

[Shri B. N. Datar.] Cultivating Tenants (Payment of Fair Rent) Act, 1956, a copy each of the following Notifications issued by the Government of Kerala:—

(i) Notification No. 28849|F3|58| Rev., dated the 16th January, 1959, publishing the Cultivating Tenants (Payment of Fair Rent) Rules, 1959.

(ii) Notification No. 19273 |F3|59-4|Rev., dated the 15th June, 1959 constituting a Rent Court at Kasargod.

(iii) Notification No. 32996 |F3| 591 Rev., dated the 16th October 1959 constituting a Rent Tribunal at Kasargod.

[Placed in Library. See No. LT-1788 59 for (i) to (iii).]

AMENDMENT IN SCHEDULE III TO THE I.A.S. (PAY) RULES, 1954

SHRI B. N. DATAR: Sir, I beg to lay on the Table, under sub-section (2) of section 3 of the All India Services Act, 1951, a copy of the Ministry of Home Affairs Notification G.S.R. No. 1291, dated the 20th November 1959, publishing an amendment in Schedule III to the Indian Administrative Service (Pay) Rules, 1954. [Placed in Library. See No. LT-1787/59.]

AMENDMENT IN THE CENTRAL EXCISE RULES, 1944

SHRI MORARJI R. DESAI: Sir, I beg to lay on the Table, under section 38 of the Central Excises and Salt Act, 1944, a copy of the Ministry of Finance (Department of Revenue) Notification G.S.R. No. 1314, dated the 1st December, 1959, publishing an amendment in the Central Excise Rules, 1944. [Placed in Library. See No. LT-1790/ 59.]

ALLOTMENT OF TIME FOR MOTION RE WORKING OF THE PREVENTIVE DETENTION ACT, 1950

MR. CHAIRMAN: Under Rule 153 of the Rules of Procedure and Conduct of Business in this House 2J hours are allotted for the consideration of Shri

Bhupesh Gupta's motion regarding the working of the Preventive Detention Act, 1950, during the period 30th September, 1957 to the 31st December, 1958. When we have allotted 2J hours for that, it means at half past two we have to take it up so that it may be wound up at 5 o'clock.

Now the Law Minister will answer, first stage. After that you must meet at 2 o'clock, cut down your lunch-hour, so that you will have about an hour for the discussion of the amendments, etc.

THE DOWRY PROHIBITION BILL, 1959—continued

THE MINISTER or LAW (SHRI A. K. SEN) : Mr. Chairman, I am deeply obliged to all sections of the House, for the very great interest they have taken in this matter, a matter which I conceive to be of very great importance and needs immediate tackling notwithstanding the various difficulties which lie in our way.

The purpose of the Bill is acceptable to all sections of the House but difficulties have been expressed from all sides and because of these difficulties, I have been very surprised that even an esteemed friend like Raj-kumari Amrit Kaur has condemned the measure as a whole. Those who have condemned the measure as a whole as impractical, as decorative, as absolutely useless, have confined their attention primarily to the penal section of the statute. I am very sorry, Sir, that enough attention has not been paid to a most revolutionary provision which confers very great rights on the brides. The occasion of marriage really causes the problem of dowry. If hon. Members would look at clause 6 of the Bill, they would find that I placed very great emphasis on the clause as I conceived that the problem of dowry was best tackled by this provision rather than by the penal provisions on which, it appears, almost the whole attention of the House was sought to have been confined. It

would be noticed that we had provided that, if any dowry was paid to any person other than the woman in connection with whose marriage it was given, that person should transfer it to the woman and pending such transfer should hold it in trust for the benefit of the woman. That means that if any dowry is paid whatsoever in consideration for the marriage, whoever receives it, whether a stranger or the bridegroom's father or any relation of the bridegroom, he must transfer it to the bride and pending such transfer, he will hold it in trust for the bride. We have, therefore, desirably not framed the penal provisions in such a way as would make the offence cognizable because as a lawyer, having some experience, I claim that I have no doubt that there will be many suits in the future on the basis of clause 6, provided the bride is sure that a civil suit for the declaration of trust of the properties received as dowries either by the father-in-law or any relation of the father-in-law will not automatically result in a prosecution against the father-in-law or the relation of the father-in-law concerned. Once that automatic prosecution is guarded against, I have no doubt any husband will join the bride in a suit of this nature for getting back to the bride what is due to her under the law but if such a civil claim carries with it an automatic prosecution of the taker of the dowry, i.e. the father-in-law or any relation of the father-in-law, and if, along with it, we make the penalty more and more rigorous, I apprehend that even civil suits would not follow at the instance of a bride.

