

[Shri Chandra Shekhar] ing a Commonwealth Conference. Should we take it that even if London takes the initiative to convene a Commonwealth Conference, the Government of India will not attend such a conference, because in the opinion of the hon. Foreign Minister such a conference will not serve any purpose? And if a Commonwealth Conference can serve no purpose, then why should not India take the initiative? Why leave the initiative in the hands of the United Kingdom to convene such a conference?

SARDAR SWARAN SINGH: London may have its own reasons for calling a Commonwealth Conference. Still I hold and I hold strongly the view that in this respect the last Commonwealth Conference tried to grapple with this problem in my presence for two days and was unable to put any real pressure upon the British Government. If a Commonwealth Conference is convened—and I do not know if a conference is going to be convened—that is quite another thing. I do not see why we should take the initiative of calling such a conference for this purpose.

SHRI G. MURAHARI (Uttar Pradesh): The Commonwealth is a dead concept.

SARDAR SWARAN SINGH: This subject, this matter is really not purely a Commonwealth matter. In this the entire African world is concerned, and a large number of countries outside the Commonwealth.

PROF. M. B. LAL: The United Nations Organisation is involved.

SARDAR SWARAN SINGH: Yes, the U.N. is involved. As the hon. Member says, the United Nations Organisation is itself involved.

PROF. M. B. LAL: Not only the United Nations but the entire world is involved.

SARDAR SWARAN SINGH: Therefore, a Commonwealth Conference is a much smaller forum, and we should really function on a wider perspective. If a conference is convened, we will consider the purpose of it and we will take appropriate decision.

THE DEPUTY CHAIRMAN: I think we have had enough discussion on this. So Mr. Chordia will now continue his speech.

THE HINDU MARRIAGE (AMENDMENT) BILL, 1962 (to amend sections 2 and 10)—contd.

श्री विमलकुमार मन्नालालजी चौरङ्गिया: उपसभापति महोदया, अन्तराष्ट्रीय क्षेत्र से विवाह क्षेत्र में मैं सदन को लाना चाहती हूँ, और बिना विवाह के अन्तराष्ट्रीय क्षेत्र भी नहीं चलेगा और बिना अन्तराष्ट्रीय क्षेत्र के विवाह भी नहीं चलेंगे।

पूर्व वक्ताओं ने माननीय जयपुरिया जी के बिल के बारे में कहते हुए जनों और अन्य लोगों के त्योहारों के बारे में चर्चा की। उसके बारे में मैं कह चुका हूँ। जहाँ तक बहस के दौरान में श्री दामोदरन ने कहा, और भी वक्ताओं ने कहा, कि जैन धर्म के प्रवर्तक महावीर थे, तो मैं प्रार्थना करूँगा कि यह उनकी गलतफहमी है।

[THE VICE-CHAIRMAN (SHRIMATI TARA RAMACHANDRA SATHE) in the Chair.]

जैन धर्म के शास्त्रों के हिसाब से देखा जाय तो जैन धर्म अनादि काल से चला आ रहा है। पहले भी 24 तीर्थंकर हो चुके थे, उसके बाद कोई तीर्थंकर नहीं हुए। तो 24 तीर्थंकर हो चुके जिनमें महावीर अन्तिम तीर्थंकर थे। सब से पहले थे ऋषभदेव जिनका कि वर्णन सनातन धर्म शास्त्रों में भी आता है, महाभारत में भी आता है और यदि इतिहास की दृष्टि से देखा जाय तो इतिहासकारों ने भी मान लिया है कि तेईसवें तीर्थंकर पाश्वनाथ, थे। इस

