

MR. DEPUTY CHAIRMAN: The question is:

6. "That at page 6, lines 9 to 14, be deleted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: I shall now put Clause 6 to vote.

The question is:

"That Clause 6 stand part of the Bill."

The motion was adopted.

Clause 6 was added to the Bill.

Clauses 7 to 37 were added to the Bill.

Clause 1, the Enacting Formula and the Title were added to the Bill.

SHRI P. VENKATASUBBAIAH: Sir, I beg to move:

"That the Bill be passed."

The question was put and the motion was adopted.

I. THE FAMILY COURTS BILL 1984

II. THE DOWRY PROHIBITION (AMENDMENT) BILL, 1984

MR. DEPUTY CHAIRMAN: We are now taking up two other Bills, the Family Courts Bill and the Dowry Prohibition (Amendment) Bill. (*Interruptions*)

SHRI R. RAMAKRISHNAN (Tamil Nadu): Are you taking up the two Bills together, or one by one? They are two different Bills.

SHRI DIPEN GHOSH: They are not similar in nature.

SHRI R. RAMAKRISHNAN: They are two different Bills (*Interruptions*) We will adhere to the time-limit. (*Interruptions*)

MR. DEPUTY CHAIRMAN: This matter was raised in the BAC and it was agreed in the BAC that the two Bills will be taken up together. (*Interruptions*)

SHRI K. MOHANAN (Kerala): It is a very serious thing. (*Interruptions*)

MR. DEPUTY CHAIRMAN: No, please. (*Interruptions*)

SHRI NIRMAL CHATTERJEE (West Bengal): When we discussed. (*Interruptions*)

MR. DEPUTY CHAIRMAN: This is no good. Every time should not stand up... (*Interruptions*)

THE LEADER OF THE HOUSE (SHRI PRANAB KUMAR MUKHERJEE): We have already decided in the Business Advisory Committee.

SOME HON. MEMBERS: No, no. (*Interruptions*)

SHRI NIRMAL CHATTERJEE: When we discussed in the Business Advisory Committee, there was only one lady Member. You will recollect she mentioned it that the purposes of the two Bills are different and they should be taken up separately. Now some of us supported her. But it seems somehow it got entangled into the decision that it should be discussed together. Why I submit this is that subsequent to that again I consulted lady Members not only of our party but also of the Congress Party and they also felt that these Bills should be discussed separately. (*Interruptions*).

MR. DEPUTY CHAIRMAN: Members can speak on both the Bills. The time available will be the same so far as speaking is concerned. There is no problem.

SHRIMATI RODA MISTRY (Andhra Pradesh): It is not fair to the woman of this country. After all you bring a Bill after so long. And it is not fair to... (*Interruptions*)

SHRI PRANAB KUMAR MUKHERJEE: If the Members want to use their time, there will be no problem. But it will not be correct to reveal the discussions in the Business Advisory Committee. And it was wrong on the part of Mr. Chatterjee. The pro-

[Shri Pranab Kumar Mukherjee]
ceedings of the Business Advisory Committee or any parliamentary committee are not referred to in the House. What transpired there should not be raised here. Perhaps as a new Member he does not know it. It is not the intention to prevent anybody from raising any issue. But let the discussions be taken up together. There will be no problem, and we can carry on. (*Interruptions*)

MR. DEPUTY CHAIRMAN: We cannot go on like this. I will request you to...

SHRI DIPEN GHOSH (West Bengal): You just listen to the problem.

MR. DEPUTY CHAIRMAN: There is no problem. What is the problem?

SHRI DIPEN GHOSH: The Leader of the House has stated that there will be no curb on the speakers. But the point is that the two Bills are different.

SHRIMATI RODA MISTRY: One is amendment, and another is a new Bill.

MR. DEPUTY CHAIRMAN: Since the Business Advisory Committee's decisions were announced by myself ... (*Interruptions*)

SHRI DIPEN GHOSH: I am not disputing the Business Advisory Committee proceedings. I am saying that the two Bills are different in nature. If one speaker is asked to speak on both the Bills, then he or she cannot do justice to them. (*Interruptions*) These cannot be taken up together. (*Interruptions*)

MR. DEPUTY CHAIRMAN: Within the time available, you can ask your two speakers to speak, one on one Bill and the other on the... (*Interruptions*) There is no problem.

AN HON. MEMBER: How much time are you giving?

MR. DEPUTY CHAIRMAN: Four hours we are giving.

THE MINISTER OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI JAGANNATH KAUSHAL):
Sir, I beg to move that:

"(i) the Bill to provide for the establishment of Family Courts with a view to promote conciliation in, and secure speedy settlement of, disputes relating to marriage and family affairs and for matters connected therewith; and

(ii) the Bill to amend the Dowry Prohibition Act, 1961, as passed by the Lok Sabha, be taken into consideration."

Sir, it is in the fitness of things that the House has been pleased to agree to the consideration of both the Bills together. While the Family Courts Bill provides for the settlement of family disputes with emphasis on conciliation, the Dowry Prohibition (Amendment) Bill deals with one of the menacing irritants in the leading of a harmonious family life. At the same time, I would like to make it clear that the Dowry Prohibition Bill is essentially a penal law whereas Family Courts would be essentially having jurisdiction with respect to disputes concerning the family which are of a civil nature. It is true that the Joint Committee which considered the amendment of the Dowry Prohibition Act has recommended the vesting of jurisdiction with regard to trial of offences in Family Courts. We are still at an experimental stage so far as Family Courts are concerned and for the present we have not provided vesting of any jurisdiction of a criminal nature except the jurisdiction under Chapter IX of the Code of Criminal Procedure with regard to passing of orders of maintenance of wives, children and parents.

I shall now proceed to deal with each of the Bills separately.

Sir, so far as Family Courts Bill is concerned, the immediate background to the need for legislation for setting up of Family Courts is the mounting pressures from several associations of women, other welfare organisations and individuals for establishment of Family Courts with a view to providing quicker settlement to the family disputes where emphasis should be laid on conciliation and achieving socially desirable results. The House is fully aware that a good deal of time of the civil courts is taken by small family disputes which could be more expeditiously and at much lesser cost settled by Family Courts which should adopt entirely a new approach by avoiding rigid rules of procedure and evidence. Sir, the Law Commission in its 59th report in the year 1974 had also stressed that in dealing with disputes concerning the family, the courts ought to take an approach radically different from that adopted in ordinary civil proceedings, and that it should make reasonable efforts at settlement before the commencement of the trial, since it was felt that even the Code of Civil Procedure which was amended in 1976 could also not bring about any appreciable change in the proceedings relating to matters concerning the family.

The objective of the legislation is to provide for a radical new procedure for speedy settlement of family disputes.

Briefly the important provisions of the Bill are as follows:—

(a) to provide for establishment of Family Courts by the State Governments;

(b) to make it obligatory on the State Governments to set up a Family Court in every city or town with a population exceeding one million;

(c) to enable the State Governments to set up such courts in

areas as other than those specified in (b) above;

(d) to exclusively provide within the jurisdiction of the Family Courts the matters relating to:

(i) matrimonial relief, including nullity of marriage, judicial separation, divorce, restitution of conjugal rights, or declaration as to the validity of a marriage or as to the matrimonial status of any person;

(ii) the property of the spouses or of either of them;

(iii) declaration as to the legitimacy of any person;

(iv) guardianship of a person or the custody of any minor;

(v) maintenance, including proceedings under Chapter IX of the Code of Criminal Procedure;

(e) to make it obligatory on the part of the Family Court to endeavour, in the first instance to effect a reconciliation or a settlement between the parties to a family dispute. During this stage, the proceedings will not be adversarial and the rigid rules of procedure shall not apply;

(f) to provide for the association of social welfare agencies, counsellors, etc., during conciliation stage and also to secure the services of medical and welfare experts;

(g) to provide that the parties to a dispute before a Family Court shall not be entitled, as of right, to be represented by legal practitioners. However, the court may, in the interest of justice, seek assistance of a legal expert as *amicus curiae*.

(h) simplify the rules of evidence and procedure so as to enable a Family Court to deal effectively with a dispute; (i) to provide for only one right of appeal which shall lie to the High Court.

[Shri Jagannath Kaushal]

Sir, I have tried to touch upon some of the important aspects of the Bill. The setting up of the Family Courts is not something very new in the world. There are a number of advanced countries, namely, Britain, Japan and Australia, that have already set up Family Courts to settle family disputes in a totally different environment, where the concerned parties sit together with the judge who acts as a counsellor and makes a sincere effort to bring about conciliation. This procedure will also help avoiding long and arduous court procedures and will be available to the aggrieved parties at almost no cost.

Sir, one more advantage which will accrue as a result of setting up of the Family Courts will be the considerable reduction in the workload of the civil courts. Sir, I very sincerely urge the House to consider the keenness of the people and also that of the Government for simplifying the legal procedures to afford justice to the larger number of people in lesser time and money. I am fully confident that the Bill will receive the wholehearted and unanimous support of the House.

Now, Sir, I read the speech regarding the other Bill.

Regarding the Dowry Prohibition Act, I would like to mention at this stage that I will confine myself to a few preliminary observations to give an idea as to the approach adopted by the Government in dealing, through legislation with the problem of dowry menace.

The evil of dowry system has been a matter of serious concern to everyone in view of its ever increasing and disturbing proportions. How this menace is to be checked, curbed and eradicated is something which has to be viewed on a totally non-partisan and non-political basis.

As the Joint Committee of the Houses on the working of the Dowry

Prohibition Act, 1961 has rightly pointed out, the existence of the dowry system is a social problem and the remedy therefor can be found by creating social awareness in the society. The evil cannot be eradicated unless social consciousness revolts against it every time and on every occasion. So far as a legislative solution for dealing with the evil is concerned, as Pandit Jawaharlal Nehru observed: "Legislation cannot by itself normally solve deep-rooted social problems. One has to approach them in other ways too, but legislation is necessary and essential, so that it may give that push and have that educative factor as well as the legal sanctions behind it which help public opinion to be given a certain shape."

Legislation would be most effective and educative when it seeks to concentrate on those aspects of the evil which are most revolting. Keeping these observations in mind and with a view to securing effective creation of public opinion against the dowry evil, Government have, in the first place, tried to concentrate on the evil in its most revolting form. What is the aspect of dowry which is most revolting and most abnoxious, is best described in the words of the Joint Committee. I quote:

"The Committee feel that the evils of dowry system leading to murders, suicides, burnings—popularly known as 'dowry deaths'—harassment and torture of the newly married young girls throughout the country are creating a fear psychosis in India like the mafia in European countries."

Dowry harassment has been made a specific offence and included in the general penal law of the country, namely, the Indian Penal Code. I am referring to the Criminal Law (Second Amendment) Act, 1983 which was passed by Parliament towards the end of last year. I am happy to say that it has produced good results. The provisions of the new section

498A dealing with cruelty to married women are being resorted to very widely. If you see the daily newspapers, you will find reports of complaints by harassed wives almost every alternate day.

The intention of the Government is to proceed by stages. The Criminal Law (Second Amendment) Act, 1983 which I have mentioned is the first legislative measure in the direction of dealing with dowry menace; the present is the second measure in the same direction. Another measure is the a Bill for the establishment of family courts about which I have already spoken. I am sure the legislation for Family Courts would help in creating a better climate.

To sum up, Government feels that an effective solution to such a deep rooted social evil as dowry can only be achieved through stages. At the first stage, we have to attack the evil in its worst form and concentrate on tackling cases of dowry harassment and perverting dowry harassment, and at the next stage, and that is the stage which the present Bill represents, we should aim at making the penal provision and the procedure more stringent. Side by side we have also to work in the direction of evolving the necessary infrastructure and machinery in the form of Family Courts, in the form of machinery for registration of marriages, in the form of family counsellors and welfare workers and step up increasingly the anti-dowry publicity.

I do not want to go into the merits of the provisions made in the Bill, at this stage except to say that they are based to a large extent on some of the important recommendations made by the Joint Committee. I shall deal with any points which the Hon. Members may raise in my concluding observations and, as I have already said, with an absolutely open mind. Sir, I move.

1057 RS—11.

MR. DEPUTY CHAIRMAN; There is one amendment by Shri Ramakrishnan for reference of the Family Courts Bill to Joint Select Committee.

SHRI R. RAMAKRISHNAN: Sir, I move:

"That the Bill to provide for the establishment of Family Courts with a view to promote conciliation in, and secure speedy settlement of disputes relating to marriage and family affairs and for matters connected therewith, be referred to a Joint Committee of the Houses consisting of 30 members, 10 members, from this House. namely:—

1. Shrimati Amarjit Kaur
 2. Shrimati Usha Malhotra
 3. Dr. (Shrimati) Najma Heptulla
 4. Dr. (Shrimati) Sarojini Mahishi
 5. Shri Sankar Prasad Mitra
 6. Shri Kalyan Roy.
 7. Shri Dipen Khosh
 8. Shri D. Heerachand
 9. Shri Hukmdeo Narayan Yadav
 10. Shri R. Ramakrishnan
- and 20 members from the Lok Sabha;

that in order to constitute a meeting of the Joint Committee the quorum shall be one-third of the total number of members of the Joint Committee;

that in other respect the Rules of Procedure of this House relating to Select Committees shall apply with such variations and modification as the Chairman may make;

that the Committee shall make a report to this House by the last week of the Hundred and Thirty-third Session; and

that this House recommends to the Lok Sabha that the Lok Sabha do join in the said Joint Committee and communicate to this House the names of members to be appointed by the Lok Sabha to the Joint Committee."

MR. DEPUTY CHAIRMAN: There is amendment by Shri Satya Prakash Malaviya.

श्री सत्य प्रकाश मालवीय (उत्तर प्रदेश):
मान्यवर, मैं प्रस्ताव करता हूँ कि :

“दहेज प्रतिषेध अधिनियम, 1961 का संशोधन करने वाले विधेयक को राज्य सभा के अगले सत्र के प्रथम सप्ताह तक प्रतिवेदन देने के अनुरोधों के साथ, राज्य सभा की एक प्रवर समिति को सौंपा जाये,

जिसमें निम्नलिखित सदस्य होंगे :

1. श्री लाल कृष्ण आडवाणी
2. श्री वीरेन्द्र वर्मा :
3. श्री राम नरेश कुशवाह
4. श्री कैलाश पति मिश्र
5. श्री हुक्मदेव नारायण यादव
6. श्री यल्ला शशि भूषण राव
7. श्री जे० पी० गोयल
8. श्री धारेलाल खडेलवाल
9. श्री अश्विनी कुमार
10. श्री शंकर सिंह बागेल
11. श्री पुटटापागा राघाकृष्ण ।”

The questions were proposed.

MR. DEPUTY CHAIRMAN: Now motion for consideration of both the Bills and both the amendments are open for discussion.

SHRIMATI KANAK MUKHERJEE (West Bengal): Sir, I will speak only on the family Courts Bill, 1984 and colleague, Shrimati Ila Bhattacharya will speak on Dowry Prohibition..

Sir, at last Government has introduced: The Family Courts Bill, 1984. Prolonged discussions, debates, seminars and agitations for the introduction of family court have been going on for decades. Many social organisations, as the hon. Minister has already said, especially of women, including

my own organisation, All-India Women's Devantic Association, the AIWC, Social Welfare Boards, National Federation of Indian women, and Womens Status Committee, 1974, have all demanded setting up of the family courts. Sir, the Joint Select Committee on Dowry Prohibition Bill also recommended family courts. The Law Commission in its 59th report recommended in 1974. Naturally we were inspired by the examples of others countries. Hon. Minister has already mentioned about the U.K., the U.S.A., Britain, Japan, Australia, and now family courts have also come up in Socialist Countries like Russia and China though they are of different nature. Naturally we are inspired. but we wanted some ideal family courts to suit our society and our country.

Now, Sir, we have to examine whether this Bill satisfies our expectations, what we expected for so many years. Now at this fag end of the day and at this fag end of the session we are just struggling with the Bill, somehow steam rolling with the Bill, without giving any thought, any time for preparation, without any previous notice the Government has introduced the Bill. Sir, this is a flimsy Bill, absolutely inadequate, but howsoever it may be inadequate, introduction of the Bill is a welcome step. It does not show real sincerity of the Government behind this Bill.

We must know whether this Bill satisfies us so far as its spirit and the form are concerned. What attitude has this Bill given us towards family problems and what did we really expect? What was the recommendation of the Law Commission? Here I would like to quote the recommendation of the Law Commission and I quote:

“In our report on the Code of Civil Procedure and we have had occasion to emphasise that in dealing with disputes concerning the

family, the court ought to adopt a human approach."

Sir, I emphasise the words 'human approach' and it further says:

"an approach radically different from that adopted in ordinary civil proceedings, and that the court should make reasonable efforts at settlement before commencement of the trial."

Sir, it further says, I quote:

"We may add that selected judicial officers could be posted in courts empowered under both the Acts, . . . but will ultimately benefit the society."

SHRI K. MOHANAN: On a point of order. The Minister is not there. Nobody is attending to the Bill.

THE MINISTER OF STATE IN THE DEPARTMENT OF PARLIAMENTARY AFFAIRS (SHRI KALP NATH RAI): I am there.

SHRI K. MOHANAN: The discussion is going on and you are not taking it seriously.

SHRI KALP NATH RAI: I am noting down all the points. If any Member comes to me and asks for something, I have to reply him.

SHRIMATI KANAK MUKHERJEE: This is the attitude of the Government towards the serious problem which concerns not only individuals but families of the entire society. Now I quote a member of the Law Commission, Shri P. M. Bakshi who has said:

"The family is an institution that postulates intimacy of the highest order, mutual candour and confidence and a kind of seclusion from society. It could be likened to a delicate plant requiring careful tending at every stage."

This should be the attitude. The attitude should be humane and not formal.

[The Vice-Chairman (Shri Ashwani Kumar) in the Chair.]

This is what the Law Commission, the Members of the Law Commission and all the organisations expected from the Government. We must remember the importance of family ties in our society. Families are economic and social molecules in our society. We have to see how carefully these matters regarding the family should be handled. Does this Bill fulfil that expectation and create confidence that it will help in improvement of family relations? Two main purposes have been mentioned in the Bill in so many words. First purpose is counselling and the other is conciliation. In the Statement of Objects and Reasons it has been stated that the Code of Civil Procedure was amended in 1976 to provide for a special procedure to be adopted in suits or proceedings relating to matters concerning the family. Sir, may I know in which way that amendment to the Civil Procedure Code is different from this Bill, either in spirit or in form. I do not find any basic difference between these. In which way it is different? Where is the guarantee that even this Act will attract the commonman and will be successful? Why didn't the 1976 amendment to the Civil Code help us? It was recommended and the Civil Procedure Code was amended. But it was a failure of the Government as such. (*Time bell rings*) Sir, I have taken just five minutes. Please give me ten minutes more.

THE VICE-CHAIRMAN (SHRI ASHWANI KUMAR): You have already taken seven minutes. Fourteen minutes are for your party and there are two speakers.

SHRIMATI KANAK MUKHERJEE: I have covered two points. I have three more points. Sir, these are the two basic differences. One is the ad-

[Shrimati Kanak Mukherjee]

versely approach and the other is flexible and human approach which is proposed by the Law Commission. Do we find this basic difference in this Bill or not? I think we do not.

You are not giving me time; so what can I do? Regarding the composition of the courts, it is said "such persons possessing such other qualifications as the Central Government may with the concurrence of the Chief Justice of India prescribe". It must be stated what type of persons the Central Government will recommend. Will they be men and women of knowledge, experience and sympathy? We do not know. Or the Central Government will send such people as they are sending to different States. I do not want to name them here. The persons or Judges must command the confidence of men and women concerned.

Now the Bill has said that wherever in the cities and towns the number of people will be more than 1 million or about 1 million, there will be a court at first. In the beginning it starts with cities and towns. But it must expand throughout the country towards the remotest villages. If we cannot reach the lowest strata of common people, then it will be of no use.

Then, Sir, it must democrat from the common Civil Procedure Code. That is my point. Next is the power of investigation. The Bill has not stated what will be the jurisdiction of these courts. Does "family" mean anything regarding the family, Will they deal with the problem of dowry or dowry deaths? Will they deal with abandoned children? Will they deal with quarrels between mother and daughter and sister-in-law and sister-in-law? Will they deal with polygamy cases or suicide cases or separation cases? It is not clearly stated. The jurisdiction of the Bill is very much vague.