SHRI SONUSING DHANSING PATIL (Bombay): You have made giving and taking of dowries an offence. Now you are legalising dowry by this clause 6, by giving right to the woman to enforce her rights.

SHRI A. K. SEN: The daughter is getting what the father is giving. If clause 6 means legalising dowry, do not know what better v can find for it.

DR. SHRIMATI SEETA PARMANAND (Madhya Pradesh): It only becomes *stridhan*.

SHRI A. K. SEN: It only becomes *Stridhan* and *Jautuk* and the property is given to the daughter by the father. I do not consider it an evil at all.

SHRI B. D. KHOBARAGADE (Bombay): *Stridhan* and dowry are entirely different things. Dowry will be given secretly. Dowry being prohibited by law, it would be given secretly.

SHRI A. K. SEN: Even if it is given secretly, the bride, I am absolutely sure, would not hesitate to file a suit, if necessary, and in this she will be assisted by all her relations if they know that the property comes back to her. If she does not file a suit, it is a different matter and the law cannot provide for the enforcement of all civil claims in respect of rights created by the law. All that we can do is to provide for it.

SHRI P. D. HIMATSINGKA (West Bengal): In practice do you think any woman will be prepared to file a suit and make her life miserable in the family?

SHRI A. K. SEN: In my own experience I have been instructed by the husband of the wife in filing suit against the father-in-law.

SHRI P. D. HIMATSINGKA: Husband joins wife in this?

SHRI A. K. SEN: Why not?

RAJKUMARI AMRIT KAUR (Punjab): Is it the Government's intention to encourage domestic litigation?

SHRI A. K. SEN: Well, we give rights to the daughter.

SHRI SANTOSH KUMAR BASU (West Bengal): Does the hon. Minister want that we should encourage such state of affairs where the husband and wife will be conspiring to file suits against the father-in-law? *

SHRI A. K. SEN: If the father-in-law misappropriates the property of the daughter-in-law, should not the

[Shri A. K. Sen.] Government provide adequate safeguards to restore her the property? It cannot be called conspiring.

SHRI BHUPESH GUPTA: (West Bengal): Then the hon. Minister will have to find homes for such daughters-in-law because, in that case, they cannot live in such families.

SHRI A. K. SEN: It only shows that his experience in this legislation is not very mature.

SHRI B. D. KHOBARAGADE: Can a wife file a suit against her husband?

SHRI A. K. SEN: I suppose there are plenty of lawyers in the country to offer legal advice on such questions.

We are here concerned with giving rights which were not existent. Properties given at the time of the marriage as dowry in which the daughter gets no share and she is deprived of the benefits of it and the father-in-law or any relation of the father-in-law enjoys the property, it is that stage which we are trying to remove and I conceive that clause 6 confers a right on our women which they have never enjoyed so far and it is of a revolutionary character. I personally think that this clause will help considerably in eradicating this evil. As I said before, and as I repeat it even now, I have not emphasised the penal provisions so much as I know the difficulties in enforcing the penal provisions. I told these things to one of the lady Members here this morning that with all the zeal she had of a social reformer, if it came to her own case, I doubt very much if she would come forward against the father-in-law in filing a civil suit for restoration of her property, though she wanted that penalty provisions should be made rigorous as much as possible.

Therefore, Sir, when originally our esteemed friend, Shri Jugal Kishore, brought a law of this nature in this

House I told the House on that occasion that along with the penal provisions we must devise some other remedies and we must create some other rights which will help in the eradication of this evil. I, therefore, purposely designed this clause 6 which, in my opinion, will go a long way forward in helping our women and also, in removing this evil.

Having created this right it will carry along with it the possibility of our women enforcing these rights and all those who are interested in the woman's property, like the husband and others—her sons, and her relations—will help her in the enforcement of these civil rights conferred by clause 6 provided they were assured that the launching of a civil suit would not automatically involve them in a criminal prosecution. That is the safeguard which we have designed in making the offence non-cognizable. Therefore, I wholly disagree, with respect, with those who think that this is going to be a purely decorative piece of legislation and absolutely useless. I apprehend that they did not pay enough attention to the great right which is going to be created under this in favour of our women when all dowries received or given become their property and nobody else's.

The next point taken by some was with regard to some of the individual provisions. Shri Naidu attacked the provision by which we have given the first class magistrates and the presidency magistrates powers to impose fines. He will see that it was necessary because under the Criminal Procedure Code these magistrates cannot impose a fine exceeding Rs. 2,000 and since the limit is more in this case, we had to confer this special power.