बारे में जो गलतफहमी माननीय सदस्यों में है उसको मैं दूर कर देना चाहता हूँ कि जैन धर्म केवल महावीर स्वामी ने चलाया। ऐसा नहीं है। जैन जैन धर्म शास्त्रों के अनुसार अनादि काल से चला आ रहा है और सनातन शास्त्र के अनुसार ऋषभ देव स्वामी के समय से चला आ रहा है और इतिहासकारों के हिसाब से, कमसे कम अगर इतिहास को भी साक्ष्य माना जाये तो, पार्श्वनाथ स्वामी के समय से चला आ रहा है। अब जहाँ तक उनकी परम्पराओं के विवाहों का सवाल है, तो भारतवर्ष में, उसभाष्यक महोदय, कई तरह के विवाह होते हैं और हमारे समस्त शास्त्रों में कई प्रकार के विवाहों का वर्णन आता है। जब द्रौपदी से विवाह करने अर्जुन गये थे, तो स्वयंवर की प्रथा भी थी; जब दुष्यन्त शकुन्तला से विवाह करने गए थे तो परम्परा दूसरी थी। तो कई तरह की परम्पराएँ हमारे यहाँ चलती आई हैं। तो इस दृष्टि से जैनो के लिए भी "हिन्दू" शब्द में जैन शब्द वहाँ से हटा दिया जाय जहाँ ऐक्ट में है, तो ऐसा लगता है कि जैन्स के लिये कोई प्राविजन रहता नहीं। अगर ओरिजिनल ऐक्ट में देखा जाए तो उसमें जैन शब्द कहीं रहता नहीं। उसमें इस प्रकार से दिया है :

This Act applies—

(a) to any person who is a Hindu by religion in any of its forms or developments, including a Virashaviva, a Lingayat or a follower of the Brahmo, Prarthana or Arya Samaj"

जब इन समाजों का हिन्दू के साथ में स्पष्टीकरण किया जाता है तब इसके साथ माननीय जयपुरिया जी के लिये आवश्यक था कि इसमें वह जैन शब्द भी जोड़ते, परन्तु वैसा उन्होंने नहीं किया। लेकिन उन्होंने अभी जो प्रस्ताव रखा है, वह जनमत जानने के लिये रखा है और जनमत जानने का मतलब यह है कि लोगों की क्या राय है, वह मालूम की जाये और इसमें जो कमियाँ हैं व भी दूर कर

दी जाये। इस दृष्टि से तो वह हो सकता है।

अब जहाँ तक यह सवाल है कि 'जैन्स' को इसमें से हटा दिया जाये, हिन्दू के साथ जोड़ दिया जाये, तो मेरा एक नम्र निवेदन है कि यह हमारी सरकार सेक्यूलर सरकार है और बनारस हिन्दू यूनिवर्सिटी से, "हिन्दू" नाम से, एक बिड़ है। अब यह तो एतराज को बात है कि हिन्दुस्तान में "हिन्दू" शब्द कहने से भी अप्रिय लगता है। मुझे विशेष आग्रह नहीं कि हिन्दू कहने से भारतवर्ष में हिन्दू धर्म कायम रहेगा या हिन्दुस्तान में हिन्दू रहेंगे या नहीं रहेंगे, इसलिये भी मुझे कोई खास राग या द्वेष नहीं, परन्तु इतना उसके लिये एलजिक होने की आवश्यकता नहीं कि 'हिन्दू' शब्द आये या नहीं। 'हिन्दू' शब्द साम्प्रदायिकता का द्योतक है और मदन मोहन शब्द आया तो वह साम्प्रदायिकता का द्योतक नहीं, तो यह जमने सरीखा बात नहीं। परन्तु अपनी अपनी विचारधारा है। अगर हम सचमुच चाहते हैं कि हमारे देश में साम्प्रदायिकता के आधार पर कोई ऐसी व्यवस्था न हो जिसमें साम्प्रदायिकता का खुशबू आती हो तो यह अत्यन्त आवश्यक है कि हमारा सरकार इन सब हिन्दू मैरिज अमेन्डमेन्ट बिल या हिन्दू कोड बिल या मुस्लिम मैरिज ऐक्ट वगैरह इन सब को समाप्त करके केवल एक भारतीय विवाह विधान कायम करती और उसमें परम्पराये कायम कर देनी चाँहियें कि इस तरह से विवाह हो सकते हैं। एक आदमी चाँह तो चार पत्नियाँ कर सकता है परन्तु उस में यह लिखने की जरूरत नहीं कि मुहम्मद हुसैन हो तो चार पत्नियाँ कर सकता है और भैंरों ताल हो तो एक ही पत्नी कर सकता है। यह लिखना आवश्यक नहीं है।

