

BUSINESS OF THE HOUSE

Mr. Speaker: The House will now proceed with the Hindu Marriage Bill.

Dr. Rama Rao (Kakinada): Before this business is taken up, may I just raise one point. Any information about the extension of the Session may be given now, because, yesterday there was a talk about the extension of the Session. I would like to know if there is going to be any extension, and if so, up to what date. We have made some arrangements, and this sort of postponing and extending causes difficulty.

Mr. Speaker: I quite appreciate the difficulties to which Members are put, including the Chair as a Member of Parliament. I am myself very keen that we should have a definite specific programme of dates on which the Session begins and also the date on which it ends. Unfortunately, we have not been able to adjust to the new conditions. And a lot of legislation is coming before the House. Members themselves want more time. Members are also urging that this piece of legislation should be taken and that piece of legislation should be taken, and so on. So, it becomes a little loose.

But I trust that the hon. Minister of Parliamentary Affairs, when he is present in the House, will make a statement as promised by him yesterday. Of course, today he perhaps anticipated that the Question Hour would go up to 12 noon, but we have finished the business more quickly. So, the question may be raised when he comes here.

HINDU MARRIAGE BILL—Contd.

Shri N. C. Chatterjee (Hooghly): The other day when we met to discuss this matter, I was making my submission to the hon. Minister and the Members of this Parliament that in a social legislation of this revolutionary character, if we are to be consistent with the tenets of democracy, we should have a definite mandate from the people before we

enact such a legislation of far-reaching consequences, making very radical alterations in the Hindu social organisation. I maintain that the way that you are proceeding is not in conformity with the principles of democratic Government. Such a radical legislation should easily wait for a year or so, because the elections are again coming, and it is quite clear that never did the Party in Power or in office have the mandate of the nation on this subject. I would therefore ask them seriously to consider that these votaries of democracy should act according to genuine principles of democracy, and they should make this an issue in the next elections. If the Party in power gets the mandate, then it will be justified in proceeding with a measure of this character.

An Hon. Member: It has been a part of the election manifesto.

Shri N. C. Chatterjee: You, Sir, and all sections of the House, know that there is considerable feeling over this measure. A considerable section of our people is opposed to this measure, especially because its provisions are repugnant to the fundamental principles of the Hindu social system. Before you introduce this kind of a thing simply because you have a big majority or a sledge-hammer majority, it is only fair and right to place this measure before the nation, educate our real masters, that is, the electors, get their definite verdict, and then proceed with this measure.

I am making four points today for the consideration of my hon colleagues in this House. My first point is this. Is this kind of a communal legislation not repugnant to the spirit of our Constitution? Is it consistent with the Directive Principles which we have definitely and consciously embodied in our organic law, i.e. the Constitution of the Indian Republic? Article 44 in Part IV of the Constitution clearly says:

“The State shall endeavour to secure for the citizens a uniform

civil code throughout the territory of India."

My first question is: Are you not defying this mandate of the Constitution-makers? Are you securing a uniform civil code throughout the territory of India?

The cardinal principle on which our Constitution-makers worked was that there should be not diverse civil codes, not one law or one communal legislation for Hindus, another piece of communal legislation for Muslims, another piece of legislation for Christians and so on, but the Constitution-makers enjoined, and it is an injunction binding on Parliament, that this Parliament should secure for the citizens of India a uniform civil code throughout the territory of India. May I know why you are not acting according to the principles solemnly embodied in article 44?

The Prime Minister has been good enough to remind us from time to time that the Directive Principles are of very great importance; they are not mere maxims to be kept in this Part IV without any meaning. He drew our attention to the opening article 37 in Part IV when we were discussing the Constitution (Fourth Amendment) Bill the other day. He was emphasising the supreme importance of the Directive Principles. He said that the Fundamental Rights are there, but if the working of the Fundamental Rights comes into conflict with the clear Directive Principles then the Constitution should be amended and the Directive Principles must be given due recognition.

