

Monday
12th December, 1949

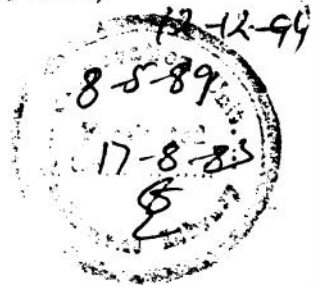
THE
CONSTITUENT ASSEMBLY OF INDIA
(LEGISLATIVE) DEBATES

(PART I—QUESTIONS AND ANSWERS)

OFFICIAL REPORT

VOLUME IV, 1949

(28th November to 24th December, 1949)



SIXTH SESSION
OF THE
CONSTITUENT ASSEMBLY OF INDIA
(LEGISLATIVE)

1949

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CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE) DEBATES

PART I—QUESTIONS AND ANSWERS

Monday, 12th December, 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

(a) ORAL ANSWERS

IMPORTED MACHINERY LYING IN THE INDIAN NATIONAL ARCHIVES BUILDING

*482. Shri R. K. Sidhva: (a) Will the Honourable Minister of Education be pleased to state whether it is a fact that machinery worth more than two lakhs of Rupees, imported from hard currency areas and brought to India about 18 months ago under the highest priority is lying stacked in the Indian National Archives Building in New Delhi?

(b) If so, what is the nature of this machinery and for what purpose was it imported?

(c) Why has there been such delay in utilising this machinery?

(d) What is the condition of this machinery at present?

آنریبل مولانا ابوالکلام آزاد : (a) ایسا نہیں ہوا ہے کہ مشینری کہیں ڈال دی گئی ہو اور بیکر پڑی ہو۔ اسے اپنی جگہ لگانے اور تھیک طور پر کھڑا کرنے کا کام بہت کچھ ہو چکا ہے۔

(b) مشینری ان تین کاموں کے لئے منگوائی گئی ہے۔

(1) پڑانے کاغذوں اور کتابوں میں جو کھڑے لگ جاتے ہیں ان کی صفائی۔

(2) اہستے پڑانے کاغذوں کی میکینیکل مرمت جز چھونے سے تکرے تکرے ہو جاتے ہیں۔

(3) ڈاکومنٹ کو مائکروفلم کرنا اور فوٹو کی کاپیاں تیار کرنا۔

(c) مشینری کے لگانے میں دیر فنڈ کی کمی کی وجہ سے ہوئی ہے۔ اس برس روپیہ اس کے لئے نکالا گیا اور مشینیں لگا دی گئی ہیں۔

(d) مشینری کی حالت ٹھوک ہے - کوئی خرابی دکھائی نہیں دیتی - اگر کسی طرح کی خرابی آئی ہوگی تو اس کا ٹھوک حال اس وقت معلوم ہو سکے گا جب وہ چلائی جائیگی -

The Honourable Maulana Abul Kalam Azad: (a) The machinery is not lying stacked: its installation is in progress.

(b) The machinery is meant for the (i) Vacuum fumigation of insect infested records, (ii) mechanical repairing of old and brittle documents with cellulose acetate foil, and (iii) microfilming and photo-duplication of documents.

(c) The delay in installing the machinery has been due to lack of funds. Some funds have, however, now been made available and the machinery is being installed.

(d) The present condition of the machinery is sound and no major damage has taken place. The extent of the actual damage and defects, if any, would, however, be known only when the machinery has been properly installed and worked.

شری آر - کے - سدھوا : میں جناب وزیر صاحب سے جاننا چاہتا ہوں کہ مشین کب آئی - کب لگا دی گئی اور کتنی کتنا تھا -

Shri R. K. Sidhva: May I ask the Honourable Minister as to when the machinery arrived, when was it installed, and what was its price?

آنریبل مولانا ابوالکلام آزاد : اکتوبر ۱۹۴۸ میں دہلی پہنچی ہے -

The Honourable Maulana Abul Kalam Azad: The machinery was received in Delhi in October, 1948.

شری آر - کے - سدھوا : یعنی ۱۹۴۸ میں آئی اور لگ بھی گئی -

Shri R. K. Sidhva: In other words, it arrived in 1948 and was also installed:

آنریبل مولانا ابوالکلام آزاد : نہیں، بہت دیر کے بعد لگانے کا کام شروع ہو سکا -

The Honourable Maulana Abul Kalam Azad: No. The installation work could only be undertaken long after.

شری آر - کے - سدھوا : اگر یہ ٹھوک ہے کہ بہت وقت لگا تو میں جاننا چاہتا ہوں کہ مشینوں کا کتنا نقصان ہوا -

Shri R. K. Sidhva: If it is correct that it took a long time to instal it, then may I know how much damage was thus caused to the machinery?

آنریبل مولانا ابوالکلام آزاد : میں نے خود مشینری کے تمام حصوں کو دیکھا ہے - مجھے معلوم ہوا ہے کہ کوئی بڑی خرابی اس میں نہیں ہوئی ہے -

The Honourable Maulana Abul Kalam Azad: I have myself seen all the parts of the machinery and found that no major damage has taken place.

श्री कृष्ण चंद्र शर्मा : कितनी किताबें खराब हो गई हैं जिनको दुरुस्त करने की जरूरत है ?

Shri Krishna Chandra Sharma: What is the number of books which have been damaged and require to be repaired?

آنویں مولانا ابوالکلام آزاد : بہت سی ایسی کتابیں ہونگی جنہیں کھڑوں کے اثر سے محفوظ کر دینا ضروری ہوگا - انکی پوری تعداد ابھی میں نہیں بتا سکتا -

The Honourable Maulana Abul Kalam Azad: There must be many such books which shall have to be protected from being infested by insects. I cannot quote the exact number thereof at the moment.

DEVELOPMENT OF INDIAN NAVY

*483. **Shri R. K. Sidhva:** (a) Will the Honourable Minister of Defence be pleased to state whether Admiral Parry has discussed with the Naval Authorities in Britain about acquiring more ships for India?

(b) If so, what types of ships have been acquired, what is the total cost and when are these likely to arrive in India?

(c) What is the period within which a complete Navy will be established in India?

(d) Is it a fact that the port of Cochin and the place near Mandapam have been selected for development as naval bases and training Centre?

The Honourable Sardar Baldev Singh: (a) No.

(b) Does not arise.

(c) The Government has approved a tentative plan for the navy.

(d) It is the intention to locate several naval training establishments in Cochin.

Shri R. K. Sidhva: May I know from the Honourable Minister what is the report of the Committee in the enquiry instituted regarding the Port of Cochin?

The Honourable Sardar Baldev Singh: It is not possible for me to give the information which the Honourable Member is asking because I have not the report of the Enquiry Committee here. If he is interested, I will be able to furnish him the information.

Shri R. K. Sidhva: As required in part (d) of my question, may I know whether Cochin has been selected for this development?

The Honourable Sardar Baldev Singh: That is what I have stated in my reply. I will repeat for the Honourable Member's information. "It is the intention to locate several naval training establishments in Cochin." It has been decided after the question has been thoroughly investigated.

Shri R. K. Sidhva: May I know at what stage that enquiry has reached?

The Honourable Sardar Baldev Singh: That does not arise out of this.

Shri R. K. Sidhva: It does arise. My question is, "What is the period within which a complete Navy will be established in India". Is it a fact that the port of Cochin and the place near Mandapam have been selected for development as naval bases and training Centre? I want to know whether any enquiry has been set up and at what stage the enquiry is.

The Honourable Sardar Baldev Singh: My reply is quite clear. Government has taken a decision to establish this institution in Cochin after making due enquiries.

Shri B. Das: May I know if sufficient number of naval officers and Indian ratings are being trained to man the Indian Navy in the near future?

The Honourable Sardar Baldev Singh: I require notice.

Mr. Frank Anthony: Has the Government any definite scheme for the development of our Navy and if so has any target been set in the matter of recruiting officers and ratings?

The Honourable Sardar Baldev Singh: Yes; as I have already stated, the Government have approved a tentative plan. I am sorry it is not possible to give the details.

Shri R. K. Sidhva: Is it confidential or it is not available?

The Honourable Sardar Baldev Singh: The details of the plan are confidential. It is not possible to give the number of vessels and the equipment that we are going to purchase.

Shri Brajeshwar Prasad: Has anything been done on the basis of the plan or is it still a paper scheme?

The Honourable Sardar Baldev Singh: Something has been done.

FIRES IN AMMUNITION FACTORY, JUBBULPUR

*484. **Shri R. K. Sidhva:** (a) Will the Honourable Minister of Defence be pleased to state whether there have been any fires in the Jubbulpore ammunition factory after the month of March 1949?

(b) If so, when did such fires occur?

(c) What were the causes of the fire and the losses sustained and what was the action taken to prevent such fires?

The Honourable Sardar Baldev Singh: (a) and (b). Presumably the Honourable Member refers to the Gun Carriage Factory as there is no factory called the Ammunition Factory at Jubbulpore. There have been two cases of fire in that factory, since March, which occurred on the 17th April, 1949 and the 19th May, 1949.

(c) The Courts of Enquiry which investigated these two cases of fire were unable to arrive at definite conclusions regarding the cause. The police investigation report is still awaited. The loss in the April fire is estimated at about Rs. 2½ lakhs and in the May fire at about Rs. 250. Apart from tightening of general security measures, anti-smoking and fire precaution measures have been tightened up and the fire brigade staff strengthened. Further measures will be taken, if necessary, on receipt of the police report.

Shri R. K. Sidhva: May I know whether the Honourable Minister is referring to the fire in the Ordnance Factory at Kulni or some other fire?

The Honourable Sardar Baldev Singh: I am referring to the fire in the Gun Carriage Factory at Jubbulpore.

NEW COINAGE DESIGNS

*485. **Shri R. K. Sidhva:** (a) Will the Honourable Minister of Finance be pleased to state whether it is a fact that the new coinage designs have been approved of by the Government of India?

(b) If so what are the designs?

(c) How many new designs were placed for consideration by the Coinage Design Committee?

(d) How long will the King's effigy continue to exist on the Indian coins?

(e) What is the cause of delay in introducing the new emblem on coins?

The Honourable Shri K. C. Neogy (Minister of Commerce): (a) Yes, Sir.

(b) The new coins will have the 'Lion Capital' of the Asoka Pillar on the obverse. The reverse will bear the design of 'Ears of Corn' in rupee, half-rupee and quarter-rupee coins; 'Asoka Bull' in 2 anna, 1 anna and half-anna coins; and the 'Asoka Horse' in single pice coins.

(c) About 230.

(d) The King's effigy will not appear in the new coins. This will, however, remain on the old coins which will continue to be legal tender.

(e) The delay is mainly due to the capacity of India Government Mints' having been earmarked for a considerable period for Pakistan coinage under the Partition Agreement.

Shri R. K. Sidhva: May I know when these coins will be introduced?

The Honourable Shri K. C. Neogy: They are likely to be introduced on the 15th of August, 1950.

Shri R. K. Sidhva: The Honourable Minister said that our mints were minting Pakistan coinage. May I know whether Pakistan has not got a Mint in Lahore and if so why our mints are allowed to be utilised for minting Pakistan coinage at the cost of delaying our work?

The Honourable Shri K. C. Neogy: This was part of the Partition Agreement.

Shri H. V. Kamath: Who were the members of the Coinage Design Committee?

The Honourable Shri K. C. Neogy: The final decision was of course taken by the Cabinet. There was a Coinage Design Committee set up for the purpose of considering the various designs that had been received from different persons. This Committee consisted of the Governor of the Reserve Bank of India, Sir Benegal Rama Rau who was then the Governor Designate of the Reserve Bank, the Secretary of the Ministry of Finance, the Mint Masters, Bombay and Calcutta, the Director of the J. J. School of Art, Bombay, and the Secretary, Indian Institute of Art and Industry, Calcutta.

Shri B. Das: May I enquire whether notes of Indian design will be promulgated from the 15th of August or from the 26th of January?

The Honourable Shri K. C. Neogy: From the 26th January, 1950.

Shri B. Das: I am enquiring about currency notes of Indian design.

The Honourable Shri K. C. Neogy: I am afraid, I am not in a position just now to reply.

Shri Kishorimohan Tripathi: Will the Honourable Minister kindly say what is the percentage of the metals in the alloy?

The Honourable Shri K. C. Neogy: I would like to have notice.

Shri R. K. Sidhva: Will the Honourable Minister say what is the name of the person whose design has been accepted?

The Honourable Shri K. O. Neogy: It is extremely difficult to say whose design was accepted. Perhaps different persons' design in respect of different coins.

WOMEN POLICE

***486. Dr. Mono Mohon Das:** (a) Will the Honourable Minister of Home Affairs be pleased to state the names of States and Provinces of India where women have been employed in Police?

(b) How many women have been employed in Police in Delhi Province?

(c) Have they got any special duty to perform?

The Honourable Sardar Vallabhbhai Patel: I lay on the Table of the House a statement containing the information desired by the Honourable Member. (See Appendix XIII, annexure No. 1.)

Dr. Mono Mohon Das: May I know whether any special rates of pay or allowance has been provided for these women police so far as the Centrally Administered areas are concerned?

The Honourable Sardar Vallabhbhai Patel: No special grade of pay.

Dr. Mono Mohon Das: May I know whether any preference is given during selection with regard to special categories of women, viz., married, unmarried or widows?

The Honourable Sardar Vallabhbhai Patel: No special concession.

Dr. Mono Mohon Das: May I know whether there is any age restriction for their appointment?

The Honourable Sardar Vallabhbhai Patel: Minors are not recruited.

Shrimati G. Durgabai: May I know whether Government have received any reports with regard to the quality of the services of the women where they are employed as women police?

The Honourable Sardar Vallabhbhai Patel: In their sphere they are doing excellent work.

Shrimati G. Durgabai: In view of the fact that their work is recognized as excellent, is there any proposal to extend their employment?

The Honourable Sardar Vallabhbhai Patel: We will consider your suggestion.

Mr. Tajamul Husain: I wish to know whether the women police employed by Government are unmarried or married or both?

The Honourable Sardar Vallabhbhai Patel: There are married women and there are unmarried also.

Sardar Hukam Singh: Have these female police officers or employees been employed at some occasion to catch male offenders as well?

The Honourable Sardar Vallabhbhai Patel: It is rather a dangerous experiment which we have not tried so far.

Shri H. V. Kamath: Have any women in the Delhi Provincial Police Force reached the grade or rank of Officer?

The Honourable Sardar Vallabhbhai Patel: There are two Head Constables, and 18 Foot Constables—No officer.

Shri Krishna Chandra Sharma: Is there any school for training for the women police?

The Honourable Sardar Vallabhbhai Patel: There is no special school for women.

ITTIHAD-UL-MUSALMEEN LEADERS

***487. Dr. Mono Mohon Das:** Will the Honourable Minister of States be pleased to state:

(a) the total number of Ittihad-ul-Musalmeen leaders of Hyderabad who have been arrested and imprisoned;

(b) how many of them are being prosecuted; and

(c) how many have been convicted up to now?

The Honourable Sardar Vallabhbhai Patel: (a) Sixty-five.

(b) Nineteen.

(c) Three.

Dr. Mono Mohon Das: What is the charge against these people?

The Honourable Sardar Vallabhbhai Patel: I cannot give you a list of charges against all these people. There will be different charges against different people but there are charges of murder, dacoities etc.

Dr. Mono Mohon Das: I wish to know whether this organization has been declared unlawful.

The Honourable Sardar Vallabhbhai Patel: There is no such organization now.

Dr. Mono Mohon Das: Will the Honourable Minister kindly let us know whether after the Police Action these people have taken recourse to subversive action against the Government?

The Honourable Sardar Vallabhbhai Patel: Some of them may have for a little while but subsequently it has disappeared.

Shrimati G. Durgabai: May I know whether Government could tell the House whether there are still people who have gone underground and who are yet to be traced?

The Honourable Sardar Vallabhbhai Patel: I don't think there are any underground from amongst the class of people to whom the question referred.

Mr. Tajamul Husain: I wish to know whether Mr. Laik Ali, the ex-Prime Minister of Hyderabad was a member of the Ittihad-ul-Musalmeen and if so, whether he has been prosecuted as such?

The Honourable Sardar Vallabhbhai Patel: I don't know whether he was a member of any organization like the non-official organization referred to but he is not being prosecuted for his being a member of that organization but the charges against him are of a different character.

DR. LAUBACH

*488. **Dr. Mono Mohon Das:** (a) Will the Honourable Minister of Education be pleased to state whether Government invited Dr. Frank. C. Laubach the well-known American literacy expert to tour India during March and April 1949?

(b) If so, has Dr. Laubach submitted any report or made any suggestions regarding the literacy drive of the Government and if so, what are they?

آنریبل مولانا ابوالکلام آزاد : (a) ڈاکٹر فرینک سی۔ لہویک گورنمنٹ آف انڈیا کے بلاؤے پر نہیں آئے تھے اپنے طور پر آئے تھے۔ لیکن جب گورنمنٹ کو معلوم ہوا کہ وہ یہاں آئے ہیں اور انہوں نے ایلی سروسز آفر کی ہیں تو وہ خوشی کے ساتھ تیار ہو گئی کہ اسے کام میں لائے۔

(b) ڈاکٹر لہویک کی چٹھی آنریبل پرائم منسٹر کے نام لکھی تھی اور اس میں کچھ باتیں بتائیں تھیں بڑی باتیں اسی میں یہ تھیں۔ ایسے پڑھے ہوئے لوگوں پر جو کسی دوسرے ان پڑھ آدمیوں کو لکھنا پڑھنا نہ سکھاتیں ٹیکس لگایا جائے۔ اسی طرح ان پڑھ لوگوں پر ٹیکس لگایا جائے۔ فوجی بہرتی کی طرح گورنمنٹ کے نوکروں اور ودیارتھوں کو بہرتی کہا جائے اور انہیں پڑھائی کے کام پر لگایا جائے۔ ووٹ جیلے کا حق۔ صرف ان آدمیوں کو دیا جائے جو لکھنا پڑھنا جانتے ہوں۔

The Honourable Maulana Abul Kalam Azad: (a) Dr. Frank C. Laubach was not invited by the Government of India. However, the Government utilized offer of his services during his last tour (March-April, 1949) to arouse interest and enthusiasm for literacy campaign in India.

(b) After his visit Dr. Laubach wrote a letter to Prime Minister giving his impression and suggestions, which included:

- (i) The levying of a tax on those who do not teach or learn.
- (ii) Mobilization of students and Government servants for literacy work.
- (iii) Franchise to be limited only to literate adults etc.

Dr. Mono Mohon Das: May I know whether Mr. Laubach worked in an honorary capacity or he was paid for his services?

آنریبل مولانا ابوالکلام آزاد : آہویسی۔

The Honourable Maulana Abul Kalam Azad: Honorary.

Shri S. Nagappa: May I know how many of these recommendations have been implemented by Government?

آنریبل مولانا ابوالکلام آزاد : گورنمنٹ نے خیال کہا کہ ان کی اکثر تجویزوں پر وہ عمل نہیں کر سکتی۔

The Honourable Maulana Abul Kalam Azad: Government felt that it could not possibly implement a majority of his recommendations.

مسٹر تجمل حسین : میں جانتا چاہتا ہوں کہ حکومت ہند کا اتنی
ذات پر کتنا خرچ ہوا۔

Mr. Tajamul Husain: May I know what amount has been spent by the Government of India on his account?

آنریبل مولانا ابوالکلام آزاد : میں نے ایسی کہا ہے کہ حکومت ہند کے بلاوے
پر وہ نہیں آئے تھے اپنے طور پر آئے تھے۔ حکومت ہند کا کوئی خرچ انکے
متعلق نہیں ہوا۔

The Honourable Maulana Abul Kalam Azad: I have just stated that he did not come on the invitation of the Government of India. He came of his own accord. The Government of India have not incurred any expenditure on his account.

Shri S. Nagappa: What prompted the Government to reject almost all the suggestions made by Dr. Frank Laubach?

CINEMA FILMS

*489. **Dr. Mono Mohon Das:** (a) Will the Honourable Minister of Information and Broadcasting be pleased to state whether the Government of India have come to any decision regarding the length of cinema films?

(b) If so, what is the decision and what are the reasons for arriving at such a decision?

The Honourable Shri R. R. Diwakar: (a) Yes, Sir.

(b) The decision is that the length of feature films and trailers passed for exhibition should be restricted to a maximum of 11,000 feet and 400 feet respectively. The objects of the restriction which provincial Governments have already been asked to enforce are (i) to effect economy in the consumption and, consequently, in the import of raw film, and (ii) to reduce the cost of production of films, and, possibly, improve the quality of the films. The time thus saved will be available for showing educational and informational shorts as different from feature films.

Dr. Mono Mohon Das: May I know, Sir, whether it is a fact that Government has imposed these laws of limitations on length of films only to save dollars?

The Honourable Shri R. R. Diwakar: That is not the only reason. Just now I gave two or three reasons. They are the main reasons.

Shrimati G. Durgabai: I would like to know whether the attention of Government is drawn to the recommendation of the Film Chamber of Madras and if so what is the decision of Government with regard to film footage?

The Honourable Shri R. R. Diwakar: The matter is still under correspondence and no decision has yet been taken.

Dr. Mono Mohon Das: May I know what is the total length of film Government hope to save by imposing these restrictions?

The Honourable Shri R. R. Diwakar: I have not got those figures with me.

Shri T. T. Krishnamachari: Will the Honourable Minister tell the House whether the consumers' propensities or proclivities have been taken into consideration in view of the fact that in Madras where there are large number of cinemas both touring and stationary, the demand from the public is for longer films than of the 11,000 feet variety?

The Honourable Shri R. R. Diwakar: There is no regular association of consumers as such but we have taken all those things into consideration.

Dr. Mono Mohon Das: May I know whether the cinema industry in the country has asked the Government for protection?

The Honourable Shri R. R. Diwakar: What kind of protection?

Dr. Mono Mohon Das: Legal protection.

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

Shri O. V. Alagesan: Are Government aware that a large length of raw film is wasted while a picture is in the stage of production and by the mere restriction of footage of a film there cannot be much saving in raw films?

The Honourable Shri R. R. Diwakar: All these things have been taken into consideration.

Shri L. Krishnaswami Bharathi: Has the attention of Government been drawn to the leading articles in the Madras newspapers, including the *Hindu* for the removal of the restriction on footage?

The Honourable Shri R. R. Diwakar: That question is under correspondence.

Dr. P. S. Deshmukh: Have the Government made it compulsory for cinema theatres to show information and educational films?

The Honourable Shri R. R. Diwakar: Yes, they are technically called "approved films".

Shrimati G. Durgabai: May I know whether the Film Enquiry Committee appointed by the Government of India is dealing with this particular matter and if so, whether the producers of films are represented on the committee?

The Honourable Shri R. R. Diwakar: The Film Enquiry Committee has to consider a number of things. Some producers are there but there was no question of the representation of producers of particular regions.

Shri T. T. Krishnamachari: What was the need for the Government to anticipate the recommendation of the Film Enquiry Committee and cut down the footage of films in the manner in which they have done?

The Honourable Shri R. R. Diwakar: There was no question of anticipation of any recommendation. The whole matter had already been referred to the provincial governments and producers. Even many of the producers had consented to this kind of cutting down of length.

Shri O. V. Alagesan: Is not this matter one of the terms of reference to the Film Enquiry Committee?

The Honourable Shri R. R. Diwakar: Meanwhile, the Committee came into being and naturally we referred this matter also to the Committee.

Shri L. Krishnaswami Bharathi: When are the Government likely to come to a definite decision regarding the question of footage and how long are they likely to take?

The Honourable Shri R. R. Diwakar: So far as all other provinces are concerned the decision is already there. It is only Madras which has made a representation and that is under correspondence.

Shri L. Krishnaswami Bharathi: I was asking my question about Madras only.

The Honourable Shri R. R. Diwakar: That is under correspondence.

Shri O. V. Alagesan: Will Government stay the implementation of their decision until the report of the committee is published and they had time to consider it?

The Honourable Shri R. R. Diwakar: I do not think it necessary to do so.

HINDI COMMITTEE OF A.I.R.

