

SHRI JAWAHARLAL NEHRU: I cannot answer on behalf of the U.N., Sir. How can I?

SHRI GANGA SHABAN SINHA: But our men are there and . . .

SHRI JAWAHARLAL NEHRU: I am not worried about their protection. They can look after themselves.

MR. DEPUTY CHAIRMAN: The House stands adjourned till 2.30 P.M.

The House then adjourned for lunch at ten minutes past one of the clock.

The House reassembled after lunch at half-past two of the clock, MR. DEPUTY CHAIRMAN in the Chair.

THE DOWRY PROHIBITION BILL, 1959—continued.

MR. DEPUTY CHAIRMAN: Yes, Mr. Mitra. You have to be brief. I have to call upon the Law Minister to reply at 4 P.M. There are still seven or eight speakers more.

SHRI P. C. MITRA: If clause 4 remains as it is, it will not act as a check on the givers and takers of dowry but will act as an instrument of harassment so far as the parents of bridegrooms are concerned. Any person who will marry his daughter to the son of another will not file a suit in this regard but unscrupulous persons for the purpose of blackmailing other persons will use this as a handle and hit at the rich and influential persons. I therefore, suggest that we should not accept this amendment but should send it back to the Lok Sabha. The Bill should be as it was passed originally by the Rajya Sabha.

As I have already said, if we retain the Explanation, it will nullify the whole purpose, and on this score I oppose the motion as moved by the Law Minister. Thank you Sir.

MR. DEPUTY CHAIRMAN: Hon. Members will take ten minutes each.

श्रीमती सावित्री निगम (उत्तर प्रदेश)
उपसभापति महोदय, मैं इस विधेयक का स्वागत करने के लिये खड़ी हुई हूँ। मैं इस विधेयक का स्वागत केवल अपनी ओर से या सदन के अन्य सदस्यों की ओर से नहीं बल्कि तमाम देश के उन विचारकों की ओर से, चिंतनशील व्यक्तियों की ओर से और विशेष रूप से उन समाज-सेविकाओं की ओर से और उन महिलाओं की ओर से करना चाहती हूँ जिन्होंने इस विधेयक के इतनी देर में लिये जाने पर और साथ ही साथ जल्दी पास न किये जाने पर समय समय पर अनेकों बार अपनी आवाज उठाई है।

श्रीमन्, अभी आपने और सदन के सभी माननीय सदस्यों ने अखबारों में यह पढ़ा होगा कि आल इंडिया वीमेंस कांफ़ेंस—बनिता समाज और देश के अन्दर जितनी भी महिलाओं की संस्थायें हैं उन्होंने इस शंका से कि कहीं यह विधेयक संसद के इस अधिवेशन में न लिया जाय, बड़ी बड़ी सभायें कीं और छोटे छोटे गांवों से लेकर बड़े बड़े जिलों तक में इस संबंध में मीटिंगें हुईं और यह मांग की गई कि यह विधेयक जल्दी पास किया जाय।

मुझे यह सुन कर बड़ा खेद हुआ कि कुछ माननीय सदस्यों ने इस विधेयक का स्वागत नहीं किया और साथ ही साथ कुछ भाइयों ने एक स्वर से स्वागत करते हुये दूसरे स्वर से यह भी शंका प्रगट की कि शायद यह विधेयक उतना प्रभावशाली और उतना उपयोगी न हो, जैसा कि होना चाहिये। इसलिये उन्होंने इस विधेयक का एक स्वर से स्वागत किया और एक स्वर से यह शिकायत की। मैं बड़ी विनम्रतापूर्वक यह नवेदन करना चाहती हूँ कि किसी भी विधेयक या किसी भी कानून के दो या तीन प्रकार के लाभ होते हैं। जो इस प्रकार से सामाजिक कानून हैं, इनका सब से बड़ा लाभ यह होता है कि ये देश में एक नई साइकलोजी और एक नई विचारधारा क्रिएट करते हैं। दूसरा प्रभाव यह होता है कि

[श्रीमती सावित्री निगम]

जो अच्छे लोग हैं, जो समझदार लोग हैं उनके सोचने की, उनकी थिंकिंग को ये एक नई दृष्टि देते हैं। तीसरा लाभ यह होता है कि जो ग्राम तौर से कानूनों का पालन करते हैं, उनको ऐसे कानूनों से आत्मबल मिलता है और जो समाज विरोधी हैं और समाज में पुरातनपंथी लोग हैं वे उनकी आलोचना नहीं कर सकते। इसलिये मैं समझती हूँ कि सभी लोग इस विधेयक का स्वागत करेंगे। इसी के साथ साथ मैं यह भी निवेदन करना चाहती हूँ ला मिनिस्टर महोदय से कि वे शीघ्र से शीघ्र दोनों सदनों का एक अधिवेशन बुलाकर, इस विधेयक को शीघ्र से शीघ्र पास करावें।

श्री ए० के० सेन : यह मेरे हाथ में नहीं है।

श्रीमती सावित्री निगम : मुझे विश्वास है कि ला मिनिस्टर महोदय की बात को उनके दूसरे क्लीग और विशेषकर मिनिस्टर आफ पार्लियामेंट्री अफेयर्स जरूर सुनेंगे और जल्दी से दोनों सदन एक साथ मिल कर इस विधेयक को पास करेंगे।

इस विधेयक के संबंध में बहुत से अच्छे अच्छे सुझाव दिये गये और बहुत सी विचित्र बातें भी कही गईं। एक भाई ने कहा कि स्कालरशिप दिये जायें। एक भाई ने जाति-पाति की बात उठाई। मैं समझती हूँ कि ये बातें उपयोगी होती हुई भी इस विधेयक से कोई संबंध नहीं रखती हैं। समाज की नस नस में व्याप्त एक कुरीति, जो इतना बड़ा अभिशाप बन चुकी है और जिस के कारण हजारों बालिकायें अपनी आत्महत्या कर लेती हैं, अपने को जला लेती हैं, या कभी कभी उनको जीवन भर अविवाहित रहना पड़ता है और अपने मां-बाप की मुसीबत बन कर रहना पड़ता है, ऐसी कुरीति के विनाश के लिये जितने सुझाव दिये जायें, अच्छा है। लेकिन इस कुरीति का संबंध सीधा उन सभी बातों से नहीं है, जैसा कि कहा गया कि रामचन्द्र जी के जमाने से यह

दहेज की प्रथा चली आ रही है, यह बिल्कुल गलत है। किसी समय में जबकि भारत में चारों ओर से लुटेरों के आक्रमण हो रहे थे, तो लोग अपनी इज्जत बचाने के लिये छोटी अवस्था में कन्याओं का विवाह कर देते थे और फिर उनके भरण पोषण के लिये थोड़ा साधन घर के पिता को दे देते थे। लेकिन वह आपतकाल की अपनाई हुई चीज एक कुरीति बन कर रह गई है।

श्रीमन्, यह बिल्कुल सही कहा गया है कि जो क्लॉज नम्बर २ का एक्सप्लेनेशन है, उसके रहने से इस विधेयक का जो उद्देश्य था वह नष्ट हो जायगा और मैं भी पूरी तरह से इस बात से सहमत हूँ। जहाँ यह एक्सप्लेनेशन हटा दिया जाना चाहिये, वहाँ मैं यह भी अनुरोध करूंगी कि जो क्लॉज ४ जोड़ा गया है जिसके द्वारा डाउरी का डिमांड करना पेनेलाइज किया गया है, इसके संबंध में हम लोगों को यह नहीं देखना चाहिये कि लोक सभा ने ऐसा किया या राज्य सभा ने ऐसा किया। हम लोगों को यह नहीं देखना चाहिये कि who is right बल्कि हमको यह देखना चाहिये कि what is right। मैं सोचती हूँ कि हमको लोक सभा की यह एक्सप्लेनेशन वाली बात जरूर मान लेनी चाहिये। इस तरह से हम लोगों को Penalty for demanding dowry एक्सेप्ट कर लेनी चाहिये। ऐसे बहुत से केसेज हम लोगों के सामने आते हैं कि जब विवाह के निमंत्रण पत्र बंट जाते हैं या बारात जब आ जाती है, उस समय घर पक्ष के लोग यह सोच कर कि अब कन्या पक्ष के लोग पीछे नहीं जा सकते, और डाउरी मांगने लगते हैं और उस समय बेचारे कन्या के पिता को या कन्या के अभिभावक को बड़ी चिंता हो जाती है, क्योंकि उनकी इज्जत का सवाल होता है और वे उधार ले कर बड़ी मुसीबतों से शादी करते हैं। और जो लोग हिम्मत करके नहीं भी करते हैं और ऐसे बेईमान लोगों से शादी नहीं करना चाहते हैं उनको बहुत नुकसान उठाना पड़ता है। वहाँ पर घर पक्ष के

लोग बिना कोई दंड पाये बिल्कुल ऐसे ही छूट जाते हैं। तो उनके लिये यह बहुत ही उम्दा क्लोज है। बहुत से भाइयों ने, संसद् सदस्यों ने, कहा कि इससे बड़ा हैरसमेंट शुरू हो जायगा। हैरसमेंट तो अब भी है, जो लोग हैरसमेंट करने वाले हैं वे तो करेंगे ही और उनसे मुक्ति और छटकारा दिलाने के लिये कानून है, अदालत है। जो कन्या का पिता है वह तो बेचारी कन्या के जन्म से ही एक प्रकार से हीनत्व की भावना से घिर जाता है, हीनत्व की भावना उसके मन में बैठ जाती है कि वह कन्या का पिता है और उसे दबना है। तो, मैं नहीं समझती कि कन्या का पिता और सामान परेशानियों के होते हुये भी एक और नई परेशानी अपने लिये बढ़ा लेगा और किसी वर पक्ष के पिता के ऊपर मुकदमा आदि चलायेगा।

मैंने कुंजरू साहब का बहुत ही विद्वत्तापूर्ण भाषण सुना लेकिन मैं उनसे भी अनुरोध करूंगी कि वह इस क्लोज ४ को, जो कि Penalty for demanding dowry का है, इसमें जरूर रहने दें। यदि इसमें उनकी दृष्टि में कोई विशेष लाभ नहीं है, तो श्रीमन्, मैं उनको एश्योर करना चाहती हूँ कि इसमें कोई हानि भी नहीं है। एक बात हम लोक सभा की मान लेंगे और एक बात हमारी लोक सभा वाले मान लेंगे और इस तरह से एक बहुत ही रीजनेबिल सा विधेयक बन जायगा।

श्रीमन् हमारी एक बहन ने कहा कि इस विधेयक को विद्वां कर लिया जाय। यह बड़े दुर्भाग्य की बात है। कोई आम्ड चेयर पासिटिविशन ऐसी राय दे या जिनको कि देश की मांग का, देश की स्थिति का पता न हो वह ऐसी बात कहे तो समझ में आ सकती है परन्तु एक ऐसी कमेंट बहन ने भी ऐसी बातें कही कि इस विधेयक को विद्वां कर लिया जाय। मैं सोचती हूँ कि यह बहुत ही दुर्भाग्यपूर्ण विचार होगा, अगर कभी ऐसा सोचा भी जाय कि एक ऐसे उपयोगी विधेयक को जो कि एक नई विचारधारा देने जा रहा है और जो

