

SHRI B. N. DATAR: Sir, I move:

"That the Bill be passed."

The question was put and the motion was adopted.

THE DOWRY PROHIBITION BILL, 1959

THE MINISTER OF LAW (SHRI A. K. SEN): Sir, I move:

"That the Bill to prohibit the giving or taking of dowry, as passed by the Lok Sabha, be taken into consideration."

Mr. Deputy Chairman, Sir, the Dowry Prohibition Bill, as passed by the Lok Sabha, is now before this House. There have been certain changes made in the Bill as reported by the Joint Select Committee. The House will remember that when the Bill was originally introduced, the definition of 'dowry' rather allowed dowries to the extent of Rs. 2,000. Hon. Members will be good enough to refer to the original Bill as was introduced in the Lok Sabha. Clause 2 of that reads as follows:

"2. In this Act, "dowry" means any property or valuable security given or agreed to be given to one party to a marriage or to any other person on behalf of such party by the other party to the marriage or by any other person on behalf of such other party either at the marriage or before or after the marriage, as consideration for the betrothal or marriage of the said parties, but does not include--

(i) dower or mahr in the case of persons to whom the Muslim Personal Law (SHARIAT) applies; or

(ii) any presents made at the time of the marriage to either party to the marriage in the form of ornaments, clothes and other articles not exceeding two thou-

sand rupees in value in the aggregate."

That means, even if dowry was given to the extent of Rs. 2,000, that was not hit by the Bill. The Select Committee introduced certain changes in this definition clause. If hon. Members would be good enough to see the Bill as amended by the Select Committee, they will see that the Select Committee inserted the words, in the second line of clause 2, 'whether directly or indirectly'. That was really introduced as if it were a 'catalexis' but what was originally provided did include anything which was given directly or indirectly but they took away the expression provided in the original clause allowing dowry to the extent of Rs. 2,000. They allowed the expression in favour of persons who were governed by the Muslim Personal Law as regards dower or mahr. When the Bill came up to the Lok Sabha, the further changes made were as follows: If the hon. Members would be good enough to refer to the final shape of the Bill as passed by the Lok Sabha, they will find that certain relevant changes have been introduced, namely, the definition now reads as follows:

"Dowry' means any property or valuable security given or agreed to be given--"

The words 'whether directly or indirectly' will be left out. I personally think that the omission is of little importance because when we say 'given or agreed to be given', it must be given or agreed to be given directly or indirectly . . .

SHRI BHUPESH GUPTA (West Bengal): Why don't you keep it then?

SHRI A. K. SEN: The Lok Sabha deleted it and I can assure the hon. Member that there was no party whip on this.

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Then it reads:

"(a) by one party to a marriage to the other party to the marriage; or

(b) 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."

This is a good change which the Government supported—or to any other person' because the previous clause even as it was shaped by the Select Committee might not have touched those dowries which were paid to some persons other than the parents of the spouses and that would have completely, if that had happened, frustrated the Act.

DR. SHRIMATI SEETA PARMANAND (Madhya Pradesh): That is why they added 'directly or indirectly'.

SHRI A. K. SEN: The words 'directly or indirectly' would not have covered this contingency because if the agreement is that X is to be paid Rs. 2,000 and X is neither the parent nor a relation of the bridegroom . . .

DR. SHRIMATI SEETA PARMANAND: 'Indirectly' would have covered it.

SHRI A. K. SEN: Not, unless this Rs. 2,000 was received on behalf of the parent. Suppose it is a pure agreement that X is to be paid Rs. 2,000 and not on behalf of either of the parents, what happens?

SHRI K. M. PANIKKAR (Nominated): Then how would it become a dowry?

SHRI A. K. SEN: It would, if marriage is the consideration, and we think it is. Therefore, I think the Lok Sabha has rightly inserted this precaution by inserting the words,

"or any other person". Therefore, even if it is payment to a third party in consideration of the marriage, it would become dowry.

DR. W. S. BARLINGAY (Bombay): Directly or indirectly, would also mean the same thing.

SHRI A. K. SEN: No, it is not for me to question the wisdom of that House and if the House here passes something, it is not for me to argue.

SHRI BHUPESH GUPTA: We are wiser.

SHRI A. K. SEN: I do not know who is wise. You are at liberty to do what you like.

And an explanation was inserted, an explanation which was put forward on behalf of the Government, about the definition which made it clear what in my submission was implicit in the definition itself, that if there were gifts made by the parents of the bride or the bridegroom which are not in consideration of the marriage, but purely voluntary gifts, then they would not be hit by the Act. This stands to reason, and in fact, we cannot under the Constitution ever think of prohibiting voluntary gifts. It would be in contravention of article 19 of the Constitution. Nothing empowers us to prevent the father from making a genuinely voluntary gift to his daughter if it is not in consideration of the marriage.

DR. A. N. BOSE (West Bengal): How to understand that the voluntary gift is genuinely voluntary?

SHRI A. K. SEN: Like all other questions of facts, the court will have to decide the question. Fortunately, these questions of facts which have to be decided as a result of the laws passed by Parliament are not to be decided by Parliament itself. They are decided by courts of law which are charged with that duty.

SHRI BHUPESH GUPTA: The Law Minister, who is a very eminent lawyer, should guard against this sort of thing in the legislation itself.

SHRI A. K. SEN: That I leave to Mr. Bhupesh Gupta. It is no use doing it here. No law can guard against the infringement of law. You know with regard to taxation laws what the hundreds and thousands of devices that are thought of and practised every day in order to evade the provisions of the law are. The courts are charged with the duty of finding out what is real, what is genuine and what is not real and what is not genuine. I remember Mr. Bhupesh Gupta asking me the question whether Government was aware that fictitious religious endowments were created to evade the provisions of the law. They may be or they may not be created. It will be for the authorities charged with the duty of determining this question to find out what is a genuine religious endowment and what is not a genuine religious endowment. Just as the question is determined under the taxation laws, here also under appropriate provisions the courts will be charged with the duty of determination of the facts, and determination of facts, however complicated they may be, has to be left to the courts.

As I said, this explanation in my submission, as I told the Lok Sabha, was unnecessary. It is not necessary, because it is absolutely implicit in the definition itself, that what is not in consideration of the marriage cannot possibly be a dowry. The explanation only makes patent what was latent in the definition itself. These are the changes which have been introduced by the Lok Sabha.

Of course, there was the question of punishment—not a very important one—which was also originally there, more or less in a latent form, that imprisonment would be in the discretion of the court and it would not be compulsory, but it could either be

fine or imprisonment or both. That certainly was very wise. There may be all sorts of circumstances present in a particular case which might either warrant imprisonment or which might give rise to certain extenuating circumstances under which the court might reasonably feel that imprisonment would not be proper.

These are the main changes introduced by the Lok Sabha. It will be for this House to accept or not to accept the changes which have been introduced by the Lok Sabha. I would like to make it quite clear, as I did in the Lok Sabha, that on such a measure, Government is not at all anxious to resort to the whip. The purpose of this measure must be acknowledged to be one which is not so much for punishing people in courts of law as for declaring the social conscience of the country. We know, as I said while introducing the Bill, the limitations under which this Bill will have to function when it is made into a law. We know how difficult it is to secure convictions under this Act, because, after all, convictions can only be secured if either parties to the transaction give evidence, or persons who were present at the time the transaction took place gave evidence. In the circumstances prevailing in our society, it is very difficult to imagine that persons who would be giving dowry would themselves voluntarily come to a court of law and substantiate a charge under this enactment against the taker of the dowry who would happen to be the bridegroom and the bridegroom's parents. These were the objections and difficulties which weighed with us when we originally took time in introducing this legislation, and I had occasion to explain, I think in this House also, why Government was taking time in allowing such a legislation to proceed in Parliament. Let us be frank to ourselves and face facts and let us be bold enough to profess openly that this law would not be very potent in its enforcement, because the Bill itself deals with a matter which creates difficulties in the way of its enforcement. You cannot

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secure conviction excepting on evidence and I hope that will be the law in this country for all times to come, namely, that no man shall be convicted, however delinquent he may be, excepting on legal evidence, and legal evidence which would be heard in open court according to legal rules of procedure by competent judges. These are the safeguards which our Constitution guarantees to any person whatever may be his crimes, whatever may be his delinquency and however heinous he may be in society. We cannot possibly think of convicting a person simply by being carried away by our emotions and our sentiments in the matter. For all times to come, the law in this country and in all civilised countries will be that no man can be convicted excepting on legal evidence and according to rules of procedure well established, and by competent judges who are impartial and who act without fear and prejudice. If these cardinal principles governing our conduct in society are borne in mind, we shall understand the difficulties. As I have often reminded hon. Members in the other House, it will be extremely difficult to have convictions under this measure because those who give and those who take dowries in consideration of the marriage are hardly to be expected to go to a court of law and give evidence that they had done so, and it is only on their evidence as the best evidence, that the court can convict a person. But then I may be asked, "Why are you introducing such a Bill at all?"

