iTCE MADRAS PORT TRUST (AMENDMENT) BILL.

SHRI M. P. BHARGAVA (Uttar Pradesh); Sir, I move for leave to introduce a Bill further to amend the Madras Port Trust Act, 1905.

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

SHRI M. P. BHARGAVA: Sir, I introduce the BilL

THE PORT PROTECTION FORCE BILL, 1964

SHRI M. P. BHARGAVA (Uttar Pradesh): Sir, I move for leave to Introduce a Bill to provide for the constitution and regulation of a Force called the Port Protection Force for the better protection and security of cort property.

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

SHRI M P. BHARGAVA: Sir, I Introduce the BilL

THE HINDU MARRIAGE (AMENDMENT) BILL, 1964

SHRI M. P. BHARGAVA (Uttar Pradesh); Sir, I move:

"That the Bill further to amend the Hindu Marriage Act, 1955, as passed by the Lok Sabha, be taken into consideration."

Mr. Chairman, it would be proper if I place the facts before the House so tbat the House can well appreciate the various stages as to how it was necessary to bring forward the present amending Bill. The Hou e knows that the Hindu Marriage Act was passed by this House and ihe other House m the year 1955. After ihe Bill was 'passed into an Act and came into force, a certain lacuna was found by the advocates and by the people who were affected by this Act and they thought that it was neeessary to bring forward an amending provision to the main original Act. It was my frisnd and colleague, in this House, Dr. W. S. Barlingay who for the first time on 13 th September, 1958 introducing a Bill in this august House under the name The Hindu Marriage (Amendment) Bill, 1958. This Bill, a-cording to the Statement of Objects and Reasons, stated;

"The right to apply for divorce On the ground that cohabitation has not been resumed for a space of two years or more after the passing of a decree for judicial separauon, Or on the ground that conjugal life has not been restored after the expiry of two years or more from the date of decree for restitution of conjugal rights ~hou'd be available to both the husband and the wife, as in such cases it is clear that the marriage ha3 proved a complete failure. There is therefore no justification for mak'ng the rteht available only to the party who has obtained the decree in each case. Hence the present Bill."

As I told the House, this Bill was introduced in 1958. But as h the fate of non-official Bills and because of the apathy of the Government towards non-ofneia' BHls, the Government was not prepared to a~cept the amending Bill introduced in 1958. It is always . . .

THE DEPUTY MTNISTER IN THS MINISTRY OP LAW (SHRI JAGANATH RAO): It lapsed.

SHRI M. P. BHARGAVA: I am coming to that; don't be in a hurry. The Government always moves slowly, It takes time to come to a decision. They will accept the principle which is enunciated in a non-official Bill after a lapse of several years. Although it was introducd in 1958, the Government wa-; not prepared to accept it and it couM not be discussed in this august House till April. 1960.

In April, 1960, my hoa friend and colleague, Dr. Barangay, ceased to be a Member of this august Hou.;e and therefore the Bill lapsed. That is how the Bill lapsed.

Then, after the third Genera! Elections, my friend, Prof. D. C. Sharma, of the other House introduced t.nothcr Bill which was a copy of the old Bill, word to word, and leiter to leiter, as introduced by Dr. Barlingay in this House. That was in May, 1962 after the General E ections. Again, *dae* to the vagaries of the ballot, it could not be discussed in the other House till two years' time had elapsed. It was only last Friday that the consideration of this amending Bill was taken up in the other House and this time the Government wa3 p'ea~ed to accept this amending Bill. And after it was passed in the other House it hs.s come to this House for concurrence.

It is a strange thing that a Bill whi"h originated from this House could not be passed in this House in the first instance and it was left to the other House to initiate it and send here for this House to concur. When my friend, Prof. D. C. Sharma, asked me whether I would be prepared to move this Bill for consideration in this House, I hesitated in the first instance because it is not a subject with which I could deal justifiably or to whi"h I could do full justice. But then immediately I thought of my friend. Dr. Bar'ingay, and on a later thought, I - aid, "Yes, I am prepared to do it." That was because I thought that by so doing, I will be fulfilling the work which was started and which was initiated in this House by my friend, Dr. Barlingay.

Now, coming to the provisions of the Bill, I could do no better than Tepeat what m_v friend, Shrj Jaganath Hao, said in the other House:—

> "It is true that Hindu law never recognised divorce unless it was allowed by custom. Later, it was made statutory by introducing section 13 in the Hindu Marriage Act, 1955. The Hindu law proceeded on the basis that marriage should continue, and it was more than a cow-tract and it was a sacrament, and every opportunity should ba given to the parties to come together and sink their differences."

Sub-sections 8 and 9—I am now talking of the orig nal Act, section 13 of the Hindu Marriage Act 19-5—of the parent Act have given the right to the persons who obtain decree either for restriction of conjugal rights or for judicial separation to obtain a divorce alter a period of two years or more for non-compliance. It was not the decree-holder that was required to execute the decree. It was for the respondent or the judgment-debtor to comply with it. But it has come to our notice that there are cases where the husband having obtained a decree, either for restitution of conjugal rights or for judicial separation, even though two year3 or more nave elapsed, never pursued it by filing a petition for divorce, the result being that the very object of the A~t, namely to give *locus* paenitentiae to the parties to come together is defeated. He would not file a petition for divorce, and the result has been that the marriage must be deemed to be continuing along, and it is not open to the woman to marry again. It is rea'ly a hardship for the woman. So many cases of this type have come, and there has also been a feeling that this hardship should be removed. And that is exactly what the present amending Bill seeks to do.