Now, are you giving due recognition to the clear Directive Principle in article 44? What was the point in enacting article 44? The point was that you shall not have diversity of personal laws for diverse communities in this country. You do declare, you proclaim, and you take some pride in proclaiming that this is a secular State, and that you have got a secular Constitution. If you think that you are really a secular State, and that you

believe in a secular Constitution, that you believe in the solemn injunctions definitely and consciously embodied herein, then why do you go counter to that Directive Principle? Why do you have a Hindu marriage law or a Hindu Divorce Bill? This is not in accordance with the spirit of it.

I know it may be pointed out that this is not a justiciable matter. I do maintain that when by article 37 you have said that the Directive Principles embodied in this Part are fundamental in the governance of the country and that it shall be the duty of the State to apply those principles in making its laws, then that means that whenever Parliament will make any law, Parliament must remember that in framing laws it must give effect to those fundamental principles. And these fundamental principles are fundamental in the governance of the country. Why are you departing from those principles? Why do you not have one common law for all citizens, if you think that is the proper thing to do?

I point out that there is considerable force in this argument, and it is not right, unless very cogent arguments are brought forward, to make a departure from, or to run counter to the clear directive in our Constitution.

The second point I am making is that this is not consistent with the Fundamental Rights which you have given in the Constitution. Are you not really defying the guaranteed freedom of equality? Are you not going against it? I find that Shri Indra Vidyavachaspati—we know he is the son of the late Swami Shradhanandaji—has pointed out in his Minute of Dissent that this Bill is contrary to the Fundamental Rights laid down in the Constitution of India, because it discriminates by law against a community or a particular religion. What right have you to enact such a law? What right have you to say that monogamy must be made compulsory for all Hindus, for all Hindu men and for all Hindu women? If you honestly

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feel that this is a blessing and polygamy is a curse, then why not rescue our Muslim sisters from that curse and from that plight? What right have you to enact that this shall be made compulsory only for one community and not for others? That is what Shri Indra Vidyavachaspati has pointed out. If you believe that this monogamy is a benefit and polygamy is a curse, then not only the Hindu women but the Muslim women also should be saved from it.

You have not got the courage to be logical and to be consistent. You pay lip homage to the Constitution. When it comes to actual practice, you fall short of your declared standards, and you are going against the Constitution. I do maintain that this is not right. This is certainly something by which you are enforcing inequality by your sledge-hammer majority. You are defying your Fundamental Rights. You are going contrary to your fundamental declaration of equality, equality not for one community or for the members of one community, but equality for all the citizens of the Indian Republic, for all those who swear allegiance to it. What business have you to defy that doctrine of equality? You say that everyone in this Republic of India, every citizen in this country, shall be guaranteed equality before law. Are you guaranteeing equal treatment and equal protection? Are you not having different marriage ages, different standards, different yardsticks, different divorce laws, different norms, and so on? Is that fair? It is no good looking at it from a purely legalistic point of view. You have got to appreciate the spirit of our Constitution. You have got to pay real homage to the spirit of the Constitution. That spirit you are not observing. That spirit you are defying and I do agree with Shri Indra Vidyavachaspati that it is not right.

Thirdly, Sir I am maintaining that the *raison d'etre* of this Bill has to a large extent disappeared and there is absolutely no necessity unless you want to satisfy some emotional people

who indulge in language of denunciation and take particular pleasure in condemning the Hindu marriage system or in deriding it in language which degrades this Parliament and degrades also our nation. I think you should drive them out. Now, you have—rightly or wrongly, that is the decision of the Parliament—on the statute book an Act. You have passed a piece of legislation known as the Special Marriage Act. There you have put down that it shall be operative not only on the people who had registered their marriages under the Special Marriage Act of 1872, but you have deliberately extended the provision of that Act to Hindus who married according to the sacramental rites. It has even been given retrospective effect to cover people who married according to the strict orthodox Hindu rites some 20, 25 or 30 years back who have got children and whose children have also married under the sacramental form of marriage according to strict Hindu notions. They can also avail of the Special Marriage Act and get divorce under suitable circumstances under prescribed conditions. Then, Sir, may I ask of the Prime Minister and the hon. Minister to tell this Parliament and tell the country, what is the necessity of having the provision of divorce here? I pleaded that that should not be done in the Special Marriage Bill. But anyhow that has been done. I am now pointing out that when you have done it; when you have made retrospective the applicability of the provisions of the Special Marriage Act and thereby under certain conditions you have made provisions for treating sacramental marriage as civil contracts, dissoluble, violable and terminable under certain circumstances by the will of parties and added to that the *imprimatur* of the court, then why for heaven's sake have again the provision of divorce and tamper with sacramental marriages and wound the feelings, sentiments and religious susceptibilities of millions and millions of people in this