श्री नफीसुल हसन : सिविल मैरिज ऐक्ट सब को अप्लाई करता है।

श्री विमलकुमार मन्नालालजी चौरडिया : वह तो ऐसा है कि जब किस क. कोई जाति पानि नहीं है, कोई अपना जाति में विश्वास

[श्री विमलकुमार मन्नालालजी चौरडिया] नहीं करता है, अपना परम्पराओं में विश्वास नहीं करता चाहता है और उन सब से बचने के लिए सिविल मैरिज ऐक्ट के अन्तर्गत रजिस्टर करा लेता है। उसके लिए तो किसी चीज का मनादी नहीं है और न ही रजिस्टर करने की आवश्यकता है। जब गांधर्व विवाह डूँगा करते थे, आज भी होते हैं, आज भी दृष्टि से विवाह होते हैं, अमुक-अमुक को देख लिया और मन में धारण कर लिया और इस तरह से विवाह हो गया। इस तरह से कई लड़कियाँ आजन्म कुंवारी हो रह जाती थीं और कई लड़कियों का इस तरह से विवाह हो जाता था। तो हम विवाह के सम्बन्ध में किसी तरह का कोई कानून बना दें कि इस तरह से विवाह होने चाहिये, ऐसा मैं नहीं मानता हूँ।

श्री महावीर प्रसाद भार्गव (उत्तर प्रदेश) : आप विवाह के चक्कर में क्यों पड़ गये? हैं विमल नाम तो विमल ही रहेगा।

श्री विमलकुमार मन्नालालजी चौरडिया : मैं भार्गव साहब से हमेशा प्रभावित रहा हूँ। उन्होंने जो आदेश दिया कि मैं विवाह के चक्कर में क्यों पड़ गया, तो मैं यह कहना चाहता हूँ कि मैं इसलिए पड़ गया कि भविष्य में भार्गव साहब के यहाँ विवाह होने वाला है और उस विवाह के समय कहीं ऐसा संयोग न आ जाये कि वे जैन और हिन्दू के चक्कर में पड़ जायें कि किस तरफ़ के का विवाह हो या किस तरफ़ के का नहीं होना चाहिये और इस तरह से वहाँ पर कोई व्यवस्था न हो। इसलिये अत्यन्त आवश्यक है कि हमारे माननीय मंत्री जी का जो कॉडीफ़ाई करने का कानून है और हमारे जयपुरिया जी उसमें दो संशोधन करना चाहते हैं, मैं उस संशोधन की दृष्टि से श्री भार्गव साहब को इसमें इन्क़लाब किया जा सके। तो इस दृष्टि से मन्नीय जयपुरिया जी ने जो प्रस्ताव रखा है कि "जैनों" को इसमें शामिल किया जाय या हटाया जाये, इस बारे में जनमत जानने के

लिए यह प्रस्ताव रखा है और मेरा खयाल है कि माननीय मंत्री जी को इस बारे में कोई आपत्ति नहीं होंगी चाहिये। अगर वे नैतिक दृष्टि से इस बात के लिए राज़ हो जाते हैं तो भविष्य में हमारे कानूनों में जितने हिन्दू या मुस्लिम शब्द लगे हुए हैं, उनका समाप्त करके केवल भारतीय कानून बनाया जाना चाहिये।