Then what is the power of investigation? The power of investigation should be given to the jurists. It has been said that you can involve women of women's organisations. In which way. There must be jurists. It must be composed of respectable men or women who can command the confidence and respect of those people. The jurists should take circumstantial evidence. Such evidence should be recorded by the courts by the jurists. The evidence should be taken in camera. Secrecy must be maintained all through.

Another point is, that all these things should be applied equally among all the people of all communities, irrespective of caste, language or religion. On communal basis you cannot exclude any part of the society. So there should be common Civil Code to give common justice to all.

Regarding appeal, it has been stated that they can make an appeal to the High Court. But the High Courts are already over-burdened with thousands and thousands of cases. And the same Civil Procedure will be there and the same adversely approach will be there. You appoint Special Appellate Courts so that they can deal with appeals of family courts only.

My final point is, I think it is more the socio-economic condition of the society and the women and the unequal relations between men and women for economic reasons than inadequacy of the laws from which our family relations are suffering. Sir, our Constitution has given equal rights between man and woman. We have the Hindu Marriage Act, the Special Marriage Act, the Divorce and Maintenance Act and the Dowry Prohibition Act etc. etc. but still we are in darkness. The vast masses of women are not in a position to take advantage of any laws because they are not economically independent, because they are not culturally and educationally advanced.

Sir, marriage ties have been vitiated by commercial and monetary motives. Dowry deaths, etc., are taking place every day. The very foundation of marriage and family life is tottering under economic pressure. We cannot expect fine, dignified family relations of the people who are below the poverty line. The roots of the evils must be realised. No dignified relations can exist between master and slave. So, they will remain as paper rights unless we root out the real evils. Not only is this law inadequate but I am afraid this law will remain a paper law as so many other laws giving us as many rights are, which we are not in a position to make use of. Still, something is better than nothing. Anyway, in whichever form this law comes and however inadequate it is, however faulty, flimsy and heartless, spiritless and mechanical this is, still I welcome this Bill. And I hope all the lacunae in the Bill will be amended through our experiences when we will find that this cannot be implemented and this will not be useful for the real purpose, for the real welfare of the individual, for the welfare of the family and for the welfare of the society at large. So, Sir, with this reservation I welcome this Bill and I hope that the lacunae will be amended in time. Thank you.

SHRI GHULAM RASOOL MATTO (Jammu and Kashmir): Point of order. The Law Minister is not there. Who is taking down the notes?

SHRI KALP NATH RAI: I am taking down.

AN HON. MEMBER: You are gossiping.

THE VICE-CHAIRMAN (SHRI ASHWANI KUMAR): He is taking down.

SHRI R. RAMAKRISHNAN: He is a man of many talents. He can do so many things at a time!

THE VICE-CHAIRMAN (SHRI ASHWANI KUMAR): Shrimati Sudha Joshi.

श्रीमती सुधा विजय जोशी (महाराष्ट्र): माननीय उपसभाध्यक्ष महोदय, दहेज प्रतिषेध अधिनियम, 1961 में संशोधन करने की बड़ी सख्त जरूरत थी। यह भयानक सामाजिक, रूढ़ि-दिन-व-दिन बढ़ती जा रही है। समाज के हर स्तर में, सुशिक्षित हो या अशिक्षित हो, अमीर हो या गरीब हो, सबमें यह जो दहेज का जहर है यह फैल रहा है और फैल गया है। यह सामाजिक कलंक है। इस राक्षसी प्रथा के कारण स्त्री के मन को कुचल दिया जाता है। उसे शारीरिक कष्ट उठाने पड़ते हैं। यहां तक कि कभी-कभी उसको अपनी जान भी गंवानी पड़ती है। शायद ही ऐसा दिन आया होगा जिस दिन दहेज के कारण मृत्यु नहीं हुई हो। ऐसी मृत्यु की संख्या डरावनी है। ऐसा लगता है जैसे हम संस्कृति से दूर किसी अमानुष जंगली समाज में रहते हैं। इससे जाहिर है कि जो कानून अमल में है वह कमजोर है। इसलिए उस पर फिर से विचार करना अत्यावश्यक हो गया है और इसी के कारण यह संशोधन लाया गया है। मैं इस संशोधन का समर्थन करती हूं और स्वागत भी करती हूं।

मान्यवर, दहेज की व्याख्या जो इस संशोधन में की गई है वह बड़ी उपयुक्त व्याख्या है, उसमें "एज कंसिडरेशन फार दि 'मैरिज'" के अलावा "इन कनेक्शन विद दि मैरिज" किया गया है और एक्सप्लनेशन एक जो है उसको निकाला गया है। इससे यह व्याख्या एडीक्वेट और कंफ्रीहेसिव बन गयी है। इससे कौन सी मांग दहेज की मांग है इसको तय करने में जो पहले दिक्कत आया करती थी यह दिक्कत अब नहीं आयेगी।

लेकिन कई मांगें ऐसी होती हैं जो इन

[श्रीमती सुधा विजय जोशी]

कनैक्शन विद दि मैरिज नहीं आती बल्कि लगातार अनेक सालों तक आती रहती हैं ।

7-P.M

अब नया हुआ, लड़का हुआ, लड़की हुई, चौथा बच्चा हुआ, अब ये दे दो, वो दे दो, ऐसी मांगें आती हैं । यह कानून इन मांगों का पूरी तरह से बन्दोबस्त नहीं करता है । लेकिन क्रिमिनल प्रोसीजर कोड में 1983 का जो अमेंडमेंट है, जहां पर "अनलागुल डिमांड्स फोर प्रोपर्टी एंड वेल्युएबल सिक्क्योरिटी" को क्रुएल्टी माना गया है और यह जो अमेंडमेंट है, यह इन मांगों की अच्छी तरह से खबर लेगा । इस संशोधन को देखे तो शादी के पूर्व और शादी के तुरन्त बाद जो दहेज की समस्या है, और उसकी जो केसेस आ जाती है, उनसे यह कानून अच्छी तरह से निपट लेगा ।

दहेज के केसेस में सजा बढ़ाई गई है, बड़ी खुशी की बात है मैं तो चाहतो हूं कि ऐसे गुनाहों के लिए और भी कड़ी सजा होनी चाहिये, तभी बेहतर रहेगा । मिनिमम जो छह महीने की सजा दी जाती है, वह भी कम की गई है, कौनसे कारण से कम की गई है ? पर्याप्त और खास कारणों के होने पर कोर्ट यह सजा कम कर सकता है । यह बड़ा लंबा-चौड़ा अधिकार कोर्ट को दिया गया है । यह योग्य नहीं है । गुनाह, जब वह दहेज के सिक्कसिले में हो, चाहे वह छोटा भी हो, फिर भी उस मामले में कम से कम एक महीने की सजा तो जरूर होनी चाहिये ।

सेक्शन "6" में जो संशोधन लाया है, वह रीजनल और एडीकेट है । एक अच्छी बात है कि दहेज औरत

को वापस करने का समय 12 महीने से घटाकर तीन महीने कर दिया गया है और यह रिकवरी जल्दी से हो, इसलिए वह रकम जुमाना मानी हुई है । इससे उस रकम को गारन्टीड रिकवरी हो जाएगी । मान्यवर, ऐसे मामलों की जल्दी से और काबलियत से जांच हो और जल्दी से जल्दी उसका निर्णय हो, इसका इस संशोधन में बन्दोबस्त है । सम्बन्धित लोग और परिवार के अलावा जो जानी मानी सामाजिक संस्थायें हैं, वह भी इसके बारे में शिकायत कर सकती हैं । इस प्रकार का प्रोवोजन ऐसे गुनाहों की जल्दी जांच करवाने के लिए बड़ा उपयुक्त रहेगा । ऐसे मामलों में लोग इज्जत के डर से शिकायत करने के लिए आगे नहीं आते । सामाजिक संस्थाओं को चाहिये कि ये जो नया चुनौती देने वाला काम उनके सामने है, उसे बड़ी दक्षता के साथ, लगन और श्रद्धा से उठावें । ऐसी संस्थाओं द्वारा की हुई केसेज का रिकार्ड वह संस्था स्वयं रखे उनके काम को देखकर उनका काम बढ़ाने के लिए मदद करने की कुछ स्कीम केन्द्र सरकार और राज्य सरकारें निकालें, जिससे एफेक्टिव काम करने के लिए ऐसी संस्थायें सुयोग्य योजना निर्माण कर सकें ।

इस संशोधन के मृताबिक दहेज के केसेज मेट्रोपोलिटन मजिस्ट्रेट और फास्ट क्लास जुडिशियल मजिस्ट्रेट के स्तर से नीचे के कोर्ट में नहीं चलाये जायेंगे । इससे जाहिर है कि सरकार ऐसे मामलों को महत्व देती है और ऐसे केसेज में जल्दी न्याय देना चाहती है । फिर भी यह बिल परिपूर्ण नहीं है । लेने वाला और देने वाला दोनों इस कानून के अनुसार अपराधी हैं । लेकिन देने वाला तो मजबूर होता है । उसे भी अपराधी ठहरावेंगे तो डिढाई से शिकायत करने के

लिए कोई भी आगे नहीं आयेगा । “परमोसिबिल आफ गिफ्ट्स एण्ड परंजेजेज” के बारे में सतर्क रहना चाहिये । उसकी लिस्ट रजिस्टर्ड होनी चाहिये । “कस्टमरी” शब्द भी बड़ा खतरनाक है । इससे कितना भी ज्यादा ले सकते हैं ।

औरत के मरने के बाद उसकी मालिकियत के अधिकारी उसके बच्चों हों और जो वह बिना अपत्य मरे तो वह मालमता उनको जाये, जो वह अविवाहित मरती तो जिनको जाना चाहिये था । ऐसा भी संशोधन इसमें हो ।

सक्सेशन एक्ट ठीक तरह से लागू हो जाये । नहीं तो स्त्रियों को कहीं से कुछ नहीं मिलेगा ।

शादी के सात साल में पत्नी वहम होने लायक अवस्था में मरे, तो पोस्टमार्टम हो और डाक्टरों से उसकी रिपोर्ट आये । जब तक उसका पति निरपराध है यह सिद्ध नहीं करता जब तक वह शादी नहीं कर सकेगा, कहीं भी जाकर शादी नहीं कर सकेगा । दूसरा धर्म लेकर भी नहीं कर सकेगा । यह भी इस कानून में होना चाहिये । यह शर्म की बात है कि ऐसे आदमी को हमारा समाज दूसरी लड़की देता है ।

शादी करके घर आयी हुई लड़की को दहेज नहीं लाई या कम लाई इसलिए समुराल वाले ताने देते हैं । इससे आत्म-हत्या तक की हालत आ सकती है । इसलिए ताने देना भी गुनाह मानना चाहिये, चाहे उसके लिए जुर्माना जैसा टोकेन पनिशमेंट रखा जाये ।

तलाक के लिए दहेज का कारण हो सकता है, यह भी संशोधन होना चाहिये ।
नतः यह राक्षसी सामाजिक रूढ़ि है ।

यह समाज परिवर्तन से ही खत्म हो सकती है, और कानून लाना ही है तो डाउरी प्रोहिबिशन नहीं बल्कि डाउरी एवोलिशन कानून लाना चाहिये । जब तक ऐसा कानून नहीं आता तब तक समाज पर बन्धन रखने के लिए यह जो कानून लाया गया है वह अच्छा काम कर सकेगा । मैं इस संशोधन का समर्थन करता हूँ । धन्यवाद ।

MISS JAYALALITHA (Tamil Nadu): Mr. Vice-Chairman, I wish to make a few remarks in connection with the Dowry Prohibition Bill.

As early as in 1950, the State Government of Bihar enacted the Bihar Dowry Restraint Act of 1950. In 1958, the Andhra Pradesh State Government enacted the Andhra Pradesh Dowry Prohibition Act of 1958. These Acts were enacted with the sole purpose of eradicating the practice of the evil system of dowry in the respective States.

In 1959, the first Dowry Prohibition Bill of 1959 with the main object of eradicating the evils of the dowry system, was introduced by the Government of India in the Lok Sabha. This was the parent bill of the subsequent Dowry Prohibition Act of 1961 which was passed by both the Houses of Parliament.

Twenty-five years have elapsed since the introduction of the first parent bill in the Lok Sabha in 1959. Yet, dowry deaths are on the increase. Almost daily in the newspapers we see reports of deaths due to so called “accidental” stove bursts which are anything but accidental. Almost always the persons involved in these tragic incidents are young married women who are done to death in a cold-blooded, calculated, pre-meditated manner—all for the sake of dowry or because of lack of it. Therefore, it is evident that more stringent measures and draconian laws are called for to stamp out this murderous dowry system which has already claimed so many innocent

[Miss Jayalalitha]

lives and reduced to ashes innumerable young girls in the flower of womanhood and has mercilessly crushed countless young blossoms which should have been nurtured and cherished instead.

In countries like America, Japan, Australia, there are Family Courts which are functioning very well.

In India, apart from the Family Courts, special courts should also be set up to deal exclusively with dowry cases. This is because dowry is a widespread social problem peculiar to our country. The Family Courts will have to handle cases dealing with property issues, divorce cases, cases dealing with judicial separation, claims to legitimacy and so on and so forth. If the dowry cases are clubbed with these other cases in the Family Courts, once again the sheer volume and number of cases will considerably delay the judicial process. In dowry cases it is imperative that justice should be rendered swiftly with all possible speed. For this, separate courts for dowry cases are a must.

Women affected by the dowry problem should be given free legal aid.

Complaints regarding dowry should be entertained whenever they are made, at any point of time. In certain cases when women tried to make complaints with regard to harassment they have been questioned, "You—left your husband's home five years ago. Why are you complaining now?" "This sort of questioning should not be allowed because in many cases, although a woman may be forced to leave her husband's home because of the dowry problem, she may wait for some years in the hope that her husband might change his mind and take her back. Therefore, this should also be taken into consideration. Legislation should be passed that persons convicted for any offence under the provisions of the Dowry Prohibition

Act, should automatically be disqualified for election to Parliament or State Legislatures or even local bodies such as Panchayat Boards. Such convicted persons should also be disqualified for employment in Government service at any level. Declaration by Government servants against giving or taking dowry should be made compulsory under law. Incentives should be offered for inter-caste marriages. All marriages must be compulsorily registered just as births and deaths are registered. People can have religious ceremonies as per their choice. Dowry Prohibition Officers should be appointed. They should have the same powers as Police Officers. The punishment provided for in the present Amendment as it exists is insufficient. Another amendment has been suggested extending the term of imprisonment from two to five years or two to seven years and a fine extending up to Rs. Ten thousand or five times the amount of the dowry. But still I say this is insufficient because the punishment hardly fits a crime of such magnitude when the demanding or extortion of dowry results in such grave consequences as the death of the bride and the ruination of whole families in their efforts to satisfy dowry demands. For a woman trapped in such a situation—marriage is tantamount to life imprisonment which more often than not ends in her death. Therefore, I submit that offenders should not be let off lightly. Punishment should fit the crime. Death sentence or life imprisonment should be awarded as maximum penalty. Offenders should not be let out on bail. This should be declared a non-bailable offence. Thank you.

THE VICE-CHAIRMAN (SHRI ASHWANI KUMAR): Mr. Mirza Irshadbaig Aiyubbaig.

श्री मीर्जा ईशदबेग ऐयुबबेग (गुजरात):
मान्यवर, मंत्री जी द्वारा इस सदन में रखे
गये दहेज प्रतिज्ञेय (संशोधन) विधेयक को
मैं अपना हार्दिक समर्थन देता हूँ। भारतीय

संस्कृति में भारतीय समाज का जो दर्शन कराया गया है, मैं यह कहना चाहूंगा कि उसमें दहेज हमारे लिये एक बड़ा भारी सामाजिक दूषण है। इस दहेज के निर्मूलन करने के लिये सरकार ने जो प्रस्ताव यहां रखा है उससे मैं समझता हूं कि इस कानून के पारित हो जाने के बाद इस देश में जो दहेज से कालिमा बनायी जाती है उसको दूर करने के लिये हम कटिबद्ध हो सकेंगे।

मान्यवर, मैं इस सदन में यह कहना चाहूंगा कि यह दूषण समाज में इस लिये फैला है कि इसके कुछ तो सामाजिक कारण हैं और कुछ हद तक हमारे देश के कुछ लोगों में अज्ञानता है। इसके कुछ सामाजिक कारण हो सकते हैं और कुछ आर्थिक कारण हो सकते हैं। मैं यह कहना चाहूंगा कि यह दूषण कहाँ पर है। यह भारतवर्ष में है जिसकी एक संस्कृति है और जो एक बड़ी ऊँची गरिमा रखने वाली संस्कृति है। मैं पूछना चाहता हूँ कि वेदों में कहीं नहीं बताया गया है कि दहेज लिया जाय। मैं अपने हिन्दू भाइयों से पूछना चाहता हूँ और मुसलमान भाइयों से भी पूछना चाहता हूँ कि धर्म में क्या कहीं भी इसका उल्लेख किया गया है? मैं कहना चाहता हूँ कि यह हमारी भारतीय संस्कृति है जिसमें कहा गया है :

यत्र नारियस्तु पूज्यन्ते, रामन्ते तत्र देवता ।

क्या इस संस्कृति को हम लोग करने जा रहे हैं? क्या इस सामाजिक दूषण के पतन पर हम कुछ नहीं करना चाहते। यदि हम अपने अभिज्ञान शकुन्तलम को देखें तो पायेंगे कि जिस समय शकुन्तला विदा हो कर ऋषि के आश्रम से जा रही थी तो उन्होंने विदा करते समय जो बातें अपनी बेटी को कहीं थीं वह क्या हमारे देश के लिये, हमारे समाज के लिये और विश्व के लिये एक नयी दृष्टि नहीं प्रदान करती हैं। मैं पूछना चाहता हूँ कि क्या नबीए करीम हजरत मुहम्मद मुस्तफा (सः अः वः) ने जब अपनी बेटी को विदा किया था

तो दहेज में उन्होंने क्या दिया था? अगर मुसलमान दहेज लेता है तो वह सच्चा मुसलमान कैसे हो सकता है। कौन सा मुसलमान है जो कहे कि मैं सच्चा मुसलमान हूँ और दहेज ले। हिन्दुओं से मैं पूछना चाहता हूँ कि क्या वेदों में इसको बताया गया है? वेदों में इसको दूषण बताया गया है। सामाजिक संगठनों का फर्ज बनता है कि अगर देश में इसी दहेज के कारण हमारी बेटियों को, हमारी बहुओं को, हमारी मायों को अपनी जानें देनी पड़ती हैं, कोई उनकी जान लेने की कोशिश करता है तो इससे धिक्का काम कोई दूसरा नहीं हो सकता है।

मान्यवर, मुझे याद है कि गुजरात के अन्दर जब यहां से संसदीय समिति गई थी तो गुजरात के नीजवानों ने, गुजरात के युवा कांग्रेस ने कहा था कि इसको ज्यादा से ज्यादा सख्त बनाएं, ऐसा कानून लाना चाहिये जिससे देश में कोई भी व्यक्ति इस बात को सोच भी न सके कि दहेज हम लें। यह ऐसा दूषण है जो हमारे समाज की नींव को खोखला करने वाला है। मैं कहना चाहता हूँ कि जब देश तर्क्की कर रहा है, जब विश्व तर्क्की कर रहा है तब ऐसे दूषण को लेकर हमारी सबकी जिम्मेदारी बनती है कि इसको समाप्त करें। मैं यह भी कहना चाहूंगा कि जब यह कानून बन जाए, तब न्यायाधिकारियों का, पुलिस अधिकारियों का और अखबार नवीशों का फर्ज है समाज के प्रति कि ऐसे कदम उठाये जिससे इन बुराइयों को समाप्त किया जा सके। मैं कहना चाहता हूँ कि हमारा सामाजिक दृष्टिकोण विशाल होना चाहिये। उसको लेकर हम आगे बढ़ें। यह कानून बनता है तो जो कानून में बैठने वाले हैं, जो सजा देने वाले हैं उनकी चाहिये कि उनका दृष्टिकोण विशाल हो। वे विशाल अधिगम रखें और यह देखें कि जहां पर वे बैठे हैं वहां पर इस कानून को किस प्रकार से कारगर बना सकें। क्या हम किसी का जीवन लेना चाहते हैं? दहेज नहीं।

[श्री मोर्जा ईशदिवेग ऐयुववेग]