कि समाज की एक कुरीति को समाप्त करने जा रहा है, उसको ठोकर पहुंचाने जा रहा है—विद्वां किया जाय। यदि ला मिनिस्टर साहब इस बात को विचार में भी लायें तो यह एक बड़ी दुर्भाग्यपूर्ण बात होगी।

उन्होंने एक बात यह कही कि इसका इनफोर्ममेंट ठीक नहीं होगा और उन्होंने सारदा ऐक्ट की बात कही लेकिन मैं निवेदन करना चाहती हूँ कि सारदा ऐक्ट की सफलता का हम अनुमान नहीं लगा सकते हैं क्योंकि इसके लिये हमारे पास कोई एजेंसी नहीं है, इसका कोई सर्वे नहीं किया गया है परन्तु जो लोग क्षेत्र में—फील्ड में—काम करते हैं वे जानते हैं कि सारदा ऐक्ट ने हमारे यहां बाल-विवाह की जा कुरीति थी उसका बहुत बड़ी ठोकर पहुंचाई और बाल-विवाह को अगर किसी चीज ने सब से ज्यादा डिसकरेज किया है, कम किया है, तो वह सारदा ऐक्ट था। मुमकिन है कि यह जो डाउरी बिल है इसके प्रारंभ इनफोर्ममेंट में कुछ कठिनाइयाँ आयें लेकिन मेरा विश्वास है कि यह भी समाज को बहुत बड़ा लाभ पहुंचाने जा रहा है और इसलिये मेरा अनुरोध है कि जल्दी से जल्दी दोनों हाउसेज का एक अविशेषण बनाकर इस विधेयक को पास किया जाय और नारी जाति को—विशेष रूप से महिला समाज-सेविकाओं की जो कि एक बड़ी जबरदस्त मांग है और जिन्होंने कि इसी मांग के लिये अभी दो, तीन लाख दस्तख्त इकट्ठे करवाये हैं,—उस मांग को पूरा किया जाय और इस विधेयक को जल्दी से जल्दी कानून का रूप दिया जाय।

श्री तारकेश्वर पांडे (उत्तर प्रदेश) :

मैं एक सवाल पूछना चाहता हूँ। आप स्त्री जाति की बहुत दुहाई देती हैं लेकिन तिलक, दहेज, जो हमको देना पड़ता है, औरतों को क्या देना पड़ता है, कष्ट में तो हम हैं।

श्रीमती सावित्री निगम : श्रीमन्, चूंकि हम लोग आपके गुमास्तक हैं इसलिये ऐसा मैं कह रही हूँ।

شریعتی انہیں قدوائی (آز پر دیہیں):

قدوائی چہرہ میں صاحب - اس بل پر بہت زیادہ بحث ہو چکی ہے ایک مرتبہ ہوئی، دوسری بار ہوئی اور ابھی معلوم نہیں کہ کب تک ہوتی رہے گی - میری سمجھ میں نہیں آتا ہے کہ ایسے معاملہ میں جس سے کہ قریب قریب سارا ہندوستان اتفاق کرتا ہے اتنے دن کہوں لگے - میں تو نہیں سمجھتی کہ کوئی بھی ایسے لوگ ہیں جو کہ چہیز کی رسم سے پریشان نہ ہوتے ہوں اور اس وقت یہ نہ چاہتے ہوں کہ کسی طرح یہ لعنت ہماری سسائٹو سے چلی جائے - قریب قریب سب ایسا ہی چاہتے ہیں -

جہاں تک چہیز کا سوال ہے اسکے دو حصے ہیں ایک حصہ تو وہ ہوتا ہے جو کہ لوکی کے ماں باپ اور لوکے کے ماں باپ کے بیچ میں طے ہوتا ہے اور وہ نقد روپیہ پیسے کے لہن دین کا معاملہ ہے - دوسرا حصہ وہ ہوتا ہے جو لوکی کو دیا جاتا ہے اور جو زیورہ کھڑے اور اس کی تمام ضرورت کی چہیزوں کی شکل میں ہوتا ہے - تو جہاں گلاز ۲ کا سوال ہے اس میں جو املت ملکت وہاں لوک سبھا میں ہوا ہے اس کے متعلق مجھے یہ کہنا ہے کہ زیورہ کھڑا اور چھوٹی چھوٹی ضرورت کی چہیزیں اگر کسی لوکی کے ماں باپ کے پاس پیسہ ہے تو لوکی کو دینے میں انہیں کوئی تکلیف نہیں ہوتی ہے کیونکہ ان کے

پاس جو کچھ ہے وہ بیٹا بیٹی کھائے ہی ہوتا ہے بلکہ انہیں تو خود ہی ہوتی ہے کہ اپنی لوکی کو اتنی ضرورت کی چہیزیں دینے کے وہ سسرال میں تکلیف نہ اٹھائے - اور جو زیورہ کھڑے اور ضرورت کی چہیزیں لوکی کو دیتے ہیں وہ اس کو ملتی ہیں اور گلاز ۲ میں بھی یہی لکھا ہے کہ وہ اس کی ملکیت میں شمار ہوں گی اور اب بھی وہ اس کی ملکیت شمار ہوتی ہیں - اس کو کوئی دوسرا نہیں لھتا ہے - لیکن شادی سے پہلے جو ہندوؤں میں تلک کے نام سے یا مسلمانوں میں حیدر آباد میں جوڑی اور گھوڑے کے نام سے لیا جاتا ہے یا جس طرح سے بلکال میں ہندو اور مسلمان دونوں میں روپیہ طے ہوتا ہے اور جہاں کہ پنجاب کے کچھ حصوں میں بھی یہ دستور ہے اور پورے ہندوستان بھر میں ہندوؤں کا دستور ہے کہ شادی سے پہلے تلک وغیرہ کے نام سے تمام رقم طے کی جاتی ہے وہ بہت غلط ہے - اس کو دراصل قاوری کہنا ہی غلط ہے لیکن اس کو چاہے قاوری کہیں یا جو کچھ کہیں وہ ایک ایسی غلط چہیز ہے جو نہ میرے نزدیک تمام بھائیوں کے لئے ایک بڑی شرم کی بات ہے -

شری شیلپتھر یاچی : بار بار ہے !

شریعتی انہیں قدوائی : لوکے کو

اس طرح سے مول تول کھائے پیسے کرنا ایک ترقی یافتہ سوسائٹی میں اور

اس زمانہ یعنی بیسویں صدی میں بڑی مصیبت سی بات معلوم ہوتی ہے۔ لوگا اگر کم پوٹھا لکھا ہے تو اس کا اتنا مول ہے او اگر زیادہ پوٹھا لکھا ہے تو اتنا مول ہے اس میں خود لوگوں کو اور مردوں کو شرم آتی چاہئے کہ وہ سربازار بکتے ہیں۔ اور دیکھیں میں لوگیاں بکتی تھیں اور اس کی ساری دنیا نے مصالحت کی۔ آپ کو معلوم ہے کہ ایشیا میں بہت سارے ملکوں میں لوگیاں بیچتی جاتی تھیں اور اس کے خلاف ہر ملک نے قانون بنایا ہے۔ یہاں بھی ایک طرح سے لوگ بکتے ہیں۔ تو اس مول تول کو ختم ہونا ہی چاہئے۔

ابھی دو مہلے کی بات ہے کہ میرے یہاں گوں میں ایک شادی ہوئی ایک کسان نے دوسرے کسان کے یہاں شادی کی اور اس نے اچھے بیگے کے لئے شاید ۲۵ سو روپیہ طے کیا۔ لوگا دسویں پاس تھا اور لوگی ان پوٹھے تھی جیسا کہ عام طور پر کسانوں کی لوگیاں ہوتی ہیں۔ تو بیچارے اس کی حالت یہ ہوئی کہ سوڑے کھر کے اور کوئی چیز اس کے پاس باقی نہیں رہی کیونکہ جب اس نے کہا کہ میرے پاس ۲۵ سو روپیہ نہیں ہے تو اس سے یہ کہا گیا کہ جتنا اناج ہے وہ دیدو اور گاڑیوں میں بھر بھر کر اناج وہ لوگ لے گئے۔ اس کے بعد لوگی کے ماں باپ کے پاس ایک مہینہ

کیا ایک ہفتہ کا بھی کھانا باقی نہیں رہا۔ ۲۵ سو روپیہ کے علاوہ وہ یہ بھی طے ہوا تھا کہ وہ ایک گھوڑی دینا لیکن وہ گھوڑی نہیں دے سکا۔ اس کے متعلق اس نے تین مرتبہ ہم لوگوں کو درمیان میں قال کر بات چیت کرنی چاہی۔ میں نے تو انکار کر دیا لیکن میرے کزن نے بات کی۔ وہ اس کو سمجھا رہے تھے کہ تم گھوڑی کا سولل چھوڑ دو کیونکہ اس کے پاس ایک مہینہ کا کھانا بھی باقی نہیں ہے۔ اس لئے یہ سوال ان لوگوں کے لئے نہیں ہیں جن کے پاس لاکھوں روپیہ ہے وہ اپنی بیٹیوں کو جو دیلا چاہتے ہیں سو دیں۔ سوال تو مڈل کلاس اور پورے مڈل کلاس کا ہے جو کہ چھوڑ کی وجہ سے بڑی مصیبت میں مبتلا ہو گئی ہیں۔ میرے نزدیک تو اس بل کو جتنی جلدی ہو سکے پاس ہونا چاہئے چاہے اس کے لئے جوائنڈس سیشن کیجئے یا جس طرح سے بھی ہو، کیجئے۔

میں تو کلاز (۲)؛ کلاز (۶) اور کلاز (۴) سمی کو پسند کر رہی ہوں کیونکہ جب لوگ نہیں مانتے ہیں تو قانون کا قند استعمال کرنا ہی پوتا ہے۔ کوئی سوشل اصلاح ایسی ہے جو کہ آسانی سے ہو سکی۔ کب لہسا ہوا کہ سوشلائٹی کی اصلاح کرنے کی کوشش کی گئی اور قانون میں

مہی انیس قدوائی]

کوئی دفعہ آپ نے ایسی نہیں رکھی جس میں کہ سزا نہ رکھی گئی ہو۔ ہر چیز مانگنے کے لئے آپ نے سزا رکھی ہے۔ سستی کو جب گورنمنٹ نے بند کیا تب قانون میں اس کے لئے سزا دیکھ دی گئی تھی۔ اس سے پہلے زمانہ میں جب کہ راجپوت اپنی بیٹیوں کو مارتے تھے تو اس وقت اس کو بھی بند کرنے کے لئے قانون میں سزا رکھی گئی تھی۔ ایسی ہندو کوڈ بل آپ نے جو پاس کیا ہے اس میں بھی بہت سی ایسی سزائیں رکھی ہیں۔ اسی طرح سے اسپیشل میجر ایکٹ میں بھی ہیں۔ سارا ایکٹ میں بھی سزائیں رکھی تھیں۔ تو میرا کہنا ہے کہ کون سا سوشل اصلاح کا قانون ایسا ہوا ہے جس میں کہ سزا نہ رکھی گئی ہو۔ پھر اس کو کیوں کھلا چھوڑنا چاہتے ہیں۔ جب تک قانون سزا نہیں دیتا تب تک اس کا زور نہیں رہیگا۔

