ON TANNING INDUSTRY

*602. **Shri S. Nagappa:** (a) Will the Honourable Minister of Labour be pleased to state what is the report of the Labour Investigation Committee regarding the Tanning Industry?

(b) What are the steps taken to rectify the defects in the industry?

The Honourable Shri Jagjivan Ram: (a) A copy of the report is available in the Library of the House. The main defects in the tanning industry mentioned in the report are: (i) the low level of, and lack of uniformity in, basic wages and dearness allowance, and (ii) unsatisfactory working conditions, inadequacy of protective equipment and absence of welfare and medical facilities.

The defects mentioned in part (2) above are mostly confined to the small unregulated factories which were not covered by the Factories Act, 1934.

(b) Under clause (a) of sub-section (i) of section 3 of the Minimum Wages Act, 1948, the appropriate Governments are required to fix before the 15th March, 1950, minimum rates of wages in respect of employments mentioned in Part I of the Schedule which include employment in tanneries and leather goods manufactories. Appropriate wages will, therefore, be fixed by the prescribed date. Apart from these statutory measures, Government have recently set up a Tripartite Committee on Tanneries and Leather Goods Manufactories. The Committee at its first meeting held on the 10th and 11th December, 1948, recommended a uniform scale of wages, bonus and dearness allowance to workers in the organised sector of the industry until their fixation on a statutory basis under the Minimum Wages Act, 1948. These recommendations have been forwarded to the employers covered by the recommendations. The constitution of two separate Sub-Committees of the aforesaid Industrial Committee for the un-organised sector of the industry for dealing with (i) Tanneries and (ii) Leather Goods Manufactories is under consideration at present. As regards unsatisfactory working conditions the Factories Act, 1948, provides for proper standards in regard to health, safety and welfare.

USE OF ELECTRICITY IN INDIA

*603. **Shri S. Nagappa:** Will the Honourable Minister of Works, Mines and Power be pleased to state what percentage of the population in India are having the benefit of electricity?

The Honourable Shri N. V. Gadgil: According to recent estimate the percentage of population in Indian Dominion enjoying the amenities of electric supply is about 1.4.

ENQUIRY INTO CONDITIONS OF AGRICULTURAL LABOUR

*604. **Shrimati Dakshayani Velayudhan:** (a) Will the Honourable Minister of Labour be pleased to state whether Government have appointed a special officer to enquire into the agricultural labour conditions in this country?

(b) Has he submitted any report?

The Honourable Shri Jagjivan Ram: (a) No. An officer of the Labour Ministry will be in general charge of the enquiry.

(b) The enquiry will commence within the next few months and is expected to be completed within a year.

Shri M. Tirumala Rao: With reference to part (a) of the question, was there any informal conference of certain individuals recently on this subject?

† Answer to this question laid on the table, the questions being absent.

The Honourable Shri Jagjivan Ram: No.

Shri Ajit Prasad Jain: What is going to be the scope of this enquiry?

The Honourable Shri Jagjivan Ram: To investigate into the rates of earnings of the agricultural labourers in the villages.

Shrimati Dakshayani Velayudhan: Was any resolution passed at a conference held recently of the labour ministers to the effect that they will conduct an enquiry regarding agricultural labour?

The Honourable Shri Jagjivan Ram: The decision was made long ago and that is why we are going to have the enquiry.

Shri B. Das: In view of the inflation in the wages of agricultural labour, has the Honourable Minister included in the terms of reference that this enquiry should be province-wise and not as an all-India matter?

The Honourable Shri Jagjivan Ram: Obviously the provincial governments will be associated with the enquiry.

Shri H. V. Kamath: Has the number of landless agricultural labourers shown a tendency to increase or decrease during the last three years?

The Honourable Shri Jagjivan Ram: It is very difficult to say for the last three years but I will refer my honourable friend to the two past censuses. If he will compare the figures of the Census of 1931 with that of 1941 he will come to the inference that the number of agricultural labourers is on the increase.

Shri Mohan Lai Gautam: Do the Government propose to introduce any Bill to improve the conditions of the agricultural labourers?

The Honourable Shri Jagjivan Ram: That will be decided only after we receive the report of this enquiry.

Dr. Mono Mohan Das: May I know if any officer has been deputed by the Labour Minister to inquire into the question of forced labour (Begar) in India and if so, what is the name of the officer and when is he going to submit his report?

Mr. Deputy Speaker: How does it arise out of this question?

Shri Mahavir Tyagi: Is the Honourable Minister aware that these agricultural labourers who reside in the villages have no proprietary rights on their houses in which they have been living for centuries? I wanted to know if the Government is aware that these agricultural labourers have no houses of their own.

The Honourable Shri Jagjivan Ram: It is true that a very large percentage of them do not possess their own lands but it cannot be characterised that they do not have their own houses.

Shri Biswanath Das: May I know if the Honourable Minister has fixed any programme for this special officer and whether he thinks that one special officer will be able to carry on the work?

The Honourable Shri Jagjivan Ram: I have already replied that no special officer is going to be appointed but someone from the Ministry will be in general charge of the investigation. If I am permitted I may explain the scheme. The scheme is that in every province he will take the assistance of one or two well known persons. There will also be one supervisor, four investigators and eight deputy investigators who will investigate into the earnings or wages of the agricultural labourers in collaboration with the officers of the provincial governments.

Shrimati Dakshayani Velayudhan: Dr. Ambedkar had proposed the appointment of a Committee some years ago. I would like to know whether the Honourable Minister has considered about that.

The Honourable Shri Jagjivan Ram: I think that question may be put to Dr. Ambedkar and not to me.

Shrimati Dakshayani Velayudhan: Why should I ask Dr. Ambedkar when the Honourable Minister is in charge of Labour?

The Honourable Shri Jagjivan Ram: I have said that we are going to have an enquiry. I am not very much enamoured of a committee or commission.

Babu Ramnarayan Singh: When will the work of investigation begin and when is it expected to be completed?

The Honourable Shri Jagjivan Ram: I have already answered that question.

Mr. Tajamul Husain: Under the new Constitution which we are going to frame only those can become voters who reside in a house. Most of these agricultural labourers do not reside in houses. I want to know whether they can become voters.

INDO-JAPANESE TRADE CONTRACTS

*665. **Seth Govind Das:** (a) Will the Honourable Minister of Commerce be pleased to state whether it is a fact that large contracts in respect of Indo-Japanese trade have been entered into already?

(b) What are the goods India is going to get from Japan?

The Honourable Shri K. C. Neogy: (a) Yes.

(b) I lay on the table a statement containing the requisite information.

STATEMENT

REVISED TRADE PLAN

Imports from Japan

	\$
(1) Raw silk	500,000
(2) Silk manufactures	250,000
(3) Cotton manufactures—Yarn	3,000,000
Fabrics	250,000
(4) Rayon manufactures—Yarn	1,000,000
Fabrics	250,000
(5) Wool manufactures	500,000
(6) Industrial leather goods	500,000
(7) Ferro alloys	200,000
(8) Industrial machinery and parts	11,229,588
(9) Bicycles and parts	110,000
(10) Electrical appliances and mfgs.	253,150
(11) Sewing machines	270,000
(12) Instruments, surgical and scientific apparatus and appliances	150,000
(13) Drugs and medicines	300,000
(14) Dyes and pigments	125,000
(15) Paper and paper products	250,000
(16) Rubber manufactures	300,000
(17) Hardwood and Mfgs. (including plywood)	100,000
(18) Pottery and porcelain	100,000
(19) Glassware and glass products	200,000
(20) All other items included in the Open General Licence No. XIII	5,000,000
TOTAL	26,687,736

Shri H. V. Kamath: Does the SCAP organisation take a hand in the fixation of the export prices?

The Honourable Shri K. C. Neogy: Yes. The SCAP actually fixes the price, but I understand a variation is under consideration at least in regard to certain categories of goods.

Shri H. V. Kamath: How far are the export prices different from the home market prices?

The Honourable Shri K. C. Neogy: I am afraid I am not in a position to answer that question straightaway.

Shri Mahavir Tyagi: Are these contracts entered into between Government and government or by private parties?

The Honourable Shri K. C. Neogy: The agreement is between the Government of India as one of the five sterling countries and the SCAP authorities, but the actual implementation of the agreement is to be left to private merchants.

Shri B. Das: Has the Honourable Minister laid down a policy about the import of essential goods or luxury goods from Japan?

The Honourable Shri K. C. Neogy: I do not know what my friend means by a 'policy'. As a matter of fact it is a specific agreement between the two countries, in which different categories of articles have been specified and the value also of each such article has been specified by both sides.

Seth Govind Das: What is the value of the essential articles and what is the value of the luxury articles or such articles which are not very necessary for our country?

The Honourable Shri K. C. Neogy: It is very difficult to categorise articles into those two classes. For instance I find that industrial machinery and parts count for the largest share so far as our imports from Japan are concerned. Similarly there are instruments and other like things. Then there are drugs and medicines and industrial leather goods. I should take it that so far as essential commodities are concerned they represent a very large bulk of the whole thing.

Shri Gopikrishna Vijayavargiya: What is the value of the money involved in the total goods coming?

The Honourable Shri K. C. Neogy: I have said I am placing a statement on the table. This is given there and I suggest that the honourable member studies the statement.

Seth Govind Das: Cannot the Honourable Minister give the sum total value?

The Honourable Shri K. C. Neogy: Surely, but not according to the classification that my honourable friend suggested. The sum total is this: Exports to Japan are expected to value about Re. 5 and odd crores and imports from Japan would be to the approximate value of Re. 9 crores.

Shri M. Tirumala Rao: Does this contract require the previous sanction of General MacArthur?

The Honourable Shri K. C. Neogy: The SCAP authorities are parties to this agreement.

Shri Deshbandhu Gupta: Have Government taken sufficient care to see that such imports are not allowed as would be prejudicial to our own industry?

The Honourable Shri K. C. Neogy: Definitely. As a matter of fact the agreement is based upon an inter-Ministerial report as regards the needs of this country, and the Ministry of Industry and Supply definitely played a

very important part in deciding upon the commodities that we need from Japan and the quantities of each such category of articles.

Seth Govind Das: May I know why the value of the export is so little and why the value of the import is so much? Is it because we require more goods from there while we have not much to export to Japan?

The Honourable Shri K. C. Neogy: I take it my honourable friend is interested in the question of the balance of payment. For the information of the House I might say that India has a credit balance in her favour from Japan to the extent of £ 5½ million (sterling) on account of certain previous transactions which were entered into before the SCAP negotiated this agreement.

Shri Ramnath Goenka: What about Question No. 661, Sir?

The Honourable Shri Mohan Lal Saksena: The honourable member was not in his seat.

An Honourable Member: It was your own question, Sir.

Mr. Deputy Speaker: I am not particular about my question. It will be printed in the Proceedings.

Shri Ramnath Goenka: What about supplementaries?

Mr. Deputy Speaker: Supplementaries are ruled out. The question has been passed over. The honourable member was not alert.

POLICY RE PARTICIPATION OF POLITICAL PARTIES IN TRADE UNION MOVEMENT

*666. **Shri Satish Chandra:** Will the Honourable Minister of Labour be pleased to lay on the table of the House a statement explaining the policy of Government regarding the participation by political parties in the Trade Union movement and more particularly the steps Government propose to take to meet the growing communist challenge to industrial truce?

The Honourable Shri Jagjivan Ram: I lay on the table of the House a statement showing Government's policy in the matter.

STATEMENT

Government have repeatedly made it clear that any challenge to the authority of the State will be strongly and promptly dealt with. Legitimate trade union activity is permitted and encouraged but any attempt to sabotage the national interest will not be tolerated.

Shri Mahavir Tyagi: As the question pertains to a very important topic of the day may I request the Honourable Minister to read out the statement if it is small?

Shri Ajit Prasad Jain: May I know whether under the present Trade Unions Act it is open to an employer to recognize more than one Union?

The Honourable Shri Jagjivan Ram: The Trade Unions Act does not provide for recognition: it provides only for registration and it is open to the employers to recognize more than one Union at present.

Shri Ajit Prasad Jain: Is it also a fact that some of the employers are paying one Union against another and thus creating chaos amongst labour?

The Honourable Shri Jagjivan Ram: It is a fact to a certain extent.

Shri H. V. Kamath: Is the Honourable Minister in a position to give us figures separately for workers in Unions affiliated to the I.N.T.U.C., the Hind Mazdoor Sabha and the A.I.T.U.C.?

The Honourable Shri Jagjivan Ram: I fail to see how it arises out of this question. But there is another question and I am supplying the figures in respect of that question.

ENCOURAGEMENT TO SHIP-BUILDING INDUSTRY

†667. **Shri Motari Satyanarayana:** Will the Honourable Minister of Commerce be pleased to state what encouragement is being given by Government to encourage ship-building industry in India?

The Honourable Shri K. C. Neogy: This question relates to a matter that pertains to the portfolio of my Honourable Colleague, the Industry and Supply Minister, and may please be addressed to him.

ENCOURAGEMENT TO COASTAL TRAFFIC

†668. **Shri Motari Satyanarayana:** (a) Will the Honourable Minister of Commerce be pleased to state whether Government have proposals to encourage companies to take up coastal traffic; and

(b) whether Government have already undertaken (if so, with what result), or propose to undertake any investigation regarding the possibilities of using coastal traffic for carrying commodities at cheaper cost?

The Honourable Shri K. C. Neogy: (a) It is Government's declared policy to secure a progressive increase in the share which Indian Shipping enjoys in the coastal trade, and ultimately to reserve that trade exclusively for Indian shipping. The initiative for acquiring tonnage, however, rests with Indian Shipping Companies, and Government have announced that they would not only freely license such Indian-owned ships for the coastal trade but would also render all assistance possible, in the acquisition of additional tonnage by providing exchange facilities and the assistance of India's trade and diplomatic representatives abroad.

(b) The possibility of the development of sailing vessels' traffic with a view to an increased use of such vessels for purposes of coastal movement is the subject of an investigation by a special committee set up by the Government.

An investigation is now being undertaken as to whether there is any scope for reduction in the prevailing freight rates of coastal steamers, notwithstanding the present high cost of operation.

INDO-PAKISTAN BORDER INCIDENTS

*669. **Sardar Hukam Singh:** (a) Will the Honourable the Prime Minister be pleased to state what were the terms of the agreement reached between the Deputy Commissioners of Amritsar and Lahore at Khalra on the 20th December 1948 as regards border incidents?

(b) How many border incidents have taken place since that date?

(c) What is the number of casualties in the incident which occurred on the 31st January, 1949 on the Indo-Pakistan border linking the Districts of Amritsar and Lahore?

(d) Has any representation or protest been made to the Government of Pakistan and if so, with what result?

(e) Do Government propose to award any compensation to the victims of this raid?

Dr. B. V. Keskar (Deputy Minister for External Affairs and Commonwealth Relations): (a) to (e). We have asked for exact information from the Government of the East Punjab and are still waiting for it. It will be laid on the table of the House as soon as possible.

† Answer to this question laid on the table, the questioner being absent.

REHABILITATION OF REFUGEES FROM EAST BENGAL

*870. **Lala Achint Ram:** (a) Will the Honourable Minister of Relief and Rehabilitation be pleased to state the exact number of refugees who have come from East Bengal up to 31st December 1948 per month since the exodus began?

(b) How have these refugees been settled province-wise in the country?

(c) Has any agreement been arrived at between the Governments of India and Pakistan for the protection and management of the property left by these refugees in East Bengal?

The Honourable Shri Mohan Lal Saksena: (a) About eighteen Lakhs. Monthly figures of exodus from East Bengal are not available.

(b) The honourable member is referred to the reply given by me to part (b) of Unstarred Question No. 7 by Shri Arun Chandra Guba on the 11th February, 1949.

(c) At the Inter-Dominion Conference held in Calcutta in April 1948, and in Delhi in December 1948, it was decided that the Governments of East and West Bengal should enact legislation for the setting up of Evacuee Property Management Boards in districts or areas from where a substantial exodus had taken place. These Boards will assume management of evacuee property only on the definite request of the owners who declare their intention to return to their original homes as soon as normal conditions have been restored to the satisfaction of both the Governments. Their function will be of a managerial character and they will not have the power to alienate the property entrusted to them. These Boards are to consist of members of the minority community. The East and West Bengal Governments were required to legislate by the 31st January, 1949 and the Boards were to be set up as soon thereafter as possible. It is understood that the matter is under the active consideration of both the Governments and that the Boards will be set up after the necessary legislation has been passed.

Shri Mohr Lal Chattopadhyay: Out of the eighteen lakhs what is the number of the refugees who are residing in Calcutta?

The Honourable Shri Mohan Lal Saksena: I could not give the exact number of refugees residing in Calcutta. If the honourable member wants the total number of refugees in West Bengal I can give him.

Shri Mihir Lal Chattopadhyay: Can he give us some figure as to the number of people who have been repatriated from Calcutta?

The Honourable Shri Mohan Lal Saksena: I have no definite information except what I gave on the last occasion that about 5,000, as I had been informed, had left Calcutta.

Shri Mihir Lal Chattopadhyay: May I know what steps are being taken by Government to remove the congestion in the City of Calcutta?

The Honourable Shri Mohan Lal Saksena: I would require notice of this question.

Shri B. P. Jhunjhunwala: May I ask whether the people who have migrated from East Bengal to India are mostly *wakils*, merchants, doctors or whether are mostly villagers?

The Honourable Shri Mohan Lal Saksena: As a matter of fact those who have come belong to what may be called the middle classes and they generally are from amongst the lawyers, government servants and other such persons.

**RETURNING FACILITIES TO KASHMIR REFUGEES BELONGING TO PAKISTAN
CONTROLLED TERRITORIES**

*671. **Lala Achint Ram:** (a) Will the Honourable the Prime Minister be pleased to state whether the Government of Pakistan is providing adequate facilities to those refugees who want to return from India to the "Pakistan-controlled territory" of Jammu and Kashmir State before the plebiscite is held?

(b) Have Government taken any steps to provide free transport facilities for return to their homes of such refugees who had to leave their hearth and home under compulsion?

(c) Do Government propose to grant scholarships to the children of such refugees who want to make provision for their education in India?

The Honourable Shri Jawaharlal Nehru: (a) Details of arrangements for the return of refugees from Jammu and Kashmir State to their homes in the part of the State which is not under the control of the Government of India or the State Government have not yet been worked out. A condition precedent to such return is that refugees returning to this area should have the requisite measure of security. The matter is engaging the attention of the Government of India and the U. N. Commission.

(b) The matter primarily concerns the Government of Jammu and Kashmir. Government of India will give whatever assistance they can.

(c) Government have no scheme for the purpose. If refugees are to be encouraged to return to their home, the need for the grant of scholarship for study in India will hardly be necessary. In cases when necessity arises Government will be prepared to consider the question then.

Shri H. V. Kamath: Is the Honourable the Prime Minister in a position to assure the House that no plebiscite whatever will be held in Kashmir unless and until all the Kashmiri refugees in India have returned home, all outsiders expelled, and all other terms and conditions of the cease fire agreement have been implemented by Pakistan in letter as well as in spirit?

The Honourable Shri Jawaharlal Nehru: The Prime Minister can only draw the attention of the honourable member to documents that have appeared. He will give no other assurances.

Sardar Bhopinder Singh Man: May I know what is the total number of these refugees and whether they are willing to go back to the raiderheld territory?

The Honourable Shri Jawaharlal Nehru: That is rather a guesswork—one can have one's guess: I imagine that the total number of refugees from all parts of Kashmir State will be about half a million or so.

Sardar Bhopinder Singh Man: May I know whether they are willing to go back in the present conditions?

The Honourable Shri Jawaharlal Nehru: Obviously, I cannot give a definite answer. The answer to that is, I suppose, that they will be willing to go back when they are assured that proper security will be provided for them. Now, the test of that security will be for us and for them to judge. We have laid the greatest stress on this fact that there must be adequate security to induce the people to go back. We cannot drive them back; they can only go back when they can feel that they can go back in security.

Shri Dashbandhu Gupta: Is the Honourable the Prime Minister in a position to give the number of muslim refugees who had left Kashmir and gone over to Pakistan and have since returned to Kashmir?

The Honourable Shri Jawaharlal Nehru: No, Sir, I cannot give that. There are, I take it, two types of refugees: one is the type that went and stayed in Pakistan; the others were those who temporarily went and came back. Large numbers went and came back within a few weeks of their going. It is very difficult to have their figures, I am afraid.

Shri Deshbandhu Gupta: Since the cease fire?

The Honourable Shri Jawaharlal Nehru: I rather doubt if any major migrations have taken place since then.

Shri Deshbandhu Gupta: Is it a fact that quite a number of tribal people have left Kashmir? May we have some idea of the number?

The Honourable Shri Jawaharlal Nehru: Tribal people, from the information received by us, are leaving and some have left, I do not know about the numbers involved.

Shri Mahavir Tyagi: May I know if the Government have in their view some steps to encourage these refugees to reach Kashmir before votes are taken?

The Honourable Shri Jawaharlal Nehru: Honourable members must remember that there are any number of preliminaries to be attended to before that question really arises. Obviously, we are interested in these refugees returning and giving them facilities for returning and the creation of conditions which make it easy for them to return there and settle down before the question of a plebiscite arises.

Shri Mahavir Tyagi: Can their votes not be taken here in India in that case?

Mr. Deputy Speaker: It does not arise. Next question.

Babu Ramnarayan Singh: I have got some very important question, Sir.

Mr. Deputy Speaker: You may go on.

Babu Ramnarayan Singh: As I understand from the answer of the Prime Minister, the refugees can return if they are assured of security. May I know who can give this assurance, Sir?

The Honourable Shri Jawaharlal Nehru: Perhaps the honourable member might help in the task.

DISCHARGE OF INDIANS FROM BURMA GOVERNMENT SERVICE

*672. **Shri Biswanath Das:** Will the Honourable the Prime Minister be pleased to state:

(a) whether the attention of Government has been drawn to the *Reuters* news published in Delhi papers dated 7th February 1949 that about 2,500 Indians are going to be discharged from Burma Government Service forthwith being non-Burman nationals;

(b) the steps taken in this regard to safeguard their rights for compensation as also for their safe transport to India.

(c) whether the Government of Burma had intimated this to the Government of India before; and

(d) if so, whether Government propose to place the correspondence on the table of the House?

Dr. B. V. Keskar: (Deputy Minister for External Affairs and Commonwealth Relations): (a) Yes, Sir. The press report, however, is not correct. The Government of Burma have announced their intention of reducing their ministerial establishment substantially, as a measure of economy and non-Burman nationals, particularly those holding higher posts, form one of the

categories that are to come under retrenchment. There is no possibility of immediate retrenchment of non-Burmans.

(b) Employees whose services are terminated on grounds of alien nationality are granted proportionate pension and certain other concessions, including leave and leave salary under the general orders issued by the Government of Burma. The question of making arrangements for their safe transport to India does not arise.

(c) and (d). No, Sir.

Shri Biawanath Das: May I know the result of such concessions that have been offered or promised? Just now the Honourable the Deputy Minister spoke of certain concessions. Would he kindly give us some idea as to the sum total of those concessions?

Dr. B. V. Keskar: Sir, I have not understood the question. I have detailed the concessions given; I cannot give any figures as to how much it amounts to. The concessions given, as I have already said, are that these men are given proportionate pension and concessions probably with regard to leave, that is they get long leave prior to retirement as officers are given here also. But it is not possible to give any figures as to how much it amounts to — it depends on the posts they hold.

Shri Ajit Prasad Jain: Are there any Indians who still remain in the service of the Government of Burma after the discharge of these 2,500?

Dr. B. V. Keskar: As I have just said, very few are being discharged immediately. Certain proposals have been announced by the Government of Burma that they propose to discharge non-Burmans from Government service, but immediately there is no prospect of a larger number of them being discharged.