Others have said that the definition of 'dowry' is rather uncertain and vague. Dr. Bose made that point. I wish that those who have attacked the definition came out with a better definition because, as I said, nothing would have been more welcome to

the Government than a better alternative definition and as I said, in this matter, our minds are not closed at all. A better definition would be absolutely welcome. There is no use saying that the definition is uncertain, vague and not particular without putting some other alternative which is better. It was said by Dr. Bose that this law would not do any credit to us and that it would make us appear like so many fools. These are strong words to be used based on an inadequate study of the provisions of this Bill, if I may say so, with respect. As I said, he only looked to the penal provisions. He only looked to the difficulties in enforcing the penal provisions without paying enough attention to the great rights which are being created by this Bill in favour of our women which they have never enjoyed before, carrying with it again, very important obligations on the part of any person who is a receiver of dowries.

Now Dr. Panikkar said that the word 'trust' was not understood. I do not know if 'trust' is not understood in this country. If anything is understood at all, it is certainly 'trust'. Even if it is not understood, it will be understood because it is a question of acquainting oneself with the law and the incidence of a trust is fairly well known. What happens if a trustee breaks his duty is well known. What happens to the trust property is well known. All the incidence is well known. There is no uncertainty about the law governing 'trust' either in this country or in any other.

Dr. Panikkar said that this legislation would have the effect of reducing our respect for the law. I suppose that may be said of all laws because there are no laws which can ensure, by its provisions, that it shall be obeyed by all. In fact penal provisions punishing infringements are not to be found in this legislation alone. They are to be found in all statutes which impose that and their infringement is regarded as penal and punishments are provided for because the law itself apprehends infringe-

ments; otherwise there should not be any punishments for infringements, if the law carries with it automatic obedience of its provisions. This can be said—more or less it will be a question of degree—with regard to every law which imposes obligations the infringement of which is punishable criminally. Therefore, I cannot see how, simply because the enforcement is more difficult in this case, it will amount to creating a disrespect for the law. As I said, again Dr. Panikkar did understand the vital nature of this provision, namely, creating new proprietary interests in the dowry for our women and creating the obligations of trust so far as receivers are concerned which Dr. Bose had not really noticed, it appears, and a right which is of a very revolutionary character and I am absolutely certain that the respect for this Legislature will be enhanced when our women find that they have been conferred with such an important right and I disagree, with respect, with Dr. Bose when he says that we shall make a laughing stock of ourselves. What more do our women expect except that the legislature thought it fit that in whatever way, in whatever manner, dowry may be paid or received, whoever may be the recipient, it must be held in trust for the bride and nobody else, and the bride has always the right, exclusive right, to that property given. I make bold to say that the prestige of this House will be enhanced rather than impaired by providing for such a revolutionary right to be enjoyed by our future brides.

Then about Explanation II, as I explained at the very outset, . . .

[MR. DEPUTY CHAIRMAN in the Chair.]

SHRI SONUSING DHANSING PATIL:
Clause 4.

SHRI A. K. SEN: I am coming to it. Clause 2 comes earlier than clause 4. As I said at the outset, the Government's mind was never closed on this issue. It only makes explicit what is implicit but I agree with the force of the argument advanced by many

[Shri A. K. Sen.] Members that though it may be implicit, yet by making it so nakedly explicit, you really give the future offenders a way or an indication as to how to evade it. So a law should not nakedly indicate the way of evasion. At the same time I understand the weight of it and therefore, as I said, on this question the Government will not want any voting excepting a free one but at the same time, it is my duty to point out that in our exuberance we should not try to confound what is an evil with what is and what has been a beneficent thing for centuries, namely, gifts made voluntarily out of genuine love and affection by parents or relations of parents to the bride at the time she is married or at the time she leaves her parental home. In fact that was the only source by which women acquired any *streedhan* in the olden days before the Hindu Law of Succession gave rights of property to women. Even now those rights of property in many cases are defeated by testamentary dispositions because fathers feel that strangers should not be brought into the family fold to share property and therefore, even now, for many years to come until our fathers get reconciled to the idea of allowing strangers to participate in the family property, this will remain the only source for our women to acquire some *streedhan* on which they can depend in times of need. So what makes it an evil is, when instead of giving it to the bride as her exclusive property, it is sought to be given to somebody else as a price for taking the bride as a bride to the new family. That is the evil. As some hon. Member was pleased to point out here, the evil is the tainted gift which is made under coercion, under a sense of compulsion and the result of which is that the benefit is enjoyed not by the bride but by strangers and the wife gets nothing out of it.

DR. SHRIMATI SEETA PARMA-NAND: This is not the only way in which a woman will get any *streedhan*. She has a right to inherit her

father's property and she will share equally with the sons.