میری تو درخواست یہی ہے کہ اس کو ہندو اور مسلمان دونوں پر لاگو کیجئے۔ یہ سوال کہ یہی۔ میں یہ چوں نہیں ہے اس لئے اس کو مسلمانوں پر لاگو نہیں ہونا چاہئے تھیک نہیں ہے۔ حیدرآباد میں مسلمانوں میں یہ رسم ہے اور اسی زیادتی کے ساتھ ہے جیسے کہ ہندوؤں میں ہے۔ وہاں کوئی لوکی اس

وقت تک نہیں بیاہی جاتی ہے جب تک کہ جوڑی اور کھوڑے میں پانچ ہزار، دس ہزار، بیس ہزار یا پچاس ہزار طے نہیں ہوتا ہے۔ بنکال میں بھی صورت یہی ہے۔

श्री शीलमद्र याजी : हर जाह है ।

شریمتی انیس قدوائی - بنکال

کی ایک بھٹی مجھے ملی اور اپنی ساری مصیبتیں مجھے سنائے لگی۔ اس نے بتایا کہ جب میں میکے جاتی ہوں تو ہر مرتبہ میکے سے بہت سا سامان لیجانا پڑتا ہے۔

اور ہمارے باپ بالکل بک گئے ہماری شادی میں۔ میں نے ان سے کہا دونو پھر اس مصیبت کو یاد رکھنا اور اپنے بیٹے کی شادی اس طرح سے نہ کرنا۔ انہوں نے کہا ہمارا بیٹا بنکال کا بیٹا ہے وہ میرا کہا کیوں مانیکا جس وقت شادی کریگا۔ تو جناب میرا کہنا ہے کہ پہلے اس چیز کو آپ قانون سے ختم کر دیجئے اور تب ہم سوشل ورکر گوں گوں پھر کر اس کے خلاف پروپیگنڈا کریں گے اور کوشش کریں گے کہ کسی طرح اس رسم کو ختم کرنا چاہئے۔ یہ ایک لعنت ہے ساج کے لئے اور میں سمجھتی ہوں کہ اس سے زیادہ اس کے بارے میں کہنے کی ضرورت نہیں۔

ان لفظوں کے ساتھ میں اس بل کو سپورٹ کرتی ہوں۔

†[श्रीमती अनीस किदवई (उत्तर प्रदेश) : डिप्टी चेयरमैन साहब, इस बिल पर बहुत ज्यादा बहस हो चुकी है। एक मर्तबा ई, दूसरी बार हुई और अभी मालूम नहीं कब तक होती रहेगी। मेरी समझ में नहीं आता है कि ऐसे मामले में जिससे कि करीब करीब सारा हिन्दुस्तान इतफाक करता है इतने दिन क्यों लगे। मैं तो नहीं समझती कि कोई भी ऐसे लोग हैं जोकि जहेज की रस्म से परेजान न होते हों और इन वक्त ये न चाहते हों कि किसी तरह यह लानत हमारी सोसाइटी से चली जाये। करीब करीब सब ऐसा ही चाहते हैं।

जहां तक जहेज का सवाल है उसके दो हिस्से हैं। एक हिस्सा तो वह होता है जो कि लड़की के मां-बाप और लड़के के मां-बाप के बीच में तब होता है और वह नकद रुपया पैसा के लेने देने का मामला है। दूसरा हिस्सा वह होता है जो लड़की को दिया जाता है और जो जेवर, कपड़े और उसकी तमाम जरूरत की चीजों की शक्ल में होता है। तो जहां कलान २ का सवाल है उसमें जो अमेंडमेंट वहां लोक सभा में हुआ है उसके मुतल्लिक मुझे यह कहना है कि जेवर, कपड़ा और छोटी छोटी जरूरत की चीजें, अगर किसी लड़की के मां-बाप के पास पैसा है तो, लड़की को देने में कोई तकलीफ नहीं होती है क्योंकि उनके पास जो कुछ है वह बेटा बेटों के लिये ही होता है, बल्कि उन्हें तो खुशी होती है कि अपनी लड़की को इतनी जरूरत की चीजें दे दें कि वह सुसराल में तकलीफ न उठाये और जो जेवर, कपड़े और जरूरत की चीजें लड़की को देते हैं वह उसी को मिलती हैं और बजाज ६ में यह भी लिखा है कि वह उसकी मिल्कियत में शुमार होंगी और अब भी वह उसकी मिल्कियत में शुमार होती हैं। उसको कोई दूसरा नहीं लेता है। लेकिन शादी से पहले जो हिन्दुओं में तिलक के नाम से या मुसलमानों में हैदराबाद में जोड़ी और घोड़े के नाम से लिया जाता है या जिस तरह से गाल में

हिन्दू और मुसलमान दोनों में रुपया तब होता है और जैसा कि पंजाब के कुछ हिस्सों में यह दस्तूर है और पूरे हिन्दुस्तान भर में हिन्दुओं का दस्तूर है कि शादी से पहले तिलक बैरा के नाम से तमाम खर्च तय की जाती है वह बहुत गलत है। उसको दर-असल डावरी कहना ही गलत है, लेकिन उसको चाहे डावरी कहें या जो कुछ कहें, वह एक ऐसी गलत चीज है जो कि मेरे नज़दीक तमाम भाइयों के लिये एक बड़ी शर्म की बात है।

श्री शीतभद्र याजी : बार बार है।

श्रीमती अनीस किदवई : लड़के को इस तरह से मोल तोल के लिये पेश करना एक तरक्कीयाफूता सोसाइटी में और इस जमाने में यानी बीसवीं सदी में बड़ी अजीब सी बात मालूम होती है। लड़का अगर कम पड़ा लिखा है तो उसका इतना मोल है और अगर ज्यादा पड़ा लिखा है तो इतना मोल है। उस में खुद लड़कों को और मर्दों को शर्म आनी चाहिये कि वह सरे बाज़ार बिकते हैं। और देशों में लड़कियां बिकती थीं और उस की सारी दुनिया ने मुखालफत की। आपको मालूम है कि एशिया में बहुत सारे मुल्कों में लड़कियां बेची जाती थीं और उसके खिलाफ हर मुल्क ने कानून बनाया है। यहां भी एक तरह से लड़के बिकने हैं। तो इस मोल तोल को खत्म होना ही चाहिये।

अभी दो महीने की बात है कि मेरे यहां गांव में एक शादी हुई। एक किसान ने दूसरे किसान के यहां शादी की और उस ने अपने बेटे के लिये शायद २५ सौ रुपया तय किया। लड़का दसवीं पास था और लड़की अनपढ़ थी जैसा कि ग्रामतौर पर किसानों की लड़कियां होती हैं। तो बेचारे उसकी हालत यह हुई कि सिवाय उस के घर के और कोई चीज उस के पास में बाकी नहीं रही, क्योंकि

†[] Hindi transliteration.

[श्रीमती अनीस किदवाई]

जब उसने कहा कि मेरे पास २५ सी रुपया नहीं है तो उससे यह कहा गया कि जितना अनाज है वह दे दो और गाड़ियों में भर भर कर अनाज वह लोग ले गये। उसके बाद लड़की के मां-बाप के पास एक महीना क्या एक हफ्ते का भी खाना बाकी नहीं रहा। २५ सी रुपये के अलावा यह भी तय हुआ था कि वह एक घोड़ी देगा, लेकिन वह वह घोड़ी नहीं दे सका। उसके मुतालिक उसने तीन मर्तबा हम लोगों को दरम्यान में डाल कर बातचीत करनी चाही। मैंने तो इन्कार कर दिया लेकिन मेरे कज्ज ने बात की। वह उसको समझा रहे थे कि तुम घोड़ी का सवाल छोड़ दो क्योंकि उसके पास एक महीने का खाना भी बाकी नहीं है। ऐसे सवाल उन लोगों के लिये नहीं हैं जिन के पास लाखों रुपया है। वह अपनी बेटियों को जो देना चाहते हैं सो दें। सवाल तो मिडल क्लास और लोअर मिडल क्लास का है जो कि जहेज की वजह से बड़ी मुसीबत में मुब्तला हो गये हैं। मेरे नजदीक इस बिल को जितना जल्दी हो सके पास होना चाहिये चाहे इसके लिये ज्वॉइंट सेशन कीजिये या जिस तरह से भी हो, कीजिये।

मैं तो क्लाज २, क्लाज ६ और क्लाज ४ सभी को पसन्द कर रही हूँ क्योंकि जब लोग नहीं मानते हैं तो कानून का डंडा इस्तेमाल करना ही पड़ता है। कौन सी सोशल इस्लाह ऐसी है जो कि आसानी से हो सकी। कब ऐसा हुआ कि सोसाइटी की इस्लाह करने की कोशिश की गई और कानून में कोई दफा आपने ऐसी नहीं रखी हो जिस में कि सजा न रखी गई हो। चीज मांगने के लिये भी आपने सजा रखी है। सती को जब गवर्नमेंट ने बन्द किया तब कानून में उसके लिये सजा रख दी गई थी। इस से पहले जमाने में जब कि राजपूत अपनी बेटियों को मारते थे तो उस वक्त उसको बन्द करने के लिये कानून में सजा रखी गई थी।

अभी हिन्दू कोड बिल आपने पास किया है उसमें भी बहुत सी ऐसी सजायें रखी हैं। इसी तरह से सैमल मैरिज एक्ट में रखी हैं। शारदा एक्ट में भी सजायें रखी थीं। तो, मेरा कहना है कि कौन सा सोशल इस्लाह का कानून ऐसा हुआ है कि जिसमें कि सजा न रखी गई हो। फिर इनको क्यों खुला छोड़ना चाहते हैं। जब तक कानून सजा नहीं देगा तब तक इसका जोर नहीं रहेगा।

मेरी तो दरखास्त यही है कि इसको हिन्दू और मुसलमान-दोनों पर लागू कीजिये। यह सवाल की यू० पी० में भी यह बीज नहीं है इसलिये इसको मुसलमानों पर भी लागू नहीं होना चाहिये यह ठीक नहीं है। हैदराबाद में मुसलमानों में यह रस्म है और इसी ज्यादा के साथ है जैसे कि हिन्दुओं में है। वहाँ कोई लड़की उस वक्त तक नहीं ब्याही जाती है जब तक कि जोड़ी और घोड़े में पांच हजार, दस हजार, बीस हजार या पचास हजार तय नहीं होता है। बंगाल में भी सूरत यही है।

श्री शीलभद्र याजी : हर जगह है।

श्रीमती अनीस किदवाई : बंगाल की एक बेटा मुझे मिली और अपनी सारी मुसीबतें मुझे सुनाने लगी। उसने बताया कि मैं मैके जाती हूँ तो हर मर्तबा मैके से बहुत सा सामान ले जाना पड़ता है। और हमारे बाप बिल्कुल बिक गये हमारी शादी में। मैंने उन से कहा, "तो फिर इस मुसीबत को याद रखना और अपने बेटे की शादी इस तरह से ना करना"। उन्होंने कहा, "हमारा बेटा बंगाल का बेटा है; वह मेरा कहना क्यों मानने लगा जिस वक्त शादी करेगा।" तो जनाब मेरा कहना है कि पहले इस चीज को आप कानून से खत्म कर दीजिये और तब हम सोशल वर्कर गांव-गांव फिर कर इस के खिलाफ प्रोपेगंडा करेंगे और कोशिश करेंगे कि किस तरह इस रस्म को खत्म

करना चाहिये । यह एक लानत है समाज के लिये । और मैं समझती हूँ कि इस से ज्यादा इस बारे में कहने की जरूरत नहीं ।

इस लकड़ों के साथ मैं इस बिल को सपोर्ट करती हूँ ।]

SHRI D. A. MIRZA (Madras): Mr. Deputy Chairman, much has been said about this Bill. The task of the hon. Law Minister is lessened. This Bill, if it is passed, is passed with the blessings of the whole Parliament—both Lok Sabha and Rajya Sabha. But there is one thing. I want an assurance from the Law Minister that this Bill, when it becomes law, will be well implemented. We are fighting against social evils. We are fighting against social customs that have outlived their usefulness and existence. This cursed system of dowry is as old as Manu himself. From the time of the Code of Manu up to this day, when a girl is born in a family she is considered a curse to the family.