Mr. Frank Anthony: Can Indians qualify for Burmese citizenship?

Mr. Deputy Speaker: That does not arise here.

The Honourable Shri Jawaharlal Nehru: Sir, the way the question has been put rather confuses the issue. Any person, I suppose, qualifies under the terms of the appropriate nationality law for the citizenship of that country. The question is whether people of Indian origin living in Burma can, under the new law, become Burmese citizens. At the present moment there is no specific Indian nationality law. People of Indian origin in Burma can, under the law, if they fulfil certain qualifications become Burmese citizens. Up till recently there was no such thing as a Burmese citizen or an Indian citizen, technically or legally speaking; they were British subjects—all of them. Now, since Burma became an independent country and the rules have been made by the Burmese Parliament on this issue, no doubt those who fulfil those rules can become Burmese citizens.

Mr. Tajamul Husain: Is there any Burmese in the service of the Government of India or in the service of any Provincial Government?

The Honourable Shri Jawaharlal Nehru: I think it is rather unlikely; there might be perhaps a few persons, but very, very few.

May I just say one word, Sir, in regard to all these questions about Burma? Honourable members must realise that all these questions and all these matters are hardly in keeping with the existing situation. Very serious things are happening in Burma and we can hardly discuss at length petty matters affecting individual services etc., when the whole future of the State is in a ferment. The House will no doubt extend its fullest sympathy to the troubles of the Burmese people at the present moment. This is no time for us to enlarge on petty difficulties.

Shri Deshbandhu Gupta: May I know whether the Honourable the Prime Minister is in a position to give us some information as to the extent to which the life and property of Indians living in Burma is involved in the present outbreak of Karens trouble there?

Mr. Deputy Speaker: It does not arise. I will call the next question.

MUSLIM HOUSES SEALED BY CUSTODIAN OF EVACUEES PROPERTY, DELHI

*673. **Shri Damodar Swarup Seth:** Will the Honourable Minister of Relief and Rehabilitation be pleased to state:

(a) the number of houses belonging to Muslims lying vacant and sealed by the Custodian of Evacuees Property, Delhi, in the Pul Bangash and other areas separately as on 1st October, 1947, 1st January, 1948, 1st July, 1948 and 1st January, 1949;

(b) the reasons, for not allocating these houses to those in need of them;

(c) the probable time for which they are still proposed to be kept vacant; and

(d) the order and manner in which the allotment of houses, if any, will be carried out?

The Honourable Shri Mohan Lal Saksena: (a) A statement is laid on the table of the House.

(b) and (c). Houses available for allotment are allotted to displaced persons in need of them. Of the 136 houses which were found vacant and sealed by the Custodian of Evacuees Property, 124 have been allotted and occupied by the allottees; the remaining number are subject to claims of restoration. These claims are being determined. As soon as other claims have been decided, the available number will be allotted.

(d) Fresh allotments of houses are made to:

(i) those displaced persons in whose favour previous allotments did not prove effective and who are still in need of accommodation;

(ii) those displaced persons from Provinces other than West Punjab who were registered as refugees upto 29th February 1948 and according to the prescribed Provincial percentages;

(iii) displaced persons from West Punjab registered upto 10th December 1947;

(iv) a number of shelterless widows, a few of the men of the Armed Forces posted on active duty, and persons displaced due to fire in the Kingsway Camp are given special priorities.

Houses of low category rejected by the allottees and those in villages are allotted to shelterless, poor displaced persons irrespective of fixed priorities and provincial percentages. The orders of allotment are given effect to in the order in which they are made by the small Enforcement Police Squad attached to the Custodian's Office.

STATEMENT

Number of houses belonging to Muslims lying vacant and sealed by C.E.P., Delhi in the Pul Bangash and other areas on different dates.

Pul Bangash Area. Other Areas. Total.

Shri Deshbandhu Gupta: May I know whether it is a fact that a large number of the priorities given by the Custodian of Evacuee's Property last year in the matter of allotment to refugees have not yet been respected and there is a long outstanding list of refugees who have got no possession in spite of high priorities?

The Honourable Shri Mohan Lal Saksena: I do not think it is correct to say that. The fact is that those persons who were allotted according to these priorities could not get possession because the houses were already occupied by others and in view of the recent decision by the Committee of the Cabinet that these persons should not be disturbed until alternative accommodation is provided to them, effect has not been given to the order in which these persons had been allotted houses.

Shri Deshbandhu Gupta: What is the number of allotments made during every month or say during the last three mouths?

The Honourable Shri Mohan Lal Saksena: I am answering a similar question later on, but my information is that the remaining houses, which are about 6,000 in number, will be allotted within six weeks.

Shri H. V. Kamath: Have the houses left behind by Hindus and Sikhs in Pakistan been commandeered or forcibly occupied by the authorities there or are they still vacant? Have Government any information on the subject?

The Honourable Shri Mohan Lal Saksena: May I know how it arises from this question?

Shri H. V. Kamath: Because they are houses of non-Muslims—whether there is reciprocity at all?

Mr. Deputy Speaker: It does not arise.

Shri Deshbandhu Gupta: Is it a fact that the Advisory Committees appointed to advise the Custodian of Evacuee's Property have been dissolved?

The Honourable Shri Mohan Lal Saksena: Some of the Advisory Committees have been dissolved, but I do not know to which particular one the honourable member is referring.

Shri Deshbandhu Gupta: All the Advisory Committees—I mean the Central Advisory Committee and the Sector Advisory Committees.

The Honourable Shri Mohan Lal Saksena: I would like to have notice of the question.

Shri Deshbandhu Gupta: Could they be dissolved without reference to the Honourable Minister?

The Honourable Shri Mohan Lal Saksena: As a matter of fact, I do not know whether that particular Committee has been dissolved because there was one Advisory Committee which was appointed at the very start and that was functioning for some time. I do not know whether it is functioning now.

Shri Deshbandhu Gupta: The Honourable Minister may take it that all Advisory Committees including the Central Advisory Committee which was appointed from the very start have been dissolved long ago.

The Honourable Shri Mohan Lal Saksena: The honourable member is giving information. I thought he was seeking information.

Shri B. L. Sondhi: And you are denying it!

APPOINTMENT OF CANDIDATES REGISTERED WITH EMPLOYMENT EXCHANGES

*674. **Prof. N. G. Ranga:** Will the Honourable Minister of Labour be pleased to state:

(a) whether any preference in giving appointments is shown by various

* Answer to this question laid on the table, the questioner being absent.

Departments to candidates who register themselves at the Labour Exchanges and who are recommended by such Exchanges;

(b) for what appointments and up to what salaries the Exchanges register applicants for employment in Government service;

(c) whether any new Exchanges are being opened; and

(d) how many new Exchanges were opened in 1948 and in which provinces were they opened?

The Honourable Shri Jagjivan Bam: (a) No preference is given, but the various Departments of the Government of India are required to notify their vacancies, other than those recruited through the Federal Public Service Commission, first to the Transfer Bureau of the Ministry of Home Affairs and then to the Employment Exchanges of the Ministry of Labour. Persons registered at the Transfer Bureau have the first claim on vacancies under the Central Government and those registered at the Employment Exchanges are considered only when the Transfer Bureau is unable to nominate or recommend suitable candidates.

(b) The Employment Exchanges register all categories of employment-seekers for all jobs, without limit as to salaries.

(c) No new Exchanges are being opened, except a District Employment Office at Mercara (Coorg) and twenty District Employment Offices in U.P. These latter are being opened by the Government of the United Provinces.

(d) In 1948, two new Employment Offices were opened (i) the Sub-Regional Employment Exchange at Kidderpore in West Bengal; and (ii) the District Employment Office in Karnal in East Punjab.

ARREST OF INDIAN NATIONALS IN JOHORE, MALAYA

Shri H. V. Kamath: Will the Honourable the Prime Minister be pleased to state:

(a) whether it is a fact that some Indian nationals have been recently arrested in Johore by the Malayan police under emergency regulations;

(b) if so, their number; and

(c) the grounds on which the arrests have been made?

Dr. B. V. Keshkar (Deputy Minister for External Affairs and Commonwealth Relations): (a) Yes, Sir,

(b) Twenty two Indians were arrested, of whom eight have subsequently been released.

(c) They were arrested under the Emergency Regulations for the alleged payment of protection money to terrorists.

Shri Brajeshwar Prasad: How do Government propose to secure their release?

Dr. B. V. Keshkar: We are enquiring into the matter, but the honourable member must be aware that action taken by foreign governments for their own security purposes cannot be dealt with as we would in any other circumstances.

Seth Govind Das: Has our representative there sent some report about these arrests?

Dr. B. V. Keshkar: Yes. He has met most of the arrested persons and has had a talk with them, and he is trying his best to secure their release.

Shri H. V. Kamath: Any information as to whether those who are still in jail are going to be tried or repatriated?

Dr. B. V. Keshkar: These arrests are under emergency regulations; so I think they are being detained and not being tried.

REFUGEES IN DELHI AND ALLOTMENT TO OTHER PROVINCES

†*676. Dr. P. S. Deshmukh: Will the Honourable Minister of Relief and Rehabilitation be pleased to state:

- (a) the number of refugees allotted to the different provinces; and
 (b) the number of refugees that have settled down in Delhi?

The Honourable Shri Mohan Lal Saxena: (a) A statement is laid on the table of the House.

(b) According to the census of refugees held in October, 1948, there were 8,82,224 refugees living in Delhi.

STATEMENT

Number of Refugees allotted to different Provinces

Provinces.	Number of Refugees Allotted.
East Punjab	13 Lakhs urban Plus the entire rural population of West Punjab and rural population of Punjab extracted from other parts of Western Pakistan.
U. P.	4 Lakhs.
Bombay	5 Lakhs.
C. P.	3 Lakhs.
Bihar	50,000.
Orissa	25,000.
Assam	2.5 Lakhs.
Delhi	2.5 Lakhs.
Ajmer-Merwara	0.5 Lakhs.

EXPENDITURE ON CAMPS AND EMPLOYMENT OF REFUGEES IN GOVERNMENT SERVICE.

†*677. Dr. P. S. Deshmukh: Will the Honourable Minister of Relief and Rehabilitation be pleased to state:

- (a) the monthly expenditure incurred on each Refugee camp run by Government;
 (b) the number of refugees for whom employment in Government service has been found so far; and
 (c) whether these posts were created for the refugees or whether they were normal posts under Government?

The Honourable Shri Mohan Lal Saxena: (a) The average expenditure per head is approximately Re. 1 per day. The information for individual camp is not available.

(b) Reports so far received show that about 15,804 persons have been absorbed in Central and Provincial Governments.

(c) The vacancies were out of normal posts under Government.

RECOMMENDATIONS OF CONCILIATION BOARD AND FACT FINDING COMMITTEE
RE COAL MINE LABOUR UNREST

*678. Shri R. L. Malviya: (a) Will the Honourable Minister of Labour be pleased to state whether it is a fact that in view of the growing discontent prevailing among the coal-mine labourers, the Government of India set up a Board of Conciliation for Bengal and Bihar and a Fact Finding Committee

† Answer to this question laid on the table, the questioner being absent.

for the Central Provinces to investigate into the causes of labour unrest there and suggest remedies therefor?

(b) Were the reports of the Board and the Committee referred to in part (a) above accepted and the recommendations implemented in toto?

(c) Were the wages of coal-mine employees increased in terms of these recommendations and was the selling price of coal also increased by Rs. 8/8/- per ton in the case of Bengal and Bihar and by Rs. 3/- per ton in the case of the Central Provinces?

(d) Is it a fact that the increase in the wages of employees and the selling price of coal was effected with the consent of the mine owners and the representatives of labour?

The Honourable Shri Jagjivan Ram: (a) Yes.

(b) The recommendations of the Board of Conciliation for the Bengal and Bihar and the Fact Finding Committee for Central Provinces and Berar were accepted by the Government and the Industry. In this connection the attention of the honourable member is invited to the Government Resolutions No. LR. 2 (103) dated the 12th May 1947 and No. LR. 2(111) dated the 10th October 1947. The collieries have generally implemented the recommendations made by the Conciliation Board and the Committee. Officers of the Central Industrial Relations Machinery look into cases where colliery owners are not implementing any of the recommendations and take steps to rectify them.

(c) The answer is in the affirmative except that in respect of Central Provinces and Berar the increases in coal prices ranged from Rs. 2/13/- to Rs. 3/7/-.

(d) The answer is in the negative so far as revision of the selling price of coal is concerned. As regards wages, the increase was agreed to by the representatives of the employers and the workers on the Conciliation Board.

POSTPONED STARRED QUESTIONS AND ANSWERS

(Postponed from 21st February, 1949)

PRIME MINISTER'S VIEWS ON NATIONAL LANGUAGE

*528. **Pandit Mukut Bihar Lal Bhargava:** Will the Honourable the Prime Minister be pleased to state whether the views expressed by him on the question of National language at the Usmania University were his own personal views or the considered views of the Government of India on the subject?

The Honourable Shri Jawaharlal Nehru: It is not clear to what part of my speech the honourable member refers. The views expressed by me were certainly my own. The question has not been considered by the Government of India in any detail, but the broad approach of the Government is as indicated by me.

Seth Govind Das: Is the Honourable Minister aware that whenever he expresses his views, it is very difficult for the public to understand whether he expressed them as Prime Minister or as an individual?

The Honourable Shri Jawaharlal Nehru: It is sometimes difficult for me to make that out either.

Seth Govind Das: May I know whether this matter has been under the consideration of the Cabinet and whether the Cabinet has come to certain conclusions as far as the national language is concerned?

The Honourable Shri Jawaharlal Nehru: I have just said in reply to this question that the Cabinet has not considered this specific question in any detail.

Seth Govind Das: Is the Honourable Minister aware that whenever this question was raised in the Constituent Assembly, he himself said that this matter would be left to the Constituent Assembly and the Government or the Legislature would not decide this matter until it is fully dealt with in the Constituent Assembly?

The Honourable Shri Jawaharlal Nehru: No, Sir. I am not aware of that. I never said any such thing. What I said was, so far as the Constitution is concerned, the provisions in it will naturally be dealt with by the Constituent Assembly, which is a very different thing from other aspects of the question.

Seth Govind Das: Is the Honourable Minister aware that certain amendments to article 99 which deals with the question of language have been sent in to be moved in the Constitution which will decide the question of national language?

The Honourable Shri Jawaharlal Nehru: I have not understood the question.

Seth Govind Das: I want to explain my question. [Interruption]

Seth Govind Das: I wanted to know from the Prime Minister [Interruption]

Mr. Deputy Speaker: Order, order.

Seth Govind Das: I wanted to know from the Prime Minister whether he is aware of the fact that certain amendments to article 99 of the Constitution have been sent by the members of the Constituent Assembly which relate to the question of national language and that the question is to be decided by the Constituent Assembly as a whole?

The Honourable Shri Jawaharlal Nehru: Yes, Sir. I am fully aware of that fact.

PAKISTAN'S REFUSAL TO INDIAN HIGH COMMISSIONER FOR LAYING
WREATH ON MAHATMA GANDHI'S STATUE IN KARACHI

*556. **Shri H. V. Kamath:** Will the Honourable the Prime Minister be pleased to state:

(a) whether it is a fact that the Government of Pakistan declined permission to the Indian High Commissioner in Karachi to lay a wreath at the foot of Mahatma Gandhi's Statue there on Sarvodaya day, the 30th January 1949; and

(b) if so, whether any protest has been lodged with the Government of Pakistan, and with what result?

The Honourable Shri Jawaharlal Nehru: (a) Yes. Our High Commissioner informed the Foreign Secretary of the Pakistan Government on January 24th that he would like to lay flowers at the foot of the statue of Mahatma Gandhi and a garland round the neck on the evening of January 30th. On the night of January 29th, he was informed that this would not be appreciated.

(b) No formal communication was sent on behalf of the Government of India to the Government of Pakistan. The High Commissioner, however, informed us that he would himself write to the Pakistan authorities on this subject.

Shri H. V. Kamath: Is it a fact that on an earlier occasion permission was refused by the Pakistan Government for the immersion of Gandhiji's ashes in the Sindhu river?

Mr. Deputy Speaker: The question hour is over.

Shri Deshbandhu Gupta: Sir, I rise on a point of order. When once a question has been put and supplementaries are being asked, I think the practice has been to have them answered even if the question hour is over.

Mr. Deputy Speaker: The practice unfortunately has been otherwise. Exactly at 11-45 A.M. the question hour will be over, whether it is in the middle of a question or otherwise.

UNSTARRED QUESTIONS AND ANSWERS

EXPENDITURE ON REFUGEE CAMPS, EDUCATIONAL INSTITUTIONS AND LOAN ADVANCES

37. Pandit Mukut Bihari Lal Bhargava: Will the Honourable Minister of Relief and Rehabilitation be pleased to state:

(a) the amount spent by the Government of India, both recurring and non-recurring on refugee camps still maintained by them;

(b) the number of institutions started by Government for the education of refugee boys and girls and the amount spent thereon, both recurring and non-recurring;

(c) the amount spent in advancing loans to refugees in the various parts of the country;

(d) the number of Hindu and Sikh Government servants who opted for India and the number who have already been absorbed in Central and Provincial services; and

(e) the approximate number of refugees who still remain to be rehabilitated either in service or in businesses?

The Honourable Shri Mohan Lal Saksena: (a) and (b). The information is being collected and will be laid on the table of the House in due course.

(c) 3 crores 5 lakhs and 11 thousand.

(d) 1 lakh 88 thousand one hundred and seventy one. Hindu and Sikh Government servants had opted out for India. Nearly all of them have since been absorbed in Central and Provincial services.

(e) The information is not available

TRADE UNIONS AND ALL INDIA TRADE UNION FEDERATIONS

38. Shri Satish Chandra: Will the Honourable Minister of Labour be pleased to state according to the latest available figures:

(a) the total number of registered Trade Unions in the country;

(b) the total membership of all these unions;

(c) the number of All-India Trade Union Federations along with their names, and the names of various political parties which influence, dominate or exercise their control on these Federations in each case; and

(d) the total membership of the Trade Unions affiliated to each of these Federations?

The Honourable Shri Jagjivan Bam: (a) According to the latest available information, the total number of registered trade unions in India is 2,278. The information relates to the financial year 1947-48 except in the case of West Bengal the information for which relates to 1946-47. The figures do not include the number of registered trade unions in the East Punjab as no information is available for this Province.

(b) Information regarding membership is available only in respect of registered unions which have submitted returns. A detailed statement showing the number of registered unions, the number of unions which have submitted returns and the membership reported is placed on the table.

(c) At present there are three All India Organisations of workers which are invited to the various labour conferences and committees, namely (i) the Indian National Trade Union Congress, (ii) the All India Trade Union Congress and (iii) the Hind Mazdoor Sabha. In regard to their party affiliation I would leave it to the member to draw his own conclusions from the speeches delivered by the Labour leaders belonging to these organisations.

(d) Early in 1948, the Government of India conducted an enquiry to ascertain whether the All India Trade Union Congress or the Indian National Trade Union Congress was the most representative organisation of organised workers in India for the purpose of the selection of workers' representatives for the International Labour Conference. This enquiry showed the membership of the All India Trade Union Congress to be 8,15,011 and that of the Indian National Trade Union Congress 9,73,179. Since then the Hind Mazdoor Sabha has come into existence. Government have no information regarding the present membership of these three organisations.

STATEMENT.

Registered Trade Unions in the Dominion of India on the 31st March, 1948.

Province.	No. of unions on the register on 31-3-48.	No. of unions submitting returns.	Total membership of the unions submitting returns.
Ajmer-Merwara	11	10	4,881
Assam	80	43	43,706
West Bengal*	601	259	488,697
Bihar	238	104	123,137
Bombay	327	261	383,794
Central Provinces and Berar	95	56	55,679
Delhi	50	35	25,114
Madras	529	360	312,084
Orissa	54	25	5,633
United Provinces†	293	109	65,456
TOTAL	2,278	1,262	1,514,190

E.g.—Figures are not available for East Punjab.

*Information relates to 1946-47.

†The figures are based on the interim report and the information is not complete. In 1946-47 the Province had 210 unions out of which 121 submitted returns showing a total membership of 139,115.

Thursday
24th February, 1949

THE CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE) DEBATES

(PART B—PROCEEDINGS OTHER THAN QUESTIONS AND
ANSWERS)

Official Report

Volume II, 1949

(24th February, 1949 to 18th March, 1949)

Fourth Session
OF THE
CONSTITUENT ASSEMBLY OF INDIA
(LEGISLATIVE)

1949



सत्यमेव जयते

CONTENTS

Volume II.—24th February, 1949 to 18th March, 1949.]

	PAGES
THURSDAY, 24TH FEBRUARY, 1949—	
Hindu Code—Discussion on motions to consider as reported by Select Committee to re-circulate and to re-commit to Select Committee—not concluded.	821—71
FRIDAY, 25TH FEBRUARY, 1949—	
Death of Mian Mohd. Rafi.	873
Papers laid on the Table	873—76
Essential Services (Prevention of Strikes) Bill—Introduced.	876—77
Hindu Code—Discussion on motions to consider, to re-circulate and to re-commit to Select Committee—not concluded	877—936
MONDAY, 28TH FEBRUARY, 1949—	
Statement re Locomotives imported from U.S.A. and Canada	937—40
Papers laid on the Table	940
Hindu Marriages Validity Bill—Extension of time for presentation of Report of Select Committee	940—41
Hindu Code—Discussion on motions to consider, to re-circulate and to re-commit to Select Committee—not concluded.	941—56
Demands for Supplementary Grants for 1948-49—Railways.	956—68
Presentation of General Budget for 1949-50	969—87
TUESDAY, 1ST MARCH, 1949—	
Repealing and Amending Bill—Introduced	989
Capoellation of meeting for 2nd March, 1949	989
Chartered Accountants Bill—Presentation of Report of Select Committee	990
Tea Committee for India Bill—Presentation of Report of Select Committee	990
Indian Judicial Procedure Bill—Extension of time for Presentation of Report of Select Committee	990
Time for Study of Budget Papers.	990
Hindu Code—Discussion on motions to consider, to re-circulate and to re-commit to Select Committee—not concluded.	991—1030
TUESDAY, 3RD MARCH, 1949—	
Death of Shrimati Sarojini Naidu	1031—35
General Budget—General Discussion	1035—66
FRIDAY, 4TH MARCH, 1949—	
Papers laid on the Table.	1067
Estate Duty Bill—Extension of time for Presentation of Report of Select Committee	1067—68
General Budget—General Discussion	1068—1107
SATURDAY, 5TH MARCH, 1949—	
Coffee Market Expansion (Amendment) Bill—Introduced.	1109
General Budget—General Discussion	1109—64
Essential Services (Prevention of Strikes) Bill—Withdrawn	1164—67

MONDAY, 7TH MARCH, 1949—	PAGES
Papers laid on the Table	1169
Code of Criminal Procedure (Amendment) Bill—Introduced	1169
Indian Wireless Telegraphy (Amendment) Bill—Introduced	1169
General Budget—List of Demands	1169—1223
Demand No. 28—Ministry of Defence	1170—1223
Demand No. 76—Defence Services, Effective—Army	1170—1223
Demand No. 77—Defence Services, Effective—Royal Indian Navy	1170—1223
Demand No. 78—Defence Services, Effective—Royal Indian Air Force	1170—1223
Demand No. 79—Defence Services, Non-effective charges	1170—1223
Demand No. 103—Defence Capital Outlay	1170—1223
TUESDAY, 8TH MARCH, 1949—	
General Budget—List of Demands	1225—64
Demand No. 19—Ministry of External Affairs and Commonwealth Relations	1225—64
Demand No. 39—Tribal Areas	1225—64
Demand No. 40—External Affairs	1225—64
WEDNESDAY, 9TH MARCH, 1949—	
General Budget—List of Demands	1265—1314
Demand No. 29—Ministry of Industry and Supply	1265—1314
Demand No. 55—Industries and Supplies	1265—1314
Demand No. 56—Salt	1265—1314
THURSDAY, 10TH MARCH, 1949—	
Criminal Law (Removal of Racial Discriminations) Bill—Introduced	1315
Merchant Shipping Laws (Extension to Acceding States and Amendment) Bill—Introduced	1315
General Budget—List of Demands	1315—61
Demand No. 8—Irrigation (including Working Expenses), Navigation, Embankment and Drainage Works met from Revenue	1316—61
Demand No. 23—Ministry of Works, Mines and Power	1316—61
Demand No. 44—Geological Survey	1316—61
Demand No. 45—Mines	1316—61
Demand No. 69—Civil Works	1316—61
Demand No. 78—Stationery and Printing	1316—61
Demand No. 99—Delhi Capital Outlay	1316—61
Demand No. 100—Capital Outlay on Civil Works	1316—61
FRIDAY, 11TH MARCH, 1949—	
General Budget—List of Demands	1363—99
Demand No. 21—Ministry of Commerce	1363—99
Demand No. 36—Ports and Pilotage	1363—99
Demand No. 37—Lighthouses and Light ships	1363—99
Demand No. 62—Commercial Intelligence and Statistics	1363—99
Demand No. 64—Joint Stock Companies	1363—99
WEDNESDAY, 16TH MARCH, 1949—	
General Budget—List of Demands	1401—47
Demand No. 1—Customs	1401—47
Demand No. 2—Central Excise Duties	1401—47
Demand No. 3—Taxes on Income including Corporation Tax	1401—47
Demand No. 4—Opium	1401—47
Demand No. 5—Provincial Excise	1401—47

WEDNESDAY, 16TH MARCH, 1949—contd.