भारतीय कानून से अन्तर्गत जितनी भी व्यवस्थाएँ हैं उन में अलग-अलग तरीके से धर्म चलते हैं। समाज के अन्दर जो व्यवस्थाएँ चलती हैं वे अलग-अलग धर्मों के किन्हीं कारणों से चलती हैं। जिस समाज में महिलाओं का बाहुल्य होगा और पुरुषों का अभाव होगा, उस व्यवस्था में आवश्यक समझा गया है कि मनुष्य को तीन या चार पत्नियाँ रखन चाहिये। जिस समाज में पुरुषों का बाहुल्य होगा और महिलाओं का अभाव होगा उस समाज में यह परम्परा है कि स्त्रियों के दो या तीन पति तक हो सकते हैं। हमारे सामने द्रोपदा का भी उदाहरण आता है और कई पहाड़ी क्षेत्रों में ऐसा विवाह की परम्परा भी है। तो यह जो विवाह की परम्परा है वह सामाजिक रीति-रिवाज के आधार पर चलती है और यह किसी सिद्धान्त या किसी आधार पर नहीं चलती है तथा देश और काल के अनुसार उस पर अमल किया जाता है। जब हम भारतवर्ष को देखते हैं तो यहाँ का स्थिति के अनुसार पुरुष और स्त्रियों का जनसंख्या लगभग बराबर है और यहाँ पर अलग, अलग तरह की व्यवस्थाएँ हैं। तो हमारे यहाँ जो व्यवस्थाएँ हैं उनमें धर्म के नाम पर कुराति भी है और अच्छी रीति भी है। और देश तथा काल के हिसाब से जो आवश्यक है उन्हें चलने दिया जाना चाहिये। किसी भी धर्म में, किसी भी रीति में, तीर्थ करने, किसी महापुरुष ने नहीं कहा कि तुमको इतने विवाह कर लेना चाहिये और तुमको इतने विवाह नहीं करना चाहिये। पुराने जमाने में जो धर्म प्रवर्तक थे, खलीफ़ा थे, गणधर थे, उन्होंने जो कानून बना लिया वह हो जाता था; क्योंकि उस समय कोई पार्लियामेंट नहीं

था। उस समय तो "ब्रह्म वाक्य जनार्दन" वाला किरपा होता था। इस तरह से उस समय समाज जो व्यवस्था वर्ती था वह चलती थी। एक समय था जब कि विधवा विवाह के बारे में सुनना भी पाप था और उसमें तरह-तरह के बन्धन थे। परन्तु समय और काल के हिसाब से परिवर्तन होत गया और साथ ही साथ उसके हिसाब से र. नि. विवाह भी बदलते गये। इसलिए मैं कहना चाहता हूँ कि इस बिल को पब्लिक ऑपीनियन जानने के लिये कोई कठिनाई नहीं होना चाहिये। परन्तु हमारी सरकार को इस बात को नोट कर लेना चाहिये कि इस तरह के जितने कानून हैं वे भारतीय आधार पर बनने चाहिये। क्रिश्चियन, हिन्दू, मुस्लिम, जैन, सिख, ईसाई और पारस, ये सब भारत के नागरिक हैं, भारतवासी हैं, और इसलिए मैं कहना चाहता हूँ कि हमें 'हिन्दु' शब्द से, 'जैन' शब्द से, 'सिख' शब्द से या 'मुस्लिम' शब्द से इतना एलर्जिक कल नहीं करना चाहिये; यही मेरा निवेदन है।

SHRI D. THENGARI (Uttar Pradesh): Madam Vice-Chairman, in the first place, it should be stated that codification of law is not consistent with the spirit of Hindu dharma. As quoted on page 12 of the Hindu Law Committee's Report. Mr. John D. Mayne, who was a renowned author on Hindu Law had observed:

"The age of miracle has passed, and I hardly expect to see a Code of Hindu Law which shall satisfy the traders and the agriculturists, the Punjabee and the Bengalee, the Pandits of Benaras and Rameshwaram, of Amritsar and of Poona"

Observing that Hindu Law was never codified and that Smritis are not codification of law, Shri Rishindra Sarkar points out that unlike the codes of a legislature, one Smriti does not exclude the other, nor does one Smriti repeal the other or others but all are treated as sources of law.

Again, it is well known that in case there be any inconsistency between

usage and the Smriti, the former was supposed to carry with it greater validity as law.

Shri Rishindra Nath Sarkar, in the introduction to his "Hindu Code" says:

"Smritis are records of Law or records of what, as if were heard (*sruti*), and are comparable with the American restatement of law, English digests of case law, and in India Jagannath's or Colebrook's Digest of Hindu Law, Vivada-Bhangarnava' or 'Vivadarnava-Setu' or Code of Gentu (Gentoo) laws, a digest compiled at the request of Warren Hastings."

In fact, in practice, the traditional authorities of Hindu Law have been overshadowed, to a considerable extent by the Digests or Commentaries that were written subsequently from the ninth to the nineteenth century which gave rise to different schools of Hindu Law governing different parts of the country. In short, codification is not consistent with the spirit of Hindu Law. Nevertheless, here is some codification and we are confronted with a question whether Jains constitute part and parcel of Hindu society so far as law is concerned. Here, I must refer to article 25 of our Constitution. In Explanation II, it is said:

"In sub-clause (b) of clause (2), the reference to Hindus shall be construed as including a reference to persons professing the Sikh, Jaina or Buddhist religion, and the reference to Hindu religious institutions shall be construed accordingly."