SHRI A. K. SEN: No.

SHRI D. A. MIRZA: She has become a problem to the family. The Law Minister may say 'No'. God has placed him well in life. All those people who are living in misery know what a girl is to them. We ourselves are the law-makers. I do not want that, when this Bill is passed, it should be a dead letter on the Statute Book. Social reform cannot be brought about by means of legislation. I agree with those who have said that social reform cannot be brought about by legislation. But what I say is that there is legislation, there will be a sort of fear in the minds of those who want to continue that social system which has outlived its usefulness. If this Bill is passed, I am sure it will give great relief to those downtrodden and poor people. I have nothing to say about rich people. Let them observe this law more in breach than in its observance. We are not concerned with rich people. Let them go to the winds. But I am concerned with the middle-class people, the poor class people. I do not want that be-

cause of the marriage of his daughter the last drop of blood should be squeezed out of the bride's father. Some people said that mere passing of law is not going to do any good. I agree with them. Here, in Bihar the Anti-Dowry Bill was passed. In Andhra Pradesh, the Andhra Pradesh Dowry Prohibition Bill was passed in 1958. Now, they are put in cold storage, they are dead letters. Nobody attaches any importance to them. I want an assurance from the Law Minister that if this Bill is passed into law, it will be well implemented. There was so much discussion on that issue. I myself fail to understand why this great delay is caused. Government must have come forward with this legislation earlier. Government must have done it in the last session itself, but better late than never.

Another thing is this. It is not a question of prestige of either the Rajya Sabha or the Lok Sabha. I appreciate the Members of the Lok Sabha for having inserted clauses 3 and 4. Any man who is responsible, any man who is a party to giving or taking dowry and any man who intervenes on behalf of the bride to bridegroom must be brought to book. He must be made to suffer. I want more drastic laws to be enforced, so that this evil could be weeded out, could be rooted out and could be eradicated completely. It was Churchill who said, better to have one law well observed, well honoured, well implemented than to have a bundle of laws, which are not observed or which are disobeyed. We have passed so many laws. We ourselves are the law-makers. We have passed the Food Adulteration Act. We have passed the Anti-Touchability Act. What is the position of those two Acts today? With regard to the Food Adulteration Act, let him come and see. In my house everything that is supplied to us is adulterated. He may not eat in my house, but what is it that is being done? Are we going to bring them to book? We have not done it. I do not want that this Bill, if passed

[Shri D. A. Mirza.] into law, should be a dead letter on the Statute Book.

The second point is that by means of this legislation we are not going to eradicate this evil. But I want every hon. Member to be true to his word. When a chance comes for their sons to be married, they must observe what all they have spoken. There is no use speaking of one thing and, after going from the House, acting in another manner. We must go from hamlet to hamlet and from city to city and see that this dowry system is completely wiped out. We must carry on a tirade and propaganda against the dowry system. In the villages you do not have so much of this dowry system. It is in the urban areas. It is in the cities. It is among the educated classes, especially among those boys who come out of the University as graduates joining the army of clerks. They come out and demand dowry from the poor girl's father. Fie upon those Universities which have produced those students. You have my complete sympathy for these two clauses that are inserted by the Lok Sabha. I support the insertion of the words "directly or indirectly" in clause 2. It is not a question of prestige. My submission to the Law Minister is this. Let there be a smooth sailing of the Bill. Let the Bill have the blessings of both Houses. For that I humbly submit to the Law Minister to see that a joint session of both Houses is held, because it is a Bill of vital importance. It is a Bill that is going to eradicate that evil, which has been a challenge to the womanhood, to the culture, to the noble heritage of India. I want some extraordinary thing to be done. Do not say that it will not help at all, because it is an extraordinary thing which we are going to do. So, I want an extraordinary thing to happen, that is, a joint sitting of both Houses of Parliament.

SHRI N. M. ANWAR (Madras): Mr. Deputy Chairman, it was really very

kind of the hon. Minister of Law to suggest, while furnishing clarification on the joint of order raised by Dr. Gour, when our good friend Shri Santhanam was speaking, that since the word "demand" has been inserted in clause 4, it allows him to go *over* the entire ground and take up the question of dowry even at this stage of discussion. Believe me, Sir, from the way these discussions have been taking place both in this House and in the other House, there can be no two opinions with regard to the condemnation of the dowry system. What I have been wondering right through as I was listening to the proceedings in this House is this: Is this the method by which we are going to put an end to this evil? Just a little while ago my good friend, Mr. Dawood Ali Mirza, with all his vehemence, was trying to say that this was going to be a dead letter. Quite so. I am rather thinking of how best we can act to see that we get over this evil.

There is one anecdote in my 3 P.M. experience which I wish

to bring to the notice of the House.

A few years ago there was a multi-millionaire staying with me as guest, and he received a communication from London saying that his son was getting married. I was rather amused as to how, when the father remained six thousand miles away, the son was getting married. I was very much amused over that question. When I asked him about it, my guest turned round and told me, "Mr. Anwar, how does that concern me or my wife if our son could get married? Well, that is a matter between him and his wife." This particular gentleman happened to be a Jew, a multi-millionaire, and if only he wanted, he could have afforded to spend several lakhs of rupees over that marriage. But I asked him what the matter was, whether it was a civil marriage. He said "no". After all that son was to appear before the synagogue and had got to go through *the* rituals of a Jewish marriage. But then all that would be between the bride and the bridegroom, and it did not require the

attendance of even the parents on either side. When marriage has been simplified in such advanced societies. I wonder whether we could by any test of civilisation call ourselves advanced when we have got such a cruel system where we have got to purchase the bridegrooms and where we have got to make them accept our girls under terms which are so be-meaning, *infra dig* of every man of self-respect.

References were being made and rightly to the problems affecting the womanhood of India. Believe me, Mr. Deputy Chairman, it is the father of the bride who has got to foot the Bill, who has to bear the responsibility for this colossal wastage of dowry. After all, when I have been going through many countries, I have nowhere come across this kind of wasteful expenditure in the name of marriage, such paraphernalia which out of considerations of false prestige we try to display in this country, in this part of the world. Maybe it is a question of degree, it may differ between community and community, between caste and caste, between region and region. Nevertheless we know that in this part of the country where we claim the heritage of several thousands of years, we are displaying, demonstrating the most wicked system of purchasing the bridegroom and trying to impose terrible inflictions upon the bride and her party. Believe me, Mr. Deputy Chairman, in my part of the country and particularly in the community to which I belong—and I should say that also in respect of many other communities in that part of our country—it is considered *infra dig*, in fact one should consider oneself to be sinking into the abysmal depth of infamy to purchase a bridegroom for his daughter. It is the bridegroom that has got to make the initial advance and it is for the father of the bride to say "yes" or "no" to the proposal. But as I was listening to the discussions I was amazed, sometimes stupefied, to hear how efforts are being made in the market of marriage on account of the laws of

supply and demand to secure bridegrooms by giving them as high a premium as possible. It is something which is quite a disease and the remedy that is being suggested here is much worse than the disease. This legislation, as one hon. Member has rightly said and as many others have rightly echoed, is going to remain quite a pious resolution, a dead letter, but it may at the same time be giving enormous scope for blackmail for people who through human ingenuity can explore ways and means to circumvent the ends of all legislation. It is going to be a lawyers' paradise, because in that most delicate relationship that brings man and woman together as husband and wife I wonder whether litigation is going to help matters to cement the bonds of love. I am sure there are so many delicate considerations, as my good and learned friend, Mr. Santhanam, has so ably brought to light. Nobody, particularly on the side of the bride, is going to come forward to launch a prosecution and undertake litigation in order that some damage should be done to the other side. After all who is going to suffer by all that? It is the bride and the parties that belong to the bride that will suffer the most terrible penalties for undertaking such litigation.

Sir, it is well known that the proposals that are being made to bring about a marriage are carried on in the most delicate manner. It is considered as a matter of honour, it is a matter of *izzat*, it is a matter of prestige particularly for the middle class family. I am not speaking of the lower middle classes or even of the poorer classes because with them the marriage has become a simple ceremony, and I am very happy that it is a simple ceremony, and it is as it should be. Particularly in the State of Madras from where I come, we have got today a practice, which is gathering momentum, of community marriages, of marriages being organised in the temple. Several hundreds of couples are brought together and their marriage ceremony

[Shri N. M. Anwar.]

performed by spending a couple of rupees which will be paid out to the priest. That is a thing done by the force of circumstances, by considerations of our rural economy. Now it is spreading like wild fire all over the State of Madras. So the problem is not going to be so terrible for the poorer classes. As for the rich people, as you know, Sir, much better than I do, it is these rich people who exhibit their riches and all their other paraphernalia in a marriage ceremony, all the blackmarket accumulations which they have gathered. These rich people do not feel at all this colossal waste which we have got to condemn. But it is actually the people who stand in between these two classes of society, the middle class, the intelligentsia which seems to pay the penalty for the evil of this dowry system. In order to preserve our *xzzat*, in order to put up a display of our personal vanity in the councils of the village community, we try to spend far beyond our means, we try to hypothecate our resources in order to conduct a marriage befitting our traditions. It is that thing which has brought about terrible inflictions upon our middle class society all over the country. But what is the remedy for it? I am sure it is not this legislation which is going to be the remedy for it. I do not think that considera-tion< of prestige should come in for which we must have to ask for a joint session, and I do not think that that is going to arouse public opinion all over the country. Well, Sir, if the law demands that a joint session will have to be held, we will go for the joint session, and even there I am sure that Members belonging to both Houses will try to evolve ways and means of a happy compromise to see that this legislation 'goes on the Statute Book as soon as possible and as amicably as possible. But the real remedy is the moral sanction—that we have got to see—and if that purpose could be served by this legislation, I think that would be a great victory for the social

reformers. What is the moral sanction that we have to look for? Why is it, Mr. Deputy Chairman, that people flock to these marriage ceremonies which are being performed with such colossal wastage? If only the conscience of the society can be aroused against this colossal wastage, that will have the desired effect. The community should have to resort to ways and means of social ostracism and the parties to this kind of matrimonial alliance should be put to condemnation before the community. And for Lhat I think the hon. the lady Members here, who have been so enthusiastic and who have still got with them that glow that was there in their struggle for freedom, can do a lot. Let them try to forge the weapon; let them carry on propaganda all over the country and arouse public opinion against this prevailing evil, and if only there will be such a move—I am sure it can be done—I will also be one with the hon. lady Members in this House and also with the members of the All-India Women's Council in this. Let them agitate from village to village, from hamlet to hamlet, from city to city. The people should be aroused to such a pitch that they look down upon these millionaires who bring about these matrimonial wastages as social lepers and that will happen if only the moral conscience of the society can be aroused against this evil of dowry. After all human ingenuity for what we know, can invent ways and means to get at the subterfuges that are at work to undermine the law. At least in the villages the village community, compact as it is, does come across the marriage negotiations and attends the marriages, and they do know how far this wastage has bannered, what dowry has passed between the parties, what colossal wastage has orci iTed \r\ Hie village in the name of thpse marr'afes. and if ?noh r>ponle cou'd avoid attending such marriaees. if only such nporiie would deerme +o resnond to such invitations extended to them, if such peop^le, the lead^s of the village community can mobilise this social conscience against the evil,