SHRI A. K. SEN: I said so. Practically what we have seen is ever since the Hindu Succession Act came into force, fathers have, by testamentary disposition, given their property only to sons in order to prevent outsiders from coming into the family property. Therefore, as I said, for many years to come, as a practical proposition, this will remain the most important source from which our women will derive their *Stridhan*. I know that Mr. Himatsingka can tell us in how many cases he has disposed of property in this manner by testamentary disposal and so on. It is but natural, for the man knows his daughter but not his son-in-law, and so he would not like the family property to go out.

SHRIMATI MAYA DEVI CHETTRY (West Bengal): What happens if the bride dies or is divorced without having any issues? In such a case, what happens to this property?

SHRI A. K. SEN: That is a different thing and our Hindu Law provides for women's succession to *stridhan*. We have not changed the line of succession for *stridhan*.

SHRI SANTOSH KUMAR BASU: Are you not enshrining by this, the grand principle in the present day marriage market, don't marry for money, but marry where money is?

SHRI A. K. SEN: Well, I suppose it is a human failing in every country; not here alone, but in every country that human failing is there. And no law can cure it, as long as there is private property. My hon. friend, Shri Bhupesh Gupta, will advance that as the greatest argument against the retention of private property. As it is, so long as there is accumulation of private property, the natural desire of a man would be to marry in a rich family.

SHRI BHUPESH GUPTA: Just as going to a Bar where money is.

SHRI A. K. SEN: Yes, for some. Well, as I said, I appreciate the weight of the argument that though nobody wants to prohibit—nobody can prohibit—purely genuine gifts by a father to his daughter, yet by pointing it out, you indicate, possibly indirectly, a way of evasion.

Next, with regard to clause 4, it has been argued that even the pure demand of dowry should be made an offence. Our exuberance has been so great in this matter, especially of our sisters, that they think that even a demand should be penalised though it may not result in actual marriage.

SHRI R. P. N. SINHA (Bihar): What about thought?

SHRI A. K. SEN: Well, that might be one step further. It was urged that even if a man merely demands dowry, he should be penalised, though the demand may not actually mature and no marriage may be celebrated. It has been pointed out, and pointed out very rightly, that that might cause harassment and harassing complaints may be filed at the instance of people whose daughters were for valid reasons not selected and the daughters of others were for valid reasons selected in preference. In a village an eligible boy naturally is sought by more than one family and naturally so long as marriages are arranged—and they will remain for many many years to come, as a matter to be arranged by the parents in our society—the parents of the boy will have to select one out of many. But those whose daughters have not been selected might go and file a complaint saying, "well, our daughters are not selected because we refused to pay the dowry which the man demanded. Therefore, penalise him." Therefore, that danger is there. And knowing our village society as most of us do, such litigations purely out of jealousy or purely out of malice are not things of the past. They are still very very prevalent. Again, I say, hon. Members can decide whether they will retain clause 4 or omit it. Whether the

demand of dowry by itself should be an offence, even when nothing happens and when the demand does not mature into actual marriage, it will be for the hon. Members to decide. Government is not committed either to the retention or the omission of clause 4.

The hon. Member, Dr. Shrimati Seeta Parmanand, raised the point about exempting the givers of dowry from the pail of the penal provision. Such an amendment was introduced and very hotly debated in the other House. At that time the "Government opposed the amendment. Not Government as such, but I personally opposed it, because I thought that it would again make the law rather uncertain and discriminatory. According to me, in most cases, it is the temptation offered by the giver of the dowry which really increases the scale of the demand for dowries.

DR. SHRIMATI SEETA PARMANAND: Probably under coercion.

SHRI A. K. SEN: No, when you open the newspaper, you see all the marriage column advertisements end with the words, "Proper dowry will be given. Handsome dowry will be given" and so on.

DR. SHRIMATI SEETA PARMANAND: How many advertise?

SHRI A. K. SEN: I am sure all of them are not rich people. I don't think rich people advertise.

DR. SHRIMATI SEETA PARMANAND: Poor people do not know how to advertise even.

SHRI A. K. SEN: Poor people do not have money to pay. How can we think of a man, who lives from hand to mouth, advertising?

DR. A. N. BOSE (West Bengal): Suppose the advertisement says that gifts will be given, not dowry, what will happen?

SHRI A. K. SEN: We will see whether the offer is connected with marriage or not.

SHRI V. PRASAD RAO (Andhra Pradesh): What is the criterion?

SHRI A. K. SEN: The criterion will be decided by the judge. My hon. friend unfortunately is not a judge and so he has not to bother about that. If he were, I would have helped him.

SHRI V. PRASAD RAO: But no criteria is provided here.

DR. A. N. BOSE: Will that not escape under the Explanation under clause 2?