It may be noted that this is the only place where the article tries to define in some form or the other the term 'Hindu'. Now, it is necessary not to confuse religion with law. There are founders of religion that were not law-givers such as Abraham. There have been law-givers who were not founders of religion such as Manu or Moses. Again, there are a few in whom both the roles are combined.

SHRI DEBABRATA MOOKERJEE: On a point of order, Madam. With the utmost respect to my esteemed friend, I would like to say that all this is not relevant to the present consideration which seeks only to amend sections 2 and 10. The arguments that are now being advanced are directed to showing that the Hindu Marriage Act is against the spirit of the Hindu system of religious belief, or customs. I submit either an argument in support of the proposition contained in the Bill that sections 2 and 10 of the Act ought to be amended or an argument that sections 2 and 10 ought not to be amended, is alone relevant. I say with respect, my friend's arguments are wholly beside the point. They have as much to do with the present proposition as we have to do with the man in the moon. The only question is whether sections 2 and 10 require to be amended but my friend's argument hitherto has been, if I have been able to follow him all right, that the codification of the Hindu marriage laws was extremely unwise.

THE VICE-CHAIRMAN (SHRI-MATI TARA RAMCHANDRA SATHE): Let him first develop his point and then you can raise the point of order if he does not stick to the point.

SHRI DEBABRATA MOOKERJEE: I will abide by your verdict but I thought—I have been listening to him for about five or six minutes now—that the arguments hitherto employed by him, were beside the point.

SHRI D THENGARI: If the hon. Member goes through the Bill, he will find that there is a discussion about Jains and, therefore, I think whatever I am speaking is relevant. I would like to know from the hon. Member how it is irrelevant. He has not been able to make his point.

Madam, there are a few in whom are combined both the roles, that is, the founder of religion and also of the law giver, for example, Mohammed the Prophet.

As explained by Dr. Babasaheb Ambedkar on the floor of the Constituent Assembly in February 1950, Lord Buddha and Lord Mahavira were not law-givers. They were great founders of religions. The term 'Hindu' is not co-extensive with the term 'Vedicist'. 'Hindu' is a large circle of which 'Vedicists' constitute but a part. Again, the spirit of the Hindu Dharma has to be understood before we decide whether the Jains should be included in the definition of 'Hindu' for the purposes of law. As great an authority as Mr. T. W. Rhys Davids says in his famous book "Life of Gautama" that Lord Buddha was one of the wisest and the greatest Hindus though actually he had revolted against Vedic rituals. So far as the great Acharyas of Jains are concerned there are a few examples which I should like to quote that will show the spirit of Jainism and also of Hindu Dharma. The famous Jain Acharya, Shrimati Hemachandracharya, prayed to Somanath in the following fashion when he visited the Somnath temple along with Maharaja Kumarpal:

“यत्र तत्र समये यथा तथा,
योऽसि सोऽप्यभिधया यथा तथा ।
बीरं दोषं कर्तुः स चेत् भवान्
एक एव भगवन् ! नमोऽस्तु ते ॥”

Another great Jain Acharya has defined the Absolute or the Ultimate in the following terms:

“यस्य निखिलाश्च दोषाः न सन्ति ।
सर्वे गुणाश्च विद्यन्ते ।
ब्रह्मा वा विष्णुर्वा हरो जिनो वा ।
नमस्तस्मै ।”

THE VICE-CHAIRMAN (SHRI-MATI TARA RAMCHANDRA SATHE): You have already taken ten minutes.

SHRI D. THENGARI In view of these facts which are very relevant to the subject—I differ from my hon. friend there—I want to insist that the term 'Hindu' comprises our Jain brothers also.

Thank you, Madam.