What does the amending Bill say? It says that the right to applv Cor divorce on the ground that cohabitation has not been resumed for a spa~e of two years or more after the passing of a decree for judicial separation, or on the ground that conjugal life has not been restored after the expiry of two years or more from the date ot decree for restitution of conjugal rights, should be available to both the husband and the wife, as in such cases it is c'ear that the marriage has proved a compete failure. There is. therefore, no justification for, making th*

[Shri M. P. Bhargava.]

right available only to the party who has obtained the decree in each case. For instance, a husband gets a decree for judicial separation and does not meet his wife in his home. Then tne decree becomes a farce. Or a wife obtains a decree for judicial separation and keeps the husband at an arms length, away from herself. Even then it is not workable. In this egalitarian society which we are building up, I think it should not be left to one person, either the wife, or the husband, to be the arbiter of the other's destiny; both of them should be co-arbiters. Both of them should be placed

[THE DEPUTY CHAIRMAN in the Chairl

on the same footing so far as the law is concerned; both of them should be put on a par, so far as legal proceedings are concerned. Now the person in whose favour the decree is given has a home and the person against whom the decree is given plays a se-second fiddle. 1 think obviously it is Unjust. Apparently, it is unworkable. Quite honestly I would admit that it is something that is not to be permitted in society. Therefore, I have moved that:

"In section 13 of the Hindu Marriage Act, 1855,—

(i) In sub-section (1),—

(a) the word "or* at the end of clause (vii) shall be omitted; and

(b) clauses (viii) and (ix) shall be omitted;

(ii) after sub-section (i), the following sub-section shall be inserted, namely: —

"(IA) Either party to a marriage, whether solemnized betore or after the commencement of this Act may also present a petition for the dissolution of his or her marriage by a decree ol divorce on the ground—

(i) that there ha-, been no resumption of cohabitation as between the parties to the marriage for a period of two years or upwards after the passing of a decree for judicial separation in a proceeding to which they were parties; or

(iij that there has been no restitution of conjugal rights asv between the parties to the marriage for a period of two -years, or upwards after the passim: a decree for restitution of con-; jugal rights in a proceeding to which they were parties.".

Madarn, the Bill is absolutely non* controversial. It is a simple Bill of two clauses. Out of these, one is the[1] normal enacting clause. So, in fact;, there is only one clause. I commend the Bill for the acceptance of the House and I do hope that there wilt " be no difficulty in this amending Biil being accepted by the Government.

The question was proposed.

PANDIT S. S. N. TANKHA (Uttar Pradesh): Madam, may I ask a question from the mover? My friend has just stated that after the Bill Was passed, a lacuna was found to exist in. it. I want to know whether a lacuna was found to exist or whether it was not a deliberate act on the part of the House to pass it in the form in which it was passed. I think it was a deliberate act of the House. According tome there was no lacuna, it was deliberately passed in that form by the House.

SHRI M. P. BHARGAVA; Views can differ. What I stated was that after the Bill became an Act, the lawyers and the parties concerned, found a lacuna and, therefore, they came forward. It is the Advocates who found it. That is what I am saying. I have not said that any lacuna was deliberately left or anything. After all, we pass every aay so many Bills and then some mistaKe or tne other is found by the courts or by the (lawyers and then we come forward? with an amending Bill. It is just a case where they found that the pro-

visions which were in the Act were not workable. One party had an upper hand. And, therefore, to make both the parties at par it was thought that an amending Bill was necessary. And that is what I said, Dr. Barlingay introduced a Bill to that effect.

DR. SHRIMATI PHULRENU GUHA (West Bengal): Madam, I congratulate the mover of the amendment because the amendment speaks for equality. The framers of the Hindu Marriage Act provided equal rights for a man and for a woman for divorce. Marriage.is a great partnership for a common objective. But if they do not like to live togetl, they c/hoope separate paths it is a great pity, Madam, but what can be done?

Law i$_s$ the reflection of the needs of the society^ Accordingly, tlie Hindu Marriage Act provided divorce. The Hindu Marriage Code has given a right to either party to ask for dissolution of marriage. But it has been noticed that there are cases where the husband obtained a decree but never, filed a petition for divorce even after two years. In such a case the wife has no right, according to law, to file a petition for divorce. It is a Very peculiar and uneasy position, particularly for a woman. It is a hardship on the woman. And ' feel, Madam, this hardship must be removed. I strongly feel, Madam, that the person who gave the original decree, whether he is a man or a woman, should not *get* the upper hand; he or she should not dictate terms. They must be on an equal footing. I think Madam, the law should bn such that it will give equal rights to both the partners. With these words, Madam, I support the amendment most heartily.