country? What is the point in doing it? I will not use the language which was used on the floor of the House which I deeply deplore, making all allowances for hysteria and neurosis and that kind of thing coming from ladies. I do maintain that if any man or woman, or any gentleman or lady who wants to have divorce because of certain cogent grounds they can easily do so under the Special Marriage Act. Then why for heaven's sake are you again introducing this kind of thing? Why duplicate? What is the point of duplicating? Even I am prepared to go further. I am going to make a suggestion that has been made by a gentleman of great position, of great erudition, who is not a partisan and who is not a member of any political party—Shri Pataskar knows him—Professor Deshpande. He is a professor of Hindu jurisprudence in the University of Banares, a man whose contributions on this subject are appreciated by every thoughtful person. He has made a suggestion that if any lady or any gentleman points out any lacuna in the Special Marriage Act and if any lady thinks that having regard to the circumstances of our country, having regard to the economic backwardness of our country, having regard to the poverty or having regard to the disability of our women under present conditions, she should have recourse to the Special Marriage Act by unilateral declaration, then we are prepared to consider the conditions under which that can be done. Therefore, all restrictions can be removed and all the reasonable safeguards can be imposed. You know, Sir, under the Special Marriage Act, for both the Hindu wife and the Hindu husband if they find that they cannot live together, there are certain conditions which justify termination or divorce or dissolution of the marriage. They can approach the court and do that. But, if you feel that in some cases, extreme cases, difficult cases or some marginal cases a Hindu wife should be given unilateral right without any bilateral agreement, to have the marriage registered and to get the benefit of the Special Marriage

Act, then that matter can be discussed and Prof. Deshpande, the professor of Jurisprudence, has prepared a note on it and has circulated it. Some Members of this Parliament must also have read it. He is a great writer. I am sorry the other day Shri Pataskar was ridiculing some of his contributions on the subject. This is not a matter for ridicule. I have great respect for Shri Pataskar. I am sorry that he is taking a partisan view and ridiculing a person of unimpeachable character, great erudition and the highest integrity. He should not have used that language. He was alleging that this Prof. Deshpande had been acting as Miss Mayo, trying to find out filth and publish a drain inspector's report.

The Minister in the Ministry of Law (Shri Pataskar): I did not refer to his books. The book I referred to was *Memorandum on Sexual Life*. I do not think he wrote it.

Shri N. C. Chatterjee: *Memorandum on Sexual Life* is written by Prof. Deshpande. He should have known the author before he started ridiculing him. Anyhow it is the ministerial prerogative to ridicule people. I do not blame him for that.

What I am saying is this. He is pointing out that in western countries, they are themselves tired of the disruption of the family life. They are conscious of the positive danger of the disruption of society because of the rise in tempo of divorces in those countries. They are trying to tighten it up and we are now going to put the hand of the clock back by simply trying to imitate those countries. In England, you know, 30 out of even hundred go to divorce courts and in America which is more progressive, there it has gone up to 50 per cent. Now, they are finding that this is a thing which should be stopped and it is no glory for any civilization, country or society. The author has quoted Judge Lindsay. Now, do not ridicule Judge Lindsay. He was not a petty fogging lawyer of ordinary standing. But, he was a great thinker and a social worker. He is

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minister matrimonial law in one of the biggest States and his contribution on this subject has been appreciated deeply by all sensible people and by men interested in the development of marital relations on true lines. He has not quoted only Judge Lindsay. He has quoted different authors from different countries and pointed out the steady degradation of the so-called progressing civilization due to rising tempo of divorce and easy dissolution of the marital tie.

Fourthly, I want to make one point and that point is this. It is, I am sorry to say, completely misleading the country when a responsible Minister says that Hindu marriage has never been considered sacramental according to Hindu *Dharma Shastra*.