SHRI A. K. SEN: It will be decided by the court. If my hon. friend had been a lawyer, he would have known that under the Contract Act, many contracts are rejected as being vitiated or tainted or as being entered into under influence, fraud, coercion and so on. How are these things decided? When a contract is made under coercion, it is bad. How is that decided? How is it decided whether a contract is induced by coercion?

MR. DEPUTY CHAIRMAN: The judge will decide such matters in the court.

SHRI A. K. SEN: Anyway, the hon. Member, Dr. Bose, and others are obsessed with the penal provision. But as I said, I have more faith in clause 6 which, I have no doubt, will be enforced by the bride and her people and even the husband.

SHRI B. D. KHOBARAGADE: May I know, Sir, whether a provision like clause 6 which confers this power on the bride, was incorporated in the Act which was enacted by the Bihar Government and the Andhra Government? If so, what has been the experience gained by these Governments in this respect?

SHRI A. K. SEN: My recollection is that there was no such provision in those Acts. But I am not absolutely definite about it. I personally think that this is an absolutely new provision, this clause 6. But I will check

it up and find out. I do not think it was there, because I think I have been, to a large extent, responsible for its adoption.

SHRI B. D. KHOBARAGADE: A provision like clause 6 was not there in the Bihar Act or the Andhra Act?

SHRI A. K. SEN: Well, that is my impression; but as I said, I am not absolutely definite. Therefore, the question of exempting the dowry giver altogether from the pail of the penal provision only on the ground that if he is exempted, he can freely come and give evidence, is a matter on which I have grave doubts, because I doubt very much if the dowry giver, even if he is not criminally liable himself, will come and give evidence against his "in-laws" or his son-in-law. Therefore, as I said, the more competent instrument for enforcement will be the right created by clause 6 where it will be civil action instituted by the bride for recovery of the property or for enjoying the usufruct property.

SHRI B. D. KHOBARAGADE: The provision in clause 6, will it not . . .

SHRI A. K. SEN: Sir, if the hon. Member wants another round, with your permission, I will sit down and he can have another round.

MR. DEPUTY CHAIRMAN: Order, order. You continue.

SHRI A. K. SEN: Sir, the other question was about making the offence cognisable and increasing the rigour of the punishment, making imprisonment compulsory and so on. I apprehend that automatic prosecution carrying with it all the rigours of criminal penalty would desist the bride from even enforcing her right under clause 6. She would know that the moment she files a civil suit to enforce her claim to the dowry as her exclusive property, it would at once expose either her own husband or her own father-in-law into a criminal prosecution. I doubt if there would be many daughters-in-law in this country who

would launch such a civil case. On the contrary, if it is not made automatic, . . .

SHRIMATI CHANDRAVATI LAKHANPAL (Uttar Pradesh): Otherwise they will not launch any case.

SHRI A. K. SEN: They may not launch a criminal case but they will certainly launch a civil case. That I know because our women are quite conscious and hundreds of them have filed cases claiming *stridhan* against their fathers-in-law.

Now, I have got the provisions of the other Acts referred to by the hon. Member there. In Bihar, there is no provision like clause 6 and the Kerala Bill, which was not passed into an enactment, also did not contain anything like clause 6. It was only penal in nature.

These are my submissions, and with such amendments as have been proposed with regard to the deletion of Explanation I or in regard to the deletion or retention of clause 4, I suggest, Sir, that this House sincerely pass this Bill and accept this Motion. I strongly deny, Sir, that by passing this Bill, we shall be making a laughing stock of ourselves or would be instrumental in creating disrespect for the law. As I have tried to show, Sir, this will be a piece of legislation which will give very great rights for our new brides, new fields for enforcing their rights open to them, and in many cases there would be the possibility of bringing even the offender criminally to account.

With these words, Sir, I commend my motion.

SHRI B. D. KHOBARAGADE: The hon. Minister just now stated that clause 6 is incorporated in the Bihar Act. May I request the hon. Minister to let this House know the experience gained so far as Bihar is concerned?

MR. DEPUTY CHAIRMAN: It was not there.

SHRI A. K. SEN: It is not there anywhere.

MR. DEPUTY CHAIRMAN: The question is:

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

The motion was adopted.

MR. DEPUTY CHAIRMAN: We shall now take up the clause by clause consideration of the Bill

Clause 2—*Definition of "Dowry"*

DR. SHRIMATI SEETA PARMA-NAND: Sir, I move:

1. "That at page 1, line 8, after the words 'any property' the word 'cash' be inserted."

2. "That at page 1, at the end of line 9, after the word 'given' the words 'either directly or indirectly*' be inserted."