KUMARI SHANTA VASISHT (Delhi): Madam Deputy Chairman, I am very glad that this Amendment Bill has come up and that because this one aspect has come to the notice of the people that various difficulties are created in the case of judicial separation or enforcement of a decree for the restitution of conjugal rights and that this aspect has created enough difficulties, that the hon. Member'has moved this Amendment so that this particular defect may be removed from it but I would submit tliat we should not only make such a small and piece-meal amendment, heartily support this particular piece but I do not think this really covers all the difficulties that have been experienced in the administration and working of the Hindu Marriage Act and all the relevant amendments and the codifications that we have had. The society had experienced a large number of difficulties and harassments either of the wife or husband or the children due to various social ills in our society earlier and various leaders of social reform were moved to work for.the Hindu Marriage Acts and property rights and inheritance legislations and ^{so} all the codification of the ■Hindu Law took pace some years back. Though many defects have been removed and monogamy was brought in and so also various other reforms were brought about, I think the working of the new legislation has created so many problems of such diverse nature and so many difficulties have been experienced by various people on a fairly large scale that I think it is very proper and timely that a Committee may be appointed to examine the working of the Act to see bow it is functioning and what difficulties are being experienced by people at various levels.

I think there are a lot of difficulties and I could give a few examples of-various nature so that an overall examination of the various problems involved in this way be taken into consideration. Even when decrees are granted by courts, they are as good as . not working, they are not at all effective. They cannot be easily enforced or, as the hon. Mover of the Bill has said, a person may get a decree for the restitution of conjugal rights but may not be able to enforce so that the decree becomes really ineffective.

[Kumari Shanta Vasisht.] For all pratical purposes it hardly helps. So also for judicial separation and other cases where difficulties are caused where a party may ask for judicial separation but will never ask for a divorce. In that case Ihe person can neither have a divorce nor ba-'° a married life or run the heme so that various types of hardships and difficulties are created in this. This is very very difficult and people sometimes wonder that so many yeara and years really pass by and people cannot ei her have a judicial separation or divorce or any other relief in these situations. That creates a lot of problems.

I may point out that various cases came to our notice also and the law is so defective and the administration of the Acts is so defective also that though they have solved: a large number of problems of various types, still newer types of problems have been created by this legislation. That needs to be revised in the light of ths experience gained in the last few years. I may point out a few examples here. There are difficulties which are not recognised hy the Hindu Law. Nevertheless, those difficulties are very real. For example, there are certain cases, where a person, whether a husband or wife, was having affairs every six months or so This friend of mine told me as to how his wife was going on. Every year she was going on with some new ptrson and he did not know what to do with it. The law does not recognise this sort of trouble in the marriage relationship because this is not adultery, at the same time there is no peace in the home. It is a very unfortunate and very strange situation.

SHRI P. N. SAPRU (Uttar Pradesh): How would it not be adultery if she was carrying on with somebody?

KUMARI SHANTA VASISHT: I do not know technically whether it , would be adultery or not. Maybe it would not be adultery but at the same time he would be deeply inte rested or she would be deeply inte rested in somebody else or be able to change his or her interests now and then which creates a lot of difficulties for the wife or husband as the case may be. So much difficulty was ex perienced in this particular case and some other cases of this type that finally this person had to change hii religion or ra'her he asked his wife to change the religion so that divorce could be had because divorce is not easily available. Owing to these diffi culties he was not very happy with her or her behaviour and he was not sure as to how she was doing and they both found no way out of these difficulties and after a fsw years ol tha whole marriage going on the rocks, finally he asked her to change her religion and when she changed tfie religion a very formal petition wa* put up in the court that the wife had changed the religion and therefore the marriage' may be nullified. «

But you would see in the law court* now-a-days that a large number of petitions are eoming up on the basil of change of religion seeking divorce which is very often by mutual consent. Generally they want to divorce each other but the only plea that can work, that is workable in a court of iaw is on the basis of a change of religion. I think this is very unfair and it is very unethical also. Maybe it will hurt the, religious sentiments of a large number of people who would be anxious to have a divorce but would not be able to change their religion so that that is one of the few grounds which makes the divorce plea workable or legally tenable. Therefore for people to have to take recourse to this they must put up the plea that one of the parties had changed the religion and the other party sues him or her on the ground of changing the religion and then only divorce is, available; this, I think, *it* a very awkward situation. It is not a proper situation. If two parties after years and years of living together

or living apart find that they cannot get along with each other, there must be some other way to put an end to the marriage which does not work and where they have no other choice except to pretend that they have changed the religion and therefore divorce may be allowed. A large number of cases are being entertained ia our law courts to-day even where you can come across those cases where the change of religion is taken as a plea to bring about a situation when they ean have a divorce.

So also I have come across a few eases where they may be having mental illness of a very serious nature which would give a very bad start to their marriage, which would affect the people or even the children and grand-children may be affected and sometimes there would be a mental breakdown of a person and where even medical opinion is that there are a number of people who are not very happy in married life and they cannot take to it. They cannot stand it and they would have breakdowns either at the time of marriage or even when babies are born. Quite a few cases are common in the mental hospitals when a person has a breakdown completely when a baby is born. You can imagine as to what a bad start a child gets in' life when the mother has been seriously taken ill by mental illness and the mother has to be hospitalised or the newborn has to be separated from the mother and the child gets a very bad start. Apart from that the very great strain of living with a mothtT or father who ma$_v$ be mentally affected creates difficulties. The child may inherit mental illnes$_s$ because of the parents being affected but sometimes even the environment with a parent who is mentally affected or has periodical fits of insanity or other types of mental illness gives the child • great handicap to begin with. So people have to suffer such difficulties. You can imagine what sort of life they are likely to have or how they are likely to suffer. The child begins with a handicap. Ha cannot really davelop in the positive atmospliere that a home should provide for the development of the child.