Shri Raghunath Singh (Banaras Dist.—Central): Who says?

Shri N. C. Chatterjee: Then, I am sorry you have not done the courtesy of reading Shri Pataskar's speech. Shri Pataskar, standing on the floor of this House of Parliament of the Republic of India declared: "It is not true that our ancient law-givers ever regarded marriage as indissoluble or marriage as sacramental". I am shocked.

Shri Pataskar: Yes.

Shri N. C. Chatterjee: If Shri Pataskar had sat for a Hindu Law examination in any University he would have been ploughed and he would have got zero. I do not know what basis there is for that statement.

Shri Pataskar: You can refute it by references.

Shri N. C. Chatterjee: I am shocked to know that a Minister of Law in the Republic of India is saying this that it was not sacramental and the Hindu law-givers never thought it was sacramental.

Sr. the greatest authority in this
want to say—I am reading Mayne's Hindu
has said this. His

first sentence on this important subject is:

"Marriage is one of the necessary *sanskaras* or religious rites for all Hindus whatever be the caste, who do not desire to adopt the life of perpetual Brahmachari or of a *Sanyasi*."

Shri Pataskar: *Sanskara* is not the same thing as sacramental form of marriage.

Shri N. C. Chatterjee: This is a thing which he ought not have said. I am not saying this because Mayne has said it. You know Mayne's book is treated as authority on the subject. But, this book was edited by one of the greatest Hindu jurists of modern India, Mr. Srinivasa Iyengar, who was President of the Indian National Congress, also Advocate-General of Madras and who was one of the recognised leading lawyers in the country. This edition which I am reading—11th Edition—was edited by Mr. Justice Chandrasekhara Iyer who was Judge of the Supreme Court of India and who is recognised as one of the leading jurists in this branch of the law.

You know, Sir, and every lawyer who has anything to do with Hindu Law knows that the greatest authority on this branch of law is Sir Gooroodas Banerjee, who was a Judge of the Calcutta High Court. But Mr. Pataskar says that the *sanskara* theory of marriage has been manufactured by European lawyers and by European Judges. Nothing of the kind. I am reading to you from the Tagore Law Lectures of Justice Gooroodas Banerjee on *The Hindu Law of Marriage and Stridhana*, page 31. The heading of the paragraph is "Marriage in Hindu law a sacrament". When he is saying that he is not thinking of any obsession derived from European Judges or jurists. He is one of the greatest Sanskritists in this country in modern times. This is what he says:

"Marriage in Hindu law a sacrament.—The importance of the institution of marriage is too well

recognized to require any comment. It is the source of every domestic comfort from infancy to old age; it is necessary for the preservation and the well-being of our species; it awakens and develops the best feelings of our nature; it is the source of important legal rights and obligations; and, in its higher forms, it has tended to raise the weaker half of the human race from a state of humiliating servitude. To the Hindu, the importance of marriage is heightened by the sanctions of religion. In Hindu law it is regarded as one of the ten *sanskars*, or sacraments...."

If Mr. Pataskar has ever read or would care to read Sir Gooroodas Banerjee he would give up his opinion. Dr. Banerjee says "It is regarded as one of the ten *sanskars*, or sacraments, necessary for regeneration of men of the twice-born classes, and the only sacrament for women and *Sudras*".

Mr. Pataskar has gone further and said: "I do not know what basis there is for that view. At the most, it can be said Manu Smriti does not lay down any procedure for divorce. To that extent I am prepared to go". Fortunately Manu and Yajnavalkya were not buried; otherwise they would have turned in their graves at this utterance of the modern Yajnavalkya. Dr. Ambedkar was the modern Manu and Mr. Pataskar is the modern Yajnavalkya. And he has declared that sacrament is of recent origin. I am sorry, I have respect for him, I do not know whether he married according to sacramental rites but if he did and his memory serves him right.....

Shri Pataskar: May I appeal to the hon. Member with all his passions that what I have been saying was, there are *sanskaras*—my knowledge may not be so vast as his—but *sanskaras* and sacrament do not, according to me, mean the same thing.

Pandit K. C. Sharma (Meerut Dist. —South): They do not mean the same thing.