4. "That at page 2, line 2, after the word 'presents' the words 'not exceeding two thousand rupees in value in the aggregate' be inserted."

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

(Amendment No. 13 also stood in the names of Shri Jugal Kishore and Shri P. S. Rajagopal Naidu.)

SHRI ABDUR REZZAK KHAN (West Bengal): Sir, I move:

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

SHRI V. PRASAD RAO: Sir, I move:

5. "That at page 2, line 3, the word 'cash' be deleted."

6. "That at page 2, line 4, after the word 'articles' the words 'which will not exceed in all one thousand rupees in value' be inserted."

SHRI JUGAL KISHORE (Punjab): Sir, I move:

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

SHRIMATI CHANDRAVATI LAKHANPAL: Sir, I move:

14. "That at page 2, line 4, after the word 'articles' the words 'which shall not exceed five hundred and one rupees in value in the aggregate' be inserted."

The questions toere proposed.

DR. SHRIMATI SEETA PARMA-NAND: With regard to my amendment which seeks to insert the words "directly or indirectly" in clause 2, I would like to say that it would be better to put these words in order to save a lot of argument by lawyers. These words were there, as suggested by the Select Committee, and they clarified the position and nothing would have been lost if they had been retained in the clause. Even if these words are there in the clause implicitly, by adding these words now, we would make the meaning more explicit and the whole thing would be made very definite. I would, therefore, like these words to be put in as was done by the Select Committee.

With regard to the Explanation, I feel, as I said earlier, that this Explanation only gives an invitation to make presents of clothes, ornaments and other things and the courts will decide the case on what is given according to the status of the family. So, this explanation which has been added by the Lok Sabha is not at all necessary, and if it is deleted, I think, it will make the definition much better and it will not give an invitation for people to take resort to this Explanation and offer ornaments, clothes or cash, as has been mentioned in this Explanation.

श्री अब्दुर रज्जाक खान : मेरे खयाल में इस एक्सप्लेनेशन के मुताबिक काफी

तफसील के साथ बातें पेश की जा चुकी हैं लेकिन फिर भी मे दो चार बातें इस बारे में कहना चाहता हूँ। हमारे भानरेबल ला मिनिस्टर ने यह एक्सप्लेनेशन जो उस हाउस में मंजूर किया है और जिसको इस बिल में बढ़ाया गया है, यह एक्सप्लेनेशन सेलेक्ट कमेटी में नहीं रखा गया था। सेलेक्ट कमेटी में ये तमाम बातें जो यहां बहस की जा रही है, ये तमाम बातें वहां पर भी गौर की गई थीं और उसकी बेहतरीन राय दी कि ऐसा कोई एक्सप्लेनेशन न रहे लेकिन फिर भी इसको नाफिज किया गया। अब इन बारे में भानरेबल ला मेम्बर ने यह फरमाया है कि यह अन्सेसरी है, गैर जरूरी है। लेकिन, मेरे खयाल में, सिर्फ इतना कहना काफी नहीं है कि यह गैर जरूरी है, बल्कि मैं समझता हूँ बहुत नुक्सान-देह है। गैर जरूरी चीज भी, कभी कभी ऐसा हो जाता है कि, नुक्सान देने लगती है। तो यह ऐसी गैर जरूरी चीज है कि इससे नुक्सान पहुंचने का खतरा पैदा होता है। आपके पेश किये हुये इस बिल पर जब हम गौर कर रहे हैं और आज जब हम तमाम इसलाहान बढ़ाना चाहते हैं तो वेटेज किसको देंगे? क्या जो लोग डाकरी अवाइड करने वाले लोग हैं उनको वेटेज देंगे। अगर यह खयाल हो कि किसी घरस को वेटेज देना है, यात्री अगेंस्ट डाकरी वेटेज देना हो, तो खयाल सही है। मगर वेटेज नहीं दिया गया बकि खुले मैदान में रखा गया। अब इसको जायज करने से, बढ़ाने से वेटेज पड़ता है, डाकरी के फेवर में और डाकरी को अवाइड करने वालों के हक में। इसलिये यह बहुत ही जरूरी है कि इसको उड़ा दिया जाय, इसको खरम कर दिया जाय और मैं हाउस से अपील करूंगा कि अगर वह इस बिल को मंजूर करता है और अगर मेम्बरान चाहते हैं कि कोई सलाह इस बारे में हो जो कारगर साबित हो सके तो मेरे अमेन्डमेंट को मंजूर करें। आज मुक्त में जो हजात पैदा है अगर आप साल में हिसाब