बलि जीवन, यह हमारा सूत्र बनना चाहिये। जीवन हम नहीं दे सकते तो हमें चाहिये कि हम जीवन किसी का न लें और जिस जगह पर बैठे हैं वहाँ से इस दूषण के निमूलन के लिये उपाय करें।

श्रीमान्, सरकार ने इस बिल को लाकर, इसे कानून की शक्ल देकर यह बताने का प्रयास किया है कि दहेज सामाजिक अपराध है जिसे हम समाप्त करना चाहते हैं। मैं इसका संपूर्ण रूप से समर्थन करता हूँ। लेकिन यह केवल किताबी कानून बनकर न रह जाए, इसके लिए हमको चाहिए कि समाज में बैठे हुए, संगठनों में बैठे हुए लोगों को चाहिए कि जागरूक रहें। यदि उसका इंप्लीमेंटेशन ठीक से नहीं किया जाएगा तो मैं समझता हूँ कि सिर्फ यह एक कागज पर रखे जाने वाली बात होगी। हमको चाहिए कि हमारी बहनों को इस का शिकार होने से, बरबाद होने पर बचाया जाए। ऐसे कानून को अधिक कारगर बनाने के लिए जितनी हमारी शक्ति है, उसको हम इस्तेमाल करें और कानून के पास होने से भी कड़ी से कड़ी सजा जो हो सकती है वह हमको आयात करनी चाहिए। समाज के दोषी लोगों को इससे छुटकारा नहीं मिलना चाहिए। मैं मानता हूँ कि कानून के अन्तर्गत जितनी सजाएँ बनाई जाती हैं, वह कितनी मर्तबा शिक्षात्मक और सुधारात्मक होती है। लेकिन मैं कहना चाहूँगा कि इन दोनों पहलुओं पर गौर करके एक विशाल अधिगम बना पड़ेगा ताकि इन सजाओं के जरिये हम अपनी बहनों, माँओं, और बेटियों को इस के अभिजाप से बचा सकें।

मान्यवर, मैं कहना चाहूँगा कि इस दूषण को समाप्त करने के लिए जितनी

जल्दी हम रास्ता निकाल पायेंगे, हमारा समाज उतनी ही जल्दी मजबूत हो सकेगा और हम अपनी बहनों, बेटियों को इन मुसीबतों से बचा सकेंगे। इन्हीं शब्दों के साथ मैं इस विधेयक का समर्थन करता हूँ।

DR. (SHRIMATI) SAROJINI MAHISHI (Karnataka): Mr. Vice-Chairman, I thank you for giving me an opportunity to speak on this Bill. Social legislation by itself will not be able to bring about any effective change in the society. It is only one of the instruments. An infrastructure for educating the people for implementation of the social legislation is very, very, essential, and that infrastructure we are lacking. That is what Raja Rammohan Roy said—whether social legislation should come first or education of the people should come first. If the people are well educated or the society is well educated, then it will be easier to implement any social legislation in an effective way. It was in 1961 that the Dowry Prohibition Bill was passed. But even after such a long period of time dowry deaths are increasing in number, rather more publicity is being given now which publicity was denied earlier. There has been no improvement whatsoever in the situation. Therefore, in order to see that it is effectively implemented we should see that the necessary infrastructure is built first. What do we see today? We are introducing the Family Courts Bill after a period of 37 years of independence. There are countries like Japan, China, Australia, Britain, where family courts were introduced much earlier and have been functioning. Even though we felt the necessity of family courts so long, it is only after such a long period and after so many women's organisations have made repeated representations that we are seeing the introduction of this Bill in Parliament today. The personal laws in

India, the Hindu law, the Muslim law, are very broad-based—

श्रुतिः स्मृतिः सदाचारः स्वस्थ च
प्रियमात्मनः ।

सम्यक् संकल्पजः कामो धर्ममूलमिदं
स्मृतम् ॥

Not only the *sruthis* and *smruthis*, but also the good conduct of the people and the pious ideas of the noble people are considered as the basis of religion and the law has sprung up out of them. Today what do we find? The *smruthi* writers went to the extent of recognising eight types of marriages including abduction of girls at that time—

ब्राह्मो दैव स्तथैदधो प्राजापत्यस-
तथासुरः ।

गान्धर्वो राक्षसश्चैव पैशाचश्चाष्ट-
मोडधमः ॥

The first four types of marriages are considered superior and the latter four types are not considered superior, they were considered inferior to the first four types. The other day when one honourable Member brought forward a Private Member's Bill, he said that the neo-Buddhist marriages were not being recognised in the country. I wonder how these board-based personal laws of the Hindus have deteriorated into such a narrow pass that these have not been able to give due protection to women. The deterioration that has set in into the body of these personal laws has got to be remedied, that has got to be compensated. How is that background to be created? My honourable friend on the other side also participated in the debate and I am very happy that he did otherwise, it would have become a woman Members' Bill. But today the necessity is for the menfolk to learn many things. Women have already learnt them. Therefore, this should not be considered as restricted only to woman Members. I am, therefore,

very happy that my friend over there participated in the discussion. He quoted Shakuntala. I would like to emphasise that the idea that the girl is a burden or she is a deposit of another person kept in the family of the parents, should be removed from the minds of the people as early as possible. This idea was very prevalent in the latter half of the *smruthi* period:

अर्थो हि कन्या परकीय एव

तामद्य संप्रेष्य परिगृहीतुः

जातो ममायं विशदः प्रकामं

प्रत्यर्पितन्यास इवान्तरात्मा ॥

Kanwa, who was the adopted father of Shakuntala, says, I am feeling so relieved, like a person who has returned the deposit of another person kept with him so long. This is the sort of feeling in the society towards the girl Ramachandra is praised for abandoning his wife, Sita, on hearing a scandal from a washerman. If Ramachandra and the washerman were to fight an election today on the basis of accepting or discarding the wife, I do not know who is going to win the election. After having discarded his wife Ramachandra is praised and Sita is made to give a clean certificate. Even Kalidasa's Sita said—

कल्याणबुद्धेरथवा तवायं न कमचारो

मयि शंकनीयः ।

ममैव जन्मान्तरापातकानां विपा-

कविस्फूर्ज्युत्प्रसह्य ॥

"No one can think anything about a noble-minded person like you it is only the result of the accumulated sins that I might have committed in my previous births." That is how Sita is made to say.

In the background of these things we find that until we came to 1937 when the Hindu Women's right to property Act was passed, women had no right to possess even a piece of

[Dr. (Shrimati) Sarojini Mahishi]

property. The woman had to go begging like a widow. This was the situation. Today, however, we have been able to reach a stage where a fundamental right has been given to women irrespective of caste, creed, place of birth, etc. every citizen of India has an equal right to property and equal protection by law. Is today the woman in a position to exercise her independence? Is today the woman in a position to exercise her fundamental rights that have been conferred on her by the Constitution? Is she not to be given proper education? Is she not to be given proper opportunity for exercising all these rights?

Today we come before the Parliament with the Family Courts Bill. What is the family courts meant for? This Bill on family courts is meant to provide for the establishment of family courts with a view to promote conciliation in, and secure speedy settlement of, disputes relating to marriage and family affairs and for matters connected therewith. It speaks of almost all matters connected therewith, whether it is validity of the marriage, nullity of the marriage, restitution of conjugal rights or divorce. All things are put together just as the Deputy Chirman was good enough to bracket these two Bills together. All the things are put together here.

Anyway I am happy that the special court has been created to deal with all these matters relating to marriage disputes and other family affairs. I wish to state in this connection that in the High Courts of Calcutta and Madras there are cases which have been pending since 1945. Cases pending for nearly half a century have not been disposed of. Their number goes into thousands. How are they going to deal with these delicate cases and most sensitive matters which concern administration of justice to the weaker sections of the society?

What is the position of woman today in spite of all the assurances given to her? It may be either the Hindu Law or it may be the Moham-medan Law, has the woman got the capacity to go to the court and entrust the whole thing to the lawyer and incur the expenses involved in this process? She is not in a position to do it.

Under these circumstances the idea of family court is no doubt welcome. But there are many difficulties and I do not know how the Law Minister is going to solve these difficulties. The State Governments have been asked to incur the expenditure. They have been asked to defray the expenditure out of their revenue. How many State Governments will be able to do it, and that also in a speedy way? The main objective of the Bill is to see that the cases are settled as expeditiously as possible, that too in an inexpensive way. How many of the State Governments are in a position to do that?

Secondly, we have to see whether this family court system has an execution wing. If there is no execution wing, how are they going to deal with cases such as dowry deaths? Are we thinking of dealing with only civil cases? No. Family courts have to deal with criminal cases also because it comes under Chapter IX of the Criminal Procedure Code. Today, as it is, the whole law pertaining to marriage and other family affairs is linked up with section 151 of the Civil Procedure Code and a number of other pieces of statutes, for example, the Special Marriages Act of 1954, the Hindu Marriages Act of 1955 and the Divorce Act of 1859. All these have made inroads into the Hindu Law which though broad-based has become narrow. All these have been put together. It is a sort of hotch-potch work, so to say. So, this has got to be regularised, channelised and put through the family courts.

Then what about establishment of case laws and precedents, what about the civil side, what about the criminal side? The other question is how expeditiously they will be able to do it in an inexpensive way? That is the most important thing.

Anyway, at the outset, we do welcome this. I will wait and see how these things will be conducted in the proper way. I do hope that the Law Minister will be able to see that the State Governments are enabled to institute these family courts not only in places where there is more than one million population, but along with that they should have a wing in the High Court which should be able to deal with the appeals. Otherwise the appeals will go to the High Court in the normal routine way and they will get bogged down there. As the Law Commission in its fifty-ninth report said those things which are meant to be dealt with in a conciliatory way, in a humane way are being dealt with in an adverse way. It is very necessary to see that we do not commit mistakes again and that proper justice is being rendered to the weaker sections of the society. In spite of all the assurances, the woman has today been reduced to a sort of non-entity.

Mr. Vice-Chairman, I do not like to dwell on this aspect at great length. The woman could not possess even a piece of property. What is her position today after the judicial separation?

And, Sir, the Hindu Marriage Act was being amended. The idea came from Parliament that after a period of two years of judicial separation, it should be taken as if it is an automatic divorce. Many of the Members went to the extent of saying this and many also said that two years' separation should be reduced to one year and, after that, it should be considered automatically as divorce. But some women Members were good enough to say that we have not reached that stage when women are able to give expression to their grievances, are able to ventilate their grievances and other things. It is not that

these things were not there earlier. These things were there earlier also Manu says:

नष्टे मृते प्रवृजिते कर्त्तव्ये च पतिते पत्नौ ।

पंचसु ग्रामस्तु स्त्रीणां पतिरन्यो दिव्योयते ॥

It means that when the husband is destroyed, when he is dead when he takes to robes when he is a eunuch, when he becomes a fallen person, the wife is entitled to take another husband. But how many of these things have come into force? None of these things has come into force. There are sections where the usages and customs are prevalent in a more effective way and where the usages and customs are more effective or important than the *shastras*, these things are prevalent and are in vogue. But in other in other places these things have not entered the body of the society because to remain away and secluded from these things and not to make use of these things was considered to be a matter of prestige in the higher echelons of society. The greater the seclusion, the higher the women was supposed to be. But these values have changed radically and we have got to think that every woman in this country has got the right of dignity, has got the right of equality with other people. I do not say with men, because that is not the standard. She has got the right of equality with all the people, with all the other citizens, of this country, and she is also entitled to these things not only in theory, but also in practice.

Now, the second Bill is relating to the Dowry Prohibition Act. Though the honourable Minister made separate speeches, he was good enough to accept both of them in the same breath. Now, this is a penal provision and there is a penal clause. Are we including such things in this which will create a deterrent impact on the society? It is very necessary. Sir, I do not know the origin of the dowry system and God only knows from where it started. None of the scriptures has ever said that it should be there. It has only been said:

सात्कृतां कन्याम्

It means that a girl who is decorated with some ornaments or flowers or something like that is to be given in marriage. But now the demands and equations have

[Dr. (Shrimati) Sarojini Mahishi]

gone to such an extent that an engineer will demand a dowry of two lakhs of rupees, that a doctor will demand a dowry of one-and-a-half lakhs and an IAS man would demand a dowry of three lakhs. It goes on like this in an ascending order, in an ascending form. Where is the end to this? It was said that our women folk should think about it. But I want our menfolk to think about it because they are the privileged class of the society and they have enjoyed all the privileges for such a long time that they should think about it now. When someone was speaking, it was said that women should think about this problem as if this is a matter concerning them only. But I want that the greater section of the society, the privileged section of the society, the menfolk should think about these things and it is necessary that they should be educated in this regard.

Sir, in this context, I do welcome this Bill and I request the Minister to see that all the State Government try to implement these things properly and also within the given time. One State may take ten years and another five years and, like that, they may go on. Therefore, it is very necessary that they should be able to do it within given time, as a time-bound programme, and should be able to see that greater sections of the society are covered by these laws. Thank you, Sir.

SHRI DINKARRAO GOVINDRAO PATIL (Maharashtra) : Mr. Vice-Chairman, Sir, I rise to support the Dowry Prohibition (Amendment) Bill, 1984, with some substantial suggestions.

Sir, before going through this amendment of the Dowry Prohibition Bill, I submit the background of the weakness and tragedy of woman concerning the dowry system.

In the primitive state, Sir, there was not a distinction between man and woman. They were treated equally to each other. The woman was supposed to be a power on the earth. She had a great respect in the society. But when man came to know that he is a person who could produce children from a woman, then he became conscious about his sex enjoyment with

woman. Since that time woman became the property of man and man became the owner of that property. The translation of her sale and purchase started in the market. Wild persons started looting her as a property. The woman became a tool in the hands of man. At last a poor woman sacrifice her freedom and her self-respect for her own self-protection of life. Even we find in Manusmriti that Manu has said in his book that woman is a slave of man as Harijans are treated. In almost all religions, woman has been given the secondary place in the society. Because of this fact, man became arrogant and more stronger and woman became weaker. Because of this atrocities, harassment and the tragedy of woman have been increasing day by day.

Education and service are being given to the girls not for their personal development but only for selling these girls in the market of the marriage. Sir, what is Kanyadan? It means that the daughter is a gift to be given to others. Why in the Hindu law is there a mention of Kanyadan? It is nothing but the violation of a human law. Under the Hindu law and Hindu religion and also under the Muslim personal law and Muslim religion, women are treated to be inferior human beings.

Sir, we found only in Delhi city since last 1st September 1983 to 3rd March 1984, nearabout 228 women died. Some of them were murdered, some of the women were burnt alive and some of them committed suicide because of not giving dowry. At least every day two women are victims of dowry in Delhi city alone.

The law is not sufficient to stop the dowry system. There should be mass oiling and mass movement in the society and I suggest that the Government should initiate the leading part in such movements. We find some political leaders attending the marriage ceremony of rich persons where huge amounts of money are spent for pomp and show. I suggest that there should be such law which will restrict the marriage ceremony expenses. Such marriages should be boycotted by leaders.

I further suggest that girls should first became independent to lead their own life

on their own legs in order to give a blow to the bad system of dowry. There should be registered marriages without incurring unnecessary expenses. I further suggest that Government should encourage love marriages, inter-caste marriages and inter-religion marriages.

Sir, Section 2 gives the definition of 'Dowry'. But under the Hindu law, Kanyadan, itself is dowry. Therefore, without eliminating the word 'Kanyadan' in Hindu law, this Act will not get much sanctity. This Act contradicts the Hindu law on the point of Kanyadan and Dowry.

Under the same clause 2 of this amendment Act, the explanation that any presents made at the time of a marriage to either party to the marriage in the form of cash, ornaments, clothes or other articles shall not be deemed to be dowry within the meaning of this section unless they are made as a consideration for the marriage of said party. I may submit, Sir, that there are presents in the form of cash, ornaments, clothes, etc. They are nothing but a consideration for marriage. Therefore, giving presents should be prohibited under this law. Even in Section 7, it is given in the Amendment Bill that the offences are non-cognizable, bailable and non-compoundable. My submission is that such offences must be cognizable, non-bailable and non-compoundable because such offences are serious and are responsible for the harassment and death of women. My next suggestion is about the explanation which I have given. According to me, all these suggestions should be taken into consideration. With these words, I support this Bill.

श्रीमती विजया राजे सिधिया (मध्य प्रदेश) : महोदय, हमें खुशी है कि ये जो फेमिली कोर्ट और दहेज अमेंडमेंट के बिल हैं ये आज इस वक्त हमारे समक्ष लाये गये हैं। काश कि ये बहुत पहले आते जैसा कि बहान कनक मुखर्जी जी ने कहा। यह देर से ही सही पर दुरुस्त आया, मैं सरकार को इसके लिये धन्यवाद देती हूँ। परन्तु यह इतनी देर से आया है और टर्म के अन्त में और आज के दिन भी संघा के आखिर में

इस प्रकार जल्दबाजी में ऐसा महत्वपूर्ण बिल लिया गया है जिसका कि मानव जीवन के साथ संबंध है तो मैं सोचती हूँ कि यह जरा समझदारी की बात नहीं हुई है। इस पर जरा सोचने-समझने और विचार करने के लिये काफी समय मिलता तथा शुरू से ही इसको विस्तार से तैयार किया जाता तो मैं सोचती हूँ कि अच्छा रहता। खैर, चूँकि यह आया है, बिल लाया गया है तो मैं उनको इसके लिये धन्यवाद देती हूँ और इसका समर्थन करती हूँ।

मेरे विचार में मानव परिवार जो है वह एक पवित्र संस्था है और आज जो कुछ भी सार में कार्यवाही होती है चाहे वह सरकार की ओर से हो सामाजिक हो, आर्थिक हो, उसके जितने भी पहलू हैं वे सब मानव जीवन से संबंधित होते हैं। मानव जीवन इतना महत्वपूर्ण है कि मानव जीवन से संबंधित जो मसले हैं जो विषय हैं उनको भी हमें उतना ही महत्वपूर्ण समझना चाहिये और महत्व देना चाहिये।

भारत तो स्वतन्त्र हुआ, काफी साल हो गये। परन्तु मेरी नजर में अभी नारी स्वतन्त्रता सही मानें में नहीं आ पायी है; भल ही हम कुछ पढ़ी लिखी महिलाएँ, सविधान के अन्तर्गत जो अधिकार हमको मिले हैं उनको जानती हों और उनका उपयोग कर पा रही हों। परन्तु आज अधिकांश भारत की आम नारी अन्धकार में है, अज्ञानता और अशिक्षा के। इस प्रकार उनका शोषण हो रहा है। आजकल अखबारों में प्रति दिन ही प्रायः हम दहेज आदि की कुप्रथा के कारण नारी की आत्महत्या और नारियों को जलाने जैसी वीभत्स घटनाएँ पढ़ते हैं। इन सब बातों से द्योतक है कि हमने सचमुच में समाज की सेवा करने और समाज के लिये सोशल लेजिस्लेशन लाने में बहुत देर की है।

[श्रीमती विजया राजे सिधया]

भारत की छवि उभारने के लिये हमारी प्रधान मंत्री श्रीमती इंदिरा गांधी काफी सजग हैं और कोशिश करती हैं। परन्तु मैं यह कहना चाहती हूँ कि केवल प्रधान मंत्री की छवि उभारने से देश की छवि नहीं उभरती है। समाज की छवि उभारने के लिये, राष्ट्र की छवि उभारने के लिये नारी समाज को उचित स्थान मिलना चाहिये। अगर नारी समाज को उचित स्थान मिले, समाज के अन्दर उचित सम्मान मिले, सामाजिक न्याय मिले तभी हम यह सोच सकेंगे कि हमारा यह राष्ट्र वाकई में एक ऊँचा, उन्नत राष्ट्र है और यह कहला भी सकेगा। और सचमुच में भारत की छवि उभर आएगी।

मैं यह सोचती हूँ कि यह जो फेमिली कोर्ट का सुझाव है, यह बहुत अच्छा है। इसके विषय में मुझे अधिक कहना नहीं है क्योंकि मैं कानून की विशेषज्ञ नहीं हूँ, परन्तु मैं यह समझती हूँ कि बहिन कनक मुखर्जी का जो सुझाव है, उससे मैं सहमत हूँ पर दस लाख से ऊपर की आवादी के जो शहर हैं, वहाँ पर कोर्ट रखने की जो बात कही गई है, मुझे लगता है कि यह अपर्याप्त है क्योंकि अन्तर तक गांव-गांव में और अनेक छोटे कस्बों, शहरों में, वहाँ भी इस प्रकार की अनेक घटनाएँ होती हैं। इसलिये मैं उनकी बात का समर्थन करती हूँ कि ऐसी अनेक कोर्ट हों, और कम आबादी के शहरों में भी हों और हो सके तो मोबाईल कोर्ट भी हों और मोबाईल कोर्ट जगह-जगह जा सके और वहाँ जाकर इस प्रकार की जो सताई गई महिलाएँ हैं, उनको मदद भी पहुंचा सके।