THE DEPUTY MINISTER IN THE MINISTRY OF LAW (SHRI JAGANNATH RAO): Madam Vice-Chairman, I listened to the debate with keen interest but in spite of that I am not convinced about the need, much less the desirability, for bringing forth this measure. The hon. mover in the 'Statement of Objects and Reasons' admits that the word 'Hindu' has a wide connotation and it includes Jainas also within its fold. But the main objection seems to be that he considers it superfluous to consider Jainas as a separate community as distinct from the Hindu community. That is what he feels but there he is mistaken. The word 'Hindu' includes Jains except Buddhists. Therefore it is not the intention of the Hindu Marriage Act to treat the Jains as a separate community. Section 2 which he has referred to in this Bill clearly mentions the Jains, Sikhs and Buddhists as coming within the Hindu fold. Now, suppose we agree to the deletion of the word 'Jaina' in section 2 of this Act, then an anomalous situation will arise. While Buddhists and Sikhs will continue to be Hindus for purposes of this Act, the Jains would cease to be Hindus for purposes of this Act. A further anomaly would be this. If you refer to Explanation (a) under section 2(1) of the Act, you will find it says:

"any child, legitimate or illegitimate, both of whose parents are Hindus, Buddhists, Jainas or Sikhs by religion;"

And Explanation (b) says:

"any child, legitimate or illegitimate, one of whose parents is a Hindu, Buddhist, Jaina or Sikh by religion and who is brought up as a

member of the tribe, community, group or family to which such parent belongs or belonged;"

Suppose you take away the Jains. What happens to the children that are born to these Jains who are Hindus for all purposes but not for purposes of this Act? Are they to be considered as Hindus? Where one of the parents is a Jaina but who ceases to be a Hindu for purposes of this Act, what happens to those children? Therefore this amendment, if agreed to by the House, would create an anomalous situation which my hon. friend over there would never have intended.

Secondly, if you take other similar Acts, the same definition has been adopted; for instance, in the Hindu Succession Act, the Hindu Minority and Guardianship Act, the Hindu Adoptions and Maintenance Act, and so on, the same definition of the word 'Hindu' is there and it includes Jainas, Sikhs and Buddhists. If we take away the Jainas from this Act, a further anomaly would be that they would continue to be Hindus for purposes of all the other Acts but not for this.

There is another thing. Sub-section (3) of section 2 of the Hindu Marriage Act says:

"The expression 'Hindu' in any portion of this Act shall be construed as if it included a person who, though not a Hindu by religion, is, nevertheless, a person to whom this Act applies by virtue of the provisions contained in this section."

Therefore even those who may not be Hindus for purposes of this section would however continue to be Hindus under sub-section (3) and so the purpose of the amendment would not be served. It is a part of the drafting device which has been adopted uniformly in all these Acts and therefore I hope my friend would agree with me that there is no need,

[Shri Jaganath Rao.]

much less would it be desirable, to carry out this amendment.

The second object of the amendment seems to be that he wants to introduce a new concept of judicial separation by consent of both husband and wife. If they declare in the presence of two witnesses before a district court that they want to be separated judicially, he says it should be allowed. It is a new concept; it is unknown to any system of law. The whole scheme of the Act is that a Hindu marriage when once contracted continues till the end. It is a sacrament and not a mere contract which can be avoided by a bilateral agreement. That is why you find some stringent provisions are laid down and unless these conditions are fulfilled one cannot seek a judicial separation from the court. The conditions in section 13 which allow either of the parties to divorce are still more stringent. Therefore the scheme of the Act being that the Hindu marriage should not be easily trifled with, we cannot have this new concept. Judicial separation by consent is unknown in any system of law in any part of the world, much less in India where this would introduce a serious change in the society. Therefore, Madam, these two amendments which are sought to be introduced by this amending Bill are not necessary. The purpose would not be served by circulating this Bill for eliciting public opinion.

My hon. friend, Shri Thengari, has raised this question. He referred to article 25, to which I myself wanted to refer, where in Explanation II the word 'Hindu' has been construed as including Sikhs, Jains and Buddhists.