Why then were we proceeding with such a Bill at all? The answer is the same as I gave in the other House, namely, that there are many social measures which may be difficult of enforcement and yet which it is necessary for the Parliament to pass, if not for anything else, at least for the purpose of declaring to the country what the supreme voice of the nation thinks about this particular matter and this will go a long way in rousing the growing social consciousness of the

people which revolts against any such practice.

SHRI V. PRASAD RAO (Andhra Pradesh): It will be a decoration to the Statute book.

SHRI A. K. SEN: Well, the hon. Member may draw his own conclusion. We may think otherwise. According to the hon. Member, possibly all the laws are decorations but then they will be decorations and at the same time they will be effective within a certain limited field. If it is a decoration, the hon. Member can throw it out but if I understood him and his partymen in the other House right, they—his partymen in the other House—wanted it to be more and more rigorous and some proposed absolutely drastic punishments.

DR. SHRIMATI SEETA PARMANAND: Summary trials.

SHRI BHUPESH GUPTA: Liquidation.

DR. SHRIMATI SEETA PARMANAND: He has used their correct word, 'liquidation'.

SHRI A. K. SEN: I wish, Sir, that some measure could be discovered within the framework of our Constitution by which it may be possible for us to liquidate such people and I shall welcome any such measure from any side of the House. I can assure hon. Members that we are all agreed, whatever you may say about the particular provisions of this Bill, about the absolute necessity of eradicating this evil altogether like many other social evils which we have not been able to eradicate merely by passing laws. So, we want to pass laws if not for anything else, as I said earlier, at least to declare the voice of the people on a matter on which no uncertainty on the part of Parliament is felt. Who can say, who is bold enough to say, that by our banning untouchability in no uncertain measure, we have succeeded yet in banning it in practice? Let us be frank enough and admit that even now in the distant

villages, untouchability is practised. That pernicious system still infests our society, but nevertheless, it is absolutely necessary that Parliament banned it. In the case of untouchability, it was easier to secure conviction because those who were the victims under that pernicious system would be certainly very eager to give evidence against those who have been subjecting them to those indignities. In this particular case, the parties being *in pari delicto*—equally guilty—the chance of getting evidence against an offender is more slender. Therefore, as I said, in regard to all social matters,—take again, the case of the Sarda Act which made child marriages illegal—you come up against this difficulty. This Act made child marriages illegal in the sense that it inflicted punishments on those who were parties to or were abettors of child marriages. Now, has the law been able to abolish child marriage yet? No. I was astonished when three years ago a chauffeur of mine told me that he was going home. When I asked him, “Why?”, he said that there were three thousand marriages going to be celebrated at a particular place on a mass scale. I was further told that in that particular part of the country, there were marriage seasons when mass marriages took place, not one or two or three couples but hundreds of them were married simultaneously and all below the required age. Yet, that law had helped in rousing our consciousness against a practice which we regard as bad.

SHRI BHUPESH GUPTA: May I know whether the Law Minister made any enquiry about this thing and filed any complaint?

DR. SHRIMATI SEETA PARMANAND: This was before he became a Minister.

SHRI A. K. SEN: These are matters which in law are recognised as capable of judicial notice. The hon. Member, of course, is a confirmed bachelor, and so that law does not worry him so much.

SHRI V. PRASAD RAO: He is the most eligible bachelor.

SHRI A. K. SEN: Nor is this law going to worry him very much.

That, Sir, is the fate of all social legislation not only in this country but in other countries too. Take, for instance, America. The Constitution prohibits discrimination on the score of colour. It guarantees absolute equality and yet troops had to be rushed to keep open schools which were practising racial discrimination openly in a small village called Little Rock. It is not in this country alone that social measures get into difficulties in the matter of enforcement; in other countries too, throughout the ages, this has been the fate of all social measures but this is a spearhead which gathers momentum gradually and which ultimately gathers enough strength to root out the evil which it is designed to tackle. It will be the same here. Today this evil is widespread but we have no doubt that in the years to come, possibly within our own life-time, we shall be happy to see almost a complete end to this pernicious system. In such a matter, as I said earlier, Parliamentary legislation serves the purpose, if not of anything else, at least of being used as a spearhead for the movement which is bound to gather momentum as it rolls on as a snow ball. That, in my submission, is the main purpose of this law. The country knows clearly what the law is and those who indulge in this pernicious system know every time that they break it; that they are breaking the law of the land. Today, they have no conscience to contend with, no laws to fear while they freely take or give dowry but tomorrow it will be otherwise. They will have their conscience to contend with and every time they break the law they will be faced with the law.

Now, Sir, coming to the amendments introduced in the Lok Sabha, I personally have no objection myself if the words “directly or indirectly” are retained or not retained. Accord-

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ing to me—and all hon. Members who are lawyers will agree with me—that the retention or the omission of the words “directly or indirectly” makes not the slightest difference because what is given is either directly or indirectly and the law is the same. If it is proved that it was given indirectly, well the party will be equally guilty, but I do support the amendment which has introduced the words “to any other person” because I think there was a lacuna in the original Bill whereby a dowry given to a third person, not received on behalf of the parents of either spouse, would not have been penalised under the law, and yet the law may be evaded by that device and it will be difficult to prove that that third person took the dowry on behalf of the spouse. It might be regarded as brokerage to that person, and marriage brokerage is not illegal in this country.

SHRI BHUPESH GUPTA: It is a very prosperous profession in that part of the country from which the hon. Minister comes.

SHRI A. K. SEN: I do not know. The hon. Member knows it better because he must be pestered by these brokers more than any of us. We are no clients for them. Therefore I do support the retention of these words ‘to any other person’ as I did support in the Lok Sabha because I think that there was a lacuna in the original Bill.

With regard to the Explanation, as I said, the Government is indifferent as to whether it is kept or not, because according to our interpretation we cannot possibly penalise truly genuinely voluntary gifts.

DR. SHRIMATI SEETA PARNAND: Leave it to the courts.

SHRI A. K. SEN: The courts also will have to apply the law. But even without the Explanation the law will be the same because . . .

SHRIMATI SAVITRY DEVI NIGAM (Uttar Pradesh): Then it should be dropped.

SHRI A. K. SEN: It is for the House. One House has thought that it should remain. The Deputy Law Minister was told that if that was so, there was no harm in keeping it. But here some Members say, ‘if that is so, why keep it?’ Well, it is really for the House to determine whether it should be kept or not but it is my duty to point out that even without the Explanation the law will be the same because there is no power given to Parliament to prohibit a father making a truly genuinely voluntary gift to a daughter. That we cannot penalise; that will be an unreasonable restriction on the right to hold and dispose of property. If I cannot give voluntarily some property of mine to my daughter or to my son which is not in consideration of marriage or anything else, then it will be an end of the guarantee under article 19 of the Constitution. So no court will uphold a restriction which prohibits a father from making a genuine gift.

SHRIMATI SAVITRY DEVI NIGAM: Not at the time of the marriage.

SHRI A. K. SEN: The time is absolutely immaterial; the question is whether it is in consideration of anything. Suppose I give two days before the marriage. We cannot assume that all the persons all the time are trying to evade the law. Notwithstanding anything that we do, if the whole country feels that all the people should evade a law, then it can never be enforced.

SHRI SONUSING DHANSING PATIL (Bombay): If we say voluntary gifts . . .

SHRI A. K. SEN: They may or may not be; but I know hundreds of cases where fathers have given voluntary gifts. I do intend to do the same for my part in this matter. I have two daughters myself; hon. Members have daughters. There are many cases where fathers make and will continue to make voluntary gifts to their daughters. How can you stop them?

SHRI K. M. PANIKKAR: Give an allowance monthly.

SHRI A. K. SEN: Allowance or capital sum, people will give . . .

SHRIMATI T. NALLAMUTHU RAMAMURTHI (Madras): What right has anyone to stop it?

SHRI A. K. SEN: Under our Constitution we have not got the power. It will be a most unreasonable restriction.

SHRI S. CHANNA REDDY (Andhra Pradesh): How can you differentiate between a gift and dowry?

SHRI A. K. SEN: There is difficulty in determining in particular cases whether it is a genuine gift or it is in consideration of something. But every person in this country enjoys freedom under the Constitution to give as much as he likes to his daughter or to his son so long as it is not tainted by any consideration; so long as the consideration does not taint the gift itself he enjoys that freedom under our Constitution and the legislature has no power to take away that freedom. So even without the Explanation, as I said, the law will be the same but it is for hon. Members themselves either to retain the Explanation or not to retain it. The Government will not certainly wish to rush through a measure of this kind with the whip. As I told the Lok Sabha, this is a measure which must go through with the universal approval of every section of the House so that the country knows what the universal voice, the unanimous voice, of Parliament is. And this is not a party issue at all. No social measure is a party issue at all.