General Budget—List of Demands—contd.

Demand No. 6—Stamps	1402—47
Demand No. 20—Ministry of Finance	1402—47
Demand No. 31—Payments to other Government Departments, etc., on account of the Administration of Agency Subjects and Management of Territories	1402—47
Demand No. 32—Audit	1402—47
Demand No. 66—Miscellaneous Departments	1402—47
Demand No. 67—Currency	1402—47
Demand No. 68—Mint	1402—47
Demand No. 71—Territorial and Political Pensions	1402—47
Demand No. 72—Superannuation Allowances and Pensions	1402—47
Demand No. 74—Miscellaneous	1408—47
Demand No. 80—Grants-in-aid to Provincial Governments	1403—47
Demand No. 81—Miscellaneous Adjustments between the Central and Provincial Governments	1408—47
Demand No. 82—Resettlement and Development	1403—47
Demand No. 84—Pre-Partition Payments	1408—47
Demand No. 91—Capital Outlay on the India Security Press	1403—47
Demand No. 94—Capital Outlay on Industrial Development	1403—47
Demand No. 97—Capital Outlay on Currency	1408—47
Demand No. 98—Capital Outlay on Mints	1408—47
Demand No. 101—Commuted Value of Pensions	1404—47
Demand No. 102—Payments to Retrenched Personnel	1404—47
Demand No. 104—Capital Outlay on Schemes of State Trading	1404—47
Demand No. 105—Capital Outlay on Development	1404—47
Demand No. 106—Payments to Government of Pakistan for Unique Institutions	1404—47
Demand No. 107—Interest-free and Interest-bearing Advances	1404—47

THURSDAY, 17TH MARCH, 1949—

General Budget—List of Demands	1448—1506
Demand No. 10—Cabinet	1448—87
Policy regarding Subversive Organisations	1465—87
Demand No. 13—Ministry of Home Affairs	1450—87
Policy regarding Military or semi-Military Organisations established by Provincial Governments	1465—87
Demand No. 84—Jails and Convict Settlements	1450—88
Demand No. 35—Police	1450—88
Demand No. 63—Census	1450—88
Demand No. 83—Civil Defence	1450—88
Demand No. 85—Delhi	1450—88
Demand No. 86—Ajmer-Merwara	1450—88
Demand No. 87—Panth Piploda	1450—88
Demand No. 88—Andaman and Nicobar Islands	1450—88
Demand No. 27—Ministry of States	1488—1608
Demand No. 89—Relations with Indian States	1488—1608

FRIDAY, 18TH MARCH, 1949—

Papers laid on the Table	1507—09
Protective Duties (Miscellaneous Provisions) Bill—Introduced	15 09

FRIDAY, 19TH MARCH, 1949—Contd.

PAGES

General Budget—List of Demands	1509—82
Demand No. 18—Ministry of Health	1510—22
Improvement of conditions of Nursing Services	1511—22
Demand No. 51—Medical Services	1510—22
Demand No. 52—Public Health	1510—23
Demand No. 16—Ministry of Education	1523—56
Demand No. 46—Archaeology	1523—57
Demand No. 49—Other Scientific Departments	1523—57
Demand No. 50—Education	1523—57
Transfer of Colleges in Delhi to the University Area	1531—57
Demand No. 22—Ministry of Labour	1557—74
Unity of Trade Union Organisations	1557—74
Demand No. 25—Ministry of Transport	1573—82
Demand No. 58—Delhi Transport Service	1576—82
Demand No. 70—Central Road Fund	1576—82

**CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE)
DEBATES**

[PART II—PROCEEDINGS OTHER THAN QUESTIONS AND ANSWERS]

Thursday 24th February, 1949.

The Assembly met in the Assembly Chamber of the Council House at a Quarter to Eleven of the Clock, Mr. Deputy Speaker (Shri M. Ananthasayanam Ayyangar) in the Chair.

QUESTIONS AND ANSWERS

(See Part I)

11-45 A.M.

HINDU CODE—*contd.*

Mr. Deputy Speaker: We will proceed to the consideration of the Hindu Code.

Shri Jaspal Roy Kapoor (U.P.: General): May I raise a point of order?

The Honourable Dr. B. B. Ambedkar rose—

Mr. Deputy Speaker: A point of order has been raised by Mr. Kapoor.

The Honourable Dr. B. B. Ambedkar (Minister of Law): I was going to refer just to that. Sir, the Order Paper contains sixteen different motions, some of them raise points of order and some of them are substantive motions. I was going to express myself on them before I actually spoke on my motion. However, if my friend has to say something, let him do so.

Mr. Deputy Speaker: Let us hear his point of order.

Shri Jaspal Roy Kapoor: Sir, on the previous occasion when the motion was being taken up, I stood up to raise a point of order. I was then directed by the Honourable Speaker to wait until the point of order raised by my friend Mr. Naziruddin Ahmad had been disposed of. That point of order was disposed of that day exactly at 5 P.M. thereafter the House rose for the day. I hope you will be kind enough to allow me to raise that point of order now. But before I do so I want to assure the House that my object.....

Mr. Deputy Speaker: The honourable Member will kindly state his point of order. There need be no apology or argument. I should like to hear the point of order.

Shri Jaspal Roy Kapoor: My point of order relates firstly to the rights and privileges of the members of this House and secondly to the competency of this House in the present Session to deal with such an important and controversial measure as the Hindu Code Bill when a large number of members of this House are not attending and cannot attend, not for personal reasons, or party reasons, but for reasons of state and in the interest of the country as a whole, being at present busy in the provincial legislatures with the budget sessions, although they are very anxious and eager to attend this House and participate in the discussion of this motion which materially affects the whole Hindu society.

Honourable Members: This is no point of order at all.

Mr. Deputy Speaker: I am here to decide whether it is a point of order or not. You will kindly bear with me. I expect he will conclude his sentence soon.

Shri Jaspal Roy Kapoor: I know many of my friends here are very impatient to proceed with the Bill. It was therefore, Sir, that I at the outset wanted to assure the House that my object is not to sabotage the Bill with many provisions of which I am in agreement. My object is that things should be done constitutionally, the right thing should be done at the right time and in the right manner. As you are aware.....

Mr. Deputy Speaker: I have heard the point of order. The honourable Member feels that this House is not competent to proceed with this Bill. This is number one. Number two is that certain members, whom he would like to have in this House, are not here. Neither is a point of order against the motion for consideration being taken up. This is a sovereign Legislative Assembly fit to pass any legislation it likes. I have heard the point of order and do not want to hear any more arguments in favour of it. As regards the absence of some members, it is no doubt true that a number of members could not be here both from the Provinces and the States. But it is always open to them to come here and take part.

Babu Ramnarayan Singh (Bihar: General): May I say,.....

Mr. Deputy Speaker: So far as the Chair is concerned and so far as this House is concerned, no such direction has been given and therefore the House is competent to proceed with its business. Honourable Members can come in at any time and take part in the debate. I rule out this point of order.

Babu Ramnarayan Singh: With all respect to you.....

Honourable Members: Order, order.

Mr. Deputy Speaker: I would not hear anything more.

Babu Ramnarayan Singh: The previous ruling given by your.....

Mr. Deputy Speaker: I have considered all the previous rulings. I have got them here

Shri V. S. Sarwate (Madhya Bharat): I wish also to raise one point of order.

Mr. Deputy Speaker: Is it any point of order?

Shri V. S. Sarwate: Yes.

Mr. Deputy Speaker: The Honourable Member will kindly briefly state the point of order.

Shri V. S. Sarwate: I shall be very brief. My point of order is this: That for the purposes of this Bill the provisions regarding publication have not been satisfied. It is due to the Chair to see that those provisions are observed. I refer to rule No. 20 which says: "As soon as may be after a Bill has been introduced, the Bill, unless it has already been published, shall be published in the Gazette." There is also a provision that a report of a Select Committee has to be published with the amended Bill. My submission in this case is this: that the Bill was published originally sometime in April 1947 before the Independence Day. The political set-up of India has since changed and changed for the better. What I wanted to draw your attention to is this: that the Indian States which were not a part of the then British India were not to be affected by this Bill. Subsequently some States have merged and some have acceded to the Union in all subjects in August 1948. This is subsequent to the publication. There has been a Covenant of these States as the Chair may know, sometime in August 1948. The result of that Covenant is that the States would now be automatically governed by any legislation which the Centre passes either in

its powers of exclusive jurisdiction or concurrent jurisdiction. I therefore submit that it is the duty of the Chair to protect and guard the rights of the people of these States concerned who are affected by any Bill. I submit that the object of this is two-fold. Such provision enjoining publication enables the constituencies or the people affected by any Bill to express their reactions, their opinions and their feelings about it. I believe this is a fundamental principle of democracy that no Bill shall be passed unless the people affected thereby are given an opportunity to express their opinion thereon. Secondly, the object of this publication is that the members of this Assembly may have an opportunity to ascertain what their constituencies feel about it. I need not say that it is the duty of the members here not to represent their individual views. They have to represent the views of their constituencies when important matters are concerned. As far as details or minor matters are concerned they may have discretion to express their views. But when a measure affects the whole life, the whole structure of society, then in such cases, in such vital matters it is the duty of the members to ascertain the views of their constituencies and represent them here correctly. They should not state what they feel. They should state what their constituencies feel. For this purpose, it is necessary that the Bill should be published. I submit that the Bill was published in the Gazette, but it was not published at the time when the people of the acceding States and merged States were in a position to give that serious consideration to this Bill, which this Bill deserves. Therefore I submit it was not a proper publication, as far as those people are concerned and now, since the Chair is here to guard their interests, I appeal to the Chair to order that the Bill be published before it is taken up for consideration.

The Honourable Dr. B. R. Ambedkar: My reply to the point of order raised by my honourable friend is two-fold. In the first place, there is never any obligation cast upon this House for circulating any Bill for publication before the House can take the matter into consideration. It is only in special cases, when the House by a Resolution or the Government by any executive action desire that the Bill is so important that public opinion might be invited; that public opinion is invited. There is no such right, no obligation at all on the Legislature or on the Government and therefore, from that point of view, the point of order is no point of order at all.

My second submission with regard to the point of order is this, that we have deliberately confined the operation of this Bill to the provinces of India, and so far as the Provinces are concerned, the opinion has been canvassed three times, and I do not think any more purpose would be served by canvassing public opinion for the fourth time. When the occasion comes for the extension of the Bill to the Indian States, no doubt, this Legislature when a proper motion is placed before it, or the Government of the day, will take care that the wishes and the intentions of the States which have come into the Indian Union, will be consulted.

* **Mr. Deputy Speaker:** I agree with the Honourable Law Minister that inasmuch as the scope of this Bill is confined in the first instance only to Provinces of India and it is highly problematical whether it will be extended to the acceding states and if so, on what terms and conditions of accession, it will be time for them to consider whether they can come in or not. As regards the other one, it is not obligatory to send the Bill for circulation unless by a motion accepted by the House. The Select Committee has considered this matter and has found this has not been so materially altered as to necessitate a republication in the official Gazette. For these reasons I rule out the point of order.

The Honourable Dr. B. R. Ambedkar: Sir, before I proceed to speak on my motion, I think it would be desirable if I.....

Shri B. Das (Orissa: General): There is obstruction everywhere. Everybody rises to a point of order. Mr. Naziruddin Ahmad rose six months ago.

Mr. Naziruddin Ahmad (West Bengal: Muslim): It is a different point of order. My honourable friends should have a little patience.

Mr. Deputy Speaker: I can only state that honourable members will kindly consider well before they raise a point of order. I also expect they will consider that if it should turn out to be a dilatory motion, they will invoke upon themselves the criticism of the House.

Mr. Naziruddin Ahmad: My point of order is not dilatory.

Mr. Deputy Speaker: It is open to any honourable member to raise a point of order. An honourable member can take as many points of order as are reasonable and proper.

Mr. Naziruddin Ahmad: The objection to the point of order is dilatory. My point of order is this: the Honourable Minister for Law has already spoken on this motion. He completed the first part of the motion and then the subsequent stages began. He has a right to reply at the end of the debate. Now the motion has been made that the Bill be taken into consideration and a speech has been delivered on the 31st of August, 1948. We have on the agenda a list of amendments. We have to proceed straight to the agenda and then when a motion is made the Honourable Minister certainly has a right of reply, and in the end a general right of reply. At this stage, the Honourable Minister cannot make a second speech on the motion.

Mr. Deputy Speaker: I find from the proceedings on the 31st of August, 1948 the following:

"The Honourable Dr. B. R. Ambedkar (Minister for Law): Sir, I move:

"That the Bill to amend and codify certain branches of the Hindu Law, as reported by the Select Committee, be taken into consideration."

Mr. Naziruddin Ahmad (West Bengal: Muslim): Sir, on a point of order.

Mr. Speaker: I shall hear the Honourable Minister first and then take the point of order.

The Honourable Dr. B. R. Ambedkar: Sir, in view of the urgency of other Government business which is on the agenda and to which Government feels it must give precedence, I do not propose to make a speech in support of my motion, because it is quite obvious that if I were to make a speech in support of my motion, that is bound to give rise to a debate which will result in the consumption of a great deal of the time of the Government. We have already few days left before the House is due to rise, and I, therefore, request you to allow this motion to stand over for further consideration in the next session of the Assembly."

In view of this, the Honourable Dr. Ambedkar is entitled to proceed. I am exceedingly sorry that this point of order has been raised. It is only a dilatory motion.

The Honourable Dr. B. R. Ambedkar: As I was going to say, it would facilitate my work a great deal if I were to know from you what procedure you propose to adopt with regard to the 16 motions that have been tabled as against the motion which I have made, and about which I propose to speak during the subsequent period. These 16 motions fall into three different categories. There are certain motions which propose that the Bill be further circulated for eliciting public opinion. There are certain motions which propose that the Bill

be referred to a Select Committee, which is different from the Select Committee which already reported on the Bill. And there are motions which propose that the Bill may be re-committed to the same Select Committee which has already reported.

There was one other or rather two other motions, one standing in the name of my honourable friend, Shri Prabhū Dayal Himatsingka and the other standing in the name of my honourable friend, Shri Biswanath Das, which propose that the Bill should be circulated to people residing in the acceding states, before the Bill could be taken into consideration. With regard to these two motions, a point of order was raised recently by my honourable friend, Shri V. S. Sarwate, which you have been good enough to dispose of and I therefore take it that motions Nos. 7 and 8 must be taken to have been deleted from the agenda of today. The other motions remain and I want to know whether it is your desire that these motions may be put simultaneously along with my motion, so that all of them may be debated together and ultimately each motion may be put to the House separately, or whether you propose to have these motions taken up before my motion, so that they may be disposed of and the ground may be cleared for my speech on the motion, which I have tabled.

I might say one or two points with regard to the motions that have been made. There are certain motions which you are bound to put, I agree, unless the movers of these motions by themselves voluntarily desire not to move these motions. There are certain motions which are within your discretion, and unless you are satisfied that these motions are not dilatory motions but have behind them certain points of substance, it would not be open in accordance with the rulings which have been given by previous speakers, who have dealt with these questions, to put these motions to the House, because the Chair must be satisfied that they are motions behind which stand substantial grounds and they are not purely dilatory. For instance, the motion that the Bill should not be taken into consideration now, but should be taken into consideration at some later stage is one of those motions, I submit, which according to the rulings of the Chair heretofore could fall within your discretion, where you are satisfied that the reasons advanced by my honourable friends are substantial reasons, and therefore, you should put the motion to the House. For instance, the motion for recommitment is one such motion, because if you will kindly refer to these two volumes of Rulings.—I am sure you have.....

Mr. Deputy Speaker: What I propose to do is this.

The Honourable Dr. B. R. Ambedkar: I should like to have your guidance in this matter.

Mr. Deputy Speaker: I have considered this matter and the number of motions that have been tabled. So far as motions 1 and 2 are concerned, motion 1 is that the Bill as amended, by the Select Committee be withdrawn.

Pandit Thakur Das Bhargava (East Punjab: General): I do not propose to move it at this stage: not that I am not entitled to move it.

Mr. Deputy Speaker: Then it is not necessary to go into the question whether it is in order or out of order. The second motion is.....

Pandit Thakur Das Bhargava: I am not moving it at this stage.

Mr. Deputy Speaker: Then there is the amendment by Master Nand Lal that the consideration of the Bill be postponed to the Budget Session of 1951.

Master Nand Lal (East Punjab: General): I am not moving it.

Mr. Deputy Speaker: These three withdrawals clear the ground. By whatever name they may be called, these three motions, substantially are for adjournment of the debate. I thought that, before the Honourable Law Minister, the mover of the Bill proceeds the movers of these motions must have risen in their seats and pressed for the taking up of these motions, because, before their motions are disposed of, the Honourable mover could not be allowed to speak. Inasmuch as they were not moved, I kept quiet. Now it is clear they are withdrawn. The other motions *viz.*, those for re-circulation or for reference to Select Committee, whatever their nature might be, they are motions which under the Rules any person is competent to make. It is a question for the House to deal with them. So far as the Select Committee motions are concerned, I must be satisfied in the first instance, about their need. Apart from that, there is a motion for re-circulation with respect to which some such requirements have not been laid down, so far as I can see in any rule or ruling. Therefore, I propose at this stage to allow the mover of the Bill to make his speech and after he concludes his speech, allow the motions for Select Committee and Circulation to be moved without any speech. Then, the discussion will go on on all the motions and I will put them one after another to the House.

The Honourable Dr. B. B. Ambedkar: I am obliged for your guidance, Sir. As usual when presenting a motion for the consideration of a Bill as reported by the Select Committee it is the duty of the Chairman of the Select Committee, in the first instance, to draw the attention of the House to such changes as may have been made by the Select Committee in the original Bill which has been referred to the Select Committee. I propose to follow that procedure in the first instance.

Sir, the first part of the Bill deals with marriage and divorce. So far as this part of the Bill is concerned, the Select Committee has added two clauses which relate to the restitution of conjugal rights and to judicial separation. These provisions specifically were absent from the original Bill. The draftsmen of the original Bill felt themselves content by reference to the Indian Divorce Act of 1869 which contains provisions relating to the restitution of conjugal rights and judicial separation. The original draftsmen of the Bill felt that a reference in this Bill to the Indian Divorce Act would be quite sufficient to invoke these two provisions which were contained in the Indian Divorce Act and consequently it was not necessary expressly to mention these two matters in the Code. The Select Committee felt otherwise. The Select Committee felt that as this was going to be a complete Code of Hindu Law, it was wrong to leave the code incomplete, and so to say, legislate by reference. They therefore thought that, instead of leaving this matter to be invoked by reference to the Indian Divorce Act, it would be desirable to embody in the Code itself the provisions contained in the Indian Divorce Act relating to these matters and consequently the part dealing with marriage and divorce has been expanded by the Select Committee by the addition of the clauses relating to these two matters. The House will see that there is no change as a matter of fact between the original Bill and the Bill as drafted by the Select Committee. All that is done is that what was done by reference to the Indian Divorce Act has been done expressly and positively by the inclusion in the Code of specific sections relating to these matters.

With regard to adoption, the Select Committee has introduced a few new changes. The first change that they have made is that when a father is disqualified by reason of the fact that he had changed his religion and ceased to be a Hindu, the mother has been given the right to give a boy in adoption. In other words, change of religion by the father from Hinduism to some other religion has been introduced as a disqualification in the matter of the right to give in adoption. Consequently, a mother in those circumstances has been

empowered to give a boy in adoption. Similarly, if a widow was there and there was a boy, that boy certainly could be given in adoption by the mother when the father was not living. There again, a disability has been introduced to the effect that if the widow ceased to be a Hindu, she would lose her right of giving the boy in adoption, which she would otherwise have.

Another change which has been made by the Select Committee is with regard to the different modes of taking a boy in adoption. Hitherto, as the House knows, there are various forms of adoption. The main form of adoption which is recognised by the Smritis is what is known as the Dattaka form of adoption. In addition to the Dattaka form of adoption, there have prevailed in the various parts of India, customary forms of adoption such as *Godha* Adoption, *Kritrima* Adoption, *Dwyamushyayana* Adoption. The Select Committee felt that as they were codifying the law, it is desirable not to allow any room for customs to grow, because the effect of custom being permitted would be to eat into the Code and make the Code after certain time null and void. Therefore, the Select Committee decided that if anybody wants to adopt under this Code, nobody can make any adoption except in accordance with the provisions of this Code, and Dattaka shall be the only form and no other.

Then, Sir, we come to the question of the right of the adopted boy to divest the persons in whom property has been invested before the adoption takes place. As every member of this House, who is aware of the provisions of the Hindu Law, will know, under the existing Hindu Law, it is permissible to a boy who has been adopted, no matter at what stage he has been adopted—he may have been adopted forty years after the death of the father—time makes no change at all in his rights—to file a suit to set aside any alienation or transfer of property made by the widow who has adopted him. Any amount of litigation goes on on this particular point. In fact, if anyone were to examine the total amount of litigation among the Hindus on the various points of Hindu Law, I am sure they will find that litigation on the question of divesting the property by the adopted boy would be the largest volume. It is therefore desirable that this matter should be settled once and for all. The Rau Committee adopted the procedure of dividing adoption into two categories—adoption made three years before the death of the father and the coming into operation of the Code; and adoption made after the Code. They laid down that a boy, if he was adopted three years before the death of the adoptive father would be entitled to the original rights which an adopted son had under the Hindu Code. But if he were adopted three years after he would not be entitled to set aside alienation.

The second thing that happened as a result of adoption under the Hindu Law was that he completely divested the widowed mother who made the adoption, with the result that the entire corpus of the property passed into the hands of the adopted boy, who, in a certain sense was a stranger, and notwithstanding the notional change that he entered into the family of the adopted father, he practically continued his affiliations with the members of the natural family. The result was that after the adoption had taken place, instead of the adopting mother getting any kind of security for herself as a result of adoption which a natural mother would get from a natural son, she found that this new adopted boy ran away with the property and left the mother with nothing but the right of maintenance. We thought that that was not a desirable state of affairs from the point of view of giving security to women, and consequently certain changes were made. The original distinction that was adopted in the Rau Committee was deleted and a provision was made that the rights of the adopted son shall accrue to him not from the date of the death of his adopting father, but shall accrue to him from the date of his adoption, so that any alienation that may have been made prior to his adoption were beyond his reach, were unchallengeable by him.

