

5. Consideration and return of the Appropriation Bills relating to the following as passed by Lok Sabh:

(a) Supplementary Demands for Grants ( General) for 1984-85.

(b) Demands for Excess Grants (General). for 1982-83.

(c) Supplementary Demands for Grants (Railways) for 1984-85.

(d) Demands for Excess Grants (Railways) for 1982-83.

(e) Supplementary Demands for Grants for the State of Punjab for 19184-45.

6. Consideration and passing of the Administrative Tribunal Bill, 1985, as passed by Lok Sabha.

SHRI GHULAM RASOOL MATTO (Jammu and Kashmir): On a point of order, Sir. I want a clarification about the Business that has been introduced for the next week. I want to know whether the Business was considered by the Business Advisory Committee. Secondly, in the President's Address to the Joint Session of Parliament it was stated that the Anti-Defection Bill will be introduced in this session. She has not mentioned that Bill. I would like to know whether the Business Advisory Committee has met. I want a clarification.

SHRIMATI MARGARET ALVA: The Buisness Advisory Committee is meeting this afternoon at 4 o'clock to allot tme for the Business which will be coming up before the House. The Anti-Defection Bill will be introduced after consultations with the leaders of the opposition. A meeting is taking place at 3 o'clock in the afternoon.

#### **..THE PAYMENT OF WAGES... (AMENDMENT) BILL, 1985**

SHRI CHATURANAN MISHRA (Bihar); Sir, I beg to move for leave

to introduce a Bill further to amend the Payment of Wages Act, 1936.

*The question was put and the motion was adopted.*

SHRI CHATURANAN MISHRA: Sir, I introduce the Bill.

#### **THE CONTRACT LABOUR (REGU. LATION AND ABOLITION) AMEND. MENT BILL, 1985**

SHRI CHATURNAN MISHRA: (Bihar); Sir, J beg to move for leave to introture a Bill to amend the Contract Labour (Regulation and Abolition) Act, 1970.

*The question was put and the motion was adopted.*

SHRI CHATURANAN MISHRA; Sir, I introduce the Bill.

#### **THE BUDDHISTT MARRIAGE VALIDATION BILL, 1981—contd**

THE VICE-CHAIRMAN (SHRI SYED RAHMAT ALI); Now, we shall take up the Buddhist Marriage Validation Bill, 1981. Shri Hukmdeo Na-ryan Yadav—not here. Shri Satya-narayan Reddy.

SHRI B. SATYANARAYAN REDDY (Andhra Pradesh); Mr. Vice-Chairman, Sir, the present Bill, the Buddhist Marriage Validation Bill of 1981 moved by my learned friend, Mr. Dhabe, on the 17th August, 1984, is very important Bill and it seeks to validate the Buddhist marriages. We all know that in 1956 a large number of people, in Maharashtra and in other parts of the country have embraced Buddhism under the leader ship and inspiration of late Dr. B. R. Ambedkar. The Buddhist marriages are governed by the Hindu Marriage Act. Since then a large number of marriages have been solemnised according to the Buddhist tradition. So, a doubt has arisen in the minds of the people whether such marriages arc valid or invalid. And it has been.

[Shri Satyanarayan Keddy]

observed from the judgements of different courts that they have given different versions. And this has created a confusion in the minds of the people whether the marriages which have been performed according to the Buddhist traditions are valid or not. So, in order to make these marriages valid, it is necessary that the present Bill moved by Mr. Dhabe should be passed in this House and it should be made clear once for all that the marriages performed according to the Buddhist religion are valid.

Sir, the Buddhist marriages are governed at present by the Hindu Marriage Act. The Hindu Marriage Act applies to any person who is a Hindu by religion in any form including a Lingayat or a follower of Brahmo or Arya Samaj or any person who is a Buddhist or a Jain or a Sikh by religion or to any other person domiciled in India, having a negative definition of a person who is not a Muslim, Christian, Parses or Jew by religion. This is the definition according to the Hindu Marriage Act. It includes the Buddhists. But the courts have given a different opinion on the question of the validity of such marriages. So, the present Bill is there to make it very clear that these marriages are also (Valid. Mr. Dhabe has done a very good thing by introducing this Bill in order to make these marriages valid. A large number of people are following this simple method of marriage. Even the Hindu marriages have been made simple. Previously, these marriages used to take 5 to 6 days. Now, within two hours the marriages are being performed. According to the Hindu Marriage Act, the very important condition is Section 7 which contemplates the completion of the 'saptapadi'. Until and unless the 'saptapadi' or the 'seven steps' are completed by the bride and bridegroom the marriage cannot be considered as complete. But, according to the Buddhist marriage, there

is no such thing as 'saptapadi'. So, by taking that into consideration, some courts have opined that the marriages performed according to those rites are not valid. So, in order to make the position very clear it is necessary that the present Bill moved by Mr. Dhabe should be adopted.