†*490. **Shri Mahavir Tyagi:** (a) Will the Honourable Minister of Information and Broadcasting be pleased to state whether it is a fact that Messrs. Balkrishna Sharma, Moulíchandra Sharma and Viyogi Hari have resigned from the Hindi Committee of the A.I.R.?

(b) If so, what reasons have they assigned for their resignation?

The Honourable Shri R. E. Diwakar: (a) Yes, Sir.

(b) The alleged disregard by All-India Radio of certain suggestions made by some of the non-official members of the Hindi Advisory Committee.

VITAL STATISTICS COMMITTEE

*491. **Shri R. L. Malviya:** (a) Will the Honourable Minister of Home Affairs be pleased to state whether any recommendations have been made by the Vital Statistics Committee?

(b) If so, will the report be made available to the members of this House?

The Honourable Sardar Vallabhbhai Patel: (a) Yes.

(b) A copy of the report has been placed in the Library of the House.

Shri Kishorimohan Tripathi: What are the salient features of the recommendations?

The Honourable Sardar Vallabhbhai Patel: The main recommendations made by the Committee are:

(1) Appointment of a Registrar General.

(2) (i) Creation of provincial and State organisations with districts organisations on the lines suggested by the Bhore Committee.

(ii) Arrangements for the centralisation of the compilation of vital statistics of provincial governments.

(iii) Appointment of a vital statistics committee to revise the existing forms of vital statistics returns and devise new forms so as to ensure the compilation of statistical information on uniform lines throughout the country and in a manner suited to the crude nature of the data which alone are available under existing conditions and also to make recommendations for the practical application of the proposal as put forward by the Bhore Committee in regard to district and vital statistics organisations.

(3) The creation of a medical section in the office of the Registrar General and those of the provincial and state registrars.

(4) Development of facilities for statistical training in the universities, etc.

DRINKING WATER

*492. **Shri R. L. Malviya:** (a) Will the Honourable Minister of Health be pleased to state whether the scheme for improving supply of drinking water in rural areas initiated by the Centre is still in progress?

(b) When was the scheme launched?

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

(c) How many wells have been constructed on sanitary lines under this scheme?

(d) In what other ways has the supply of drinking water improved in rural areas?

(e) How many villages have benefited under the scheme?

(f) How much money has been spent so far on the scheme?

The Honourable Rajkumari Amrit Kaur: (a) to (f). The improvement of water supply in the rural areas is primarily the responsibility of the Provincial Governments. Government of India have not so far initiated any schemes in the matter. A statement regarding wells repaired or constructed during the past few years at the cost of Government in the Centrally Administered Areas is placed on the Table of the House. (See Appendix XIII, annexure No. 2.)

Shri S. Nagappa: May I know whether the Central Government gave any grants to the provincial Governments for rural water-supply and if so, how much?

The Honourable Rajkumari Amrit Kaur: The Central Government gives block grants to the provinces and they draw up their own schemes and naturally the supply of water to rural areas comes within their purview.

Shri S. Nagappa: My point was whether the Central Government bears any portion of the expenditure incurred on rural water supply by provincial governments.

Mr. Deputy-Speaker: Block grants are given to provinces and it is open to the provincial governments to utilise them in the manner they think fit.

Sjt. Rohini Kumar Obaudhuri: Have these grants been stopped for this year?

The Honourable Rajkumari Amrit Kaur: They have not been stopped but they have been cut down.

Dr. Mono Mohon Das: May I know whether any demonstration teams have been invited through the W.H.O. to advise the Government of India in this matter?

The Honourable Rajkumari Amrit Kaur: No, Sir.

Shri Upendranath Barman: Are Government considering the necessity for the provision of drinking water facilities in the areas which have just come under Central administration?

The Honourable Rajkumari Amrit Kaur: I have already laid a statement on the table of the House as to what has been done in the centrally administered areas. Government is of course responsible for all schemes in the centrally administered areas.

Shri Upendranath Barman: I was referring to the areas that have recently come under the Centre by merger.

The Honourable Rajkumari Amrit Kaur: It follows.

Pandit Mukut Bihari Lal Bhargava: What is the total amount spent by the Government in Ajmer-Merwara on rural development during the current year?

The Honourable Rajkumari Amrit Kaur: Aimer-Merwara requires an enormous amount of expenditure which unfortunately the Government have not been able to undertake this year.

Pandit Mukut Bihari Lal Bhargava: How much money has been spent this year in Ajmer-Merwara?

The Honourable Rajkumari Amrit Kaur: In Ajmer-Merwara this year nothing has been spent on water.

Shri S. Nagappa: Are Government aware that in most of the rural areas water is not allowed to be used by all classes of people for reasons of caste or community? If so, what steps have Government taken to see that at least all people are allowed to take water from public wells?

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

NATIONAL MUSEUM

†*493. **Seth Govind Das:** Will the Honourable Minister of Education be pleased to state:

(a) whether it is proposed to establish a National Museum of all publications printed in India like the one maintained in England; and

(b) if so, what steps, if any, are being taken for the proposed educational museum?

The Honourable Maulana Abul Kalam Azad: (a) Government have before them a Scheme to establish a Central Library in Delhi with a Copyright Section attached to it. Under the Copyright Act it will receive one copy of all those publications printed in the country and registered under the Copyright Act.

(b) As long as the present financial stringency lasts it may not be possible to implement this Scheme or other schemes of this nature.

COMPULSORY PRIMARY EDUCATION

†*494. **Seth Govind Das:** Will the Honourable Minister of Education be pleased to state the names of the Centrally Administered Areas where compulsory primary education has been introduced in the year 1948-49?

The Honourable Maulana Abul Kalam Azad: Compulsory Primary Education was not introduced in any of the Centrally Administered Areas in the year 1948-49. In the case of Delhi, however, Compulsory Primary Education was introduced previous to 1948-49 and during this year 8 more Zails (areas) were brought under compulsion.

SECRETARIAT REORGANISATION

*495. **Shri Lakshminarayan Sahu:** (a) Will the Honourable Minister of Home Affairs be pleased to state whether it is a fact that the Central Secretariat Reorganisation Scheme was approved by the Cabinet in October, 1948?

(b) If so, has it been implemented by now and if not, why not?

(c) Are Government taking steps to safe-guard the interests of the permanent members of the Central Secretariat Service in view of the fact that during the War heavy recruitment took place in the Secretariat from outside and if not, why not?

The Honourable Sardar Vallabhbhai Patel: (a) Yes.

(b) The Scheme is in the process of implementation at present.

(c) The Scheme safeguards adequately the legitimate interests of all permanent officials affected by it.

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

PALACES OF RULERS

*496. **Shri Basanta Kumar Das:** Will the Honourable Minister of States be pleased to state:

(a) whether all the residential buildings in different places belonging to the rulers of Indian States have been kept for their personal use;

(b) whether any of those buildings have been taken over either by the Government of India or by the States Governments and if so, on what conditions; and

(c) whether the proceeds, if any, out of the sale or renting of the houses will go to the respective rulers as a part of their personal income?

The Honourable Sardar Vallabhbhai Patel: (a) to (c). Buildings which were being used by the Rulers for residential purposes or which were built by them out of their private funds were recognised as the private property of the Rulers concerned; the rest were treated as State property.

Some of the buildings recognised as private property of the Rulers have, however, been retained for Government purposes on payment of rent to the Rulers in some cases, and in others on condition that the buildings will be maintained by the Governments concerned for the period of their occupation. The sale proceeds of any building recognised as the private property of the Rulers will go to them.

Shri Basanta Kumar Das: How many palaces are there in Delhi which are the private properties of the rulers?

The Honourable Sardar Vallabhbhai Patel: There are over 500 rulers and how can I say how many are the palaces of each ruler. Those palaces in which the princes reside are considered as their property.

Shri Basanta Kumar Das: Are there any palaces in Delhi which the Government use either wholly or partly?

The Honourable Sardar Vallabhbhai Patel: There are some palaces in Government use as offices.

Dr. P. S. Deshmukh: Since as a result of the mergers large buildings which were used as state secretariats are likely to become vacant, is it proposed to utilise those buildings for relieving pressure on office accommodation in Delhi?

The Honourable Sardar Vallabhbhai Patel: If it is found convenient to transfer some offices from here they can be used for the purpose. That matter is being investigated by the Works, Mines and Power.

INTER-DOMINION CONFERENCE

*497. **Sardar Hukam Singh:** (a) Will the Honourable Minister of Finance be pleased to state whether the attention of the Government of India has been drawn to a news item in *The Civil & Military Gazette*, Lahore, dated 15/16 October, 1949 expressing doubts as to the possibility of further conference between the two Dominions until India accepts the present exchange value of the Pakistan rupee?

(b) Is there any substance in this reported attitude of Pakistan? If so, what do Government propose to do in this respect?

The Honourable Shri K. C. Neogy (Minister of Commerce): (a) Yes, Sir.

(b) As stated by my Honourable colleague the Minister for Finance in reply to Starred Question No. 67 on the 29th November, 1949, the question of holding a conference is still under discussion with Pakistan Government.

Sardar Hukam Singh: Are we having any Conference in the near future?

The Honourable Shri K. C. Neogy: Well, we have to live in hope.

Mr. Tajamul Husain: Do Government realise that it is absolutely useless to hold Conferences with Pakistan on account of their unreasonableness?

The Honourable Shri K. C. Neogy: I am prepared to convey my Honourable friend's opinion to the Pakistan Government.

IMPORTS FROM PAKISTAN

*498. **Sardar Hukam Singh**: (a) Will the Honourable Minister of Finance be pleased to state whether any goods have been imported from Pakistan after the devaluation of the India rupee?

(b) If so, how have these been paid for?

(c) Is any new exchange ratio to be negotiated with Pakistan?

The Honourable Shri K. C. Neogy (Minister of Commerce): (a) and (b). As I said in reply to the starred question No. 203 on the 1st December, 1949, the trade between India and Pakistan has been more or less at a standstill since the devaluation of the Rupee. Apart from imports of goods purchased and paid for by Indian merchants before devaluation, some small imports are reported to have been paid for on a barter basis or by acquisition of Pakistan currency, otherwise than through the Reserve Bank of India.

(c) As stated by my Honourable colleague the Minister for Finance in reply to the Starred Question No. 67 on the 29th November, 1949, correspondence is still going on between the two Governments on the question of holding a conference to discuss the various issues arising from the Pakistan's non-devaluation decision.

Sardar Hukam Singh: Are there any goods that were paid for before devaluation but that are not being delivered by the Pakistan Government?

The Honourable Shri K. C. Neogy: It is not a question of any goods not being delivered by the Pakistan Government, but we have received complaints that goods, particularly raw jute, that had been purchased by private parties for use in India have been detained in Pakistan.

Sardar Hukam Singh: What is the Government doing to get delivery of the same?

The Honourable Shri K. C. Neogy: Well, we are carrying on negotiations.

Sjt. Rohini Kumar Chaudhuri: Is the Honourable Minister aware that the import of vegetables and other edibles which had been agreed upon by both the Governments of Pakistan and India, from Eastern Pakistan to Assam, has been totally stopped?

The Honourable Shri K. C. Neogy: As a matter of fact, from the practical point of view there is hardly any agreement subsisting now between India and Pakistan in regard to trade matters.

Shri S. Nagappa: What is the balance of trade now, is it favourable or adverse? What was the position before devaluation and what is it now?

The Honourable Shri K. C. Neogy: I think the time has not yet come for arriving at an estimate of the balance of payments position since devaluation. Prior to devaluation, for the period for which figures are available, our balance was adverse to us.

Shri L. Krishnaswami Bharathi: May I know whether it is a fact that the advances paid by the Indian merchants in respect of skins and hides have been appropriated by the Pakistan merchants?

The Honourable Shri K. C. Neogy: I have no definite information like that, but nothing should surprise me.

Mr. Frank Anthony: Is it a fact that while the authorised interchange of goods has virtually ceased, an increasingly roaring trade by way of smuggling is going on between the two Dominions?

The Honourable Shri K. C. Neogy: I am prepared to accept that statement from my Honourable friend, but I have no definite information on the point.

Shri L. Krishnaswami Bharathi: May I know whether a representation has been made by the hides and skins merchants of Madras that the amounts paid by Indian merchants have been appropriated by the Pakistan merchants?

The Honourable Shri K. C. Neogy: I am afraid I have not had occasion to deal with this matter, but I shall look into it.

Shri Prabhu Dayal Himataingka: Is the Honourable Minister aware that though the official rate is Rs. 144-10-0 for Rs. 100, the private rate is Rs. 102 only?

The Honourable Shri K. C. Neogy: I understand in some cases the Pakistan rupee has been quoted below the Indian rupee.

Shri S. Nagappa: May I know whether any attempts are being made by either Government to continue the trade on a barter system?

The Honourable Shri K. C. Neogy: Not quite on the barter system, but we are carrying on negotiations to find out possibilities of resumption of trade on any reasonable basis.

Shri V. O. Kesava Rao: Is it a fact that in spite of Pakistan's refusal to send the goods purchased before devaluation India is sending her goods like coal and textiles?

The Honourable Shri K. C. Neogy: So far as textiles are concerned, the Pakistan Government have by a formal notification imposed an embargo on the importation of Indian-made mill textiles into Pakistan. So far as coal is concerned, we are continuing our supplies under the old trade agreement.

Dr. Muzo Mohon Das: May I know whether the Indian Government is prepared to impose an embargo on the export of coal to Pakistan?

The Honourable Shri K. C. Neogy: As I said, all these matters are under negotiation and I would not like to make a further statement at present as regards the details of these negotiations.

Shri B. P. Jhanjhanwala: Arising out of the Honourable Minister's reply that at times the Pakistan rupee is being quoted below the Indian rupee, may I know the reasons for this low rate of the Pakistan rupee?

The Honourable Shri K. C. Neogy: I think my Honourable friend can make his own surmises.

PRE-FABRICATED HOUSING FIRM

*499. **Shri H. V. Kamath:** Will the Honourable Minister of Health be pleased to state:

(a) whether the firm which is advising Government regarding pre-fabricated houses has any experience about foamed cement mortar panels in England;

(b) if so, how many such factories they have run; and

(c) if not, why Government have permitted them to experiment in this field and gain experience at the cost of the Indian tax-payer?

The Honourable Rajkumari Amrit Kaur: (a) and (b). Yes. The firm has very wide experience in the development and use of foamed cement and have done considerable research work on the subject. They acted as consultants for the Aircraft Industrial Research Organisation on Housing in the United Kingdom which produced 75,000 houses in five factories. Foamed cement was used in the construction of these houses.

(c) Does not arise.

Shri H. V. Kamath: Is this firm a consulting firm or a manufacturing firm?

The Honourable Rajkumari Amrit Kaur: Both.

Shri H. V. Kamath: Is it not a fact that the 75,000 houses referred to in the answer of the Honourable Minister were aluminium houses and not light weight concrete houses?

The Honourable Rajkumari Amrit Kaur: They were aluminium houses in which foamed concrete cement panels were used. The foamed concrete cement for those bungalows, however, was cured by low pressure steam and hot air dried, whereas the foamed concrete which is now being used here is cured by high pressure steam which the firm consider, after making a research into this matter, to be much better. This firm was given a contract by the U.K. Government for research in foamed concrete and at the moment they are erecting the necessary plants, including two auto-claves for large scale production of foamed concrete cement panels similar to those proposed to be used here.

Shri H. V. Kamath: Is it not a fact that the Delhi factory is the first of its kind in the whole world set up by this firm?

The Honourable Rajkumari Amrit Kaur: No. I have said that they have five factories in the United Kingdom.

Shri H. V. Kamath: May I know where they are situated?

The Honourable Rajkumari Amrit Kaur: Their main factory is in Slough and the others are in other parts of the United Kingdom—I cannot name them just at present.

Shri H. V. Kamath: May I know whether they have experience of light weight concrete houses or only aluminium houses?

The Honourable Rajkumari Amrit Kaur: Both. As I have already said, foam concrete is used in the construction of their aluminium houses also.

Dr. P. S. Deshmukh: Is it a fact that whereas the original estimate submitted by this consulting firm was, including the cost of drainage, etc., £10,000, they have now billed for £35,000?

The Honourable Rajkumari Amrit Kaur: I would have to have notice of that question.

Mr. Tajamul Hussain: May I know the cost of a prefabricated house consisting of four rooms, a bathroom and a kitchen?

The Honourable Rajkumari Amrit Kaur: I can tell you that the price of a two-roomed house with a bathroom and a kitchen and a court-yard is in the neighbourhood of Rs. 3,000.

Shri S. Nagappa: May I know whether it is a fact that the six prototype houses cost Rs. 1,50,000 for the Government, and if so, how is Government prepared to give these houses at the rate of Rs. 2,800 per house?

The Honourable Rajkumari Amrit Kaur: Prototypes are rather different from what will be constructed here.

Dr. P. S. Deshmukh: Is the Honourable Minister convinced that the Central Government is being to a large extent done in by this whole process of prefabricated houses, and does not the Honourable Minister think that an enquiry is called for in the whole affair?

The Honourable Rajkumari Amrit Kaur: Most emphatically no.

Shri H. V. Kamath: Is it not a fact that this process of light-weight concrete was known in Germany and was only taken over by this firm from there after the war?

The Honourable Rajkumari Amrit Kaur: I am not aware of that.

Shri H. V. Kamath: Has the Minister's attention been drawn to a pamphlet published by the British Intelligence Objectives Sub-Committee after the war in which the process described is a German process which they have purloined from Germany?

Mr. Deputy-Speaker: What has that got to do with the question?

Shri H. V. Kamath: What was the original estimate submitted by this firm?

The Honourable Rajkumari Amrit Kaur: I have answered this question before. The Government expenditure for setting up this factory here was in the neighbourhood of Rs. 65 lakhs.

Shri H. V. Kamath: What was the original estimate?

Mr. Deputy-Speaker: Rs. 65 lakhs!

PRE-FABRICATED HOUSING EXPERTS

*500. **Shri H. V. Kamath:** Will the Honourable Minister of Health be pleased to state:

(a) how many experts have been lent to Government by the consulting firm in England for the manufacture of pre-fabricated houses in India;

(b) what their qualifications and experience are;

(c) whether it is a fact that Indian engineers with equal or superior qualifications and experience are not available;

(d) how long the experts have been in India, and what work has been assigned to them in connection with the housing factory;

(e) what salaries are being paid to the experts either directly, or indirectly through the Consulting firm; and

(f) the basis for fixation of the salaries?

The Honourable Rajkumari Amrit Kaur: (a) Two.

(b) One is a qualified Architect and Mechanical Engineer. He has been mainly responsible for the design of the "British Aluminium House" and for pioneer work in the design of prefabricated houses with foamed concrete. The other is a Cement Technologist who has specialised for years in research work and in practical tests on the particular type of foamed concrete which is used in the Government Housing Factory.

(c) The manufacture of prefabricated houses from Autoclave-cured foamed concrete is a new process so far unknown in India, and there are at present no Indian Engineers with specialised knowledge of this process. The services of these two Experts were therefore obtained from the firm to help in the setting up of the factory.

(d) They have been here since July, 1949. Their work is to assist in the organisation of the factory and in the assembly of plant and machinery, and generally to give assistance in overcoming the many technical difficulties connected with the starting of a new and highly mechanised manufacturing process. They will also train the factory's Indian personnel in the process.

(e) and (f). Under the Agreement Government have to pay the firm of consultants the cost of services of the personnel sent to India at the request of Government to supervise the erection of the factory or to advise Government on technical matters connected with the production of these prefabricated houses. The Experts concerned are the employees of the firm and the basis for the fixation of their salaries is a matter for the firm. It is understood that the emoluments including allowances given by the firm to the two Experts are £1,850 per annum to the Engineer, and £1,500 per annum to the Cement Technologist.

Shri H. V. Kamath: With regard to the assembly of machinery to which the Minister has referred, am I to understand that this expert deals with the erection of machinery also?

The Honourable Rajkumari Amrit Kaur: Yes.

Shri H. V. Kamath: Am I to understand that the Works Engineer, an Indian who was recently appointed, does not erect the machinery?

The Honourable Rajkumari Amrit Kaur: I have said in my reply that Government has not got anybody fully trained who can do without the help of these two experts at the moment.

Shri H. V. Kamath: What exactly is the work assigned to these two experts?

The Honourable Rajkumari Amrit Kaur: All that has been given very fully in the answers?

Shri S. Wagappa: May I know whether it is a fact that the services of these experts were made use of only to load wagons at an enormous cost of Rs. 1,500 per mensem for which he was sent to Bombay and asked to remain there for fifteen days?

The Honourable Rajkumari Amrit Kaur: He had to be sent down to Bombay and if he had not been sent there, it would have been very difficult for us to get the machinery as quickly as he was able to get it. The expenditure incurred on that behalf has been audited by the Auditor-General of the Government of India.

Shri H. V. Kamath: Is it not a fact that under the agreement executed between this consulting firm and the Government of India, the expert personnel sent by them here are entitled only to first class travel and to benefits of only first class officers of Government here, and yet they have been paid the actual cost over and above the terms of the agreement?

The Honourable Rajkumari Amrit Kaur: Nothing has been paid to them over and above what is their due according to Government rules.

Shri H. V. Kamath: How much was paid to this expert who went to Bombay to load these prototypes?

Mr. Deputy-Speaker: Such a detailed question need not be answered.

Shri H. V. Kamath: Because the agreement seems to have been violated; has it been broken?

Sjt. Rohini Kumar Chaudhuri: May I know if it will be possible to make these houses available at concession rates to bachelors and newly-married couples?

Shri H. J. Khandekar: May I know how many days the experts took to unload the wagons in Bombay?

The Honourable Rajkumari Amrit Kaur: As far as I remember, he was not there for longer than a fortnight.

Shri H. V. Kamath: Is the Minister aware at least that under the agreement these expert personnel are entitled only to first class officers' benefits or is she blissfully ignorant of that?

Mr. Deputy-Speaker: Such remarks need not be made.

The Honourable Rajkumari Amrit Kaur: I have already replied.

Shri H. V. Kamath: Will she see that this agreement is not violated in future?

Mr. Deputy-Speaker: Certainly.

Shri H. V. Kamath: It is for the Minister to say it.

Mr. Deputy-Speaker: The Honourable Minister has stated that it was not violated.

Shri H. V. Kamath: I want to know how much was paid to the expert.

Mr. Deputy-Speaker: The details of that agreement cannot be carried in anybody's brain.

PRE-FABRICATED HOSPITALS

*501. **Shri H. V. Kamath:** Will the Honourable Minister of Health be pleased to state:

(a) whether Government have any scheme for the construction of pre-fabricated hospitals; and

(b) if so, the details of the scheme?

The Honourable Rajkumari Amrit Kaur: (a) Yes.

(b) Arrangements have been made to introduce in India the Reema System of construction and to use it, in the first instance, for the manufacture of a few standard hospital wards and nurses' quarters. If these buildings prove economically and technically satisfactory, further construction of the kind will be undertaken. The Reema System of construction is a system of precast hollow concrete panels of large size joined by a special method into strong structural units suited for permanent two or three storeyed buildings.

Shri H. V. Kamath: Will this construction of pre-fabricated hospitals also be given to this consulting firm who is building the factory here?

The Honourable Rajkumari Amrit Kaur: No, Sir, this contract is with another firm.

Shri H. V. Kamath: Which firm is that, Sir?

The Honourable Rajkumari Amrit Kaur: Reed & Malik.

Shri H. V. Kamath: Is it a fact that one Dr. Messerschmidt is coming from Germany to set up another factory here?

The Honourable Rajkumari Amrit Kaur: I am not aware of it.

Shri H. V. Kamath: Is she aware that he is coming here for setting up a pre-fabricated housing factory?

Mr. Deputy-Speaker: The question does not arise.

Shri H. V. Kamath: Has the Minister's attention been drawn to the reports in the newspapers last week that he is coming here at the request of the Government of India?

The Honourable Rajkumari Amrit Kaur: That has nothing to do with my Ministry.

Shri H. V. Kamath: How many such prefab hospitals are going to be constructed in India? Has the Government made any plans about setting up such hospitals in India?

The Honourable Rajkumari Amrit Kaur: I have already answered that question in part (b) of my reply, that we are going to have a few standard hospital wards in the first instance.

Shri H. V. Kamath: Has the firm been asked to submit an estimate for these hospitals?