Shri N. C. Chatterjee: The Vedic *slokas* have to be uttered by every Hindu at the time of *panigrahan*:

गृह्यामि ते सौभगत्वाय इत्तम्
मया पत्या जरदृष्टीर्यथा सः
भगो अर्थमा सविता पुरान्यः
मह्यं त्वाद्, गर्हिरत्याय दत्ताः ॥

Rg. X, 85, 36.

I will give the translation. The translation of this *sloka* given by Mahamahopadhyay Kane who is the greatest authority on this branch of the law, is in that remarkable book *History of Dharmasastra*, Vol. II page 526:

"I take thy hand for prosperity (or love) so that you may grow to old age with me, thy husband; the gods, Bhaga, Aryaman, Savita, the wise Pusan, have given thee to me for performing the duties of a householder."

There is one book written fortunately not by a lawyer but by a sociologist of great eminence, by Dr. Pandhari Nath Prabhu, Fellow of the Society for Psychology in the United States of America and Professor in the Tata Institute of Social Sciences, Bombay. He is also saying it is a *sanskara* and it has been in vogue from the Rig Veda, not of recent vogue according to the recent theory of Mr. Pataskar. And what is the translation he gives? That you must recite the vedic *mantra* when you perform *panigrahan*.

"I take thy hand in mine,
Yearning for happiness;
I ask thee,
To live with me
As thy husband,
Till both of us,
With age, grow old.
Know this,
As I declare,
That the Gods
Bhaga, Aryama,
Savita and Purandhi
Have bestowed thy person
Upon me,
That I may fulfil
My Dharmas of the householder
With thee."

[Shri N. C. Chatterjee]

I shall read only one sentence from Mahamahopadhyay Kane's book. I do not know if anybody has stolen it—thank God, I have got it. The first sentence in Mahamahopadhyay Kane's celebrated book on Dharmasastra is this. You know, Sir, he has received a very big distinction, one of the awards from the President. And his first sentence in that book is this, that this is a *sanskara*. And this is recognised as a *sanskara* by all the *dharma sastras*, by all the *shrutikas*, and by all the sages Gautama, *Bandhayana*, *Apastamba*, *Vasishta*, *Manu* and *Yajnavalkya*. Each one has said it is not of recent origin—unless my friend Mr. Pataskar was a class-fellow of *Yajnavalkya* or *Manu*. In the *Dasama Man dala* of the *Rig Veda*, in the Tenth Mandala you will find it, *Rich 36, Sukta 85*. From that day it has been there. I do not know what made my friend say that.

You know even in the latest edition of Mulla's *Hindu Law* which has been edited by the present Chief Justice of India who is one of the greatest jurists in this branch of law, that is Hindu Law, the first thing he has said is this. The latest edition is by Mr. Justice Bijan Kumar Mukerjee who is now the Chief Justice of India, and the first thing he has said is that this is a sacrament. I am reading the first sentence:

"Marriage, according to Hindu law, is a holy union for the performance of religious duties. It is not a contract". And he emphasises it by certain citations. I am pointing out that give up this notion that it was not a sacrament. If there was any sacrament it was this Hindu marriage, and for women this was the only sacrament. And it was the sacrament which was meant for the upliftment of human personality. Hindu marriage is not a contract. There is nothing to be ashamed of it, everything to be proud of it. You ought to be bold and declare that for thousands and thousands of years, we have kept alive one virtue, one ideal, one standard.

12 NOON

Dr. Radhakrishnan has praised this concept in his *Kamala Lectures* in the Calcutta University. He has said that whatever you may say, compared to any other country he knows England and America and other countries much better than many of us here—he has said that this doctrine of eternal fellowship is the cardinal principle of the Hindu sacramental marriage. This is perpetual fellowship not for material gains, not for secular gains, not for carnal pleasure, not for lust, not for selfish things but for faithful fellowship, for integration of the family, for the development of society and for the development of the State. That is what Dr. Radhakrishnan has said. He has said that it is the greatest thing which you ought to remember. I do not for one moment claim to be so egotistical as to declare that my system is perfect or that in my social organisation there is absolutely no flaw. But, I do maintain, Sir, with all the emphasis I can command, that, compared to other systems of law and other personal laws, this Hindu system of marriage gives a higher family life, a nobler ideal of womanhood than any other country in the world has been able to achieve and has been able to sustain.