लगायें तो मेरे खयाल में हजारों की तादाद में ऐसी औरतें हैं जिनकी जिन्दगी तबाह हो रही है। अगर उनको बचाना है तो यह जरूरी है कि कोई इस तरह का स्टेप लिया जाय जिससे उनकी जिन्दगी तबाह होने से बच जाय। जब मुल्क में तबाही आ रही है, कुछ लोगों को नुकसान हो रहा है तो ऐसी हालत में हम लोग यहां खामोश बंटे रहें और उनको बचाने की कोई सूरत न करें, यह मैं समझता हूं कि एक गैर जिम्मेदाराना बात होगी। इस फर्ज को लिहाज में रखते हुए यह निहायत जरूरी है कि यह बिल पास किया जाय। इस चीज को मद्देनजर रखते हुए हमारे एक आनरेबल मेम्बर श्री जुगल किशोर जी ने इस किस्म का एक नान आफिशियल बिल हाउस में रखा था और गवर्नमेंट ने सब हालातों को समझते हुए यह वादा किया था कि वह जल्दी ही इस तरह का बिल लाने वाली है। उसके बाद जब गवर्नमेंट की ओर से इस तरह का बिल आया है और कुछ लोगों की ओर से जो रोड़े धटकाये जा रहे हैं, उन सब को देख कर मुझे ताज्जुब होता है। जो लोग बिल को मुखालिफत करते हैं वही इस क्लाइ को यहां लाना चाहते हैं। इससे साफ जाहिर है कि उनका मतलब क्या है और वे क्यों इसको खत्म करना चाहते हैं। मैं हाउस से अपील करूंगा कि वे इस क्लाइ को और मेरे अमेंडमेंट को कबूल करें और इस एक्सप्लेनेशन को खत्म कर दें। वरना इसका नतीजा यह होगा कि जो कुछ अभी तक किया गया है, जितना वक्त और खर्चा इसमें किया गया है, उस सब पर पानी फिर जायेगा।

श्री जुगल किशोर : उपसभापति महोदय, श्रीमती सीता परमानन्द ने जो कुछ अभी अर्थ किया है मैं उसकी तारीफ करता हूं। इसके साथ ही साथ मुझे यह भी अर्थ करना है कि इस बिल में जो एक्सप्लेनेशन नम्बर १ है उसको निकालना निहायत

जरूरी है। अगर ऐसा नहीं किया गया तो इस बिल के ऊपर पानी फिर जायेगा। जैसा कि अभी मेरे भाई ने कहा और मैं भी यह कहना चाहता हूं कि अगर आप लोगों को उन अवलाओं और उन वचित्रियों का ख्याल है जो डाउरी सिस्टम की वजह से शादी नहीं कर सकती हैं तो इस एक्सप्लेनेशन को निकालना निहायत जरूरी है और उस सूरत में बिल को पास कर देना चाहिये।

SHRI V. PRASAD RAO: Mr. Deputy Chairman, as I pointed out yesterday, this Explanation is making quite explicit what is implicit in the original clause. Actually, even without the Explanation one can give presents or gifts and prove that they are not made as consideration for the marriage. But this gift is made quite explicit in this Explanation and so it makes a big leeway for giving dowry in a concealed form. Even if we want this Explanation, let us limit the gifts. If the father has got so much love for the daughter, then he can give a share of the property instead of making cash gift at the time of the marriage. I do not understand why cash gift should be there; gift can be in other forms. It rather smacks too much of commercializing marriage when you give scope for cash to be given as gift. Actually in most of the marriages what happens is—I am sorry to point it out—at the time of the marriage actual currency notes are put on a platter and offered as a gift and this is part of the consideration agreed upon. The hon. Minister while explaining this aspect said that it is for the court to go into the whole thing and to examine whether it is part of any consideration or not. In this connection he has given the analogy of a contract that is agreed upon under coercion but there is no comparison between a contract that has been entered upon under coercion and a marriage because the father will not be interested in going to the court and making a report, because if he did, the life of the bride would be ruined. So it is very difficult for a court to prove whether a parti-

[Shri V. Prasad Rao.]

cular amount is given as a gift or as dowry. If the gift is to be there, let it be limited to, say, Rs. 1,000.

AN HON. MEMBER: Rs. 500.

SHRI V. PRASAD RAO: All right; I do not mind. Let it be limited to Rs. 500. But let us not leave scope here so that under the guise of gift dowry may be extracted.

SHRI P. S. RAJAGOPAL NAIDU (Madras): Sir, if this Explanation I remains on the Statute Book, the very object with which this Bill is brought will be defeated. The Explanation 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."