The Honourable Rajkumari Amrit Kaur: Naturally, before entering into an agreement every detail has to be gone into by the Government.

Shri H. V. Kamath: Has anybody been deputed to investigate or carry on negotiations with the firm?

Mr. Deputy-Speaker: In the ordinary course, such questions are absolutely unnecessary. Government machinery will work.

Shri H. V. Kamath: Here it is not the ordinary course, Sir.

Mr. Deputy-Speaker: I don't think it is right for either the Honourable Member to put such questions or for the Honourable Minister to answer them. It is taking the time of the House unnecessarily.

Shri H. V. Kamath: But some things have gone wrong, and we want to have them set right.

Mr. Deputy-Speaker: Nothing has gone wrong. It is open to the Honourable Member to bring particular points before the House instead of putting such vague questions.

HYDERABAD CURRENCY

*502. **Lala Raj Kanwar:** Will the Honourable Minister of States be pleased to state:

(a) whether it is a fact that the Hyderabad State until recently used to have its own paper currency;

(b) if so, whether this currency still circulates within the limits of the State; and

(c) what is the face-value of the Hyderabad Notes both in circulation and in stock in the currency reserve?

The Honourable Sardar Vallabhbhai Patel: (a) Yes.

(b) Yes.

(c) Osmania *Sicca* Rupees 63.77 crores (excluding Osmania *Sicca* Rupees three crores of one Rupee notes in circulation).

Lala Raj Kanwar: May I know how long the Hyderabad paper currency will continue to exist?

The Honourable Sardar Vallabhbhai Patel: The matter is under investigation by the Finance Department and steps will be taken as early as possible to replace the *Siccas*.

Lala Raj Kanwar: Cannot the process of abolition of this paper currency be accelerated?

The Honourable Sardar Vallabhbhai Patel: It is under investigation and will be replaced as soon as possible.

Shri S. Nagappa: In view of the fact that Hyderabad has acceded to the Indian Union, will Government consider the desirability of introducing the new currency in Hyderabad when it is going to be introduced in India?

The Honourable Sardar Vallabhbhai Patel: The Indian currency is in circulation in Hyderabad and it is legal tender there even today.

Shri S. Nagappa: My point is: is the Government prepared to withdraw Hyderabad currency and introduce the new currency which is going to be introduced when India will become a Republic?

The Honourable Sardar Vallabhbhai Patel: I have already said that the matter is under investigation by the Finance Department.

UNIFORMS OF INFERIOR SERVANTS

*503. **Lala Raj Kanwar:** Will the Honourable Minister of Home Affairs be pleased to state:

(a) the total cost of liveries, uniforms, and gold-lace belts, of Jamadars, orderlies, peons, and chaulkidars employed under the Central Government in each of the last three years;

(b) whether this expenditure is capable of some reduction by stringent application of the existing rules on the subject or by a revision thereof; and

(c) if so, whether Government propose to consider the feasibility of doing the same?

The Honourable Sardar Vallabhbhai Patel: (a) The information is being collected and will be laid on the Table of the House as soon as it is complete.

(b) and (c). Government have recently reviewed the position and laid down certain revised scales and patterns of uniforms keeping in view their suitability and economy in expenditure. All new issues of liveries will now be made in accordance with these scales and patterns.

Mr. Tajmool Hussain: Do Government propose to insist that all Government servants should wear *Khadi*?

The Honourable Sardar Vallabhbhai Patel: That has not yet been considered; we will consider that question.

APPLICATIONS TO REHABILITATION FINANCE ADMINISTRATION

*504. **Shri Lalshminarayan Sahu:** (a) Will the Honourable Minister of Finance be pleased to state how many applications have been received by the Rehabilitation Finance Administration up to date?

(b) How many have been sanctioned and for what amounts, showing what proportion of the amounts applied for has been sanctioned?

(c) Whether it is a fact that Indian engineers with equal or superior qualifications and experience are not available?

(d) How long the experts have been in India, and what work has been assigned to them in connection with the housing factory?

The Honourable Shri K. C. Neogy: (Minister of Commerce): (a) 13,235.

(b) 2,868 for Rs. 3,19,43,600. The total amount applied for by these applicants was Rs. 8,58,43,300 and the average percentage of the sanctioned amount thus works out to 37.2 per cent.

(c) The attention of the Honourable Member is invited to the reply given to part (b) of Sardar Bhopinder Singh Man's Starred Question No. 144 given on the 4th February 1949.

(d) The average duration of period from the date of application to the date of sanction of loan has so far been about five months. Every possible effort is being made to accelerate the pace of disposal of applications. It is not possible to state the average period between sanction of a loan and its payment to borrower.

Shrimati Benuba Ray: What is the number of applications received from refugees from Eastern Pakistan? How many of these have been sanctioned and what are the amounts?

The Honourable Shri K. C. Neogy: The number of applications received is 2,685. Of these the successful applications amounted to over 400. The amount covered by these successful applications was over Rs. 50 lakhs.

Shri Basanta Kumar Das: How many have been rejected?

Mr. Deputy-Speaker: Can the Honourable Minister give that information?

An Honourable Member: It can be calculated.

Shrimati Benuba Ray: What is the reason for the remaining not having been accepted? Why is the number of successful applications so small?

The Honourable Shri K. C. Neogy: I must request my Honourable friend to go through the various conditions that each application has to satisfy before qualifying for acceptance.

Sardar Hukam Singh: What is the longest period taken to disburse these loans?

The Honourable Shri K. O. Neogy: I am afraid I have not got it.

Shri B. P. Jhunjhunwala: What is the maximum amount and the minimum amount sanctioned for these applications?

The Honourable Shri K. O. Neogy: The maximum limit, as my Honourable friend knows, for each loan is Rs. 50,000 for individuals, Joint Hindu families, firms, partnerships and private companies and Rs. 1 lakh for cooperative societies and joint stock companies.

Shri B. P. Jhunjhunwala: I want to know the amount sanctioned.

The Honourable Shri K. C. Neogy: It should be within these limits. I have not got the individual amounts sanctioned.

Sardar Hukam Singh: Is the Honourable Minister aware that certain applications were granted long ago but the loans have not been advanced so far?

The Honourable Shri K. C. Neogy: I am afraid I cannot say anything definite.

PROSCRIBED LITERATURE

*505. **Shri Santanu Kumar Das:** Will the Honourable Minister of Home Affairs be pleased to state what are the books proscribed in India under the orders of the Central Government (with names and dates)?

The Honourable Sardar Vallabhbhai Patel: Since the 15th August, 1947, only two books namely "Behind the Iron Curtain in Kashmir—Neutral Opinion" and "The Kashmir Dispute Through Neutral Eyes" were banned under the Sea Customs Act, 1878, on the 27th August, 1949.

Shri Santanu Kumar Das: May I know whether any objectionable literature has been proscribed in Bihar recently?

The Honourable Sardar Vallabhbhai Patel: Bihar is not in Kashmir. I do not think it arises from this question.

Shri Santanu Kumar Das: May I know the names of the authors of these books?

The Honourable Sardar Vallabhbhai Patel: I have not got them.

Shri Santanu Kumar Das: I did not mean Kashmir alone.

Mr. Deputy-Speaker: May I point out that question 505 is general; it does not refer to Kashmir alone. It says "books proscribed in India".

The Honourable Sardar Vallabhbhai Patel: I beg your pardon, Sir. The information is not available. I will make enquiries and supply the information to the Honourable Member.

NATIONAL INCOME

*506. **Pandit Mukut Bihari Lal Bhargava:** Will the Honourable Minister of Finance be pleased to state the National income of India in the years 1938-39, and 1949-50?

The Honourable Shri K. C. Neogy (Minister of Commerce): No official computation has been made of the National income of India for the year 1938-39. The second part of the question does not arise as the year 1949-50 has not yet closed.

Pandit Mukut Bihari Lal Bhargava: May I know whether the Economic Adviser to the Government of Bombay has made an assessment of the national income of India and whether the Government of India have accepted the conclusions arrived at by the Government of Bombay?

The Honourable Shri K. C. Neogy: I do not know of any report having been made by anybody on behalf of the Government of Bombay. But I have a book dealing with this subject, the author of which is the Economic Adviser to the Government of Madras. So far as the Government of India are concerned, we have set up an Expert Committee to make the necessary computation.

Mr. Deputy-Speaker: The question hour is over.

(b) WRITTEN ANSWERS

INCOME TAX INVESTIGATION COMMISSION

*507. **Pandit Mukut Bihari Lal Bhargava:** Will the Honourable Minister of Finance be pleased to state:

(a) whether the Government of India have taken any decision on the recommendations made by the Income Tax Investigation Commission?

(b) if not, why not?

The Honourable Shri K. C. Neogy (Minister of Commerce): (a) The recommendations made by the Commission are being carefully examined by Government, and an amendment bill including such of the recommendations as are accepted by Government, is expected to be introduced during the Budget Session.

(b) Does not arise.

PEASANTRY IN STATE UNIONS

*508. **Pandit Mukut Bihari Lal Bhargava:** Will the Honourable Minister of States be pleased to state whether it is a fact that a Committee has been appointed by the Government of India to enquire into the Jagirdari tenure in the United State of Rajasthan and Madhyabharat, and if so, what are the terms of reference of this Committee, and by which date the said Committee is likely to complete its enquiry and submit its Report?

The Honourable Sardar Vallabhbhai Patel: Yes. A copy of the Resolution issued by the Government of India indicating the terms of reference of the said Committee is placed on the Table of the House. (*Copy placed in the Library. See No. P-33/49.*)

It is expected that the Committee will submit its report before the end of the year.

HEALTH SERVICES

*509. { **Sjt. Kuladhar Ohaliha:**
Shri Lakshminarayan Sahu:

(a) Will the Honourable Minister of Health be pleased to state the number of appointments made in the Directorate-General of Health Services since the year 1946?

(b) What was the method of selection for these appointments?

The Honourable Rajkumari Amrit Kaur: (a) A statement showing the number of appointments made in the Directorate General of Health Services since 1946 is placed on the Table of the House. (*See Appendix XIII, annexure No. 3.*)

(b) In the case of gazetted appointments the recruitment was made either by departmental selection or through the Federal Public Service Commission, while the Ministerial and Class IV Staff was recruited by transfer from other Departments or through the Employment Exchange and the Transfer Bureau and in some cases by departmental selection from amongst direct applicants.

HEALTH CERTIFICATES

*510 { **Sjt. Kuladhar Ohalha:**
Shri Lakshminarayan Sahu:

(a) Will the Honourable Minister of Health be pleased to state whether it is a fact that vaccination and other certificates issued to persons going to foreign countries are required to be countersigned by State Medical Officers only?

(b) If so, do Government propose to extend this privilege to Registered Medical Practitioners also?

The Honourable Rajkumari Amrit Kaur: (a) and (b). There is no rule to the effect that all vaccination and other health certificates issued to persons going out of India to foreign countries should be countersigned by State Medical Officers. But the Health Authorities of most foreign countries prefer health certificates which have been issued or countersigned by Government or municipal medical officers. In the case of passengers proceeding to East Africa, South Africa, Iraq and Saudi-Arabia as required by the Governments concerned the certificates have to be signed or countersigned by a medical officer in Government or municipal employ. As facilities for inoculation against yellow fever exist only at certain Government institutions, inoculation certificates against yellow fever have to be signed by State medical officers.

VOLUNTARY SETTLEMENT OF INCOME TAX CASES

*511. **Prof. K. T. Shah:** (a) Will the Honourable Minister of Finance be pleased to state the steps taken to implement the suggestion made by him during the debate on Devaluation regarding the 'voluntary settlement' with those whose cases had not been referred to the Income Tax Investigation Commission?

(b) What is the estimated amount Government are likely to realise in this manner?

The Honourable Shri K. C. Neogy (Minister of Commerce): (a) Government have been considering several schemes to give effect to the proposal to facilitate voluntary settlement of evaded tax by persons whose cases have not been referred to the Investigation Commission, but so far they have not been able to reach any final conclusion. The whole matter has been placed before the *Ad Hoc* Committee on Devaluation and their final advice in the matter is awaited.

(b) It is impossible to make any estimate.

STERLING BALANCES

*512. **Prof. K. T. Shah:** (a) Will the Honourable Minister of Finance be pleased to state the effect of the devaluation of the Rupee and Sterling in terms of gold, upon the purchasing power in the Dollar area of our Sterling balances held in London?

(b) Have any steps been taken to guard against their depreciation in value since 1st September, 1949?

The Honourable Shri K. C. Neogy (Minister of Commerce): (a) and (b). I would refer the Honourable Member to the speech delivered by the Honourable Minister of Finance on the 5th October, 1949, in the House while opening the debate on devaluation.

GRANT TO UNIVERSITY OF SAUGOR

***513. Shri R. L. Malviya:** (a) Will the Honourable Minister of Education be pleased to refer to the answer given to my Starred Question No. 1265 asked on 21st March, 1949 and state whether the question of capital grant and loan to the University of Saugor then under consideration of Government in Consultation with the University Grants Committee has now been decided and whether the additional information then asked for from the Government of the Central Provinces in connection with the maintenance grant has since been received?

(b) If so, when do Government propose to hand over the grant to the University?

The Honourable Maulana Abul Kalam Azad: (a) and (b). The question of capital grant and loan to the University of Saugor was considered by the Government of India and the University of Saugor was informed that grants from the Central Revenues may be given to the Provincial Universities as part of the Provincial Government's Development Plans.

The information asked for from the Provincial Government was received last August, but as it was not sufficient, some more information was sent for. A reply to this has been received only on the 8th December. The scheme is now being examined.

NEWS BROADCAST *re* CYCLONE

***514. Prof. N. G. Ranga:** Will the Honourable Minister of Information and Broadcasting be pleased to state:

(a) whether Government are aware that the news relating to the recent cyclone disaster in the coastal districts of Andhra was ignored by the A.I.R. News Section in spite of the fact that the PTI reports had reached them; and

(b) What were the reasons for this omission?

The Honourable Shri R. E. Diwakar: (a) The Honourable Member's information is not correct. The news was promptly and adequately covered in All-India Radio news bulletins.

(b) Does not arise.

STAFF CARS

***515. Shri Mahavir Tyagi:** (a) Will the Honourable Minister of Finance be pleased to state the number of staff cars sanctioned for each Ministry?

(b) What is the total cost of all the staff cars in the possession of the Government of India at Delhi?

(c) What is the recurring expenditure sanctioned on account of these cars?

(d) Do Government maintain a workshop for carrying out the repairs of these vehicles?

The Honourable Shri K. C. Neogy (Minister of Commerce): (a) and (b). A statement is laid on the table of the House. (See *Appendix XIII, annexure No. 4*).

(c) Rs. 5,78,500 annually.

(d) No.

R.I.A.F. TECHNICAL TRAINING COLLEGE

*516. **Shri H. V. Kamath:** Will the Honourable Minister of Defence be pleased to state:

(a) whether Government have decided to establish a technical training college for the Indian Air Force technicians;

(b) if so, when will it be established and where; and

(c) whether the institution will be completely staffed and operated by British personnel?

The Honourable Sardar Baidav Singh: (a) Yes.

(b) The college started functioning in July last and is located at Jalahalli near Bangalore.

(c) No. It is staffed partly by British and partly by Indian personnel. Technical instruction is given by British instructors, as suitable Indians with the necessary technical qualifications are at present not available. General Service Training is, however, given by Indian instructors.

ACQUISITION OF LAND IN KAROL BAGH

*517. **Shri Damodar Swarup Seth:** Will the Honourable Minister of Health be pleased to refer to the answers given to my Starred Question No. 596 on 22nd February, 1949, and state:

(a) whether the land in the Basti Than-Singh-Nagar Karolbagh, Delhi, has since been acquired by Government and if not, the reasons therefor;

(b) whether it is a fact that any of the plot-holders in the area requested the Delhi Improvement Trust since February 1949 to take over possession of their plots;

(c) whether it is a fact that the Delhi Improvement Trust asked any of the persons referred to in part (b) above to submit their building plans; and

(d) whether it is proposed to pass the plans without acquiring the land and if not, the reasons for asking for the building plans?

The Honourable Rajkumari Amrit Kaur: (a) The land was acquired by Government in the Defence Ministry in 1945 under the Defence of India Rules for a wireless experimental centre but the plot-holders were not disturbed. The land has not yet been transferred to the Improvement Trust.

(b) No.

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

TUITION FEES

*518. **Giani Gurnam Singh Measri:** Will the Honourable Minister of Education be pleased to state whether it is a fact that tuition fees in many of the schools of Delhi have been increased?

The Honourable Maulana Abul Kalam Azad: Yes; Sir. From the 1st November, 1949.

Monday
12th December,
1949

THE CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE) DEBATES

(PART II—PROCEEDINGS OTHER THAN QUESTIONS
AND ANSWERS)

Official Report

Volume VI, 1949

(28th November to 17th December, 1949)

Sixth Session
of the
CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE)
1949



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CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE) DEBATES

(PART II—PROCEEDINGS OTHER THAN QUESTIONS AND ANSWERS)

Monday, 12th December, 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.

PAPERS LAID ON THE TABLE

REPORT OF RAILWAY CONVENTION COMMITTEE, 1949

The Honourable Shri N. Gopalaswami Ayyangar (Minister of Transport and Railways): Sir, I lay on the Table the Report of the Railway Convention Committee, 1949. [Copy placed in the Library. See No. IV U (a) (77)].

CENTRAL RESERVE POLICE FORCE BILL

The Honourable Sardar Vallabhbhai Patel (Minister of Home Affairs and the States): Sir, I beg to move for leave to introduce a Bill to provide for the constitution and regulation of an Armed Central Reserve Police Force.

Mr. Deputy-Speaker: The question is:

"That leave be granted to introduce a Bill to provide for the constitution and regulation of an Armed Central Reserve Police Force."

The motion was adopted.

The Honourable Sardar Vallabhbhai Patel: Sir, I introduce the Bill.

PROFESSIONS TAX LIMITATION (AMENDMENT AND VALIDATION) BILL

The Honourable Shri Satyanarayan Sinha (Minister of State for Parliamentary Affairs): Sir, I beg to move for leave to introduce a Bill further to amend the Professions Tax Limitation Act, 1941, and to validate the imposition in the United Provinces of certain taxes on circumstances and property.

Mr. Deputy-Speaker: The question is:

"That leave be granted to introduce a Bill further to amend the Professions Tax Limitation Act, 1941, and to validate the imposition in the United Provinces of certain taxes on circumstances and property."

The motion was adopted.

The Honourable Shri Satyanarayan Sinha: Sir, I introduce the Bill.

DELHI ROAD TRANSPORT AUTHORITY BILL

PRESENTATION OF REPORT OF SELECT COMMITTEE

The Honourable Shri K. Santhanam (Minister of State for Transport and Railways): Sir, I beg to present the Report of the Select Committee on the Bill to provide for the establishment and regulation of a Road Transport Authority for the promotion of a co-ordinated system of road transport in the Province of Delhi.

HINDU CODE—contd.

Mr. Deputy-Speaker: We will now proceed to the further consideration of the Bill to amend and codify certain branches of Hindu Law, as reported by the Select Committee. Shri Mukut Bihari Lal Bhargava will resume his speech.

Shri B. K. Sidha (C. P. and Berar: General): Before we proceed to the further consideration of this Bill, we would like to know what is going to be the programme in regard to it. Will it go on indefinitely? I would request that by common consent some time-limit may be fixed on the speeches of members so that as many members as may be possible to be accommodated may participate in the discussion.

Mr. Deputy-Speaker: I may inform the House that this is an official Bill and they have provided for two days. The Speaker has no concern with it.

Pandit Mukut Bihari Lal Bhargava (Ajmer-Merwara): Sir, I have to resume my unfinished speech on the Hindu Code. But before I do that, Sir, I have respectfully to draw your attention to the declaration that was made by the hon. Prime Minister on the opening day of this momentous session.

Sir, the hon. Prime Minister was pleased to characterise this measure as a piece of simple and essential legislation. I respectfully protest that the measure that is for consideration before the House is not a simple one. I may also be permitted to point out that some of the opposers of this Bill have been accused by the hon. Prime Minister of adopting delaying tactics. Those who are well conversant with this Assembly and the proceedings that have taken place here will readily recognise that this measure has not at all been sufficiently discussed, this vital measure which affects the life and death, as I would say, of the Hindu society has been on the anvil of this legislature for only a very short time. If you refer to previous occasions when social legislation like the Sharda Act and the Hindu Women's Rights to Property Act was brought before this legislature, you would find what an amount of controversy they raised. Compared to those Bills, this Bill is enormously of great importance. It affects the entire structure of Hindu society. This Bill, Sir, if placed on the Statute Book—people may differ with me, the hon. Prime Minister may differ from me, but I do feel so—will result in the utter extinction of the Hindu society, not in the sense that thirty million Hindus will cease to exist, but that the distinctive features and characteristics of the Hindu society will cease to continue.

This is not a simple measure. But the fact is that this Bill aims at the utter demolition of the entire structure and fabric of Hindu society. It aims at changing the law of marriage, the law of divorce, the law of adoption, law relating to minority and guardianship, the Law of the Hindu Joint Family, the law of succession and everything that constitute and what remains of the features of Hindu society. The very foundations not only of one pillar but of all the pillars on which the Hindu society rests, are shaken. Therefore, Sir, it is but meet and proper that we as legislators, we who are the guardians of the interests of the people, should discharge our duty to the best of our ability and see how far the measure that we are considering is wanted by public opinion in the country. To characterise this measure as a simple piece of legislation is, I respectfully submit, not fair.

My further submission is that if it is not proper to characterise it as a simple piece of legislation, it is still more unbefitting to characterise it as an essential measure. What is the need, I respectfully ask, for this measure? What will happen if this Bill is deferred and not brought on the Statute Book till the new legislature, the sovereign Parliament to be elected in free India on adult franchise is elected? Is there any malady from which the Hindu society is so vitally suffering that if a few months pass without this Bill being placed on the Statute Book, the whole society will crumble? I submit that in no sense of the term is it essential. We can very well afford to wait for one or two years more. The Hindu society which had successfully stood the test of centuries, the clash of many civilisations, the clash of foreign aggression and had been subjected for centuries to political subjugation can very well survive without this piece of legislation for a year or two more.

Sir, if we wait for.....

Shri S. Nagappa (Madras: General): Sir, on a point of order. The hon. Member is casting aspersions on the House when he said that this House is not competent to deal with this matter and that we should wait till a new House is elected.

Mr. Deputy-Speaker: There is no point of order in what Mr. Nagappa has said.

Pandit Mukut Bihari Lal Bhargava: Sir, in spite of the interruption of my hon. friend, I must assert that this House as at present constituted, is thoroughly incompetent to deal with a measure of this vital nature. The question is.....

Mr. Fajamul Hussain (Bihar: Muslim): On a point of order, Sir. It has been decided by the Chair that this House is competent to deal with this Bill. After that ruling, can any hon. Member question whether this House is competent or not?

Mr. Deputy-Speaker: There is no harm. It is a ruling of the Speaker that this House is competent to deal with this Bill, and according to this, Bill is being pursued. If the hon. Member wants to raise other questions, or raise other reasons, other than legal technicalities, it is open to him to do so. But I would advise the hon. Member that this point has been raised by almost every one of the previous speakers and it has almost become stale.

Pandit Mukut Bihari Lal Bhargava: Sir, it is only the interruption of my friend here that provoked me to make that remark, I do not question the constitutional power of the Legislature to pass this vital measure. But the question is one of propriety. Can you usurp the functions of a full-fledged legislature, can this House which was specially brought into existence for the particular purpose of drafting the Constitution of India, do that? Therefore, I submit apart from the constitutional aspect of the question, apart from the point of legal power of this Legislature, it is a question of propriety, and propriety is of immense importance. And I feel that I have the right to assert, in spite of the interruption of my learned friend and those with him, that this House must think twice before dealing with a measure of this vital importance. And my submission is that this measure is not essential and this Government need not have a declaration of a nature to make this question an issue of confidence before the House. The question has to be dealt with a calm mind, and we have to take into consideration the devastating effect that this measure will have upon the entire structure and fabric of Hindu society.