Sir, according to the custom of Neo-Buddhist, the bride and the bridegroom by folded hands have to stand before the picture of the late Dr. Ambedkar and Lord Buddha and in the presence of the assembled guests they have to utter three times 'sid-dha'. After this, the bride and the bridegroom garland each other and the persons who witness the marriage ceremony shower flowers on them. Later on the bride and the bridegroom have to take an oath in the presence of the assembled people. They have to utter certain words. The bridegroom has to say certain words. He is required to say 'I will honour my wife; I will not dismiss or kick my wife; I will not do any bad thing; I will refrain from doing the same. I will keep my wife happy by giving the necessities of life'. In the same way, the wife also has to take oath and promise all these things. But there is no such thing as Saptapadi, namely, the seven steps. If the Hindu Marriage Law is strictly taken into consideration, the marriage may be treated as invalid. Hence, in order to remove this, it is necessary and essential that the present Bill moved by Mr. Dhabe should be adopted. I think, there should not be any objection from the Government in having this Bill passed because, there is nothing objectionable in this Bill.

श्रीमन्मन्त्रालय में राज्य मंत्री (श्री टी० अन्नैय्या) : उपसभाध्यक्ष जी, श्री सत्यनारायण रेड्डी जी ने तो शादी भी नहीं की है।

श्री बी० सत्यनारायण रेड्डी : इसका मतलब यह तो नहीं है कि मैं राय भी नहीं दे सकता हूँ? राय तो मैं दे सकता हूँ।

मैंने शादी नहीं की है, मगर मैं राय तो दे सकता हूँ... (व्यवधान)

इस वक्त इस संबंध में जो खामियां हैं उनसे कंप्यूजन हो रहा है। अदालतों में इस बारे में मुखतलिफ रायें दी जाती हैं। जो जजमेंट्स होते हैं उनकी वजह से कंप्यूजन हो जाता है। इसलिए इस सोल्यूशन को आसान बनाने के लिए यह भोजुदा बिल सदन में लाया गया है। मैं समझता हूँ कि इसको एडोप्ट करने में कोई दिक्कत नहीं होनी चाहिए। इस में किसी को कोई नुकसान भी नहीं होने वाला है। इसमें सिर्फ यह कहा गया है कि आज हालत यह है कि जो सप्तपथी कम्प्लीट करते हैं उसी को कम्प्लीट शादी माना जाता है। मैं समझता हूँ कि इसका गलत इस्तेमाल नहीं होना चाहिए। जो भी बुद्धिस्ट ट्रेडीशन्स हैं, जिनके मुताबिक वे वायदा करते हैं या जो शपथ लेते हैं, वे सब अच्छी चीजें हैं। इनमें कोई ऐसी चीज नहीं है जिससे किसी को कोई नुकसान हो या किसी को कोई आपत्ति हो। मैं समझता हूँ कि जो मौजूदा बिल है यह बहुत ही सिम्पल बिल है, आसान बिल है, इसका स्वीकार कर लेना चाहिए।

रेल मंत्रालय में राज्य मंत्रों (श्री माधव राय सिधिया) : कभी कभी शादी के बाद कार्यान्वयन में दिक्कत हो जाती है... (व्यवधान)

श्री बी० सत्यनारायण रेड्डी : इस लिए मैं कह रहा हूँ कि शपथ ली जाती है ताकि ऐसी कोई चीज न हो। कुछ रस्में परफार्म कर दी जाती हैं। शपथ में यह कहा गया है कि मैं ऐसा कोई काम नहीं करूंगा जो ठीक न हो। मैं बच्चों का पालन पोषण करूंगा। बीबी और शीहर दोनों शपथ लेते हैं और वायदा करते हैं कि वे ठीक प्रकार से

रहेंगे। इसलिए मैं समझता हूँ कि मौजूदा जो बिल सदन में लाया गया है इसको पास किया जाय। इसमें किसी को आपत्ति नहीं होगी, ऐसी मेरी आशा है। किसी भी धर्म के लोगों को इसमें आपत्ति नहीं होगी, चाहे कोई क्रिश्चियन हो या कोई अन्य धर्मों के हों, उनको इसमें कोई आपत्ति नहीं होनी चाहिए। इसलिए मैं समझता हूँ कि इसको पास किया जाये।

DR. (SHRIMATI) NAJMA HEP-TULLA (Maharashtra): I would like to know whether the hon. member is a Buddhist or not.