My view is this. I am not opposed to the presentation of gifts at the time of marriage. Nobody prohibits the presentation of gifts at the time of marriage. If this Explanation remains as it is, without being deleted, as a result of agreement between the parties the dowry will take the shape of gifts which will be presented openly at the time of the marriage without being said that it is dowry. So the whole thing will go as a camouflage for the giving of dowries and for this reason I feel that the Explanation has to be deleted so that this legislation could be made purposeful.

SHRI SONUSING DHANSING PATIL: Mr. Deputy Chairman, I oppose the amendment proposed by Mrs. Seeta Parmanand to add the words "directly or indirectly." I think it is not essential to add them here because the definition of dowry is so much narrowed down to property or valuable security. The expression "valuable security" will have the same meaning as in section 30 of the Indian Penal Code, which says:

"The words 'valuable security' denote a document which is, or purports to be, a document whereby any legal right is created, extended, transferred, restricted, extinguished or released or whereby any person acknowledges . . ."

The words "directly or indirectly" are capable of very elastic interpretation and we need not unnecessarily put in some words which will probably multiply litigation.

Secondly, in the original Bill the definition of dowry included an exemption up to Rs. 2,000 and now that is not there. Sir, I am in favour of the retention of the explanation. The argument advanced by Mr. Naidu was that it will serve as a sort of a camouflage for letting in dowries in an indirect manner but Mr. Naidu has failed to see that the Explanation is very explicit. And it does not also say anything about the persons who make the gifts; it may be by friends, it may be by parents, it may be by relatives. And the provision is limited by saying 'unless they are made as consideration for the marriage.' So, it is limited. If it is in consideration of the marriage, then the person will come within the clutches of the law. But if the presents are genuine, why should we restrict them? We should not in our zeal for reform try to do away with what the other House in its collective wisdom has retained. The fears that it will serve as a channel for giving or taking of dowry indirectly are unfounded inasmuch as the presents made are not confined to the parents of the parties.

SHRI AMOLAKH CHAND (Uttar Pradesh): Mr. Deputy Chairman, about this Explanation, I feel that the Government is convinced that it is only for the removal of doubts because the Explanation begins with the words "For the removal of doubts". Therefore I presume that all gifts that are given at the time of marriage either by the parents or by the friends will not be deemed dowries and as such there is no sense in keeping this Explanation.

Another point is, the moment you say that dowry is defined, you have legalized dowry especially if you look at clause 6 which I have not been able to understand. What I feel is, if this Explanation goes away, clause 6 also should go away so that there will be some sense in this Bill.

SHRI A. K. SEN: Mr. Deputy Chairman, about Explanation I, I do not want to add anything more to what I have already said. In regard to the removal of clause 6, I do not know whether there is an amendment to that effect but I think that will be very very unjust because all the Members have said that notwithstanding this law there will be dowries given and taken and this is only to see that those who would be giving or taking dowry in contravention of this law do not take advantage of their illegal act, but that the entire advantage should go to the bride. That is the whole purpose of clause 6 and I am opposed to clause 6 being deleted.

MR. DEPUTY CHAIRMAN: The question is;

1. " That at page 1, line 8, after the words 'any property' the word 'cash' be inserted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

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

(After taking a count)

Ayes—21

Noes—19

The motion was adopted.

1 P.M.

MR. DEPUTY CHAIRMAN: The question is:

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

The motion was adopted.

MR. DEPUTY CHAIRMAN:

•Amendments Nos. 4, 5, 6, 12, 13 and 14 are barred.

SHRI J. S. BISHT (Uttar Pradesh): Sir, what happened to the Explanations?

MR. DEPUTY CHAIRMAN: Explanation II remains. Explanation I goes. The question is:

"That clause 2, as amended, stand part of the Bill."

The motion was adopted.

Clause 2, as amended, was added to the Bill.

MR. DEPUTY CHAIRMAN: We will take up the remaining clauses at 2 o'clock. Mrs. Lakshmi Menon will make a statement.

ANNOUNCEMENT RE. MEETING OF COMMONWEALTH PRIME MINISTERS IN LONDON IN MAY 1960

THE DEPUTY MINISTER OF EXTERNAL AFFAIRS (SHRIMATI LAKSHMI MENON) : Sir, the Government of the United Kingdom have been in communication with the Government of India and other Commonwealth Governments about a meeting of the Commonwealth Prime Ministers in London. It has now been arranged to hold a meeting of the Commonwealth Prime Ministers in London beginning on 3rd May, 1960. The Prime Minister of India hopes to attend this meeting of Commonwealth Prime Ministers.

MR. DEPUTY CHAIRMAN: The House stands adjourned till 2 P.M.

The House then adjourned for lunch at five minute past one of the clock.

*For texts of amendments, see col. 2782-83 *supra*.