Now, coming to my speech from the stage I left it, I was dealing with the question of innovation that has been introduced in this piece of legislation, namely, the bringing in of a daughter in the rank and file of simultaneous heir with the

[Pandit Mukut Bihari Lal Bhargava]

son. My respectful submission was and is, that this innovation is wholly uncalled for, and that this innovation will demolish the entire structure of Hindu society. Let me ask, how this is possible. What is the real state of Hindu society? The difference between man and woman, the difference between the son and daughter, this is inherent in the very situation. The son has to remain all through his life, from his inception to his death, with the family in which he has taken birth. The daughter has to go to a stranger's family. What are the consequences resulting from this inherent situation? The Hindu law gives, the persons who gave us the scriptures, were they so degraded, were they so opposed to the fair sex that they did it only with a view to inflict an inequality or an injustice? I respectfully submit that this is a wrong reading of the entire scriptures and the Hindu Law. In fact, if the right of inheritance to the patrimony is given to the daughter, I shudder to think of the consequences. The hon. Dr. Ambedkar, the Law Minister, in his speech remarked, if a Hindu has twelve sons and one daughter, and if on his death his property could be divided into twelve shares, what heaven will fall if instead of twelve it is divided into thirteen shares? I respectfully ask the hon. Law Minister to take the opposite case, where a person has got one son and twelve daughters. What will happen in that case?

The Honourable Shri Jagjivan Ram (Minister of Labour): Thirteen shares.

Pandit Mukut Bihari Lal Bhargava: Is a family house to be divided into thirteen shares? Sir, think of rural India, do not think of urban India, with people living in palaces, but think of rural India where a family has got a very small house. If on the death of the father, his house is divided into thirteen portions, and the twelve sons-in-law are to be accommodated in that house, what will happen? And Sir, under the law as it is proposed to be made, it is open to the daughter to marry any person she likes, even if she takes courage to enter into marital contract with a non-Hindu she has no bar, and that is not a disqualification for inheritance. What will be the result? The result will be that every house, and every family will be reduced to a family of feuds in which there will be quarrels and worse still—murders too. Therefore, Sir, I respectfully submit that when you are making a law you are not to take into consideration only a concrete example of the character to which the attention of the House has been drawn by the hon. Law Minister, but you have to take into consideration every imaginable case, and it is on that footing that you have to frame the law.

Why this inferiority complex about the status of the daughter in Hindu society? I protest against its very implication. In fact, the daughter in Hindu society has got a very exalted and elevated position. Her marriage into a stranger's family does not cut off her connections with the natural family of the father. On every occasion, on occasions of births, deaths, marriages and other occasions she has to come and perform certain essential ceremonies, and on those occasions the Hindu family has to make presents to the daughter. The daughter's relations with her natural family continues all along. If she gives birth to a child, her brothers have to give her presents. Sir, I may further venture to assert that on the occasion of every marriage in the sister's family, the marriage of a male or female child, the brothers have to make presents. Presents are so essential on every occasion. That being so how can it be said, Sir, that the daughter does not get anything from the property? My submission is that the whole mental outlook with which this question is approached is diagonally wrong, if you consider it from the criterion of Hindu civilisation and Hindu ideals and ideas. Of course, if your criterion is not indigenous, if it is not Hindu, not Indian, but anti-Indian and anti-Hindu, then of course, you must take the opposite view.

Now let us consider what is the result of giving a share to the daughter in the family patrimony. You can see the Muslim family. The inevitable result of giving this share in the patrimony would be that marriages between cousins will be absolutely common, and sooner or later marriages even within prohibited degrees will come into existence, whether you like it or not. This is what the inevitable consequence would be. If you trace the history of the daughter's share in patrimony, in so many countries, in Egypt, in Greece, in Rome or under Islamic law, you will come to the conclusion, and the only conclusion, that if a share is to be given, then, you must necessarily widen the scope of the right to contract a marriage with first cousins. So far as the Hindu point of view is concerned, that would be a calamity which no Hindu family can tolerate.

I now proceed to the other point. Do you think, that by providing in this piece of legislation that a daughter has an equal share with the son, you will be carrying out what you intend to do, that is to say, you will be conferring any rights to property on the daughter? I respectfully submit, Sir, that it is not. On the other hand, you will be letting loose and creating scope for so many evils. Under the law as it is incorporated in the Hindu Code, it will be open for any father to make a gift *inter vivos* in favour of any of his sons, or to dispose of the entire property by a testament. Is there any bar to this, I ask? If there is no bar, then, unless and until the society is prepared to give an equal share to the daughter, the only result of this legislation would be testamentary disposition or gift *inter vivos* of the entire property by the father to the sons. As a lawyer, I have some experience of courts: there are other friends here who have full experience of courts. Is it not a fact that in every ten cases of testament and codicil, nine cases go to the court and give rise to very prolonged litigation? Not only questions regarding the disposing capacity, but questions about the testator being a free agent in executing the will and codicil are raised; complicated questions about the construction and the interpretation of the different clauses of a complicated document like a testament are raised: not in one court, but right up to the highest court, the Privy Council. If that is the situation, may I ask how you will be able to safeguard the interests of the daughter? My respectful submission is that you will not be safeguarding the interests of the daughter by making this disastrous piece of law, but you will be doing her a positive harm which it will be difficult for you to undo. The very psychological approach of a Hindu family will change. As soon as it is provided in the law that a daughter has a share in the patrimony, the brother will think himself absolutely relieved of the duty of maintaining his sister and providing for the marriage expenses. What is the condition of the Hindu families today? What is the percentage of the families that have got immovable properties? My submission is, it cannot be more than forty per cent. What will become of the rest of the 60 per cent. of the families, I shudder to think. What will be the result in the case of these 60 per cent. of the families governed by the *Mitakshara* law, who have no property at all? Because by law the sister is made equivalent to the brother, the brother who feels a burden and responsibility to bring up the sister up to the time of her marriage and conduct the marriage, to give her dowry, to give her everything, that sincere brother will feel relieved of his responsibility. That would be the result, and the only result, of this disastrous provision, without any corresponding benefit to the daughter. Therefore, my respectful submission is, not on the ground that the daughter is not equal to the son, nor because of any prejudice against the fair sex, but in the interests of the daughter herself, that this provision should not be enacted. Of course the daughter has got other means to safeguard her interests. They can get valuable rights in the property of their husband, in the property of their father-in-law.

Shri L. Krishnaswami Bharathi (Madras: General): We have already given that.

Pandit Mukut Bihari Lal Bhargava: If that is already given, then, there is absolutely no necessity to give her a share in the patrimony. Even as I understand the law, a right of a limited character has been given; you can certainly widen that and give the daughter a right equal to that of her husband in her father-in-law's property. That is a very good suggestion which we can consider.

Now, Sir, I come to the other important change in this revolutionary piece of legislation: I mean the disruption of the joint family status. A very important feature is that under section 86 of this Bill, no court of law will hereafter be entitled to take cognisance of the right by birth. I shudder to think of the evil consequences flowing from this provision. It is said that Bengal, and Assam are already governed by the *Dayabhaga* system of law which does not recognise the joint family status, under which every family member occupies a position of equality. Does it mean that this system should be extended to the whole of India? If five crores of people are governed by this system, and twenty crores by the other system, is there any justification in law for extending the law of the five crores to the other twenty crores? I say this is absolutely wrong. My submission is that the right of acquisition by birth is a valuable right of a Hindu son. It is a right which provides against the prodigality and spend-thrift character of the father. It is this valuable right that has saved the properties of so many thousands of Hindu families. It is this right that is being done away with by this disastrous piece of legislation, in section 86. Not only this; section 87 provides that every joint family will have a compulsory disruption on the coming into effect of this unique piece of legislation. Why should there be a compulsory partition? My submission is that these provisions are not of a simple character; they are of a revolutionary and radical character and there is absolutely no reason why changes of this enormous character should come into existence.

Then, I come to the very important provision incorporated in the Bill about what is known as dissolution of marriage. The clause that deals with this is clause 30. It lays down the grounds upon which dissolution can take place. The other clause relevant is clause 33 which lays down the grounds upon which judicial separation can be claimed by a party to a marriage. Then, there are provisions for the declaration of a marriage as void or voidable. These are absolutely novel provisions so far the Hindu Law and Hindu society is concerned. In fact these provisions of law and the other provisions of law incorporated in this Bill have created a paradise for lawyers. For declaring a marriage void the matter can be taken to a court of law. For getting a marriage dissolved the parties can go to a court of law. For seeking a judicial separation they can go to a Court of law. What are the lessons learnt from the cases of dissolution of marriage in so many European countries. It is indeed surprising and astounding that the experience of western countries and the experience of America and England where in every six marriages there is a case of one marriage dissolution, has not given any lesson to us. We have not had this position in our society at any stage of our society and why should we introduce compulsorily the resort to a court of law. Clause 34 provides that every dissolution or marriage can only be through the medium of District Courts and it also provides that every case of dissolution must automatically go to High Court for confirmation under clause 44. I ask whether it is not opening a door for lawyers to prosper. Should any piece of legislation set the ball rolling for more litigation in the society. My submission, therefore, is that the provisions for judicial separation and for dissolution of marriage as incorporated in clauses 30 and 33 are not only opposed to accepted ideals of Hindu Society, they are

diagonally opposed to our civilization and culture, they are directly contradictory to the sacramental marriage because it is not a contractual relationship that can be brought to an end by the whim and caprice of any of the parties but it is a sacred bond of union which has its root in the past and which will have its effect in the future. That is the conception of Hindu marriage. These provisions of judicial separation or dissolution of marriage are diagonally opposed to what is our conception of marriage and still when the western countries which have been habituated to this sort of marriage relations—divorce and everything—when they are feeling tired of it, when the sanest of their thinkers are thinking of this system as ruinous to society, it is indeed a wonder that we are trying to imitate it. My submission therefore is that you should be very careful. What are the grounds of judicial separation? A case of adultery. The law says that the marital relations can be brought to an end by judicial separation or by dissolution of marriage. The germs are there before the couple and I would respectfully draw the attention of the House whether it is not a fact that if there is a quarrel—naturally there is bound to be quarrel in families so many times—if these provisions exist in the bill, they will give an incentive to the couple at any time of quarrel or even family scuffle to seek the remedy of the court and Sir, it is very cheap because the charge of adultery can be brought by a woman against her husband or a husband against a woman very easily and there are interested persons everywhere to disrupt the families. Result would be for very flimsy reasons there will be cases of divorce. It therefore will be ruinous to Hindu society. Our society has survived the onslaught of so many centuries and has successfully stood in the world as the ideal form of institution notwithstanding the onslaughts because of the inherent system of *pativratabhakti*. These provisions do not even help those communities which are by custom taking resort to divorce. They create a great obstacle and compel them to go to court. It is opposed to our culture and civilization and our accepted ideals of ideal marriage life. One argument has been repeated often *vis.*, there is nothing radical or revolutionary about this measure, and the provisions regarding marriage and divorce are of a permissive and enabling character. If that is so, why not scrap all these provisions from clause 5 to 51 and make one clause in the bill that every Hindu shall be competent to marry any person he likes because that will be only an enabling provision. He can very well, at his own risk, marry his own sister. Therefore it is no use providing such a comprehensive bill with so many sections. Why not scrap them and provide one general section and it will be a model of simplicity as also a model of the civilization and the stage through which we are passing. My submission therefore is these provisions from a Hindu oriental point of view are simply repulsive and could not be incorporated and cannot be tolerated in a bill of this nature.

I come to the next point. Under the provisions of this bill, clause 91 is the relevant clause—every property that comes to a female either by inheritance from father or from father-in-law or from any other source will be her absolute property and the rules of devolution of female property are provided in clauses 106 to 109. These provisions are also not conducive to the attainment of peace in family life, and are of a disastrous character. Here again every provision is opposed to the accepted conception of Hindu ideal and you will find that the property which a female inherits and which according to clause 91 will be the absolute property of the female will descend in the order also prescribed under clauses 106 to 109. That is, the first persons to inherit will be the husband and children equally. If there is no husband or children, then who are the persons under the bill who will be entitled to inherit the property. There are mother, father and husband's relations. May I ask humbly and respectfully every honourable Member of this House whether there is any father or mother in this land of Hindus who will relish property from his or her daughter?

Shri L. Krishna Rao Bharathi: Why not? What is the harm?

Pandit Mukut Bihari Lal Bhargava: Perhaps my honourable friend comes not from India but from an outside country.

Shri L. Krishnaswami Bharathi: I come from South of India.

Pandit Mukut Bihari Lal Bhargava: In India no father nor mother will ever think of receiving anything from the daughter.

Shri L. Krishnaswami Bharathi: That may be so in the Punjab.

Pandit Mukut Bihari Lal Bhargava: It is so in the whole of Northern India. I cannot speak with authority about South India. But so far as Northern India is concerned the very idea is repulsive. Of course there is an exception to this rule among those who count money and property over every thing else. To them *dharma* is no matter of their concern. But I am not talking of those exceptions: I am talking of the ordinary father or mother in Northern India. Their souls will revolt at the thought of accepting anything from their daughter. In *kanya da* when a father and mother sitting together give their daughter to the bridegroom as also dowry and ornaments, after that in our part of the country the mother or father will not even take water in the house of the daughter.

Shri L. Krishnaswami Bharathi: It is not so bad in our part of the country.

Pandit Mukut Bihari Lal Bhargava: That might be a custom or usage prevalent in your part of the country but in my part of the country, an overwhelming majority will be opposed to the idea. They cannot even imagine receiving any inheritance from the daughter. Therefore the entire fabric of the rules of devolution is based on anti-Hindu ideals. If Mr. Bharathi takes the trouble to go into the rural parts in my part of the country he will be surprised to find, let alone the father or mother, even the inhabitants of a village will not drink water in another village into which the daughter of their village is married.

Shri L. Krishnaswami Bharathi: I am told that they do not even pass through such a village.

Pandit Mukut Bihari Lal Bhargava: Under the rules of devolution after the father and mother who are the persons entitled to inherit the property of the female? If it provides that that will go to the husband's relations it is repulsive and it will create family feuds. Why should property go to the husband's relations, if it has come to the daughter from the father? That is why our law-givers have made several categories of *stridhana* which will accrue to different categories of people. You are not competent to understand the higher motives of our law-givers who made those salient provisions and you want to sacrifice their ideals at the altar of simplicity. According to our accepted notions of *stridhan* if the property has come from the side of the father it is the father's relations that are entitled to it. Why should not a provision of this character be incorporated in sections 106 to 109. That would be more acceptable to Hindu ideology.

I now come to the other provisions of the Bill. On the day the Code comes into force the joint tenancy will be deemed to have been converted into tenancy-in-common. The Bill makes a provision in clause 115 that it is open to every heir to go to a court of law and claim partition of the family property. Is this provision conducive to the preservation and maintenance of peace in the family? After the death of the father, the daughter, the son, the widow of a pre-deceased son, etc., will rush to a court of law and claim partition as required by section 115. This will be like the Islamic law, entirely repugnant to Hindu ideology and cannot be tolerated in a Bill of this kind.

It is claimed that this Code will resolve conflicts of opinion, that it is an exhaustive piece of legislation providing remedy for every malady in Hindu *dharma*. Are there not any omissions in the Bill and until they are filled in, will it not shatter the Hindu society?

Under clauses 88 and 89 you abrogate the doctrine of Pious Obligation. Under clause 89 you provide that the family members will be entitled to pay the duties existing on the joint family. What provision have you made when the father dies? Who is to bear the funeral expenses or make provision for *shraddhs*, or the other charitable objects connected with such occasions. Once this Code is brought on the Statute Book will there not be fight and feud between the different heirs? On the death of a father every son and daughter will be so absorbed in assimilating the wealth of the father that they will forget their duty to perform the *shraddhs*, which are essential for any self-respecting family. There is absolutely no provision in this regard in this Bill.

Does the code provide for the Hindu joint family? In Hindu Law there is a distinction between co-parcenary property and joint family property. What is the number of families in India carrying on business? Is there any provision within the four corners of the Bill for that? How will succession take place in joint family business?

You claim exhaustiveness for this Code. Have you made any provision for an adopted son. Under clauses 52 to 54 every Hindu male on attaining the age of 18 is entitled to adopt a son with the consent of his wife. After adoption if the father gets his own son what will be the son's rights in the patrimony. Does your code present any solution of this problem? Our Hindu law-givers or *smritikars* make ample provision for different parts of the country. What is the position of a son born after adoption of a son by the father?

In *Davabhaga* he gets one-half; under *Mitakshara* he gets one-third; in the Bombay Presidency, he gets one-fourth. Have you made any provision here? If not, will it not create confusion and confusion of a worse character? Have you made provision for partition of the joint family property and so many other things which are an essential, and complicated, branch of Hindu Law? My respectful submission therefore is that this will create problems and questions which it will be very difficult to answer.

Then the question arises what will be the rights and duties of a son who has no share in the joint family property. Under the present circumstances a son by birth has got rights in the property and that is a shield behind which he can stand for his maintenance, education and other things. You may point out to me the provisions of clauses 126 and 128 of your Bill which lay down that it will be the duty of every husband to maintain his wife, and the wife may claim separate maintenance from him on certain grounds as those of illness like leprosy etc. There again is the door for litigation and a paradise for lawyers. And in clause 128 you will say you have provided for the maintenance of children and aged parents. But by providing for maintenance under clauses 126 and 128 are you effectively safeguarding their rights? My submission is you are not. You are placing them in a worse position than what they occupy under the present Hindu Law. Under the present Hindu Law a son has an inherent right to maintenance out of the family property, and if the father or manager or *karta* of the family is so undutiful as not to look to his interests he has his remedy in a court of law. He can even claim partition. Every student of Hindu Law knows that while a minor has very restricted rights to claim partition in Hindu Law, if the father or the manager or *karta* of the family abuses his power to the detriment and prejudice of the minor he has the legal remedy open to him and he can proceed in a court of law to enforce his right to partition. That is a valuable right and you are taking away that valuable right.

[Pandit Mukut Bihari Lal Bhargava]

Similarly you say that in clause 126 you have provided for the maintenance of the wife and in clause 128 you have provided for the maintenance of children and aged parents. If a husband happens to be penniless, if he cannot earn, if he has got nothing to support himself, how can he support his wife? Therefore I submit that this pseudo right conceded to the wife is only a sham and a paper right. In the present Hindu Law every wife, every female has a valuable right of residence and of maintenance and she can enforce the right through a court of law if the manager or the *karta* abuses the right.

Shri L. Krishna-swami Bharathi: Even if her husband is penniless?

Pandit Mukut Bihari Lal Bhargava: I am talking of joint family property. The matter will be different if you decide by a piece of legislation that every piece of property is to disappear and there should be socialisation and nationalisation of every property. But, keeping intact the institution of joint family you are depriving the minors, the widows and the females of their valuable rights which exist under the present Hindu Law. In the name of equality which is sham and paper equality you are perpetrating a wrong which it will be very difficult to remedy. My submission therefore is that judging from every point of view this piece of legislation is not only opposed to the accepted principles of Hindu Law but is liable to create such confusion in Hindu society which it will be very difficult to overcome or remedy.

Sir, before I conclude I have to sum up what I stated on the 2nd of April and now. I said that there is absolutely no necessity and no desirability of the codification of Hindu Law. It is neither necessary nor desirable. It is not wanted by judicial opinion in the country. There is no conflict of authority of such a serious character as to warrant the interference of a Legislature. There is no public demand for a measure of this character. The *quantum* of evidence upon which the Rao Committee relied was analysed by me in my speech on the 2nd of April and I pointed out that the overwhelming weight of opinion in the evidence recorded by the Rao Committee was opposed to every innovation and change that is incorporated in the Rao Committee Bill which has been further aggravated in the present Hindu Code Bill as it has emerged out of the Select Committee. On every point, on the question of divorce, on the question of sacramental *cum* civil marriage, making sacramental marriage liable to be converted into civil marriage at one's sweet will under clause 21, there was opposition, and opposition from every quarter. From every quarter the overwhelming weight of opinion was against the ending of the joint family status. Therefore, on every crucial point the overwhelming opinion was against the Rao Committee Bill. Even now in the opinions that are pouring in from the various quarters in the country, from judicial quarters, from bar associations, from other citizens, there is a unanimity of opinion that a measure of this subversive type is not at all required under the present circumstances. Therefore I had submitted, and I repeat it today, that codification of the Hindu Law is neither desirable nor necessary.

I have pointed out that the marriage provisions contained in the Bill are a misnomer for marriage. It is in fact introducing the principles of Islamic and Christian marriages into the Hindu Code under the garb of sacramental marriage. It will be a sham. It will be shameful for any Hindu to go into a marriage of this character which is liable to be changed at one's sweet will into a civil marriage. This cannot be tolerated.

Shri S. Nagappa: This Bill does not prevent sacramental marriages.

Pandit Mukut Bihari Lal Bhargava: I have already met your argument, an argument that is often repeated on the floor of this House and outside, that this is an enabling measure, a permissive measure. If that is so, scrap off

everything and have one omnibus clause in the Bill that everybody is competent to marry anybody. That will meet the requirements. Why do you make a fetish of the sacramental marriage? The sacramental marriage of the character you have provided in the Bill is nothing but a mockery, an insult to the time-honoured institution of sacramental marriage. It is only a misnomer to deceive the people, to convince them that there is no departure from the established practice. It is a hoax that is sought to be perpetrated on the Hindu society. No self-respecting Hindu can possibly tolerate this state of affairs.

Better do away with these provisions commencing from clause 5 to 52. They are wholly opposed to Hindu ideology, to Hindu culture and to Hindu civilization. That is my submission in respect of the marriage provisions. As regards the divorce clauses I had already made my submission. About adoption, I had said and I repeat it today that the very conception of adoption is a creation of Hindu law, and if you cannot in this modern age, on account of what you call your advanced views, subscribe to that ideal of adoption, then do away with adoption altogether but don't provide for a hotch-potch adoption of the nature you have done. According to the provisions of the Bill, every person, every Hindu, can be adopted as a son. There is no restriction of *Gotra*, there is no restriction of caste, there is no restriction of the status, and it is left to the person concerned to adopt any person. Those who are well conversant with the codes of Hindu law very well know how the adoption of a stranger in the family has been the source of litigation. There are well-established customs and usages having behind them the sanctity and authority of judicial pronouncements whereby only a member of a family of the same *Gotra* can be adopted. All those usages, all those well-established customs are very easily given the go-by; without even thinking of the disastrous consequences this step is being taken. I shudder to think of the very terrible consequences that are bound to follow from a provision of this character. Better do away with the institution of adoption altogether rather than provide for adoption of this kind. In fact, I may be permitted to remark—and I do so with full responsibility—that the sponsors of this Bill had an inherent abhorrence, an inherent hatred against everything related to Hindu culture, and that is why we find provisions of this character being included without appreciating or finding out what were the motives of the Hindu law-givers in providing for adoption. The sole purpose of adoption under the Hindu Law is that a person may have a son to administer to his spiritual needs, to offer oblations on his death. That is the sole purpose of the conception of adoption but by making a provision that any Tom, Dick and Harry can be adopted you are cutting at the very root of that conception. Do not, therefore, make such a provision. Better do away with adoption. It doesn't exist in so many societies. Where is the necessity to perpetuate it if you are so averse to it? But then do not make a mockery of the conception of adoption.

Sir, I shall submit that every provision in this Bill has got a stigma which is anti-Hindu and therefore cannot be acceptable to any Hindu. To me this Bill is an insidious effort on the part of its sponsors to take the Hindus out of their Indian moorings and to launch them on foreign waters of Arabia and Jerusalem. Where is the necessity for this Hindu Code? Why don't you extend the provisions of the Indian Succession Act of 1925 by a stroke of the pen to the entire Hindu community? By this very convenient and simplified method—and we are very much enamoured of simple legislation—it will be very easy to provide for the entire Hindu society.

Before I conclude, I think it is my duty, and an honest duty, to sound a note of warning. You very well know that the Hindu law is a law not piloted from outside. It is not an imposition from above, it is not the creation of a sovereign power, it is not the result of a ukase of any king or of any legislature.