श्री बी० सत्यनारायण रेड्डी : मैं एक ईसाई हूँ।

DR. (SHRIMATI) NAJMA HEP-TULLA: I would like to know whether the Buddhists are willing or not.

SHRI B. SATYANARAYAN REDDY: It is not a question whether one is a Buddhist or not. This Bill is very simple and there should be no objection in having it passed.

THE VICE-CHAIRMAN (SHRI SYED RAHMAT ALI): Mr. Dhabe.

SHRI S. W. DHABE (Maharashtra): Sir, I am really surprised that some Members are taking it so lightly, the marriage question of the Buddhists and Scheduled Castes. Seventy thousands marriages have been held invalid in Maharashtra because of the Bombay High Court judgement. And many people are facing prosecutions. If we do not give Telief to the Han-jans and the Scheduled Castes, merely because they have converted themselves to Buddhism in 1956, in a solemn ceremony at Nugpur on the Diksha Bhoomi, we will be doing injustice to a very large number of people-

DR. (SHRIMATI) NAJMA HEP-TULLA: I am very serious about it. We should discuss it. I would like to know whether the Buddhists want it or not.

SHRI S. W. DHABE: This has already been discussed. You can see the proceedings.

[Shri S. W. Dhabe]

Therefore, the question is, in view of the difficulties which have arisen out of the implementation of the Hindu Marriage Act and in view of the interpretation given by the High Court, should we not give relief to the people who are entitled to it? It is not new that we are passing marriage validation Acts. Up to now, four Acts have been passed, arising out of the Hindu Marriage Act or the Christian Marriage Act. The first Act was passed in 1892. This Act was required to be passed because the Indian Christian Marriage Act, 1872 did not provide for the marriage between Indian Christians and non-Indian Christians. If the Indian Christians married any non-Indian Christians, those marriages were held invalid under the Indian Christian Marriages Act. Therefore, the first law which was passed in our country was the Christian Marriage validation Act, 1892 to regularise marriages among the Christians. Thereafter, the Bangalore Marriages Validation Act was passed in 1936. This Act was passed because the marriages held in civil and military stations of Bangalore were held invalid by one Judge. So, this special law called Bangalore Marriage Validation Act of 1936 was passed. The third well known Act in this respect was passed in 1937. This was Aryan Marriage Validation Act, 1937. Here it was found that the Aryan Marriages among different castes were held invalid and, therefore, it was required to validate inter cast marriages which we are now promoting. So, this Aryan Marriage Validation Act was passed in 1937. Not only that, we had to pass another law, the fourth law, i.e. the Hindu Marriages Validation Act, 199. This was passed for certain Hindu marriages which were doubtful and not valid in view of the provisions of the law. The last legislation was passed because even where doubts were raised and to give justice to a particular section of community, the Parliament intervened and passed the last law, i.e. the Hindu

Marriages Validation Act of 1949.

During the last debate Shri Oharamvir, a member of the Council of Ministers, who is no more, we are very sorry for his death, had stated in his reply that the matter is pending before the Supreme Court over the judgement of Bombay High Court, *Babi vs. Jayant Mahadeo* reported in Maharashtra Law Journal 1981. He had said that they are awaiting the decision of the Supreme Court and, therefore, they will take necessary action in the matter after that. At that time itself I had pointed out that the appeal had been dismissed by the Supreme Court. The special leave was not granted. That No. is Special Leave Petition 1166 of 1981 dismissed in limine on 10.4.1981 by a Division Bench of Supreme Court consisting of hon. Justice Mr. D. A. Desai and hon. Justice Mr. A. P. Sen. Therefore, the point which was raised by my learned friend that because of the appeal pending in the Supreme Court the Government could not consider the matter, that hurdle is not there now.