[Dr. B. R. Ambedkar]

The second provision that we have made was that the adopted son shall not as a result of adoption deprive the adopting mother completely of her right of property. What the Bill says in its altered form is that only one half of the property of the widow will go to the adopted son. The other half, notwithstanding the fact that the widow has adopted will continue to be in the possession and enjoyment of the adopting mother. The result is that the Committee has permitted adoption which the Hindu community feels is a necessary thing for the purpose of perpetuating the family. But at the same time we have taken care to see that the adoption does not beggar the mother altogether.

Mr. Deputy Speaker: Is not that the result under the Doshmukh Act?

The Honourable Dr. B. R. Ambedkar: No. As I say, she gets only the maintenance.

Mr. Deputy Speaker: She gets half the share of the property.

The Honourable Dr. B. R. Ambedkar: As soon as the adoption takes place all that passes to the son.

Sri Prabhu Daya Himatsingka (West Bengal: General): According to the 1937 Act she is a co-heir with the son.

Sri L. Krishnaswami Bharathi (Madras: General): The son comes later on.

The Honourable Dr. B. R. Ambedkar: That may be so. Now I am coming to minority and guardianship. Here there are only two changes made by the Select Committee in this part of the Bill. The first change is that the power of the Hindu father as a natural guardian of his minor son has been taken away if he renounces the world or ceases to be a Hindu. The original law was that the father was the natural guardian and no matter what change took place in his condition either by his religion or in any other way, he still continued to be the guardian of his minor son. The Committee felt that as this was a Code intended to consolidate the Hindu society and their laws, it was desirable to impose this condition, namely, that the father shall continue to be the natural guardian so long as he continues to be a Hindu. The Code in its altered form also has introduced another change, namely, that a Hindu widow has been given power to appoint a testamentary guardian if her husband has not appointed anyone. She had not any such power and this power has been given to her by the Select Committee.

Now, Sir, I come to the part of the Bill which deals with succession and I will first refer to changes made in the succession to males. Now so far as what are called the compact series of heirs under the Hindu Law, which are placed in category I by the Rau Committee is concerned, the Select Committee has made no alteration at all. The compact series remains as it is, both in the line of heirs as well as in the order of heirs. That matter has not been altered at all. But with regard to persons which are included in clauses 1 to 4 of the Rau Committee, certain changes have been made both in the matter of the line of succession and also in the matter of priority of succession. The Committee has followed both the principles, namely, propinquity as well as natural love and affection, and it is on that basis that the Select Committee has made certain alterations in the heirs set out in clauses 1 to 4 of the original Bill. The Select Committee has also done one thing more: it has curtailed the number of degrees of agnates and cognates who can become heirs to the deceased, and also it has removed the other heirs, such as for instance, heirs which are not related, such as Sam Brahmohari Guru and so on. The reason why the Select Committee has curtailed the number of heirs as provided for in the original Bill is this. We are under this code giving the

right to make a will to every Hindu. A line of criticism has been levelled in a very important journal, namely, the Journal of Comparative Legislation, in which a very eminent lawyer has made the point that when you give the right to make a will, it is unnecessary to provide such a long list of heirs, which extend to the fourteenth degree from the deceased. If the deceased is interested in a man which is related to him in the fourteenth degree and is alive at the time of his death, it is open to him to make a will and to give a part of his property to the particular person in whom he is interested.

If the deceased himself during his lifetime has not chosen to remember a relation who is related to him by the 14th degree there is no particular reason why because of mere intestacy he should be permitted to come in for a share. That is one of the reasons why the Select Committee adopted this provision.

I might also draw the attention of the House to the fact that with regard to widows a disqualification has been introduced by the Select Committee which says that a widow on remarriage shall lose her right of inheritance.

Then with regard to the daughter's share, which of course existed in the original Bill itself, the Select Committee has made a somewhat important alteration. The original Bill said that the daughter shall get a share equal to half the share of the son and in order to make equity equitable in devising the line of succession to the Stridhan property of the woman they had also provided that in that case the son will take one half of what the daughter takes so that the daughter will take one half in the father's and the son will take one half in the mother's property. I cannot say that that was an inequitable proposition but somehow the Select Committee and I believe I can say against the best part of their judgment increased in their enthusiasm the share of the daughter in father's property from one half to one full share, equal to that of the son. (*An honourable Member*: "The son is also given.") I am aware of that. With regard to succession to females there are only two changes which the Select Committee has made. Under the existing rule the husband of a woman in the case of succession to females comes much later under the Hindu law and that provision was included by the old Rau Committee. The Select Committee felt that that was rather unjust, because it may be (it is often possible) that much of the property which is called Stridhan property or property which comes into the hands of a woman may, and perhaps does, to a very large extent come from the husband and if the husband is the principal source of the property, that comes into the hands of the woman, it is not proper that it should be postponed to other heirs. Consequently the Select Committee altered the provision and brought the husband in line with the other Stridhan heirs, so that the husband now shares simultaneously with the heirs of a woman, who share in the Stridhan property. As I said that because that increased the share of the daughter in the father's, they also *pari passu* made the share of the son in the mother's Stridhan property equal to that of the daughter.

Mr. Deputy Speaker: They balanced the son and daughter.

The Honourable Dr. B. R. Ambedkar: No change has been made in the law relating to maintenance which is worthy of requiring any mention to this House.

Then I come to the question of the joint family. It has been said that the provisions contained in the Bill as it has emerged from the Select Committee contained provisions relating to joint family which are absolutely new. I would like to take this occasion to repudiate that suggestion. No change has been done by the Select Committee. The provisions of the *Mitalashra*

[Dr. B. R. Ambedkar]

joint family were originally contained in the Bill as drafted by the Rau Committee and it was placed before this House on the 9th August, which the House accepted and sent to the Select Committee. (*Honourable Members*: 9th April.) Therefore my first submission is that no new change has been made by this Select Committee. All that the Select Committee has done is to add two new clauses—clause No. 88 and clause No. 89. Clause 88 deals with the doctrine of what is called pious obligations. Clause 89 deals with the liability of the joint family to pay joint family debts. It was unnecessary to include these clauses, because once you break up coparcenary property it is not necessary to make any express provision with regard to the doctrine of pious obligation, because the doctrine of pious obligation is necessary where there is survivorship property: because by survivorship where A takes the property of B and the property of B is encumbered with debts, no special doctrine is necessary to impose an obligation upon B; because in hereditament which a person gets, he takes both the profit and the burden of it. But in view of the theory of the Mitakshara that every coparcener gets the property by survivorship, which does not belong to the deceased, the Patna High Court, if I may say so, as well as the Bombay High Court Bar pressed upon us very strongly that it was very desirable that these two things which were implicit, so to say, in the Mitakshara doctrine of joint family, shall be stated expressly in the Code, so that when the question of judicial interpretation arises there may be no occasion for any kind of dispute, doubt or controversy. As one of the objects of the Code was to make the law clear not merely to the lawyers but to the ordinary citizens and as it is a suggestion which came from such a weighty authority as the Patna High Court and the Bombay High Court Bar, we thought it desirable to introduce these two things, namely no obligation to pay debts on the original ground of pious obligation and the liability to pay primary debts which belong to the family. Besides that there has been no change at all. If my friends have some doubt still on the subject that we have made fundamental changes in regard to the joint family of the Mitakshara, I would like to draw their attention to section 86 (Part V: Joint Family Property). Section 86 of the new Bill as it has emerged from the Select Committee is the same word for word, except for ordinary verbal changes, as part III-A section 2, on page 12 of the original Bill as drafted by the Rau Committee. Similarly section 87 which also deals with joint property is word for word the same as part III-A, section 2, page 12. Anybody who compares the two I am sure will accept the proposition which I have enunciated in this House that this is not an innovation by the Select Committee at all but they form part and parcel of the original Bill as drafted by the Rau Committee.

I should like to dispel any further doubt that may exist on this point by referring to the Rau Committee's Report (page 13). This is what the Rau Committee says (paragraph 51):

"Turning now to the contents of the Draft Code the main proposals on which differences of opinion have manifested themselves in varying degree are the following :

- (1) the abolition of the right by birth and the principle of survivorship and the substitution of the *Daya bhaga* for *Mitakshara* in the *Mitakshara* Provinces ;
- (2) giving of half a share to the daughter ;
- (3) the conversion of the Hindu woman's limited estate into an absolute estate ;
- (4) the introduction of monogamy as a rule of law ;
- (5) the introduction of certain provisions for divorce".

I think honourable Members will see that the Rau Committee in setting about its work made it perfectly known to everybody in this country that the Code that they had framed and which subsequently was embodied by them did contain the specific provision. I have no doubt about it that anybody who has read the volumes of evidence which have been collected by them previously by the Joint Select Committee appointed by this House, by the Rau Committee and by this Government by an executive order—would find that there is no person either in this House or outside, who has paid any attention to this part of the Code, who will be under any wrong impression that the Rau Committee had decided or proposed that this co-parcenary should not be abolished. It is therefore not a new innovation of the Select Committee at all.

The Select Committee has made some changes with regard to the application of the Hindu Code. The Rau Committee's Bill contained a provision that the Bill should not extend to areas to which the Marumakkattayam and Aliyasanthanam laws apply. Somehow the Select Committee in its enthusiasm transgressed, if I may say so without any disrespect, the bounds of reasonableness and came to the conclusion that there ought to be no area which ought to be exempt from the operation of this Code. Consequently they deleted the provision.

Mr. Deputy Speaker: In the interests of uniformity.

The Honourable Dr. B. E. Ambedkar: I do not know whether it was done rightly or wrongly; that is a matter which the House will consider at a later stage.

Pandit Mukut Bihari Lal Bhargava (Ajmer-Merwara): May I ask whether the honourable speaker was dissenting from that view?

The Honourable Dr. B. E. Ambedkar: I will dissent at a later stage perhaps. I have no empty mind but I have still an open mind.

Shri H. V. Kamath (C. P. and Berar: General): Not a vacant mind!

Pandit Thakur Das Bhargava: On every question I hope.

The Honourable Dr. B. E. Ambedkar: Sir, in the ordinary course a speech of the sort which I have made is generally regarded not only appropriate but sufficient for the occasion. But it would be futile on my part to disguise the fact that there is a section—if not a large section, a section in the House—which feels a certain amount of compunction over certain parts of the Bill. Neither can I disguise from myself the fact that outside the House there are many people who are not only interested in the Bill but, if I may say so, very deeply concerned about it. I therefore think that it is only right, if you will permit me, to add a few general observations with regard to the points of controversy which I have noticed in several newspapers which I have been perusing ever since the Bill has been on the anvil. I will take this matter also part by part and section by section. I will deal only with what I regard have been considered as points of controversy. Let me take marriage and divorce. Here I find that there are three points of controversy. The first point of controversy is abolition of castes as a necessary requirement for a valid marriage; the second point of controversy is the prescription of monogamy; and the third point of controversy is permission for divorce.

I will take the first point of controversy, namely—abolition of caste restrictions. So far as this Bill is concerned, what it does is to arrive at a sort of compromise between the new and the old. The Bill says that if any member of a Hindu community wants to follow the orthodox system which requires

[Dr. B. R. Ambedkar]

that a marriage shall not be valid unless the bride and bridegroom belong to the same *varna*, the same caste or the same sub-caste, there is nothing in this Code which can prevent him from giving effect to his wishes or giving effect to what he regards as his *dharma*. In the same way if one Hindu who is a reformist and who does not believe in *varna*, caste or sub-caste, chooses to marry a girl outside his *varna*, outside his caste, outside his sub-caste, the law regards his marriage also as valid. So far as the marriage law is concerned there is therefore no kind of imposition at all. The *vydhikas*, the orthodox, are left free to do what they think is right according to their *dharma*. The reformers who do not follow *dharma* but who follow reason, who follow conscience, have also been left to follow their reason and their conscience.

Shri Mahavir Tyagi (U. P.: General): Are they permitted to marry outside their religion also if their conscience directs them in that manner?

The Honourable Dr. B. R. Ambedkar: Well, we will have another Bill for that. I do not know whether my honourable friend Mr. Tyagi is unmarried. If he is I will hurry it up.

Shri Mahavir Tyagi: I want to make way for others.

The Honourable Dr. B. R. Ambedkar: Consequently, what will happen in Hindu society so far as marriage law is concerned if there will be a competition between the old and the new. And we hope that those who are following the new path will win subsequently. But, as I say, if they do not, we are quite content to allow two parallel systems of marriage to be operative in this country and anyone may make his choice. There is no violation of a *shastr*, no violation of a *smriti* at all.

With regard to monogamy it may be that it is a new innovation. But I must point out that I do not think that any Member in this House will be able to point out having regard to customary law or having regard to our *shastras* that a Hindu husband had at all times an unfettered, unqualified right to polygamy. That was never the case. Even today, in certain parts of South India there are people who follow this, a section of the Nattukottai Chettiars—the case has been reported in the Reports of the Privy Council itself, I am not depending on mere hearsay evidence—but among the Nattukottai Chettiars there is a custom that a husband cannot marry a second wife unless he obtains the consent of his wife. Secondly, when a consent is obtained, he must allot to her certain property which I think in the Tamil language is called *mappu*. That property becomes her absolute property so that if after her consent the husband marries and ill-treats her, she has a certain amount of economic competence in her own hands to lead an independent life. I cite that as an illustration to show that there has not been an unqualified right for polygamy.

A second illustration which I would like to give would be from the Arthashastra of Kautilya. I do not know how many Members of the House have perused that book. I suppose many of them have. If they have, they will realise that the right to marry a second wife has been considerably limited by Kautilya. In the first place, no man can marry for the first ten or twelve years because he must be satisfied that the woman is not capable of producing children. That was one limitation. The second limitation imposed by Kautilya on the right of second marriage was that the husband was to return to the woman all the *stridhan* that she had acquired at the time of marriage. It is only under these two conditions that Kautilya's Arthashastra permitted a Hindu husband to marry a second time.

Thirdly, in our own country, in the legislation that has been passed in various Provinces, monogamy has been prescribed. For instance in the

marumakkathayam and the *aliyasanthanam* law both of them prescribe monogamy as a rule of marital life. Similarly, with regard to the recent legislation that has been passed in Bombay or in Madras, similarly in Baroda, the law is the law of monogamy.

I hope the House will see from the instances I have given that we are not making any very radical or revolutionary change. We have precedent for what we are doing, both in the laws that have been passed by various States in India, also in the ancient *shastras* such as Kautilya's Arthashastra. If I may go further, we have got the precedent of the whole world which recognises monogamy as the most salutary principle so far as marital relations are concerned.

Shri Deshbandhu Gupta (Delhi): What about the Mohemmadan law?

The Honourable Dr. B. R. Ambedkar: We shall come to Mohammadan law when we discuss the Mohammadan law.

Coming to the question of divorce, there again I should like to submit to the House that this is in no way an innovation. Everybody in this House knows that communities which are called *shudra* have customary divorce and what is the total of what we call *shudra*? Nobody has ever probably made any calculation as to the total number of *shudras* who go to compose the Hindu society, but I have not the slightest doubt in my mind that the *shudras* form practically 90 per cent of the total population of the Hindus. What are called the 'regenerated' classes probably do not fill more than ten per cent of the total population of this country, and the question that I want to ask of honourable Members is this: are you going to have the law of the 90 per cent of the people as the general law of this country, or are you going to have the law of the 10 per cent of the people being imposed upon the 90 per cent? That is a simple question which every Member must answer and can answer.

So far as the 'regenerated' classes are concerned there was a time, if one refers for instance to the time when the *Narada smriti* or the *Parashara smriti* were written, when the *smritis* recognised that a woman can divorce her husband when he has abandoned her, when he died, when he has taken *parivrija*, and she was entitled to have a second husband. Consequently, it may be that at a later stage I shall read to you some extracts from your *shastras* to show. (*An honourable Member:* "Your *shastras*") Yes, because I belong to the other caste.

I shall read the extracts to show that what has happened in this country is that somehow, unfortunately, unnoticed, unconsciously, custom has been allowed to trample upon the text of the *shastras* which were all in favour of the right sort of marital relations. My submission, therefore, to the House is that so far as any new principles have been introduced in the law of marriage or divorce, whatever has been done is both just and reasonable and supported by precedent not only of our *shastras* but the experience of the world as a whole.

With regard to adoption, there are again three points of controversy. One point of controversy with regard to adoption is this, that like the old Hindu law we do not make similarity or identity of caste a requisite for a valid adoption. We follow the same rule that we have followed with regard to marriage. Here again, I may say that if a Brahmin wants to adopt a Brahmin boy, he is free to do so. If a *Kayasth* wants to adopt a *Kayasth* boy, he is free to do

[Dr. B. R. Ambedkar]

so. If a *Shudra* wants to adopt a boy of his own community he is free to do so. If a Brahmin is so enlightened as not to adopt a boy belonging to his own community but adopts a *Shudra* he is also permitted to do so. There is therefore no kind of imposition.

Beth Govind Das (C. P. and Berar: General): Why do you consider such a Brahmin enlightened?

The Honourable Dr. B. R. Ambedkar: Well, I do not know. From my point of view certainly he is enlightened; from your point of view he may be a very dark man, but that is a difference of opinion.

With regard to the question of the limitation on the right of an adopted son to challenge all alienations made by the widow before adoption, I do not think that there can be any controversy at all. There is no reason why we should continue the notion that a boy when adopted becomes the son of the adopted father right from the time when the adopted father died. This is a pure fiction. It has no value at all. It is not merely a fiction; it is a fiction which gives rise to tremendous litigation and tremendous difficulties. It is therefore right that the adoption should be simultaneous with the vesting of the property. I do not think any member of the House will think that this is a proposition which we ought not to accept at this stage. (*Shri B. Das*: "We all accept".)

Similarly, as I have stated, the limitation upon the right of a boy who is adopted to divest the mother completely and to make her nothing more than a dependant waiting for such maintenance as the adopted boy may give, I do not think that there is any member of the House who will think that such a situation can be justified on any ground whatsoever. I think it is right that we preserve the right of adoption which the orthodox community cherishes so much, but, Sir, I do not understand why there should be adoption. Most of us who make adoptions have no name to be recorded in history. Personally, I myself certainly would not like my name to go down in history, because my record is probably very poor. I am an unusual member of the Hindu community. But there are many who have no records to go down and I do not understand why they should indulge in adopting a son—a stupid boy, uneducated, without any character—not knowing his possibilities and fastening him and fathering him upon a poor woman, whom he can deprive of every property that she possessed. Therefore, my submission is this, that if you do want to cherish your old notions with regard to adoption, at any rate make this provision that the adopted boy does not, altogether deprive the mother of the property which is her mainstay. I do not think that that limitation can be at all a point of controversy.

With regard to the question of the abolition of customary adoption, I would like to say two things. There is a general argument which the House will be able to appreciate. It is this. A Code is inconsistent with customary law. That is a fundamental proposition. If you allow a Code to remain and at the same time permit custom to grow and custom to plead against the Code, there is no purpose in having a Code at all, because a custom can always eat into the Code and make the Code null and void. With regard to this particular matter of customary adoption such as *Krithrim* adoption, *Godha* adoption and *Dwaimushayan* adoption, my submission is this, that these are really not adoptions at all. As the Privy Council in one of its rulings has definitely stated, adoption is purely a religious affair. The getting of property by the adopted son is a secondary matter. He may get property; he may not get property, and even though he may not get property his adoption from a religious

point of view may be valid. Therefore, my submission is this, that all these customary adoptions are nothing else but devices to keep property within the two families which enter into this bargain, and in my judgment, since we have passed the Constitution and included in the Directive Principles one article saying that the State should take steps not to allow property being concentrated in the hands of one or a few, such devices like the *Dwaimushayan* where two parties merely agree to share the property and keep it with them ought not to be tolerated. Besides, there is no reason why parties who want to make a genuine adoption should not conform to the rules and regulations regarding the *Dattakar* adoption which is permitted by the law.

Mr. Deputy Speaker: It is now one o'clock. The Honourable Minister may continue after Lunch.

The Assembly then adjourned for Lunch till Half Past Two of the Clock.

The Assembly re-assembled after Lunch at Half Past Two of the Clock, Mr. Deputy Speaker (Shri M. Ananthasayanam Ayyangar) in the Chair.

The Honourable Dr. B. R. Ambedkar: I want now to take up the points of controversy relating to the topic of co-parcenary law. The question is raised: Why does the Bill wish to seek to abolish the co-parcenary which is prescribed by what is called the *Mithakshara* law? Now, Sir, having applied my mind in the best way I can for the proper exposition of this subject, I think this is a question which required to be considered from three different points of view. One is how large a volume of property is included within the ambit of what is called co-parcenary property. If the volume that is comprised within what is called co-parcenary property is a very large part of the property which a man in these days holds, then no doubt some serious attention will have to be paid to this question. Therefore, that is the first aspect of the question that one has to examine.

The second aspect that we have to consider with regard to the retention of what is called co-parcenary property is whether any co-parcener had individually the right to alienate property. Thirdly, whether any co-parcener has a right in himself to break up the co-parcenary. Obviously, if the property included within the class of property called co-parcenary property is a small part of the property, different questions will arise. Similarly, if any co-parcener, under the present existing Hindu law, has already got the right to alienate his share in the property, then obviously, the question whether this law or this Bill is abrogating co-parcenary property would stand on a different footing. Similarly, if under the existing Hindu law a co-parcener has an inherent right to break up a co-parcenary, then my submission is that the question that this Bill breaks up the co-parcenary becomes very much less momentous than is thought of by most Members of the House as well as people outside.

Let me therefore take the first question: What is the extent of the non-co-parcenary property which a co-parcener may hold, notwithstanding the fact that he is a member of the co-parcenary? Now, my friends, who have paid attention to this subject and know what the position is under the Hindu law, will know that there is no disqualification upon a co-parcener to hold separate

[Dr. B. R. Ambedkar]

property while he continues to be a co-parcener. A co-parcener may have capacity to hold two different sorts of property—property which belongs to the co-parcenary and property which does not belong to the co-parcenary, but belongs to himself and does not go by what is called survivorship.

Let me give the House some idea of the extent and nature of the property which a co-parcener can hold, although he is a co-parcener. I have taken from the existing text books on the Hindu law, the following categories of property which a co-parcener can hold, notwithstanding the fact that he is a co-parcener. Firstly, property inherited by a Hindu from a person other than his father, grand-father and great grand-father. If a Hindu gets property from a person who is not his father, grand-father or great grand-father, that property is in his hand and is separate property and does not belong to the co-parcenary. Secondly, property inherited by him from his maternal grand father, thirdly gift of ancestral moveables made to him by his father and fourthly property granted by Government to an individual who is a member of the co-parcenary becomes his personal property and not the property of the co-parcenary. Then fifthly we have ancestral property lost to the family and recovered without the aid of the family property. That also, although originally co-parcenary property, becomes his private property. Then sixthly, there is the income from separate property and purchases made from the income of such property. They are also private property. 7, share of a co-parcener by partition if he has no male issue. 8, property held by a sole surviving co-parcener when there is no widow with the power to adopt. 9, separate earning of a member of a joint family co-parcenary and 10 gains of learning. Such vast amount of property included in these 10 categories is today under the Mithakshara law the private property of a co-parcener. It does not become the property of the co-parcenary.