[Pandit Mukut Bihari Lal Bhargava]

That is the greatest merit about it. It is a spontaneous development from centuries past. The texts of the *Smritis* and the *Nibandhaks* have not created the laws; they have only explained and elucidated the accepted principles of Hindu Law, but those principles as readable from the texts have never been the governing force of the Hindu society. The governing force of the Hindu society has been a consistently developing usage and custom governing the different sections of the society. That development was spontaneous. In fact, looking at it from a realistic point of view, the Hindu society is a working legislature in continuous session not of the few selected persons as this House is but a legislature of the entire community, that modifies and moulds its law according to its requirements. That is the supreme beauty of Hindu Law. And that you are distorting, that you are deforming by this piece of legislation by taking from it vitality, elasticity, mobility, spontaneity and adaptability to the everchanging circumstances of the society. Sir, I as an humble Member of this House have a duty to say that you must be very careful before you tamper with it. It is a law that has come into existence as a result of centuries of development and before you tamper with its time-honoured institutions, customs and usages, you should keep one thing in mind. The India of ours does not reside in urban towns like Allahabad and Delhi. The real India lives in the five lakhs of villages. The life of the villagers is so intimately interwoven with the texture of their society that whatever modifications you might make by this piece of legislation, they will resist to the limit of their might before you take away from them the time-honoured usage and customs to which they have been submitting as a matter of course for centuries. Without doing any benefit to the Hindu society, you will be opening the door for a few disgruntled persons who want to take advantage of this innovated piece of legislation.

Dr. Mono Mohon Das (West Bengal: General): Is he not casting aspersions on some of the Members of this House? He has repeated the same thing so many times.

Pandit Mukut Bihari Lal Bhargava: I have not referred to any Members of this House. My hon. friend should have the patience and the tolerance to hear the opposite views. My submission is that you cannot put a brake to this spontaneous growth and development of Hindu law by this piece of legislation and if you pass it, you will be spoiling the beauty of Hindu law rather than adding to it. This piece of legislation is so disastrous in its character and so destructive in its nature that it is difficult to imagine the bringing of a constructive approach to bear upon it. The hon. Prime Minister and Leader of the House suggested the other day that we should meet in a formal or informal committee to devise a compromise upon which the orthodox and unorthodox sections can agree. I join issue with him. But I feel that the Bill has been conceived with a mental outlook and psychology which is wholly repugnant and unacceptable to Hindu ideology. Consequently, in spite of our sincere efforts to arrive at a constructive approach to this measure, it will be very difficult to do so. The safest course for the Government to adopt is to withhold this measure and wait for a more opportune time for a legislature elected on adult franchise with a mandate from the electorate to change the entire structure of the Hindu society. Until and unless there is such a mandate, I submit, and I question and question with vehemence the propriety of this legislature to deal with a measure of this vital importance to the Hindu society.

With these words, Sir, I resume my seat.

Shri Loknath Misra (Orissa: General): On a point of order. Although I do not desire to oppose the consideration of this Bill, I think its consideration is totally barred and bolted by the very Constitution which we have recently passed. Of course, it may be argued that it has not yet come into force. But we are quite sure that we are not going to pass this Bill this time and by the time the Bill is passed the Constitution must have come into force. If you will permit me, I will detail my reasons for saying that this Bill is against the Constitution.

Mr. Deputy-Speaker: I have heard the point of order sufficiently. The new Constitution has not yet been implemented. It has not come into force. I do not propose to give any ruling on the question as to whether it will stand in the way of this Bill being passed into law if it comes into force. Under the present Constitution, this House is thoroughly competent to get on with this Bill.

Shri T. T. Krishnamachari (Madras: General): In view of the importance of this measure and the fact that the number of people who want to speak is large, would the Chair consider the desirability of using its discretion and imposing a time-limit?

Some Honourable Members: No, no.

Some Honourable Members: Yes, 

Mr. Deputy-Speaker: Order, order.

Shri M. Tirumala Rao (Madras: General): This point was raised by Mr. Sidhva and disposed of by you.

Mr. Deputy-Speaker: Mr. Sidhva raised another point. He wanted to know if this House would continue the discussion tomorrow and what length of time has been allotted. It is an official Bill and it is for Government to allot the number of days, I replied. The position is that the Speaker can only say whether debate on a particular Bill has been sufficient or not. So far as this Bill is concerned, hon. Members are fully aware that no time-limit can be imposed. (*Hear, hear*).

Hon. Members will kindly wait and see. The general discussion on this Bill was begun so early as 24th February 1949. It continued on the 25th, 26th, 28th, 1st March, 1st April and 2nd April. One hon. Member took six hours and eight minutes. We spent in all 6 days, 9 hours and 30 minutes. All the same, only 14 hon. Members have spoken so far. The last speaker who has just concluded, Pandit Mukut Bihari Lal Bhargava, started at 3.15 p.m. on 2-4-49 and went on till 5 that day--one and a three-quarter hours. Today he went on from 11.50 to 12.57. At this rate, we will have to sit nearly a year if all hon. Members are to have a chance to speak. Many of the points which have been made in the speeches are all very enlightening. I say nothing against the speeches. But I have received a large number of requests from hon. Members for opportunities to speak.

Pandit Lalshmi Kanta Maitra (West Bengal: General): We are all in so much darkness. We want light from every side.

Mr. Deputy-Speaker: Light from every side is coming, but if we proceed at this rate, light from many sides would not come. Therefore, I would request hon. Members to limit their speeches, as far as possible, to half an hour. On all Resolutions fifteen minutes are placed at the disposal of hon. Members and they are able to put their cases perfectly well within that time. I have given twice as much time. But I do not insist upon it. It is simply my suggestion to the House. Otherwise, if a closure is applied tomorrow, possibly by that time a number of Members may have spoken and sometimes wittingly or unwittingly if the House is in favour of closure, it has to be accepted. I am giving a warning in advance.

The Honourable Shri K. Santhanam (Minister of State for Transport and Railways): I only want to say that I hope to finish before the time-limit fixed by you. I hope you will permit me to proceed in the afternoon.

Mr. Deputy-Speaker: It ought not to be said ahead. I am leaving it to hon. Members to decide, so that all Members may have equal opportunities. Normally, half an hour is the time-limit I suggest. If the House agrees.

Some Honourable Members: Agreed.

Some Honourable Members: No, no.

Mr. Deputy-Speaker: Order, order. Mr. Sahu wants to say something.

श्री लक्ष्मीनारायण साहू : उपाध्यक्ष जी, मैं यह जानना चाहता हूँ कि जो मेम्बर पांच, सात और १० मिनट बोलना चाहेंगे क्या उनको पहले बोलने की सुविधा दी जायेगी ?

Shri Lakshminarayan Sahu (Orissa: General): Sir, I would like to know if priority for speaking will be given to those Members who are willing to restrict their speeches to only five, seven or ten minutes.

Mr. Deputy-Speaker: Therefore, if I have to accept that suggestion, I hope hon. Members will also indicate in their letters to me how many minutes they are likely to take and I will ring the bell as soon as that minute is over.

Pandit Lalshmi Kanta Maitra: Before you adjourn, I want to say just one thing. You said just now that it will be perfectly open to Members to move closure. But according to all parliamentary procedure, it is open to the Speaker to say whether there has been sufficient debate or not and whether the closure is justified or not. That is a well established practice and you also reiterated that you follow that. In view of that statement, do you say beforehand, even today, that you will have to accept closure tomorrow?

Mr. Deputy-Speaker: The Chair has no right to make up its mind in advance. It is now 1 o'clock and the House stands adjourned till 2.30 p.m.

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

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

HINDU CODE--Contd.

The Honourable Shri K. Santhanam: Sir, I rise to offer my whole-hearted support to the Hindu Code as it has emerged from the Select Committee. Sir, I have been watching the progress of this law-making from its earliest beginnings. I had the privilege of tendering evidence before the Rau Committee and since it has emerged from that Committee it has undergone many changes and, in my view, steady improvement.

Sir, I feel that this Hindu Code is merely a continuation, in the social sphere, of the great Constitution we have completed the other day in our capacity as a constitutionmaking body. Sir, what are the basic factors of that Constitution? It is based on the unification, on the integration and on the strengthening of India as one political entity. Similarly this Bill is based on the principles of unification, integration and strengthening of the Hindu community. Sir, unless the Hindu community is unified, integrated and strengthened. I do not see how the great Constitution we have made can be successfully worked.

Pandit Lakshmi Kanta Maitra: Unified by divorce?

The Honourable Shri K. Santhanam: The idea that politically you can be well-advanced, that in the field of economics you can preach socialism, but yet be a believer in social stagnation is wholly incompatible and unrealistic. India has to move on all fronts, or not at all and I think the change and reform in the social sphere is as indispensable as our progress in the political and economic spheres.

Pandit Lakshmi Kanta Maitra: Democracy in marriage also?

The Honourable Shri K. Santhanam: My hon. friends may well ask why we should not compile a code for the whole country rather than a unified code for the Hindu community alone. Well, Sir, while we were making the Constitution there were many who were asking why we continued to have provinces, why we were building on the Government of India Act and why we were continuing to have Rajpramukhs? Sir, our argument in reply was that while we wanted change and reform we wanted to build, as far as possible, on the existing foundations, that we wanted a judicious combination of conservation of the existing forces and the forces that make for change and reform. This Bill is based on the same principle. It seeks to conserve as much of the Hindu law as is consistent with modern needs and ideas and it seeks to change wherever such change is necessary. I think that is the only way the whole country as well as the Hindu society can progress without internal disruptions and violent revolutions. Sir, our policy is one of peaceful and voluntary change and this Bill is a notable attempt in that process of peaceful change in the social sphere.

Sir I don't want to go into the clauses of the Bill. The time is not yet ripe for it and when we take up clause by clause it will be time to scrutinise particular provisions.

Pandit Lakshmi Kanta Maitra: That stage will not come.

The Honourable Shri K. Santhanam: Well, let us see.

Pandit Lakshmi Kanta Maitra: Not unless there are elaborate lathi charges outside.

The Honourable Shri K. Santhanam: There were people who were prophesying that the Constitution would never be passed; but we have passed it. In the same way, we are going to put this Bill on the Statute Book.

Sir, I am not saying that certain clauses, or even parts are not susceptible of slight changes or adjustments.

Pandit Lakshmi Kanta Maitra: Slight!

The Honourable Shri K. Santhanam: But I shall confine myself to the broad principles contained in the Bill and leave details to a future occasion.

Sir, this Bill has got four aspects, namely, codification, unification, rationalisation and reform.

Sjt. Robini Kumar Chaudhuri (Assam: General): And falsification too.

The Honourable Shri K. Santhanam: Well, I will leave that part to you. So far as the parts dealing with adoption, with minority, with guardianship and with maintenance are concerned, they are simply codification of existing Hindu law. (*An Honourable Member:* Question) You may question it, but I think Sir B. N. Rau is a far greater legal authority than the hon. Member.

Pandit Lakshmi Kanta Maitra: That is absolutely no argument. He may be or not. I can understand an argument—but this sort of talk I cannot stand.

Mr. Deputy-Speaker: Order, order.

Pandit Lakshmi Kanta Maitra: But what is the meaning in arguing that such and such a man is far above anybody else here? Is that any argument?

Mr. Deputy-Speaker: There is no meaning in all hon. Members talking simultaneously. Each hon. Member will have his turn and I am prepared to sit here as long as the House wants me to.

So far as the hon. Member's reference to Sir B. N. Rau is concerned, he probably meant that he was a Judge of the Calcutta High Court and it is not unparliamentary to say that the opinion of a particular person is highly valuable. Even as an individual the hon. Member perhaps meant that he knows him much better than any other Member of the House.

The Honourable Shri K. Santhanam: Sir, I merely stated that Sir B. N. Rau is a better legal authority than the questioner.

Sjt. Robini Kumar Chaudhuri: On a point of order, Sir, Hindu Law is absolutely and intimately connected with Hindu religion. Can anyone tolerate the idea of a non-Hindu being an authority on Hindu Law and principles?

Mr. Deputy-Speaker: I can well appreciate differences of opinion among hon. Members. But there is no room for excitement. Let there be patience first and all hon. Members will certainly contribute to the debate in a harmonious atmosphere.

Shri L. Krishnaswami Bharathi: The hon. Member who just now interrupted seems to say that Shri B. N. Rau is not a Hindu; it is an insinuation which should not be allowed. Shri B. N. Rau is not here and it is your duty, Sir, to protect him.

Mr. Deputy-Speaker: I am not in a position to say to what religion any particular person belongs. I do not know it personally. But I expect hon.

Members to keep within limits, and because they have got certain privileges, they should not defame others. They should keep within limits, and if an hon. Member makes an aspersion, it will be wrong.

The Honourable Shri K. Santhanam: Sir, I do not mind interruptions; but if those who are opposed to this Bill think that they have the monopoly of such tactics, they are mistaken. Sir, I assert with all the emphasis I can that Shri B. N. Rau is as good a Hindu as any in this House. And so far as I am concerned, I may say that my ancestors have come from very orthodox Hindus, and up to this moment we have not eaten even a little bit of fish, and I may claim to be more orthodox than . . .

Shri H. V. Kamath (C. P. and Bernar: General): Is eating or not eating fish a test of orthodoxy?

The Honourable Shri K. Santhanam: In my part of the country eating fish is considered to be the most heterodox fashion.

Pandit Lahabhi Kanta Maitra: And in my part of the country eating iddies and rasom is considered most objectionable.

Mr. Deputy-Speaker: Let hon. Members come to more lasting things like marriages and divorce, than *iddies* and fish.

Shri R. K. Sidhva: Let us not reduce the House to a fish market.

The Honourable Shri K. Santhanam: I again say that so far as adoption, guardianship, minority etc. are concerned, they are merely codification of existing law, as can be found in the judgments of British courts. Sir, whatever Manu might have written, whatever Yagnavalkya might have written, the present Hindu law is the law as interpreted in the British Courts for the last one hundred and fifty years, and against this interpretation, even Manu and Yagnavalkya are utterly helpless. So the Hindu law now is the law as interpreted and as laid down by the British judges in this country.

An Honourable Member: British judges?

The Honourable Shri K. Santhanam: British or Britishized judges. Therefore, Sir, I think we are at least as competent to change that law as the British Judges who have changed the ancient law into the present Hindu law as it is.

Sir, I come now to the next aspect of the Hindu Code—the unification portion of it. I am surprised that any Hindu looking to the future should say that so far as the law is concerned, no unification is necessary, that each part can have a regional law, that in Bengal we can have the Dayabhaga law, that in Malabar they can have the Marumakkattayam law and other parts the Mitakshra law and so on, that everything should be as it was in the ancient days. I cannot understand people when they say that in politics and in economics we shall be in the year 1950 A.D. but so far as the law is concerned we shall be in 1950 B.C. Sir, to say so is wholly a disintegrating and disastrous proposition. If Hindus have to be one community, if they have to have vitality they must all come under one law, whether it be Dayabhaga or Mitakshra. I can understand some people saying, "Let us have Mitakshra" or "Let Bengal come under Mitakshra". I can understand other people saying, let them all come under the Dayabhaga law. But to say that Hindus should be dissected into various regional groups, each having its own law, so that if a Bengali goes to Malabar, the courts would have to interpret three types of Hindu law, that I think, Sir, is pronouncing the doom of Hindu society. Sir, the enemies of Hindu society cannot ask for anything

[Shri K. Santhanam]

better than that Hindus should be administered by a dozen regional laws. Sir, by this Bill we are at last bringing Hindu society under one unified Hindu law, let it be any law, but it should be one unified Hindu law for the entire Hindu community. Sir, in this Bill . . .

Sjt. Botalni Kumar Chandhuri: Sir, on a point of order, the hon. Member is speaking communalism in this House. He is talking of unifying all the Hindus, probably against the Muslims and others. He wants one law for the Hindus; so he is preaching communalism.

Mr. Deputy-Speaker: This point of order only enlivens the debate, but it is not really any point of order.

The Honourable Shri K. Santhanam: Sir, the day this Bill is put on the Statute Book, the whole process of assimilation will begin and it will not be long before the rest of the Indians in this country will begin to conform to that law, and if necessary, we shall give them minor changes so that the whole country will come under one civil code. Sir, this process is not a disintegrating process but a cementing process. The process will go on and before long.

Pandit Lakshmi Kanta Maitra: It is going on outside.

Shrimati G. Durgabai (Madras : General): It is going on inside.

Pandit Lakshmi Kanta Maitra: Inspired by you.

The Honourable Shri K. Santhanam: I have been in this House too long to be worried by these interruptions.

Now, the question is whether we should prefer the Dayabhaga law or the Mitakshra law. My friend Pandit Mukut Bihari Lal said that Mitakshra law is followed by twenty crores of people and Dayabhaga is followed by five crores, and asked why should we choose the law of the five crores rather than the law of the twenty crores. I do feel that comparatively Mitakshra law was intended to serve the needs of ancient rural communities whose main property was agricultural land. It was on the basis of that conception of society that the right of birth and the right of survivorship were evolved. But we are fast evolving out of that primitive community into a modern community in which property goes from the immovable to the movable property. You have immovable properties diminishing and movable properties increasing. Even immovable property is being converted into movable property, in the form of shares, cash savings deposits and government securities and other things. Therefore, we should adopt that system which is in tune with these changes from the tangible immovable property to intangible and notional property. Where property is largely intangible, this right of birth is really impracticable. You cannot enforce it. It will always be open to the father to dispose of securities or shares or movable property. It is not possible for a son to inherit a right in shares. It is possible for him to inherit a share in agricultural land, but it is not possible for him to inherit a right in cash securities or other movable property. That is why this Bill has given preference to the Dayabhaga system of law rather than the Mitakshra system of law; not because it had any disrespect to the twenty crores who are under the Mitakshra law, nor because it had any special preference to the Dayabhaga system of law. Today, the right of inheritance by birth and right of survivorship have become archaic and impractical institutions.

Pandit Lakshmi Kanta Maitra: Primitive.

The Honourable Shri K. Santhanam: Either we drop them deliberately through legislation or they will be discontinued in an irregular and disorderly fashion.

Pandit Lakshmi Kanta Maitra: Follow Bengal in other respects also.

Some Honourable Members: Order, order.

Sjt. Bokini Kumar Chaudhuri: On a point of order, Sir, what right has a Member to call 'order, order'. I find Shrimati Durgabai calling 'order, order'.

Shrimati Renuka Ray (West Bengal: General): Is this a point of order?

Mr. Deputy-Speaker: I am extremely glad to find that hon. Members are sharing the right of the Speaker along with me.

Sjt. Rohini Kumar Chaudhuri: (*rose*).

The Honourable Shri K. Santhanam: I am afraid I shall not be able to give way to my hon. friend from Assam.

Sjt. Rohini Kumar Chaudhuri: All right; I shall keep quiet. If you want to suffer from the tyranny of women, you suffer.

Mr. Deputy-Speaker: Order, order.

The Honourable Shri K. Santhanam: Sir, much has been said about the so-called sacred institution of joint family. In the mediæval and ancient times, this so-called joint family might have served a very useful purpose. It is not my business to deny that. But, today, joint family exists only in controversy. I know the peasants; I have been in the rural areas probably much longer than many of you. I have worked for ten years continuously in the rural areas. I know, Sir, the first thing, when a peasant's son marries, the peasant does is, to set up a new house, give the son his share in the ancestral land, one acre or half an acre or one-quarter of an acre, and establishes the son as a separate family. Unless this is done, the peasant knows that his family will be disintegrated. In the case of certain very rich people, the so-called joint family may continue with a double system of account-keeping for certain purposes, to cheat the Income-tax and for other purposes. Ordinarily, even today, in the middle class families, what happens? One son lives in the village; another son is in Delhi in service in the Government of India; another son is in Madras in some other service; another son does business. What is the meaning of maintaining a joint family and ancestral property? It is better that they are allowed to partition. Then, if they want voluntarily to come back and live together, let them become a co-operative society, let them become any kind of legal personality suited to modern conditions. To continue the joint family owing to ancestral worship, without regard to the existing circumstances, I think it is sheer conservatism run mad.

Shri Brajeshwar Prasad (Bihar: General): A Daniel come to judgment.

The Honourable Shri K. Santhanam: My hon. friend from Bihar is a supreme example of Daniel as he has proved in the constitution making, and I am sure he will prove himself so here.

Shri Brajeshwar Prasad: You are also.

The Honourable Shri K. Santhanam: I am not giving way.

Mr. Deputy-Speaker: Let there be no talk across the table. I am exceedingly sorry; I have been a little indulgent. I find an acrimonious

[Mr. Deputy-Speaker]

controversy is carried on. So long as there is good humour there is no harm. However, the hon. Member must be allowed to go on. He may lose the trend of his thought. Otherwise also it is inconvenient to go on being harassed.

Sjt. Rahini Kumar Chaudhuri: Mr. Santhanam is in a very good mood.

The Honourable Shri K. Santhanam: Because my case is simple and straightforward and I need not get into a bad temper or raise all kinds of fantastic bogeys.

Let me now come to the next aspect, that is, rationalisation. One point which has evoked the greatest amount of opposition is the daughter's right to the father's property. If the old property had remained intact and if property consisted only of agricultural lands, then I can sympathise with those who say that to bring in a foreigner, an outsider into the family may mean a great deal of inconvenience. I have already stated that property is moving from immovable property to movable.

Dr. P. S. Deshmukh (C.P. and Berar: General): How can it? All landed property cannot be dissolved. The Hindu Code Bill will not evaporate lands.

The Honourable Shri K. Santhanam: So far as the peasant community is concerned, they automatically divide on marriage. If a son-in-law is willing to come and live in the village, I do not see why he should not be allowed.

Dr. P. S. Deshmukh: Hereafter, the rule will be divide and rule.

The Honourable Shri K. Santhanam: If the sons can divide, the daughter also can divide. In the future property will consist of cash securities and other things. Therefore, there is no reason why the daughter should not have the same right as the son. As a matter of adjustment, I am prepared to throw out one or two ideas. In estimating the share of the married daughters in a family, I think it would not be unfair to set off any amounts which may have been spent for their marriage. In many of the middle class families, the amount spent for the marriages is often equal to if not greater than the share which the daughter may get. I think that would be a fair set off. Similarly, if there is only one dwelling house or if there is only a small extent of agricultural land, I think it will not be unfair to say that so far as the daughter's share is concerned, she must take her share in the form of cash or other movable property rather than insist on a partition of the house or the immovable property.

Ch. Ranbir Singh (East Punjab: General): Wherefrom to bring that cash?

The Honourable Shri K. Santhanam: If you have a creditor, where will you find the cash? Is it not possible? It may be paid in easy annuities or in some such manner. In a harmonious family, adjustment will be easy; in an unharmonious family, courts can find ways and means of adjusting the burden without inequity to any party. Subject to these adjustments, I do not see any rational justification why the daughter should not be treated exactly on the same basis as a son. I do not think there will be any kind of hardship. All kinds of bogeys have been raised. After all the daughter becomes a daughter-in-law. If the daughter gets a share, similarly the daughter in the other house gets a share and therefore in the long run, except for an adjustment of legal rights through the establishment of self respect and social equality between man and woman, the property arrangements will remain much the same: because at present the daughter does not take away from the father's

house; she gets more in her father-in-law's house. Hereafter, under the Bill, she will take a little from the father's house, much less from the father-in-law's house. In the long run, there will not be much difference in the distribution of property. Only the process will be more satisfactory, and more self-respecting to all the parties concerned. The daughter will feel that she is as good as a brother; that is all. I think that that is a feeling which we ought to encourage in this country. We have removed all social inequalities in politics; we have given the women the same equal franchise as men. Why in point of inheritance and succession alone should we have any kind of stigma based on sex? I think the sooner we voluntarily give it up, the greater will be the strength of the country. Otherwise, some day or other, on account of the adult franchise, there will be such a vast volume of feeling among the women all over the country that would compel us to make the change. Then, it would be a disgrace to the men of India. It is better you do it now in advance of adult franchise so that we can go to the probably five or six crores of women who will be voters and say, "look here, we have done the right thing before you wanted it; we have given you the votes; we have given you property rights; you are equal to men; let there be no more sex conflicts."

The last point I have to deal with is the question of reform. It is in the field of marriage there is any real attempt at reform. It is partly 3 P.M. permissive and partly compulsory. The one compulsion is monogamy.