[MR. BARMAN in the Chair]

I want to read with your permission, Sir only one portion of Dr. Radhakrishnan's book. He is saying that marriage is not a mere contract. I am reading from his *Kamala Lectures* delivered at the Calcutta University.

"Marriage is not a mere contract; it is a part of the life of the soul. Risk and hardship are part of human life, and we must be prepared to face both. We must meet as human beings and companions full of faults, weaknesses and desires common to both; and adjustment is a long process. In the Catholic Church, the parties contracting marriage receive the Cross and Sword on their heads

bent towards each other, the one as the symbol of their tragic courageous trust in a higher order than the human, the other as the symbol of the unfeeling wrath for every infraction of the law of the Cross. In the faith that love is the sign and pledge of the loveableness of the ultimate ground from which all things arise, the sacramental view requires us to face risks, and not to admit defeat in the great enterprise."

Dr. Radhakrishnan was the Professor of the Calcutta University and also Spalding Professor at Oxford.

I am asking Mr. Pataskar and all those who think with him to take this particular view of life and not to admit defeat in the great enterprise. We enter into marriage relationship for the development of the individual and for the enrichment of our lives. Without it there is no happiness for the individual or society. Dr. Radhakrishnan is pointing out that:

"This traditional view has still a strong hold on Indians, among whom stable marriages are more numerous, and family affections much stronger, than perhaps in any other country."

Sir, I think that is the honest verdict of a great thinker and philosopher. He is not the man to applaud his own nation or his own country just for the sake of applauding. Although it is now the fashion of the day to decry our marriage system and indulge in language of unfortunate denunciation and declamation unworthy of this great country and her culture and civilisation, still it will be saying nothing improper or unhistorical if we say that whatever you may say, among our nation stable marriages are more numerous than in any other country and family affections much stronger than in any other country.

Sister Nivedita, you know, Sir, was a disciple of the great Vivekananda. She was an Irish lady but she came out to India and lived in Calcutta and Bengal and other parts of India and

spent and consecrated all her life to India for the sake of our people and for the women folk. She said that we should be careful not to disrupt our institutions and not to disrupt our ways of life. Sister Nivedita said, when all is said and done, from the standpoint of purity, the highest embodiment of purity is the Indian woman, the Hindu woman. I am quoting Sister Nivedita:

"The so-called tyrannised and tortured Hindu woman is as near perfection as any human being can be."

That is the verdict of a European woman. The sting is there. She says, 'the so-called tyrannised and tortured Hindu woman'.

We come to Parliament, we fight here with the Speaker, I go to the Supreme Court; I fight even with the Judges of the Supreme Court; but when we go home, we know where we are. This is what Sister Nivedita says:

"The so-called tyrannised and tortured Hindu woman is as near perfection as any human being can be. Once a wife, always a wife, even though the bond be shared with or remain always only a name. That other men should be only as shadows to her, that her feet should be ready at all times to go forth on any path, even that of death, as the companion of her husband, those things constitute the purity of wife in India. Purity in every-one of its forms is the central pursuit of Indian life."

This central purity of Hindu life, this great standard of purity. I do maintain, has been, to a large extent made possible by our sacramental system of marriage. It is that marriage which has given that unique fellowship; do not try to disrupt it.

I am very sorry that my friend Shri Pataskar has used language of derision against one of our greatest countrymen and has cast aspersions unworthy of him against one of our greatest jurists in India today. He has castigated Dr. Radha Binod Pal.

[Shri N. C. Chatterjee]

After all, who is Dr. Radha Binod Pal? Dr. Radha Binod Pal has placed India on the map of the world. Our Prime Minister is placing India on the international map due to his great efforts in the international sphere. But, there is one man who has put India on the juridical map of the world and given her a place of great distinction and honour as a Judge of the International Tribunal which tried Marshal Tojo at Tokyo. The Minister of State or the Minister of State for law forgot the decencies of life when he actually stood up and said that the conveners of the Convention which met here on the Hindu Code Bill compelled him to utter certain things. His language is this. I marked that language. There is neither wit nor humour in it but it is very crude, and this is what he said:

"In a democratic age, because a few members in the minority do not find things that are being done by the majority agreeable to them, they should make a very eminent jurist to come and sit down and make his say such a thing is not proper."