SHRI BHUPESH GUPTA: In the other House Mr. Thakurdas Bhargava got the whip; some people allowed themselves to be whipped.

SHRI A. K. SEN: Mr. Thakurdas Bhargava has as much right to make himself heard as the hon. Member, I presume, and I am certainly obliged to pay as much respect to his feelings

as to the hon. Member's feelings in the matter. As I said in the other House, we do not want to pass a measure of this kind merely by Government majority. This is a social measure which has the sanction of the entire country behind it, not only of this House or of the other House. The entire country feels that this is an evil though under the pressure of circumstances individuals allow themselves to be made victims of this evil but there is hardly anyone in this country who feels that a system of dowry which is induced by a consideration of marriage is a good system or is a healthy system. I personally think that it corrupts our whole ancient idea about the sanctity of marriage though, as I said, one hon. Member quoted Sanskrit verses relevant to this to show that apart from anything else when the father gives away the bride, it is his religious duty to adorn the bride to the best of his ability. That is what the Shastras say.

डा. श्रीमती सीता परमानन्द : सांस्कृत कन्यादान् ।

SHRI A. K. SEN: At the time of *sampradan* we always cite the Sanskrit mantra which means 'adorned and ornamented and properly dressed I give thee to your Lord.'

SHRI BHUPESH GUPTA: Does a motor car form part of ornament?

SHRI A. K. SEN: Not in an egalitarian society. Personally I would not like to part with the ancient custom. When the father gives away the bride voluntarily for life to her future lord, I think it is a beautiful thing that the father gives her in best shape, in her best clothes, to the future lord. I personally think that there is a good deal of beauty in that system and all that is ancient is not bad, according to me. Many things that are ancient have still to be preserved.

SHRI BHUPESH GUPTA: A thing of beauty is a joy for ever!

SHRI A. K. SEN: As I said . . .

SHRI P. N. SAPRU (Uttar Pradesh): You cannot use the word 'lord' but . . .

SHRI A. K. SEN: The word 'swami' literally means lord. What can I do? Unfortunately, in all North Indian languages—I do not know about South Indian languages—the word for 'husband' is 'swami'.

SHRI S. CHANNA REDDY: In South Indian languages also,

SHRI A. K. SEN: Nevertheless in most cases he is not the lord. That is our experience.

DIWAN CHAMAN LALL (Punjab): It is not merely lord; it is lord and master.

SHRI A. K. SEN: I remember Dr. Rabindranath Tagore was once, in one of his sermons, dealing with the question of marriage in Hindu society and I remember he used this very expression 'swami' and said that in the modern world it was thought to be very derogatory to women. As you know, he was extremely learned in Sanskrit and he showed how Hindu women had ruled their houses through the centuries notwithstanding the fact that they call their husbands 'swamis'. Leaving alone those things, there are still many beautiful . . .

MR. DEPUTY CHAIRMAN: The time is limited, you know.

SHRI A. K. SEN: . . . things worthy of being preserved and it is for hon. Members to decide. About the purpose of the Bill, I need hardly say anything more. As I said, it is a non-controversial measure. We are all agreed as to the basic purpose of this Bill and we are also aware at the same time of the difficulties besetting the enforcement of this measure. The question is, how to make it as perfect as possible under the limitations which are inherent in the Bill itself and which none of us can cure. With these words, Sir, I commend the measure to the House.

The question was proposed.

4 P.M.

MR. DEPUTY CHAIRMAN: I have before me 17 names. Perhaps a few more may come in. So, ten minutes each. Mr. Bhupesh Gupta.

SHRI BHUPESH GUPTA: Sir, I think we need not say very much, but I should start with a note of appreciation of what the Law Minister has said because of his openness of heart . . .

DR. SHRIMATI SEETA PARNAND: Why should a bachelor lead the discussion?

MR. DEPUTY CHAIRMAN: It is never too late.

SHRI BHUPESH GUPTA: That is for you to conclude. I shall be speaking against the Bill, although I might be a beneficiary of it some day. But that is not the point. Anyway, it is a social legislation.

DR. W. S. BARLINGAY: He is a prospective . . .

SHRI BHUPESH GUPTA: Prospective? It is a problem to live under your regime. It is a problem to live, let alone marry. Anyway, the problem is that this legislation has been long delayed in the country. There has been a very widespread agitation in favour of measures such as this. After all, as far as we are concerned, we Communists, Marxism teaches us that the stage of civilization is sometimes judged by the status women enjoy, and somehow or other we have been living in these modern times when many restrictions and disabilities come in the way of emancipation of the womenfolk. That is not to say that by passing this measure we can achieve this thing. Social emancipation calls for economic and other emancipation, and I suffer from no illusion on this score. Yet such disabilities have got to be removed. Social consciousness has got to be roused. Now, the hon. Minister spoke as if he wanted to spell good sentiment in the shape of this measure. He is not very mindful of enforcement and wants sentiment to be

pronounced in this House with a view to having it translated in actual practice. Therefore, I want the measure to be effective and vigorous and it should be so devised that the courts are in a better position to enforce it, that it becomes difficult for the dodgers and violators of this measure to circumvent them, that it becomes very difficult for the conservative elements to escape the scope of this law. This is what my attitude is. If it were a question of expressing merely sentiments, we would have just passed a unanimous resolution in this House and the other House to declare from the top of the House: "Here is the sentiment of Parliament." But we are making legislation. We are interested in its enforcement.

Now, Sir, the dowry system has been a hideous system. Well, he said so many things, that he would like to give his daughter so many things. To his daughters, of course, he will give. Who is coming in the way? But what I am opposed to is dowry, with which we are concerned. Give the whole world if you like. Conquer a new world to bestow it on your daughter out of affection, if you like. But why should there be this system of dowry which is given and taken in the context of marriage? Otherwise, marriage does not take place. The result of this has been that by and large our womenfolk, our young girls and their families have suffered under the injustices implied in this arrangement. It is a social evil. That is what I say and it should be removed. Now, Sir, are you doing it here? No. You are not doing it. Sentiment, yes, there is. But then when it comes to acting, you do not act. I am glad to hear that there will not be any whip. It is good. But what happened in the other House is not very encouraging for us. Under the pressure of certain conservative elements, who are always fighting shy of any social legislation, whether it is divorce, whether it is women's right to property and so on, these very people, hon. Members clubbed together, came with a heavy hand to pressurise the Treasury Ben-

ches, and our ever-yielding Treasury Benches, when it comes to the pressure of these people, started yielding, yielding headlong. And I was a little surprised when the hon. Minister . . .

THE DEPUTY MINISTER OF LAW (SHRI R. M. HAJARNAVIS): Nothing of the kind happened.

SHRI BHUPESH GUPTA: Yes, I am coming to him, to the hon. Deputy Minister. He was himself proposing the amendment. It was none of his business to propose the amendment there. Surely, you are not giving a whip, but you are giving orientation when a Member from the Treasury Benches gets up and sponsors an amendment in the direction of something. It does influence the Members of the Government party. Everybody knows it. And he is an intelligent person. He should have been conscious of what he was doing and doing under pressure, palpable pressure there. I read through the proceedings last night and I found all this had happened step by step. Deliberately, in a calculated way, pressure was brought to bear upon the Government, so that at last one Minister would be a victim to it and he was a victim to it. The result is that the tables were turned. Then, Pandit Thakurdas Bhargava, the pontiff of that school of thought and conservatism . . .

MR. DEPUTY CHAIRMAN: You cannot comment upon that, on what happened in the other House.

SHRI BHUPESH GUPTA: Yes, Sir. You are quite right. In another place, in an august assembly, another gentleman, who is a Pandit also—I need not name him—supported the amendment. He said that it more or less fitted in with his stand and he took that and supported it. And, therefore, our Law Minister here and the Deputy Minister were in the company of conservatives, yielding to them. That is how the Explanation came. The historical Explanation was not there in the Joint Select Committee's Report.

DR. W. S. BARLINGAY: We know him to be a very progressive individual.

SHRI BHUPESH GUPTA: Sometimes due to pressure of people, even progress makes a retreat. That is the trouble. When you see so much pressure is mounting on you through reaction and conservatism, you disperse, you surrender, you capitulate, you disappear. That is the trouble with you. Now, Sir, the Bill was discussed in this House, before the Joint Select Committee and the other House . . .

MR. DEPUTY CHAIRMAN: We are not concerned with what happened in the other House. Let us have your comments on this Bill which is before us.

SHRI BHUPESH GUPTA: I know, but, Sir, the Prime Minister says: "In the other House I said this thing and that thing" . . .