So also I have come across cases, in some of my social welfare programmes also, whan some ladies came to me who were no'; wanting to stay with their husbands. We persuaded them and tried to send them back to thair husbands and sometimes we did succeed. But we analysed their cases more and more—we sometimes consulted some of the psychiatrists aria experts also on t»his issue and they told ug that these ladies are not going to go and settle down with their husbands and they are not going to put up with their husbands, whe. her they call it temperamental differences or any other type of differences but in spite of repeated efforts by all concerned including those ladies, they were not willing to make a success of marriage and they behaved in such a way that everything should work in auch a way to bring them back to their parental home or to their own home away from their husbands; at the same time they were not willing to give divorce to th air husbands. That I thought was very unfair because either they should make their homes with their husbands as they were married and run the families and so on or they should divorce and separate and be done with it. But they were not willing to leave their husbands or stay with them, so that this is a very diffieu't position where the two parties would no tstay together and at the same time they would neither separate nor have a divorce, and a good deal of hardship WJVS caused. In the various cases we had treated we had worked with these cases for years and years trying to impress upon these people that they may make their homes and make a success of their nomes also, But somehow or other this did not seem to work and some of them said. "Well, we do not want to do that. Of course we feel guilty about it that we are being unfair but at the same time we do not want to leave ou*

[Kumari Shanta Vasisht.] husbands; though we feel that we are guilty in this matter we do not want to leave them at all." Now, this creates a lot ol hardship. The husbands get interested in somebody else and though they cannot marry that other person, at the same time they cannot be divorced from their first wives, and various complications, social evils might also come up because of this so that, in trying to solve a certain type of problems, we are creating some more types of problems, which will lead to a third set of problems.

Then, also we came across other cases wher$_e$ medically a person was not able to have a marriage and there did not seem to be any easy relief for that either. At the same time those partners were not willing to leave their husbands or wives, as the case may be, and[1] though medically much help was rendered by the doctors nd so on, nothing could be done in those cases so that, where there may be a medical problem, where there may be a serious mental illness, it will affect the entire peace-of the family; it will affect the children to come from these marriages. If there is a case of tem peramental mal-adjustment or various other types of difficulties, the law as it is today does not help all these various categories of case$_s$ from which they suffer a lot. The atmos phere suffers a good deal because of these problems in the home.' Nevertheless there is no relief, and the only relief available is to put very false pleas, to change the reli gion or to cook up various other types of very false allegations against one or the other to get divorced. They make wild allegations of various types against a person's character, etc. etc., which may not be tenable at all; tha situation may be something quite different, and the law does not give any relief in all these situations.

I think we should revise and review the working of this Act as it has been, and how the various Acts connected with the Hindu law have been working. And I think this ia a bigger problem than what the Bill envisages. There are more complications, there are more difficulties and there is more suffering involved in this than we are apt to admit or we can think of, and I think it is necessary that the entire question should be seen in detail in all its aspects and a committee should go into it. It may take one year o$_r$ two years or so. But the way things are going on at the moment, it is very unhappy, and in this particular matter of judicial separation and so on, it is worth examining how many years of otherwise good married life ar$_e$ lost on account o£ their being placed.in un-happiness, misery and a good deal ol suffering.

Sometimes a social stigma, is attached or sometimes a lot of social talk about it, criticism about it is there because, when the people do not live together, it becomes a social problem. The society talks about them criticises either the wife or the husband, and lot of unhappiness is created. At the same time, the children in the families also suffer a lot from these situations. So it is very neeessary that we study it in a very scientific manner and try to do what-ever can be done. And for years and years to expect people to be judici. ally separated, or for a person to be completely unknown for seven years, nine years, whatever it is—for his whereabouts to be unknown—or to expect that a man should be mentally unwell for six or five years or seven years and that it should be absolutely incurable, and only then to allow divorce is to expect much too much. Where a person is mentally unfit, even at the very start, there are so many difficulties connected with it, which the hon. Members would be aware of if they have seen a man of unsound mind in action. They can see how wild an insane person behaves if they visit a mental hospital. And if they see the condition there, they would not like to spend even half an hour in a mental hospital, because th* atmosphere is so painful, at the same

t:m$_e$ so gruesome. When you have Io live with a person, who is mentally Eift'ected, for the rest of your life, it is not a joke. I think even people who ai$_e$, short-tempered, We do not find it happy to live with them even for a short period. W$_e$ do not ev.jn like bad neighbours, leave aside our own family members. But when people are either mentally not all right, or temperamentally not suited for various other reasons they are not very happy in any sort of relationship, more so in a marriage relationship.

I think our law should be revised and it should be suitably changed to remove some of these difficulties and problems experienced by people. I have also known of some cases; where the wife and the husband had taken judicial separation but later on refused to have a divorce decree for years and years. Still, this lady wanted to marry again on her own. Then the divorce could be had and later on the other arrangements coild taice place. But various difficulties were created so that such a married rife is spoiled for decades together and there is no easy relief. There is no way out and the Hindu law fails completely in eradicating this problem in removing this problem and giving redress to the people. And wherever the law fails, to that extent I think it should be revised and changed because too many troubles are involved in this. People have suffered, children suffer, the entire atmosphere becomes very bad and it causes a lot of hardship, and I think it is our responsibility to remove the hardship as fer as possible. Therefore, I think that a committee should go into the t›*ire working of the Hindu Marriage A"t and all ^{tV}>o troubles that have flowed from there, or due to other reasons, and a comprehensive legislation should be brought in to take care of aU these difficulties ar.d hardships faced by the people.