Let me illustrate this by one plain illustration. There are hundreds and hundreds of clerks in our Secretariat, some drawing small salaries, some drawing huge salaries, more than the salaries of the Members of the Cabinet—Rs. 4,000. (*Honourable Members*: "Clerks? Are they clerks?" I mean officers. In a certain sense they are glorified clerks

The point I want to put to the House is this: that such large income as gains of learning, which come up in individual cases to Rs. 4,000, if there was a joint family in the true sense of the word, ought to go to the joint family for the joint maintenance of that family. What happens? Under the Gains of Learning Act passed only a few years ago, this very Assembly not I mean the Members, passed a law that such gains of learning, which form, as I say, the principal part of the income of a joint family and which a member is enabled to earn by reason of the education that was given to him out of the family income, have now been made his personal and private income. My submission to the House is this: when so large a property, as I have mentioned, included in these ten different categories have already been made a modification of the original laws of Mitakshara private property, what is the balance of property that is left which can be said to comprise the co-parcenary property? My submission is that really very, very small volume of property is left to comprise within what is called the co-parcenary. Let me take the other question. It is said that the co-parcenary—I hope Members understand that co-parcenary is something very narrow and very limited and it is not the same thing as a joint family, which is quite a different matter—system enables the Hindus to conserve the property, to retain it, that there can be no break-up, there can be no squandering of money so to say on the part of any

member of the family. A question that I want to put to the House is this: Is it true under the existing law of the Mitakshara that this property cannot be alienated, cannot be squandered? The answer is completely in the negative. Let me give you one or two illustrations. I am taking the case of the father. The father can alienate joint property for antecedent debt. All that the father has to do is first of all create a debt, say one thousand or two thousand rupees on a personal promissory note. Subsequently, after six months he becomes entitled to sell the whole of the co-parcenary property, if that becomes necessary for the purpose of meeting that antecedent debt. Now, a submission that I want to make to the House is this: Does the lodgment of such enormous power in the hands of a father to sell the property for purely antecedent and personal debts? I want the House to bear in mind that the Mitakshara law makes a distinction between the father and the manager so far as the alienation of property is concerned. True a manager cannot alienate a property belonging to the co-parcenary unless and until it is proved that there is a family necessity for which alienation is necessary. But with regard to the father, there is no such obligation at all. A father can create a debt personally for himself and he becomes entitled to alienate that property for a purely personal debt which has not been incurred for the purposes of the family. The only limitation that is imposed upon the right of the alienation of the father under the Mitakshara law is that the debt must not be impious, must not be for an immoral purpose and if it is not immoral, then the father can alienate the whole of the property of the co-parcenary. There is no limit at all.

Similarly, take the case of the son. It is also under the Mitakshara law within the competence of a son to demand the partition of the family property at any time he likes. I could have well understood the argument for the conservation of the co-parcenary property if the rule of Hindu Law was that no co-parcener was entitled to alienate the property, that the property must remain the property of the co-parcenary, but that is not the case. The root of dissolution, the root of destruction of the co-parcenary property is in the co-parcenary itself, because it is the co-parcenary law that gives a vested right, a right from the very birth to demand partition of the property and disrupt the whole of the society.

Thirdly, even if a son does not alienate his property, he can create a debt on the property for his own personal purposes and the creditor who has advanced that money under Mitakshara law has a perfect right to sue for the partition of the co-parcenary in order to recover his debt. A stranger, therefore, under the Mitakshara law has a right to break up the co-parcener. I would like to ask my honourable friends, who are worried about this matter, where a large part of the estate, of the assets lies outside the co-parcenary property and so far as the co-parcenary property is concerned, the father has a right to alienate without any kind of limitation except the immorality of the debt, the son has a right to break up the property at any time he likes and the son has a right to create a charge on the property enabling the creditor to sue for partition, is it something which might be called a solid system, which is fool-proof and knave-proof? My submission is this, that the co-parcenary property law as it stands, contains within itself the elements of disruption. Therefore, the Bill is doing nothing very radical in saying that the share shall be held separately. As we all know to-day the condition is such that everybody wants

to live separately. The moment a father dies, the sons claim that there shall be partition and that they shall live apart and what the Bill is doing is to give a legal recognition to facts, as they exist to-day. There is nothing that is radical at all in this part of the Bill.

[Dr. B. R. Ambedkar]

Of course, I should say one thing which I think is generally not realized. I started by saying that a distinction has to be made between co-parcenary and joint family. This Bill while it does away with co-parcenary, maintains the joint family. It does not come in the way of the joint family being maintained. The only thing is that the joint family in the Mitakshara law will be on the same footing and of the same character as the joint family under the Dayabhaga law. It must not be supposed that because the Mitakshara law does not prevail in Bengal that there is no joint family. There is a joint family. The only distinction will be that the members of the joint family instead of holding their rights as joint tenants, will hold them as tenants in common. That will be the only distinction that will be between the existing law in the Mitakshara and the future law in the Mitakshara.

Now, I come to woman's property. I do not know how many members of this House are familiar with the intricacies of this subject. So far as I have been able to study this subject, I do not think that there is any subject in the Hindu Law which is so complicated, so intricate as the women's property. (An honourable Member: "As the woman herself"): As the woman herself. If you ask the question, what is *stridhan*, before answering that question, you have to ask another question and find an answer for it. You must first of all ask, 'is she a maiden' or 'is she a married woman'. Because what property is *stridhan* and what property is not *stridhan* depends upon the status of the woman. Certain property is *stridhanam* if she has obtained it while she is a maiden; certain property is not *stridhan* if she has obtained it after marriage. Consequently, if you ask the question what is the line of inheritance to the *stridhan*, you have again to ask the question whether the *stridhan* belongs to a maiden or the *stridhan* belongs to a married woman. Because, the line of succession to the *stridhan* of a maiden is quite different from the line of succession to the *stridhan* belonging to a married woman. When you come to the question of succession to married women's property, you have again to ask the question, does she belong to the Bengal School or does she belong to the Mitakshara School. If you ask the question whether she belongs to the Mitakshara school, you will never be able to find a definite answer unless you probe further and ask whether she belongs to the Mithila School or the Benares School or some other School. This is a most complicated subject. At the same time, I should like honourable members to bear two things in mind. One is this: so far as women's property is concerned, generally speaking, it falls into two categories. One category is called her *stridhan* and the other is called widow's property. The latter property is property which she inherits from a male member of her family, and according to the existing law property which she owns only during her life time and subsequently that property passes to the reversioners of the male heir. That is the position.

Therefore, so far as women's property is concerned, we have two different sorts of inheritance, and two different sets of property, *stridhan* property and widow's property. The heirs to *stridhan* property are quite different and distinct from the heirs to the property she inherits from a male member. The question, therefore, we have to consider in codifying this particular branch of the Hindu Law is this. Are you going to maintain the two principal divisions which exist at present, namely, *stridhan* property and widow's property? Secondly, are you going to maintain the double line of succession, one line of succession for the *stridhan* property and another line of succession for widow's

property? These are the two principal questions which arise when one begins to codify this law. The Committee came to the conclusion that so far as codification was concerned, its purpose would be defeated if we allow the present chaos to continue. We must either decide that a woman will not be entitled to have absolute property or we must decide that a woman should have absolute property. We must also decide what should be the line of heirs for a woman; whether they should be uniform or they should be different. The Committee came to the conclusion that so far as right to property is concerned, there should be uniformity and uniformity should recognise that the woman has absolute property.

I know a great deal of the argument that is always urged against women getting absolute property. It is said that women are imbecile; it is said that they are always subject to the influence of all sorts of people and consequently, it would be very dangerous to leave women in the world subject to the influences of all sorts of wily men who may influence them in one way or another to dispose of property both to the detriment of themselves as well as to the detriment of the family from which they have inherited the family property. The view that the Committee has taken is a very simple one. In certain matters or certain kinds of property which is called *stridhan* property the Smritis are prepared to invest women with absolute right. There can be no question at all that a woman has an absolute right over her *stridhan* property. She can dispose it of in any way she likes. My submission to the House is this. If the woman can be trusted to dispose of her *stridhanam* property in the best way she likes, and nobody has ever raised an argument for the obliteration of that rule of Mitakshara, the burden of proof lies upon the opponents who say that the other part of the property, namely, widow's estate, which the woman has inherited, should not become her absolute property. It is they who must prove that while the women are competent to dispose of a certain part of the property which they possess, they are not competent to dispose of a certain other part. The Committee, on a very careful examination, failed to find a satisfactory solution of this dilemma. The Committee, in my judgment, very rightly, came to the conclusion that if in certain cases women were competent and intelligent to sell and dispose of their property, they must be held to be competent in respect of the disposal of the other property also. That is the reason why the Committee have made this rule that women should now possess absolute property.

The other question that arises on this issue, namely women's property, is the share of the daughter. I know it would be a very great under-statement to say that this is a ticklish question; it is a very anxious question. There are many people in this world, in India today, both orthodox and unorthodox who cannot help producing daughters; they do. I do not know what would happen to this world if daughters were not born. At the same time, they do not want to extend to the daughter the same love and affection which a parent is bound to extend both to the male and female issue. But, I am not going to use any such high level of argument in favour of the proposition which has been enunciated by the Select Committee; I am going to speak on a much lower tone. The first thing that I would like to address myself to this House is this. The inclusion of the daughter among the heirs is not an innovation which is made by this Committee. Honourable members who are familiar with the law of inheritance as it prevails both under the Mitakshara and Dayabagha, I am sure, will admit that the daughter is included by both of them under what is called the compact series. As members will know, Hindu law is divided into several categories. The first category, is called,

[Dr. B. R. Ambedkar]

compact series. After that, there is a series of heirs spoken of as *Sapindas*, then comes *samanodakas*. After that comes the *bandhus*. *Bandhus* are divided into three categories: *Atma bandhus*, *Pitru bandhus* and *Matru bandhus*. The compact series is really a special class of heirs which does not conform strictly to the basic principles of heirship surrounded round *gutraja*, *samanodaka* and *bandhus*, because it is a mixed category. It is a category which is based on double foundation. It is based on propinquity; it is also based on religious efficacy. They do not conform to any of the criteria which have been laid down for determining the categories of *sapindas*, *samanodakas* and *bandhus*.

If you take both the laws, the *Mitakshara* as well as the *Dayabhaga*, you will see that the daughter is included within the category known as compact series. The only distinction between the *Mitakshara* and the *Dayabhaga* is this. According to the *Dayabhaga* the necessary element in heirship is the capacity to offer oblation. Consequently the *Dayabhaga* makes a rule between a daughter who is unmarried, a daughter who is married, a daughter who is married but has a son, and a daughter who is a widow. They give preference to a daughter who is married and has a son. Next to that they give preference to a daughter who is married. The unmarried daughter comes third. But it is within that category, the reason being that a daughter who is married and has a son, is ready there to offer oblation, because her son can offer oblation. A daughter who is unmarried, has no son, and therefore his possibility of offering an oblation does not exist. That is why she has been kept down. But the point I want to emphasize, and which I want the House to bear in mind is that there is no innovation as such in the inclusion of the daughter in the category of compact series. She has always been there both according to the *Mitakshara* and according to the *Dayabhaga*. The only innovation which the Bill seeks to make is to raise the status of the daughter. Under the Bill she becomes simultaneous heir, along with the son the widow, the widow of the predeceased son, son of a predeceased son of a predeceased son, widow of a predeceased son of a predeceased son.

The point is this that originally, and particularly according to the *Mitakshara* Law, no female was entitled to any kind of share at all. This law was changed in the year 1937 whereby the widow of the deceased, the widow of the predeceased son and of his grandson and great-grandson—they were all made simultaneous heirs along with the son. The only omission that was made was in respect of the daughter. The Government at that time was not prepared to lend its support to put the daughter on the same level as the widow and the widows of the predeceased son and the predeceased son's son. This is therefore the only innovation that the Bill makes. It merely raises it up in the order of heirs. It is not that for the first time she has been made an heir.

Now I come to the question of her share. As the Rau Committee has pointed out, and as many of the witnesses who know the *Shastras* have pointed out, that it is impossible to deny the fact that the daughter according to the *Smritis* was a simultaneous heir along with the son and that she was entitled to one-fourth share of her father's property. That has been accepted as a text from the *Yagnavalkya* and also from *Muni*. I once counted 137 *Smritis* and I do not know why our ancient Brahmins were so occupied in writing *Smritis* and why they did not spend their time doing something else it is impossible to say, assuming that that occupation was a paramount occupation

of the day. There is no doubt about it that the two Smritikars whom I have mentioned—Yagnavalkya and Manu, rank the highest among the 137 who had tried their hands in framing Smritis. Both of them have stated that the daughter is entitled to one-fourth share. It is a pity that somehow for some reason custom has destroyed the efficacy of that text: otherwise, the daughter would have been, on the basis of our own Smritis, entitled to get one-fourth share. I am very sorry for the ruling which the Privy Council gave. It blocked the way for the improvement of our law. The Privy Council in an earlier case said that custom will override law, with the result that it became quite impossible to our Judiciary to examine our ancient codes and to find out what laws were laid down by our Rishis and by our Smritikars. I have not the least doubt about it that if the Privy Council had not given that decision, that custom will override text, some lawyer, some Judge would have found it quite possible to unearth this text of Yagnavalkya and Munusmriti, and women to-day would have been enjoying, if not more, at least one-fourth of the share of their property.

The original Bill had raised the share of the daughter to one-half. My Select Committee went a step further and made her share full and equal to that of the son.

I am not entitled to disclose what happened at the Select Committee and how this provision came to be made. I am perfectly...

Smt. Renuka Ray (West Bengal: General): Unanimously!

Mr. Deputy Speaker: Was it a compromise between twice the share of a son claimed and half the share provided in the Bill?

The Honourable Dr. B. R. Ambedkar: It was not a compromise. My enemies combined with my enthusiastic supporters and my enemies thought that they might damn the Bill by making it appear worse than it was.

Shri H. V. Kamath: Have you any enemies.

The Honourable Dr. B. R. Ambedkar: However, this is the position, namely, so far as the daughter's share is concerned, the only innovation that we are making is that her share is increased and that we bring her in the line with the son or the widow. That also, as I say, would not be an innovation if you accept my view that in doing this we are merely going back to the text of the Smritis which you all respect.

I might also say that in discussing this question about the share of the daughter, myself, and the members of the Law Department examined every system of inheritance. We examined the Muslim system of inheritance: We examined the Parsi system of inheritance: We examined also the Indian Succession Act and the line of succession that had been laid down and we also examined the British system of inheritance, and nowhere could we find any case where a daughter was excluded from a share. There is no system anywhere in the world where a daughter has been excluded.

Now, Sir, one question has been brought forth constantly—that the giving of the share to the daughter means disruption of the family. I must frankly confess that I cannot appreciate the force of that argument. If a man has twelve sons and one daughter, and if the twelve sons on the day of the death

[Dr. B. R. Ambedkar]

of the father immediately decide on partition and obtain a twelfth of the total property of the father, is the partition going to be much more worse if there was a daughter, the thirteenth, who also demanded a share?

Twelve shares or 12 fragments is not a better situation than 13 fragments. If you want to prevent fragmentation we shall have to do something else, not by the law of inheritance but by some other law, whereby property shall not be fragmented so as to become less useful from a national point of view for purposes of national production.

Shri T. A. Ramalingam Chettiar (Madras: General): Is the Hindu Code applied to agricultural land?

The Honourable Dr. B. R. Ambedkar: It is not. I am saying generally.

I think I have, so far as I know, exhausted what I have to say on the various points of controversy which I had seen raised both by members of this House as well as by the members of the public. I hope that the clarification which I have given on the various points will allay the fears of members who are not well disposed towards this measure. They will realise that this is in no sense a revolutionary measure. I say that this is not even a radical measure and I should like to draw the attention of the members of this House to one important fact, namely the constitution and composition of the Rau Committee. There were four members of that committee but I should like to point out that two of them who have signed the report are far from radical members of the Hindu community. My friend Mr. Gharpure, whom I have known for a long number of years, is one of the most conservative members I know.....

Shri H. V. Kamath: Politically or Socially?

The Honourable Dr. B. R. Ambedkar: Politically and socially also. In fact I have no hesitation in saying that he may on certain occasions find it very difficult to touch me even with a barge pole. He is so conservative. My friend Mr. T. R. Venkatarama Sastri is no doubt a liberal but he is certainly not a radical so far as I know. If these people conservative in their attitude have signed the report I think we can take it for granted that the measure to which they have put their signature could not be revolutionary and certainly could not be destructive of the foundations of the Hindu Society. So far as I am concerned I am a very conservative person: Although some people may not accept that fact, I am indeed very conservative. All I say is that I am a progressive conservative and I should like to tell the House one important fact which I think every one of us must bear in mind, particularly the conservative members of this House. The great political philosopher Edmund Burke who wrote a big book against the French Revolution because of its radicalism and revolutionism did not forget to tell his own countrymen who were very conservative one very important truth. He said that those who want to conserve must be ready to repair and all I am asking of this House is this: that if you want to maintain the Hindu system, the Hindu culture, the Hindu society, do not hesitate to repair where repair is necessary. This Bill asks for nothing more than repairing those parts of the Hindu system which are almost become dilapidated.

Shri H. V. Kamath: Sir, on a point of reminder, the Honourable Dr. Ambedkar promised some citations from the Smritis. Will he keep his promise?

The Honourable Dr. B. E. Ambedkar: I shall do so at the end. Fortunately for me I have secured a copy of Mr. Dwarkanath Mitter's own book "Rights of Hindu Women". I was going to cite certain texts which show that the rights which the Vedas had given to women were taken by the Smritis in the meantime and some other smritis tried to restore those rights. I shall cite them in the course of my speech.

Shri Deshbandhu Gupta: Could the Honourable Minister enlighten the House as to the evidence which was produced before the Select Committee?

The Honourable Dr. B. E. Ambedkar: As honourable Members know two bodies came to us and asked for evidence to be taken. The Committee decided that their evidence be taken. One body came and one body sent in a written reply. That body was the Dharma Niraya Mandal. In general they are absolutely in agreement with the provisions contained in the Bill. The other gentleman who came obviously was not.

Mr. Deputy Speaker: Motion moved:

"That the Bill to amend and codify certain branches of the Hindu Law, as reported by the Select Committee, be taken into consideration".

Two amendments were not pressed. What about the next amendment?

Pandit Thakur Das Bhargava: Sir, I am not in a position to move any of my amendments.

Mr. Deputy Speaker: As I have already stated in answer to the suggestion made by the Honourable the Mover of the Bill I shall allow these motions to be made without any speeches at the time of moving the motion. After all the amendments are moved whichever are relevant and are admitted, there will be discussion on them as also on the original motion.

Shri Deshbandhu Gupta: On a point of order, Sir, is it open to an honourable Member to say that he is not in a position to move his amendments?

Mr. Deputy Speaker: It is.

Mr. Nasiruddin Ahmad: Sir, I am directed.....

An Honourable Member: By whom?

Mr. Nasiruddin Ahmad: I am directed to move my amendment without a speech at the first instance. (*An honourable Member:* "Who has directed you?") I am directed by the Honourable Deputy Speaker. I find that honourable members are extremely impatient.

Shri R. K. Sidhva (C. P. and Berar: General): No, we are not. Proceed.

Mr. Nasiruddin Ahmad: I have been directed, I repeat, to move my amendment without a speech. On account of the eloquence of my honourable friend the Law Minister I was already speechless...

Shri L. Krishnaswami Bharathi: You are already disobeying your mandate.

Mr. Nasiruddin Ahmad: There are the bright ladies who have also created a profound impression upon me and just before I stood up Pandit Thakur Das Bhargava, a very powerful member, said that he was not in a position to move.

Mr. Deputy Speaker: Is this preamble necessary for moving his amendment?

Mr. Naziruddin Ahmad: I was already rendered speechless and that is why I was expressing my gratitude for suggesting that I should not make any speech.

Mr. Deputy Speaker: The honourable Member will speak later.

Mr. Naziruddin Ahmad: Sir, I beg to move with considerable amount of nervousness:

"That the Bill be circulated for the purpose of obtaining further opinion thereon by the end of 1949".

Mr. Deputy Speaker: Amendment moved:

"That the Bill be circulated for the purpose of obtaining further opinion thereon by the end of 1949".

Shri B. Das: Sir, as this is a dilatory motion I suggest it may be ruled out of order.

Shri Mahavir Tyagi: On a point of order; in the morning also there was some ruling about dilatory motions. I submit, Sir, that they are the privilege of a Member. Although I stand by Dr. Ambedkar in many respects with regard to this Bill, I submit that dilatory motions are the privilege of those Members who are not in power—of individual Members as well as parties. Let it not be tabooed. It is a democratic right of Members to delay business if they choose to do so. Therefore a motion should not be disallowed because it is considered to be dilatory. Dilatory motions are the privilege of a House of democracy.

Mr. Deputy Speaker: I do not see any point of order in what Mr. Tyagi has said. He wants full discussion to be allowed on this. As regards the point raised by Mr. B. Das I am not able to understand it. Does he mean to say that under any of the Rules such a motion is not allowable? If so the Report is presented, the procedure is this. (*An honourable Member:* "What Rules are they?") The Rules that we adopted last session.

The Rule says:

"If the member in charge moves that the Bill be taken into consideration, any member may move as an amendment that the Bill be re-committed or be circulated or re-circulated for the purpose of obtaining opinion or further opinion thereon".

Therefore under the Rules this kind of motion is allowed. I want to know how I am expected to disallow this motion.

Shri B. Das: I am aware of that Rule. But I was guided by the ruling of this morning that no dilatory motions would be allowed. I therefore raised the point of order.

The Honourable Dr. B. R. Ambedkar: May I be permitted to say something? I think the point raised by my friend Mr. B. Das is a perfectly correct point of order, because of this...

Honourable Members: No.

Pandit Thakur Das Bhargava: When the Deputy Speaker has given a ruling it cannot be questioned.

Mr. Deputy Speaker: The honourable Members will not speak all together. They will rise in their seats and also speak one at a time. Let me hear the Honourable the Law Member. I will allow an opportunity to every Member to speak on this point provided he is able to make a proper contribution to the debate. Nobody need be impatient.

The Honourable Dr. B. R. Ambedkar: Sir, as you will recall the motions which are permissible under the Rules of Business fall into two categories: one set of motions are such that the Speaker must put them to the House; the other set of motions are such that the Speaker must first be satisfied that they are proper motions before he can put them to the House. Let me illustrate this by reference to a motion for adjournment. Under the Rules every honourable Member is permitted to move an adjournment motion. But merely because a certain member has tabled an adjournment motion that in itself does not authorise, enable, or empower the Speaker to put it to the House, because it is laid down that unless the motion is held to be admissible by the Speaker the motion shall not be put. I can give various other illustrations. With regard to a motion like this, namely, the adjournment of the consideration of the Bill and circulations for further opinion, my submission is that such a motion falls within that category of motions where the Speaker is required to be satisfied before he can put the motion to the House. It has been the universal practice in this House that any such motion for the postponement of the consideration of the Bill or for circulation, made after the Select Committee has made its Report, is *prima facie* dilatory. Unless the member who makes the motion advances substantial reasons for such a motion and the Speaker is satisfied that the reasons advanced are substantial such a motion will not be admissible. There are many rulings in these books but I should like to draw attention to ruling No. 1 in book No. 1. In regard to this motion no substantial reasons have been given.

An Honourable Member: But he has not spoken at all.

Mr. Deputy Speaker: Let the Honourable the Law Member conclude.

The Honourable Dr. B. R. Ambedkar: I was only drawing your attention to a ruling (No.1) in this book. There are various others also. It says:

"During the discussion on the Cotton Excise Duty Abolition Resolution a motion was moved to adjourn the debate on the Resolution. (Which practically means sending it away for circulation or to leave it up)."

"The President while accepting the motion on this particular occasion without creating a precedent remarked:

"The Chair cannot allow a motion to adjourn consideration of a Proposition to be moved merely in order to enable another item of business to come forward. It must be supported on substantial grounds."