MR. DEPUTY CHAIRMAN: You can refer to Ministers' statements.

SHRI BHUPESH GUPTA: I am talking about the Government's attitude. I am entitled to say it. If in that House Government takes an attitude, am I not entitled . . .

MR. DEPUTY CHAIRMAN: You cannot refer to what happened in the other House.

SHRI BHUPESH GUPTA: Kindly do not interrupt me. I have been here for some years. I know this procedure that I can refer to the Government's attitude. I will refer to it if a Minister refers here to the other House. Then you must shut him up. Now, that is not the point. The point here is that the Government yielded to the pressure of conservatism, to the pressure of bullies, to the pressure of people who would not like this legislation to be worth having on a piece of paper. That is my complaint. And, therefore, the Explanation came. When it went to the Joint Select Committee after discussion in both Houses, the Joint

Select Committee was good enough to make it much more progressive than it was originally. Therefore, the permissive limit of Rs. 2,000 was omitted by the Joint Select Committee. The permissive limit of Rs. 2,000 dowry—that way I am speaking in plain language—was omitted. "Any property", but they did not attach any kind of Explanation of this type. Then, the Explanation came, entrance by the backdoor. When we have put this conservatism, social evil, on the run due to the public opinion in the country, on the floor of the other House this gentleman threw the backdoor open for conservatism to re-enter and frustrate this measure. That is what my accusation is against this Government, against the particular Law Minister. He is a great friend of mine. I am delighted to see him in this House and my affection for him overwhelms me. There is no doubt about it. But there he went wrong, absolutely wrong . . .

SHRI R. M. HAJARNAVIS: In consideration of the affection, will he try to convince me how that particular Explanation has changed the law from what it was as worded by the Joint Select Committee?

SHRI BHUPESH GUPTA: The Joint Select Committee with all the wisdom . . .

SHRI V. K. DHAGE (Bombay): If there was no difference, why was the Explanation introduced? Let it remain as it came from the Joint Select Committee. His statement itself suggests that there is no change meant. Then, let it remain as it is. Why have the Explanation?

SHRI R. M. HAJARNAVIS: Because the question was asked in this House and the other House whether the voluntary gifts were or were not included within the operative part of the clause. As stated, both the Law Minister and myself made it clear that the voluntary gifts are not there. In the other House Pandit Bhargava had moved an amendment . . .

SHRI BHUPESH GUPTA: The other House he is mentioning. I do not mind.

SHRI R. M. HAJARNAVIS: I am only stating the facts. Pandit Bhargava moved an amendment to the same effect. I did not meet Pandit Bhargava at any time whatsoever. Having read the amendment, I thought that it explicitly said what we said was implicit here. Therefore, on my own responsibility I decided to accept it.

SHRI BHUPESH GUPTA: All hon. Members will seek an explanation from him. This is the bone of contention here. What the hon. Minister has said does not satisfy us at all. I read the speech—and I would not like to quote the other House at all. You may like it when it is quoted from the other House. But I say that the hon. Minister should not have sponsored an amendment that sealed the fate of it,—the Select Committee Bill. An amendment was smuggled into this Bill. That is my position.

MR. DEPUTY CHAIRMAN: Your time is over.

SHRI BHUPESH GUPTA: I will take a few minutes more and I will finish.

MR. DEPUTY CHAIRMAN: The time is limited.

SHRI BHUPESH GUPTA: I do know. But I am speaking on behalf of our group. I am entitled to have more time. Every time I find this thing. Can it not be settled one day as to whether we have not some rights in this respect?

MR. DEPUTY CHAIRMAN: You have taken your time.

SHRI BHUPESH GUPTA: Every time I speak all the time interruptions come in the ten minutes. So I am not bound by ten minutes.

MR. DEPUTY CHAIRMAN: You are bound by the rules.

SHRI BHUPESH GUPTA: I am bound by the rules, but have you got patience in the House for ten minutes?

MR. DEPUTY CHAIRMAN: The Business Advisory Committee has fixed the time.

SHRI BHUPESH GUPTA: Within the time I shall finish.

MR. DEPUTY CHAIRMAN: There are other Members also. You must respect their rights.

SHRI BHUPESH GUPTA: I do respect. See how many words you have uttered and count how many words I have uttered. I would like the Secretariat to place the recorded words uttered by the Chair and by me and see how much time is wasted.

MR. DEPUTY CHAIRMAN: Order, order. You are reflecting on the Chair.

SHRI BHUPESH GUPTA: No reflection on the Chair. I want a counting of the words. I stand on my own. I am saying this seriously.

MR. DEPUTY CHAIRMAN: You have to restrict yourself within the time allotted.

SHRI BHUPESH GUPTA: The only thing you are certainly entitled to ask me so that other people may get their chance . . .

MR. DEPUTY CHAIRMAN: I am asking you to wind up.

SHRI P. N. SAPRU: Mr. Deputy Chairman, I am raising a point of order. Mr. Bhupesh Gupta has cast an insinuation that by your asking some questions you are wasting the time of the House.

SHRI BHUPESH GUPTA: I have not said that. I would like him to ask me more questions.

SHRI P. N. SAPRU: That is the plain implication of what he said.

SHRI BHUPESH GUPTA: It is no point of order. You can certainly ask any question. The only thing is, you give me more time for that!

MR. DEPUTY CHAIRMAN: The Business Advisory Committee has fixed the time. I have to restrict it.

SHRI BHUPESH GUPTA: But sometimes you happen to extend also. In the other House they gave five hours for this. Then they extended it. How can I get on with a theme I am developing? Suddenly interruptions come. An hon. Member raises a point of order, which is a point of disorder and nothing else. Please don't add to the confusion. Sufficient, enough you have. I am very sorry for it, but don't add to it.

Now, Sir, the position is this. The explanation takes away everything. The explanation will make it a nullity. Now, if it is so relevant, then why were they keen on putting it at so much? They should not have done that. They know what is what. And some people—I will not personally name them—are much better lawyers than some other people. When once he gets there, he gets paradise in his head as far as this thing is concerned. A gentleman boasted that he gave dowry or whatever it was. Therefore, this is very wrong. I would appeal to the House, to this House I say—we are all in a wise House, if not a wiser one—to take away the explanations. Let them go. If something has been done wrongly there, let us put it right, and that is all that I want. I want the original position of the Joint Select Committee Bill to be restored. It is not a Communist suggestion. It is a Joint Select Committee suggestion about which the Law Minister has an open mind and the other Minister feels like moving an amendment. Therefore, restore it to that position.

Then, Sir, I will make a few remarks about the other thing, cognizability and enforcement. We said that it should be made cognizable or some such thing. I asked the hon. Minister: "When you heard your driver telling you that so many marriages in violation of the Sarda Act were taking place, did you file a petition?" He said "no". I do not blame him for that. Nobody files a petition for that. That only shows the need for making it cognizable. Otherwise no punishment will be given. They will all escape. We are troubled with problems of unemployment, food, this and that. On the top of it, we do not take on ourselves the lead of filing petitions about who gives a dowry and who does not give.

DR. W. S. BARLINGAY: Whether it is cognizable or non-cognizable, surely you do not want to make it cognizable.

SHRI BHUPESH GUPTA: If I had my way, I would have done it. Therefore, some such thing should be done along that direction. It is very very essential. And as far as big people are concerned, the question arises that if we do this thing, then police will come. Well, you have got the expenditure tax. Is police entering every house for the purpose of inspection? You have got various other measures, laws which people are not expected to infringe. To enforce them police do not enter.

SHRI P. N. SAPRU: You would like homes to be broken up?

SHRI BHUPESH GUPTA: Certainly not. I do not want homes to be broken up. Although I have none that way, I am for securing it. I do like the sanctity of homes to be preserved, but the point is this. Please do not say that if you make it cognizable, the police will enter. Does police enter every home to find who is spending how much? No, it does not. But then, the sanctions become stronger if the State is armed with the authority

to detect violations and initiate proceedings on its own. It has much more resources. That is why the sanction of the State should be there not to displease a sentiment but to arm itself with the necessary substantial and procedural power with a view to enforcing it.

Sir, I have nearly finished; only one word more. I would appeal to the hon. Minister and Members opposite that we are all agreed that the dowry system must go. Let us make it go. Let us not introduce explanations through the backdoor to keep it alive. This is my contention. Sir, our amendments will be coming and we shall make our position known through these and see how the Government react. I hope that the hon. Law Minister and the Deputy Law Minister—I hope that he has recovered from that pressure to which he yielded—both of them will bring their wisdom to bear on the subject and accept the amendments that we are moving, making the measure effective instead of making it a farce which the country will laugh at. I therefore want the House to take up this thing seriously so that it can be enforced.