Thank you.

श्री गिरिराज किशोर कपूर (मध्य प्रदेश) : उपसभापति महोदया, इस सदन में आज हिन्दू मैरिज ऐक्ट सन् १९५५ में संशोधन आया है। हिन्दू मैरिज ऐक्ट भारत में बन चुका है अगर उसमें कुछ गड़बड़ियां रही हैं इसलिए उसको अमेण्ड करने के लिए वह बिल लाया गया है। इस तरह का जो अमेन्डिंग बिल राहत के नाम पर लाया जा रहा है वह भारतीय भावना के खिलाफ है। भारत में शादियां कांट्रेक्ट के रूप में नहीं होती थीं बल्कि भारत की संस्कृति के आधार पर जन्मजन्मान्तर के संस्कार के द्वारा एक दूसरे का सम्बन्ध होता था और वह एक अटूट सम्बन्ध होता था। आज भी भारत की नारी चाहे वह सोने के कटोरे में दूध पीती हो, मखमल के फर्श पर चलती हो, उससे अगर कोई पूछे कि तेरी तमन्ना क्या है तो भारत की प्रत्येक नारी यही कहेगी कि मेरी तमन्ना यह है कि जो मुझको शादी करके लाया है वही मुझे श्मशान भूमि पर पहुंचा आये और इससे बड़ी मेरे लिए कोई तमन्ना नहीं है। मगर आज देश में इस तरह की हवा फैली है कि पाश्चात्य सभ्यता हो, पाश्चात्य रीति रिवाज हों . . .

कुमारी शांता वशिष्ठ : आदमी की तमन्ना बतलाइये।

श्री गिरिराज किशोर कपूर : ये लोग कहते हैं कि अगर भारत में पाश्चात्य सभ्यता, पाश्चात्य रीति रिवाज नहीं आयगे तो भारत पिछड़ा हुआ कहा जायेगा। क्या हमने अपने भारतीय बहिनों और भारतीय माताओं का इतिहास नहीं देखा है ? अभी थोड़े दिनों की बात है कि दुर्गों के द्वार पर राजपूताने में लाशें बिछ जाती थीं वीर राजपूत की हाथों में करवार लिये, चूर चूर देह और चलनी सी छाती ले। तब भारत में क्या होता था ? भारतवासी इतनी जल्दी भूल गये ? दुर्गों के द्वार पर, महलों के आंगन में बिछती थीं बारूद, उस बारूद पर चलती थी

[श्री गिरिराज किशोर कपूर]

टोली की टोली भारतीय नारियों की, सोलह श्रृंगार किये, नूपुर बजाते हुए, एकलिंग गौरी की जय जय मनाते हुए, हाथ में मशाल लिये। कहां को ? मिलने को। किन से ? पतियों से, पुत्रों से, सगे सम्बन्धियों से। कहां ? कुछ देर पहले गये हैं स्वर्ग जो। जब डोलियां बारूद पर जाती थीं, चमकती मशालें नीचे झुक जाती थीं, होता था धड़ाका सा, होता था धमाका सा, क्षण में घुल जाती थीं पुतलियां नवनीत की। और यह न जाने कितनी बार भारत की नारी ने धर्म की रक्षा के लिए, सतीत्व की रक्षा के लिये, भारतीय संस्कृति की रक्षा के लिए की है कुरबानी। न जाने कितनी बार, किये हैं जौहर। न जाने कितने बार। और आज स्वतंत्र भारत में, सीता के भारत में, सावित्री के भारत में, दमयंती के भारत में, दुर्गा के भारत में लक्ष्मी के भारत में होते हैं हिन्दू कोड बिल पास। हमें सोचना पड़ेगा कि अन्याय क्यों हो रहा है, कहां हो रहा है, क्या इसका उपाय यही है ? क्या कारण था कि हमारी बहनें ऐसी हुआ करती थीं ? क्या कारण था कि हमारे राम किन्हीं भी कारणों से प्रजा के मनोरंजन के लिये, प्रजा की इच्छाओं को पूरा करने के लिये सीता को भी त्याग देते थे, कभी दूसरी शादी नहीं करते थे, और आदर्श यह था कि अगर यज्ञ करो, दान करो, तो उसका बगैर नारी के साथ में लिये यज्ञदान स्वीकार नहीं होता था।

कभी कभी बड़े बड़े लोग भी बड़े भ्रम में पड़ जाते हैं। हमारे देश के स्वामी राम पैरिस गये थे। पैरिस में जब वे टहलने के लिये गये, तो शाम को उन्होंने देखा कि एक अंग्रेज महिला बैठी हुई एक कब्र पर पंखा कर रही है। नाचने लगे वह, "अहह, मेरी भारत की नारी का, मेरी भारत की देवी का, मेरी भारत की बेटी का, मेरी भारत की मां का यश, उनका ढंग, उनकी संस्कृति को आज इन लोगों ने भी अपना लिया है। धन्य हैं भारत की नारी कि सारे जगत को यह सेवा का व्रत समर्पण का व्रत सिखा रही है।" खड़े हो गये और पूछा, "देवी, आप कभी भारत गई हैं ?" बोली, "नहीं, मैं कभी भारत नहीं गई।" "तो आपने भारत की देवियों का इतिहास जरूर पढ़ा होगा।" "नहीं, नहीं, मैंने भारत की देवियों का इतिहास भी नहीं पढ़ा।" "तो यह आप कर क्या रही हैं, यह किसकी कब्र है ?" बोली, "मेरे पति की कब्र है।" "तो यह कर क्या रही हैं ?" "मुझे बहुत प्यार करता था। मरते वक्त यह कह गया था कि जब तक यह सूखे नहीं, दूसरी शादी न करना। कंबख्त को मरे तीन रोज हो गये हैं और उसकी आखिरी ख्वाहिश को पूरा करने के लिये इसे सुखा रही हूं।"