Therefore, Sir, the main question is whether there are two judgements of the High Court. My learned colleague, who is the Law Minister, will consider whether one single judge's judgement can be overruled by another single judge. If it is to be overruled it has to be overruled by a division bench. Even the *second* judgement which has been relied upon that is in respect of *Babi vs. Jayant Mahadeo* appearing in 1981 Maharashtra Law Journal points out that the judgement is based on the facts of that case. In para 28 of the judgement it has been stated: The accused has gone on trial on the basis that this customary form of marriage is recognised in the community to which he and complainant and accused No. 2 belong and the only question was whether the complainant has successfully proved the solemnization of the

marriage according to this customary form of marriage. As I have come to the conclusion that the complainant has successfully proved this customary form of marriage. And he allowed the appeal and convicted him. In paragraph 30 which is the basis of my Bill, it has been stated:

"It is to be hoped that the Government of Maharashtra will give anxious consideration to the report for amendment of section 7 of the Hindu Marriage Act, 1955 and take up the issue with the Government of India. It is needless to state that at present in the rural areas, when husband marries second time the first wife is never present and it is always difficult for her to prove the second marriage and her life becomes miserable as a result of the second marriage of her husband. The husband can escape liability because there is no evidence of 'Saptapadi' and 'Lajja Homa' being performed. Again if these ceremonies are dispensed with in a particular community according to custom prevalent, the proof of custom becomes difficult to such wife who is already put in unfortunate circumstances because of the second marriage of her husband. The first wife is visited by untold miseries. It is to be hoped that the Government of Maharashtra will give its anxious consideration to the report and to the proposed amendments in section 7 of the Hindu Marriage Act, 1955, and take necessary steps in this direction."

In the last paragraph, it is observed:

A copy of this judgement is directed to be forwarded to the Government of Maharashtra, Law and Judiciary Department, for consideration. The Government of Maharashtra should persuade the Government of India to introduce necessary amendments to the Hindu Marriage Act, 1955, as suggested by the Maharashtra State Law Commission in its Ninth Report on

'Some Aspects of the Hindu Marriage Act, 1955'. since the issues affecting millions of people involving their family, social life and legitimacy of their children are involved".

As has been stated in this judgement, I plead with the Minister that it is very difficult to prove the custom as required by law. Here it is a recognised form of Buddhist marriage. As explained by my friend and as I have also quoted, they do not have ceremonies "Saptapadi" and "Lajja Homa". They have simple ceremony and by that ceremony they perform the marriage. This is the system prevalent with them and when the Hindu Marriage Act wants to cover also Jains and Buddhists, is it not proper for us to recognise that the Buddhists who are having their own marriage system should be given a legal status and their marriages validated?

Sir, my Bill has three objectives. One, to regularise and legalise these marriages and to clarify this, as the Maharashtra Law Commission has said, to have an additional section by which it can be clarified that such marriages are valid and they do not depend on the proof of custom. Second is that so many marriages have been held, invalid by the Judgement of 1973 and millions of people are suffering. Even for one marriage the Government should come forward and validate the law. It has been held that if there is a doubt even then the law should be amended. In fact the amendment to Hindu Marriage Act, 1949, was brought because there was a doubt only. Here it has been decided by one court. The second Judgement recommends to the Government of India to amend the law. Therefore there is great social necessity for our society that these marriages are legalised and validated by suitable legislation. The third amendment which I have brought is to have a register to show the Bud-

[Shri S. W. Dhabe]

dhist marriages. All these three objects are arising out of a social problem coming from the State of Maharashtra. In fact it is not restricted to Maharashtra only. As I pointed out last time, in Punjab, UP and Bihar there are a large number of Buddhists who are having ceremonies of this type and performing their marriages. Under these circumstances I would plead with the Minister not to stand on prestige or on the plea of pendency of appeal before the Supreme Court, but to come forward with a legislation to validate such marriages. If this assurance is forthcoming from the Minister, I am ready to withdraw my Bill and leave it to Government to solve this problem which is very much there in the country. Thank you.

THE MINISTER OF STATE IN THE MINISTRY OF LAW AND JUSTICE (SHRI H. R. BHARDWAJ): Mr, Vice-Chairman, Sir, I must thank Mr. Dhabe for bringing this Bill before this august House. At least he has stirred the conscience of this House by saying that there are women who are married and deserted and there after the man claims that he is immune from action. I am deeply grateful to him for bringing to the attention of the Government atrocities against women, specially Buddhist women. I can assure my friend that we are equally concerned about it and we share his concern about such problems. I have also read with great care the rulings which were earlier relied upon—Baby's case—and I have noted with great concern the spirit behind the ruling which I would like to bring on record, and that will satisfy my friend. I assure him that not only Buddhist marriages but marriages everywhere where helpless woman is involved, where her man is trying to commit some sort of atrocity by denying her the privileges of a married woman are to be protected. I will just briefly read it and Mr. Dhabe would agree with me that the attitude we have to adopt in such

cases is deciphered in the ruling in para 33. I quote: —

"The attitude of such persons who marry the second time is not only a cavalier one but a wanton one. Such type of persons allow themselves to be under the impression that the long arm of law cannot touch them in as much as there can be no proof of the solemnisation of the second marriage."