SHRIMATI PUSHPALATA DAS (Assam): Sir, I welcome this Bill, and you know Sir, that I come from a State where we do not suffer from this dowry system, still I want to support this Bill and to show to the House that the whole of India, all the States, want this evil to be removed. This Bill has been brought forward for that purpose and I think it will receive the wholehearted support of this House.

The hon. Minister while introducing the Bill made some observations about the Explanation. I am very glad that he too is against this Explanation. It is there to remove doubts, but it is so confusing that it creates doubts. It is creating doubts instead of removing doubts. In clause 6 (1) it is stated:

“Where any dowry is received by any person other than the woman

in connection with whose marriage it is given, that person shall transfer it to the woman” etc.

This clause is clear enough. I am rather allergic to the word “dowry”. It is a revolting thing for us and it degrades us, and I would have liked some other word than dowry. I can very well imagine the suffering which is caused on account of this dowry system. I have read some of the novels in Bengali literature. From them I can imagine the picture of the Bengali society and other societies also. We are so near to Bengal, but we do not suffer from this difficulty. Many people say that we are bordering the Mongolian countries and our social customs could have been influenced by the Mongolian people. Whatever you may say, I think it is due to the economic independence of women. On account of that, we do not suffer from this dowry system. But one thing is that we have got that *joutuk* system there. That is why we are telling you, why not remove this whole dowry from this clause? We have *joutuk* system. It is like this. The girl must be well equipped in certain arts. She must be a good weaver. She must be an asset to the other family. So that tradition is there. The girl must weave all her own clothes. But the modern girls have no time to weave; their mothers or some one must do it for them. It is called *joutuk*, and this *stridhan* goes to the girls. Even the daughter-in-law cannot inherit it; from daughter to daughter, like this it goes on. It is not dowry, it is *joutuk*. I know of two or three cases. I know the case of a professor who wanted to take dowry to go abroad. But public opinion was so violent against him that he was not courageous enough to accept it. And our society is not suffering in any way, because there is no dowry system there. One reason is economic independence; the other is public opinion. So, I want that kind of public opinion to be created in other States also and to remove all these doubts about it, let this Explanation I

[Shrimati Pushpalata Das.]

be removed because it is confusing and creating more doubts. Also, I want that this word 'dowry', if possible, must be removed because once we say 'dowry given and taken', then it comes under the law. Why can't this word 'dowry' be removed? Let not the word 'dowry' be at all in this Bill. I feel in that way, because I am coming from a State where some other system is prevalent. But one thing, and that is this. My friend, Dr. Shrimati Seeta Parmanand, was asking me why both the parties—the bride and the bridegroom—are mentioned here? Bridegrooms never pay any dowry. In my State, tribal young boys . . .

AN HON. MEMBER: It is in Tamil Nad.

SHRIMATI PUSHPALATA DAS: I do not know about Tamil Nad.

. . . have to suffer from this dowry system because they have to give a little dowry to the girls' father because the girl is an asset to the family. It is just the opposite there. So, I have to plead for the boys, not for the girls, because we do not suffer from this disability. I do not know whether this disability is not there in other States; it is not in my State. Last time when I was speaking on the Hindu Marriage and Divorce Bill, I appealed to the House that we must come forward with another Bill, i.e., with this abolition of dowry. But of course, I agree with the hon. Minister that this Bill is not going to remove the social evil. The Sarda Act has not yet removed the evil of child marriages, and child marriages are going on in Rajasthan, Bihar and other places. We hear but no action is taken. In the other House, there was a plea that if this offence was made non-cognizable and non-compoundable, to give punishment or to get evidence would be very difficult. Whatever it may be, to make the measure effective, some punishment must be there. Otherwise, people will try to evade the provisions of this Bill. More than that creating

public opinion is important. So, my appeal to the social workers and to the leaders who say that they want to bring a social revolution, is that they should create that atmosphere which is prevalent in my State. No woman is suffering in the State from which I come and that is why I appreciate this kind of measure. I feel that though this Bill is not going to make a very big revolution, it will do good to them. I support clause 6, but I only wish that the word 'dowry' should be removed. Somehow, I am allergic to that very word. Otherwise, it is justified. I had a talk with the lady M.Ps. in the ladies' retiring room. They were telling me, if you wanted to abolish that explanation there, that would mean that the fathers would be debarred from giving presents to their daughters. I say, it cannot be because I have seen some cases in my State. One blind girl was married. She was, of course, not put in the blind school. She was the only girl; her father had five children. As we follow the *dayabhaya* system of the Hindu Law—the father gave half of the property to her. He gave property no doubt but not in the form of dowry. Why is it so? Why should it be dowry? It will be *joutuk* or *stridhan*. So, these things are also included there. But it is not clear from the clause—and the explanation is not making it very clear—what the distinction between a dowry and a gift is. To me, it is not clear, and the Explanation also has not made it clear. But in all the sub-sections of clause 6(1), they have put in—

(a) "if the dowry was received before marriage within one year . . ."

(b) "if the dowry was received at the time of or after the marriage, within one year . . ."

(c) "if the dowry was received when the woman was a minor, within one year after she has attained the age of eighteen years;"

These sub-sections themselves are quite clear and we can understand

what dowry is. I will be glad if this Explanation is removed from the Bill. The confusion will go and the whole thing will be clear. Even the Deputy Minister while replying to the question of Mr. Gupta said that this Explanation is not going to change the meaning of the Bill. If so, why should it not be removed altogether? I do not think that by this removal, its intention will be hampered in any way.

Sir, I wholeheartedly support this Bill. I also feel that unless public opinion is created, this measure is not going to be carried out. It is for the social workers to create that public opinion and to raise the status of the girls. Do you know why I hate this word 'dowry'? In our part, dowry means *barpan* which we do not have. It means selling the girl which is a very bad thing in our society. They cannot even imagine how a girl can be sold. They give property rights after or before marriage, but never at the time of marriage, because they hate that system of dowry. So, I appeal to the House to support this Bill. Passing this measure may not change the whole situation, but it will give that much of satisfaction that we have passed a very progressive legislation. Public opinion must be harnessed under this law and social workers must create public opinion against the dowry system.

With these words, I support the Bill and I appeal to the House that the Explanation must be removed. Clause 6(1) is enough to explain the whole thing which they want to explain. From the speech of the Law Minister I feel that he himself is not very happy about this, because we are not going full ahead in this direction. I hope the measure will have the concurrence of the House.

SHRI MAHESH SARAN (Bihar): Mr. Deputy Chairman, Sir, a Bill like this is useful in a way that it creates public opinion in favour of abolishing dowry. We have advanced; the rates

of dowry have also advanced. Educated and earning boys demand much more than they used to do before. We have heard so much of the misery caused to the parents of the girls at the time of marriage. Therefore, I welcome the introduction of this Bill, but as the Law Minister has said, unless we prepare ourselves and try to have a sort of activity to stop this dowry system, this legislation will not be of much use.

Sir, the Explanation that has been given to clause 2, I think, should be deleted because this again gives a handle to the people to take dowry. Although there is prohibition all right, still the explanation to clause 2 will show that you can give dowry in the shape of gift, this or that. Although in law there is not much difference, yet to the people in the villages who are not well read, when they find this explanation, it will be a handle to extort money, and they will be able to get this money because then they could come and say that this is only a sort of gift. Of course, a person is entitled to give as much as he likes to his daughter, and people do give very much. But the whole point is this that, as this dowry system is prevalent, to have this Explanation will create not a very congenial atmosphere so far as those people are concerned who are not lawyers. For lawyers it is all right. For educated people also it is all right, but the ordinary people will take advantage of this Explanation and will try to extract dowry in the shape of presents which may be in the form of cash, ornaments, clothes or other articles.

Now, Sir, there is one difficulty so far as the punishment is concerned; the giver and the taker, both are to be punished. Now, Sir, the giver has already been punished by giving dowry to the girl for her marriage. Now he is going to be again punished, because he has given the dowry. This, I think, Sir, is not a very good proposition. No parents are willing

[Shri Mahesh Saran.]

to give more than what they can unless they are forced to do so, and the marriage of a daughter is thought to be sacred and a father is anxious to give away his daughter in marriage to the best party he is able to secure within his means. Therefore in difficult circumstances he is willing to give anything that is possible, to the girl, straining himself to the utmost extent. But, Sir, the law now comes in and it says, "Already you have given dowry to the girl. Now you can either go to jail or give some money to the Government." I do not think, Sir, this is a very congenial and a good step.

Now, Sir, there is one other point. It is very difficult to detect these offences. Now the father of the girl or of the boy or their relations will not be prepared to go and file a complaint against the offender, nor will they go before a court of law and, therefore, although these things may happen, no prosecution would be possible. Therefore I think, Sir, if use is made of section 190 of the Code of Criminal Procedure, and the court on information received proceeds in the matter, it would be very much better.