अपने अपने देश के अलग अलग रिवाज हैं। हम चाहते हैं कि क्योंकि कानून बन गया है, इसलिये राहत होनी चाहिये। क्योंकि पाश्चात्य सभ्यता, पाश्चात्य शिक्षा, पाश्चात्य रीतिरिवाज, पाश्चात्य में जो होता है वही भारत में होना चाहिये, ऐसी बात स्वीकार करके ये कानून बनते जा रहे हैं, तो कुछ खामियां जरूर निकालनी चाहियें। मगर यह हिन्दू मैरिज ऐक्ट और उसमें तलाक की प्रथाएं भारत की भावनाओं के खिलाफ हैं और भारत की नारियों ने कभी यह आवाज नहीं उठाई कि हमको यह अधिकार दिये जायं। कुछ नारियों को अपने ढंग पर पढ़ाया गया, पाश्चात्य सभ्यता में उनको क्लबों में डांस सिखाया गया, उनका रहनसहन वैसा किया गया और योजनाबद्ध आवाज उठाई गई। आज भी अगर भारत की नारी से पूछा जायगा, तो भारत की नारी का आज भी आदर्श नहीं गिरा है। भारत की नारी आज भी गृहस्थ जीवन में अपने पति के लिये, अपनी संतानों के लिये तिल तिल घुल कर सब कुछ समर्पण करने के लिये तैयार है।

श्री एन० पात्र (उड़ीसा) : अब जमाना बदल गया है।

श्री गिरिराज किशोर कपूर : जी हां, जमाना बदलने की ही बात कह रहा हूं । इसीलिये भारत के आदमी भी बदलते जा रहे हैं मगर उनको न बदलने दो । भारत के आदमी को देवता बना रहने दो । भारत की नारी को देवी बनी रहने दो । आज तुम देने को कहते हो नारी को बराबर का हक, लेकिन छीने ही लेते हो उसका सर्वस्व।

श्री महावीर प्रसाद भर्गव : भारत की नारी, भारत की नारी ही रहेगी कानून से नहीं बदली जा सकेगी ।

श्री गिरिराज किशोर कपूर : धन्यवाद है । यही मैं कह रहा हूं और इसीलिये इसका स्वागत कर रहा हूं कि इसमें राहत देने के लिये कहा है । मुझे जो भारत का मैरिज ऐक्ट बना है उसके बारे में कुछ कह रहा हूं । इसका इसीलिये स्वागत किया है कि चाहे कितने ही कानून बन जायें भारत की नारी भारतीय सभ्यता के अन्दर पली हुई भारतीय संस्कारों के द्वारा आगे चलाई हुई, कभी भी उन नारियों का अनुकरण नहीं कर सकती जिनका कि इतिहास भारत की नारियों के इतिहास से सर्वथा भिन्न है । मैं तो कहता हूं कि यहां जितने भाई बैठे हैं वे जा करके अपने घरों में पूछें उनकी भी देवियां जो मेरी बहनें उनके घरों में बैठी हैं, यही कहेंगी कि हम चाहती हैं कि जो हमें शादी करके लाया है वह हमें श्मशान भूमि में पहुंचा दे, हम सुहागवती मरें । एक भी नारी यह न कहेगी कि मुझ से पहले तुम मर जाओ तो मुझे बड़ी खुशी होगी । मुझे प्रसन्नता इसमें होगी कि मैं तुम्हें श्मशान में पहुंचा आऊं ।

श्री देवकीनंदन नारायण (महाराष्ट्र) : और पुरुष क्या कहेगा ।

श्री गिरिराज किशोर कपूर : पुरुष का भी ले रहा हूं सरकार । जो पुरुष भी भारतीय संस्कृति के अन्दर पले हैं जिनकी रगों में आज भी राम और कृष्ण का, आज भी शिवा और विवेकानन्द का, आज भी अपने पूर्वजों का खून है, वे बराबर अपने आदर्श अपने राष्ट्रपुरुषों को समझेंगे और बराबर ही अपने आदि पुरुषों का अनुकरण करेंगे ।

एक माननीय सदस्य : कृष्ण का नाम आपने नहीं लिया ।

श्री गिरिराज किशोर कपूर : आप कृष्ण का इतिहास पढ़िये । अगर उतनी क्षमता आपके पास है कि १६,१०८ शादी करने के बाद भी उतने रूप धारण कर सकें और हर एक की मनोकामना पूर्ण कर सकें और हर एक को दस दस पुत्र और एक एक लड़की दे सकें तो आप भी आज बसा कर सकते हैं । उतनी क्षमता रहनी चाहिये ।

SHRI P. N. SAPRU: On a point of information, I would liifc to k-iow whether the hon. Member wou'd like to revive the custom of having a hundred wives?