Then, Mr. Chordia referred to a uniform Civil Code for every citizen in the country. That is true. Article 44 envisages the passing of a uniform Civil Code for the country, but this Marriage Act is a social legislation. This Act was passed in 1955. Let us work it. It is difficult to convince

so many communities that are within the Hindu fold. It might create communal feelings. For instance, when we wanted to introduce the Hindu Religious Endowments Bill, there was opposition to it from the Sikh community. There was opposition from the Muslim community. According to them, they have got their own laws. Therefore, in regard to these social matters we should be rather slow in going ahead. Let us work this Act and no serious difficulty has been experienced even according to the mover. His main argument is that the word 'Jainas' in section 2 is a superfluity and, therefore, it should be removed. For removing superfluity, with all respect, I submit there is no need for an amending Bill. No useful purpose would be served by circulating the Bill for eliciting public opinion. I would, therefore, request the hon. Member to withdraw his Bill. If he does not, well, I will oppose it.

SHRI SITARAM JAIPURIA: Madam Vice-Chairman, I have been listening with very great attention to the hon. Deputy Minister, who has just now spoken. If I may refer him to the same section, to which he referred, he will find that in section 2 it is mentioned:

"1' This Act applies—

(a) to any person who is a Hindu by religion in any of its forms or developments, including a Virashaiva a Lingayat or a follower of the Brahmo, Prarthana or Arya Samaj;

(b) to any person who is a Buddhist, Jaina or Sikh by religion:".

My submission is that in article 25 of the Constitution, it is very clearly mentioned:—

"Explanation II.—In sub-clause (b) of clause (2), the reference to Hindus shall be construed as including a reference to persons professing the Sikh, Jaina or Buddhist

religion, and the reference to Hindu religious institutions shall be construed accordingly."

What is the difficulty and why should not the word "Jaina" be omitted from here? It should be included in (a) so that they are also Hindus. Then, (a) and (b) very clearly define that Jains or Sikhs are not Hindus by religion but by themselves they are separate religions. Moreover, the discussion that we had in the House very amply reflected the views of the Members of the different Parties and different sections and in the circumstances I do feel that by circulating the Bill for eliciting public opinion it will be a good step. I have got with me letters received from several organisations including an organisation from Bombay, which has got 35 affiliated organisations. They have mentioned that this is a very welcome measure and if the hon. Minister agrees, I do feel that that it should be circulated for eliciting public opinion. No harm will be done. In a legislation of this nature, where opinions might vary and opinions might differ, it would be advisable, in the interests of having a very firm social legislation, to have this. It appears that the hon. Deputy Minister is more worried about anomalies. I personally feel that anomalies are part of life, but in this particular case, anomalies do not appear to be there at all and I do not think it is a good piece of legislation.

So far as section 10 is concerned, as I have already said earlier, after all the legal process is so cumbersome and so difficult. My hon. friend, the Deputy Law Minister, is an eminent lawyer and he has certainly tried to argue the case well, but nevertheless lawyers in the courts may not be very happy about it. With all respect to everyone here, I do believe in the sense of justice, but justice delayed is justice denied. There are a number of cases lying pending for a long time and very heavy expenses are involved. If the two relations of the two sides are present, it may

mean that the private affairs may not become much public. The expenses may be less. These two relations might be able to persuade them to have a better compromise and to have life of a peaceful nature. I, therefore, would insist that this Bill may be circulated for eliciting public opinion.

THE MINISTER OF STATE IN THE MINISTRY OF LAW AND IN THE DEPARTMENT OF SOCIAL SECURITY (SHRI R. M. HAJARNAVIS): In the meantime, will you, Madam Vice-Chairman, ask the hon. Member to send me information as to how the question has arisen and whether there is any doubt about interpretation? If there is any serious controversy which has arisen because there is some ambiguity left, we shall certainly try to correct it, if necessary.

THE VICE-CHAIRMAN (SHRI-MATI TARA RAMCHANDRA SATHE): The question is:

"That the Bill further to amend the Hindu Marriage Act, 1955, be circulated for eliciting opinion thereon by the 30th April, 1966."

The motion was negatived.

THE CODE OF CIVIL PROCEDURE (AMENDMENT) BILL, 1964 (to omit section 87B)

SHRI J. C. CHATTERJI (Uttar Pradesh): Madam Vice-Chairman, I beg to move:

"That the Bill further to amend the Code of Civil Procedure, 1908, be taken into consideration."

Let me go to the Bengal Partition days, because the British Government at that time were a bit upset due to the Bengal Partition agitation and its effect on the country. It was in 1905. But the very next year the British Government instigated some Muslims, particularly the Nawab of Dacca, to start the Muslim League. It was