But on the whole, Sir, I think that this Bill will create a healthy atmosphere and people will now know that the eyes of the Government will be on those culprits who are in the habit of extracting money, and therefore their activities will be in jeopardy. I welcome this Bill.

MR. DEPUTY CHAIRMAN: Dr. Bose.

DR. A. N. BOSE: I want to speak tomorrow, Sir.

DR. SHRIMATI SEETA PARMANAND: Mr. Deputy Chairman, I am glad that this Bill has come before the House, but it is not as perfect as one would like it to be. I would also say that it is difficult to make a Bill of this type perfect, and if those of us who criticise such a Bill were

to be asked to draft such a Bill, we would find the same difficulty. But what I would like to say is that, when the Government have taken ten years over this type of Bill and asked private Members to withdraw their Bills on the subject with the assurance that they would themselves bring forward such a Bill, something more could have been done in such a Bill and the Minister himself introducing it could have been a little more enthusiastic about its enforcement. We had, Sir, such Acts before us, introduced by Andhra in 1958 and Bihar in 1950, and by the repealing provision at the end of the Bill we are going to say—it is on the recommendation of the Select Committee—that there should be one law for the whole country and say that these two Acts be repealed. I find that on account of the particular customs there in Bihar, various things, such as *tilak* and *chhenka*, and *dahez*, *dwarpuja*, *milan* or *zadrah*, are mentioned as coming under "dowry", whereas certain other things, like *kanyanirakshan* or *mathjhaka* or *stridhan* or any such thing are not included in "dowry". What I fear is that perhaps the people—that is a point for the Law Minister

to take up and, if necessary, bring in an amendment later—in those parts of the country would find it difficult to be satisfied with a type of Bill like this to meet all the existing customs there. But I understand, from the enquiries made by the Law Minister, that during the last eight years—the Act has been in existence almost eight years in Bihar and for one year in Andhra in respect of the Andhra Act—no cases have been filed. So it is clear that this type of Bill would remain only as a sort of Pole star to look at and as a guiding star, and that is what it is intended to be, and action under it would be very difficult for the simple reason—as is to be appreciated from what the Bill says—that both the giver and taker are to be proceeded against. I have given an amendment that the giver should be removed from that. I would like to speak on the various amendments

later because of the limitation of time now; when the amendments come, I would like to exercise my right to speak on them at that time.

I am rather sorry, Sir, that this Bill has been made again applicable only to the Hindu community. But there is also the practical difficulty that the Muslims have "dower" enjoined on them by their religion. But I have got here the opinions invited by the Andhra Government and from among them the opinion of a Christian, Mr. De. M. Chelladore.

SHRI P. N. SAPRU: May I just interrupt to point out that in the Muslim conception of a marriage, "dower" is bound up with the institution of marriage?

DR. SHRIMATI SEETA PARMANAND: I appreciate that, but we could have done something about it, and I am mentioning it here. So it should be on record that our aim of a common civil code is not forgotten or lost sight of.

Now, Sir, I was referring to the opinions invited by the Andhra Government and was adverting to the opinion of Mr. De. M. Chelladore and he says:

"I hope in the time to come, the other communities, who are left out now, may come into the fold after realising the benefits of such a benign legislation."

This, Sir, is contained in the opinions invited by the Andhra Government. There are several others like that, but it is a pointer to the fact that other communities also suffer from this disadvantage for which I should really think that the proper title for this Bill should be—it is not because Mrs. Pushpalata Das dislikes the word "dowry", but because of realities—"Bridegroom Blackmarketeers Bill", because that is what it comes to. It is not the daughter who is sold but the bridegroom who is purchased, and though being purchased, he is in such

a position or his people are in such a position as to hold the bride's people almost to ransom. Sir, I would like also to say that on this Bill there were as many as 11 women on the Joint Committee and as such, the opinions, as they have come from that Joint Committee, should have been taken *in toto*. There was a woman Chairman also, and it was a most unusual procedure in both the Houses to have so many women on any Joint Committee. Some persons have been saying that it is the women who are to be blamed for this dowry system and it may be, Sir, that that is why they are against this Bill coming at all or its being applied to a class or a type of class that they want to be exempted. They further say that the women insist that, dowry or no dowry, their daughters should be married in a particular family, that they take a fancy to a particular son-in-law and that the mother wants to see that her daughter is happy in a particular family with a certain social status. But I would like to point out, Sir, that it is the men who pocket the money and who insist that so much money should be given. So it is no use quarrelling on this, whether it is the women who are at the root of the evil or the men. The question posed is that that custom exist and therefore, Sir . . .

SHRI A. K. SEN: I acknowledge that the men are always to be blamed.

DR. SHRIMATI SEETA PARMANAND: I am glad you admit. It is not a question like that, but some Members here say that because of that they would like to oppose the women, women who have no right to talk about the evils of the system, that they were at the root of perpetuating this system. It is because such things are said of women that I wanted to point out the other side.

As far as "dowry" is concerned, it was the "definition" that was the crux of the thing because it is very difficult

[Dr. Shrimati Seeta Paranand.]
to define, and I am reminded of a
Sanskrit sloka as to what is God:

‘नेति नेति वचनैर्यो निर्गुणोवर्णयते’

Somebody will say gift is dowry. Marriage expenditure, which is asked for, Railway tickets for so many, entertainment and so on—everything is dowry. So, it would be easier to say what is not dowry than to say what is dowry. But, under the circumstances we are in today, I think the matter can be left to the discretion of the court, because everything will depend on the evidence that will be coming forth.

Sir, unless we exempt the dowry-giver from punishment, it would be very difficult to bring anything of this type to court. I am sure the law will be a check if the people get the feeling that the law is there and no action will be taken against the giver.

One more point. If this law is broken, Government will have to take care that even if there is no conviction because no proof has come, no complaint has been lodged because of the fear of the ill-treatment of the girl, they should take departmental action if it is a case of government servants or people of local bodies.

Secondly, Members of Legislatures, Members of Parliament and members of local bodies also should be disqualified because they would be considered law-breakers after they have made the law. That will be more deterrent than the conviction of a Tom, Dick or Harry.

With regard to the figure limiting dowry to Rs. 2,000 or Rs. 300 or whether there should be any dowry at all, it is a very difficult thing, because in my humble opinion this Bill is really meant for people who cannot pay even Rs. 1,000. There are thousands of cases where a person has got five or six daughters. To pay Rs. 1,000 only in dowry, apart from the expenditure, is something which

absolutely ruins the family. For that reason, though the figure of Rs. 2,000 has been put as a limit, the definition of the word “dowry” will have to be very very wide.

Sir, people need not think that this will deprive the women of their legitimate share. That was the argument in the other House, if I may say so, and an explanation was given. I would like to point out that the people who speak in this manner forget that the Hindu Succession Act has been passed and women's position is not the same as it used to be. Only it remains to be seen that social workers and others see to it that the Succession Act is implemented. For that reason if the share of the daughter is given to her earlier or even later, or even if it is proved that a sum equivalent to that share is given in marriage, nobody would call it dowry because that is her right. So, in fact, the whole context of the question of dowry changes. For that reason the argument about *Stridhan* being lost to women by this type of legislation has, in my opinion, no basis at all.

One more thing about a social legislation not being respected. The hon. Minister was pleased to give an example about America as to how in the schools the antisegregation policy is also broken. What of that? In our own country, laws of prohibition—there is illicit distillation—and many others such as the Child Marriage (Restraint) Act are broken. That does not mean that there should not be, as I was saying, a guiding legislation like the Northern Star. It would be a legislation which would be a pointer. Only the other day somebody was talking about some big officer's daughter. The person who was negotiating on behalf of the boy asked as to what dowry would be given because the boy came from a princely family and he would not like to marry in a common family. This person was told of the legislation being passed. The negotiator said that it did make the position difficult in

that case. Sir, this gentleman was in Foreign Service. Now such things, I am sure, when this type of legislation is passed, will be a deterrent. Because it is always:

“यद् यद् आचरति श्रेष्ठः तत् तदेव इतरो जनः ।
स यत् प्रमाणं कर्ते लोकस्तदनुवर्तते ॥”

The poorer people demand dowry because big people demand it. If the latter are prevented because of their education and knowledge of law from doing this, I am sure the other poorer people will also follow suit. The position, if not likely to be absolutely A-1, is bound to improve.

About my amendment, Sir, I reserve the right to speak tomorrow.

SHRI P. S. RAJAGOPAL NAIDU (Madras): Mr. Deputy Chairman, Sir, the idea that a social legislation would put an end to this social evil is falsely prevalent in this country. Sir, with the passing of legislation, conferring more rights upon women, in due course the system of dowry would automatically go away. This system was prevalent, as we all know, because property was inherited only by males and not by females in this country. Sir, for instance take the West Coast—Kerala—where there is Marumakkattayan law, whereunder women also, by virtue of law, get property rights. There, there is no question of any dowry being given to boys. On the other hand, I understand, wife gets dowry from husband. That is the system that is prevalent in Malabar. In my part of the country there are several instances in my own community where the husband had to pay some sort of dowry to the wife, or the bridegroom's father has to pay to the bride's father. It is not always the case that the bride's father pays dowry to the bridegroom's father. So, Sir, it is only a question of who inherits the property and how the property rights vest.