Sir, no person, if at all he is civilized, will share these views that once a woman is married to a man, then he can avoid the performance of the coriugal rights by saying that there was a technical snag, that the seventh step or the sixth step was not complete and therefore he cannot maintain the woman. I share his view and I assure him that it is not only the Buddhist marriages but I know for certain—because I have practised in this branch of law—that there are women among tribals and elsewhere where the husbands desert them and then claim that the marriage was invalid and therefore they want to get rid of their wives. I can assure him, I am prepared to sit with him and discuss not only these marriages but such other marriages which are declared invalid because of some technical snags. I can assure you, Sir, that now there is a great need when we should all sit together and see how we can relieve women of their hardships. Otherwise this country cannot go a long way. So, I request my friend not to press his Bill.

We are all together. I have been with him in other movements also—I in the matter of legal aid to the poor and in the Federation of Rural Workers and all that. He can take it that I am equally concerned about it but the question today is, if we pass this Buddhist Marriage Validation Bill, tomorrow another tribal woman Bill be harassed like that and we may have to come again to this House. So, it is time when we should sit together and work for this noble cause.

It is a very noble idea indeed and I am offering my services to him in this cause as Minister and as a lawyer and we will work on this issue and we will come back to you. I will myself move an Official Bill with regard to removal of these hardships, if necessary. So I would once again request him not to press this Bill at this stage. I will bring a Bill myself and I commit on the floor of this House that I am prepared to go a long way with him in solving this problem. I would request him to withdraw this Bill because of my assurance.

SHRI S. W. DHABE; Sir, in view of the hon. Minister's assurance to bring proper legislation to solve the problem, I would like to withdraw the Bill. I also assure him of our cooperation in this regard.

*The Bill was, by leave, withdrawn.*

THE VICE-CHAIRMAN (SHRI SYED RAHMAT ALI); Now we shall take up the next Bill.....

#### **THE TRADE UNIONS (AMENDMENT) BILL, 1981**

SHRI S. W. DHABE (Maharashtra) : Sir, I move;

"That the Bill further to amend the Trade Unions Act, 1926, be taken into consideration."

Sir, this is a very important Bill and I am glad that my colleague who has been in the trade union movement for a long time and who is now the Minister for Labour will be intervening in the debate.

Sir, much water has flown after this Act of 1926 was passed. The Indian Trade Unions Act of 1926 is considered as a *Magna Carta* for the working classes. It is the first major legislation which provides for the creation of trade unions, giving legal status to the working class movement but, at the same time, guaranteeing freedom of the trade union movement without interference by the Government. This is one legislation by which

you will find that though the foreigners were ruling this land, they passed a legislation wherein there was no provision by which the Government could interfere in the working class movement. Sir, the Trade Union Act, when it was passed, it was passed in the background of industrial workers' movement and specially when there was the textile workers' strike in Madras. The industrial workers' movement has grown. They have a status in society. They are recognised by the Government, and there are many national trade union centres. Though the major objective of the trade union movement is the welfare of the working class, it is also a movement for a social change. The movement has changed the face of the country. It has changed the faces of many countries in Europe. The industrial revolution is on the threshold. The working class is going to play a vital role in development of our country.

It was found by the ILO which was founded in 1919, that this movement of the working class was only restricted to industrial workers. It was in 1973 that the ILO discussed this question of organisation of rural workers. India lives in villages, we say, and the rural workers there are 80 per cent. The rural workers' plight is miserable. Wages are low. No benefits of the labour legislation have percolated to them. They have not been able to solve any question. Neither have they organised unions. The relations between the landlords in the rural areas, the farmers and the rural labour are such that there is no distinction of the type which is in the organised sector, like that of the working class and the employers. Sir, in 1973 the International Labour Organisation gave a serious thought to this question and passed, what is called, the ILO Convention 141. This ILO Convention 141 provides that rural Workers all over the world will have freedom to organise themselves. The freedom to organise the trade union movement of the working class of the rural areas, has been guaranteed by