श्री गिरिराज किशोर कपूर : मेरे कहने का कभी यह मतलब नहीं था । सीधे शब्दों में मुझ से कहा गया था कि कृष्ण का नाम आपने क्यों नहीं लिया । मेरा कभी यह मतलब नहीं है । मैं तो भारतीय संस्कृति के उस अध्याय का मनने वाला हूं जहां राम एक पत्नीव्रत रह कर अपना जीवन बिता सकता है । मगर आज कानून कैसे बन रहे हैं जरा देखिये तो सही ।

श्री देवकीनंदन नारायण : आप राम के आदर्श का पालन करते हैं और पांडवों के आदर्श का पालन नहीं करते हैं ।

श्री गिरिराज किशोर कपूर : वह तो बताया है । कैसा दुर्भाग्य है कि आज कानून कैसे बनते हैं और वह कानून बनते हैं केवल हिन्दुओं के लिये । मानो हिन्दू होना इस भारतवर्ष में पाप हो गया है । अगर मैं कपूर

[श्री गिरिराज किशोर कपूर]

हूं और मेरी शा ि ऐसी देवी से हुई है, जो कि संतान देने में असमर्थ है, तो मैं दूसरी शादी नहीं कर सकता । या तो धर्म परिवर्तन करवाऊं, तब कर सकता हूं, नहीं तो मेरा वंश खत्म हो जाये । मैं तो अपने बाप का इकलौता लड़का हूं, इसलिये मेरे पुरखों को मेरे घर में पानी देने वाला भी नहीं रहेगा; क्योंकि मेरा दोष यह है कि मैं हिन्दू हूं । अगर मैं आज रात में सोचूं कि क्या हिन्दू होने से फायदा है, प्यारे कपूर तुम अपना नाम आज से शफूर रख लो और अगर मैं सुबह शफूर बन जाता हूं तो इसी राज्य में इसी कानन के अन्तर्गत दो शादी कर लेता हूं, तीन शादी कर लेता हूं, चार शादी कर लेता हूं । यह चीजें हैं और ये कहते हैं कि इससे हिन्दू और मुसलमानों में प्यार बढ़ेगा, हिन्दू और मुसलमान अपने को एक मिट्टी की संतान समझेंगे । ये सब राजनैतिक बातें हैं । जहां तक भारत की नारी का आदर्श है, वह बहुत उज्ज्वल है । जहां तक भारत के नर का चरित्र है, दुनिया को आज भी वह चैलेंज दे सकता है । मेरी यही प्रार्थना है कि इसको कायम रखा जाये । वैसी शिक्षा-दीक्षा दी जाये, वैसे संस्कार भारत के पुत्रों और पुत्रियों को प्राप्त हों और भारत को भारत बना रहने दिया जाये । आज भारत की न री को देने के नाम पर कहते हो कि नारी को बराबर का हक दिया जाये, लेकिन छीने ही लेते हो, उसका सर्वस्व, उसका धर्म, उसका कर्म, उसकी प्रतिष्ठा, उसका इतिहास । आज तुम देवी को दानवी बनाना चाहते हो; रानी को भिखारिन बनाना चाहते हो, अरे भारत को यूरोप बनाना चाहते हो । मगर यह मन्सूबा कभी पूरा नहीं होगा, भारत, भारत ही बना रहेगा ।

इसमें भारत के नर और नारी को रहत दिलाई है, इसके लिए मैं इस बिल क स्वागत क ता हूं ।

SHRIMATI SHYAM KUMARI KHAN (Uttar Pradesh): Madam Deputy Chairman, originally I had not intended to speak on the Bill but I made up my mind to say a few words. This Bill is very clear. In the original Bill itself, there was the right of divorce on the grounds of judicial separation where no co-habitation had been resumed for a space of two years or upwards after the passing of a decree for judicial separation; or where either party has failed to comply with the decree for restitution of conjugal rights. This was covered in the original Bill itself but my hon. friend, Mr. Bhargava, has had to put forward this amendment because there is an element of doubt in the mind as to whether the opposite party, the party that did not oriiginally go to court for a divorce will have the right to go tc court on that ground and to dissolve that marriage. This is essentially a legal point. What I want to put across is that we are not making any change in the original law. We are only clarifying that law and making it easier for the parties, whether man or woman.

Now, Madam, I come to my hon. friend, Mr. Kapoor's speech. We the women of India are very grateful that friends like Shri Kapoor think so highly of us. We acknowledge thai We do belong to an ancient culture. Let me tell you that from ihe very beginning, no woman worker of India wants that marriages should break up with divorce much less does she want that families should break up. Every one of us wants that a family that goes into marriage must remain in the married state perhaps to the very end and we subscribe to the idea of Shri Kapoor that when we get married, it would be ideal for botn to live and it is unfortunate that one person **hat** to die. Every single womu cf Ir.dia- -whether she belongs to the Hindu community, to the Muslim communiLy, or the Christian community—wants that she should die before her bus band but that is not a'ways so.