I am sure that will go a long way in arresting the evil, and if people come to know that the society does not tolerate this colossal wastage and that in the context of our ideal of a socialistic pattern of society the display of all this paraphernalia deos contribute to more and more of ridicule from society and that those who are indulging in all this display are becoming the victims of ostracism. In that case I am sure, Sir, that even the mightiest multi-millionaire dare not have the courage to arrange marriages involving fabulous sums of money against "the teeth of opposition from society. Such a tremendous public opinion can be exercised against them. I think we have got more and more to see that the people that try to give sanctions for this legislation should undertake a countrywide agitation against this evil and try to enthuse them, try to produce a saga of sacrifice in this half also in this country, and probably such of those Members as will do so—I am not saying this with any sinister motive—will be returned to Parliament with greater glories when their next general elections come, if only people get to know that they have got men and women in Parliament who are prepared to fight all evils, who are prepared to do everything in their power in order that such social reforms take place in this country. That is the most appropriate way and I hope, Sir, in that spirit we all will try to see, whether in this House or in the Joint Session, that before this legislation goes on the statute book, that we have aroused the conscience of our womanhood and also manhood in this country.

DR. A. STJBBA RAO (Kerala): Even after hearing his eloquent speech I could not make out his stand on the amendments that are before us.

SHRI J. H. JOSHI (Gujarat): Mr. Deputy Chairman, Sir, we are discussing this Dowry Prohibition Bill for the last two days. We have discussed it before, and now this House has received this Bill again as the other House has not agreed to the amendments made by this House.

But both Houses are agreed on one point, that this dowry system is a very evil system and that it eats away the moral fibre of the society and it ruins many young men and women in the country.

Now, Sir, there is a divergence of opinion as regards certain amendments; I may take some of them. Sir, I have referred to about ten books for finding out the true definition of "dowry". I have referred to some dictionaries, some encyclopaedia, some other books of reference and some books on legal terms, and the only definition that I have found is that dowry means the property which a bridegroom passes to the bride at the time of the marriage. That is the shortest definition. So far as that definition is concerned, that is covered by sub-clause 2(a) of the Bill. Now so far as sub-clause 2(b) is concerned, I may read it out:

"In this Act, "dowry" means any property or valuable security given or agreed to be given, either directly or indirectly by the parents of either party to a marriage or by any other person, to either party to the marriage or to any other person."

Now, Sir, nowhere in the dictionary have I found this part of the definition, but it is easy to understand that this part has been covered by this definition because this evil system of dowry has been so rampant in the country in all castes and communities. Nowhere in other parts has there been such an evil custom. Now if we read this definition along with clause 3. I think it will go against the accepted definition all over the world. I may now read out clause S:

"If any person, after the commencement of this Act, gives or takes or abets the giving or taking of dowry, he shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five thousand rupees, or with both."

It means that if a bridegroom gives some property to the bride at the time

[Shri J. H. Joshi.] of the marriage, he also, under clause 3, shall be punishable with imprisonment, or if a bride gives some presents to the bridegroom at the time of the marriage, she also will be penalised. That is what I understand from the words of the definition read with clause 3. I would like the hon. the Law Minister to give a clarification on this point.

Now, Sir, I may say a few words about the Explanation I in clause 2. This is what it says:

"For the removal of doubts, it is hereby declared that any presents made at the time of a marriage to either party to the marriage in the form of cash, ornaments, clothes or other articles, shall not be deemed to be dowry within the meaning of this section, unless they are made as consideration for the marriage of the said parties."

Now this Explanation has been added in the form of an amendment made by the Lok Sabha. I personally feel that it is necessary in order to clear the doubts. The presents, cash or ornaments, are generally given by the two parties at the time of the marriage— one, the parents of the bride or the bridegroom, and two, the others, the relatives. Now let us take the case of the parents. When a girl is to be married, she has to leave the house wherein she was born and brought up for, say, 15 or 20 years. She is leaving that house permanently for another house and thereafter, when she is to come back, she will come back as a guest. Now, Sir, out of filial love and affection the father and the mother give some property. It is inherent in every human being to give that property when the daughter is to leave that house. Now is it the intention of this House that such a type of property should not be given to the girl when she is to leave permanently? Suppose a father has some property worth a lakh of rupees and if he spends Rs. 2,000 over illuminations at the time of the marriage,

Rs. 2,000 over dinner parties, etc., and gives some property in the form of cash or ornaments or clothes to his daughter, is he to be penalised? Is it the intention of this Legislature to penalise such a man? I very much doubt it.

Then, Sir, certain presents are being given by the relatives. It is customary and it is mutual also. If X receives some presents from, say, Y, then when there is some sacred occasion at the place of Y, Y receives presents from X. Now these presents may be small or big, depending upon the financial conditions of the parties concerned. When this House considers the question of prohibiting dowry, to my mind, Sir, there must be a factor or an element of coercion, of compulsion, of blackmailing or of an attitude of extortion by one party to the other. If there is no compulsion, if there is no attitude of extortion, I think it would not be proper to penalise the parties concerned, and if such a type of legislation were to be enacted, it would not be enforceable and if any Act cannot be enforced, it gives much ground for mockery. Therefore, Sir, legislation must be in order to help those who deserve that help. It must be framed in such a way that it must be simple, it must be understandable by the parties, it should not create complicated cases and it should pave the way for simplification of the judiciary.

Sir, with regard to presents to be given by the relatives, I may read out a passage from a book. Its name is 'Justice at Work'—page 179. It refers to one of the English cases. It says:

"A young wife recently claimed from her husband the return of certain wedding presents given by her relatives."

That shows that it is a custom to give presents even in the English society—

"Now the question that the county court had to answer was: Did they belong to her alone or to her and

her husband jointly? The learned Judge who was well known for his robust commonsense, without wasting time over argumentative details, declared that wedding presents did not necessarily become the joint property of the husband and the wife. Wedding presents would usually be given to a relative, not to the stranger who is marrying the relative. So, the wife in this case was entitled to them."

In the Hindu Law also, Sir, there is one term *stridhan*. Now whatever is given to the bride either by the parents or the husband or the relatives, becomes *stridhan*. It means the exclusive property of the wife and even the courts cannot lay their hands on it. That is a sacred thing. Now suppose such a type of property were passed to the bride at the time of her marriage, can this House penalise the person who gives that property? Is that the intention of this law? I very much doubt. Sir. The Law Minister may kindly throw some light on this point.

Then, Sir, there is another point. In clause 2, line 15, the words given are:

"at or before or after the marriage as consideration for the marriage of the said parties . . ."

Now there are certain communities and castes in which before the marriage takes place, there is that stage of betrothal, which sometimes takes place very early. Suppose a person chooses a young intelligent boy from a school, then solemnise betrothal of his daughter with him, then sends him to college and defrays the expenditure for five years—tuition fees, boarding charges, etc.,—as the boy **may** not be in a position to defray those expenses. At the end of five years the marriage takes place. Now during all those five years suppose the would-be father-in-law has incurred the expenditure of Rs. 5,000. Should it be considered as part of dowry according to this Bill and should

that man be penalised? I think he has done a good social work. He found out a boy, financially poor but intelligent, and bore all the expenditure and then married his daughter to him. Now if we read this Bill and if this Bill is turned into a law and applied rigidly, I think that father-in-law should be penalised. So, I say that this problem of dowry is as complicated as the whole society of India itself. Such a complicated question, I do not think, can be solved by these 1 or 2 or 3 paged enactment. Kalidas has said:

I am trying to cross the ocean with the help of a small raft. I think the problem is as intricate and as wide, the evil of this dowry custom is as rampant as the ocean itself and our attempt will be futile.

Then there is a point on demands in clause 4. I think clause 4 should go. It will create unnecessary hardship to innocent persons. Demand in itself alone cannot be made a ground for prosecution. Demand can only be made the ground if it is accompanied by a loss to the other party, a substantial loss. It may be either financial loss or it may be a loss of prestige but unless there is such type of loss, there can be no ground for prosecution merely on the ground of demand. I would not like to dilate further. I thank you, Sir.

SHRI AKBAR ALI KHAN (Andhra Pradesh): Mr. Deputy Chairman, I was rather surprised to hear some of the very senior and prominent Members of this august House at this late stage of the proceedings, questioning the very principles on which this enactment is based, or trying to emphasise the question of the difficulties at the stage of implementation or enforcement. I think this august House and the other House have fully endorsed the principles on which this Bill is based. They have also, with full consciousness of the difficulties of its implementation and enforcement thought it fit, in their wisdom, to **har**

[Shri Akbar Ali Khan.] Such an enactment. There are only certain matters in which these two Houses have differed and the Bill has come again for the second time to this House for giving our definite opinion on those three points and to say whether we accept the further amendments of the Lok Sabha or we, after further consideration and after giving due weight to the suggestions and to the speeches in the other House, adhere still to our own opinion. That is the only point for this House to determine at this stage of the Bill.

In the course of the debate certain questions have arisen. At least what I feel as a Member of this House and as a humble lawyer is this that this enactment applies to all castes, communities and religions. Let it be abundantly clear that so far as prohibition of dowry and its provisions are concerned, there is no exception for any community or caste or religion living in this great country. The exception that has been referred to regarding dower or *mahr*, which is for the protection of the girl in case of divorce in general, is entirely different. There has been some technical argument regarding prompt dower and deferred dower and customs, etc. This is not the stage for them and I would not go into it but I want to make it as clear as possible that dower has nothing to do with dowry and dowry has nothing to do with dower.

SHRI RAJENDRA PRATAP SINHA (Bihar): What is the difference between dower and dowry?

SHRI AKBAR ALI KHAN: Dowry is the consideration or the security of property that is demanded on the side of the bridegroom and which the parents of the bride are under social pressure forced to give. There may be cases where it is given out of free will. I understand that some of our Ministers have got only one or two daughters and if they give, there is no question about it. I do not think

this law is really directed towards such a situation.

SHRI JASWANT SINGH (Rajasthan): Wherefrom you have taken this definition of dowry that you have just now stated?

SHRI AKBAR ALI KHAN: That is accepted and it is given here also. This Bill is directed to remove the evil that is prevailing among the middle classes and the lower middle classes as also among certain sections of the poor classes where the bridegroom* demands certain things and the guardians or parents of the bride are forced to give willy-nilly and if they do not have money, they have to mortgage their property or sell their property and give the money. They have to undergo all sorts of difficulties in order to provide the dowry.

THE DEPUTY MINISTER OF EXTERNAL AFFAIRS (SHRIMATI LAKSHMI MENON): It happens among the richer classes also.