Pandit Thakur Das Bhargava: The ruling says it is not a precedent but you want to make a precedent of it.

The Honourable Dr. B. R. Ambedkar: The President says 'I am ruling but I am not creating a precedent'.

Pandit Thakur Das Bhargava: In this matter I would call your attention to page 81 of 'Decisions of the Chair' which says that there are certain motions which can be stated to be of a dilatory nature. The question of circulation is not certainly one of such nature. But there are motions of a dilatory nature and it is in the discretion and power of the Chair to allow them or not to allow them. One page 81 of this book in regard to re-committal of motions it has been held that though to start with, it may be regarded as a dilatory motion, if something happened in the Select Committee or some events have transpired since, the Chair is perfectly authorised to say that it is not a dilatory motion. Now the honourable Member has not been asked what the reasons are and before that my honourable friend gets up and says that it is a dilatory motion. It is absolutely wrong for him to suggest at the very outset that it is a dilatory motion. A circulation motion is not a dilatory motion. Unless the Speaker comes to the conclusion that nothing has transpired in

[Pandit Thakur Das Bhargava]

the Select Committee or no further events have taken place which justify him to retard that motion I think the Speaker is not entitled to say that any of the motions are also dilatory. Ordinary motions countenanced by the rules cannot be regarded as dilatory motions.

Mr. Naziruddin Ahmad: Sir, I think matters can be cut short in a minute. The precedent relied upon by the Honourable the Minister of Law does not apply to this situation at all. The heading is, "Adjournment of Debate"...

The Honourable Dr. B. R. Ambedkar: This is an adjournment of debate, if the motion is carried.

Mr. Naziruddin Ahmad: No, it is entirely different as I shall show. The sub-heading is, "Adjournment of Debate: Motion when allowed to be moved." I do not move for an adjournment of this debate, which certainly could be done under amendment No. 2, that is:

"That the consideration of the Bill, as reported by the Select Committee be postponed."

My object is continuance of the debate, consideration of the motion, and I want the consideration to be taken along with my motion. A further reading of the ruling relied upon by Dr. Ambedkar will make it absolutely clear:

"During the discussion on the Cotton Excise Duty Abolition Resolution a motion was moved to adjourn the debate on the Resolution.

"The President while accepting the motion on this particular occasion without creating a precedent, remarked: The Chair cannot allow a motion to adjourn consideration of a proposition to be moved merely in order to enable another item of business to come forward. It must be supported on substantive grounds."

As I understand it, there was at the time one motion before the House and there was another perhaps more interesting or more important in advance. A Member proposed the adjournment of the discussion of a resolution which was under consideration so that another more interesting Motion may be taken up. It was the attempt to adjourn the first Motion that was said to be unacceptable. Here I do not propose adjournment of the debate.

The Honourable Dr. B. R. Ambedkar: It all comes to that.

Mr. Naziruddin Ahmad: Here we are concerned with the interpretation of Rule 52. The plain reading of this rule would show that the motion is in order. Without abrogating the rule it cannot be held that it is out of order.

Pandit Hirday Nath Kunzru (U.P.: General): This Bill admittedly has created a great deal of feeling and it would be most undesirable to add to it by restraining the discussion in any way. I think the only way of making every section of the House feel that full opportunity was being given to it to express its opinion on this and to allow the discussion. Whatever our individual views regarding the merits of the Bill before us may be, that should be no ground for opposing the Motion of my honourable friend Mr. Naziruddin Ahmad.

Dr. Ambedkar quoted a ruling of the Chair in regard to a matter that is not on all fours with that under consideration now. In the first place the ruling was given in regard to a Resolution and not in regard to a Bill. In the second place, the rules lay down clearly that so far as a Bill is concerned a Motion may be made not merely that the Bill be circulated but that it may be re-circulated, not merely that it should be referred to a Select Committee but that it should be re-committed to it. The language is therefore absolutely clear. If, whenever a Motion is made for the re-committal or re-circulation of a Bill, it is opposed on the ground that it is a dilatory Motion, the clear rights, the

rights most unequivocally given to Members by the Rules will be completely null and void. We may feel impatient that a Motion like that of Mr. Naziruddin Ahmad may be ruled out. We may be ready to turn it down, but that is no reason for not allowing it to be moved. In my humble opinion, it is most assuredly in order and we shall be doing a great injustice if in order to pass a law in which we are keenly interested we whittle down the rights of Members and try to interpret the Rules in a manner convenient to whatever may happen to be the majority at any particular time.

Shri L. Krishnaswami Bharathi: Sir, the only point is that under Rule 52(2) no doubt every Member has a right, but the important point is that it is subject to admissibility which is at the discretion of the Speaker. All that Dr. Ambedkar said was, that we have no doubt the right to ask interpellations, but that certainly does not mean that all interpellations should be put on the Agenda Paper; it is subject to admissibility. There being the discretion, all that you have got to decide now is, whether it is in the nature of a dilatory Motion. You may ask Mr. Naziruddin Ahmad to give his reasons. If you are satisfied that he has a good ground to move his Motion, then you have got the discretion to allow him to move it. Therefore, it is now for you, Sir, to ask him and be satisfied; and if you are satisfied that he has valid grounds, certainly he can move the motion. That is a point which Dr. Ambedkar raised. Every Member is entitled to speak and take his chance. All that you are concerned with, is a matter of procedure; the procedure being that a Motion is subject to admissibility, which is within your discretion. I may suggest that you may ask Mr. Naziruddin Ahmad to give his grounds and it is ultimately for you to decide whether it is in the nature of a dilatory motion, in which case you have to rule it out of order; but if you are satisfied about the grounds then you may allow the motion to be moved.

Mr. Tajamul Husain rose—

Babu Ramnarayan Singh: Sir, I have something important to say.

Mr. Deputy Speaker: On the point of order?

Babu Ramnarayan Singh: Yes, Sir.

Mr. Deputy Speaker: All right.

Mr. Tajamul Husain (Bihar: Muslim): Sir, I caught your eye first. I have also got a point of order.

Mr. Deputy Speaker: After this point of order is disposed of Mr. Tajamul Husain's point of order will be considered.

Babu Ramnarayan Singh: Sir, you have already quoted the rule. I am sure no ruling can be given by any President against a Rule. The thing is this: there may be a subject under discussion in the House on which opinions may be divided—it is quite natural. One section of the people may look upon the subject as a boon, and the other section may look upon the subject as a danger, as a plague, as a curse. That section of the people who look upon the subject as a curse has the right not only to delay the Motion, but even to kill it. Here also, I think this section has the right to move the Motion and I think justice demands that they may have all the privileges and all the rights.

Mr. Tajamul Husain rose—

Mr. Deputy Speaker: There is another point of order which the honourable Member is raising, I will come to it next.

I am afraid the honourable Member Mr. Naziruddin has himself invited all these points of order because he started one this morning. Apart from any

{Mr. Deputy Speaker}

technicalities we may ask Mr. Naziruddin what his purpose is and what important points he has in view in making his motion for circulation.

Mr. Naziruddin Ahmad: I think this question.....

Pandit Hriday Nath Kunzru: May I ask you, before Mr. Naziruddin Ahmad replies, whether you have come to the conclusion that the right of the member to move the re-circulation of the Bill is subject to the discretionary power of the Chair?

Honourable Member rose—

Mr. Deputy Speaker: Order, order. Members must respect the Chair. When I stand up, they will kindly sit down. I think I have heard sufficiently. Is it not open to the Chair to ask for reasons? It does not mean that I have come to a conclusion one way or the other. I am trying to make up my mind. I have heard Mr. Bharathi's point. Apart from the question as to whether the Chair, under the rules, has got the right to allow or disallow, I want to know on what grounds—if there are any—this motion should be accepted. After hearing that, I shall give my ruling.

Mr. Naziruddin Ahmad: My reply to that is two-fold. The first is the admissibility of the motion as a matter of law, and secondly as to the reasons for the motion, they are matters of merit. At present, I have been asked by the Chair not to make a speech and I have been entirely prevented from giving the arguments on the merits as to why this motion should be accepted. I submit a distinction should be made between the legality and admissibility of the motion and the grounds on which it is based for the acceptance of the same by the House. I submit that at this stage, in order to admit the motion which I have made, I think, Sir, I may not say anything at all.

Mr. Deputy Speaker: I have heard sufficiently on this matter. So far as Mr. Das' point that this motion is one of a dilatory nature, I consider that this motion differs materially from the one referred to by the Honourable the Minister for Law. He quoted the rulings of the Chair and gave the instance of ruling No. 1 on the postponement or adjournment of the debate. When motions for postponement for which there are no particular rules of procedure are made, it is open to the Chair to treat them as dilatory motions and require to be satisfied on what substantial grounds an adjournment of the debate is necessary. So far as the present motion for circulation is concerned, it is one for which provision is made in Rule 52(2). The Honourable the Minister for Law referred to the analogy of adjournment motions, but regarding adjournment motions there are specific rules laid down here, giving power to the Speaker to come to a conclusion as to whether *prima facie* a motion is in order or not. I am referring to rule 36. The right to make adjournment motions depends upon certain conditions as in the case of questions. Unless a question comes under one or other categories provided for under the rules it is open to the Speaker to disallow it; similarly, with respect to adjournment motions also, there are six conditions which must be satisfied. There is provision also for asking for leave. First of all, it is open to the Chair, if it so chooses, to say that a motion is not in the public interest, it is old and so on. Secondly, even if he chooses to admit it, he must ask if the motion has the support of at least twenty-five members of the House; then leave is granted. In such cases special provisions have been made. This present motion for circulation does not fall in the same category as the others.

As regards ruling 120 on page 81, it refers to Select Committee motions. I do not find any ruling of the Chair till now, in either of these two books "Decisions of the Chair" in point stating that a motion for re-circulation is a dilatory motion. In these circumstances, I do not want to curtail the powers of the House. It does not mean, if I allow the motion, the House is obliged to accept it. Even if it is moved, the House may reject it after debate if it is not satisfied. Under these circumstances, inasmuch as the rulings are not clear on this point, I do not want to throttle this motion. The honourable Member may proceed. I have already said that honourable Members will first move the motions standing in their names and then there would be a debate on all the motions together. The next amendment stands in the name of Pandit Mukut Bihari Lal Bhargava and Shri Jhunjhunwala.

Pandit Mukut Bihari Lal Bhargava: The motion moved by my honourable friend Mr. Naziruddin Ahmad is substantially the same. Therefore, I would like to support his motion.

Mr. Deputy Speaker: He need not give his reasons for not presenting. What about Mr. Jhunjhunwala?

Siri B. P. Jhunjhunwala (Bihar: General): I join my friend Mr. Bhargava.

Mr. Deputy Speaker: So he does not press. Nos. 7 and 8, I have already said are out of order. The scope of the Bill is confined to the provinces and not to any acceding State.

Mr. Naziruddin Ahmad: In regard to States which have entirely united themselves within the Indian Dominion, they stand on a different footing. The Eastern States have combined with the province of Orissa. They are now part of India. The Bill will apply to them.

Mr. Deputy Speaker: I can understand it only this way,—whether they have become part of a province or not if they are parts of a province, the Bill will apply. It is not necessary that a copy of the Gazette should be sent to every village and every corner of the country. If the State has become a part of province, it takes all the rights and liabilities of the province. I do not see any reason why the Bill should be once again circulated. Therefore I rule amendment No. 7 is out of order. No. 8 is also out of order. No. 9, does Mr. Bhargava move?

Pandit Thakur Das Bhargava: I have already said that I do not propose to move.

Mr. Deputy Speaker: Then the next amendment. Mr. Naziruddin Ahmad.

Mr. Naziruddin Ahmad: Sir, I beg to move as an alternative to the one which I have already moved:

"That the Bill be re-committed to the same Select Committee, to which it was sent, for a further report thereon with reference to the original Bill which was referred to it on the 9th April, 1948."

Mr. Deputy Speaker: Amendment moved:

"That the Bill be re-committed to the same Select Committee to which it was sent for a further report thereon with reference to the original Bill which was referred to it on the 9th April 1948"

Shrimati Renuka Ray: In view of the Speaker's ruling, it is out of order. It goes against the Speaker's ruling.

Mr. Deputy Speaker: The re-circulation motion is before the House. Why should the House not consider this motion also after all?

Shrimati Renuka Ray: It goes against the Speaker's ruling of the other day.

Mr. Deputy Speaker: May I ask the Lady Member how it goes against the Speaker's ruling?

Shrimati Renuka Ray: The Speaker ruled that the Bill is the same as committed to the Select Committee and therefore there cannot be a motion for recommitment to the Select Committee. There has been no substantial change in the Bill.

Mr. Naziruddin Ahmad: There are many substantial changes as I shall show.

Mr. Deputy Speaker: No speeches across the benches please. So far as the arguments advanced by the Lady Member are concerned, what I feel is this. The Speaker certainly said that the Bill considered by the Select Committee is not different from the one committed to it. But recommitment may be on various other grounds. Therefore, unless any objection is taken on other grounds.....

Shrimati Renuka Ray: The words "original Bill" are there.

Mr. Deputy Speaker: Original Bill is the same as the other Bill. Therefore, he has said "original Bill". We will drop the word "original".

Shrimati Renuka Ray: I would humbly submit that the word "original" is there. Therefore, we cannot drop it now from the motion.

Mr. Deputy Speaker: The Speaker ruled that the Bill that came out of the Select Committee was the original Bill and therefore there is no harm in using the word "original". The objection taken was that the original Bill was not considered by the Select Committee. Hon'ble the Speaker ruled that it was the original Bill itself that was considered by the Select Committee. Therefore, the honourable Member has stated in his amendment that the original Bill be recommitted to the Select Committee. The argument advanced by the Lady Member is against her own objection. I find there is nothing wrong in this motion.

Shri R. K. Sidhva: The Mover's intention is quite different. He does not consider this Bill as the original Bill and therefore he wants this to be sent to the same Select Committee.

Shri H. V. Kamath: Though the intention of the Mover is clear, I think my honourable friend Pandit Naziruddin Ahmad, in drafting the amendment has slightly over-reached himself. I would suggest to him that he may re-consider the whole matter and bring it up again sometime later.

Mr. Deputy Speaker: I do not consider that the use of the word 'original' affects the position at all. On the other hand, the Speaker's ruling was that it was the original Bill that was referred to the Select Committee and that it was that Bill that came back in a modified form. I cannot accept that as an objection. There is no good, spending more time over this matter.

Amendment No. 13 may be moved.

Pandit Mukut Bihari Lal Bhargava: My amendment is substantially the same as the one moved by Mr. Naziruddin Ahmad. I will speak in support of it and not move mine.

Mr. Deputy Speaker: The honourable Member will then have to take his turn after that of the Movers of the other amendments.

Amendment No. 14 is not moved.

Mr. Naziruddin Ahmad: I intend moving my next amendment if my amendment No. 10 is passed.

Shrimati Renuka Ray: I rise to a point of order. Amendment No. 15 goes against the Speaker's ruling.

Mr. Deputy Speaker: The Speaker's ruling does not cover this point. This House may not be satisfied with the re-arrangement made by the Select Committee. Therefore the original motion that it be referred to the Select Committee can stand. There is no point of order so far as this matter is concerned.

Mr. Naziruddin Ahmad: Then, Sir I move:

"That the Bill be re-committed to the Select Committee with instructions for report on the original Bill as presented to the House restoring the original arrangement of self-contained separate Parts and Chapters for enactment separately".

Mr. Deputy Speaker: I am afraid, I must disallow this amendment. As there can be no objection to the re-arrangement of Parts and Chapters, I rule this amendment out of order.

Shri B. Das: Sir, before the next amendment is moved, I want your ruling as to whether one Member can move five amendments?

Mr. Deputy Speaker: Alternative amendments can be given notice of. The honourable Member has been sufficiently long in this House to know this.

In the next amendment of Mr. Naziruddin Ahmad, the only addition is of the words "31st December 1949". I do not think he need move amendment No. 16.

Mr. Naziruddin Ahmad: The Select Committee referred to there is a separate select committee.

Mr. Deputy Speaker: I do not think I can allow this amendment to be moved. The honourable Member must have given the names of the Members for the Select Committee at the time of giving notice of the motion.

Mr. Naziruddin Ahmad: I have divided it into two parts. First of all there is the idea of the Select Committee. If it is acceptable.....

Mr. Deputy Speaker: The House cannot be asked to give its opinion first in a matter of this kind. As the honourable Member has not given the names of the Members for the select committee to the Chair earlier, his amendment is ruled out of order.

Discussion on the general motion may now be resumed. I call upon Seth Govind Das to speak now.

Seth Govind Das : *Sabhapathiji*.....

Shri L. Krishnaswami Bharathi: During general discussion the honourable Member who has moved an amendment has the first right to speak.

Mr. Deputy Speaker: The honourable Member will leave it to the Chair. The Chair knows the procedure.

Mr. Tajmool Husain: I have been trying to raise a point of order for a long time. Sir, I shall be very brief. The honourable Member Mr. Naziruddin Ahmad who is very keen on punctuation, on commas and full stops etc., has given notice of this amendment that this Bill be circulated. This is absolutely out of order. The honourable Member should have worded this amendment thus: This Bill be re-circulated. That is my point of order. This is what the relevant rule says: 'any member may move as an amendment that the Bill

[Mr. Tajamul Husain]

as reported by the Select Committee be re-committed or re-circulated as the case may be for the purpose of obtaining opinion or further opinion thereon'. Therefore, the honourable Member who is very keen on commas and full stops etc. should have put the words "re-circulated for further opinion." My point of order, therefore, is that as the wording of this amendment is not according to the rules, it may be ruled out of order.

Mr. Deputy Speaker: It is true that the honourable Member who has tabled this motion, who is ordinarily careful with reference to punctuations has committed there error of not putting the word 're'. I ought not to decide it as a matter of form, but as one of substance and this motion for circulation comes after the report of the Select Committee has been received.

Therefore, it means under the circumstances only 're-circulation'. I have already given the ruling. The ruling will stand. The debate will be continued by Seth Govind Das.

Shri V. S. Sarwate: Mr. Deputy Speaker, Sir, I want to bring to your notice that I have already given a motion for re-circulation and it is based on those two motions. I do not know, why it was omitted in the consolidated list. These two motions are dated the 21st August 1948. I do not wish to take further time of the House. I will read the motion so that it can be taken up for further discussion. The motion stands thus:

"That the Bill as reported by the Select Committee be re-circulated for the purpose of obtaining further opinion thereon".

Mr. Deputy Speaker: Have honourable Members got copies of this notice? (An Honourable Member: "Yes, Sir") I will ask the honourable Member to read it out.

Shri V. S. Sarwate: The motion runs as follows:

"That the Bill as reported by the Select Committee be re-circulated for the purpose of obtaining further opinion thereon".

Mr. Deputy Speaker: When was this notice of amendment given?

Shri V. S. Sarwate: Notice was given on 1st August 1948. The amendment forms part of Supplementary List No. 2.

Mr. Deputy Speaker: The motion was made on the 1st August and the 12th of August is the date of the Select Committee's report and possibly a week later it was presented to the House.

Shri L. Krishnaaswami Bharathi: The motion was made on 31st of August.

Mr. Deputy Speaker: The motion need not be made. It is after the presentation of the report. But all notices lapse after the session is over. A fresh notice should have been given. I do not know if honourable Members have got copies of this.

Shri Jaspal Roy Kapoor: I have got a copy of this. It is a consolidated list: Notice of Amendments... This was sent from the office on the 28th August 1948. There are twenty-four amendments mentioned in this list and Mr. Sarwate's amendment stands as the fourth on this list.

Mr. Deputy Speaker: These notices were all for the last session. These notices have all lapsed at the end of that session. Only those amendments, copies of which have been placed on the table before each honourable Member now, these only will have to be taken for consideration. The other notices have lapsed. Therefore further debate will be continued by Seth Govind Das.

[सिठ गोविन्द दास]

नहीं चाहते, जो इस बात पर भी विचार नहीं करना चाहते कि यह देश एक प्राचीन देशों में से है, इस देश का एक विशेष इतिहास है, इस देश की एक विशेष संस्कृति है, इस देश की एक विशेष परम्परा है। इस प्रकार के सुधारक लोग हैं वह इस बात की परवाह नहीं करना चाहते कि हमारे यहां पहले क्या था और आज हमको अपने देश का निर्माण कैसे करना है। इस प्रकार के सुधारकों में पश्चिमी शिक्षा का बहुत बड़ा प्रभाव है और यह समाज के सुधार में न प्राचीन इतिहास का ध्यान रखना चाहते हैं और न प्राचीन संस्कृति और प्राचीन परम्परा का ही। मैं कहना चाहता हूँ कि यदि इस प्रकार का सुधार इस प्राचीन देश में हुआ तो यह भारतवर्ष, भारतवर्ष नहीं रह जायगा, यह और कुछ ही हो जायगा।

सुधारकों का दूसरा समूह वह है जो यह मानता है कि सुधार तो करना चाहिये परन्तु हमें सुधार करते समय अपने प्राचीन इतिहास, अपनी प्राचीन संस्कृति और अपनी प्राचीन परम्परा को भी देखना चाहिये। मैं पहले समूह में नहीं हूँ परन्तु दूसरे समूह में हूँ। मैं यह मानता हूँ कि सुधार करना अत्यन्त आवश्यक है; परन्तु सुधारों की आवश्यकता होते हुए भी हमको अपनी प्राचीन परम्परा, प्राचीन सभ्यता और प्राचीन संस्कृति का ध्यान रख सुधार करना चाहिए।

इस समय जब कि हमारा विधान बन रहा है, जब विधान के मौलिक अधिकारों को और निर्णायक अधिकारों को हम पास कर चुके हैं और जब यह व्यासा की जाती है कि अगली १६ मई और १५ अगस्त के बीच हमारा विधान पूरा बन जायगा तब यदि यह कानून नये विधान के अनुसार आता तो उपयुक्त बात होती। आज जब हम इस देश को 'सैक्यूलर स्टेट' (Secular State) कहते हैं, आज जब हम यह मानते हैं कि इस देश के नागरिकों को, हर एक धर्म मानने वाले को,—हर एक जाति को चाहे वह हिन्दू हो, मुसलमान हो, सिक्ख हो, पारसी हो, कोई भी क्यों न हो,—समान रूप से नागरिक अधिकार होने चाहिये तो मैं यह कहता हूँ कि डॉक्टर अम्बेडकर साहब को एक ऐसा बिल यहाँ पर लाना चाहिये था जिससे हिन्दुओं का ही सम्बन्ध न होता बल्कि जो इस देश के रहने वाले सभी लोगों पर लागू होता। अपने देश को 'सैक्यूलर स्टेट' (Secular State) मानते हुए एक हिन्दू कोड बिल को लाना मुझे एक असंगत बात मालूम पड़ती है।

अब यदि हम इस बिल की ओर देखें तो हमें यह बात स्वीकार करनी पड़ेगी कि इस बिल में.....