समाज सेवी संस्थाओं के विषय में मैं कहना चाहती हूँ कि इन कोर्ट्स में शिकायत जो है, वह समाज सेवी संस्थाओं की ओर से शिकायत करने की सहूलियत भी दी जाए। यों कि कई बार ऐसा होता है कि इस तरह के

कोर्ट्स मौजूद भी हैं, इसके बारे में उनको ज्ञान तक नहीं रहता है और हो सकता है कि वह बेचारी सताई जा रही और उस बेचारी को खुद को पता भी नहीं कि उसको कैसे इसमें से त्राण मिल सकता है। तो ऐसी हालत में समाज सेवा करने वाली संस्थाएँ जो हैं, वह अच्छी मदद कर सकती हैं।

तो मेरी राय में जो समाज सेवा करने वाली संस्थाएँ हैं, उनको सक्रिय होने के लिए व इसमें योगदान देने के लिये सक्रिय किया जाए और साथ ही साथ उनकी सलाह को भी ज्यादा महत्व दिया जाए। इस सलाह के काम में, यानी परिवार के बीच में जो सुलह करने के काम में, उनको काफी प्रोत्साहन दिया जाए।

हमारी चीज, अक्सर न्याय जो है, वह बहुत देर से मिलता है, तो यह निर्णय में देरी करने से बहुत बार सताई हुई महिला, आपत्तिग्रस्त जो हैं, हो सकता है कि उसे और भी अधिक कष्ट सहना पड़े, सब तरह के अपमान और आघात सहने पड़े। इसलिये उनको जल्दी से जल्दी राहत मिले, कोर्ट के निर्णय जल्दी हों और इस प्रकार सताए हुये व्यक्ति को राहत भी जल्दी मिल सके।

जैसा कि मैं पहले से कह रही हूँ कि मानव परिवार एक पवित्र संस्था है। यह दोनों बिल जो एक साथ आए हैं, इन दोनों बिलों का एक दूसरे से तथा परिवार से संबंध भी है।

मैं दहेज की ओर इशारा करते हुये कहना चाहती हूँ कि दहेज तो मैं सोचती हूँ कि बिल के अन्दर ऐसा प्रावधान होना चाहिये कि बिल्कुल ही खत्म कर दिया जाए, उसको रखा ही नहीं जाए। कोई भी लिमिट किसी गरीब व्यक्ति के लिये—कोई भी लिमिट ऊंची हो जाती है, अगर एक, दो, पांच या दस हजार कुछ भी कहिए। (समय की घंटी)

इसलिये मैं समझती हूँ कि दहेज की लिमिट जो है, उसको न रखते हुये, सम्पूर्ण रूप से ही उसको खत्म कर दिया जाए।

दूसरी बात, थोड़ा सा मैं संशोधन रखना चाहती हूँ—वह यह है, जो जयललिता जी ने भी कहा था कि विवाह रजिस्ट्रेशन कम्पल-सरी होना चाहिए और रजिस्ट्रेशन के साथ-साथ दहेज की जो लिस्ट है, अगर दहेज रखा जाता है, तो जो दहेज मिला है, उसकी लिस्ट भी साथ ही साथ रेकार्ड की जाए और रजिस्टर किया जाए, ताकि आगे जाकर कभी सताई गई महिला को परित्यक्ता के रूप में अगर मुसीबत सहनी पड़े, तो उनको उस पर क्लेम करने का मौका मिल सके। इसलिये मेरी राय में वह होना चाहिये। दूसरी बात परिभाषा है। दहेज की जो परिभाषा है उस परिभाषा में अन्य जो सैरमनीज हैं, जैसे कि तिलक आदि उसमें उनको भी शामिल कर दिया जाए। तिलक आदि जो शादी से पहले होता है, उसको भी इस लिस्ट में शामिल कर दिया जाए। तीसरी बात यह थी कि रिकॉग्नाइज्ड संस्था के द्वारा शिकायत करने के बारे में जो कहा गया है, सोशल आर्गेनाइजेशन के बारे में कहा गया है। मैं सोचती हूँ रजिस्टर्ड, अन-रजिस्टर्ड किसी भी प्रकार की सोशल वर्क करने वाली संस्था हो, महिला समाज सेवी संस्था हो या वैसे ही अन्य कोई समाज सेवी संस्था हो, उनको राइट होना चाहिये कि वे शिकायत कर सकें और इस प्रकार उनकी कार्यवाही से कोई रास्ता खुल सके। ऐसी कोई रिमाट्रक्शन नहीं होनी चाहिए कि वह रजिस्टर्ड सोशल आर्गेनाइजेशन ही हो। मैं तो बहती हूँ कि समाज के काम में लगे हुये समूह भी चाहे तो वे भी ऐसे मामले को कोर्ट के सामने ला सकें। दहेज के कारण जो परित्यक्ता महिलाएं हैं, उनके जीवन-यापन का जो भत्ता है, वह भी एक जरूरी विषय है, मैं सोचती हूँ कि उसके बारे में भी विचार किया जाए और वह भत्ता उनको उनके परिवार के आर्थिक स्टैंडर्ड, आर्थिक स्तर के अनुसार मिले। ऐसी व्यवस्था कोर्ट

के द्वारा की जाए। वह भत्ता उनको उसी दिन से प्राप्त हो जिस दिन से कि उनकी परित्यक्ता के तौर पर घर से निकाल दिया जाता है। क्योंकि कई महिलाएं निःसहाय अवस्था में घूमती हैं और उनकी बेइज्जती भी होती है।

इस प्रकार मैं अन्त में यह भी कहूंगी कि दहेज का जो अपराध है वह नान-बेल-एबल किया जाए, यह भी मेरा सुझाव है। इस प्रकार दोनों बिलों का मैं जरूर समर्थन करती हूँ और साथ ही साथ गवर्नमेंट से रिक्वेस्ट भी करती हूँ कि जैसे कि हमारी विदुषी बहन सरोजिनी महिषी जी ने कहा कि यह सोशल लैजिस्लेशन ही न हो कर रह जाए। केवल एकट पास करने से ही पर्याप्त नहीं होता है, उसके अनुरूप वातावरण बनाना भी आवश्यक होता है। इसलिये वह भी व्यावहारिक ढंग से प्रैक्टिकल रूप में संभव हो सके इसके लिये आवश्यक वातावरण तैयार करना भी आवश्यक है। नहीं तो आप जानते हैं कि गारदा ऐक्ट कई वर्षों से लागू है, परन्तु देश में हजारों नहीं, लाखों की तादाद में गांवों के अन्दर, इटीरियर में तो कितनी ही छोटी-छोटी नाबालिग कन्याओं की वर-वधूओं की शादियां रचाई जाती हैं। हम सबके नालेज में होती हैं और वे चीजें अभी भी हो रही हैं। इसलिये ऐसे ही यह कानून बन कर ही न रह जाए और पीड़ित व्यक्ति के नालेज में न होने से मनमानी होती रहे। दहेज ऐक्ट का तो मुझे लगता है कि शायद यही दशा होने वाली है? क्योंकि दहेज देने वाले और लेने वाले के बारे में आज तक कितने कम केसिज सामने आये हैं, जबकि आज से कई दिन पूर्व से कानून बना हुआ था। उसको देखते हुये फैमिली कोर्ट की जो बात हमारे पूर्व वक्ता कह रहे थे कि फैमिली कोर्ट पर्याप्त नहीं होगा कि उन केसों को हैंडल कर सकें। हालात उसमें उल्टे हैं। मैं तो कहती हूँ कि जितने ज्यादा केसिज सामने आये तो मुझे खुशी होगी, परन्तु हमारे सामने उतने केसिज आ ही नहीं पाते। इस

[श्रीमती विजया राजे सिधिया]

लिये मैं कहूंगी कि सतर्कता और सजगता रहे ताकि जो रिपोर्टिंग एजेंसी है, बहुत बार बीड़ित महिलाएं उसमें भी अनभिज्ञ रहती हैं, बहुत बार उनकी शक्ति नहीं रहती है कि वे कोर्ट के सामने जा सकें क्योंकि वे आर्थिक दृष्टि से भी कमजोर हैं और आतंकित भी होती हैं और उनको डराया धमकाया भी जाता है कि खबरदार तुमने ऐसा किया तो देख लेंगे। उन्हें सब तरह से सुरक्षित वातावरण प्रदान करने और सम्मानपूर्ण स्थान समाज में दिलाने के लिये यह बहुत उचित कदम है पर साथ ही साथ इसको व्यवहारिक रूप देना भी आवश्यक है। इसलिये मैं अर्ज करती हूँ कि इस दृष्टिकोण की सामने रखते हुये मैं इस बिल का समर्थन करती हूँ और आशा करती हूँ कि इन सुझावों और संशोधनों पर ध्यान दिया जाएगा।

श्री विठ्ठलराव माधवराव जाधव : (महाराष्ट्र) : उपसभाध्यक्ष महोदय, आज इस संसद् के सदन में दो बिल है एक डावरी प्रोहिबिशन बिल, 1984 और दूसरा बिल है फैमिली कोर्ट्स के बारे में, अभी जो हमारी संसद् सदस्या भगिनी जी ने बयान किया इस सदन के अन्दर उसमें कोई दूसरा मतलब हो नहीं सकता उस पर भी मैं इस बिल का समर्थन करने के लिये खड़ा हुआ हूँ। उपाध्यक्ष महोदय, मैं यह कहना चाहता हूँ आपके माध्यम से कि इस बिल में सिर्फ दो बातें हैं। एक तो यह है कि जो दहेज मागता है, उसको छह महीने की शिक्षा देनी चाहिये या पांच हजार रुपए दंड देना चाहिये...

एक माननीय सदस्य : शिक्षा नहीं सजा...

श्री विठ्ठलराव माधवराव जाधव : मराठी में तो सजा और शिक्षा का एक ही अर्थ है। तो सजा देनी चाहिये और उसके साथ-साथ पांच हजार रुपए फाइन करना चाहिये और वह फाइन दस हजार रुपए तक बढ़ाना चाहिये। यह जो फाइन है, यह

जो सजा है और जो गुनाह बहुत बड़ा है और उस गुनाह की तरफ देखें तो हम सजा बहुत कम दे रहे हैं। उपाध्यक्ष महोदय, जब हम सोचते हैं कि इस देश में 52 प्रतिशत महिलाएं हैं और यह महिलाओं की समस्या एक बहुत ही भयंकर सामाजिक समस्या है और इस समस्या को सुलझाने की कोशिश सदियों से हो चुकी है। इस देश में मैं यह कहूंगा कि यह विधेयक लाकर हमारी सरकार ने श्रीमती इंदिरा गांधी के नेतृत्व में ऐसा प्रगतिशील कदम उठाया है, जिससे हमने इस सामाजिक प्रॉब्लम की तरफ, सामाजिक न्याय देने की तरफ एक बहुत ही अहम कदम उठाया है। उस लिहाज से जब मैं इसे बिल की तरफ देखता हूँ और जैसे अभी-अभी हमारे संसद् सदस्यों ने, श्रीमती महिषी जी ने, जय ललिता जी ने और रानी साहिबा ने जो प्रस्ताव रखे हैं, उसका तो मैं समर्थन करता हूँ। इसके साथ-साथ मैं यह भी कहना चाहता हूँ कि जो अमेंडमेंट दिये हैं, शायद मैं अमेंडमेंट का समर्थन तो नहीं कर सकता, मगर उनको जो भावनाएं हैं अमेंडमेंट की, उसका जरूर समर्थन करता हूँ। साथ ही माननीय मंत्री जी से निवेदन करता हूँ कि इन बारे में जरूर गंभीरता से सोचने की जरूरत है।

उपसभाध्यक्ष महोदय, आज की बात नियोजन में जो पैना खर्च हुआ हमारे देश के अन्दर। तो उस पैने का एक हिस्सा महिलाओं के कल्याण पर खर्च हुआ और पुरुषों के कल्याण पर भी खर्च हुआ है। यह सोचने की जरूरत है कि यह जो समाज है, यह जो सोसायटी है, यह मेल डोमिनेटड सोसायटी है। सिर्फ भारत में ही नहीं बल्कि सारे संसार में महिलाओं को बहुत ही कम प्रतिनिधित्व है। फिर भी हमारे भारत और अन्य देशों में तुलना करते हैं, तो हमें यह मालूम होता है कि अन्य देशों में माऊथ कोरिया, जापान, सिंगपूर में वस काउंटर से लेकर, वस ड्राइवर से लेकर,

कलर्क से लेकर कारखानों में काम करने वालों में 50 प्रतिशत से अधिक महिलाएं होती हैं। तो यह जो हमारी बीमारी है इस समाज की, यह जो आर्थिक और सामाजिक बीमारी भी है। हम कहते हैं उपाध्यक्ष महोदय, कि स्त्री माता है, स्त्री वहन है, स्त्री बहू है, स्त्री पत्नी है और उसने भी बढ़कर स्त्री एक सारी दुनिया में सबसे बड़ी शक्ति है। भारत की महिला दुनिया में महान महिला मानी जाती है। जिन्होंने मानवता, पवित्रता आदि की मरियों से रक्षा की है। वह महान नारी, जिसकी वजह से इस भारत के अन्दर रामायण हुआ, सीता जी की वजह से और वह महान नारी द्रौपदी, जिसकी वजह से महाभारत हुआ और उसी तरह जीजाबाई जी जैमा महान नारी, जिन्होंने शिवाजी महाराज को जन्म दिया और जिनको दुनिया में माना जाता है।

इसके साथ-साथ उपाध्यक्ष महोदय, मैं गत सप्ताह कमला नेहरू जी के चरित्र को पढ़ रहा था। उन्होंने स्वतन्त्रता आंदोलन में बहुत अपना योगदान दिया, पंडित नेहरू के साथ अपना योगदान दिया और उनके बारे में पंडित नेहरू जी कहते हैं कि कमला जी मेरी प्रेरणा रही है। हर स्थान पर स्त्री प्रेरणा होती है। स्त्रियों की प्रेरणा उसका पनि होता है और जो अच्छा पति है और सही पत्नी है तो वह एक दूसरे को प्रेरणा होते हैं। हमारे भारत की ही नहीं बल्कि विश्व की महान नेता श्रीमती इंदिरा गांधी आज विश्व के 102 राष्ट्रों का नेतृत्व कर रही हैं, सारी दुनिया को शांति का आदेश देकर सारी दुनिया को परमाणु युद्धों से बचाने की कोशिश कर रही हैं और इस प्रकार यह एक महान महिला है। इसका मतलब यह है कि महिला एक इतनी बड़ी शक्ति है, इतनी बड़ी ताकत है, जो मैं भयमना हूँ कि पुरुषों 8 P.M. से भी बढ़कर है। फिर भी उनका जो समस्याएँ हैं, उनके जो प्रश्न हैं आज तक हमने जानबूझकर उनको सुलझाने की कोशिश

नहीं की। उपाध्यक्ष महोदय, मुझे एक किताब याद आती है मैक्सिम गोर्की की 'मदर' :—मां क्या चीज होती है और मां का प्रेम अपने पुत्र और पुत्री के लिये क्या होता है। एक बहुत बड़े साहित्यिक ने कहा है कि घर विद्यापीठ है और मां उसकी वाइस चांसलर है, जहां बच्चा बड़ा होता है, पलता है, पढ़ता है। मां ही बच्चे को समाज के अन्य संस्कारों के बारे में जानकारी देती है। जिसकी मां अच्छी है वह बच्चा बड़ा आदमी बनता है और जिसकी मां के अच्छे संस्कार नहीं होते उस बच्चे की किस्मत में नहीं होता कि वह अच्छे संस्कार पा सके। इस लिहाज से भी यह जरूरी है कि महिलाओं का शिक्षण होना चाहिये। उपाध्यक्ष महोदय, मैं चाहता हूँ कि महिलाओं के लिये कम्पलसरी एजुकेशन रदनी चाहिये। आज हम समाज में क्या देखते हैं। मद्रास में मजूरगारदा का कत्ल हुआ दहेज न देने की वजह से, एक बहू को जिन्दा जलाया गया। उसका पति कोर्ट में गया और कोई प्रूफ न होने की वजह से वह छूट गया। कोर्ट भी ऐसा अन्धा है, कानून भी ऐसा अन्धा है जो दुखियों को न्याय नहीं दे सकता।

इसके साथ ही मैं कुछ सुझाव देना चाहता हूँ। और भी कुछ समस्याएँ हैं अपने देश में औरतों की। मैं इस सदन को बड़े फटा के साथ कहना चाहता हूँ कि मेरे एक विद्यार्थी नवलकर ने एक सर्वे किया है, पूना और बम्बई के अन्दर वेश्याओं का सर्वे किया है। पूना के अन्दर 10 हजार से अधिक वेश्याएँ हैं और बम्बई के अन्दर 1 लाख से अधिक वेश्याएँ हैं। कर्नाटक के अन्दर कोई देवता है जिसके प्रागे लोग मनाती मानते हैं हमको बच्चा होता चाहिये, हमें कुछ मिलना चाहिये तो लड़की को छाड़ देंगे और ऐसी अनाथ बालिकाएँ बम्बई में आती हैं, नेपाल से आती हैं और दूसरी जगहों से आती हैं और जिन्दगी भर रोती रहती हैं। उपाध्यक्ष महोदय, इस सर्वे में यह सिद्ध हुआ है कि

[श्री विट्ठलराव माधवराव जाधव]

95 प्रतिशत जो श्रीरतें हैं वे इस व्यवस्था में नहीं रहना चाहतीं, मगर सामाजिक व्यवस्था इतनी बुरी है कि हमारे देश के अन्दर उन बेचारियों को जबरन उस धंधे में जाना पड़ता है। इस व्यवसाय के बारे में गम्भीरता से सोचने की जरूरत है। यही है महिलाओं का पिछड़ापन। इसलिये मैं चाहता हूँ इस सदन के माध्यम से कि वेश्या व्यवसाय पर पूरी तरह से पाबन्दी लगनी चाहिये, वह बन करना चाहिये। अन्य सोशललिस्ट कंट्रीज में सोवियत यूनियन में, यूगोस्लाविया में, चेकोस्लोवाकिया में कहीं भी यह वेश्या व्यवसाय नहीं है। जो कैपिटलिस्टिक कंट्रीज हैं वहाँ यह सब विकृत बातें होती रहती हैं।

इसके साथ-साथ मैं यह भी कहना चाहता हूँ कि स्त्रियों को, लड़कियों को प्रापर्टी में बराबर का हिस्सा देना चाहिये। इसके साथ ही सरकारी क्षेत्र, प्राइवेट क्षेत्र में 50 प्रतिशत जगहें महिलाओं के लिये रिजर्व रखना चाहिये। संसद और विधानसभाओं में भी महिलाओं को 50 प्रतिशत तक जगह देनी चाहिये। औद्योगिक और अन्य क्षेत्रों में भी महिलाओं को बराबर का हिस्सा मिलना चाहिए। शिक्षा महिलाओं के लिए कम्पलसरी होनी चाहिये। फिजिकल एजुकेशन भी महिलाओं के लिये कम्पलसरी होनी चाहिये। अभी लासएंजिल्स में जो ओलम्पिक हुआ उसमें हमारे भारत का कोई पुरुष चौथे स्थान तक नहीं पहुंचा, लेकिन एक महिला पी० टी० ऊषा ने चौथा स्थान प्राप्त किया। अगर उनको अच्छी सुविधाएं उपलब्ध करा दी जायें तो मैं समझता हूँ कि वह बहुत आगे जा सकती हैं।

सामान्यतया लड़कियां लड़कों से ज्यादा होशियार होती हैं, मिसियर भी होती हैं संसद् तथा प्रत्येक क्षेत्र में महिलाओं को अधिक प्रतिनिधित्व देना चाहिये। विवाह की पद्धति में पूरी तरह से परिवर्तन होना चाहिये। हमारे महाराष्ट्र में एक विवाह हुआ। एक बहुत बड़ा शूगर फैक्ट्री का चेयरमैन था,

उन्होंने एक लाख लोगों को भोजन दिया उस वक्त पूरे हिंदुस्तान में उसकी चर्चा हो गयी। यह पैसा कहां से आता है। मतलब यह है कि विवाह के लिये एक लाख लोगों को जो भोजन देता है तो वह उनके लिये 25 लाख रुपये खर्च करता है। तो यह कम्पलसरी होना चाहिये कि किसी भी विवाह में 10 आदमियों से ज्यादा नहीं जाने चाहिये और मैरिज को रजिस्टर्ड होना चाहिये। दुनिया में कहीं ऐसा नहीं होता है और अगर कहीं होता है तो उस पर पाबन्दी लगायी जानी चाहिये। वैसे हमारी माता और बहिनें क्या सोचती हैं उसके लिये एक शेर कह कर ही मैं अपना भाषण समाप्त करता हूँ। वह सोचती हैं :

हम आह भी करते हैं तो हो जाते हैं बदनाम, वह कत्ल भी करते हैं तो चर्चा नहीं होता।

इन शब्दों के साथ मैं अपना भाषण समाप्त करता हूँ और इस बिल का समर्थन करता हूँ।

श्री सत्य प्रकाश मालवीय : मान्यवर, यह दहेज प्रतिषेध (संशोधन) विधेयक जो लाया गया है और जिसका यह सदन एक मत होकर स्वागत कर रहा है उसके लिये सरकार के प्रति मैं आभार प्रकट करना चाहता हूँ। वास्तव में जो दहेज का अभिशाप आज सारे राष्ट्र में और सारे समाज में एक बोझ की तरह से व्याप्त है उसको दूर करने के लिये यह एक अच्छा कदम है। आज समाज में दहेज के कारण नित्य ही समाचार पत्रों में ऐसा कोई दिन नहीं जाता कि जब दस, बारह अलग-अलग शहरों से आत्महत्याओं की या उत्पीड़न की खबरें न आती हों। नारी को हम लक्ष्मी कहते हैं, उसको हम दुर्गा कहते हैं, उसको हम विद्या कहते हैं, उसको हम सरस्वती कहते हैं, लेकिन आज नारी को सारा समाज और देश एक दर्शक की तरह से देख रहा है और आये दिन जो घटनायें घटित होती हैं उनको रोकने के लिये जो यह संशोधन लाया गया है इससे निश्चित रूप से लाभ होगा। लेकिन फिर भी इस संशोधन विधेयक

में कुछ कमी रह गया है। इसमें कुछ सुधार हो सकता है। जैसे सेक्शन 3 के सब क्लॉज 2(ए) में लिखा हुआ है.—

"(2) Nothing in sub-section (1) shall apply to, or in relation to,—

(a) presents which are given at the time of a marriage to the bride (without any demand having been made in that behalf)."