SHRI AKBAR ALI KHAN: At least the legislation is aimed at undoing this social evil.

SHRI A. K. SEN: May I say that the Muslim dower is quite a different thing. Certain questions have been raised about it. It is an obligation of the bridegroom. That is the greatest difference and the evil we are seeking to remove is not their evil. It is not their custom or law by which the bridegroom accepts an obligation in favour of the wife which forms a charge on his property.

SHRI AKBAR ALI KHAN: In order to clarify what the hon. Law Minister has said, I say that this is to discourage the wide discretion for divorce that is given under the Muslim Law and you will be surprised to know that, in my part of the country in the dower, apart from lakhs of rupees, also such things are put

meat. I know that in my own family it has been stated that 1 maund of oil of the mosquitoes should be there. How can you provide it? One hundred horses of Iraq, 200 camels of Baghdad, etc., are put in. The idea is to make divorce more or less impossible. So that is entirely a different thing. That has been introduced in view of social customs of this country. My Mend mentioned about Saudi Arabia. It is not so there. In India certain social customs have grown and so dowry has taken that shape and dowry has taken an equally bad shape in my part of the country where there have been very tragic cases because the parents could not provide it. So let us confine ourselves to these amendments which are there for our consideration.

SHRI J. S. BISHT: With due respect, Sir, I would say there is a difference without a distinction, because this very Bill provides that the other way round also is punishable. Where it is demanded by the bride also, it is punishable.

SHRI AKBAR ALI KHAN: I will try to convince my hon. friend, if I can, though I do not know if I can succeed. I may inform him that there are certain customs in Southern India where the bridegrooms have also to shell out the money.

SHRI J. S. BISHT: What is a dowry? It is the same thing.

SHRI AKBAR ALI KHAN: No, it is not and that is what I say. It is not done for the sake of shelling out the money, but in 99 cases out of a 100 or even more it is deferred and. . .

SHRI J. S. BISHT: We can also invent arguments to justify that.

SHRI AKBAR ALI KHAN: If my hon. friend is not prepared to be convinced, I will give it up. I am only giving him the legal position, the factual position. The factual position is

that it is done in order to help the girl, in order to save her from thoughtless divorces. That is the position. So far as this dowry is concerned, this evil has crept into all religions and in my part of the country, Muslims are suffering from this evil as much as the sister community. So my point is that this Bill is applicable to all and it will have to be enforced against all those who commit a breach against the provisions of this Bill when it assumes the form of an enactment.

As regards the points, one regarding the terms "directly or indirectly" and the other the Explanation, I may submit that after very careful consideration, this House had to decide between two extreme*. One feeling was like this. Why should we have this Bill and this measure to control social conditions which in fact, is a very difficult thing to do in practice, something very difficult to enforce and implement? The other side felt we should not create a situation which would lead to harassment even in the case of innocent persons. It is with this idea that we tightened up the thing and put in the terms "directly or indirectly" and also the Explanation. And then we deleted clause 4, because we did not want that the demanding of dowry should become the subject of conviction and harassment. It is not as if this House in a light-hearted way accepted some and rejected some other suggestions. Even at this stage and with due regard for the opinion of the Lok Sabha, I submit that the consensus of opinion is that whatever was done by this House was done after full consideration and we have not done it in a haphazard way and I maintain that whatever amendments have been made by this House were made with full deliberation and justification, in view of the peculiar and delicate nature of this enactment. So I feel that this House is perfectly within its bounds when it says that we have given our considered judgment before and we should stick to it and I would also, Sir, support that attitude of the House.

SHRI N. R. MALKANI (Nominated): Sir, the Bill, in a way, is a small one, consisting of only two pages, though it has taken so many days. It has also, to my mind, a limited scope which we should not forget. It applies to the middle class, not even to the upper middle class, much less to the rich class which is above laws always and in all countries, and not even to the poor class where the thing is the other way about for the dowry is taken by the daughter. It applies only to the lower middle class and the middle class which are interlinked and inter-connected. If they were not inter-connected, then the evil would really have been confined only to the lower middle class to which more or less a person like myself belongs. So, it is a limited thing. But everybody agrees that this dowry is itself an evil. It is eating into the vitals of the middle middle class and the lower middle class. We are all of the opinion that it is an evil and it has to be dealt with. We have realised after discussions that it is an evil which cannot be tackled only by law. Or perhaps law is the last item, is the last element which can cure it. It is only one of the minor elements which can cure it. It is a socio-economic and religious question. It is a very complicated question. We do not know how to get rid of this evil. We simply do not know, though we want to throw out this evil. We want to resist it, but we are helpless. We have not developed the necessary will, because it has to be attacked from all sides. Sir, if I may say so without injuring the feelings of hon. women Members, who are more deadly against this custom than anybody else, that they have not done their duty as they might have done. They are educated, but the more educated, the more helpless they seem to be. The more educated, the less self-respect they have developed. If they had developed their sense of self-respect more keenly, they might have put in, to my mind, a more effective resistance than they have done up till now.

SHRI N. M. LINGAM (Madras): There is not one lady Member just now in the House.

SHRIMATI T. NALLAMUTHU RAMAMURTI (Madras): How?

SHRI N. M. LINGAM: I am sorry.

SHRI N. R. MALKANI: Well, well, I know I will get it hot later on probably. Well, Sir, I have found it in my community—which has suffered from this evil more than any other—that it is the very highly educated woman who goes in for the highest-dowry and allows parents to be exploited and . . . ■

SHRIMATI T. NALLAMUTHU RAMAMURTI: What about the highly educated man?

SHRI N. R. MALKANI: I could not hear.

SHRIMATI T. NALLAMUTHU RAMAMURTI: Do not particularise sorry women. Men are also to blame. I am sorry the hon. Member cannot hear.

SHRI N. R. MALKANI: Still I could not catch. But we will have it discussed in the lobby. Sir, my objection is this. This Bill makes certain omissions, that we have not put in certain things in it which would make it fairly effective. As it is, it is not effective. May I also, without offence to the hon. the Law Minister, say that he or his Ministry, to a great extent, is responsible for this? I was on the Select Committee and the Deputy Minister was there hardly guiding us or nominally guiding us. We made some important changes there, vital changes in the Bill, and he acquiesced in them. He almost surrendered quietly. They put in a provision about punishment i.e. imposing fine and imprisonment. He quietly acquiesced in it. I consider it as an impossible amendment, to put in imprisonment plus fine, fine plus imprisonment, for

such an offence. But he never said a word of dissent. He never warned us of what we were about. It seemed as if he did one thing or agreed to another thing almost in a fit of forgetfulness. There was a target fixed at Rs. 2,000, and it was said that dowry should not exceed Rs. 2,000. The discussion was almost all the time whether it should be Rs. 1,000 or Rs. 1,500 or Rs. 2,000. It went on for about an hour and suddenly the Lady Chairman said, "Dowry in itself is an evil and so not even a rupee should be there. So delete it. We do not want dowry even up to Rs. 2,000." So the argument went on that there was to be no dowry, but a zero would be better than any dowry. To my mind, Sir, it was a very vital change. The argument advanced today is that if we had put in Rs. 2,000, this Rs. 2,000 would have been perpetuated, fixed. I do not think so, Sir. I may say, in my community Rs. 2,000 may be considered almost nothing, but maybe, in Kerala it may be too high and they may fix it at Rs. 1,000 and in some other place it may be Rs. 1,500, say, in Bengal. So make the target flexible. But some figure should be put in there, to indicate that it is an evil and so, so far and no more should be paid. Sir, in my community there were a number of *panchayats* and each *panchayat* was effective and each said, "So much in cash, so much of gold, so many clothes, and no more." It varied from *panchayat* to *panchayat*, and it worked very effectively. But today the deluge has come and they have removed even this Rs. 2,000 and the result would be not Rs. 3,000 or Rs. 4,000 but the Rs. 2,000 would try to become Rs. 3,000, the Rs. 3,000 would try to become Rs. 4,000 and the Rs. 4,000 would try to become Rs. 3,000 and so on. If you had put in a figure like Rs. 2,000, a man like me would have said, "Well, I must be careful about it. The law says not more than Rs. 2,000 and so I must not spend more."

There is no time, otherwise I would have narrated to you two very

entertaining incidents in my life. I had two daughters and how I married them without dowry is a very interesting story. When I married my eldest daughter, I got a letter from Gandhiji—and that letter is now my precious possession—wherein he wrote to me, giving me a rebuke in a bantering tone. I had spent Rs. 600 over my daughter's marriage, but he went on to say, "You are, of course, a member of the Sindhi community, a Hindu Amil, I know. So Rs. 600 is nothing for you. But we, the modern people of this age in the Ashram, consider one rupee also a little too much." I had my own target. I had my target and that was considered by Gandhiji to be excessive. In my community it was something trivial. In my community, it is considered something trivial but a target is necessary but you have removed that target. There is another thing that I do not find in the Bill. I wish the Bill would be revised by the Law Ministry again. You have put the giver and the taker on an equal basis. I do not see why this has been done. At the time of the marriage of my second daughter a crisis came into my family. She was 30 and she had to be married. I went to Gandhiji and said, "What shall I do? Shall I sell my house and give her the dowry or shall I leave her unmarried?" The reply given was, "Do not attend her marriage—there was an Act of this kind—or give up the Congress. As a Congressman you have to maintain a very high standard of morality and code of conduct. If you wish to do so, then give up the Congress. You can remain with me as my son but give up every position in the Congress." Of course, I had to sell the house but fortunately my daughter got married without the giving of a single pie as dowry due to Gandhiji's blessings or whatever it was. These things do happen. I was all along struggling, "To pay or not to pay and how much". I was even obliged to sell my house. Would you call me a culprit, a criminal while all the time I was struggling not to pay any dowry?

Event

[Shri N. R. Malkani.]

as a young man I used to lead processions with a bell in hand in front of the bridegrooms' houses and say that no dowry should be taken. As I said, I was struggling all the time and yet I was being forced to pay by society. I was not able to resist the force of society. Would you put me in the same place along with the man who extorts dowry from me? I rather think that there should be a differentiation, a certain discrimination.

One word more and I have done. I rather think that the law is not enough. Public opinion counts very much more and public opinion today is more aroused and more conscious than it was ever before. Allow the law to make the public opinion still more conscious. In my community, as in every other community, there are many registered social organisations. If you allow these registered social organisations to uphold the law, your law would be more effective. Why can't a society write to a magistrate—you can say, what type of a magistrate—and say, "Will you kindly ask Prof. Malkani to give a statement saying as to how much he spent on his daughter's marriage?" The statement should then be forthcoming but no prosecution should follow, no punishment should follow but the statement should be given publicity. If I say that I have spent only Rs. 2,000 when I have spent Rs. 10,000 the whole of the community—and my friends, those who respect me—will call me a slanderer, a liar. They will say, "You liar, you spent Rs. 10,000 and you say that you spent only Rs. 2,000." Such an opinion should be created and the social organisations that are already there should have their hands strengthened. Take another point. We know that the punishment given generally is a very small fine. Do you think that anybody would be sent to jail on account of this "crime"? Have you ever done it in Andhra or anywhere? Have you done it in Sind? There is no ques-

tion of that. Rather why can't you say that the man who has taken a dowry of, say, Rs. 10,000 will be fined Rs. 30,000 or Rs. 40,000 and given no imprisonment? The man must be met on his own level of greed. Extort from him thrice or four times the money that he has taken as dowry rather than talk of the punishment of imprisonment mentioned here which means nothing. It is a farce. Even the persons who prosecute will see to it that nobody goes to jail. They will rather protect him; they will defend him. What is the fun, therefore, in putting "or imprisonment" in the law? It is the Law Ministry which has been very weak all along the line. I think you have not shown us your hand; you have not clearly defined, "Thus far and no further". Finally, I say that our Rajya Sabha amendments are right not because they are ours and I agree with what Dr. Kunzru said about them. I do not want to repeat all that again.