As the hon. Minister rightly put it, this Bill, if not for any other purpose,

at least would declare the voice of the people. Of course, it will express the popular revulsion and educate public opinion in the matter, though I feel highly doubtful how far this is going to check this flow of dowry. It may create public opinion and that is all. And as Dr. Seeta Parmanand put it, in spite of so many Acts violations are there and it is very difficult to prove such cases.

Coming to the provisions of this Bill, I for one feel that we should delete Explanation I to Clause 2. Why I say that it is to be deleted is that if this Explanation is allowed to remain, dowries will take the shape of gifts at the time of marriage, and it will be difficult to prove whether such gifts are made as consideration for the marriage. It will be very difficult to prove whether there is a contract between the parties that a certain amount will be paid by way of dowry that will come in the shape of gift at the time of marriage. It will be very difficult to prove all this. Sir, I feel that if this Explanation remains as it is, the very purpose of this Bill will be defeated, and as such I feel strongly against Explanation I.

Coming to Clause 3, it is said that both the giver as well as the taker will be punished. But in this particular case I would suggest that the giver should not be punished. Why I say that the giver should not be punished is this. One pays dowry only under certain peculiar circumstances. If the father finds that his daughter is getting aged and he is not getting a suitable husband for her, he is naturally forced to give dowry to get his daughter married. It is only under certain adverse circumstances that he is made to give a gift. So, he should not be punished. The taker should certainly be punished, I agree, because he is the person who benefits by this transaction. Sir, if the giver is to be punished, I am sure that no evidence will be forthcoming at all.

[Shri P. S. Rajagopal Naidu.]

Coming to clause 4, it is said that this clause deals with penalty for demanding dowry. I may say that this Clause will be taken advantage of by certain interested persons. For instance, if after marriage there is some sort of misunderstanding between the bride's family and the bridegroom's family, some cases will be forthcoming saying that so and so demanded dowry and as such, a case will be filed in a court of law. So, Sir, I would suggest that this clause 4 be deleted. Otherwise, this will lead to disappointed parties going to courts. Suppose one particular bride's father goes to a bridegroom's father and offers his daughter to his son and if the bridegroom's father is not prepared to accept the offer, then just to victimise the bridegroom's father, the bride's father will go and file a case in a court of law saying that so and so demanded a dowry. Or, if any misunderstanding arises after the marriage, the aggrieved party would go to a court of law and file a case, just to harass a party, saying that so and so demanded a dowry. For this reason, I strongly feel that clause 4 will have to be deleted as otherwise parties who were aggrieved and disappointed parties will naturally take advantage of this provision and would go to a court of law.

Then I come to clause 6, which deals with dowry for the benefit of the wife or her heirs. Suppose a certain amount of dowry is received by the bridegroom; according to this clause, the dowry will be for the benefit of the bride or her heirs. What happens to the property if the property has passed hands from the bridegroom? This is a question which the hon. Minister will have to answer. It is said that the property shall be held in trust for the benefit of the wife or her heirs. What property has passed hands? Can it be traced to the person who is owning the property? Can it be traced to the last owner? Then what happens in a case where the transfer is

bona fide? All these would call for serious consideration if the clause is to remain as it is in this Bill. We have to make some provision as to what happens to the property which has passed the hands of the person concerned in which case the woman will not be able to get it at all and merely saying that this property shall be held in trust for the benefit of the woman will not be of any use to the woman ultimately.

Then, Sir, I come to clause 7. It is said in sub-clause (c):—

"It shall be lawful for a presidency magistrate or a magistrate of the first class to pass any sentence authorised by this Act on any person convicted of an offence under this Act."

I feel that this is a very peculiar provision. It is said that the persons who would be competent to try cases under this Act should not be inferior to a presidency magistrate or a magistrate of the first class and then it goes further and says:—

"It shall be lawful for a presidency magistrate or a magistrate of the first class to pass any sentence authorised by this Act on any person convicted of an offence under this Act."

It seems to me to be a bit curious.

Sir, first class magistrates can, if I understand the criminal law correctly, give sentences up to two years' imprisonment. Here the sentence that is contemplated is only six months' imprisonment. Sir, it is within their jurisdiction to award such a sentence. It might have been all right if the sentence that would become awardable under this Act was far in excess of the powers of a presidency magistrate or a first class magistrate—then, by virtue of this provision, they will be empowered to award a higher punishment.

Then, coming to clause 8, it says:—

“Every offence under this Act shall be non-cognizable, bailable and non-compoundable.”

Sir, so many hon. Members have pleaded that it should be a cognizable offence. I am completely opposed to their views in this respect. This is not such an offence which can be held as a cognizable offence. It should be non-cognizable and compoundable.

SHRI BHUPESH GUPTA: More dowry may be given to compound it.

SHRI P. S. RAJAGOPAL NAIDU: My friend forgets that an offence can be compounded outside the court and an offence can be compounded with the permission of the court. I wish to suggest that discretion in such cases should be given to a court. If the court feels that this is a case which should not be compounded at all, then the court need not give permission for the parties to compound the case. I would suggest that the word “non-compoundable” should be deleted and instead the words “compoundable with the permission of the court” put in.

DR. SHREMATI SEETA PARMANAND: What if they demand Rs. 20,000?

SHRI P. S. RAJAGOPAL NAIDU: I am sorry I have not been able to make myself clear. What I suggest is that it should be compoundable but it should be compoundable with the permission of the court. If the court thinks that this is such a serious social offence and that the case should not be compounded at all, then the court need not grant permission. If the court, on the other hand, thinks that this is not a serious case, then the court may grant permission to the

parties to compound a case. All that I want to say is that it should be compoundable but it should be compoundable with the permission of the court.

Sir, these are the suggestions which I would like to make on this Bill.

श्रीमती कृष्णा कुमारी (मध्य प्रदेश) :
उपसभापति महोदय, आज हमारे सदन में दहेज प्रथा के ऊपर चर्चा चल रही है, और मैं समझती हूँ कि दहेज प्रथा हमारे समाज के लिये एक कलंक है। ऐसे बहुत से केसेज देखने को मिलते हैं कि दहेज की इतनी कड़ी मांगें होती हैं कि जो हर कोई आदमी पूरा नहीं कर सकता। वही बात इस बिल में देखकर मुझे बहुत दुःख होता है, क्योंकि आज भारतवर्ष में ज्यों ज्यों शिक्षा का प्रसार बढ़ता जा रहा है त्यों त्यों दहेज प्रथा भी बढ़ती जा रही है और यह नहीं देखा जाता कि जैसे लड़कों को शिक्षा दी जाती है वैसे ही लड़कियों को भी दी जा रही है। इतनी बढ़ी हुई महगाई, इतनी गरीबी और इतने भार को देखते हुये क्या ऐसा नहीं हो सकता कि यह दहेज प्रथा बिल्कुल ही खत्म कर दी जाय। मैं हमेशा से इसी के पक्ष में हूँ कि दहेज प्रथा बिल्कुल खत्म कर दी जाय, यह किसी ढंग में नहीं होनी चाहिये।

इस बिल में जो यह क्लॉज रखा गया है कि दहेज प्रथा में जेवर को शामिल नहीं किया जायगा क्योंकि वह लड़कियों के लिये होता है वह स्त्री धन माना जायगा, यह मेरी राय में केवल बहाना है, यह हम लोगों को फुसलाने का तरीका है कि यह खास कर स्त्रियों के फायदे के लिये चीज है। यह बहुत समझने की कोशिश करने पर भी मेरी समझ में नहीं आता कि है क्या? अब स्त्री धन मुझे कुछ दिखायी ही नहीं पड़ता। मैं समझती हूँ जो कुछ चीजे मिलती हैं वे सब दहेज प्रथा के अन्दर ही ली जाती हैं और यहाँ तक होता है कि रुख, जेवर और जितने सामान मिलते हैं उसके बारे

[श्रीमती कृष्णा कुमारी]