यह जो ब्रैकेट में प्राविजो रखा गया है, आप जानते हैं कि न्यायालय में इसको साबित करना, इसके पक्ष में सबूत देना एक तरीके से अव्यावहारिक होगा और इसलिये मेरा सुझाव है कि इसमें जैसा भी संशोधन सरकार या सत्ता पक्ष उचित समझे करे। इस पर विचार करके इसमें उसे संशोधन करना चाहिये।

दूसरे मेरा सुझाव है कि जिन लोगों को इस अधिनियम के अन्तर्गत सजा मिल जाए, यानि न्यायालय से जो दोषी पाये जायें उनके लिये यह व्यवस्था होनी चाहिये कि जितने भी चुनाव के पद हैं चाहे वे नगरपालिका, नगर महापालिका, टाउन एरिया, नोटी फाइंड एरिया के हों या विधान सभा के हों या संसद् के हों, उन पर यह प्रतिबन्ध होना चाहिये कि किसी भी चुनाव में वे खड़े न हो पायें। क्योंकि आज जिनके पास पैसा है, जिनके पास धन है वह अपने धन का बहुत भद्दे ढंग से प्रदर्शन करते हैं—शादी के समय में खास कर और जो बेचारे गरीब हैं, जो समाज में कमजोर लोग हैं, जिन के पास पैसा नहीं है वे शर्म के मारे गड़ जाते हैं। क्योंकि जब शादी व्याह का मामला होता है तो हमारा मानस ऐसा है कि अगर हमारा लड़का हो तो हम चाहते हैं कि हम को दहेज मिल जाए और अगर हमारी लड़की होती है तो हमको दहेज प्रथा बड़ी खराब लगती है। और इस लिये सारे समाज को एक होकर, इस अभिशाप को रोकने के लिये ही नहीं, बल्कि इसको खत्म करने के लिये प्रयास करना

चाहिये। आप देखें कि जब शादियां होती हैं तो बराबर लड़के को एक बजारू माल की तरह से लोंग खड़ा कर देते हैं। कोई उसके लिये एक लाख तय करता है, कोई दो लाख तय करता है और इस दहेज की कुप्रथा के कारण जो समाज में कमजोर है वह पिस्तता है। इन शब्दों के साथ जो भी संशोधन यहां लाया गया है मैं उसका हार्दिक स्वागत करता हूं और आशा करता हूं कि जो संशोधन मैंने रखे हैं उन पर सरकार विचार करेगी।

SHRI R. K. JAICHANDRA SINGH (Manipur): Mr. Vice-Chairman, Sir, we are discussing two Bills. The Family Courts Bill and the Dowry Prohibition (Amendment) Bill. First I shall deal with The Family Courts Bill. At the end of my deliberations I will place a few suggestions which I hope the hon. Law Minister would take note of, which will help in later legislation either in the form of amendment or otherwise.

The concept of a family court is based on the perception that disputes within the family can best be resolved within the totality of inter-personal relationship of its members. It must also exclusively deal with the welfare within the family itself. The family court not only seeks to determine but also to secure legal rights to the victim. It is entrusted with supervisory role for the protection and welfare of women and children. It further seeks the continuance of the family peace based on the dignity of the individual and equality between men and women. Sir, this is the whole concept of the family court that is being brought by way of legislation here. It is needless for me to point out that the Government needs to be congratulated for bringing forward this Bill which will go a long way in shaping the future of our society, the growth of our society in later years. Experiences have shown that there have been many cases in courts, divorce cases in law courts. A few years back there was one such case in the Supreme Court. For many years, litigation was going on, but a compromise was struck after many years in the Supreme Court through the good counsel, through the conciliatory

[Shri R. K. Jaichandra Singh]

effort of the presiding Judge and all ended well at the end and there was a conciliation between the two spouses. There can be no better justification than giving this example to show that the main basis of establishing a family court would depend largely on the presiding officers who are to constitute or to head or to preside over these family courts.

With these few words, I straightaway come to certain suggestions not as amendments to the present Bill rightaway but which will help the Law Ministry in later years or may be a little later on to bring further amendments to this Bill. Sir, I personally feel that the present law is too soft on bigamy. I know of many places in this country where a man has more than wife. Law is there that we cannot have more than one wife, but pragmatically speaking there are many places in many areas where even Government servants or even politicians have more than one wife. So it is in this context that I would suggest that the family court should have jurisdiction to take it up *suo motu*, instead of waiting for either of the spouses to report a matter of bigamy to the court, on any information that is available to the court so that the accused concerned is seriously reprimanded or convicted accordingly. This is one suggestion I have in mind. Secondly, Sir, the jurisdiction of the Family Court should cover kidnapping and rape cases, cases under section 366 and 376 of the Indian Penal Code. In most of these cases the main witness either in the kidnapping cases or in rape cases, is exposed to the vagaries of cross-examination by the defence counsel. We all know that the harassment that a lawyer undertakes to win the case for his client, exposes or puts the main witness, the lady concerned, in a very embarrassing position. So, Sir, if it is brought within the purview of, jurisdiction of, the Family Court, and the hearing is held in camera in the Family Court, more justice can be expected.

Thirdly about the location of the Family Court which is being contemplat-

ed, we should not have it within the area where the present courts are situated. We should choose a place where it is slightly excluded from the public view, public eye, so that we can shield them. We need not expose the victim ladies to the society as such.

Then, fourthly, the Judges, the presiding officers, who are to preside over the Family Courts, should have a serious re-orientation process in matters of Sociology, in matters of institution of marriages or in matters of psychology. (*Time bell rings*).

I will just take two more minutes, Sir. Nowhere in this Bill has it been mentioned that the suits can be taken up *suo moto* by the Courts. Sir, any dispute either in a family or between spouses should be taken up by the Court *suo moto* because we should not wait for either of the spouses to come up before the Court, we know that our society is still very rigid, and it will be difficult for either spouses to be exposed before public. So, I think it will be very pertinent that the Court should take cognisance of the cases *suo motu*. These are in short the suggestions relating to the Family Courts Bill.

I would also suggest about clause 4, sub-clause (3) (b) about appointment of Judges. I will just read this relevant portion, Sir :

"has for at least seven years been an advocate of a High Court or of two or more such courts in succession;"

Instead of having seven years, I request that it should be increased to ten years because we have a number of lawyers. The number of lawyers are on the increase. We can have many more Judges. Naturally, if we increase it to ten years, we will have more experienced persons to preside over them.

Secondly, in clause 5 at page 3 the number of institutions have been suggested. It says :

"The State Government may, in consultation with the High Court, provide,..."

(a), (b), (c) and (d) are there. No-where has it been mentioned that any person who is an influential person in the locality can be made use of so that the Family Court can make use of such persons. This particular provision should also be include in clause 5 either in sub-clause (d) or by adding sub-clause (e).

Then in relation to the Dowry Prohibition Act, I will just emunerate two or three points, I have in my mind, by way of suggestion. I think the Bill itself is so welcome. Firstly the need to have certain change in our present educational system to our children in schools and colleges against this evil practice of dowry system, straightway should be introduced. Motivation of the people for a change in their outlook towards the changing society should be encouraged.

Secondly, the marriage presents and gifts that are contemplated here, the expenses should be limited. Unless we put a limit to the presents and gifts, there will be no end to it. There should be a limit for presents and gifts so that the expenses can be limited.

Lastly, Sir, in certain areas, dowry items are displayed in marriages. I know in certain areas of Manipur, Sir, the dowry is on the increase. We never had dowry system ten or fifteen years back. We caught up with this evil practice of dowry during the marriages. There should be a law or legislation passed against displaying gifts or presents during the marriage ceremonies.

Sir, with these few words, I wholeheartedly support this Bill. Thank you.

श्री सूरज प्रसाद (बिहार) : महोदय, यह जो दहेज निषेध का बिल है, इसके बारे में काफी सदस्यों ने अपने विचार व्यक्त किये हैं। सरकार का इसके पीछे लक्ष्य यह है कि इस बिल के जरिए देश के अन्दर जो दहेज की प्रथा प्रचलित है उसकी रोकथाम करने में था। दूसरे शब्दों में कहें तो शायद यह भी मंशा है कि दहेज प्रथा को निर्मूल करने में सफल हो जाएगी। यह बात हमको सही नहीं

जान पड़ती है। देश के अन्दर पहले भी इस तरह के कानून थे और उन कानूनों के रहने के बावजूद देश में दहेज की प्रथा पहले से भी अधिक मात्रा में प्रचलित रही है। न सिर्फ केन्द्रीय कानून इस संबंध में हैं बल्कि राज्यों के द्वारा भी इस तरह के कानून पारित हुए हैं और कानून पारित होने के बाद भी यह प्रथा जारी है। ऐसी स्थिति में प्रश्न उठता है कि क्या वर्तमान में जो यह बिल प्रस्तुत हुआ है उसके द्वारा इस प्रथा की रोकथाम की जा सकती है? मैं समझता हूँ कि यह दहेज प्रथा महज कानून के जरिए नहीं रोकी जा सकती है। इसके अनेक बुनियादी कारण हैं जिनके भीतर जाने की जरूरत है।

[उपसभाध्यक्ष (श्रीमती मार्गरेट आल्वा) पीठासीन हुई]

कुछ माननीय सदस्यों ने भाषण करते हुए कहा और इस देश की सांस्कृतिक परम्पराओं की चर्चा की। उन्होंने कहा कि इस देश के अन्दर बहुत अच्छी परम्पराएं रही हैं। हमारी संस्कृति बहुत समृद्ध रही है। औरतों को पुरुषों के समकक्ष प्रथम स्थान देने की परम्परा इस देश के अन्दर रही है। लेकिन फिर भी यह प्रथा हमारे देश के अन्दर चालू होना हमारी संस्कृति पर एक अभिशाप है। भारत की संस्कृति के कुछ अच्छे पहलू हैं और कुछ नकारात्मक और नकारात्मक पहलू भी हैं। जाहिर है कि यह दहेज की प्रथा हमारी संस्कृति का नकारात्मक पहलू है और उसकी देन है। हमारे देश के अन्दर सामन्तवादी व्यवस्था भी रही। वह भी हमारी संस्कृति का एक अंग है। इस देश में पहले जो सामन्तवाद था, उस व्यवस्था के अन्दर यह प्रथा प्रचलित थी और काफी भयंकर रूप में थी। वह प्रथा आज भी है। सामन्तवाद आज भी दहेज

[श्री सूरज प्रसाद]

देश के अन्दर है। उस समय हमारे देश के जो राजा-महाराजा थे उनका यही इज्जत का मापदण्ड था कि वे कितना दहेज लेते हैं और उससे वे अपनी इज्जत नापते थे। बड़ा होता इस बात पर नापा जाता था कि राजा-महाराजाओं को कितना तिलक मिलता है। आज वह व्यवस्था कमजोर हो गई है लेकिन उसके अवशेष अभी भी हमारे देश के अन्दर हैं। हमारे देश के अन्दर पूँजीवादी प्रथा विकसित हुई है और इस व्यवस्था के विकसित होने के कारण देश के अन्दर धन का केन्द्रीयकरण बढ़ा है। गाँवों के अन्दर भी सम्पन्न किसान वर्ग पैदा हो गया है, शहरों में भी काफी धनी लोग, करोड़पति और इसी तरह के लोग आज पाये जाते हैं। तो सामंतवादी लोगों के अन्दर और धनी लोगों के अन्दर ही आमतौर पर यह प्रथा प्रचलित है। आज भी हमारे देश में पूँजीवादी व्यवस्था प्रचलित है और बढ़ रही है। इसलिये भी यह प्रथा जोर पकड़ रही है। पहले यह प्रथा जितनी प्रचलित थी, उससे भी अधिक और खूबार रूप में आज यह प्रथा देखने को मिलती है। धनी लोगों के अन्दर यह प्रथा बहुत अधिक प्रचलित है। इंजीनियर, डाक्टर जितने भी होते हैं, उनकी शादियों में लाखों रुपयों का दहेज दिया जाता है और उनकी देखादेखी आज गाँव के गरीब लोगों में भी यह प्रथा घुसने लगी है। इसलिए लगता यह है कि जब तक वर्तमान सम्पत्ति की व्यवस्था देश के अन्दर रहेगी, सरकार चाहे कितना भी कड़ा से कड़ा कानून क्यों न बनाये लेकिन इससे यह प्रथा रुकने वाली नहीं है। यह प्रथा रुकने वाली अगर होती तो 1961 में जो दहेज का कानून बनाया गया था या राज्यों में इस तरह के जो कानून बनाये गये हैं, उनसे तो

कम से कम कुछ इस तरह की रोकथाम होनी चाहिए थी। लेकिन रोकथाम नहीं हो रही है बल्कि इसमें वृद्धि होती चली जा रही है। देश के अन्दर पहले से शिक्षा का भी अधिक प्रचार है। लोगों का अनुमान यह था कि जब देश में शिक्षा का अधिक प्रसार हो जाएगा तो लोगों की जानकारी अधिक बढ़ जायेगी, ज्ञान में वृद्धि हो जायेगी और इसके द्वारा इस प्रथा पर रोक लगाई जा सकती है। लेकिन देश में जितनी ही शिक्षा का प्रसार हो रहा है, जितना ही देश के अन्दर ज्ञान की वृद्धि हो रही है उतना ही अधिक देश के अन्दर दहेज की प्रथा बढ़ रही है और इस दहेज के चलते जो हत्याएँ हो रही हैं उनकी चर्चाएँ आमतौर पर हम लोगों को सुनने और देखने को मिलती हैं। इसलिये हमारा ख्याल यह है कि महज कानून पारित करा देने से ही इस कुप्रथा पर रोक नहीं लगाई जा सकती है। इसलिये इस पर और भी अधिक गहराई से सोचने और विचारने की जरूरत है। सरकार ने कानून को कड़ा करने, पहले से जो कानून था जिसको और कड़ा करने की दिशा में कुछ प्रावधान इस बिल के अन्दर किये हैं। लेकिन देखने को यह मिलता है जितने भी इस कानून के अन्दर अपराधी होंगे वे बेलेबल होंगे। इसलिये हमारा ख्याल यह है कि अगर कानून को कड़ा ही करना है और इससे रोकथाम की उम्मीद करनी है तो मैं सरकार से यह कहना चाहूंगा कि इसको नान-बेलेबल बनाना चाहिए। जितने भी अपराध इस बिल के अन्दर हैं उनको नान-कानूनीजबल आफेंस बनाना चाहिए। आज जितने भी दहेज लिये जाते हैं वह प्रत्यक्ष नहीं है, अप्रत्यक्ष हैं। (समय की घंटी) मैं सरकार से, इस बिल को पायलट करने वाले जो मंत्री हैं उनसे कहना चाहूंगा उन्होंने

कहा कि डायरेक्ट इनडायरेक्ट दोनों तरह के जो दहेज है उन पर यह बिल रोक लगाएगा लेकिन गुप्त ढंग में जो दहेज ले लिए जाएंगे उस पर यह रोक लगा पाएगा मुझे इसके बारे में सन्देह है। इसलिए मैं यह चाहूंगा इस कानून के पास होने के साथ-साथ इनको और कुछ काम करने की जरूरत है। वह यह है कि लव मेरिज को प्रोत्साहन करना चाहिये और देश के अन्दर इंटर कास्ट मेरिजेज को भी प्रोत्साहन करना चाहिये तब इस कुप्रथा पर कुछ रोक लगाई जा सकती है। कानून का पारित होना एक बात है उसका लागू होना दूसरी बात है। यह कानून पारित तो होगा लेकिन लागू हो पाएगा इसमें सन्देह है। इसलिए मैं सरकार से कहना चाहूंगा कि इस कानून को लागू करने के लिए ऐसी मशीनरी तैयार करें जिससे कठोरता से इसको लागू किया जा सके और दहेज लेने वालों को दण्डित किया जा सके।

श्रीमती शान्ती पहाड़िया (राजस्थान):
उपसभाध्यक्ष महोदया, दहेज प्रथा के बारे में जो संशोधन विधेयक लाया गया है, मैं इस पर थोड़ा सा बोलना चाहती हूँ। जैसे कि बहुत से मेम्बरान ने कहा है कि बहुत सी बहनों की जानें चली जाती हैं। मेरा कहना भी यह है कि इस कुप्रथा के कारण बहुत सी बहनों की जानें चली जाती हैं। ज्यों-ज्यों सरकार ने दहेज प्रथा की रोकथाम करने के लिए आगे बातें चलाई हैं, त्यों-त्यों दहेज प्रथा आगे बढ़ती गई है। जैसे कोई अपनी बेटी की शादी करता है, चाहे कोई अमीर हो या गरीब हो, शादी से चार पांच दिन पहले दहेज को पहुंचा देते हैं और कोई यदि सोशल वर्कर देखना चाहे तो पता ही नहीं लगता है कि उन्होंने दहेज दिया है या नहीं दिया है। दहेज प्रथा के कारण बहनें तो मरती ही हैं लेकिन बहुत सी बहनें छोड़ी भी जाती हैं।