This is an insinuation which is thoroughly unfair and thoroughly unworthy of him and it is not true. I know it is not true. I was one of the conveners of the Convention. I can assure Mr. Pataskar and men of his thinking that Dr. Radha Binod Pal is not the man to be dictated to by any minority, however vocal it may be. He is not the man to be dictated. I honestly say that I never saw that speech until it was printed and he never consulted any one of the conveners of the Convention. He is not the man to be dictated to by any one. He was not only one of the greatest lawyers and advocates of the Calcutta High Court but he was also a very eminent Judge. Mr. C. C. Biswas, the Law Minister, if he were here, would have paid his tribute to his character, to his integrity and to his complete independence. He is not the man to be cowed down. What

has he said? What improper things has he said? He has pointed out that you should be particularly careful, before you, in a precipitate manner try to violate the old traditions and traditional systems. He has said nothing improper. He is right. Shri Pataskar reads it as a language of threat. It is not a language of threat. It is a warning; it is an appeal; it is an admonition; it is an appeal, admonition, caution all combined. That is the fact. Why do you take it as a language of threat? I am bold to declare that we are unfit to unlace the shoes of that great jurist. If he had been in the International Court at the Hague, he would have again placed India on the map of the world. I know, you know, everybody knows, everybody who has anything to do with law knows, everybody who is a votary of Themis knows that Dr. Radha Binod Pal's services have been requisitioned by the League of Nations, and international organisations. He is going to Geneva as a representative of this country, I take it, to draft the International Law Code for the whole world. That is a great honour. To say that a man of that character, a man of that experience, a man of that standing, a man of that eminence would be dictated to by a few people who are in the minority in a Parliament, is a preposterous suggestion unworthy of Shri Pataskar. I am sorry to say this, he should not have said so.

What has Dr. Pal said? He has simply pointed out:

"Our legislators would do well to remember that the instruments they are now trying to use may be the creature of their desires."

Then he says:

"I am warning you that the instruments they are now trying to use may be the creatures of their desires, but they will evoke, modify and deflect people's

desires in turn and in course of time will take complete revenge upon us all."

I may tell you that a very thoughtful writer has made a patient study and research into the working of the monogamy laws in the States of Madras and Bombay. Do you know what the experience has been? The experience has been.....

An Hon. Member: Monogamy laws?

Shri N. C. Chatterjee: Yes; Prevention of Bigamy Acts. The experience has been that it has not been really beneficial for women. It has been beneficial for men. It has been beneficial in the sense that they have a handy charter for discarding their wives, for getting newer, fresher, lovable, agreeable companions at an advanced stage of life. That has been unfortunate. I can give Shri Pataskar or any Member of this House data, facts, statistics collected as a result of great research and industry and study of the working of these particular measures in the different States. Don't think that they have been very beneficial. Women have been really placed at a greater disadvantage. They have proved to be convenient handles for men to get rid of their old wives. I am therefore saying that these points may be carefully considered.

Why go against the directive principles; why trespass upon those doctrines of equality and go against fundamental rights? Why not frame, if you have got the courage and wisdom to do it, one uniform civil Code? You proclaim from the house tops that there shall be no communal legislation. Why are you then proceeding with communal legislation? There are secular countries which have divorced personal law from religion. That is the ideal which we have also embodied. Why not act up to that ideal? You know that the Muslim community does not like interference with its personal laws. That is why you are really violating the

clear directives of our Constitutions. That is what you should not do. If you are logical, if you have courage, if you have wisdom, you must implement that directive principle. I am pointing out that your so-called monogamy may be a legalisation of polygamy in other shapes and other forms. It really comes to one husband at one time or one husband and one wife at a time. By this kind of periodical marriages and changes, you can have plurality. That is not the way of real monogamy.