I want all my friends and Members of this House to stand up and say whether they approve this reform or not. They have been very prudently silent on this subject and in spite of speaking for three hours, I don't see why people avoid this subject. Do they want to establish monogamy or not?

Pandit Lakshmi Kanta Maitra: Monogamy is already established.

The Honourable Shri K. Santhanam: Some people actually enjoy the luxury of two or more wives, others enjoy mentally the possibility of more wives!

Shri H. V. Kamath: What about polyandry?

The Honourable Shri K. Santhanam: Therefore I say this that this is one thing in which the old Aryan tradition had made a profound mistake. It is time that we who consider ourselves to be the glorious descendants of the great Aryans now confess that it was a mistake and correct it rather voluntarily and unanimously. This polygamy must go. But complete and absolute monogamy will also become a legal fiction unless you provide reasonable facilities for divorce in very hard cases. Unless we provide such an outlet, it will bring evil.

Sjt. Mohini Kumar Chaudhuri: Do you agree for the women being prosecuted for adultery?

The Honourable Shri K. Santhanam: I agree to women being subjected to same penalties for the same crimes but probably my hon. friend from Assam has a soft corner for that subject. Monogamy and divorce provisions go together. They must be taken as one co-ordinated law and in this respect this Bill does propose a reform which is not sanctioned by the Shastras but this is a reform . . .

Pandit Govind Malaviya (U.P.: General): Do I understand that the hon. Member will oppose monogamy also if divorce is not sanctioned?

The Honourable Shri K. Santhanam: I will support monogamy in any case but I will support it in a rational form rather than in an irrational form. If

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my friend wants monogamy and at the same time that wherever a husband is impotent or a criminal, there should be no divorce or *vice versa*, then I think he wants monogamy in an irrational form. I want it in a rational form. That is the difference between us.

I will just touch one other aspect. One other great merit of this Bill is it takes away all legal sanction from the caste system. We abolished untouchability in the Constitution. Now we take the social reform further and take away all legal sanction for caste. Here in this Bill whether it is for marriage or for any other purpose, all Hindus from the so-called Untouchables up to the so-called Acharya Brahmins—all of them are one.

Some Honourable Members: Without a caste, who is a Hindu?

The Honourable Shri K. Santhanam: My friend asks "Without a caste, who is a Hindu?" With the caste. I think, Hindu is a monster according to me. (*Hear, hear*). In this country we want to establish a Hindu Community without caste. Either we cease to be Hindus altogether or we establish Hinduism without caste. There is no alternative left for us.

Shri Lakshminarayan Sahu: Mohammadans also can be called Hindus.

The Honourable Shri K. Santhanam: On the day the Muslims accept the Gita and Vedanta, I am prepared to embrace them as Hindus.

Shri M. Tirumala Rao: Even Gita refers to caste.

Mr. Deputy-Speaker: Let there be less of this cross talk. The hon. Member may go on. Each one is trying to persuade the other.

The Honourable Shri K. Santhanam: In spite of interruptions I am going to convince some of my friends. My friend Mr. Tirumala Rao says that I am swearing by the Gita. What I am saying is they form the minimum article of faith for all the Hindus. Therefore if after this Bill there are no distinctions between Hindus, Muslims and Christians, then it is better for the whole country. We are not proud of keeping alive distinctions which have no meaning or which are irrational. If Muslims also remove all such distinctions which are irrational; if Christians remove all distinctions which are irrational, we shall before long meet on a plane in which we are all one—whatever we may call ourselves. Meanwhile our object both in the Constitution and in this Bill is to see that the majority community in this country are strong, united and have shed all prejudices and practices which have divided it into sects and will become an invincible foundation on which the glory and strength of future India can be built. I am sure that without this Bill and without the changes, the Bill advocates, the Hindu community will be a weak, torn and unprogressive community and if the majority of the people continue in that condition we cannot make much of the political and other economic opportunities which the Constitution and God have given us. Therefore I have said this is really complementary to the Constitution which we have enacted and it is in the supreme fitness of things that the same body which enacted the Constitution will also be enacting this Hindu Code into Law. I hope it will be put on the Statute Book and our descendants will say that these people not only enacted the Constitution but also reformed the Hindu law.

Pandit Lalchami Kanta Maitra: Destroyed the Constitution!

The Honourable Shri K. Santhanam: I believe our ancestors are watching and are blessing us for this.

Shri Loknath Misra: On a point of information. My friend has just now sworn by the Vedanta and the Bhagvad Gita. Is he prepared to reject any provision that will go against the tenets of these?

The Honourable Shri K. Santhanam: If they are based on wrong premises, I am bound to reject them.

Mr. Deputy-Speaker: It is unnecessary to carry on this argument.

The Honourable Shri K. Santhanam: Sir, I do not want to tire the House. I have dealt with the main points which came to my mind. I wish to appeal to those who by ancient prejudice have come to feel that it is their duty to oppose the Bill to reconsider their attitude, to have another vision—the vision of a Hindu community without caste, without distinctions, all pulling as one man. If we could convert the present disintegrated, weak and for a thousand years servile Hindu community into a very strong, healthy and great community, we would have done a work which our sons and grandsons will be proud of.

Shri H. V. Pataskar (Bombay: General): Sir, we are considering a Bill which is going to revolutionise the structure of the Hindu society. That society comprises more than about 25 crores of people at the present time. It is therefore not unnatural that even the common man has begun to take interest in what is happening and it is best in the interests of all sides, to take into account the fact that when we are revolutionising by this Bill the whole structure of Hindu society, it is not desirable that we should ignore the feelings that have been roused in the common man with respect to the provisions contained in the Bill.

The common man is at the present moment ill-equipped with education. He is worried with the problem of feeding himself and his dependents. He is faced with scarcity of clothing, for want of funds if for nothing else, and he generally finds life so difficult. Even then he has begun to take interest in this legislation because he thinks that this Bill is going to affect the structure of his Hindu society, which is the growth and product of several centuries past. Therefore it is that we must first educate him before we undertake the serious task of changing the whole structure of the society to which he belongs. I will make it first clear that I am not opposed to many of the provisions of the Bill but the time selected for the purpose, to my mind, is most inopportune, I propose to take only 20 minutes and if I am allowed to make my remarks without interruptions I will be able to finish it within that time, because I am aware that there are many members of this House who are interested either on one side or the other and who want to take part in the debate.

The common man, so far as I have been able to understand his reactions to the Bill, thinks that at present the attention of the Government should be concentrated on the problems which affect him in the matter of his food, clothing, inflation and several other things. When he is worried about his day to day needs and what he requires for his sustenance he naturally asks why are the Government interested in what form his marriage should be, whether he should have one wife or more, when he cannot even sustain one. All these things may be necessary and I am not opposed to reform. It has been admitted and our leaders are also saying it that we are passing through very critical times. We know the difficulties of the people. There is scarcity of food, clothing and the other necessities of life. Compared to the common man we are living here a comfortable life. He naturally thinks that what the leaders should concentrate upon is more the solution of his day to day problems than the problems relating to marriage, inheritance, etc. These things have been there for centuries past and it would not matter if they go on in the same way for some more months or even years.

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If our sisters who are enthusiastic about the Bill or our other friends who are clamouring for the immediate codification and amendment of the Hindu Law, if they approach the common man in the rural areas, they will find that he is so much worried about so many other things that he is surprised why at this moment you should rush a measure of this sort through in this House. He naturally thinks that this should be stayed for the time being. There is quite a lot of discontent in the country. On account of the partition there is the problem of the refugees who have to be settled and sheltered. At this moment is it necessary to interest ourselves so intently on this question, as to what form our marriages should be? The time chosen for rushing the Bill through is not very opportune and it is likely to add to the difficulties of the situation rather than do otherwise.

What are the subjects dealt with under this Code? Marriage, Inheritance and Adoption. So far as marriage is concerned there is even now the Civil Marriage Act, under which those that do not want to marry in the orthodox way can marry. Many people are as a matter of fact doing it. Therefore this measure does not look so urgent as made out.

An Honourable Member: Under that Act you have to say that you do not belong to any religion.

Shri H. V. Pataskar: That is gone my dear friend: it is dead and gone, long past. Under the Civil Marriage Act any two Hindus belonging to any caste or community, without making a declaration that they do not belong to any religion, can get married and there is nothing to prevent them from doing so.

There is much agitation with respect to the question of inheritance. We have laid down the equality of the sexes as a principle in our Constitution and in these days it is not possible for anyone to go back upon it. The objection raised is not with regard to the equality of the sexes. A father who has a son and a daughter loves them both equally and there cannot be any difference. But so far as inheritance is concerned it has to be looked at from a different point of view. For that you have to look at the development of the present structure of our society. This structure has been evolved through a process of evolution during the last many centuries. Hinduism is not a religion in the sense in which Christianity is a religion, Zoroastrianism is a religion or Islam is a religion....

An Honourable Member: What is religion then?

Shri H. V. Pataskar: Christianity is the religion of those who believe in Christ and follow his teachings in the Bible. The Zoroastrians are the followers of Zoroaster and Islam is the religion of those who believe in Mohammad the Prophet and the Koran as their sacred book. But what is Hinduism? Hinduism includes not only the followers of the Vedas or the followers of Rama and Krishna or Shiva or of the innumerable gods in various shapes and forms but it also includes those who worship nature and those who do not believe in any God whatsoever and those who do not believe in the oneness of God also. Their places of worship, methods of worship and objects of worship are all varied. Hinduism is a growth which has absorbed all the different currents and streams of social and religious beliefs and practices prevailing over several centuries. It is an all-embracing faith consistent with the ideal of **कुर्वन्तो विद्मः सत्यम्** Hinduism at present is a growth which has contrived to combine in it all these various streams of life. At present Hinduism may be a cast-iron system, but it has not always been so. Our religion is based not on the tenets of one

particular man or of one particular book, but it based on what is *dharma*, and **धर्म** means धारयते अर्नं न इति धर्मः : or धारणात धर्मः इत्यदुः *Dharma* is that which sustains society. That is the ideal on which our Hindu society is built, namely that which is necessary for the sustenance and advancement of society. Of course I do admit that the present state of Hindu society is not a very happy one. But it has not been all along so. Therefore I take you to this point because it will give you an idea as to why there is objection to this Bill. That which sustains society is religion and sustenance of the society is our ideal. Our society may appear stagnant at present, but it is not, has not been really so. Hinduism has undergone vast changes in the course of its evolution. I am not afraid of changes. It has undergone several changes in the past. At one time Buddhism was flourishing in this land and engulfed not only Bharat Varsha but it spread to far off countries beyond Bharat Varsha. But today there are very few Buddhists to be found here. What has happened to them? They have been absorbed in Hinduism, they have undergone a metamorphosis, and we of the present generation are their descendants. That shows that we are not a stagnant race and that we have adapted ourselves to the changing needs of society. I for one be changed. That is not the real nature of Hinduism. And I am not one of those who say that what we now call Hindu Law should not be changed. Our Law has in fact undergone changes even during the period of the British domination.

The previous speaker, the hon. Mr. Santhanam, rightly referred to the fact that judicial interpretations by courts which were not conversant with the original tenets of various laws regarding inheritance, adoption and marriage have not only changed the course of our social and economic life but have created many anomalies also. It has certainly become desirable to remove those anomalies and bring our Law in conformity with the changing needs of society. The world is changing fast and we cannot but be affected by what is happening elsewhere. We do not wish to say that we will keep ourselves away from the rest of the world. That is not the idea. But the codification of the Law is one thing and amendment of it is another. This Bill seeks to do two things. We want to codify the law and amend its provisions. So far as codification is concerned, I understand it means that we want to remove the anomalies. At the present moment we have got so many systems of law prevalent. There is Dayabhaga in certain parts, there is Mitakshara in certain other parts, and the Bombay school has its own distinctive features. And there is what is called Marunnakkattayam in certain parts of South India. But the areas where they are prevalent have also become well-defined, and there is a certain amount of stability. Therefore, if we proceed first with the task of codifying the law as it stands at present in these well-defined areas, that itself will not only bring about uniformity but it will also lead to a process of amendment at a later stage. Mere codification of the law as it stands will also not evoke much controversy, because that is the existing law. In respect of the question that it has been modified by the courts consisting of British judges, there is a certain stability about it. Therefore, if we only confine ourselves to codification I think much of the opposition that we see at the present moment will not be there. Not only that. If we do the codification only we will secure the goodwill of the people and I believe that it will facilitate the amendment of the Hindu Code for certain other matters and by gradual stages subsequently. But the amendment of the existing law in the way it is tried to be done is another matter. Codification and amendment of the law have been hanging fire for the last so many years. In my view if we had proceeded with the codification only as a first step, the law would have been codified long ago. Ever since the Rau Committee was appointed, evidence was taken and so many Reports and so many Bills were formulated. But they tried to do two things simultaneously, namely, codification as well as amendment. Naturally, both have

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remained unfulfilled. If they had confined themselves to codification only, it would have been done long back and the stage would now have been reached for amendment. That is my view of the matter.

The present Bill deals, as I said, with three distinct matters, namely marriage, inheritance and succession. Let us see what the basic idea of our society is. With the impact of modern ideas, modern education and modern methods of life the question of equality of sexes has naturally been agitating the minds of people, particularly of the educated women of the country. We have also accepted that equality in our Constitution. So, superficially looked at, it strikes one as to why there should be any difference between a son and a daughter in the matter of inheritance. But the question is not such a simple one. A father's desire for the well-being of a son or daughter cannot be different. Naturally his love and affection is bound to be equal. No sensible man can think that the son should get everything and the daughter nothing. In fact that has not happened. Reference was made that even in the middle-class families,—leave aside the rich, they are very few in number—the father spends much more on the marriage of the daughter than what his son could ever hope of getting, in many cases even at the cost of the education of his sons. I say 'in many cases'. That is my reading of the matter. Why then is there opposition in regard to inheritance? Even the Sanatanist loves his daughter as much as his son. We cannot say that Sanatanists make a difference in this respect. The opposition is due to an important factor for considering which we must look to the whole structure of our Hindu society.

A reference was made by my hon. friend Pandit Mukut Bihari Lal Bhargava in this respect. I would like to elaborate that point a little in as short a time as I can. The whole structure of our Hindu society is evolved through centuries and centuries of time. In the structure of our society the basic unit is the family. And on the continuity of that family as a unit rested naturally the stability of our society. It is not based on an individual as unit, but more or less the basis of the whole structure is the family as a unit. And the continuity of the family was naturally the main object with which all our laws and customs have been evolved from time to time. The pivot therefore was the continuity of the family which was the unit of the structure. Daughters naturally by marriage pass into a different family while the sons remain in the family to continue it. To foster the continuity and to prevent its being broken up the joint family system was evolved. Why was the joint family system a peculiar feature of Hindu society? Because Hindu society is based on the continuity of the family. That is why the joint family system is a peculiar institution of Hindu law not known to other systems of law which are more or less based on individuals. Till only a generation or two back the joint family system worked well. It has maintained the continuity and stability of our social structure for centuries past. That is why there is objection to the throwing open of inheritance to the daughter. That objection is not for political or social reasons but because if you open the inheritance to a daughter the result is that the whole social structure based on the joint family system will be broken.

The trend in the modern world is towards individualism. The joint family system is cracking in many places. I would go to the length of saying that the joint family system would not continue for all time under modern conditions. But as it is there, the question is whether we shall gradually replace it by the individual as the basis of our society or whether we shall break it up by law as is proposed to be done by this measure. If we want to break up the Hindu society suddenly, then I am afraid we shall be rocking and shaking the foundations of that society which may result in consequences unforeseen and unpredictable. The danger involved is not the mere opening of inheritance to daughters but the fact that by that opening up of inheritance the whole basis of society

is involved. Hence the opposition. If only we try by an evolutionary process to help in the process of disintegration of the family which has already started owing to various economic and social causes, the same results as are aimed at will be achieved but not suddenly and abruptly. There is a clause in the Bill which says clearly that from the date of the commencement of the Code the whole joint family system as such will disappear. You are trying to do it suddenly and to my mind that is sure to rock the very foundations of the society which has been based for centuries past on the joint family as a unit of society. I would appeal to my enthusiastic reformer friends that while I am one with them, that this system no doubt has to be changed, and that as the world stands today no one will be able to resist it for too long, while that is so the question is whether we shall do it gradually, whether we shall carry the people with us and go as far as they come with us, or as far as we can drag them with us, or on the other hand whether we shall suddenly, by a stroke of the pen and by legislation, say that all this joint family system is destroyed. Even in these days when owing to abnormal circumstances people are worried by so many problems, this question is attracting their attention and therefore any abrupt action is likely to result in a state of affairs which is desirable neither to the reformers nor to the others. I agree we can't remain stagnant. The Hindu society has undergone so many changes in the past but by a different process altogether. If we try to force the events which must happen gradually, I am sure the result is not going to be very happy.

Sir, I am surprised at one thing. Here we are trying to preserve adoption. I don't know for what purpose. Adoption is a thing which is peculiar to Hindu law. In other societies also children are adopted but not for the purpose of continuing the family, only to satisfy the natural craving in any human being to have children and to rear them. I am told that in America and England also people do adopt children but there the object of adoption is different. The adoption as envisaged in the present system of Hindu law is peculiar and it is so because the Hindu structure of the joint family is based on the continuity of that joint family. But after the break up of the joint family in the way you are trying to do by this legislation, what is the necessity for making a provision for adoption? Look at it from a different view. Why was adoption a peculiar feature of Hindu society? Because the main feature of the Hindu society was the basis of the joint family and its continuity required adoption. With the breaking up of the joint family and the coming of individualism, I don't see why we should waste our time on trying to preserve adoption. I am certainly against adoption. Even in the case of adoptions that now take place, 99 cases out of 100 result in litigation in courts because the whole idea has undergone a change. The widow adopts a child thinking that the boy adopted might be useful to her in managing her property and affairs free of charge. The boy thinks that by adoption he will get something from the person who adopts him for nothing. So, at present adoption takes place purely from a motive of self-interest; adoption as conceived in the olden days is disappearing. As a lawyer of some standing and experience, I have found that in 99 out of 100 cases of adoption the result has been litigation because the original idea underlying adoption has undergone a change. But now with the coming into force of the provisions of this Bill the whole joint family system will disappear, the individualistic society as in other parts of the world will come and it is therefore not necessary to make any provision regarding adoption. It would be confusing to do so. If we are consistent and logical in what we are doing, we should do away with adoptions altogether.

I have now to refer to marriage and divorce. A point was raised by the hon. member Mr. Santhanam who asked everyone whether they were against or in favour of monogamy. I would say that monogamy is absolutely necessary in these days. I don't think there is any member in this House who is opposed

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to it. But is the Hindu Code Bill necessary for that purpose? We have got a measure in the Bombay Province by which, so far as that Province is concerned, there is monogamy and as a natural corollary to it divorce in certain cases is allowed. We have not gone further than that measure in these matters. If the only object is to ordain monogamy then I say there can be no objection to it for apart from ideological reasons there are practical reasons also in its favour. Nobody now wants to have more than one wife. There are very few excepting a few millionaires and multi-millionaires who can afford to have that luxury; others can't have it. It is not even a mental luxury as suggested by the hon. Mr. Santhanam for the simple reason that one cannot manage without anxiety even with one wife and her children. What mental luxury can a man derive by the idea of being able to marry another wife under these circumstances? As a matter of fact, it is quite a simple proposition and I think both sides would agree that monogamy must be the rule.

But let us not try to confuse the real issue regarding divorce. As soon as you have monogamy the result is that supposing one of the mates is a leper you have to make arrangements to see that the other is relieved from that liability or else you will be denying him the conjugal right. In some respects divorce is a corollary of monogamy. Even Manu, the great law giver, has provided for such cases.

नष्टे मृते प्रव्रजिते क्लोदे च पतिते पत्नी पंचत्सु आपत्सु सुनारीषा पतिरत्यो विधीयते ।

But the main point so far I am concerned is that whether you lay down monogamy by law or not it is going to be the rule with at least 9,000 out of 10,000 people. So that question need not agitate our minds at all. Sir, apart from all these considerations, there is one last point. A uniform Civil Code must be our endeavour according to article 44 of the Constitution which we have already passed. We have incorporated a Directive Principle in our Constitution that the State shall endeavour to secure a uniform Civil Code throughout the territory of India. I would like you seriously to consider whether by enacting a measure like this only for the Hindus we are advancing the cause of our progress towards that ideal. I should think that we are going backward rather than forward. My hon. friend Mr. Santhanam seemed to think that after the passing of that article 44, we are trying to progress towards that ideal by this measure intended to weld Hindus into one. It may or it may not be so. What is to be welded in the interests of the security of our nation is not the welding of Hindus alone but all the citizens of this country. All the inhabitants of India should be welded into one. Marriage, inheritance etc. form part of civil codes of all the countries world over. They must do so in India also. That Code should apply to all citizens whether they be Hindus, Christians or Parsis or Muslims. From that point of view, we are going exactly in the opposite direction. I tell you why. The shibboleth of no interference in religious or semi-religious matters was the creation of a foreign government. It was imposed upon us in their interests and not in our interests. What is there today to prevent us from including all these things in a uniform Civil Code? The present Hindu Code was conceived under different circumstances, and at a time when there was no ideal of having a uniform Civil Code. But since then, things have changed enormously and especially after Pakistan, it should be our endeavour to bring closer all the different elements in the country, be they Hindus, Christians, Muslims or Parsis. I do not want that anything should be done for Hindus alone in such matters. We have already decided upon joint elections for welding all the people of our country into one. One uniform Civil Code will further bring all the people together. That is the process which we must follow and which demands the attention and interest of all of us. We must give up this idea that we cannot interfere in the laws of inheritance and other social matters of persons

belonging to other religions. That idea must go. At the present moment, instead of building one well-knit society, we want to stick to the old thing which was conceived at a time when the aim was to keep us apart. Now the idea is different. The security and well-being of our people demands the enactment of a uniform Civil Code. I do not care whether I offend the susceptibilities of some orthodox friends when I say this, but I am quite frank and open. If things are to be done, they must be done in the right way. We cannot partly stick to the old things and partly bring in new things. In this connection, I can mention that a uniform Civil Code is in operation in Goa. The Law Minister himself probably knows that. The laws of intermarriage etc. are applicable to Christians, Hindus, Muslims and everybody alike in that part of India under the Portuguese. If that is so, why should we be afraid? Our fear is the result of what we have inherited from the past—this shibboleth, I said, of non-interference in religious or semi-religious matters. But that was done by the British for their own purposes, because they wanted to keep us apart. Now our ideal is to unite all our people in the nation. What we ought to do is instead of proceeding with a Bill of this nature, our Law Minister should, immediately after the 26th of January 1950, bring forward a uniform Civil Code applicable to all people throughout India. I know my enthusiastic sister Members thought when I rose to speak that I was an opponent of this Bill. Let me hasten to add that I am entirely for equality and all those things. But this is not the way in which we should do it, by destroying one thing and creating difficulties in another. For the sake of a uniform Civil Code, we can go and tell our Hindu friends that the joint Hindu family must go, that it is necessary in the interests of the nation. But what we are doing is in the opposite direction. I am afraid it will lead to very undesirable and unforeseen consequences. I will just cite an example. In Ahmadnagar City in Bombay province, a young Hindu widow wanted to marry a Muslim. I do not know whether it was a love affair or what it was. But she wanted to marry a Muslim. As you know, those days we were passing through critical times. There was a lot of trouble. There were riots and some lives were lost. So this Muslim gentleman got afraid not only for the sake of his own safety but the safety of his community. He said I do not want to marry or do anything of the kind. She could not marry without conversion to Islam as the Muslim gentleman had already wife and children. She could marry only if she converted herself into a Muslim. In the Province of Bombay we have also enacted a measure which prevents a Hindu from marrying more than one wife at a time but does not prevent Muslims from doing so. By the present Bill also you are giving the exclusive right to a Muslim to have as many wives as he likes or at any rate up to four. Now what happens is, if a man,—a very wealthy man—wants to marry another wife, he can get himself converted into a Muslim and he can have as many wives as he likes. Considered from all points of view, the interests of our country demand that hereafter at any rate we should strive to achieve a uniform Civil Code for all people. That is what is happening all over the world. As I pointed out before, such a code exists even in a Portuguese territory in India viz. Goa. The present Hindu Code is an artificially engineered device of the former rulers, when they tried to keep us apart. We must try to get out of that rut. We must endeavour to form a well-knit, uniform society. We want to form a single State, not based on religious tenets, whether they be Hindu or Muslim or any other, but a truly secular State. For this a uniform Civil Code is absolutely necessary. I therefore suggest that this Bill should not be proceeded with. It will serve no purpose. Therefore, I appeal to my hon. friend the Law Minister to withdraw this Bill, bring forward a uniform Civil Code regarding the matters covered by this Bill applicable to all citizens alike whether they are Hindus, Christians, Muslims, Parsis, Jews or others.