वैसे बात यह है कि जैसे कि अभी एक माननीय सदस्य ने कहा था कि एक साल, दो साल या चार साल तक वे इंतजार करती हैं लेकिन उनके पतिदेव का रवैया वहीं का वहीं रहता है जो कि पहले था जिसके कारण वह बेचारी इतनी टूट जाती है कि वह न तो घर की रहती है न मां बाप की रहती है और न बाहर जाने के लायक रहती है कि कहीं दूसरी जगह देख ले। इसकी भी रोकथाम सरकार को करनी चाहिये। बहुत से लोग एल०डी०सी० हो जाते हैं, कुछ अफसर बन जाते हैं उन लोगों को दिमाग में यह बात आ जाती है कि हमको दहेज नहीं मिला जिसके कारण वे अपनी पत्नियों को तंग करते हैं ऐसे लोगों पर सरकार को कुछ रोकथाम लगानी चाहिये, जो लोग ऐसा करे सरकार की मर्जिम से उनको हटाया जाना चाहिये, दूसरा उनको साल या दो साल की सजा दी जाए ताकि उनका दिमाग थोड़ा बहुत चेज हो जाए। खैर, मैं क्या मुझाव दूँ, सरकार सब कुछ जानती है लेकिन मैंने देहात में जा कर के देखा है आजकल एक रवैया हो गया है दहेज का—आज मेरा लड़का आठवीं पास हो गया है इसलिए आप दहेज में आठवीं पास को क्या दोगे। गांव के गरीब लोग तो आठवीं पास को भगवान मानते हैं। कहते हैं कि मेरी लड़की अनपढ़ है, आठवीं पास लड़का मिल रहा है इसलिए वे अपनी जमीन बेच देते हैं। जमीन बेच कर बेचारे घर-घर मजदूरी करते फिरते हैं। इतना ही नहीं उनके और भी बच्चे होते हैं, यह तो नहीं कि एक दो बच्चे होते हैं। वैसे तो आपने परिवार नियोजन कार्यक्रम चला रखा है लेकिन अभी बच्चे कम नहीं हुए हैं। चार-पांच तो बच्चे होते ही हैं, औरों की भी शादी करनी होती है। बहुतों को बेटे के लालच में बेटी-बेटी ही हो

[श्रीमती शान्ती पहाड़िया]

जाती है, चार-पांच हो जाती हैं। खेत तो बेच दिया अब दूसरी बेटी की शादी कैसे करेंगे। उनके सामने यह भी पोजीशन आ जाती है, घर भी बेचना पड़ता है और इधर-उधर झुग्गी डालकर रहने लग जाते हैं। हमारी सरकार जिले बाइज कमेटियां बनाये जैसे चुनाव के टाइम पर हर जगह सूची बनाते हैं उसी तरह से सूचियां बनाकर शादी भी करें तो दहेज प्रथा पकड़ में आ सकती है नहीं तो इसका नहीं पकड़ सकते हैं। क्योंकि लोगों का इस तरह का रवैया हो गया है कि कोई हफ्ता भर पहले दे रहे हैं, कोई चार रोज पहले दे रहे हैं, घर पर जाकर इसलिए अगर बेटे वाले के यहां जाकर वहीं पर पता करते हैं तो मालूम नहीं पड़ता कि दहेज दे रहे हैं या नहीं दे रहे हैं। आजकल हमारे गरीब लोगों की मजदूरी गवर्नमेंट ने 9 रुपये कर दी है तो मैं तो यह कहूंगी कि जो लोग 9 रुपये कमाते हैं उसमें वे कैसे शादी कर सकते हैं, कैसे दहेज दे सकते हैं, कैसे अपने बच्चों को पाल सकते हैं। इसलिए गवर्नमेंट को कोई अच्छा कानून बनाना पड़ेगा और बनाना भी चाहिए। ऐसे लोगों के लिए, जैसे एक मेम्बरान कह रहे थे कि जो ऐसे बहुत लोग हैं उनके ऊपर फाइन किया जाये, जुर्माना किया जाये। तो अगर आप 5-10 हजार रुपये जुर्माना कर दें तो वे लोग क्या करते हैं? जो सचिव वाले हैं कि वे गलत काम करना शुरू कर देते हैं और फिर अनाप अनाप पैसा लाते हैं। जैसे अभी कह रहे थे कि उनका जायदाद जमीन में हिस्सा देना चाहिए। तो हिस्से में भी देने को राजी हो जाते हैं। हमने तो छोड़ दिया, इसका दहेज नहीं दिया लेकिन हिस्सा देकर भी क्या होता है? और बहुत सी चीजें हैं अनाप अनाप गलत

काम करके कामा लेते हैं। इसलिए सजा जरूर दीजिए, यही मेरा मजेशन है।

THE VICE-CHAIRMAN (SHRIMATI MARGARET ALVA) : Before we go to the next speaker, I would like to announce that those who would like to have their dinner can go in batches. The dinner is by the courtesy of the Leader of the House.

SHRI ASHWANI KUMAR (Bihar): This should have been announced at 4 o'clock. Now it is too late.

THE VICE-CHAIRMAN (SHRIMATI MARGARET ALVA) : Shrimati Roda Mistry.

SHRIMATI RODA MISTRY : Madam, Vice-Chairman, I stand to support this Bill, the Dowry Prohibition (Amendment) Bill, 1984.

My thanks are first to Almighty for showering His blessings on the women of this country by bringing these two Bills before this august House. Secondly, I thank the public spirit that has made such a noise in the past half a decade or so due to which the awareness has been created and the Bill become a necessity and reality because of this awareness. Thirdly, I thank the Press for having come to the rescue of women when everybody abandoned them. It is due to the Press that the voice of women was propagated and everybody has come to realise the reality.

My learned colleague, Dr. Sarojini Mahishi, said that the crime is increasing. Whilst the Police records show that it is not increasing, perhaps it is the increase of awareness that has created security for women that they come forward to voice their grievances to institutions and the press thereby protection has become part of the programme of the Government.

Madam, Vice-Chairman, before I go any further, I would appeal to the Minister to give his attention to the first page of the Bill where clause 1 says that it shall come into force from such date as the Central Government by notification in the Official Gazette appoint.

This is such a treacherous clause that welfare Bills and other Bills are known to be pending in some departments for two years even after going through both the Houses and having the President's assent. It is my request that the honourable Minister should not allow this Bill to meet the same fate as in the case of other legislations in this country that fall in the welfare field.

Madam Vice-Chairman, clause (3) deals with penalty for giving or taking dowry. Present given at the time of marriage without demand are to be listed. It is very difficult for the Government to do everything. We all understand that greater part is to be played by the public. It is impossible for the Government to go to every nook and corner of the country and check up who is giving what. Besides everything is given underhand and there is no question of anybody blaming the Government totally for this. My claim is that women of this country, the mothers and daughters are to be blamed to a large extent. In the villages, perhaps women are very subdued. But we have seen with our eyes that educated women, well-bred women, have themselves allowed this menace to be a part of their life. College going and educated girls defy their parents so often by having dates, or going to the cinemas instead of attending the classes. But, when it comes to dowry, they themselves demand that they should be given more than what was given to their elder sisters. So, this attitude is responsible for most of the pain. They have got to decide that they will not allow this state of affairs and that they will strengthen the hands of the Government there is no point in shirking this responsibility, where it is required. For this we feel that perhaps the best course would be that it should be dealt with by direct taxation. You may give as much exemption as Finance Department can afford to do for dowry gifts. But the entire management should be entrusted to the Central Board of Direct Taxes and they should be vigilant to see that luxurious and ostentatious marriage ceremonies are tapped immediately. Madam Vice-Chairman, it makes us cry, when tears of shame such ostentatious marriage ceremonies are seen. We see the

manner in which they are celebrated right here in the capital of the country. We all attend these marriage ceremonies and see what is happening. The Ministers and the Government officials are guests. Yet we all talk of prohibition of dowry. Unless and until Government decides to enforce the law and public awareness is created, we cannot forge ahead.

Madam Vice-Chairman, the Bill deals with many aspects. But the biggest culprit in this issue is the middleman or the middle woman, जो कहें हैं कि शादी

जोड़ती है। These are the people when we call *dalals* who come into the picture and ruin the atmosphere in both the houses. They also carry with them a large chunk as their own commission for arranging marriages. The Government might consider keeping a sharp eye on these type of people who could be covered under the clause which says that anybody who, on behalf of the couple, gives or takes can also be punished. The parties always justify this saying हमनै तो कुछ नहीं मांगा ' "we did not ask for anything". But somebody else does the work for them.

Madam, Vice-Chairman, dowry is not an issue that could be taken up at the time of marriage alone. It is a continuing process and the Bill is totally silent on this issue. A girl gets married and goes to her in-laws' house after some months trouble starts for her and the torture begins when somebody in the neighbourhood brings a large dowry. The mother-in-law or the sister-in-law starts making comparisons and torture begins for the girl soon after. There is no sanctity in the Bill to say that up to a certain period any demand on the girl like at the time of marriage be treated as dowry. It is felt that the general inflation in the country has also affected the dowry market. Formerly, the demand was for a cycle. Now it is Bajaj Scooter. Earlier they were satisfied with a transistor. Now it is television. So inflation has set in in all its aspect, this has to be realised when we deal with dowry it is not easy to live with this, thought.

The pressure on the girls' parents is tremendous. Soon after marriage there are

[Shrimati Roda Mistry]

ceremonial occasions when the girl's parents have to entertain, the girl's family have to give a lot in the form of presents. The Bill is quite silent on that and it does not make a mention on this side of the issue or about the demands that every festival may only be celebrated by the girl's family. This could also be dealt with as a part of the dowry evil.

Penalty for demanding dowry has been very nicely drafted, covering all the aspects.

Sections 5 and 6 deal with inheritance of woman. Madam, Vice-Chairman, a lot has been said about transfer of property, even punishment for delay on transfer of property. But nothing has been mentioned as to what would happen to the property that is legally transferred to the woman if she dies. We talk of what is left behind after the woman is done to death by her husband or by her family members. She has no means to get a will prepared or to bequeath things legally. Nothing has been mentioned about the woman who possesses a lot of wealth and dies. This aspect has not been taken care of. It should also be considered, that if she has got legal heirs, property must be automatically bequeathed to the legal heirs. In case she dies without issue property should be reverted back to her parents or to the source from which she inherited the same. If this is done, a lot of woman will escape the terrible fate, that they meet at the hands of the family who torture them for gains.

Madam, we feel that a Dowry Prevention Commissioner at State level should be appointed. There is a slight mention as to the person who should implement it. But as in the case of provident fund or any such department of Government a Commissioner at State level and Deputy Commissioners in different parts would go a long way to help implementation of this very important law.

Regarding non-official participation, a great role can be played by women's organisations and by various public charitable trusts. Unfortunately. The role con-

tantly played by them is recommendatory, nothing they say is obligatory on the part of the implementing agency, i.e. Government. If committees are formed all over the country, and given implementary powers, these committees will go a long way to see that the subject-matter of the Bill is implemented to the satisfaction of the people.

Madam, a long time ago in Punjab a law was passed which said that if any woman dies within seven years of marriage, her in-laws have to obtain a 'no objection certificates' before her body is buried or cremated. We are sure that this particular mention would help and go a long way to expose many cases of sad instances. We have found that when a girl dies, the parents are tortured to give a statement and to come and takeover the body. If such a certificate—to say 'No Suspicion. Certificate'—is required to be produced in cases when a woman dies within seven years of marriage the evil doers will have to think before they play any mischief.

Madam, Vice-Chairman now coming to the other Bill. It is very unfair that these two bills have been taken up together. There is a lady in the Business Advisory Committee she could have opopped this taking up together of the two bills.

SHRIMATI KANAK MUKHERJEE:
She did not agree.

SHRIMATI RODA MISTRY : She did not agree. I am most grateful to her. It is sad that these two Bills have been clubbed together we have lost a lot of time which would have been given for discussion. Today, when we sit in this August House, my mind goes back 25 years when Smt. Durgabai Deshmukh, a great social worker of this country, started a movement. On her return from Japan in 1958, she went round travelling and telling people that family courts is the only way we could help speedy disposal of the problems that come up before the normal courts. We are very happy that although late, this Bill is now taking birth. It is comprehensive. It is good. As such it is felt that it will help the dowry cases and cases of

atrocities against women. With these words, Madam, I compliment the Law Minister and the Government for bringing forward these Bills, my whole hearted support is with them in this long awaited legislation for women.

SHRI V. RAMANATHAN (Tamil Nadu): Madam, Vice-Chairman, I welcome this Bill first of all because all the advanced countries have not come forward with such an advanced piece of legislation. I welcome this Bill because its implementation will definitely reduce the social tensions. Previously, the joint family system was in existence. Now, due to so many factors, the joint family system is collapsing and the individual has become the unit of the society. If the individual is not looked after, there will not be any peace in the society and thereby the prosperity of the nation will suffer. Fortunately, this Bill has been brought forward when social tensions are increasing everywhere. If the present Act is implemented, definitely it will reduce social tensions. On that ground also, I welcome the Bill.

This Act must be implemented throughout the society and throughout the country as stated by many hon. Members here. Section 3 gives the right to establish courts in certain places where the population is *more than one million* leaving the rest of the area at the discretion of the State Governments. Considering the financial position of the State Governments, it will be difficult. This Bill gives an option to the State Government. The State Governments are working as shock absorbers. Many of the legislations are enacted by the Centre and the State Governments are directed to implement them. Unfortunately, the State Governments are not having any funds. They are not able to implement many of the advanced legislations. Therefore, I plead for more funds for this purpose. Particularly in Tamil Nadu, we find that many of the courts are working in private buildings because of want of finance. They have no building of their own. It is just like that. This Act is also not making any provision for funds and the result will be that the State Governments will not be able to give effect to it even though they may have the mind to do it, in the interests of social progress.

Further, Madam, this Act deals with many things. First of all, I want to draw your attention to clause 4(3)(a) of the Bill which provides that a person to be appointed as a judge must have held a judicial office for at least seven years, which may be as a Member of a Tribunal or any post under the Union or a State requiring special knowledge of law. This means that any person who has not been acting as a judge can be appointed judge in these courts if he is holding an office under the Union or a State requiring special knowledge of law. The State Governments at times go to the revenue authorities to appoint anybody from there as a judge. This will hamper what we are expecting for which the law is being enacted and that purpose will not be served. The appointment of executive persons as judges will not be useful. Further, under this clause an experience of seven years is provided. That will not be sufficient. This sort of legislation is being provided in some of the countries like Japan, Australia and some other country. There they are providing for aluminium of 10 years experience and only people having ten years' of experience as a judge are appointed as judges on these family courts. We too must adopt the same practice. In fact, as we are still not as advanced as they are, we can provide for an experience of more than ten years, say 12 years, or fifteen years. At least, due to the Financial constraints we may provide ten years of experience as a judge. If it is lower than that, it will not be good. Now the people are being appointed as judges at the age of 25 years and after putting in seven years of service, they will be just 32 years. If at the age of 32 years a person is asked to sit as a judge and solve the family problems, it will not be so nice. They may not be so efficient in solving these problems. Therefore, a minimum of ten years must be provided for such a judge before he holds office of a judicial officer in these family courts.

Furthermore, a judge with seven years or ten years experience being appointed on these family courts is not thought. There are other factors also which must be taken into consideration. First of all, it should

[Shri V. Ramanathan]

be ensured that any such judge is not himself involved in such cases which we are trying to eradicate from the society. Then, this is a problem which needs psychological approach, human approach. The person to be appointed as a judge should not only be a knowledge person but should also have these qualities. Then only we can achieve what we want under this law.

Apart from that, in advanced countries like Japan, Australia and other countries we are having besides judicial officers the counselling officers and conciliation officers. Then they are also having persons who study these problems first, such as, as to what the psychological problem in the family is, why the tension has arisen in the family. These things are studied first and then conciliation started. Afterwards only they go to the judicial court and the court decides and solves this problem. Therefore, that sort of procedure also we must adopt. For this conciliation and counselling we can make use of certain arrangements that already exist in the society, such as the social welfare boards, social welfare organisations, women's welfare societies and the like. We can make use of this facilities. These people can talk and gather information and study the things as to what the problems in the family are and how those problems can be solved. We can educate the public also through the agency.

9 P.M.

Further, as I submitted earlier, this is a social legislation. Here, there is no arrangement at all for anything in this Act. Under clause 7(b) under Explanation, the suits and proceedings are of the following nature, namely: a suit or proceeding between the parties to a marriage for a decree of nullity or marriage, or restitution of conjugal rights; property of the parties; order or injunction in circumstances arising out of a marital relationship; legitimacy maintenance guardianship, etc. As far as restitution of conjugal rights is concerned, there is no other law which permits. We do not find this restitution of conjugal rights in any other law. If it is allowed, it will violate the right of the women. There was recent

judgement in Andhra Pradesh High Court last year in Haridas case...

SHRI R. RAMAKRISHNAN: That is overruled by Supreme Court.

SHRI JAGANNATH KAUSHAL: That has been set aside by the Supreme Court.

SHRI V. RAMANATHAN: I would still submit that this restitution of conjugal rights is an injury inflicted upon the women with the help of the statute. That is my feeling. The same cannot be claimed, by women...

THE VICE-CHAIRMAN (SHRIMATI MARGARET ALVA): No, it is for both. It is anyway a clarification. It is available to both sides.

SHRI V. RAMANATHAN: Under these circumstances, this sort of punishment need not be invoked. Rule-making power may be also given to the States. The States may consult the High Court and Frame rules. That will be easier for States. With these words I thank you for the opportunity given.

SHRI VEERSHETTY MOGLAPPA KUSHNOOR (Karnataka): Madam, I welcome this Bill. In 1974, the Law Commission suggested the establishment of family courts. Even afterwards, there were so many women organisations which represented for the establishment of these courts. I commend this Bill. It is one of the progressive pieces of legislation. It has been clearly stated that cities and towns with a population of more than one million will have such courts and with regard to other places, the State Governments will have the option to establish such courts.

About the appointment of judges a clear policy has been laid down. And at the time of giving decisions and in the final stage, the courts have been requested to take the help of social welfare agencies and counsellors and other agencies.

Madam, here the jurisdiction of the courts has been rightly defined.

While commending this Bill, I have some doubts, especially about clause 7(a) after (Explanation): "A suit or proceeding between the parties to a marriage for a decree of nullity of marriage (declaring the marriage to be null and void or, as the

case may be, annulling the marriage) or restitution of conjugal rights or judicial separation or dissolution of marriage." Madam, Vice-Chairman, this Court is going to decide on the substantive laws. There are some six or seven laws which are going to be tried in these Courts, that is the Special Marriage Act, 1954, the Hindu Marriage Act, 1955, the Muslim Dissolution of Marriage Act, 1939, Parsi Marriage and Divorce Act, 1936, the Indian Christian Marriage Act, The Indian Divorce Act (IV of 1869). All these things about divorce, judicial separation or whatever has been stated under these laws, are going to be tried under the Family Courts.

Here I would like to refer to section 12 of the Hindu Marriage Act. Sub-clause (a) of section 12 says, I quote:

"that the Marriage has not been consummated owing to the impotence of the respondent."

Here the impotency will have to be proved either by the respondent or the petitioner. Clause 12 of the Family Courts Bill says that in every suit or proceedings, it shall be open to a Family Court to secure the services of a medical expert or such person (preferably a woman where available), whether related to the parties or not, including a person professionally engaged in promoting the welfare of the family as the Court may think fit, for the purposes of assisting the Family Court in discharging the functions imposed by this Act.

Madam Vice-Chairman, my submission to the Law Minister through you is that in such cases the Courts have been given the powers to take assistance of the medical practitioners, but in some of the Courts a different view has been taken. In this connection, I would like to quote Mysore A. I. R. 1972, page 157. Here it has been stated:

"In a case where a party alleges that a person is impotent or suffering from other such incurable disease, it is for the person making such an allegation to prove the same. A party cannot be compelled to undergo medical examination. As stated by the High Court of Gujarat.

"There is no provision under the Hindu Marriage Act or the Rules framed thereunder, or in the Code of Civil Procedure or in the Indian Evidence Act or any other law which would show any power in the court to compel any party to undergo medical examination."

A medical examination for ascertaining whether a person is insane or impotent are all cases in which unless by the law of the land a person can be compelled to undergo medical examination, an order directing a person to undergo medical examination, would be clearly illegal and without jurisdiction."

Therefore, my submission to the hon. Minister through you is that unless we make a provision either in the Hindu Marriage Act or in other Marriage Acts or in the Family Courts Bill itself that a court can compel either the petitioner or the respondent, unless that provision is made, even if we give the rights to the Family Courts, they cannot give justice because there is no such provision to compel the party, either the petitioner or the respondent.