Take this provision which talks of "demanding" a dowry. It says that whoever demands a dowry commits an offence but everybody in fact demands. Every person who marries his daughter knows that there is a demand, it may be tacit, it may be suppressed but it is there and there is a demand always. But how can you prove this? It is absurd on the face of it to make mere demand punishable. Sir, take courage in both hands, withdraw this Bill and give us a much better and more effective Bill than the one you have put before us. This Bill has set the two Houses at loggerheads and we are quarrelling. We need not have quarrelled if you had given proper and firm guidance at the proper time. You have not done so and I am extremely sorry for the situation in which we find ourselves and for which you are responsible. Kindly withdraw this Bill and give us a much better and a more sensible Bill.

SHRI A. K. SEN: Mr. Deputy Chairman, it is a truism to say that this Bill, ever since the very beginning, has

been discussed threadbare twice in this House and twice in the Lok Sabha. There is hardly anything more that one can say about it excepting to give expression to different points of view vigorously when there is no whip. The last speech of Prof. Malkani focusses very clearly how completely different points of view may exist with regard to a matter which is regarded by all and sundry as an evil. I wish I had the omnipotence that Prof. Malkani attributes to me but, I am afraid that none of us possesses that, not even the Prime Minister. The type of Bill that we are anticipating giving provisions which according to him would have been a healthy one would have at once encountered vigorous opposition from Dr. Seeta Parmanand who would have thought that it was completely sacrilegious to have dealt dowry in such a manner and to recognise even one rupee of dowry as legal. I remember the indignant speeches which we heard. I do not agree with Prof. Malkani, with due respect to him, that there was any confusion; on the contrary, far from there being any confusion, there was complete clarity of thought excepting that one clear thought clashed with another as a result of which we have had different points of view vigorously canvassed here and also "in the Lok Sabha. As I said, we shall have the same spectacle on almost every controversial measure, though the present measure is not a controversial measure at all, if there was no whip. I was thinking all the time as to why it was that the whip was originally invented. I had read, as a student, the history of the beginning of this system of whip in the Houses of Parliament, in England and how the party system as it developed brought into existence as a necessary mechanism this whip. Today we have all appreciated very clearly the necessity of the whip. It is true that human minds will differ but in order to achieve a result, instead of allowing it to drift, be bandied about one way or the other, to be thrashed into some sort of a measure, one has to have recourse, after allowing free

discussion, to a measure which will possibly be accepted by the vast majority of representative opinion in the country. Nevertheless, hon. Members will remember that mainly on the insistence of the lady Members, Government thought it fit not to take recourse to the whip and they do not propose to do so even now.

SHRI J. S. BISHT: Even the whip is issued only at the instance of the party. It is issued as a result of party decision.

SHRI A. K. SEN: The party decided not to have a whip in the matter. I have no doubt that if Government wanted a whip, the party would have given a whip. After all, the party does support the Government, but what I said was that on such a matter it was thought advisable not to have a whip and to have the frankest expression of opinion on a matter of this nature. 4 P.M.

SHRI J. S. BISHT: We carried through the various parts of the Hindu Code without any whip.

SHRI A. K. SEN: I know; I wish we could do it here but the two Houses have set themselves opposed to each other and we do not know how to resolve it except by a joint sitting and the speeches here have not indicated any other possibility.

SHRI J. S. BISHT: Mr. Malkani has shown the way.

SHRI A. K. SEN: If Mr. Malkani could give me a majority in the House I would accept, his suggestion but I am afraid he would not be able to do so. What I say is, this really again shows how difficult it is to devise a measure designed to remedy an evil which cannot be remedied only by law. Every time we try to blame the law, we really beg the question—'Can law alone remedy social evils?' And one is given the age-old answer and that is 'No'. There are communities in.

[Shri A. K. Sen.] India where the dowry system is ostracised even though there is no law prohibiting it. Take the Brahmo Samaj in Bengal. A lot has been said about the dowry system existing in Bengal. In the Brahmo Samaj no parent dare ask for dowry because he will be ostracised and no one ever dreams of asking for dowry in the Brahmo Samaj. And yet it must be said to the credit of parents that daughters have been treated fairly in the matter of distribution of property. Just as we have criticised the bridegroom's father or guardian for ■demanding monetary consideration for the marriage of his son, we should also at the same time think with dismay, and rather shame, of so many cases, thousands of cases, where wealthy parents have just married their daughters and not provided for anything excepting the dowry which has been extracted from them. I have seen so many cases, thousands of cases, where the entire property has been given to the sons to the total exclusion of the daughters. How many of us could boldly say to ourselves or to the world that We have treated our daughters equally with the sons? If we have not, we have provided a potent cause for the demand for dowry. But if the society had not treated daughters adversely and unfairly, I do not think this system of dowry would have over arisen as the daughters would have brought with them equal property as the sons as the law now allows them in a *dayabhaga* family and allows them to a large extent in a *mitakshara* family also. If the fathers had not thought of excluding their daughters by will from succession we would have provided a good ground for condemning outright and for preventing outright any person taking anything as dowry but even today notwithstanding the Hindu Succession Act how many fathers go to their solicitors or their lawyers for the drafting of a will which would successfully weed out daughters from ;«uccession? We all know that. The

explanation given is, 'well, the property cannot be enjoyed by stran. gers.' That is how we have treated our daughters and we continue to treat our daughters like that notwithstanding a vital change in the law which Parliament has brought about years ago. Rightly enough hon. Members have pointed out—I think Mr. ' Sinha also said it—how notwithstanding the Hindu Succession Act daughters are still deprived of a share of the father's property by the act of their own fathers. That is the tragedy of it. I was rather shocked when one hon. Member behind me said that even today there are many families where the birth of a daughter is regarded as a curse. It is a shock to the mind of any father who has the good fortune of having a daughter born to him. I happen to be one who is proud of being the father of a daughter and it is really extremely painful and agonising to hear that there may be cases in our country even today where the birth of a daughter would be regarded as a curse. If it does exist—and I have no doubt it does—in some parts or in stray eases, it condemns all that we have stood for and all that our civilisation has given us through the centuries. How can a piece of legislation cure this? Let us honestly ask ourselves without trying to find fault with the draftsman of the law or with those who have thought out certain water-tight or leak-proof provisions. How can such a state of affairs be remedied by a piece of law passed by Parliament where the father himself disinherits his daughter notwithstanding the law giving the daughter an equal share, where the father regards it as a curse to be blessed with the birth of a daughter? The only way you can change it is to follow the great lessons of those who have built up this country and its great traditions including the great leader whose name has been quoted only a few moments ago by Prof. Malkani. If the teachings of these great teachers have not awakened us to those values of life which should be followed as eternal, and if we have not only not followed them

but have acted contrarywise, how can laws teach us to be more moral, to be more true to our traditions and to our civilisation or to the teachings of those great leaders whom we have the proud privilege to call our leaders? So we must again answer this question by reforming ourselves and our society. As many of the Lady Members have said here, instead of trying to express our indignation here we must build up a moral force in the country which will ostracise any person who either disinherits his daughter or who seeks to demand dowry on behalf of his son; both. We have, as Mr. Sinha pointed out, been compelled to grant the right to the father to disinherit the daughter by a will as he has undoubtedly the right to disinherit his son in a *milak-shara* family so far as self-acquired property is concerned and in a *daya-bhaga* family even as regards his ancestral property and yet we know that he never disinherits his son excepting in very very rare cases but always disinherits his daughter. Is it not an evil? Who is going to fight that?

SHRI N. R. MALKANI: And the daughter loves him much more than the son.

SHRI A. K. SEN: Well, I doubt it. They may love them equally. It does not matter whether the daughter loves them more or the son loves them more. No generalisation is possible. Well, among King Lear's daughters, possibly one daughter loved him, not the others. So these are festering sores in our society which have grown in dimensions through centuries of serfdom and slavery which have bred social evils everywhere. Our own moral outlook has become perverted and we lost our values as a result of which a man who got a good job under the British Government became the worthiest of bridegrooms and all the fathers ran after him. So many moral values we lost and acquired such values as appear to us even today as completely perverted,

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and even then we have not been able to get rid of them. I would not have said so much, because much of it looks like philosophy. Yet it is necessary to repeat these sometimes in order to focus the all-important truth, namely, that law cannot cure social evils. Apart from social evils, there are many other evils which law cannot cure. Years and years ago we made bribery penal, adulteration penal and yet have we been able to completely eradicate, or even eradicate substantially, the evil of adulteration or the evil of bribery? Why is it so, that no bribery or corruption exists worth the name in public life in a country like England and yet it exists elsewhere. I am not mentioning the countries. Yet the laws may be the same in both the countries. The reason is in one country the entire society would not tolerate one single instance of bribery or corruption or adulteration and yet in another country public opinion is very forgiving. That is the reason. Therefore, ultimately the success of enforceability of any social directive—which expressly forms what we call law—depends upon a robust social conscience which sanctions its enforceability. And if we pass a law without creating that social sanction behind it, we shall not create an enforceable law. Let that be quite clear. I do not have to say so. It is self-evident. No law can succeed unless we create the necessary social sanction behind it. For that purpose, as I said here and as I said in the Lok Sabha, I depend more on clause 6 of this Bill than on the penal provisions. Clause 6 creates an interest in property which will possibly bring into existence that social understanding and atmosphere which will enable the daughters to go to courts of law to have their civil rights enforced. Once the entire amount paid as dowry becomes in law the property of the daughter-in-law, then immediately after the marriage I can conceive of hundreds of cases where the daughters-in-law would file suits for getting their property. And mind you, it is trust property. There will

[Shri A. K. Sen.]