श्री राम मशाय : उपाध्यक्ष महोदय, जब यह बिल सेलेक्ट कमेटी को जा रहा था, उस वक्त मैंने इस बिल का स्वागत करते हुये सेलेक्ट कमेटी के सदस्यों से

[श्री गम सहाय]

यह निवेदन किया या कि इसमें कुछ बातें ऐसी हैं जो आज कल की हमारी मौजूदा संस्कृति और सभ्यता के विरुद्ध हैं, उन पर विचार किया जाय। लेकिन मैंने यह देखा कि उस पर कोई खास तवज्जह नहीं की गई। अभी कल हमको ऐसा मालूम हुआ है कि इस सम्बन्ध में एक कमेटी फिर बनने जा रही है। इसी वजह से मैं हाउस का कुछ समय लेने के लिये खड़ा हुआ हूँ। मैं इस बिल के विरुद्ध नहीं हूँ, मैं चाहता हूँ कि इसमें कुछ ऐसे सुधार हो जायें कि जिसमें दूसरे लोग जो इसके अपोजीशन (opposition) में हैं उनका ख्याल कुछ मिल जाय। यही कारण है कि मैं इस हाउस के कुछ मिनट का समय लेने के लिये खड़ा हुआ हूँ।

मेरा निवेदन यह है कि अभी मिस्टर सन्याम ने कहा है कि हम इस बिल के द्वारा जातपात को तोड़ कर एक जगह इकट्ठा होने जा रहे हैं। मैं मानता हूँ कि इस तरह का ख्याल और इस तरह का बिल हमारा स्वागत पा सकता है और उसको अवश्य ही पाना चाहिये। अगर हम जातपात तोड़ कर शादी विवाह कर सकें, अदोप्शन (adoption) कर सकें, और एक दूसरे के साथ इस तरह का सम्बन्ध कर सकें जैसा कि कुटुम्ब में होता है, तो मैं समझता हूँ कि इसमें किसी को भी इन्कार नहीं करना चाहिये। मगर मेरे दिमाग में जो इस के बारे में थोड़ी सी डिफिकल्टी (difficulty) महसूस हो रही है वह मैं हाउस के सामने रख देना चाहता हूँ, और यह सक्सेशन (succession) के सम्बन्ध में है। गो कई जगह लड़कियों को उत्तराधिकार देने का रिवाज है और उनको उत्तराधिकार दिया जाता है और कहीं कहीं हिन्दू सोसायटी (society) में वैसी प्रथा चल भी रही है। लेकिन आम तौर पर आज हिन्दू समाज में जो व्यवस्था है उसको देखते हुये मैं यह समझता हूँ और मुझे ऐसा प्रतीत होता है कि यह कोई अच्छी चीज नहीं होगी। इस कारण से नहीं कि मैं यह नहीं चाहता कि पुत्रियों को कोई हक नहीं मिलना चाहिये या स्त्रियों को समान अधिकार नहीं होना चाहिये और उनके साथ किसी दूसरे किस्म का व्यवहार होना चाहिये। नहीं, मेरा हरगिज ऐसा मकसद नहीं है। मुझे सन्देह यह है कि जिस व्यवस्था में हम रह रहे हैं और अरसे से जिस व्यवस्था को हम फालो (follow) कर रहे हैं उसमें उपयुक्त तरीके से इसको कार्यान्वित किया जा सकेगा या नहीं। मिसाल के तौर पर मैं आपके सामने उत्तराधिकार की बात कहना चाहता हूँ। लड़कियों को इसमें बराबर का हक दिया गया है। मुझे इसमें कोई आपत्ति नहीं है चाहे और भी ज्यादा हक दिया जाय। लेकिन जब इस तरह का सवाल पैदा होता है तो भविष्य में हमारे सामने क्या क्या दिक्कतें आ सकती हैं उनके ऊपर तो मैं हाउस के सामने कुछ निवेदन करना चाहता हूँ। आज इस जमाने में जो लड़कियों का स्थान है वह मैं समझता हूँ कि किसी दूसरे का हिन्दू समाज में नहीं है। हमने जाने अनजाने

इस व्यवस्था को बिगाड़ दिया और उसके ही प्रायश्चित्त स्वरूप हमको यह बिल लाना पड़ा यह हमारे दुर्भाग्य की बात ही हो सकती है। लेकिन फिर भी मैं यह कहूंगा कि आज हमें उसमें सुधार करने के लिये बहुत सी गुंजाइशें हैं। कोई भी हिन्दू पिता, मैं समझता हूँ, अपनी लड़की से भेदभाव नहीं करना चाहता। वह हमेशा अपनी लड़की को ज्यादा से ज्यादा देना चाहता है।

बाबु रामनारायणसिंह: बहुत ठीक है।

श्री राम सहाय: वह अपनी लड़की का ऐसी जगह सम्बन्ध करना चाहता है कि लड़की उससे ज्यादा अच्छे आदमी के घर जाय। मैं पिता की ही बात नहीं कहता। मैं तो कह सकता हूँ कि कोई भी हिन्दू भाई भी ऐसा नहीं हो सकता जो अपनी बहिन को अच्छे घराने में न देना चाहता हो। शायद हजारों लाखों में कोई एक मिसाल मिले जो इसका अपवाद हो। लेकिन मैं समझता हूँ कि शायद ऐसी मिसाल नहीं के बराबर मिलेगी। फिर हम नहीं समझते कि हमारे सामने यह मसला क्यों लाया जाता है कि लड़कियों को उत्तराधिकार में लड़कों के बराबर हक दिया जाय। मैं इस वजह से यह कह रहा हूँ कि हमारे मध्यम वर्ग के लोगों में जायदाद के बटवारे में भाइयों के बीच जो मुसीबत पैदा होती है यह हमारे सामने है। लड़की को तो दूसरे खानदान में हिस्सा मिलता है। अब अगर वह भी अपने बाप की जायदाद में हिस्सा लेने की सोचेगी तो मैं समझता हूँ कि हमारी व्यवस्था में गड़बड़ी जरूर पड़ेगी। यही एक कारण है कि जिसकी वजह से मैं हाउस के सामने कुछ थोड़ा निवेदन करने के लिये खड़ा हुआ हूँ। मैं यह समझता हूँ कि इस किस्म की चीज के करने से भाई बहिन में जो प्रेम है उसमें कुछ फर्क जरूर पड़ेगा। जब भाई भाई में, जो कि एक ही खानदान में रहते हैं, जायदाद के बटवारे के कारण निफाक पैदा हो जाता है, फिर ऐसी सूरत में जब कि लड़की दूसरे परिवार में जायगी तो क्यों ज्यादा झगड़े नहीं होंगे। जब भाई भाई में, जिनमें स्नेह होता है, झगडा होता है तो जब लड़की दूसरे घर में जायगी उस घर में उस लड़की के सिवा कोई दूसरा आदमी ऐसा नहीं होगा जो उस स्नेह को कायम रख सके, बल्कि उसमें तो ऐसे लोग ही मिलेंगे जो इसको उभारेंगे और मुकदमें बाजी को मौका मिलेगा। जब इस चीज से हमारी व्यवस्था में इस तरह की खराबी पैदा होने का अन्देश है, तो मैं नहीं समझता कि हमें जानबूझ कर ऐसी चीज को क्यों करना चाहिये।

इसी तरह मैं हिन्दू ज्वान्ट फेमिली के बारे में भी कुछ निवेदन करना चाहता हूँ और यह यह है कि जब हम मानते हैं कि हम कोआपरेटिव सोसाइटियां कायम करें, और हम कोआपरेशन के लिये लोगों को दावत देते हैं कि हम उस चीज को

[श्री राम सहाय]

अपने देश में फैलाये तो फिर ज्वाइट फॅमिली सिस्टम को जो कि कोभापरेशन के आधार पर कायम है, उसको मिटाने के लिये और उसको दूर करने के लिये क्यों फिर्क करनी चाहिये। मैं आपसे यह निवेदन करूंगा कि इन दोनों बातों को ध्यान में रखते हुये कुछ इस किस्म की व्यवस्था अवश्य होनी चाहिये कि जिससे दोनों पाईट (points) मीट (meet) हो सकें। मैं समझता हूँ कि जो थोड़ी सी गड़बड़ी कुछ जनता में इस हिन्दू कोड बिल की वजह से हो रही है और इसमें जो कंट्रोवर्सल (controversial) पाईट है वह विशेषतया सक्सेशन का ही है। उस सक्सेशन के पाईट को अगर हम मीट कर सकें तो उस पर अच्छी तरह से विचार कर सकेंगे और हम जरूर इस कोड को एक मत से पास कर सकेंगे। मैं इस हाउस का ज्यादा समय न लेता हुआ इतना ही निवेदन करूंगा कि कमेटी के सदस्य जो आयन्दा उस कमेटी में बैठें वह इस दिक्कत को ध्यान में रखते हुये इस पर विचार करें, इस ख्याल से नहीं कि लड़की को पतिव्रत सम्पत्ति में हिस्सा नहीं मिलना चाहिये, बल्कि इस ख्याल से कि हमारी व्यवस्था में फर्क न आये।

मुझे एक आपत्ति और मालूम होती है। शायद मेरी समझ की भूल हो, लेकिन जहाँ तक मैंने श्रौ किया है उससे मालूम होता है कि अगर हम एक लड़की और एक लड़के को लें तो देखेंगे कि लड़के और लड़की दोनों को इसके अनुसार अपने माता पिता की जायदाद में हिस्सा मिलता है, लेकिन लड़की को माता पिता की जायदाद के अलावा अपने ससुर की जायदाद में भी हिस्सा मिलता है। मैं नहीं समझता कि यह असमान्यता रखने का क्या कारण हो सकता है। क्यों इस किस्म की व्यवस्था इसमें की गई है। इसको मैं नहीं समझ सका। हमारे लां मिनिस्टर साहब जब इस डिबेट को खत्म करें तो इस पर भी रोशनी डालें कि इस किस्म की चीज रखने का क्या कारण है।

मैं हाउस का ज्यादा वक्त न लेकर केवल इतना ही निवेदन करूंगा।

lish translation of the above speech)

Shri Ram Sahai (Madhya Bharat): Sir, while welcoming this Bill at the time it was being referred to the Select Committee, I had submitted that the Members of the Select Committee should consider some of its features which are at variance with the modern culture and civilization which we profess these days. But I note they have paid no particular attention to that. Only yesterday we have come to know that once more, a Committee is going to be set up in this connection. For this reason alone, I stand here to take a little time of the House. I am not opposed to this Bill. I seek only to bring in certain amendments which may accommodate to some extent the views of those who are opposed to it and that is the only consideration which has guided me to stand here to take a few minutes of the House.

The hon. Mr. Santhanam, I have to submit, had observed that through this Bill we were going to discard all caste distinctions and thus marching towards

integration. I agree that such an idea and a Bill of this type is worthy of our welcome and, as such, must be welcomed. In my opinion nobody need object if it becomes possible to have intercaste marriages, adoption and develop other family relations with one another. But, in this regard, I feel a little difficulty which I intend to place before the House. This is over the succession issue. The custom of inheritance, no doubt, prevails and is practised at many places while in some a similar custom is being introduced in the Hindu Society. But considering its general set-up, it seems to me and I am of the opinion that ultimately this won't prove to be a good thing. My opinion is not based on any desire to withhold daughters' rights or deny equal rights to women and for the matter of that to treat them on a different footing. I emphatically disclaim any such motive. I doubt only if the idea can be made a workable one in a suitable way in the general set-up of our society in which we are living at present and which has been followed by us for so long. For instance, I want to say one word in connection with the right of inheritance. Herein share on equal basis has been conceded to daughters. I have no objection even if they are given a greater share. I want only to place before the House a few things in connection with some possible difficulties which may arise in future whenever such a problem comes up. At present girls enjoy a status in the Hindu Society which none else enjoys. Consciously or unconsciously we have tampered with the social regulations for the worse and now have to bring up this Bill as a repenting and a compensating measure. This is certainly our misfortune. Despite this I will assert that there is much scope left for reformation. To me no Hindu father can ever desire to mete out a prejudiced treatment to his daughter, rather he wishes to give away more and more to her.

Babu Ramnarayan Singh (Bihar : General): It is correct to a large extent.

Shri Ram Sahai: He wishes to marry her in the house of a man placed better than himself. Not to speak of the father only, I am in a position to assert that even no Hindu brother can desire not to marry his sister in a more fortunate family. There may be found an exception in thousands or laes of cases. But I think that such an instance is almost non-existent. I fail to understand why then the issue of parity between sons and daughters in the matter of inheritance is made to confront us. I say so as we have before us the quarrels among the brothers over the division of property in the middle-class of our people. The daughter is given her share in the other family. But should she think of having a share in his father's property also; in my opinion it is certain to lead to disruption in our social structure. Out of this consideration I have come before the House to make these observations. In my opinion such a course is bound to impair the affection between a brother and sister to some extent. When disruption is possible among the brothers with a common family-link over the division of property, surely more serious quarrels will arise with daughter living in a different family. When such quarrels can arise among brothers who have a common bond of love in between themselves, there shall be none in the house where the daughter goes who can maintain that affectionate regard. There shall be, on the contrary, persons who will incite and thus pave way for litigation. I don't at all follow why we should take recourse to a thing having full consciousness of its being pregnant with possibilities of disruption of our social structure

Likewise I would like to say something as regards the Hindu joint family. We have recognised to set up co-operative societies and invite people's co-operation to spread this idea in the country. Why then we are anxious to do away with the joint family system which is based on principle of co-operation. Keeping these two things in view there should be some such provision which can meet them both. In my opinion the reason for restlessness prevailing in some sections of the public and the provision that makes this measure controversial is

[Shri Ram Sahai]

mainly the issue of succession. If somehow we can meet the point of succession we can then proceed with its proper consideration and pass this Code unanimously. Taking no more time of the House, I will submit only that the Members who are likely to be appointed to the Committee should conduct their deliberations keeping this difficulty in view, not because a daughter should get no share in her father's property but to see that it does not disrupt our social system any way.

There is another point of controversy that strikes me. I may be wrong but so far as I have pondered, it seems to me that taking an individual case of a son and a daughter, whereas a son is entitled to a share in the property of his parents only according to this Bill, a daughter enjoys a share in her father-in-law's property as well. I do not see any reason for this disparity. I fail to understand why such a provision has been made therein. The hon. the Minister of law may kindly throw some light on this aspect while replying to the Debate as to what consideration has led for the inclusion of such a thing.

Taking no more time of the House, I will submit only this much.

Shri Krishna Chandra Sharma (U. P.: General): Sir, I have been very attentively listening to the debate. I have very great respect for the views expressed by my elders, particularly Pandit Thakur Das Bhargava and Pandit Lakshmi Kanta Maitra. I have been looking for support for their contention that the Hindu Code Bill interferes with our culture and civilisation and if it is placed on the Statute Book the whole fabric of our society will go down and there would be undue and improper interference with our religious institutions and our cultural background. To my misfortune I have not been able to find anything of that sort. There is nothing with regard to this Code which interferes with our religion in any matter whatsoever. Whether the Code is good or bad is another question. But the proposed Bill has nothing whatever to do with Hindu religion and as such if it is passed the Hindu religion remains as good or as bad as it is without it.

. The second is the question of culture. The question is whether a house belongs to A or B. It may belong to Ramkumar and Krishnakumar, and if you just include Vimalkumar also, that is not going to affect Hindu culture. Just include Vimalkumari also, that is not going to affect Hindu culture. The whole fabric comes down, then it is a wrong thing that it has existed so long. I want my friends before interrupting me, to understand the basis of culture. No culture is culture unless it has any function with a view to the development and evolution of society. If culture is merely static, then it cannot last, and if Hindu culture had been static, it would never have been stable, and it would not have lasted so long. Culture must have some function connected with evolution, it must have something to do with a society as it is evolving. Let us understand this before crying that culture is in danger. Culture and religion and the present Hindu society or Hindu law and even the Hindu religion are not the same as they were in the Vedic times. Do you want us to believe that the Greeks came here and the Romans came here, their penetrations were there and yet we remained blindly static? Had we no heart, no mind and no receptivity whatsoever? Because of the receptivity and ability to evolve, the greatness has been preserved; if we had not this receptivity, we would not have existed so long. That is my reply. So I say, let us take a rational course, take an intelligent view of the thing, a scientific view of the thing. Hindu law as it was in the *Smriti* was only a codification of the customs and usages prevailing before the *Smriti* writers came. There are lots of *Smritis* and they differ on various points and on the same point different writers have different views. And the Privy Council has said that even if they differ from each other, their commentary is to be accepted, not because it is based on the *Smriti*, not because it is based on truth, not because it has come down from the Vedas.

but because if it is recorded in the *Smriti*, it must have been the usage or custom of the time before the *Smriti*. According to the view of Hindu law, a custom overrides the written law, the written text of law. Now, taking this view, I ask you seriously whether this is any question of religion, whether it is a question of culture, whether Hindu society will fall down by including Vimala along with Ramkumar and Krishoakumar? Therefore, do not bring in religion in this question. Do not bring in culture, do not bring in other things and say that Hindu society will fall down. I say Hindu society has never been so weak, Hindu culture has never been so weak, nor Hindu religion, that it will fall down, if this Act or that Act is passed. It is too strong for that.

And then again, it is not our claim alone that we have come from God. There have been six great civilisations and every great civilisation claims that it has come from God. The Muslims say it, the Christians say it, the Japanese said "I am the son of God". The Chinese Emperor wrote in 1559 to George the III a letter that the Chinese potentate comes from God and his territory shall have nothing to do with English commerce or be tainted by foreigners. But forty-nine years later there was a war by the Englishman upon China and the former accepted the opium dealer. Where had the land of the son of God gone then? Where was that son of God when there was the cannon mouth of the Englishman? Even the Englishman claims such things, that it is the whiteman's burden that he has been sent to Africa and India to civilize other human beings; that he has been destined to do so. But such claims are false, as false as it is for us to claim that ours is the only monopoly of truth. I am a Hindu and I am a Brahmin, and I feel proud of being a Hindu and Brahmin, but I do not like to claim that the truth is my own monopoly that the truth came to my ancestors and not to anybody else. If God gave the truth only to my ancestors and to nobody else, then it was unjust, and for the matter of that also foolish to have created other people on this earth. So my only request is—and I make it with all the humility and respect of a Hindu child for the elders—please do not bring in religion, do not count upon culture. Do not say Hindu society will come down. But please accept it on the basis of an intelligent view, a commonsense view, a rational view, a scientific view, of law as prevailing in the modern world. The law of every country is the outcome and result of the economic and social conditions of the country as well as the expression of its intellectual capacity for dealing with those conditions.

Now I come to the next point. We have been for a long time separated from the world as such. As I said there were six civilisations and the Chinese Potentate, the Japanese Emperor, the English King, the Czar of Russia, Babar of India all of them claimed that they came from God, all because.....

Pandit Lalohmi Kanta Maltra: To what particular clause of the Hindu Code is my Hon. friend referring?

Shri Krishna Chandra Sharma: I am referring to your remarks. Well, as I was saying, they all said they were supreme and they were the most mighty, and that was because they could not understand other people and they had no knowledge of them. Therefore they said, theirs was the best religion. But now with the aeroplanes, through the ships, through literature and the printing press and publication, you have come into contact with all the people of the world. You know other people and you understand them. You are influenced by them. Look at the desk of your child and there you will find the works of Bernard Shaw and Shakespeare. You do not find Ganga lehri there. But you don't think the child is not a Hindu because he has only Bernard Shaw and Shakespeare and Pearl Buck on his table. So every thought and action affect and influence all the countries of the world. You cannot have any law whatsoever

[Shri Krishna Chandra Sharma]

which is divorced from the influence of others, it has to be dynamic and then it will help the people to a great future. Divorced from that, separated from that, they are weak. So let us have the law on the scientific basis. In times past there might have been prejudices and there might have been different customs and there might have been any other thing. But today religion is a matter of scientific study. You cannot say that everything you believe is religion. Nobody is going to accept it. Religion is that which takes man from human stage, from the comprehensive human life to the region of Godhood and in raising humanity from humanity to Divinity, there are certain accepted principles from which you cannot escape. So in this twentieth century, neither is everything religion nor is everything culture nor everything the basis of society. There are certain well accepted principles, accepted by the world at large, by the jurists, by the religious teachers and all the great men of the world as the basis of society, as the basis of culture and as the basis of religion. Everything that you speak and believe is neither religion, nor culture nor the basis of society.

My friend asked me to what I was referring. In Mulla's Hindu Law the first page deals with castes. It says there are four castes in Hindu society. The second paragraph deals with whether *Kayasthas* are *Sudras*. The third paragraph deals with the question whether *Marathas* are *Sudras* or *Rajputs*. I put it to you in all humility: Is there anything of culture or religion in it? Religion takes from the universal love to the Divine bliss and culture means light and sweetness. The division of a people into castes is no culture and much less has it anything to do with religion.

An Honourable Member: Only agriculture.

Shri Krishna Chandra Sharma: Agriculture will give you food; your view is a thing that will bring you down.

Now, I shall put to you the sources of Hindu Law. I think my hon. friend is a lawyer and he will appreciate it. The sources of Hindu Law are, the *Shrutis*, the *Smritis*, customs having the force of law, commentaries, and then the judicial decisions of the Privy Council and the High Courts. So far as the *Shrutis* are concerned, nothing is known about them. I have quoted Jayaswal who is the greatest authority on ancient polity and he is of the view that what is stated in the *Smritis* is only a codification of the custom and usage prevailing when the *Smritis* came into existence. The *Smritis*, as I said, differ on the same point. The commentators are accepted; but they are accepted as authority not because they tell you what the law was, but because they tell you something that must have been in existence. According to the principles of Hindu Law, custom and usage override the written text of the law, and they are to be accepted. Then comes the case law of the Privy Council and of the High Courts. How was this case law made? Up to 1868, the condition was this. The Hindu Law was administered by English Judges with the assistance of Hindu Pundits. The institution of Pundits as official referees of the courts was abolished in the year 1868. Your case law is the result of the English man's decision with the help of the Pundits. Now, I tell you, when the country is ruled by an aggressor, when the country is ruled by an invader, no self-respecting man much less a learned man, will sit beside him. Therefore, whatever class of Pundits were called, they were demoralised creatures; they were not representative of Hindus. Do you mean to say that you do not want to change the Hindu Law because Hindu Law is something sacred? What is that Hindu Law? Decisions of Englishmen given with the help of or at the suggestion of demoralised creatures. That is your Hindu Law. What is the sacredness

behind it? That is my point. You judge this present law on its own merits; judge the present code according to principles of jurisprudence. In accordance with principles a law is judged as necessary and good.

Coming to this Code, the first thing that it deals with is marriage and divorce. If you go through the different small Acts passed during the last two or three years, you will find that this is a mere codification and nothing new. You can have the sacramental marriage; you can have the civil marriage. You find Hindus marrying in different castes, even beyond the Hindu fold and they remain Hindu all right; you do not say they are outcastes. Therefore, what is prevailing, what is a fact already, you take as the law. I do not think you are changing anything. With regard to judicial separation and dissolution of marriage, look at the grounds: either party to the marriage was impotent, the husband is keeping a woman or a concubine, the other party has ceased to be a Hindu, either party is incurably of unsound mind, either party is suffering from a virulent and incurable form of leprosy. Now, I put you a simple question. Is there anything in any law, in any text of Hindu *Shrutis* or *Smritis* which bar these conditions? I have been looking into the *Manu Smriti* and I have found nothing repugnant to this. If my hon. friends find anything, they may bring an amendment. I am not against the *Smritis* and I am only proud of them. I have gone through the texts; I have not been able to find anything in them repugnant to this. If these conditions are in accord with notions of social justice as it is prevalent, I see no reason why you should not accept them. Are you an enemy of women? Are you an enemy of your mother and daughter? Our mother is a respected being and our daughter is part of our life and blood. Is that not so? Why then do you raise the cry that this is something which will bring down Hindustan and that the Hindu society will be crushed to pieces? There is nothing in religion, there is nothing in culture, there is nothing on the basis of Hindu society that is against these conditions and repugnant to them.