में लड़की को कुछ तो मालूम रहना है और बहुत कुछ मालूम भी नहीं रहता और दहेज में अपने साथ जो सामान वह लाती है उसको उसकी सास और बड़े बुजुर्ग जो होते हैं वे जिस ढंग से चाहें वितरण करते हैं और उसमें उसका कोई भी अधिकार नहीं रहता। आज के समय में, जब भी, यह रिवाज प्रचलित है, इस सम्बन्ध में मुझे मानना ही पड़ेगा कि हमारे समाज का जो ढांचा चल रहा है, जो उनकी मनोवृत्ति है, उसे भी उन्हें बदलना होगा, क्योंकि आजकल जो मनोवृत्ति चल रही है वह किसी कानून के बनाने से एकदम दूर नहीं की जा सकती। आजकल कानून बना देना एक नियम सा हो गया है, पर उसमें की जो पाबंदियां हैं वे कहां तक अमल में आती हैं यह हमें देखना है और जब तक दहेज प्रथा रहती है तब तक स्त्रियों के लिये कोई भलाई नहीं है। हमने देखा है कि जब लड़कियां विवाह के बाद घर आती हैं तो उन्हें लाखों ढंग से व्यंग वचन अन्य स्त्रियों के मुंह से सुनने पड़ते हैं, यहां तक कि उन्हें मजबूर होकर आत्महत्या करनी पड़ती है, या घर से निकलकर वे बाहर चली जाती हैं और दूर दूर की ठोकर खाती हुई धूमती फिरती हैं। (Interruptions.) हां, पुरुष भी उसमें भाग लेते हैं क्योंकि वर इच्छा करने के लिये, अपने विवाह के विषय में बातचीत करने के लिये जब हमारे भाई साहबान जाते हैं तो क्या कहते हैं कि मैं थोड़ा अन्दर जाकर बातें कर लूं, उनकी मां से सलाह ले लूं। अरे, मां से क्या सलाह लेनी है वह भी एक पिता की लड़की है, उनके पिता जब शादी के लिये चले थे तो कितनी मूसीबतें थी वह उसे याद आती हैं। जैसे तलवार के वार को रोकने के लिये ढाल को आगे कर दिया जाता है वैसे ही हम महिलाओं को सदा आगे कर दिया जाता है। औरतों को हमेशा कानून के ढांचे पर पीछे पड़ेला जाता है, उनको कोई भी ऐसा जरिया, रास्ता या साधन नहीं दिये जा रहे हैं कि जिससे वे भी अपने मस्तिष्क को साफ करें। उनके दिल व दिमाग में

हमेशा यह भरा रहता है कि हम मजबूर हैं। हमेशा मजबूरी ही मजबूरी उनके जीवन में आती है। कभी उन्हें स्वतंत्रता नहीं मिली है और भारत में यह स्वतंत्रता मिलना सबसे ज्यादा आवश्यक है। जब तक हम महिलाओं को यह स्वतंत्रता नहीं मिलती तब तक हमारी यह जो आजादी है वह पूर्ण रूप से सफलीभूत नहीं हो सकती। हम स्त्रियां मदियों से दबी हुई, कुचली चली जा रही हैं, कितनी मानसिक पीड़ाएं हम लोगों को होती हैं जिसे हम कह नहीं सकते, किसी से कहने में हमें संकोच भी होता है। उन चीजों को देखत हुये मैं समझती हूं, यह दहेज प्रथा अब बिल्कुल निर्मूल व बन्द कर दी जाय। बिटिया हमारी है, हमें उसकी ममता है, मैं मां हूं। कौन सी मां यह नहीं चाहेगी कि अपनी लड़की के लिये जो कुछ हो सके अपनी इच्छा के मुताबिक उसको देवे। पर किसी को बाध्य न किया जाय। आजकल क्या होता है कि बाध्य किया जाता है। कहा जाता है कि शादी में हम पन्द्रह हजार लेंगे और यह नहीं देखते हैं कि पन्द्रह हजार खपड़े भी उस मकान में लगे हैं या नहीं या रुपया ही कोई दे देगा? आमदनी आजकल किसी की है किसी की नहीं है। और, उसके साथ हमें दस तोला सोना चाहिये, सास के लिये बिछौना चाहिये, ओढ़ने के लिये रजाई चाहिये, पहिनने के लिये बहुत सी चीजें, लहंगा सलवार चाहिये, चुन्नी चाहिये। सब तरफ से मजबूरी ही मजबूरी होती है। इसके फलस्वरूप क्या होता है, उसका प्रमाण प्रत्यक्ष में मैं देख रही हूं। एक जगह शादी करने के लिये बारात गई, लड़की की मां नहीं है और अगर कोई चीज में कमी पड़ जाती है तो शादी करने नहीं जाते। हमारे यहां सिस्टम है कि पहले आरती होती है, द्वारका-चार होता है, फिर शादी होती है सब चीजें दिखाई जाती हैं। लड़के वाले की तरफ से कहा जाता है पहले सब चीजें हमारे सुपुर्द करिये तब तो हम द्वार पर चलेंगे,

नहीं तो हम लौट जायेंगे। जब माता पिता मजबूर हो जाते हैं और उनकी मांग पूरी नहीं कर सकते उस समय लड़की की महान आत्मा में दुख होता है कि मेरे कारण माता पिता को इज्जत नहीं मिल पा रही है। तब वह क्या करती है कि आत्म-हत्या करके मर जाती है, और बारात चली जाती है।

5 P.M.

मैं अब आपके सामने दूसरा जीता जागता प्रमाण देती हूँ और अगर आप लोगों को मंजूर हो तो मैं बयान कर सकती हूँ। एक लड़की एफ० ए० पास है और उसके माता-पिता का स्वर्गवास हो गया है। जब उस लड़की की शादी का समय आया तो उसके चाचा ने तीन हजार रुपये कर्ज लेकर और जमीन को गिरवी रख कर तिलक के रूप में, फलदान के रूप में लड़के को दिये। इस पर लड़का यह कहता है कि साहब मैं सात हजार रुपये से एक कौड़ी भी कम नहीं लूंगा। इसके फलस्वरूप लड़की लिख कर भेज देती है कि इतने रुपये दे रही हूँ, अगर इस पर भी शादी करने के लिये तैयार नहीं है तो मैं भी शादी करने के लिये तैयार नहीं हूँ और अगर भारतवर्ष की यही दशा रही तो मैं आजन्म कुंवारी रह कर अपना जीवन व्यतीत करूंगी। यह एक जीता जागता प्रमाण है और वह लड़की हमारी सम्बन्धी लोगों के बीच से है। जहाँ इस तरह की भावना लोगों में है—जब उस बच्ची के कोई माता पिता नहीं है, कोई संरक्षण करने वाला नहीं है, और जिसके चाचा ने इतना त्याग करके, जमीन को गिरवी रख कर और कर्ज लेकर उसकी शादी का प्रबन्ध किया तो लड़के वाले तरह तरह की शर्तें रखते हैं कि उनके लिये खाने का, पीने का और दूसरी तरह का इंतजाम किया जाना चाहिये। वे लोग डाउरी के साथ साथ यह भी मांग करते हैं कि जो लोग बराती जायेंगे उनके लिये इतना

फर्स्ट, सेकेन्ड और थर्ड क्लास का इंतजाम भी किया जाना चाहिये और साथ ही साथ बिछौना और दूसरी चीजों का भी प्रबन्ध किया जाना चाहिये।

(Time bell rings.)

आजकल इतनी महंगाई के जमाने में जब लड़के वालों की तरफ से इतनी मांग आती है तो लड़की वाले तबाह हो जाते हैं।

श्री शीलभद्र याजी (बिहार) : लड़के वाले भी तबाह होते हैं।

श्रीमती कृष्णा कमारी : लड़के वाले तबाह नहीं होते हैं। लड़के वाले यह चाहते हैं कि जब से लड़का पैदा हुआ है तब से उस पर जो खर्च हुआ है—छटी में, मासनी में—उसकी पढ़ाई-लिखाई और दूसरी चीजों में, वह सब लड़की वाले दें। लड़के वाले लड़की वाले से व्याज सहित यह सब खर्चा वसूल कर लेना चाहते हैं। इसलिये मैं यह कहना चाहती हूँ कि डाउरी के नाम पर यह चीज हमेशा के लिये बंद हो जानी चाहिये अगर हम लोगों में समझ है, अगर हम लोगों में हृदय है तो जो कोई अपनी लड़की को कन्यादान के रूप में देगा तो उसके पास जो कुछ होगा अपने से ज्यादा, वह उसे देने की कोशिश करेगा। मां अपनी लड़की को सब कुछ देना चाहेगी, उसको ओढ़ा और पहिना कर भेजेगी। मां अपनी लड़की को नंगा बचा नहीं भेजेगी।

(Time bell rings.)

उप सभापति महोदय, बातें तो मुझे बहुत कहनी थी लेकिन आपने दो बार घंटी बजा दी है, इसलिये मैं अपना भाषण समाप्त करती हूँ।

MR. DEPUTY CHAIRMAN: The House stands adjourned till 11 A.M. to-morrow.

The House then adjourned at five minutes past five of the clock till eleven of the clock on Tuesday, the 15th December 1959.