Now, Madam Vice-Chairman, there is another provision about which also I am doubtful. That is clause 7(d) which relates to a suit or proceeding for an order or injunction in circumstances arising out of a marital relationship. Here my submission is that in certain cases where a party is wanting to contract a second marriage and if any party comes to the court, and if want an injunction, at present that cannot be done. There is no such provision either in the Hindu Marriage Act or in any other Marriage Act. There is a provision for the purpose of injunction in section 9 of the Civil Procedure Code, but in the present case the Family Courts are the district judges and they cannot try perpetual injunction suits in such courts. Therefore my submission is that the hon. Law Minister will have to make provision for filing such suits in the family court itself.

[Shri Veershetty Moglappa Kushnoor]

Under the Hindu Marriage Act, under section 18, the powers which have been given are about all the relationships of marriage either to declare null and void the marriage, or annulling the restitution of conjugal rights or judicial separation or dissolution of the marriage. Other powers have been given under section 125 Cr. P.C. for awarding maintenance to the children and the wife. My submission is that when you are giving all the powers about marital relations, why should the powers under sections 494 and 495 of IPC Act be given to these courts? Because that is also about the bigamy marriages. Bigamy is also an offence. My submission is that when you are giving powers under section 125 Cr. P.C. you should also give powers under sections 494 and 495 of the IPC.

There is another section—section 18 of the Hindu Marriage Act. There also some of the offences are minor offences but they have to go to the First Class Magistrate. Therefore my submission is that in order to give speedy justice, these cases also will have to be referred to the family courts only because these offences relate to the second marriage or child marriage and other things. Therefore my submission is that section 18 should be entrusted to the family courts.

Madam, you know that marriage cases are pending in the civil courts for more than six or seven years. Even maintenance cases are pending for more than six or seven years. There is no provision in this Bill, which I think should be there, that all cases should be disposed of within a year and the appeals should be disposed of within six months. This provision should be made. Otherwise these family courts will also take more time as the ordinary civil courts are taking at present. This provision is very necessary in order to dispose of cases expeditiously.

With these few words, I commend this Bill and support it. Thank you, Madam.

*SHRIMATI ILA BHATTACHARYA (Tripura): Hon. Chair-person, Madam, I have been allowed to speak after long waiting. However, I support the Dowry Prohibition (Amendment) Bill, 1984, which is placed before us for consideration. There are certain provision in the Bill which will enable us to combat the dangerous custom like dowry in our society to a certain extent. The good point in the Bill is that giving and taking of dowry will be treated as a crime and it has been made punishable offence. Another good point is that gifts at the time of marriage will have to be entered in a list. Besides, the extent of punishment for the offenders of law has been increased in the present Bill as compared to the provision to that effect in the principal Act. Therefore, these good provisions in the Bill will enable people to get relief from the burden of dowry to some extent. But if we consider the present Bill in depth, we shall find that it is not a great improvement upon the principal Act as many old provisions are still in the statute Book.

Parliament appointed a Joint Select Committee to consider the present Bill in depth. Lakhs of rupees were spent on this Joint Select Committee. That Committee made seventeen valuable recommendations. I agree with sixteen recommendations except one. The Government has accepted only three/four recommendations. They have ignored all these recommendations with which it would have been easier for us to fight this evil practice of dowry. The Joint Select Committee was appointed with this purpose that that Committee would visit all the States and study all the relevant laws on the subject in great details. It was expected that the present Bill would reflect the detailed study of that Committee. But, unfortunately, the Government have ignored all the valuable recommendation of the Committee deliberately. I consider it a disrespect to the Committee and it is indirectly a disrespect to this House, too. After offering these criticisms, I support this Bill.

*English Translation of the original speech delivered in Bengali.

I shall now refer to those recommendations of the Committee which the Government have not accepted. First of all, let us take the case of definition. In the principal Act the definition of dowry has been given like this: "any property or valuable security given or agreed to be given directly or indirectly at or before or after marriage as consideration of marriage." Now in the amending Bill the words "in connection with" have been substituted for the words "as consideration of". By this amendment, the Government intends to say that the gravity of dowry has been reduced. But this is not a fact. The Loop-hole that was there in the past definition is still there in the present definition. It is our experience that no parents or guardians come forward to admit that they have offered gifts to their daughters at the time of marriage in the form of clothes, Jewellery and cash money. If they do so, their daughters will be tortured in their new homes. So, no parents will file a dowry case to the concerned authorities for fear of safety of their daughters. My submission, therefore, is that the present definition is also vague. It was reported in *Statesman* on the 5th August, 1984, that according to Centre of Womens development study group the dowry should be defined as "money or other things demanded or taken from the bride or her parents and other relatives at any time, before, during or after marriage, where such a demand or taking had no legally recognised claim." This wide definition has not been given importance in the present Bill.

The Joint Select Committee recommended that some ceiling should be imposed upon dowry. But that recommendation has not been accepted by the Government. The Committee felt that the Society would not accept if they are asked through legislation to part with dowry system completely. So they considered the question of inheritance of wealth by daughters and her heirs. Apart from this, the Committee considered that if the parents offer gifts to their daughters before or after marriage, the valuation of such gifts should not exceed 20% per cent of income of parents in the previous year or the total valuation should not be more than Rs. 15,000. In such a

circumstance, the gifts, offered by parents, will not be treated as dowry. So, the Committee fixed a ceiling which has been ignored by the Government.

The Committee recommended that all the gifts to a daughter will be recorded in a list and that list will have to be registered. In this amending Bill, there is a provision for listing all the gifts but there is no provision for registering them. What is the value of a list? Such a list has no legal sanction unless it is registered. So, I condemn the Government that they have failed to accept this valuable recommendation of the Committee.

Another recommendation of the Committee was that if the gifts, voluntarily given by parents or relatives, do not exceed 3 per cent of annual income of a giver or the total valuation of which does not exceed Rs. 2000, such gifts will not be treated as dowry.

Again, another important recommendation of the Committee was that the marriage expenses in connection with decoration, band-party and feeding guests would not exceed 7 per cent of annual income of the parents or guardians or the total cost for which will not be more than Rs. three thousand. So, this kind of ceiling, fixed by the Committee, was not accepted by the Government. Consequently, our lower-middle class families and middle class families are being ruined due to heavy burden of dowry. Our women are being tortured and burnt. They are committing suicides in order to get rid of their helplessness. So, I emphasise upon this point that the Government should accept all the valuable recommendations of the Committee. I request the Hon. Minister to re-consider the matter afresh.

A new provision has been inserted in this Bill which says that the valuation of dowry should be in proportion to the financial capacity of the parents. In other words, the valuation of dowry should not be excessive of the financial capacities of the parents. But who will judge the financial capacities of the parents? The parents of bride-groom will never consider

[Shrimati Ila Bhattacharya]

sympathetically the financial capacities of the parents of brides. In olden days, daughters were given gifts in the form of jewellery etc. at the time of marriage with a purpose. Those gifts were known as "Stri Dhan" and it was intended to serve as security for the daughters in times of their distress. But later giving dowry to bridegroom became permissible under the *Hindu Sasstras*. This dowry to bride-groom is the crux of the matter. This alone is responsible for a serious social malady. Unless we root out this social malady, we cannot save lakhs of families from total ruination.

The present Bill is an important piece of legislation. So, it must be given serious consideration by the House. The entire people of India will welcome this Bill if it can give relief to the harassed parents

(Mr. Deputy Chairman in the Chair.) from paying dowry to bride-groom. The people will also welcome it if it can stop bride-burning.

I have already said that the definition of dowry has been kept vague. Again, the extent of marriage expenses has not been fixed. The most important recommendations of the Joint Select Committee in regard to marriage expenses and presents has been ignored by the Government.

The Joint Select Committee recommended that the State Governments should be invested with powers to appoint Dowry Prohibition Officers. These Officers will be assisted by an Advisory Committee which will include social workers, too.

It was also the recommendation of the Joint Select Committee that the implementation of the Dowry Prohibition Act, 1961, should also be in the hands of Panchayats. We know that a Panchayat is a kind of Government for the rural population. The welfare of crores of villagers depend upon this Government. Panchayat Members will be in a position to find out in their respective areas the cases of dowry and bride-burning and

they will report to the Dowry Prohibition Officers about those cases. I hope, serious efforts will be made to act upon the reports made by Panchayat members.

I place my serious objections to the Hon. Minister that he has not accepted all the valuable recommendations of the Joint Select Committee. I would request the Hon. Minister to bring a comprehensive legislations, based on all the recommendations of the Joint Committee.

Dowry has created a serious situation in the Country. Women organisations launched a serious agitation in the country for the abolition of dowry. The present Bill is the result of that agitation. By not accepting of some of the recommendations of the Committee has created a suspicion in my mind. I think that either the whole thing has been made a farce deliberately or the present Bill has been brought here as an election stunt. It appears that the Ruling party wants to win women votes in the coming election through this Bill, although it has not included all the valuable recommendations of the Joint Select Committee.

MR. DEPUTY CHAIRMAN: Mrs. Margaret Alva.

SHRIMATI MARGARET ALVA (Karnataka): Mr. Deputy Chairman, I know that many have spoken and not very much is left to be said. But I felt as a woman I would be failing, if I do not go on record and say what many of us have felt very strongly, about this Bill. Well, for the sake of convention, I would begin by speaking on the Family Courts Bill because I was a Member of the Joint Select Committee on Dowry Prohibition Bill. Well this Bill has been very much looked forward to. I welcome the step taken by the Government for setting up the Family Courts because it was great need and as we have the judicial processes today, most matters are kept pending for so long in the courts and there is such an atmosphere of opposition between the parties in the normal courts that the family courts would help in sorting out many problems. But I would like to point out to the Law Minister what someone else also has spoken about there

is no time limit for settling disputes. I think in these matters time is of the essence. If you are going to make the people wait for 10—15 years to decide whether a marriage is valid or null and void then the whole process of family courts would be defeated and also the question of an appeal from the family courts would be a very important matter. I feel we should not have appeal to the High Court and the Supreme Court, but have only one court of appeal from the family court which I think would make matters much quicker.

Sir, one other thing which I feel in the jurisdiction. Here, you have not mentioned dowry offences as one of the matters which would be considered by the family courts. I think one of the most important matters today before the family courts really would be dowry disputes and harassment which flows because of this. I feel, therefore, that this should really have been brought into the jurisdiction of the courts. The privacy which this Bill provides for litigants is most welcome. Sir, even though I am a lawyer, I welcome very much keeping lawyers out of the Family Courts, because normally most delays are caused on account of lawyers. So, I welcome the step which has been taken for the first time for keeping them out.

MR. DEPUTY CHAIRMAN: Lawyers are experts to find some way out.

SHRIMATI MARGARET ALVA: Sir, I am very glad that lawyers have been kept out. I do feel that a great deal of improvement in this could take place with the experience which the courts will be able to gather gradually. In general I do welcome the provisions of the Family court Bill.

But, Sir, coming to the Dowry Amendment Bill, I think someone else has just now said that this Bill has been brought forward as an election stunt. I wish it was an election stunt then I think it would have been better drafted to make the women, who constitute 52 per cent of the population happy before the elections. But I think that the Dowry Bill is a disaster as

far as women are concerned. The recommendations of the Joint Select Committee have been completely ignored. Our basic complaint is that the recommendations we had made about the very definition of dowry have been ignored. The experience of the last so many years was that the definition was so defective that it was impossible to prove the crime. What was originally there was "in consideration of marriage". So we said: drop this completely. All the women's organisations were demanding that "in consideration of marriage" should go so that it would be easier to pin it down. But the Law Minister has changed "in consideration of" to "in connection with". I do not know what the difference is because it is so difficult to prove it when demands are made after marriage, for example when the son-in-law goes abroad or when a grandson is born or when the other daughter is married. When you give a something on these occasions, you cannot prove it if the definition is "in connection with marriage". And most of the dowry deaths today are because of the harassment and the demands made for years after marriage which the father of the girl cannot meet. Therefore, I feel the definition is absolutely defective and it does not help in any way.

The other complaint which I have is about "customary gifts". The Law Minister has exempted "customary gifts" from the purview of dowry. But what is dowry except customary gift? They claim that it is a tradition which has come down to us. And you say that anything given as customary gift is not dowry. I do not know how you are protecting women if you say that customary gifts which run into lakhs of rupees are not to be considered dowry. Then you will defeat the very purpose of the Bill. I feel this is a great shortcoming.

Without taking much time, I wish to make just one or two points. I welcome the involvement of recognised voluntary organisations for the first time in the history of the Indian legal system so that women's organisations and others who

[Shrimati Margaret Alva]

are really involved can come into the picture in the investigative process.

Sir, a request which had been made was that you should not educate the giver and the taker if you want to see that something is done for women. We wanted that the one who takes should be punished because most often the parents of the girls are compelled to give either to save the marriage, to save their daughter's life or to save face on the eve of marriage. But that has been ignored. The Law Minister equates the harassed parents of the poor bride with the demanding in-laws who make life miserable for them. When this is so, I feel no person will come out and complain if he is to go to jail for coming before you and telling you that he has been forced to give money. I think this is also a defect.

While you have made the offence cognizable, it has been made bailable. If the man is to come out on bail the day he is taken in, he will blackmail the bride and compel her to withdraw the complaint. I am involved with free legal aid for women and even girls who recover after attempted suicide come back to us and say, "Please withdraw the case or the statement which I made as a dying declaration because I now live. My parents say I must go back to the husband, and if I do not withdraw the statement, I cannot go back to my husband." When this is the fate of the girl, making it a bailable offence is not going to protect the girl in any way.

The other point is about registration of marriages. In the other house, in the course of his reply the Law Minister has said that he would bring in a separate legislation for registration of marriages. I feel many of the purposes of the law would be defeated because there is no provision for registration of marriages today. You can register births; you can register deaths. And I suppose marriage for most of us is either a re-birth or death. So I do not know why we do not have a provision for registration of marriages. If that is done, you can have some proof of the validity or legality of marriage or inheritance. I

am sure you can find out a way by which this can be done.

My final complaint is that there has been no effort to limit marriage expenses. We see today that sometimes lakhs of rupees are spent on a marriage and most often the bride's family is made to pay for the marriage expenses. We have begged of the Government to fix a limit on the number of guests who may be invited to a marriage. I know a financial limitation would be difficult to impose because if you say "Rs. 15,000," then even for a chaprasi's daughter, they would say, "Up to Rs. 15,000, you pay for the marriage". It is difficult to equate a black-marketeer or a millionaire or a businessman with the poor people of the country.

SHRI R. RAMAKRISHNAN: Or a politician.

SHRIMATI MARGARET ALVA : Or a politician, who is the biggest culprit in most of the marriages. We, therefore, said: you limit the guests to 200, whereby the expenses would automatically be limited. There is nothing about this in the Bill. There is no limit on the number of guests at marriages. And most baraats today run into thousands which is one of the biggest problems which bride's parents face.

If I were not in the ruling party I would have moved amendments to the Bill. I would request the Minister to bring an amendment at least to the definition. Since I am on this side and my hands are tied, I thought at least we should go on record on behalf of women to say that we still expect further amendments to be brought to the Dowry Amendment Bill at a later stage. I hope something which will really be of use if this Bill is to be of any help. Thank you.

SHRI PAWAN KUMAR BANSAL (Punjab): Mr. Deputy Chairman, Sir, when the minds advance but the systems become stationery, it results in chaos. In our society, a changing, moving and dynamic society as it is, a somewhat chaotic condition has come to prevail in the field of matrimonial law with the static judicial

system in which it has to operate. It so happens that if unfortunately some dispute arises between the parties to a marriage for any reason whatsoever, and if one of them happens to move the court, the litigation lingers on for years causing all the avoidable agony and anxiety to all concerned. The guileful of the two with the best legal advice available to him or her often invokes the technical and rigid provisions of law, particularly the procedural ones, to drag on the litigation endlessly. In the process, the youth of the aggrieved withers away and life only becomes a bed of thorns with no desire to live on.

It has also been experienced that in a majority of the cases some trifling event, in the absence of any counselling or conciliatory efforts, created a situation which aggravated mutual acrimony and ultimately led to the breaking of the sacred ties of the marriage.

The Family Courts Bill, 1984, is a revolutionary departure from the past and must find an outright approval from this august House.

Regarding the adjudication of matters enumerated by the Explanation to Clause 7 of the Bill, viz, nullity of marriage, judicial separation, divorce, restitution of conjugal rights, declaration as to the validity of a marriage or as to the matrimonial status of a person as well as matters relating to the property of the spouses, declaration as to the legitimacy of a person, guardianship or custody of a minor and maintenance etc, the Family Courts to be set up under the new Act will have exclusive jurisdiction. Thus the Judge of a Family Court, specially selected because of his or her commitment to the cause of protecting the sacred institution of marriage and the promotion of welfare of children and experienced to bring about settlement of disputes by conciliation and counselling, will be in an advantageous position to expeditiously and effectively adjudicate upon in matrimonial matters as compared to the already overburdened Sub-Judge-cum-Judicial Magistrates before whom now lie the declaratory suits or maintenance proceedings under Chapter IX of the Criminal Procedure Code and the

District and Sessions Judges who now hear the appeals in the aforesaid matters and original cases under the Hindu Marriage Act, etc.

An outrightly striking feature of the Family Courts Bill is the intention to make conciliation proceedings before the commencement of the trial really meaningful and the trial just with the association of social welfare agencies, etc. and the assistances of Counsellors and medical experts in the discharge of its functions by the Family Court. In fact the provisions regarding conciliation and settlement are mandatory in nature while so far such provisions have remained formal in character with courts and lawyers dealing with family disputes as any other civil matter.

The strict provisions of the Code of Civil Procedure and the Indian Evidence Act which sometimes cause injustice in a case rather than furthering the ends of justice, will shed their rigour in their application to family courts. In order to avoid embarrassment to either of the parties, the proceedings shall also be held *in camera*.

Denial of justice due to the delay in dispensation thereof will be obviated by the salutary provisions of the Bill simplifying the recording of evidence, the bar of revision against interlocutory orders and the provision regarding the appeal both on facts and on law straight to a Bench of two or more Judges of the High Court.

The Bill when enacted into law will hopefully meet a long-standing demand that in settlement of family disputes, emphasis should be laid on conciliation to preserve the sanctity of marriage and achieve society desirable results.

However, I take this opportunity to suggest that the right to legal representation should not be completely taken away. Here I respectfully differ with Mrs. Margaret Alva. I understand the good intention with which this provision has been made *vide* clause 13 of the Bill; but it would not be defeated if both the parties to a matter apply for seeking legal assistance because it is not clear as to whether the services of an *amicus curiae* legal expert as postu-

[Shri Pawan Kumar Bansal]

lated by the proviso to clause 13 of the Bill will be available to both the parties or to the one whom the court directs or to the court itself.

The other suggestion is regarding the rules that may be framed under section 23(2)(a) concerning the terms and conditions of the family court Judges. Keeping in view all relevant factors, I feel that the Judges of the family courts should be bestowed with the status, and form part of the cadre of Superior Judicial Service of the State comprising of District and Sessions Judges and Additional District and Sessions Judges.

Sir, here I would like to make a suggestion that since we happen to discuss the Family Courts Bill along with the Dowry Prohibition (Amendment) Bill, it would be in the fitness of things if the jurisdiction of the civil courts is extended to try offences under the Dowry Prohibition Act as well. I for that matter, would refer to the provisions of clause 7 of the Family Courts Bill, Sub-clause (2) (b) of that clause states that the jurisdiction of the family courts shall be extended to such matters as may be conferred on it under any other enactment. I would take this opportunity to suggest that the jurisdiction of the family courts should be extended to matters arising under the Dowry Prohibition Act as well.

Regarding dowry, Sir, I feel, as all of us do, that the problem is basically a social one and needs the creation of an awareness amongst the people about the serious repercussions of this practice. However, all the deaths which are daily reported in the various newspapers, and stare at us in the morning when we pick them up, are not always because of dowry. But the fact remains that this evil continues to bring untold sorrow to many families. In this context, I would only refer to the desirability of certain other amendments outside the Dowry Prohibition Act. To make the provisions, really meaningful, I feel that section 302 of the Indian Penal Code needs an amendment to the effect that if the murder is that of a wife, the punishment shall

be death and, similarly, if the offence committed is under section 306, that is, abetment, or under section 307, that is, attempt to murder, and if the victim happens to be the wife, in that event, the severity of the punishment should be much more than what is now provided for under the Indian Penal Code. (*Time bell rings.*)

Accepting your word, Sir, I conclude: Thank you.

SHRI JAGANNATH KAUSHAL : Mr. Deputy Chairman, Sir, I am thankful to all the Members who have participated in this debate and it is very thoughtful of the Advisory Committee to have suggested that both the Bills should be taken up together. In my view, there is a connection between these two Bills and that is why the honourable Members who have participated have spoken on both the Bills.