Take the case of adoption. My own feeling is that at this stage of evolution of our society, it is unnecessary and it has no meaning. There is a text in *Manu* on which this adoption is based: that a son-less father has no region in Heaven. The basis of that text was this. At that time, the Aryans were facing the aboriginal tribes or some people who were non-Aryans. Therefore, they naturally wanted their number to grow. They put it this way. A Hindu has three "*Rinas*": *Rina* to God, *Rina* to the *Rishis* and *Rina* to the *Pitras*, that is the race. That is, to carry on the thread of the race. To carry on the thread of the Race was necessary at the time *Manu* wrote the *Smriti*. It is not necessary today. Today the cry is not that we have not got children; on the other hand, the cry is that we have not got food and cloth. The fewer we are, the more of these things we will have. Therefore, at this stage, I do not see any reason for adoption. As to going to Heavens, the meaning behind the oblations and all these things was to keep up a spirit of charity in our society. Human society has grown so well and so organised that there is enough scope for charity and social service and generosity in this world rather than giving something to our ancestors who have gone beyond this world. It is better to work in this wide world. That is an institution which has no meaning. The meaning that it had has no application in the present day society. So far as secular purposes are concerned, that if a son is adopted he will serve the old man or old woman, I think it is of no use. Today, there are so many sick homes, hospitals and other homes. If you have got no property, it is useless to adopt a child and nobody is going to serve you simply because you have adopted him. If you have got property, there are enough institutions to help you in old age. My contention is that this institution of adoption in the present state of our society has no meaning whatsoever.

[Shri Krishna Chandra Sharma.]

Regarding minors and guardians, I don't think it has made any departure from the Hindu Law as it is. Regarding Law of Succession, I am sorry I have not been able to see much about Succession and I can't say with confidence whether the present system of Succession is right or wrong. One thing I will say, viz., there is nothing wrong in principle to make a daughter coheir with the son because under section 3 of the Women's Property Act 1937, the mother gets a share along with the son. What objection there is on earth to a daughter inheriting along with the brother? If mother can inherit along with son, there is no reason why the daughter should not inherit with the brother. Pandit Bhargava raised the objection that the sons-in-law will come and create trouble in the House. If two brothers do not create trouble why should the son-in-law create trouble. Go to Connaught place and you will find that the fate of the husband is to take the coat of the wife behind and pay the bill; and so how can a husband create trouble when the wife does not want it.

An Honourable Member: That is in Northern India.

Shri Krishna Chandra Sharma: That is the evolution of man. The evolution of humanity is like that. Where are your moustaches? It is an ordinary biological principle that the female cells were developed and separated later and woman was better evolved. She is fairer, more tender and more beautiful. It is the way of progress to go to finer and more beautiful life. If you are otherwise inclined, I think you are less than human.

Then I come to the Joint Hindu Family. I have looked into authorities on this point and all great authorities agree that Hindu custom came into existence when the state of Society was pastoral. For that it was necessary to have Joint Hindu Family system. At present there are a number of laws by which we have done away with the Joint Hindu Family property conception. This was made at a time when there was not much trade and commerce. A farmer looks to the cow not as something worth 100/- but as something—a living thing associated with him in life—something sacred. So he takes the cow as it is and would not like to get the money from the son if the son goes away from the family because the cow is something sacred—that is how we regard the cow as Mother cow.

Pandit Lakshmi Kanta Maitra: Is there any father cow?

Shri Krishna Chandra Sharma: Times have now changed and therefore that question of Joint Hindu Family does not hold good and is not to be regarded as so essential and therefore sacred as it was when Aryan society was first established in India and these customs came into existence.

The second point is that this is not applicable to agricultural lands. So far as agricultural lands are concerned, new acts are coming into existence and succession in those would go on the same basis.

With these words, I commend this Bill for the acceptance of this House.

Shri B. M. Gupta (Bombay: General): Sir, I rise to accord qualified support to the measure before this House. This does not mean that I am opposed to many of the reforms that are proposed here. On the contrary I am prepared to say that they are in the right direction subject to certain modifications and adjustments. Adjustments are necessary. I will give only one example. The abolition of customary divorce is bound to entail much hardship to rural population of Bombay province because among the population there the practice of divorce is widely prevalent. In Bombay we have a Divorce Act but even that Act makes an exception of Customary divorce. I therefore say that certain adjustments are necessary. The provisions with regard to divorce, marriage and maintenance and minority—these may be proceeded with and made

into law. I have no objection about them but I can't lend my support to the enactment of the provisions embodied in parts 5, 6 and 7. They make fundamental changes. In fact they unsettle the entire law of inheritance of the Hindu Community. Therefore the question arises whether this is the time quite opportune for such general unsettlement. We are in the midst of a political and economic situation which is characterised by unrest, turmoil, misery and disruption and therefore the question is whether we should complicate the situation still further by introducing revolutionary changes which affect the entire social structure of the country. Our Prime Minister often insists, and rightly insists, that in this emergency first things should come first and this is not the time for things which bring disruption. If we apply this test to this measure, what would be the result? I ask, are these so pressing, that we must face the risk of intensifying the complexity of the situation which is already difficult enough? The answer is obvious. The Hindu Law has been in existence for years and if there is to be a revision of it or its codification there is no urgency at the present juncture. This is not the opportune time for such a general unsettlement of the existing law.

It is our well known experience that social legislation which is in advance of public opinion defeats itself. In this I include not only the vocal urban section of the population but also the teeming millions in the villagee. We have to see whether this legislation is in advance of public opinion. We have the experience of the Sarda Act. In spite of its strict provisions the law became a dead letter in its enforcement. In this case it will not become a mere dead letter. The enactment of the provisions laid down in parts V, VI and VII will bring about far more mischievous results than being a mere dead letter.

In the villages there are the *goondas* who because of their detailed knowledge of the law try to exploit the ignorance of the villagers and dupe them into protracted litigation. This evil is already rampant. The law of succession or survivorship, owing to long usage and familiarity is already known to the villagers. The result will be that we shall be affording one more source for the village *goondas* to exploit the ignorance of the villagers. I therefore want to emphasise that though I am not opposed to reform, this is not the time to introduce a measure like this.

Whatever decision we may take here or in the provincial capitals in the present condition of illiteracy of the masses, it is difficult to carry such legislation to the villager. We have already the experience of the Grow More Food Campaign. In my province the Government is offering numerous concessions and facilities but the villager does not know them at all. What will be the result of this law? The village *goonda* will be able to exploit the ignorance of the villager in this matter.

In one respect the situation in the villages will be worse than that in the urban area. According to the present constitutional position this law will not affect agricultural land. It will mean that there will be two sets of heirs for the property of the deceased agriculturist. His agricultural land will go to one set of heirs, while the rest of his property will go to another set of heirs. This is bound to make confusion worse confounded. We are enacting this legislation with a view to secure uniformity but instead of uniformity and simplicity there will be complexity and confusion. To avoid such confusion it would be better that we wait till the new constitution is ushered in. Let us not be in a hurry. Personally I feel that this measure can be introduced and pursued after one or two general elections have taken place. Those general elections are bound to quicken the political consciousness of the villager and bring him into more effective contact with the working of the legislature. He will then be in a better position to influence legislation which vitally affects his interests.

[Shri B. M. Gupte]

Therefore I submit that till such time comes, till there is some quickening of political consciousness among people, let us not thrust the legislation upon them.

I finally appeal to our enthusiastic friends who are the ardent champions of this legislation that by our over-enthusiasm let us not defeat our own object.

Shri A. Karunakara Menon (Madras: General): Sir, I rise to support this Bill, so far as it goes, with all my heart. It will no doubt go a great way to consolidate the Hindu society. The Hindu law as it exists today is only a conglomeration of several systems of law. We have declared in our Constitution that it shall be our aim to frame a uniform civil code applying to the whole territory of India. This Hindu Code will go a great way to assist in the evolution of this uniform code of law. I wish some Muslim friends introduced a law to codify the Mohammedan law also. The Christians have already a codified law. After these three codified laws are brought into existence it will be easy to pick out the uniform provisions of these three codes and try to accomplish the object that we have aimed at under the Constitution. This Bill is also welcome inasmuch as it will extend the rights of women.

But I have some complaints to make. This law is not as progressive as it ought to be or as the people wish it to be. It is far behind in several respects the *Marumakkattayam* law that exists in my part of the country. We should not be dragged down from the position we are in at present. If amendments could be introduced in the Bill and if it could be made possible for us also to make use of the Bill, none would be more happy than us.

The provisions of the Bill as they stand at present have been conceived at from a patriarchal point of view. The provisions of the matriarchal system of law, wherever they are progressive, could be introduced into this Bill and that point of view has not been taken into consideration at all. It might be pointed out that the original Bill as drafted in 1947 excluded the *Marumakkattayam* and the *Alia Santhanam* law from the operation of all the important branches of law covered by it. I will point out why this Bill is not sufficiently progressive and why it should be made more progressive.

Marriage under *Marumakkattayam* law is a purely mundane affair. There is no religion in it. There is no sapindaship or sacrament in it. This Hindu Code Bill recognises only two kinds of marriage—sacramental marriage and civil marriage. Civil marriage is common and we have no objection to it. We are prepared to abide by the provisions relating to it.

That the authors of the Code were under a misapprehension that even the *Marumakkattayam* marriages were sacramental marriages is clear from a reading of clause 51 of the Bill where they say that even the Malabar marriages are sacramental. That is the basis on which they have framed that clause. In Malabar marriage has nothing to do with religion. Clause 51 says:

"Nothing contained in this Part shall be deemed to affect any right conferred by the Madras Marumakkattayam Act, 1932 (Madras Act XXII of 1932) to obtain the dissolution of a sacramental marriage, whether solemnized before or after the commencement of this Code."

There is another direction in which we would like to get an amendment of this Bill in so far as we are concerned. Our law allows us to marry our father's niece or our maternal uncle's daughter. In fact many of us consider it a privilege to marry our uncle's daughter or our father's niece. But this is

interdicted by the provisions relating to sapindaship and prohibited relationship. This encroachment on our right is not likely to be viewed with favour by the people of my part of the country.

In regard to judicial separation or restitution of conjugal rights, there are no provisions at all in our law. Either a marriage exists or it is got rid of by means of a divorce. There is no middle course. The provision for divorce is very simple. Either of the aggrieved parties goes to the nearest court of civil jurisdiction and puts in a petition with twelve annas stamp on it praying that "for such and such reasons we are not able to pull on together and therefore a divorce may be granted". For a period of six months that petition is kept pending. Perhaps the authors of the law wished to see whether a reconciliation was possible within this period of six months. After this period of six months, if nothing took place divorce is automatically granted. This provision is simple and from clause 51 of the Bill it is clear that it has attracted the attention of the framers of the Bill because this provision for divorce is found retained in the Bill. But I do not know why the benefit of this provision is not extended to all other Hindus.

The provision for dissolution of marriage has infuriated some of the members of this House. Even though the provision for divorce has been in existence in Malabar since 1932, I believe, not even a dozen divorces would have actually taken place. This proves the truth of the statement made by a learned author—I mean Bertrand Russell—that "the easiest divorce laws by no means produce the greatest number of divorces; wherever there is divorce, adultery is scarce and morality is higher".

Coming to adoption, the provisions contained in this Bill are very unsatisfactory when compared to what prevail in our part of the country.

According to this Bill, adoption is a religious matter, but among the *Marumakkattayam* people it is a purely secular matter. Under the Hindu Code only a male or his widow could adopt a person, but according to our law any person, whether male or female, could adopt a person. Whereas only a male could be adopted under Hindu Law, males or females could be adopted under our law. Whereas only one person could be adopted under Hindu Law, we can adopt one person, two persons or even one whole family, at the time of extinction of our family or as heirs to our property. So there is a lot of difference between the Hindu Law and the *Marumakkattayam* Law in this respect. The reason why these things have not been taken into consideration in framing the Bill is, according to me, that the whole perspective has been entirely patriarchal and not matriarchal also. If that point of view also had been taken into consideration then many of these differences could have been resolved or reduced.

In regard to joint family property, the substitution of tenancy-in-common for joint tenancy is one of the most important features in the Bill. I welcome this provision. But this part of the law again has been framed from the patriarchal point of view only. Read any clause under Part V—I am not going to trouble the House but I only wish to bring it to the notice of the hon. the Law Minister—read any clause in part V and you will find that it is inapplicable to the *Marumakkattayam* people, though the Hindu Code Bill is intended to apply to them also. Clauses 86, 87 and 88 will show that none of them could be made applicable for the tenancy-in-common being introduced into the joint families that exist in Malabar.

With respect to Inheritance, I do not know why mother should not be made an heir along with son and daughter. Suppose a man dies—suppose I die. My natural love and affection induce me to see my mother who has brought me up and who has taken interest in me all through my life, an heir to my property. Here what I find is that the mother has been omitted in Class I.

[Shri A. Karunakara Menon]

My second complaint is why the son of a predeceased son or the son of a predeceased son's son ought to be introduced in Class I. He ought to come in Class II. It is revolting to us to make them preferential heirs in class I. If you ask anyone in Malabar as to whether he would like his property to go to his son's predeceased son's son, or his son's son even, or to his sister or sister's children, he will certainly say that even in preference to his brother it should go to his sister and sister's children. So I say that the rank given to sister and her children in Class II of the Seventh Schedule ought to be raised than what has been given there. Sister and sister's children come very low; in Schedule VII, they come only after son's daughter's son, son's daughter, son's daughter's daughter. It is after all these persons that we find even brother and sister appearing as heirs. I do not know why promotion ought not to be given to brother and sister who were born of the same womb. Natural love and affection should certainly induce us to give brother and sister a higher rank than what has been given to them under the provisions relating to inheritance.

[At this stage Mr. Deputy Speaker vacated the Chair, which was then occupied by Shrimati G. Durgabai (one of the Panel of Chairmen)].

Looking at the question from all these points of view, it will be seen that the whole Bill has been locked at only from the law that is prevailing in the other parts of the country than Malabar—which no doubt is certainly followed by the largest number of people—but the matriarchal system of law has not at all been taken into consideration in framing this Bill. Therefore I feel that this Bill is not sufficiently progressive either with respect to the rights of women, which we all desire so much to be given to them, or from the general point of view.

We are very anxious to be brought within the scope of this Bill. We do want uniformity. I am one of those who wish, and the people of my part of the country also want to see, that there is one uniform law existing for all the Hindus in the country. But at the same time it should not be made so revolting or made impossible for my people to follow the law, or even if they do so to do it with a certain amount of reluctance. It ought to be made attractive. My submission is that in framing the law the matriarchal system of law has also to be taken into consideration. I submit that proper amendments might be introduced to attract us also to come within the scope of the Bill. If for any reason the two systems are so divergent that it is impossible to introduce amendments in the Bill so as to attract us also within the scope of the Bill, my appeal to the House is that we may be left alone, that we may be allowed to follow our own law which stands on a higher footing of love and affection than the Hindu Code Bill that has now been introduced in this House. According to me this Hindu Code Bill is not a secular measure, it is not a rational measure; religion still pervades throughout the Bill. The Bill ought to be entirely a rational one. I would have had no objection if the whole Bill had been framed from a natural outlook, an outlook entirely divorced from religion. If a Bill like that is introduced, our people would be too glad to follow it. What we notice is that the Bill as it is framed now is religious still to a high degree; though it has been watered down, it is not yet sufficiently secular. I don't know why in marriage, adoption and inheritance, religion ought to intervene, why the provisions relating to them ought not to be made more secular as they prevail today in our part of the country. There is no reason why we who follow a system which has nothing to do in all these mundane matters with religion, should be roped into this Bill in which religion plays a prominent part.

Mr. Chairman: There are only ten minutes left. I want to know if any of the Members will finish his speech in ten minutes.

Some Honourable Members rose--

Shri Sita Ram S. Jajoo (Madhya Bharat): Madam, I will finish my speech within ten minutes.

At the outset I want to make it clear that I am wholeheartedly in support of the present Hindu Code Bill. It is with a hesitant heart that I am standing here because I feel that almost all the Members belonging to the older generation were speaking against the Hindu Code Bill. I don't challenge their hearts, but so far as the Hindu Code Bill is concerned their hearts seem to be older or staler.

Shri M. Tirumala Rao: May I say that ladies of the older generation also are supporting you?

Shri Sita Ram S. Jajoo: Yes, because they are progressive, because they want to progress. In the words of my friend Mr. Krishna Chandra Sharma, they are more progressive and going forward whereas the men are going backward. Any way, I am concerned with the Hindu Code Bill as it stands today.

Madam, I would not have spoken but for the fact that I can represent the views of the younger generation here, and I can confidently say that the younger generation in the country stands by the Hindu Code. Much ado has been made about the fact that this Bill has not been circulated for public opinion in the Indian States. I want to say that there have been many Bills which we have passed in this House, but at that time nobody raised his little finger and said that those Bills were not circulated for eliciting public opinion in the Indian States.

Some Honourable Members: But this is such a controversial Bill.

Shri Sita Ram S. Jajoo: There have been so many controversial Bills. The question of Sirohi was most controversial but the States people were not consulted on it.

Shri Gokulbhai Daulatram Bhatt (Bombay States): Madam, there was no Bill connected with Sirohi.

Mr. Chairman: May I request hon. Members to allow the speaker to go on uninterrupted?

Sardar Hukam Singh: Is it not for the elders to correct if the younger generation goes astray?

Shri Sita Ram S. Jajoo: They are definitely in their rights to control and guide the younger generation, but that must be towards progress, it should not be a retrograde step.

An Honourable Member: Our experience extends up to 80 years.

Shri Sita Ram S. Jajoo: The experience of 80 years may be there; but the experience of the Father of the Nation, Mahatma Gandhi, is also there. There are volumes of books containing the articles written by him from time to time in favour of the elevation of the Hindu women. And so far as the Hindu Code is concerned, I have heard from many of the staunch opponents that they won't mind if the whole Code is passed excepting the provision regarding inheritance and the sharing with daughters and sisters. It has been opposed mostly by the community, to which I also belong, the Marwari community. But I say that the Marwari youths are for the Hindu Code Bill. If we say that the older people are there and their experience is there, Mahatma Gandhi in his autobiography has written that it is a most pitiable sight to see the Hindu wife

Pandit Mukut Bihari Lal Bhargava: You can't exploit Mahatma Gandhi's name

Shri Sita Ram S. Jajoo: Perhaps you might have exploited his name much more than what I have done. I have just started my life and I had no opportunity of swearing by the Mahatma's name whereas among people who are old and who have got grey hair there might be some who might have exploited his name hundreds of times.

Madam, Mahatma Gandhi writes that so far as the position of Hindu wives is concerned, it is most pitiable. He says that if the master is annoyed with a servant, the servant may leave his master, if one is annoyed with one's father he can demand partition, if a father is annoyed with his son he can ask him to get out, but so far as the Hindu wives are concerned they cannot go anywhere. If that was the case with Kasturba at the hands of the Mahatma, what would be the position of women at the hands of ordinary human beings like us?

So far as the Constitution is concerned, we have agreed that there is equality of sex, but here we are afraid of granting that equality to our women folk, to our sisters and daughters. You can adopt a boy from a family simply because he also happens to have the same *Gotra* or the same surname, but you are not prepared to tolerate your own daughter or your blood sister simply because she happens to be a female. That is the position.

Much ado has been made about the Bill by saying that it is an insult on the Hindu religion. I want to ask this of my friends. The Hindu religion is very adjusting and accommodating. It has adopted itself to changing circumstances from times immemorial. The very fact that there are 137 or 138 *Smritis* is evident to this statement. If there was a fixed law and no change suggested or expected in the Hindu law, then why are there 138 *Smritis*? And why we cannot have one more *Smriti*, codify and have a new Hindu law? We can have in it all the good things of those *Smritis* together with all the good things which the modern times and the scientific developments and the social progress demand. What is the harm if we codify all these into one law? The very word *Smriti* indicates whatever is written from memory, the word *Shruti* indicates whatever is heard and written. It is nowhere stated that they were written by a particular *Rishi* or a particular *Muni*. So, I don't think there should be any hesitation in having this Code nor should anybody feel that his conscience will be killed if this Hindu Code is enacted. We have always been speaking from the political platform about freedom. Political freedom has been achieved. We have achieved independence but we have also to see that the social evolution of the country also takes place. If we want the social order to change, I say this is the time for it. We have to prove it by our actions, not by words. We must see that the whole social order is changed. As regards reform, I may say that even the late Raja Ram Mohan Roy had to face opposition, many other reformers had to meet with opposition, some of them died an unnatural death at the hands of their opponents whom they wanted to help, whom they wanted to elevate and to whom they wanted to bring salvation. Here we have got our leaders who are certainly with us. After the Prime Minister's speech on the opening day of the session, I don't think there is anything for arguing here or for fighting over this issue when he said that he was for the greatest common measure of agreement if it could be arrived at. If we are prepared to have a compromise with others then I feel this will not become a progressive measure, it will lose its charm. But still I have more faith in the wisdom of our Prime Minister. I feel he is much more wise than I can be or my young friends can be. I have faith in him. If he wants compromise, or if the Government wants compromise, let there be compromise, but so far as young people are concerned, we do not like the compromise. But we certainly have faith in our leaders and we shall obey their commands.

Pandit Lakshmi Kanta Mehta: But none of them are here.

Shri Sita Ram S. Jajoo: If they are not here, the hon. Dr. Ambedkar is here. He is the sponsor of the Bill and he is doing it on behalf of the Government. It is no use cursing this Government. After all, if we go into the history of this Bill, we will see that it was brought by our predecessor government.(Interruption).

Madam, I would like to speak for about ten minutes more, because there have been interruptions. If you so desire, I may continue tomorrow. I will not take more than ten minutes.

Mr. Chairman: The hon. Member is requested to close his speech, because he has assured me that he will take only ten minutes.

Shri Sita Ram S. Jajoo: But you will appreciate my difficulty, Madam. I have been interrupted so much. I would like to speak for ten minutes more tomorrow, if you do not mind.

Mr. Chairman: May I know whether the hon. Member can finish his speech within three minutes more. I will give him three minutes now.

Shri Sita Ram S. Jajoo: I know, Madam. I have given an assurance. If you wish, I may sit down just now. But I thank you for giving me three minutes more.

Now, I was saying that Dr. Ambedkar is here. He will certainly convey our views. He is in charge of the Bill. It is no use cursing and blaming the present Government. After all, if we see the history of this Bill, this Bill was brought by our predecessor Government—a foreign government. At that time, we did not have the guts to fight it. Whenever social measures were brought forward by the foreign government.....

An Honourable Member: Don't worry about history.

Shri Sita Ram S. Jajoo: I have to look into the history certainly, but let me proceed with my speech just now. When the British Government brought certain measures which affected the Hindu law, we accepted them at that time, because they did not touch the purses of the moneyed people—the capitalists. Here we feel the pinch, because it touches our pockets. We male members of this House are in a huge majority. I do not wish that the tyranny of the majority may be imposed on the minority, the female members of this House. The ladies in the country in general are illiterate; so we should not exploit them. A big tirade of propaganda is being carried on that this Bill aims only at one thing and that thing is divorce. All ladies are persuaded or dissuaded or influenced or canvassed by telling them that their husbands are going to divorce them after the Hindu Code is passed. This kind of misinterpretation of the provisions of the Hindu Code is going on. I want to tell all these people that there will hardly be a single man who would like to divorce unnecessarily; similarly, there would hardly be a single Hindu wife who would like to divorce unnecessarily. There is enough good reason and sense in the courts, and the judiciary will definitely look into the whole case and see that justice is meted out. This is all I have to say.

The Assembly then adjourned till a Quarter to Eleven of the Clock on Tuesday, the 13th December, 1949.