श्री आर० के० मिश्रवा : डॉक्टर अम्बेडकर साहब ने प्राचीन शास्त्रों को बताया। अंत में बतावे कि कौन सा शास्त्र हिन्दू कोड के खिलाफ है।

सेठ गोविन्द दास : अब यदि इस बिल को हम देखें तो हमें मालूम होता है कि इस बिल में कई धाराएँ ऐसी हैं जिन धाराओं को स्वीकार करने में कोई आपत्ति नहीं होनी चाहिये और यदि यह बिल नहीं रुका और पास हुआ ही तो मेरा विश्वास है कि हम उन धाराओं को बिना किसी विशेष वाद विवाद के स्वीकार करेंगे। परन्तु इसी के साथ हमें यह भी दिखाई देता है कि कई धाराएँ इसमें ऐसी भी हैं जिन्हें स्वीकार करने में बड़ी आपत्ति हो सकती है और स्वयं डाक्टर अम्बेदकर साहब ने आज बतलाया है कि कई धाराएँ विवादग्रस्त धाराएँ हैं और उन विवादग्रस्त विषयों पर उन्होंने पूरा प्रकाश भी डाला है। पहला विवादग्रस्त विषय है विवाह और तलाक। यदि हम विवाह और तलाक को लें तो मैं एक बात की तो स्वीकार करने को तैयार हूँ कि हमें अपने कानून में इस प्रकार का परिवर्तन करना चाहिये जिससे जात-पात की समाप्ति हो जाय। और यदि कोई ब्राह्मण किसी शूद्र से विवाह करना चाहता है, या कोई शूद्र किसी ब्राह्मण से विवाह करना चाहता है तो उनको विवाह के सम्बन्ध में, या ब्राह्मण और शूद्र छोड़ दोजिये, कोई हिन्दू किसी मुसलमान से विवाह करना चाहता है, या कोई मुसलमान किसी हिन्दू से विवाह करना चाहता है, कोई भी जाति के लोग यदि किसी दूसरी जाति में विवाह करना चाहते हैं तो कोई आपत्ति नहीं होनी चाहिये। हमारे यहां जात पात ने हमारे देश को नष्ट कर दिया है। इस देश और समाज के टुकड़े, छोटे से छोटे टुकड़े, हो गये हैं। और आज विवाह के सम्बन्ध में उन टुकड़ों के सबब से जो दिक्कतें होती हैं वह हम सब जानते हैं। पुराने लोग भी जानते हैं और आज जब उन्हें इस प्रकार के विवाह करने पड़ते हैं तो उनकी नाक भी सिकुड़ती है। वह कहते हैं कि हम अपने लड़के की शादी अपनी इच्छा के विरुद्ध करते हैं या हमें अपनी लड़की की शादी अपनी इच्छा के खिलाफ करनी पड़ती है तो इस आजादी के मैं त्रिलकुल पक्ष में हूँ। मैं तलाक के भी पक्ष में हूँ। मैं कहना चाहता हूँ, कि यद्यपि अब तक संसार में कोई ऐसी विवाह पद्धति नहीं निकली है जो सब आपत्तियों के निवारण करने की चीज मानी जाय, परन्तु इसके साथ हमें यह भी देखना है कि यदि पति पत्नि एक दूसरे के साथ सुख से नहीं रह सकते तो उन्हें तलाक का अधिकार होना चाहिए। डाक्टर अम्बेदकर साहब ने यह कहा कि इस देश के नब्बे प्रतिशत लोगों में अब भी तलाक की प्रथा है। ये नब्बे प्रतिशत शूद्र कहलाते हैं, मैं तो शूद्रों और ब्राह्मणों में कोई फर्क नहीं मानता और उन्हें शूद्र कहना सबसे बड़ा जुल्म मानता हूँ.....

The Honourable Shri Jagjivan Ram: Does it not cut at the root of Hindu religion?

सेठ गोविन्द दास : नव्वे प्रतिशत शूद्रों में तलाक है, उनमें भी मुझे ऐसा लगता है कि उनके जो रीति रिवाज हैं उनको न मान कर यदि हमने इस बिल को पास किया तो नव्वे प्रतिशत लोग.....

श्री राज बहादुर : अध्यक्ष महोदय : क्या मैं माननीय सदस्य से प्रार्थना कर सकता हूँ कि तलाक के स्थान पर कोई हिन्दी का शब्द प्रयोग करें ?

सेठ गोविन्द दास : मैं समझता हूँ कि माननीय सदस्य हिन्दी भाषा का अर्थ नहीं जानते। जितने शब्द हिन्दी में ले लिये गये हैं वे हिन्दी के ही हैं वह चाहे 'तलाक' हो चाहे और कुछ। फिर भी यदि वे तलाक के लिये शब्द सीखना चाहते हैं तो मैं कहना चाहता हूँ कि ऐसा शब्द विवाह-विच्छेद हो सकता है। हाँ, तो मैं यह कह रहा था कि उन नव्वे प्रतिशत लोगों के रीति रिवाज को हटा कर अगर यह कानून पास किया गया तो इसका यह अर्थ होगा कि वह अपने रीति रिवाज के मुताबिक तलाक नहीं दे सकेंगे और उसमें उन्हें बहुत अड़चन पड़ेगी। इसलिये अम्बेदकर साहब को जो इच्छा है कि लोगों को विवाह करने की पूरी आजादी हो, लोगों को तलाक देने की पूरी आजादी हो तो उसमें भी बड़ी भारी अड़चन आ पड़ती है। औरतों और मर्दों को, सबको मैं इस प्रकार की पूरी आजादी देने के पक्ष में हूँ।

अम्बेदकर साहब ने जो यह कहा कि हम जो दस प्रतिशत उच्च वर्ण के लोग कहे जाते हैं ब्राह्मण, क्षत्री या वैश्य, यह नव्वे प्रतिशत के लोगों पर कुछ चीजें लादना चाहते हैं। मुझे ऐसा लगता है कि हम जो दस प्रतिशत पढ़े लिखे लोग हैं वह नव्वे प्रतिशत लोगों के ऊपर कुछ चीजें लादना चाहते हैं। लादते ब्राह्मण, क्षत्री वैश्य नहीं हैं, लादते वह लोग हैं जो किसी प्रकार से इस ऐसेम्बली में आ गये हैं। मैं अपनी बहनों से भी कहना चाहता हूँ कि मैं इस बात को स्वीकार करने को तैयार नहीं हूँ कि मेरी बहन दुर्गाबाई और रेणुका रे और यहां जो स्त्रियां हैं, वह स्त्रियों का प्रतिनिधित्व करती हैं, या यहां जो बहनें विजिटर्स गैलरी (visitors gallery) में आती हैं वह स्त्रियों का प्रतिनिधित्व करती हैं। मैं मानता हूँ कि जो यहां नहीं मौजूद हैं, जो विजिटर्स गैलरी में नहीं आती हैं, वह इस दश की स्त्रियों का अधिक प्रतिनिधित्व कर सकती हैं बनिस्बत उनके जो यहां पर मौजूद हैं। हमें स्वीकार करना होगा कि जो आज यह बात कही जाती है कि कुछ उच्च वर्ण के कहे जाने वाले लोग निम्न वर्ण के कहे जाने वाले वर्णों पर अपनी राय लादते हैं यह सही नहीं है, पर सही बात यह है कि दस प्रतिशत पढ़े लिखे लोग नव्वे प्रतिशत पर अपनी राय लादना चाहते हैं। इस देश की जनता क्या चाहती

है, इस बात को न जान कर वह अपनी राय इस देश की जनता पर न लादे मैं यह नहीं चाहता कि यहां पर इस प्रकार का कोई कानून पास हो जो जनता की राय के खिलाफ हो।

Shrimati Renuka Ray : Do 90 per cent. of the people know that you are drawing up a constitution ?

Seth Govind Das : We know that the people are with us. To talk as if this is your own concern is not correct. We have come with a mandate from the people in that respect.

दूसरी बात उत्तराधिकार के सम्बन्ध में यहां पर कही गई है। यह कहा गया कि उत्तराधिकार के मामले में हमको बहुत से सुधार की आवश्यकता है। मैं मानता हूँ कि उत्तराधिकार के सम्बन्ध में भी बहुत से सुधार की आवश्यकता है। और मैं यह भी मानता हूँ कि स्त्रियों को कोई उत्तराधिकार न दिया जाय और वह सम्पत्ति न ले सकें तो वह उनके प्रति बड़े से बड़ा अन्याय है। स्त्रियों को उत्तराधिकार का अधिकार होना चाहिये। अब स्त्रियों को उत्तराधिकार का अधिकार कहां तक होना चाहिये यह सवाल है। डा० अम्बेडकर साहब ने मनु और याज्ञवल्क्य की स्मृतियों की बात यहां कही और यह कहा कि उन स्मृतियों में भी लड़कियों को चार आने तक उत्तराधिकार दिया गया है। मैं कहना चाहता हूँ कि जहां तक उत्तराधिकार का सम्बन्ध है वहां तक यदि याज्ञवल्क्य और मनु की यह राय है तो भी मेरे मत से इनमें सुधार होना आवश्यक है। इस देश में या इस संसार में एक जमाना था जब मातृ-गृह थे पर आज के समाज में मातृ-गृह न रह कर पितृ-गृह हो गए हैं। जब तक इस देश में तथा संसार में मातृ-गृह थे और विवाह के पश्चात् वर कन्या के यहां आ कर रहता था उस समय तक कन्या को पिता की सम्पत्ति में अधिकार होना ठीक बात थी। परन्तु अब जब पितृ-गृह हैं और कन्या पिता के यहां से स्वसुर के यहां जाती है उस समय पिता की सम्पत्ति में कन्या को अधिकार देना मेरी दृष्टि से उचित बात नहीं है। मेरी दृष्टि में बहू को स्वसुर की सम्पत्ति में अधिकार होना चाहिये। ज्योंही विवाह हो जाय त्यों ही बहू को सम्पत्ति में उतना ही अधिकार मिलना चाहिये जितना लड़के को मिलता है। आज जो लड़के को पूरा अधिकार है और यदि कोई स्त्री विधवा हो जाय तो उसे खाने और कपड़े का अधिकार ही रहता है मैं इसके बिल्कुल खिलाफ हूँ। इसलिए मैं कहना चाहता हूँ कि स्त्रियों को अधिकार तो होना चाहिए सम्पत्ति पर, पर उनका अधिकार होना चाहिए स्वसुर के घर की सम्पत्ति पर, पिता के घर की सम्पत्ति पर नहीं।

श्री मोहन लाल गौतम : यदि बचसुर न हो ?

सेठ गोविन्द दास : तो पति के घर में ।

श्री मोहन लाल गौतम : यदि पति न हो ?

सेठ गोविन्द दास : तो लड़के के घर में ।

श्री मोहन लाल गौतम : और अगर लड़का न हो ?

مسٹر تحصیل حسین : لو اس کی شادی نہ ہوئی ہو تو کیا کریگی ؟

सेठ गोविन्द दास : वह अलग बात है। उनको कहीं न कहीं से मिल ही जाता है यहां पर जो यह दृष्टान्त दिया गया है कि अगर १२ लड़के हों और तेरहवीं लड़की हो, तो यदि १२ लड़कों को पिता की सम्पत्ति में विभाजन करने का अधिकार है तो तेरहवीं लड़की को क्यों न हो। मैं कहना चाहता हूँ कि १२ लड़के अपने पिता के घर में रहते हैं १२ लड़कों का जो विभाजन होता है वह उसी स्थान पर होता है।

श्री-कृष्ण चन्द्र शर्मा : अगर लड़की भी पिता के घर रहना चाहे ?

सेठ गोविन्द दास : और लड़की दूसरे के घर जाती है, इसलिए लड़की के लिए यह बात लागू नहीं हो सकती।

एक बात सम्पत्ति के उत्तराधिकार में और हुई है और वह यह कि अब उत्तराधिकार का अधिकार बसीयतनामे से होगा। जहां बसीयतनामे नहीं लिखे जायेंगे वहीं क्षण्डे पड़ेंगे। यह नहीं, पर जहां बसीयतनामे लिखे जायेंगे वहां भी क्षण्डे पड़ेंगे। डाक्टर अम्बेदकर साहब, जो बहुत विख्यात वकील हैं, इस बात को जानते हैं कि जितने बसीयतनामे आज तक लिखे गये हैं उनमें से कितने प्रतिशत बसीयतनामे कच्छरियों में आये और कितने बसीयतनामों पर मुकदमे चले। मुझे भय है कि जो अधिकार आप सम्पत्ति के उत्तराधिकार का लड़कों और लड़कियों को इस कानून के मुताबिक देना चाहते हैं, उसमें ज्योंही बसीयतनामा आया त्यों ही वह सम्पत्ति न लड़कों को मिलेगी और न लड़कियों को मिलेगी। वह सब वकीलों के यहाँ चली जायगी।

फिर एक बात और होगी। डा० अम्बेदकर साहब चाहते हैं कि लड़कियों को भी सम्पत्ति में उत्तराधिकार का अधिकार दिया जाय। तो मैं अर्ज करना चाहता हूँ कि जिस तरह का आज हमारा समाज संगठित है, उसमें जो पिता वसीयतनामा करेंगे वह लड़कियों को कुछ नहीं देंगे, वह लड़कों को ही देंगे और जो स्त्रियों को उत्तराधिकार देने का आपका उद्देश्य है वह इससे पूरा नहीं होगा। मैं उत्तराधिकार के सम्बन्ध में यह कहना चाहता हूँ कि उत्तराधिकार का विषय बड़ा उद्विग्न है, जैसा कि डाक्टर अम्बेदकर साहब ने भी खुद कहा है। हमको तो ऐसा लगता है, चाहे हम साम्यवादी या समाजवादी न हों, कि एक तरफ से इंडस्ट्रियलिस्ट्स (Industrialists) की आवाज उठी हुई है कि इस देश में उद्योग घटते नहीं बढ़ रहे हैं, दूसरी जगह उत्तराधिकार का प्रश्न उठा हुआ है, अतः सबसे अच्छा तो यह हो कि आप व्यक्तिगत सम्पत्ति को ही समाप्त कर दें। यदि यह व्यक्तिगत सम्पत्ति समाप्त होकर एक नई सामाजिक रचना हो, वह सामाजिक रचना साम्यवाद और समाजवाद के सिद्धान्तों पर हो यह मैं नहीं कहता, पर इस व्यक्तिगत सम्पत्ति का नाश होकर एक नये प्रकार की सामाजिक रचना की जाय मैं इस पक्ष में हो गया हूँ। यदि हमारे सम्पत्तिशाली लोग देखेंगे तो उनको मालूम होगा कि यह सम्पत्ति उनके भी कोई कल्याण की चीज नहीं है। मैं उसी वर्ग में से आता हूँ कि जो सम्पत्तिशाली कहा जा सकता है। परन्तु हम देखते हैं कि आखिर इस सम्पत्तिमग्न से सच्चा सुख किसे मिल रहा है। मैंने किसी भी ऐसे श्रीमान् को नहीं देखा कि गरीब आदमी का पेट तो आध सेर या तीन पाव में भरता है तो श्रीमान् का पेट १० या २० सेर खाकर पचा सकता हो। मैंने कोई भी ऐसा श्रीमान् नहीं भी देखा कि अगर गरीब आदमी का शरीर पांच या आठ गज कंबड़े से ढकता हो तो श्रीमान् सौ, दो सौ या चार सौ गज इकट्ठा पहन लेता हो।

بعض لوگ یہں لیتے ہیں :-

सेठ गोविन्द दास : और मुझे तो महलों में रहने का अभ्यास है और मैं कहना चाहता हूँ कि अगर किसी श्रीमान् को उनके महल में किसी बड़े हाल में सुला दिया जाय तो उनको नींद नहीं आती। सोने के लिए तो १२ या १४ फुट का कमरा ही चाहिए। आजकल सम्पत्ति एक दुख हो गया है और सम्पत्तिशालियों के लिए भी जिन लोगों को यह नहीं मिलती उनकी इच्छा होती है उसको पाने के लिए और जिनके पास है उनको उसके मारे इतनी मुसीबत है कि वह चैन से रह नहीं सकते।

اور چہرنا ہی نہیں چاہتے :-

بعض لوگ یہں لیتے ہیں :-

सेठ गोविन्द दास : छोड़ना इसलिए नहीं चाहते कि उस सम्पत्ति के संग्रह करने वाले को समाज में इज्जत की दृष्टि से देखा जाता है ।

श्री सीताराम एस० जाजू : उसको त्याग या दान कर देने वाले को भी तो इज्जत की दृष्टि से देखा जाता है ।

सेठ गोविन्द दास : हमारे साम्यवादी और समाजवादी कहते हैं कि जितने सम्पत्तिशाली हैं वे सब चोर हैं, डाकू हैं और उठाइगीरे हैं । कुछ साम्यवादी और समाजवादी इससे भिन्न हो सकते हैं मैं सबके लिए नहीं कहता, लेकिन बहुत ऐसे हैं कि यदि उनको यह सम्पत्ति मिल जाय तो वह समाजवाद और साम्यवाद छोड़ दें । सम्पत्ति के संग्रह करने वाले आज भी समाज में इज्जत की दृष्टि से देखे जाते हैं, हमें समाज की भावनाओं का, और मूल्यों का इस प्रकार परिवर्तन करना चाहिए कि सम्पत्तिशाली सचमुच चोर, डाकू और उठाइगीरे माने जाने लगें और तब मैं कहना चाहता हूँ कि कोई भी सम्पत्तिशाली इस तोक को अपने गले में नहीं रखना चाहता । तो यह उत्तराधिकार का झगड़ा सुलझाने के लिए मैं तो यह चाहता हूँ कि हमारे ला मेम्बर (Law Member) डाक्टर अम्बेदकर साहब एक ऐसा बिल ले आवें जिससे व्यक्तिगत सम्पत्ति की समाप्ति हो जाय और उन लोगों का भी उद्धार हो जाय जो कि इसके चक्कर में पड़े हुए हैं ।

श्रीमती जी० दुर्गाबाई : क्या आप इसका विरोध नहीं करेंगे ?

सेठ गोविन्द दास : मेरा यह ख्याल है कि यह दो ही ऐसे विषय हैं इस बिल में जिनके सम्बन्ध में बहुत वादविवाद उठाया जा सकता है । और मेरा यह भी ख्याल है कि समय को देखते हुए यदि हम इस वादविवाद में न पड़कर इस बिल को हमारी जो अगली धारा सभायें हैं उन तक मुलतवी कर दें और उस समय हम इस देश में इस सम्बन्ध में लोगों की राय ले लें और लोगों की राय लेकर चुनाव के पश्चात् इस विषय को हम यहाँ पर लावें और इस विषय को हम हिन्दू कोड के रूप में न लावें परन्तु जिस प्रकार हमने विधान पास किया है, जिस तरह हम देश के प्रत्येक समाज के व्यक्ति के लिए लावें तो उचित होगा.....

Dr. Mono Mohan Das (West Bengal: General) : Point of order, Sir. Is there no time limit for allowing this kind of discussion ?

Mr. Deputy Speaker : There is no time limit.

सेठ गोविन्द दास : तो मैं कहना चाहता हूँ, और इन शब्दों से मैं अपने इस कथन को समरूप करता हूँ, कि मैं यह आवश्यक मानता हूँ कि हमारे सामाजिक कानूनों में सुधार आवश्यक है । मैं यह भी मानता हूँ कि जो लोग इनका विरोध

उस प्रकार करते हैं जिस प्रकार उन्होंने सती प्रथा के सम्बन्ध में जो बिल आया था उसका, या विधवा विवाह के सम्बन्ध में या बाल विवाह के सम्बन्ध में जो बिल आया था उसका विरोध किया था, वह ठीक नहीं कर रहे हैं। पर इसी के साथ मैं यह भी मानता हूँ कि यह बिल इस समय ठीक अवसर पर उपस्थित नहीं हुआ है और हमें इस समय इस पर विचार न कर लोगों की राय लेकर आगे इसको पेश करना चाहिए। इतने ही शब्दों के साथ मैं न तो इसका समर्थन करता हूँ और न इसका विरोध करता हूँ।

(English translation of the above speech)

Seth Govind Das: Mr. Deputy-Speaker, I find that the supporters and opponents of this Bill can be divided into four groups. One of the opponent groups consist of those persons who oppose this measure with the same view-point as was exhibited by certain antagonists at the time of enactment of law for the abolition of Sati, the law which was got passed by the late Shri Ishwar Chandra Vidyasagar for widow-remarriage and the measure put forth by Mr. Sharda for the prevention of child marriages being brought on the Statute Book. At the time of Sharda Bill, I was a member of the Council of State and I personally know the opposition that was then meted out to this Bill. This group is of the opinion that no change can be made in that what has been prescribed in the text of our *Vedas*, *Shastras* and *Smritis*. I do not belong to that group. It would be noticed even from reference to our *Dharmashastras* that if one *Rishi* (Sage) said something from time to time, the other said something else. Had this not been the case, our *Rishi* would not have written *Smritis* numbering more than one hundred. If you go through these *Smritis*, you will find that the tenets laid down in one *Smriti* differ from those contained in the other. Each of these *Smritis* enunciates a different principle. Then just as I have stated, I am not one of those groups who have opposed almost all the reforms that have been introduced hithertofore.

*

The second opposing group is that which on the one hand believes that there is obviously a necessity for making reforms in these affairs, but on the other hand, it holds that this is not the proper time for the enactment of such a legislation. This should be brought forth only after the new elections have taken place, and when our new representatives have been elected. I would like to say that there will not be any harm if instead of making any change in the Hindu Law at present, we do this even three years hence. This is a subject over which the whole country has got to think; all of us have to think, all of those who are sitting here have to think and those who are likely to occupy these seats in this House in the future shall have to think. Therefore, I feel that there is a good deal of force in the arguments advanced by the second group that it is neither the proper time nor the place to bring forth such a measure, and for this reason, I would urge that we should consider this aspect.

Just as I have stated, even the supporters of this Bill can be divided into two groups, one which does not at all like to see any of our old traditions, and does not want to recognise the fact that this country is one of the ancient countries having a brilliant past, glorious history, high culture and great traditions. Such type of reformers do not at all care as to what our past heritage is and how are we to reconstruct our country today? These reformers have been considerably influenced by the Western education, and have scant regard for the ancient history, culture and even the old traditions in the sphere

[Seth Govind Das]

of social reforms. I would like to say that if such sort of reforms are introduced in this ancient country this *Bharatvarsha* (India) will no longer remain as *Bharatvarsha*—but it would become something else. The other group of reformers is that which believes in the necessity of reforms being introduced but after having due regard to our ancient history, culture and traditions. I do not belong to the first group but to the second. I admit that it has become absolutely necessary to introduce reforms, but in spite of all this, we should carry out the reforms after keeping in view our old traditions, ancient culture and civilisation.

At this time when we are framing our Constitution, when we have already passed the clauses relating to the fundamental and justiciable rights and when it is hoped that our Constitution will be finally adopted sometime during the period intervening between the 16th of May and 15th of August next, it would have been quite in order had this measure been brought forth in consonance with the provisions of the new Constitution. Today when we call our country a 'Secular State', when we admit that all the persons in this country—whatever religion they believe in, to whatever community they may belong, may be Hindu, Muslim, Sikh, Parsi—whoever he may be—he should be given equal rights of citizenship. Therefore, I would say that the Honourable Dr. Ambedkar should have presented to this House such a Bill which would have concerned not the Hindus alone, but would have been made applicable to all the citizens of this country. While admitting this country as a 'Secular State', the idea of introducing a Hindu Code Bill seems to me quite inappropriate. Then again if we now see this Bill, we shall have to admit this that it.....

Shri R. K. Sidha: The Honourable Dr. Ambedkar referred to the ancient *Shastras*. You may also point out which of the *Shastras* go against the provisions of Hindu Code?