I am sorry to say that Shri Pataskar quoted one verse from Manu's Manava Dharma Sastra in some part of his wonderful thesis. The verse is:—I think he read out from Chapter 9, (verse No. 46):

न निष्कृत्यविसर्गभ्यां भर्तृभार्या विमुच्यते ।
एवं धर्म विजानीमः प्राक् प्रजापतिनिमित्तम् ॥

This does not support Shri Pataskar's great thesis; this goes against his thesis. It says that there shall be no dissolution of the marital tie. If you try to desert your wife, if you sell your wife, even then, the marital bond can never be disrupted. Shri Pataskar does not need any commentator. He is his own commentator. He is the 20th Century commentator of Manu. He says that this verse shows that you could desert your wife and there was no necessity for a formal divorce. On the other hand, the verse says that under no circumstances is the marital bond broken. Manu was thinking of the great example of Shri Ramachandra. Manu was not thinking of fashionable people walking along the boulevards, going to Connaught Circus in the evenings. He was thinking of the noble type of people, Shri Ramachandra deserting Sita or Shri Harischandra being compelled to sell himself and his family including his wife. Even in these cases, Manu says that the marital tie was never to be disintegrated. Under any conditions it was inviolable.

एवं धर्म विजानीमः प्राक् प्रजापतिनिमित्तम्

[Shri N. C. Chatterjee]

This is the law which I know, which Manu knows,—but, Shri Pataskar does not know,—created by the maker of the universe from ancient times. May I make a present of this to Shri Pataskar? He has not read it.

Shri Pataskar: I have read and re-read it carefully. It need not be presented to me.

Shri N. C. Chatterjee: May I point out one more *sloka*, a last gift in all humility to Shri Pataskar?

वैवाहिको विधिः स्त्रीणां संस्कारो वैदिकः

स्मृतः।

पतिसेवा गुराँ वासां गृहार्थोऽग्निपरीक्रमा ॥

Manu himself says that vedic marriage is a *sanskara*. That is a solemn injunction. It is an inviolable union, an indissoluble union; it is an interminable union; it is an eternal fellowship; it is a perpetual union. It is said that once you marry, it is a *sanskara* and it is a sacrament. In all humility I say, whatever you think of monogamy, I appeal to all sections of the House, don't tamper with the Hindu sacramental marriage and introduce divorce into it. I am pointing out in all humility, but with all earnestness that having regard to the law which we have already passed, there is absolutely no necessity for this. If anybody wants divorce, he or she can have it. While you are keeping the sacramental form, for heaven's sake, do not introduce this divorce here. There is absolutely no necessity for this. I am therefore submitting that this will be undemocratic, this will be unconstitutional, this will be repugnant,...

Some Hon. Members: Why undemocratic?

Shri N. C. Chatterjee: You provoke me to start once again. I am prepared

It is undemocratic because such a radical legislation disrupting the basic factors of Hindu social organisation which is cherished by millions and

millions of people under which we have lived not for ages and centuries but for thousands of years should not be passed except by a clear and definite mandate from the people.

Mr. Chairman: May I put in a word? In view of the limitation of our time, there should be no interpellation because in that case the speeches will be longer and other Members who might otherwise have a chance may not have a chance to speak. Let the speaker speak out his own mind.

Shri N. C. Chatterjee: I may conclude by saying that this has been the only vedic sacrament for our ladies; this sacramental system of marriage has given us a standard of life, a way of civilisation, a very pure, much purer and nobler and higher life than has been the fortune of other countries to enjoy. And that is the keynote of our culture and our civilisation. That is why Hindu civilisation has lived, and is still living, and nothing should be done so as to disrupt the basic factors which have kept up our civilisation and our heritage in such a glorious manner.

BUSINESS OF THE HOUSE

Mr. Chairman: The hon. Prime Minister wanted to make a statement.

The Prime Minister and Leader of the House (Shri Jawaharlal Nehru): I wanted to make a statement regarding the time available to this House. But I thought I might make it when the hon. Speaker was present, because there are certain matters requiring his views.

[MR. SPEAKER in the Chair]

Sometime back the Business Advisory Committee made an allotment of time. Since then, some changes have been made because of fresh matters which have been taken up. Now, I am very anxious—Government is very anxious—that in addition to the present Bill that is being considered, this House should consider the motion from the Rajya Sabha in regard to