Now, Sir, so far as the Family Courts Bill is concerned, I think there is unanimity in the House that it is a progressive and a revolutionary piece of legislations. Almost everybody had a word of praise for this. Undoubtedly, it is a great step for one reason and it is that the real purpose of these Courts will be reconciliation and, at the stage of reconciliation, there will not be that attitude as if two warring and contending parties are before the Court. The Court will almost be like a panchayat and the Court has been given the power to associate whomsoever it thinks proper. One honourable Member suggested that some people of influence should also be associated. We have taken care to provide for this in the Bill itself.

And I draw the attention of the House to clause 5(d):

"Any other person whose association with a Family Court would enable it to exercise its jurisdiction more effectively in accordance with the purposes of this Act."

So any person whom the court thinks can influence in bringing short reconciliation can certainly be associated. The Court has also been given the power to associate institutions or organisations engaged in social welfare or representatives

thereof or persons professionally engaged in promoting the welfare of the family, persons working in the field, of social welfare, etc. In fact, it is like a Panchayat where social workers and professional people who are engaged in bringing about the welfare of the family, they will all be engaged. And the procedure has been completely left to the Court. Therefore, as hon. Members have said, this is a very welcome and revolutionary step.

Now, only one or two points have been raised so far as this is concerned, and those points are: One, why are you confining the establishment of the Courts only to big cities? Sir, as I have said in the opening speech, we are experimenting, and if the experiment succeeds in big cities where these services will be available, we can extend it to other areas. Social organisations, welfare organisations, people engaged in these services, etc. are only to be found in big cities. Now, there are two provisions. One is mandatory and the other is optional. Setting up of Courts in towns and cities exceeding one million population is a mandatory provision and the State Governments will have to set up family courts in these areas. Regarding the other we have left it to the discretion of the State Governments. They may establish family courts in such other areas in the State as it may deem necessary. And I have no doubt that when the experiment succeeds the States will try to set up more and more Courts.

Now, the other provision regarding which some Members have spoken as to why we have put in seven years' service for a judicial officer and 7 years' standing for an advocate. They asked, why not make it ten years? My submission to the House is that these are the minimum qualifications. And if the hon. Members know, for the appointment of a District Judge even the minimum requirement of an advocate is seven years standing. And in fact the effort would be that proper persons will be recruited because the State Government cannot act arbitrarily in this case. The provision says: "The State Government may, with the concurrence of the High Court, appoint one or more persons to be appointed the Judge or Judges of a Family Court". The concurrence of the

High Court, in any case, means a guarantee that proper persons will be appointed.

There is another provision if you kindly look at it:

"(c) possesses such other qualifications as the Central Government may, with the concurrence of the Chief Justice of India, prescribe."

So we have associated the Chief Justice, we have associated the High Court and we have laid down the minimum qualifications. Our effort is that this experiment should succeed.

The only other point which has been raised by some hon. Members is, although there is difference but Mrs. Alva has welcomed the exclusion of legal practitioners from these Courts. Well, I share her views, because, unfortunately, the tendency is, if lawyers are there, at least on one side the tendency is to prolong the proceedings.

THE MINISTER OF STATE IN THE MINISTRY OF STEEL AND MINES (SHRI N. K. P. SALVE): They create trouble. As I said, again the idea is that let it be an informal sort of proceeding. If there is less of formality, the chances of reconciliation are much greater. But we have not debarred the courts. If 10 P.M. there are some complicated matters, there is a provision for courts. For the benefit of the House, we may see the provision. It says:

"...Provided that if the Family Court considers it necessary in the interest of justice, it may seek the assistance of a legal expert as *amicus curiae*."

There is a great advantage in having a person as *amicus curiae* because he does not have a bias in favour of the party for whom he has been engaged. So, he will be there to give an unbiased opinion and assistance to the court. Therefore, this provision, according to me, is a sufficient safeguard that wherever a court feels that the assistance of a legal expert

[Shri N. K. P. Salve]

is needed, the court can certainly take advantage of it.

The other point which has been raised by two hon. Members is that a time-limit should be imposed within which a dispute has to be decided. My experience is that imposing a time-limit firstly serves very little purpose and secondly, I may remind the House regarding a provision in the Representation of People Act where the High Court tries the petition. It is written there that so far as possible the High Court should decide the petitions within six months. May I know from the hon. Members how many High Courts have succeeded in deciding the petition within six months? In the very nature of things, to put a time-limit on judicial process is impracticable and that is why it has not been done.

One basic question which has been asked is why we have not given criminal jurisdiction to the family courts. On that matter, we had devoted a lot of thought. A number of Ministries were involved in the framing of this legislation and there was almost a unanimous opinion that let this experiment be tried for the purpose of bringing about the family disputes to an end. But so far as criminal trials are concerned, let those trials be conducted by the people who conduct trials in other cases because, according to us, these courts will be of a different type and they will not be quite competent to try criminal cases. That is why, we have kept them out deliberately. As I said, if the experience proves that these courts are fit enough to try even criminal offences, surely an amendment can be made later on.

Now, I come to the other Bill, the Dowry Prohibition Bill. On that matter also, most of the Members have welcomed it. But there are some criticisms. I would take them one by one because, according to me, the basic criticisms are one or two. One criticism which Mrs. Alva has very vehemently brought forward and another hon. lady Member also brought forward, is that the Joint Committee has suggested that from the definition of dowry the words "as considera-

tion for the marriage" should be taken out. May I read, in order to understand as to what we have done and as to what would have been the effect of what the Joint Committee has proposed? I would crave the indulgence of the House to read the definition. The definition reads like this :

"Dowry means any property or valuable security given or agreed to be given either directly or indirectly by one party to a marriage to the other party to the marriage or (kindly look at this clause) by the parents of either party to a marriage or by any other person to either party to the marriage or to any other person."

The definition is so wide that anything given by any other party to either party to the marriage or to any other person at or before or after the marriage shall be dowry. If these words are taken away, "as consideration for the marriage of the said parties," then this will become totally unworkable and may I say what the Joint Committee itself, of which Mrs. Alva was a very important member, had to say. I should remind Mrs. Alva of what the Joint Committee said and I quote: "The Committee feel that one of the reasons why the Dowry Prohibition Act, 1961, although in operation for such a long time failed to achieve its object, the Committee are aware that the omission of the afore-said words would make the definition very wide and drastic." (Interruptions)

SHRIMATI MARGARET ALVA :
That is what we want.

SHRI JAGANNATH KAUSHAL : But we do not want to adopt something which is so wide and drastic.

SHRIMATI MARGARET ALVA :
The men naturally do not want it.

SHRI JAGANNATH KAUSHAL :
Madam, if you blame men, then I have no hesitation in saying that ladies are responsible for this menace of dowry. (Interruptions) And shall I tell you now...

SHRIMATI KANAK MUKHERJEE :
They take shelter behind it. (Interruptions)

SHRI JAGANNATH KAUSHAL : Now, may I tell you and the House that my experience as a criminal lawyer has brought this thing to surface that in all cases of dowry deaths and dowry burning, the villain is the mother-in-law. (*Interruptions.*)

SHRIMATI MARGARET ALVA : Sir, I may be allowed to make a point. (*Interruptions*)

SHRI N. K. P. SALVE : Sir, the only point at issue was whether men alone are responsible. The hon. Member would do well to remember that mother-in-law can never be a man. (*Interruptions*)

SHRIMATI USHA MALHOTRA (Madhya Pradesh) : Is there any evidence that the father-in-law stood in the way of taking the dowry. (*Interruptions*). No, where has it come to light that the father-in-law stood in the way of the mother-in-law to ask or receive dowry. (*Interruptions*)

SHRI JAGANNATH KAUSHAL : I am not yielding.

SHRIMATI USHA MALHOTRA : It is not a comprehensive Bill. I would like it to go on record and we are not very happy with it.

SHRIMATI MARGARET ALVA : Nobody is happy.

SHRI JAGANNATH KAUSHAL : I am prepared for the charge of being unchivalrous but I will not yield.

SHRIMATI KANAK MUKHERJEE : This is such a serious thing and you are taking it lightly.

SHRI JAGANNATH KAUSHAL : All right, Madam. I have noted your suggestion.

SHRI VISHVAJIT PRITHVIJIT SINGH (Maharashtra) : Have you come across the case where a lady constable burnt her husband, Sir?

SHRIMATI KANAK MUKHERJEE : I don't think the hon. Minister is very serious about it. Why should there be jokes? It is a serious matter.

SHRI JAGANNATH KAUSHAL : I would only say that our purpose in put-

ing this phrase 'in connection with the marriage' is to make the definition practicable, because unless there is a nexus between the giving of dowry and the marriage, the whole thing becomes totally unworkable and totally impracticable, although my definition is also as wide as it can be, because anything given in connection with marriage at, before, at the time of, or even after the marriage, is dowry. If you take away the word 'in connection with marriage', as I read it, then there will be no connection between giving of things and marriage at all. Therefore, my purpose in substituting this phrase is to make the definition more intelligible, is to make the definition more practicable and at the same time, achieve the same purpose which the Joint Committee had in mind, because the Joint Committee wanted the definition to be wide. My definition is also as wide; but I could not accept the definition of the Joint Committee for the main reason, that if I take away the words as 'consideration of marriage' and do not put in any other phrase, then, with all respect to the Joint Committee, I feel that this would not be a proper definition of dowry. The Joint Committee further said: "The Committee have reluctantly arrived at the conclusion that these words should be omitted." They were themselves reluctant; they were conscious of the difficulty they were facing. I have only tried to help them in bringing the definition to that level which should satisfy them.

Then, hon. Members have taken this objection that the Committee had given some other recommendations which we have not accepted. Firstly, Madam, don't forget, those recommendations were not part and parcel of the report of the Committee. The Committee was only asked to go into the question of the working of the Dowry Prohibition Act of 1961 and that is why the Committee have wisely put all those recommendations not as part of the report, but separately. Whatever we thought proper, we have accepted.

Again you say why we have not accepted putting a ceiling on marriage expenses. May I say, the members of the

[Shri Jagannath Kaushal]

Committees were that some States had done it but the experiment had not succeeded. You put it that nobody will spend more than Rs. 5000—I am only talking hypothetically; they put it at 3000 rupees, that nobody should spend more than Rs. 3000 on barat on illuminations, on hand, on everything. And they have made it a cognizable offence if the expenses exceed. Do you think any marriage can proceed?

(Interruptions)

We have accepted all other recommendations of the Committee where they have made the offence punishable with more imprisonment. The scheme of the Act now is that the minimum punishment is six months, maximum is two years and fines are very heavy. All these recommendations we have accepted and may I say with all humility, almost all Members have said so, that more passing of this law is not going to abolish the menace of dowry? Young men and women have to come forward, who should refuse to get married wherever dowry is practised.

My submission to the House is that the present Bill is a great improvement on the earlier Bill and if social consciousness of the people is aroused, we will feel we have done a service to the society. Arousing social consciousness is the job of all the social organisations, all the welfare organisations. As somebody was saying, the press should come forward, seminars should be organised and our effort should be to see that the marriage succeeds, not that the marriage should break down.

Therefore, my submission to the House is, we have tried our level best to improve the Bill. According to my humble submission we have succeeded and I want the blessing of the House.

MR. DEPUTY CHAIRMAN : Now I shall put the amendment moved by Shri Ramakrishnan for reference to the Joint Committee to the House. But I am afraid Mr. Ramakrishnan has taken the place of Shri Shiva Chandra K. who was every time moving...

SHRI R. RAMAKRISHNAN : Yes, in some matters only.

MR. DEPUTY CHAIRMAN : The question is :

"That the Bill to provide for the establishment of Family Courts with a view to promote conciliation in, and secure speedy settlement of, disputes relating to marriage and family affairs and for matters connected therewith, be referred to a Joint Committee of the Houses consisting of 30 members; 10 members from this House namely :

1. Shrimati Amarjit Kaur
2. Shrimati Usha Malhotra
3. Dr. (Shrimati) Najma Heptulla
4. Dr. (Shrimati) Sarojini Mahishi
5. Shri Sankar Prasad Mitra
6. Shri Kalyan Roy
7. Shri Dipen Ghosh
8. Shri Heerachand
9. Shri Hukmdeo Narayan Yadav
10. Shri R. Ramakrishnan

and 20 members from the Lok Sabha.

that in order to constitute a meeting of the Joint Committee the quorum shall be one-third of the total number of members of the Joint Committee;

that in other respects, the Rules of Procedure of this House relating to Select Committees shall apply with such variations and modifications as the Chairman may make;

that the Committee shall make a report to this House by the last week of the Hundred and Thirty-third session; and

that this House recommends to the Lok Sabha that the Lok Sabha do join in the said Joint Committee and communicate to this House the names of members to be appointed by the Lok Sabha to the Joint Committee."

The motion was negatived.

MR. DEPUTY CHAIRMAN : Now I will put the motion :

The question is :

"That the Bill to provide for the establishment of Family Courts with a view to promote conciliation in, and secure speedy settlement of, disputes relating to marriage and family affairs and for matters connected therewith, be taken into consideration."

The motion was adopted.

MR. DEPUTY CHAIRMAN : We shall now take up clause by clause consideration of the Bill.

Clauses 2 and 3 were added to the Bill.

MR. DEPUTY CHAIRMAN : Clause 4. There is one amendment by Dr. Mahishi. She is not present. So, the amendment is not moved.

Clause 4 was added to the Bill.

Clauses 5 to 23 were added to the Bill.

Clause 1, the Enacting Formula and the Title were added to the Bill.

SHRI JAGANNATH KAUSHAL : Sir, I move :

"That the Bill be passed."

The question was proposed.

SHRIMATI KANAK MUKHERJEE : While welcoming these Bills with reservations, which I have already stated, I want to remind the hon. friends through you, Sir, about one point. While we are fighting for these Bills, we are not fighting as between men and women. Our fight is neither against men nor against women. It is not as if our fighting is going on against men. We are not feminists like that. Our fight is against the common evils of society. Both men and women should fight together. It concerns both men and women. When we have children, excuse me for one minute, you are much younger than me; so I can teach you. When we have children the parents have equal rights and equal duties towards the children. So we should look at sons and daughters as equals. We must take it as an individual, not as mother-in-law or daughter-in-law. He

may be a man, or she may be a woman. We must look at these evils from this point of view. We must awaken the social sense to attack these things in the right spirit. And both men and women should fight against the men and women culprits and against the common social evils. Unless we adopt this correct approach, these Bills will remain paper bills. Not only that, it will do much more harm to us. Thank you.

MR. DEPUTY CHAIRMAN : The question is :

"That the Bill be passed."

The motion was adopted.

MR. DEPUTY CHAIRMAN : Now I shall put the amendment moved by Shri Satya Prakash Malaviya for reference of the Dowry Prohibition (*Amendment*) Bill, 1984, to a Select Committee to vote.

The amendment was put and the motion was negatived.

MR. DEPUTY CHAIRMAN : Now I shall put the motion moved the Law Minister to vote. The question is:

"That the Bill to amend the Dowry Prohibition Act, 1961, as passed by the Lok Sabha, be taken into consideration."

The motion was adopted.

MR. DEPUTY CHAIRMAN : We shall now take up clause-by-clause consideration of the Bill.

Clause 2—Amendment of section 2

SHRI ASHWANI KUMAR : Sir, I move :

1. "That at page 1, lines 10-11, for the words "in connection with the marriage of the said parties, but does not include" the words "including *tilak thaka* or any other article in connection with the marriage of the said parties, but does not include" be substituted."

The question was put and the motion was negatived.

MR. DEPUTY CHAIRMAN : The question is :

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

New Clause 24.

MR. DEPUTY CHAIRMAN : Now we shall take up new Clause 2A.

SHRI ASHWANI KUMAR : Sir, I move :

"That at page 1, after line 12, the following be inserted, namely:

'2A. After section 2 of the principal Act, the following section shall be inserted, namely:

"2A. (1) The total expenditure on celebration of marriage ceremonies including baratis, feasts and decorations shall not exceed five thousand rupees.

(2) Every marriage shall be registered and at the time of registration a list of all the gifts given shall be furnished along with their market value."

The question was put and the motion was negatived.

Clause 3—Amendment of section 3.

SHRI R. RAMAKRISHNAN : Sir, I move :

"That at page 2, line 4 for the words "six months, but which may extend to two years" the words "two years rigorous imprisonment, but which may extend to five years" be substituted."

SHRI ASHWANI KUMAR : Sir, I move:

"That at page 2,—

(i) in line 4, for the words "six months" and "two years", the words "two years" and "seven years", respectively be substituted;

(ii) in lines 5-6, for the words "ten thousand rupees or the amount of the value of such dowry whichever

is more", the words "five times the amount of the value of such dowry" be substituted.

(iii) in line 9, for the words "six months" the words "two years" be substituted."

The questions were proposed.

SHRI R. RAMAKRISHNAN : Just one minute, Sir. The Minister in the course of his reply has said that the problem is serious. I only want that for six months you make it two years rigorous imprisonment and the maximum be raised to five years so that there may be a deterrent punishment. I suggest that the Minister may kindly accept it.

MR. DEPUTY CHAIRMAN : The Minister has already replied to that.

The questions are:

"That at page 2, line for the words "six months, but which may extend to two years" the words "two years rigorous imprisonment, but which may extend to five years" be substituted.

That at page 2—

(i) in line 4, for the words "Six months" and "two years", the words "two years" and "seven years", respectively be substituted;

(ii) in lines 5-6, for the words "ten thousand rupees or the amount of the value of such dowry whichever is more", the words "five times the amount of the value of such dowry" be substituted.

(iii) in line 9, for the words "six months" the words "two years" be substituted."

The motions were negatived.

MR. DEPUTY CHAIRMAN : The question is :

"That clause 3 stand part of the Bill."

The motion was adopted.

Clause 3 was added to the Bill.

Clauses 4 and 5 were added to the Bill.

Clause 6—Substituted of section 7.

SHRI ASHWANI KUMAR : Sir, I move :

"That at page 3—

(i) in line 37, for the words "recognised welfare institution or organisation" the words "neighbour", advocate, welfare institution, women's organisation or a civil rights body (registered or unregistered)" be substituted;

(ii) lines 42 to 45 be deleted."

The question was put and the motion was adopted.

MR. DEPUTY CHAIRMAN : The question is:

"That clause 6 stand part of the Bill."

The motion was adopted.

Clause 6 was added to the Bill,

Clause 7—Substitution of section 8.

SHRI ASHWANI KUMAR : Sir, I move :

"That page 4, line 12, for the word "bailable" the word "non-bailable" be substituted."

The questions, was put and the motion was negatived.

MR. DEPUTY CHAIRMAN : The question is :

"That clause 7 stand part of the Bill."

The motion was adopted.

Clause 7 was added to the Bill.

Clause 8 was added to the Bill.

Clause 1, the Enacting Formula and the Title were added to the Bill.

SHRI JAGANNATH KAUSHAL : Sir, I move :

"That the Bill be passed."

The question was put and the motion was negatived.

MESSAGES FROM THE LOK SABHA

(I) The Constitution (Forty-eighth Amendment) Bill, 1983.

(II) The Constitution (Fiftieth Amendment) Bill, 1984.

SECRETARY-GENERAL : Sir, I have to report to the House the following messages received from the Lok Sabha, signed by the Secretary-General of the Lok Sabha :—

(I)

"In accordance with the provisions of Rule 96 of the Rules of Procedure and Conduct of Business in Lok Sabha, I am directed to enclose the Constitution (Forty-eighth Amendment) Bill, 1983, which has been passed by Lok Sabha at its sitting held on the 23rd August, 1984, in accordance with the provisions of article 368 of the Constitution of India."

(II)

"In accordance with the provisions of Rule 96 of the Rules of Procedure and Conduct of Business in Lok Sabha, I am directed to enclose the Constitution (Fiftieth Amendment) Bill, 1984, which has been passed by Lok Sabha at its sitting held on the 23rd August, 1984, in accordance with the provisions of article 368 of the Constitution of India."

SECRETARY-GENERAL : Sir, I lay a copy of each of the Bills on the Table.

श्री उपसभापति : सदन की कार्यवाही कल 11 बजे तक के लिए स्थगित की जाती है ।

The House then adjourned at twenty-seven minutes past ten of the clock, till eleven of the clock, on Friday, the 24th August, 1984.