be no limitation. At any time the daughter-in-law will be able to go to court and get the property back. Therefore, not only will this property be recoverable as trust property, but dealing with it contrary to the interests of the daughter would also amount to a breach of trust. Now, I depend upon this because it will be easier to enforce the Act, these civil rights than trying to think that the daughters-in-law would go to court to criminally prosecute their fathers-in-law. That does not mean that I am against making it penal. It only means that I am again cautioning the House about the practical side of this penal law. Placed as we are in a society, which has created certain social and personal relationships in the family and outside the family, it will be difficult to imagine that it will be a common phenomenon that daughters-in-law would rush to courts and file complaints against their fathers-in-law for having taken dowry. It is only when dowry is paid that it is an evil. It is only paid when the marriage is celebrated, not otherwise. Once the marriage is celebrated, it is hardly possible to think that those who have been bound by relations of marriage would fall out so much that one would prosecute the other.' It does not happen. Pandit Kunzru has rightly said that we cannot possibly ignore the domestic set-up of our country and think that any one would try to disrupt the domestic set-up by taking recourse to the penal provisions of this Bill. Therefore, I again repeat that if we try to make an enforceable law, without the necessary social atmosphere—'Which if it were in existence would have made unnecessary the passing of any legislation—then we should rely more upon clause 6 than upon the penal provisions. I seem to think that the penal provision on the contrary might discourage even the seeking of a civil remedy by the enforcement of the rights conferred under clause 6. If the daughter-in-law thought that

going to court would expose the father-in-law to criminal prosecution, it might deter her from even going to a court to seek her civil rights. I understand the very natural enthusiasm and anxiety on the part of our hon. Members, especially our lady Members, in expressing the condemnation of this House and also of Parliament as a whole against this evil by making it penal and putting as rigorous a punishment as possible. I think one hon. Member said in his speech that he wanted a most drastic law, as if laws could cure all these evils. If that were so, then a Draconian code might as well have been introduced in this country. Hands could have been chopped off for 'heft and eyes could have been taken out for casting evil eyes on others. Unfortunately there are countries even now where hands are cut off for theft and eyes are taken out for other crimes, and yet crime exists in those countries. The whole history of criminal law and the whole philosophy of crime and punishment has taught us otherwise, that a Draconian code does not cure crimes. On the contrary it breeds worse criminals. How many of us still remember the tragic lesson we learnt by reading that famous book "Les Miserables" by Victor Hugo, where a man turned into a criminal for his life, just because he stole a loaf of bread when he was hungry and a society which could not give him food sent him to the gaol for 19 long years. That only expressed the indignation of the honest men of the 19th century against the barbarous form of punishment which was regarded as the only palliative against crime. We have left that system far behind and we do not believe any longer that crime or the motives which create crimes can be combated by a Draconian code. It is only by creating a proper society, by giving satisfaction to the basic urges of the human mind, by satisfying the basic needs of our lives and by catering to those values which build up a healthy society that we can fight crimes, and

not otherwise. The same lesson ought to be applied in this case too.

Now, what has been said by Begum Kidwai is a very pertinent matter. She rightly pointed out that in our indignation against the vice, which we are trying to fight, namely a vice which seeks to extract dowry at the point of the bayonet from a distressed father, let us not condemn those beautiful gifts which flow from paternal love and bless the daughter. How can you possibly prevent the father or the mother from giving gifts to the daughter either at the time of the marriage or after the marriage, so long as it is not tainted with any compulsion?

As I said, it is all the more necessary in a society where the natural inclination is to disinherit the daughter, where the daughter is prevented from sharing the ancestral property or even the self-acquired property of the father . . .

DR. SHRIMATI SEETA PARMA-NAND: In the same way gifts to the son are given on his marriage. If not, they give to the daughter when she has no share in the property. But when she has an equal share in the property, gifts to that extent as is now the custom will not be given by the parents.

SHRI A. K. SEN: As I said, gifts must be allowed.

DR. SHRIMATI SEETA PARMA-NAND: They could be allowed, but it may not become a pretext for dowry in future . . .

SHRI D. A. MIRZA: It may be allowed to a limited extent.

SHRI A. K. SEN: As I have said, we have allowed a daughter to share in the property of the father, and yet I find every solicitor's office is crowded with briefs for drawing up wills by which daughters are going to be disinherited. I as a lawyer can say that. Why is it so? That is why

I say that in a society where the natural inclination is to bar the daughter from any participation in the property of the family, a gift by the father if not tainted with the immorality or vice of a dowry should not only be not prohibited but encouraged for the benefit of the daughter if not for anyone else, and I for one would be loath to" condemn it, and we cannot because it cannot in law be prohibited. We have not the power to prohibit a father from disposing of his property by way of a pure gift to his daughter. It will be an unreasonable restriction on the right to dispose of one's property and it will be condemned by any court. Therefore the whole question is, we are all agreed that the vice is a vice of being made to part with property in consideration of marriage under compulsion, and it is that vice that we must tackle. Naturally such a measure is fraught with difficulty when we come to the question of enforcement and, as I said, I repeat again that no law will be enforced unless the society is willing to enforce it, and our duty will be to carry on a tearing campaign throughout the length and breadth of this country year in and year out after this Bill is made into an Act.

Now, Sir, I do not agree with Dr. Kunzru and Rajkumari Amrit Kaur that this Bill should be dropped because the two Houses have disagreed. As one hon. Member has rightly pointed out, so far as the principle of the Bill is concerned there has been an agreement. It is only with regard to the question of translating that principle into words that this disagreement has arisen. As to what appropriate words should be used to express that indignation, that condemnation against the practice of dowry has been really the bone of contention, and I am not at all unhappy that it has led to the possibility of having a joint sitting of the two Houses. In fact I do not agree, as one hon. Member has pointed out, that it is an extraordinary possibility. It is constitutional possibility well envisaged that when the two Houses disagree

[Shri A. K. Sen.] on a particular matter, there would be a joint sitting. There is nothing extraordinary about it. That is the only way by which the two Houses can sit together and formulate a measure, and there is no reason why the Bill should be dropped. I strongly refute any suggestion that the Government is proceeding with this Bill only to gain the credit of putting through a social measure. I do not think that this tiny little credit is a mighty matter for the Government to be anxious about because after all when all things are considered, I think the Government can claim many more credits than this tiny measure. Both the Houses feel that the voice of the thinking public which is certainly against this practice of dowry must be expressed in the form of law. As to how best we can express ourselves we shall see. We have differed and there is nothing wrong in it. We have differed in many many cases. It is no reflection either on this House or on the other, and I do not think any disagreement has arisen as a result of one House thinking that it can just stand up and defy the other. I think there has been a genuine disagreement on a matter of method though there has been no difference on the principle itself. As I said on the last occasion, personally speaking I am not in favour of clause 4. By making the law more and more rigorous it will not achieve the purpose. On the contrary we defeat the very possibility of enforcing the law and bringing into operation any litigation in enforcement of the rights conferred by clause 6. If a mere demand for dowry without the demand resulting in actual giving or taking was made punishable, apart from the question of the difficulty of proving such a case I have no doubt that our courts will be flooded with hundreds of harassing complaints, knowing as we do the party feuds and factions which animate our people in the villages and in the countryside, and our courts of law would be flooded and their normal work would be disrupted because a marriage takes place

every day, hundreds every year, and private disputes would be expressed through these complaints. I personally do not think that it will serve the purpose we have in view. On the contrary it will make itself so unpopular that it will frustrate the object which we have in view, and I think that the Rajya Sabha is right in rejecting that provision, as I told the Lok Sabha too. Yet the Lok Sabha in their anxiety to penalise everything which smells of a dowry want that provision. It is one thing to make such a provision and it is another thing to carry it into effect. We must

^ not lose sight of the one and con-
/ centrate on the other.

Sir, these are the points which arise for our consideration. The House will vote as it likes. As far as we can see, Sir, we all know what the result of the voting is going to be like.

SHRI D. A. MIRZA: Sir, on a point of clarification. I want to know from the Law Minister whether, as far as the gifts are concerned, he is going to put any ceiling.

SHRI A. K. SEN: As I have said originally, whether the explanation remains or not, we cannot penalise genuine gifts, because to do so would be to impose an unreasonable restriction on the right of a man to deal with his property. How can I be deprived of giving some of my property to my daughter as a pure gift? So there is no question of putting a ceiling to a gift subject to what the Gift Tax Act lays down.

SHRI D. A. MIRZA: Then the very object for which this Bill is going to be passed is defeated. Supposing a father indirectly says that he is going to give a substantial amount as a gift to his daughter, does it not amount to dowry? It is a camouflage of a dowry.

SHRI A. K. SEN: The moment it is a camouflage it is a question of fact. All lawyers understand that. If it is

a camouflage, then it is not a gift any more. If it is proved so, then it will come within the mischief of the section. What we cannot do directly we cannot do indirectly. That is why I said that the insertion of the words "directly or indirectly", though it makes it clearer, would not make an improvement in the substance of the law, because it is a trite principle of law that what a man cannot do directly he cannot do indirectly. By camouflage he cannot achieve the same effect. When a man camouflages a gift, then what he means is that it is not a gift.

MR. DEPUTY CHAIRMAN: The question is that:

The following amendments made by the Rajya Sabha in the Dowry Prohibition Bill, 1959, which have not been agreed to by the Lok Sabha, namely: —

Clause 2

(1) "That at page 1, at the end of line 9, after the word 'given' the words 'either directly or indirectly' be inserted;"

(2) That at page 2, lines 1 to 6 be deleted;"

Clause 4

(3) "That at page 2, clause 4 be deleted;"

and the following amendments made by the Lok Sabha in that Bill, namely: —

Enacting Formula

(1) "That at page 1, line 1,— for Tenth Year* substitute 'Eleventh Year*';"

Clause 1

(2) "That at page 1, line 3,— for '1959' substitute '1960'"

be taken into consideration. The

motion was adopted.

SHRI RAJENDRA PRATAP SINHA: The amendments may be put to vote one by one, Sir.

MR. DEPUTY CHAIRMAN: Yes, the hon. the Law Minister will move them one by one.

SHRI A. K. SEN: Sir, I beg to move:

That the House does not insist on the following amendment: —

Clause 2

(1) "That at page 1, at the end of line 9, after the word 'given' the words 'either directly or in directly' be inserted."

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

MR. DEPUTY CHAIRMAN: The effect of this decision is that the Rajya Sabha insists on this amendment to which the Lok Sabha has disagreed.

SHRI A K. SEN: Sir, I beg to move:

That this House does not insist on the following amendment: —

Clause 2

(2) "That at page 2, lines 1 to 6 be deleted."

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

MR. DEPUTY CHAIRMAN: The effect of this decision is that the Rajya Sabha insists on this amendment to which the Lok Sabha has disagreed.

SHRI A. K. SEN: Sir, I beg to move: 1 SHRI A. K. SEN: Sir, I beg to move:

That this House does not insist on the following amendment:—

Clause 4

(3) "That at page 2, clause 4 be deleted."

The question was proposed.

DR. SHRIMATI SEETA PARMA-NAND: Sir, I would like to say a word on this. I would like just to draw the attention of the House before the Bill goes to joint sitting, that there is no point whatsoever in penalising a demand only when the demand is not going to materialise in the actual taking of the dowry, because taking dowry is penalised by clause 3, so that a demand need not be penalised at all. The object aimed at is served by clause 3. This is enough.

MR. DEPUTY CHAIRMAN: The question is:

That this House does not insist on the following amendment:—

Clause 4

(3) "That at page 2, clause 4 be deleted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The effect of this decision is that the Rajya Sabha insists on its own amendment to which the Lok Sabha has disagreed.

That the following amendment made by the Lok Sabha be agreed to:—

Clause 1

(2) "That at page 1, line 3,— for '1959' substitute '1960'."

The question was put and the motion was adopted.

SHRI A. K. SEN: Sir, I beg to move:

That the following amendment made by the Lok Sabha be agreed to:—

Enacting Formula

(1) "That at page 1, line 1,— for 'Tenth Year' substitute 'Eleventh Year'."

The question was put and the motion was adopted.

MR. DEPUTY CHAIRMAN: There is no other business. The House stands adjourned till 11 A.M. tomorrow.

The House then adjourned at forty minutes past four of the clock till eleven of the clock on Thursday, the 1st December, 1960.