Seth Govind Das: Now if we see this Bill, we find that it contains many such clauses to the acceptance of which there should not be any objection. And if at all this Bill is not postponed but is passed into Law, I am sure we shall accept these clauses without indulging into any sort of controversy. But along with this, we also feel that it contains many such clauses the acceptance of which is susceptible of being considerably harmful. The Honourable Dr. Ambedkar has himself admitted today that many of the clauses are of controversial nature and he has also thrown sufficient light on these controversial issues. The first controversial issue is 'marriage' and 'divorce'. If we take up the 'marriage' and 'divorce', I would be prepared to accept one thing at least that we should make some such change in our legislation which would do away with the Caste System. And if any *Brahmana* wants to marry a *Sudra* or a *Sudra* a *Brahmana*; or setting aside the case of a *Brahmana* and a *Sudra*, if any Hindu wants to marry a Muslim or any Muslim a Hindu, or if the members of any community want to have inter-communal marriages, there should not be any bar to such marriages being solemnized. This Caste System has ruined our country. It has resulted in the ramification of our country and society into small parts—nay even the smallest sections. All of us are very well aware of the disabilities that exist in the marital sphere today and which are the outcome of this dismemberment. The old people also know this and even today—they look upon the solemnization of such marriages with abhorrence. They say that they have to marry their sons as well as daughters against their wishes. But I fully support such a freedom being given. I am even a supporter of 'divorce'. I would submit that notwithstanding the fact

that no 'Marriage Code' has so far been invented in the world which may be regarded as the panacea for the removal of all ills, still we have got to see that if the husband and wife cannot live a harmonious life, they should be given the right of divorce. The Honourable Dr. Ambedkar has stated that the system of divorce already prevails among 90 per cent. of the people in this country. These 90 per cent. are called *Sudras*. I, on my part, do not find any difference between the *Brahmana* and *Sudras*, and feel that it would be the greatest crime to call them *Sudra* even.....

The Honourable Shri Jagjivan Ram (Minister of Labour): Does it not cut at the root of Hindu religion?

Seth Govind Das: Divorce exists amongst the 90 per cent. of the *Sudras*. In this case too, it so looks to me that if we pass this legislation in utter disregard of their customs and usages, then 90 per cent. of the people.....

Shri Raj Bahadur (United State of Matsya): Sir, may I request the honourable member to use any Hindi equivalent for the word "*Talaq*" (divorce)?

Seth Govind Das: I feel that the honourable member does not understand the implications of the Hindi language. All those words which have been included in Hindi belong to Hindi alone—may it be '*talaq*' or anything else. If he still wants to know the Hindi equivalent of '*talaq*', I would tell him that this can be substituted by the word "*Vivah Vichhed*" (विवाह-विच्छेद) (dissolution of the conjugal rights).

I was just telling you that if this legislation is passed after brushing aside the customs and usages prevalent amongst those 90 per cent. of the people, then it would mean that they would not be able to divorce in their traditional manner and they would thus be confronted with many difficulties. Therefore, it is bound to give rise to a very great difficulty inasmuch as it runs counter to the wishes expressed by the Honourable Dr. Ambedkar that every body should be given the full liberty to marry and divorce. I am in favour of such sort of liberty being completely given to all the men and women.

The Honourable Dr. Ambedkar also pointed out that 10 per cent. of the people amongst us who are called *Caste Hindus vis., Brahmana, Kshatriyas, or Vaishyas* want to thrust some thing upon those who form the 90 per cent. It so looks to me that those of us—who are ten per cent. in number—who form the intelligentsia want to load a few things on those comprising of 90 per cent. It is not the *Brahmana, Kshatriyas* and *Vaishyas* who put the burden, but this is done by those people who have managed to come to this Assembly in some way or the other. I would also tell my sisters that I am not prepared to accept this view that my sister members, Shrimatis G. Durgabai and Renuka Ray and other lady members who are sitting in this House represent the women; or those sisters who sit in the visitor's galleries represent them. I admit that those who are not present here, those who do not come in the visitor's galleries can represent this country better than those who are sitting here. We shall have to admit that the allegation which is being made today that some high-caste people want to thrust their opinion upon the low-castes is not correct. But in reality the position is that the ten per cent. educated people want to thrust their opinion upon the remaining 90 per cent. Without knowing anything as to what is the will of the people in this country, they should not thrust their opinion upon them. I do not want that any legislation should be passed in this House which is against the wishes of the people.

Shrimati Renuka Ray: Do 90 per cent. of the people know that you are drawing up a constitution?

Seth Govind Das: We know that the people are with us. To talk as if this is your own concern is not correct. We have come with a mandate from the people in that respect.

The other thing which has been mentioned here is in regard to 'Succession'. It has been stated that we are required to carry out drastic reforms in the law relating to Succession. I agree that there is a great scope of reforms being made in the Succession System. And I also admit that it would amount to the greatest possible injustice being done to the females if they are not conferred upon the right of succession and thus precluded from inheriting the property. The women should be given the right of succession. Now the question arises as to what extent should such right of succession be vested in the females. The Honourable Dr. Ambedkar has in support of this quoted from the *Smritis* of Manu and Yagnavalkya and pointed out that these *Smritis* also confer upon the females the right to inherit property to the extent of one fourth. I would like to say that in my opinion some improvement should necessarily be made in the domain of succession even if these are the views held by Manu and Yagnavalkya. There was a time when the matriarchal system existed in this country or even in the world. But in the present-day society, the matriarchal system has been replaced by the patriarchal. So long as the matriarchal system existed in this country as well as in the world and the husband used to come and stay at the bride's house after marriage, it was quite appropriate that the daughter should have a share in her father's property. But according to my viewpoint now when the patriarchal system is in vogue and the girl leaves her father's house for that of her father-in-law; it would not be proper to give her any share out of the father's property. In my opinion the daughter-in-law should be given the right to share her father-in-law's property. As soon as the marriage is consummated, the daughter-in-law should be given the share equal to that of the son. Today the son enjoys the full right, and if any woman becomes widow, she is entitled to the right of maintenance only *viz.*, food and clothing. I am totally against it. Therefore, I would urge that the women should undoubtedly be given the right to share in the property, but that should be restricted to her father-in-law's property only and not that belonging to her father.

Shri Mohan Lal Gautam (U. P.: General): If there is no father-in-law?

Seth Govind Das: Then in the husband's house.

Shri Mohan Lal Gautam: If there is no husband.

Seth Govind Das: Then in the son's house.

Shri Mohan Lal Gautam: And if there is no son?

Mr. Tajamul Hussain: And if she is not married then what would she do?

Seth Govind Das: That is a separate thing. They do get from some source or the other. In the example which has been cited here that when there are twelve sons and thirteenth a daughter, and the twelve sons have got the right to distribute their father's property, then why should not the thirteenth daughter be given the same right? I would say that all the twelve sons live in their father's house. The distribution which the twelve sons make is made at the same place.

Shri Krishna Chandra Sharma (U. P.: General): If the daughter also wants to live in the father's house?

Seth Govind Das: Since the daughter has got to adopt another house, this cannot be made applicable in her case. Another thing that has been added in respect of succession to property is that the right of succession will now be governed in accordance with the contents of the will. In cases, where the wills are not executed, disputes will arise. Not only this, disputes will arise even otherwise. The Honourable Dr. Ambedkar who is a renowned lawyer is aware of the fact as to what percentage of the wills executed hitherto were brought up before the Courts and on how many wills were the suits instituted? I am afraid that as soon as the will comes in, neither the sons nor the daughters would be able to share the property under the provision of this law which seeks to confer upon them the right of succession. All that property will be grabbed by the lawyers.

Then again another thing will happen. The Honourable Dr. Ambedkar wants that the daughters should also be given the right of succession to the property. Then I would submit that in our society which is undivided at present, when the fathers execute the will, they will not bequeath anything to their daughters, but would give to the sons alone, and thus this would defeat the very object with which you want to confer the right of succession on the women. In regard to succession, I would like to say that just as Dr. Ambedkar has himself admitted, it is a very intricate subject. It so looks to us—we might or might not be Socialists or Communists—that on the one hand the industrialists have raised the voice that the industries are not being developed in this country and on the other hand the question of succession has been mooted out. Therefore, the best thing would be that you should abolish the system of private property. If after the liquidation of this private ownership, a new society is evolved—I do not say that the structure of that society should be based on the principles of Socialism and Communism—but I have since formed this opinion that a new class of society should be built after the liquidation of the individual holdings. If our capitalists see to this they will no doubt find that this wealth is no longer a source of solace to them. I belong to that very class which can be termed as capitalist. But we see who is deriving the real pleasure out of this hoarded wealth? I have not come across any such capitalist who can fill his belly by eating and digesting 10 or 20 seers, while a poor man can be satiated by taking half a seer or three quarter of a seer. I have also not seen any such capitalist who puts on about 100, 200 or 400 yards of cloth at a time, while a poor man can cover his body with only five or six yards.

The Honourable Maulana Abul Kalam Azad (Minister of Education): Some people do wear!

Seth Govind Das: I am accustomed to live in palaces, and I would like to say that if any capitalist is made to sleep in one of the large halls of his Palace, he cannot enjoy the sleep. For sleeping purpose, only one room measuring about 12 or 14 feet is required. Now-a-days wealth has become an affliction—for the wealthy too. Those people who do not get this, they desire to acquire it and those who have got it suffer great hardships and on account of that they cannot live peacefully.

The Honourable Maulana Abul Kalam Azad: And they do not want us to give up also!

Seth Govind Das: They do not want to give up because the man who owns that wealth is looked upon with great esteem in the society.

Shri Sita Ram S. Jajoo (Madhya Bharat): The man who renounces this or gives it in charity is also equally respected.

Seth Govind Das: It is alleged by our Socialists and Communists that all the capitalists are robbers, dacoits and wayfarers. Some of the Socialists, Communists might differ from this. I cannot ascribe this to all of them. But many of them would renounce their Socialistic and Communistic creed if they can acquire this wealth. The holders of wealth are even today held in esteem by the society. We should try to overhaul the conceptions and values of the society in such a manner so that the capitalists may in reality be treated as dacoits and robbers; and then only I would say that no capitalist would like to wear this collar around his neck. Therefore, with a view to tackle this knotty problem of succession, I would urge that our Honourable Law Minister Dr. Ambedkar may bring forth such a measure which should seek to abolish the system of private ownership and thus ameliorate the condition of those people who have fallen a victim to this.

Shrimati G. Durgabai (Madras: General): Will you not oppose that?

Seth Govind Das: In my opinion these are the only two points in this Bill which are subject to good deal of controversy. I am also of the opinion that keeping in view the trend of the time and without indulging into any sort of controversy, we postpone the enactment of this Bill till the formation of the new Assembly and in the meantime invite the opinion of the people in this connection; and after ascertaining the wishes of the people, we should bring forth this measure as soon as the fresh elections are held. We should not present this measure in the form of a Hindu Code but the proper course would be to pass it in the same manner in which we have passed our constitution which provides for the rights of every citizen in the country.

Dr. Mono Mohan Das (West Bengal: General): On a point of order, Sir, is there no time limit for allowing this kind of discussion?

Mr. Deputy Speaker: There is no time limit.

Seth Govind Das: With these words I would conclude, and say that I feel it absolutely necessary that reforms should be made in our social laws. I also admit this that those people who oppose this Bill in the same manner in which they behaved at the time of the enactment of laws relating to the abolition of Sati, widow-marriage and prevention of child marriages are not following the right course of action. But along with this I also admit that this Bill has not been moved at the opportune time and we should postpone its consideration at the moment. We should present it only after ascertaining the public opinion. With these words, neither I support this, nor oppose this.

Shrimati Sucheta Kripalani (U.P.: General): Sir, ever since we had a sovereign legislature no piece of legislation has given rise to greater excitement and controversy than this Hindu Code Bill. If all this controversy had been based on reason and on the merits of the changes proposed in Hindu Law it would have been to the good but much of the controversy is clouded by irrelevant issues. The argument of Religion in Danger has inspired much of the propaganda against the Code. It is urged that it will shake the foundations of the Hindu religion. Those who put forward such argument do a great injustice to their own religion.

Hindu religion is primarily concerned with the spiritual emancipation of the individual, his progress towards self-realisation. The self-fulfilment of an individual stands in need of certain moral and spiritual principles as truth, justice, non-violence, etc. These are embodied in our scriptures. These are unchangeable and fundamental. The social arrangements, institutions, conven-

tions and customs that have evolved through the ages are not religion. The Hindu Code does not seek to disturb the Hindu religion but to amend and modify the Hindu civil law. The law has changed from time to time. It is different from religion and has never been unchangeable and static. The authors of the *Dharma Shastras* changed the law from time to time according to the consciousness of the community at the time. The right to make changes was well recognised by the *Dharma shastras*. The Hindu law became rigid and static only after the advent of the British.

It has been the boast of Hindus that while the fundamentals have remained unchanged, the Hindu social institutions have changed to suit changing circumstances. Continuous adaptability has been the strength and essence of Hinduism. Unless Hindu society is to remain static and dead the law must change to fit in with the changing circumstances. We also know that the *Smritis* have not remained unchanged. The *smritis* did include other branches of law besides those of succession and marriage. These have been dealt with by the Indian legislature and some of them have been superseded. Hindu religion did not flounder. Hindu religion has survived that shock. If Hindu religion could survive the shock of these changes I am sure Hindu society and religion can survive the shock of a little more change.

We have also brought in social legislation of great importance. We have abolished the *Sati*; we have abolished child marriage; we have also abolished to a great extent untouchability. Hindu religion is a very catholic and liberal religion. So the argument of religion in danger does not behove us. Within the fold of this liberal and catholic religion people of various views customs and manners have found shelter and lived. Today what has happened? Why have we lost our faith in our own religion that we are raising the cry of religion in danger? It does not mean that I want to say that all those who oppose us are orthodox and are reactionaries. I only want to point out that in forcing your point of view you are only doing injustice to your religion when you put forward this argument.

Another argument is this that this Bill should not have been taken up for consideration now and that we have not given the country sufficient opportunity to get acquainted with the provisions of the Bill. As far as I know this Bill has been before the House and before the country for about the last ten years. Some of the measures embodied in the Bill as Succession Bill and Marriage Bill, I think, were introduced in the House in 1948. The Hindu Law Committee was appointed in 1944. Its Report was published, I think, in 1945 or 1946 and the draft Bill has been translated into thirteen Indian languages. Thousands of copies of this draft Bill have been circulated. Even after this if we do not know the provisions of the Hindu Code Bill then it is our fault and not the fault of the Government. Besides that the Bill won't be passed in a day here. We will take a lot of time to consider it. It will take a good deal of time when we consider it in detail. At that time we will have enough opportunity to go to the public, to acquaint them with the provisions of the Bill and also to ascertain their opinion. There is a whispering propaganda, a very strange propaganda, that this Bill should be postponed till after the next general election. Why should it be postponed. Because this may adversely affect our party's popularity? Is it befitting or worthy of the Congress to put forward such arguments? Have we ever considered our popularity before our duty? If we think that a Bill is just, if we consider that a Bill is for the good of the people then it is our duty to go ahead with it. To shelve a Bill just in order to catch votes for the next election is not right. I think it is not even honest. For us the good of the people has always been the supreme consideration. If we don't take this point of view, if we don't keep this attitude before us, we will never be able to sponsor any radical change. Whatever be the field

[Shrimati Sucheta Kripalani]

of our life when a radical change is sought to be made we are bound to come against some vested interests and some established custom. There is always bound to be a cry against such changes. If we give up reform on that score then we shall never change anything.

I would like to say this. Much has been said about the volume of opinion against the Hindu Code Bill. I would like to say with all humility that there is also a very good group—an intelligent, thoughtful group—supporting the measure too. And that intelligent, thoughtful group does not consist of women alone. We have a lot of brothers with us in this measure. We have also seen in history in other countries whenever a radical change was introduced, whenever any reform was sought to be brought into being, it was a small conscious minority that forms up the cause, that educated the public, that did propaganda and after some time public opinion veered round it. So I am sure though it may be that there is a volume of opinion against the Hindu Code, if what we are trying to do is just and right, I am more than sure that public opinion will come with us. Not only will it come with us but it will bless us after a time for the good (*An Honourable Member*: "It is already with us") measure that we have passed. They say they have got the majority with them. So this is my answer.

In the heat and controversy many times we forget that the Bill does not consist of merely the Succession and the Marriage provisions. We have tried to make a uniform and entire system of law. In this entire system of law or Code we have tried to put right a lot of discrepancies, inequities, and injustices. For instance this morning Dr. Ambedkar in his learned speech told us how the provisions regarding guardianship, maintenance, adoption etc. are going to be beneficial to the society. Those who are totally opposed to the Bill have been forgetting the good side of the Bill, the non-controversial side, and have concentrated all their attack on the entire Bill.

Let us come to the question of Succession itself which is greatly opposed by large sections of the people.

Mr. Tajamul Husain: It is opposed by vested interests only.

Shrimati Sucheta Kripalani: It is opposed by large sections. They had levelled two points—against the ~~breakage~~ breakage of the joint family, and the grant of absolute rights to women. I will take the second point first. We are seeking to have a society where men and women should be equal, where people of all castes will be equal. We are trying to bring about a perfect democracy of which we have dreamed all these years. We are pledged to give women equal status in society. We are pledged to do away with all sex discrimination and this pledge does not start from the time when we bring into effect the New Constitution. I would like to remind you that in the Karachi resolution these pledges are embodied. After that when we accepted office, then also we again reiterated that there shall be no discrimination on the basis of sex. If men and women are to work equally, if they are to function as equal citizens of the state, if they are to fulfil their obligations towards the state, how can we have such discriminatory rules in the matter of property rights of women? Unless woman gets her full share of property you cannot expect her to fulfil her obligations to the state. Of course whenever we make any changes, established custom and established rules are disturbed. It causes a certain amount of dislocation and inconvenience, but we have to tolerate them and take them as inevitable. We must not try to enlarge the importance of the inconvenience that is caused to us. Dr. Ambedkar and others have told us that the *smrities* recognize the right of property of women. What law gave us practice denied

us. In practice the right was abrogated. What we are trying to do today is only this.—We are not going against the fundamentals of Hindu religion or Hindu custom or Hindu law; what was granted to us by Hindu law but which was arbitrarily denied to us, we are now trying to take back—or rather you are giving it to us, this right which has been denied to us by society all these years. It is merely justice done—long deferred justice.

If you come to modern times, by the Act of 1937 you have given property right to the wife, to the daughter-in-law, to the grandson's wife and so on and so forth. The only person who is left out is the poor daughter. It is but in the fitness of things that now it should be included here. Therefore I do not see what is there to argue much about it. If we have given to other women this right, if women can inherit from the husband's side let her inherit from the father's side which is very natural and right.

The Honourable Shri Jagjivan Ram: They want her to develop to the other stages.

Shrimati Sucheta Kripalani: In regard to joint family there is a very great feeling about it. I do not know why there is such a feeling. Most of the people I come across are anxious to get out of the joint family. The sons do not like to stay with the father. I see most of the families distributed all over the country. So joint family is a very rapidly crumbling institution according to me. Even the legal position of the joint family is very faulty as Dr. Ambedkar has pointed out to us in the morning. Even under Mitakshra system a member of the joint family merely by expression of his will can bring about a partition.

I would therefore like to ask you where is the joint family about which you are crying so loudly?

Much was said about the protection that is given to the unprotected women in the joint family. I know in the past in the joint family unprotected women did get protection. Even now some of them do get protection but at the same time we know hundreds of women who, failing to get any shelter in the joint family, having no economic resources of their own, are hounded to a life of degradation and shame. Many of us women, who are doing social work, come across innumerable such cases. Therefore, not only is it right, not only is it just to give woman her portion but it is absolutely essential to give her the share if you want to safeguard the Hindu society about which you speak so loudly.

The Honourable Shri Jagjivan Ram: And something more.

Shrimati Sucheta Kripalani: So much the better. Give us a little more. You have denied us in the past, make it up now.

As regards marriage, the Bill merely seeks to introduce uniformity of practice to avoid confusion and uncertainty. This may entail a little difficulty to those classes which are governed by the customary law but the proposed sacramental and civil marriages are such that it can be put into practice by the poorest and the most backward classes. So I do not think it will create any great difficulty. There is some objection to the registration of sacramental marriages. I think it is purely sentimental because registration is only permissive. If you do not want to avail of the registration you are free not to avail of it.

An Honourable Member: It is compulsory.

The Honourable Dr. B. B. Ambedkar: No compulsion.

Mr. Tajamul Hussain: No compulsion, either would do.

Shrimati Sucheta Kripalani: If I am wrong, Dr. Ambedkar will correct me. It has been put there as a safeguard; that is all.

We come to the question of inter-caste and *sagothra* marriages. I was hearing my friend who preceded me. I do not know how we can wax eloquent over the objection to *sagothra* and inter-caste marriages because I find a very large number of such marriages taking place in the society. If we did not have such marriages it was all right, but when a very large number of such marriages are taking place, either we compel them to have an irregular marriage or we drive them out of the Hindu fold or we make them go somewhere or they have to go to the civil registration office and get it done. When it is there, why not accept the fact? When it is a practice why not recognise it and give it legality? Therefore, it is but right at this stage, when Indian society has changed so considerably to allow inter-caste and *sagothra* marriages within the Hindu fold.

About monogamy, here also I feel that the society has on the whole accepted monogamy. Polygamy is looked down upon; polygamy finds no favour in our society, though cases do occur. Again, we recognise the current practice amongst an overwhelming majority of Hindus and we legalize it. Moreover as we are trying to bring about a society where men and women are equal, we cannot afford to have a double set of morality for men and women and I should think the men should be happy to have this introduced because by the provision of monogamy we are levelling up the standard of men's morality to that of women. I should think that the men should be thankful to us.

An Honourable Member: Very thankful. We can get easy divorces and marry again.

Shrimati Sucheta Kripalani: As for divorce, though we do not deny the sentiments of the orthodox, men and women, analysing it, we find, that divorce did exist in our ancient scriptures. The grounds of divorce that we have allowed are extremely reasonable and just. We have not allowed any divorce on frivolous grounds as it has been in some parts of the Western world. Care has also been taken to formulate such a procedure that divorce would be resorted to only under very grave circumstances. If we see the records of Baroda, Travancore, Cochin and Malabar where divorce is allowed, very few people have availed themselves of the law. Only under exceptional circumstances it comes to help the people to get out of a very difficult situation. Hindu social tradition is such that we will not on flimsy grounds rush to the court and break up a marriage. The people who fear that the grant of the right of divorce may amount to disruption of the family life of the Hindus are absolutely unjustified.

Then I take Dr. Ambedkar's argument of the morning that divorce prevails among 90 per cent. of the Hindus, so why not extend it to the other 10 per cent. It will be very right and just when we see that among these 10 per cent. divorce cases are occurring. If there had been no divorce cases then I would have understood it, but we see that whenever our men and women want a divorce they leave the Hindu fold and become Muslims or Christians and by doing so they insult those religions of which they make a mere utility. Therefore, we should recognise the existing circumstances and allow divorces.

Sir, I have nothing more to say except that I want to tell my brothers here that we women even when we pressed for our rights have never forgotten the greater good, the larger good. We have been very conservative in this matter. You know even for our political rights we have never encouraged things which we have considered wrong. Even when the British were there we have always stood for joint electorates. Even in the new Constitution we have never

pressed for separate rights for ourselves. We would have pressed for these if we did not think that they go against the benefit of the entire society. If Hindu women benefit, I am sure the Hindu society stands to benefit. This is for the larger good; that is why we are pressing this point.

Here, I would also like to say that our men on the whole have been very co-operative and helpful to us. They have not stood against our progress. It may be that this is due to the benevolent influence of Mahatma Gandhi. You all know that Gandhiji was one of the greatest supporters of women's rights. The tradition that he has established has been followed by our men; because of Gandhiji's influence, because of the sympathetic attitude of our leaders, we have never had to fight for the political rights as women of other countries had to fight. Therefore, I am more than sure that now we will follow the good traditions, we will keep up the spirit of co-operation that we have had all these years and all my brother Members will support this Bill and consider this Bill not as a measure of right for the women, not a measure of justice that you are giving to the woman, but as justice done to the society. This is a measure by which we are trying to make Hindu society healthy and wholesome. The Hindu society is full of defects. We are now independent. If in the world we have to take our status, we have to set our house right; unless we do it we cannot take our position in society. Therefore, let us get together and remedy the defects that are in the house. I only appeal to you and I am sure we will have the support of all of you for this good measure.

The Assembly then adjourned till a Quarter to Eleven of the Clock on Friday the 25th February, 1940.