श्री गिरिराज किशोर कपूर : मैंने तो भारत की नारी के लिए कहा है, हिन्दू या

मुसलमान की नहीं, मैं जातिवादी नहीं हूं, भारत की कुल नारियों के लिए कहा है ।

SHRIMATI SHYAM KUMARI KHAN: We accept that tradition but there are various occasions when this has t_0 be altered. Society goes on progressing; it may be progressing on lines that my hon. friend, Shri Kapoor, may not like; but laws are only an indication of the existing society and what society demands. It is extremely unfortunate, in my opinion, that this law applies only to the Hindu community. This law is based on the Christian law and in *my* opinion and in the opinion of all social workers liKe me, we would like that there should be a civil code for this country by which every community must be covered. There are some essentials which we feel must be adhered to in any civilised society. Those essentials are that every single marriage must be registered, religion should be an absolutely personal affair and should not be introduced into these things and I for one am with Shri Kapoor when he says that this law should be extended to every community. But, Madam, theit ig ono little thing that I have to point out to my brother, Shri Kapoor, and ihat is that if he has told us of the; high ideals of Indian womanhood, he has not told us how Indian manhood reacts to it. There is a double morality prevalent and at the moment anyone actively engaged in social welfare activities has to handle innumerable homes for young abandoned wive$_s$ and for deserted wives. Government is spending lakhs of rupees for these homes. If these women could get the legal right for divorce, we could help them Their husbands have abandoned them and have not cared for them or supported! them for three, four or five years. We wish to rehabilitate these women.

श्री गिरिराज किशोर कपूर : मैं बहन की इच्छा थर्ड रीडिंग में पूरी कर दूंगा, मर्दों के बारे में भी कहूंगा ।

1070 RSD—4.

SHRIMATI SHYAM KUMARI KHAN: I have nothing against the men of India, f think the men of India have been very good and they have been very helpful to us women and helped us to fight equally for our rights. The constitution guarantees these rights, but our culture so brilliantly spoken of gives the woman a high position of almost a goddess. I will not fight with it, but will again emphasize that the lacuna should be clarified. Therefore, I stand to support it and I assure my hon. friend that by supporting this Bill we are not making a propaganda for divorce. This is only an acknowledgement of the fact that modern society demands these things. It is worse for a couple to be warring and to be quarrelling and living together than it is for them to separate. He must remember that there are children I in a family and a child brought up in a home that is disrupted, that is warring, with father and mother quarrelling always, can never have a fair deal in life. Therefore, Bills like this one and the one relating to divorce, are there only in order to avail of what is necessary to give relief in circumstances that already exist. We do not wish to go behind our culture; we do not wish to cut away from our culture but I must point out to Shri ′ Kapoor that the world advances, cul-| tures have to change and' unless there is a blending of the old and the new society becomes static. We in India are very proud of the fact that though we are keeping our cultural background we also introduce the new. For these reasons, Madam, i wish to support this Bill. Thank you very much.

شری پیارے لال کویل "طالب"

(اتر پردیش) : مہودیا — عورتوں نے اپنے حقوق . . .

श्री प्यारेलाल कुरील "तालिब" : (उत्तर प्रदेश) : औरतों ने अपने हकूक . . .

Minister for Parliamentary Affairs may make his Statement.

THE DEPUTY CHAIRMAN: Yes, you better speak after the recess. The Minister for Parliamentary Affairs.

ANNOUNCEMENT *RE.* GOVERNMENT BUSINESS

THE MINISTER OF COMMUNICATIONS AND PARLIAMENTARY AFFAIRS (SHRI SATYA NARAYAN SINHA): Madam, with your permission I rise to announce that Government Business in this House during the week commencing 14th December, 1964, wiH consist of: —

(1) Further consideration and return of the Appropriation INo. 6) Bill, 1964.

(2) Consideration and return of the following Bills as passed by Lok Sabha: —

(i) The Wealth-tax (Amendment) Bill, 1964.

(ii) The Mineral Oils (Additional Duties of Excise and Customs) Amendment Bill, 1964.

(3) Consideration and passing of the Provisional Collection of Taxes (Amendment) Bill, 1964, as passed by Lok Sabha.

(4) Discussion on the Resolution given notice of by Shri Atal Bihari Vajpayee seeking disapproval of the Essential Commodities (Amendment) Ordinance, 1964.

(5) Consideration and passing of the Essential Commodities (Amendment) Bill, 1964, as passed by Lok Sabha.

(6) Consideration and return of the Kerala Appropriation Bill, 1964, as passed by Lok Sabha.

(7) Consideration and passing of the Prevention of Food Adulteration (Amendment) Bill, 1964 as passed by Lok Sabha.

(8) Consideration and passing of the following Bills, as passed by Lok Sabha: —

(i) The Payment of Wages (Amendment) Bill, 1964.

(ii) The Foreign Exchange Regulation (Amendment) Bill, 1964.

(9) Consideration and return of the Appropriation (Railways) No. 3 Bill, 1964, as passed by Lok Sabha.

(10) Discussion on the Report (1960-62) of the Hindu Religious Endowments Commission, laid on the Table of the Rajya Sabha on the 10th August, 1962, on a motion to be moved by Shri Vimalkumar M. Chordia and others on Thursday, the 17th December at 3 P.M.

SHRI LOKANATH MISRA (Orissa): Madam, in the Business Advisory Committee, if the Minister of Parliamentary Affairs remembers it aright, we had made a demand that the Report of the S. R. Das Commission should be discussed in this House but he has not made any mention 'of that in the statement.

SHRI SATYA NARAYAN SINHA: We have thought over it. In this House, the discussion of the Preven-