

Therefore through you, Sir, I would like to request the Government to place all the matters before this House. Also, Sir, under rule 148 of the Rules of Procedure I would like to seek your permission to discuss this matter of general public interest, and I would request you to allot some time for it.

SHRI BHUPESH GUPTA (West Bengal): Sir, sometimes we find that such reports of great national importance and consequence appear in the Press and are splashed in a somewhat unauthorised manner. We were all taken aback in the morning when we read the news. Therefore, Sir, I think that it should also be gone into as to how, even if the news is correct, such things could appear in the papers. I think that no time should be lost by the Prime Minister and the Government to make the position clear and to take the Parliament into their confidence as to the nature of the developments, whatever they are.

SHRI V. K. DHAGE (Bombay): I agree, Sir, with Mr. Ganga Sharan Sinha that this matter is very grave and is very disturbing at this juncture. The news that has come out in the papers is that there are differences between the Defence Ministry and the Services Chiefs. This seems to be rather very unsettling at this time. It is really very important that the Government should take the earliest opportunity to make the situation clear. Let us know as to what exactly the matter is.

SHRI RAJENDRA PRATAP SINHA (Bihar): Sir, I would like to add that there is no time for us to go into the question as to whether, and if so, how this report has come out. An examination should be made whether it is authorised or unauthorised. We would like to discuss it on the merits of the question that has arisen.

SHRI BHUPESH GUPTA: First of all we must know the Government's version as to the truth or otherwise of

the report. That is most important. Then we proceed . . .

(Interruptions).

DIWAN CHAMAN LALL (Punjab): Sir, on a point of order. If you will permit me to say, there are only two methods by means of which at this stage we can discuss the matter. One is a short-notice question and the other is an adjournment motion.

SHRI GANGA SHARAN SINHA: Under rule 148 of the Rules of Procedure . . .

DIWAN CHAMAN LALL: At this stage there is no adjournment motion.

MR. CHAIRMAN: I am not bothered about it. You have seen the report in the Press. I have also seen it. First of all we have to ascertain whether it is correct or incorrect. If it is incorrect, then no question arises. If it is correct, Government will certainly make a statement in this House.

SHRI BHUPESH GUPTA: If it is incorrect, even then the question arises. We shall be interested in finding out as to how such news could appear in the newspapers and that too just today.

MR. CHAIRMAN: Sometimes you also bring news.

SHRI BHUPESH GUPTA: Sir, please do not bring me in at this stage. Nowadays a series of articles by people are appearing that India should join with Pakistan, should join the SEATO Pact, and all that.

MR. CHAIRMAN: That is all right. It will be looked into. Now the Dowry Prohibition Bill.

—
THE DOWRY PROHIBITION BILL,
1959—continued

श्री नवाबसिंह चौहान (उत्तर प्रदेश) :
श्रीमन् . . .

MR. CHAIRMAN: We have got only very short time. Make your speech as brief as possible.

SHRI NAWAB SINGH CHAUHAN: How much time will I get, Sir?

MR. CHAIRMAN: Take ten minutes.

श्री नवाबसिंह चौहान : यह बिल जो दहेज प्रथा को समाप्त करने के लिये रखा गया है, मैं इसका हृदय से स्वागत करता हूँ। लेकिन साथ ही साथ मैं यह भी समझता हूँ कि यह बिल ऐसा नहीं है जिससे दहेज की प्रथा पूर्णरूप से बन्द हो सके।

[MR. DEPUTY CHAIRMAN in the Chair.]

चूँकि केन्द्रीय सरकार ने पहले पहल यह कदम उठाया है, इसलिये इसका हमें स्वागत ही करना चाहिये। यह हो सकता है कि आगे चलकर इसमें बहुत सी खामियाँ निकलें, बहुत सी कमियाँ नज़र आयें, लेकिन इससे जो हमें तज़ुर्बा हासिल हो, जो इस संबंध में पब्लिक की प्रतिक्रिया हो, उसकी रोशनी में हम आगे चल कर इसमें संशोधन कर सकते हैं। संशोधन करना कोई पाप नहीं है। आप आये दिन तमाम कानूनों में संशोधन करते रहते हैं। इसलिये यह कह देना कि इससे काम पूर्ण नहीं होगा, जंचता नहीं है और कुछ असंगत सा मालूम पड़ता है। राजकुमारी जी ने यह ऐतराज किया है कि इस बिल से काम पूर्ण नहीं होगा। कुछ दिन पहले उन्होंने एक और बिल पर ऐसा ही ऐतराज किया था। मैं किसी की नीयत पर शक नहीं करता, लेकिन मेरी समझ में नहीं आता है कि राजकुमारी जी को क्या हो गया है कि जो बिल यहां पर आता है, उसके ऊपर ऐतराज करना उनको अच्छा लगता है। शायद कानून का मतलब उनका यह है कि जो भी कानून आये, वह पूर्णरूप से किसी बुराई को बन्द कर दे। मैं अपने भाषण में पहले भी कह चुका हूँ कि सरकार ने चोरी, डाका, स्मगलिंग, कत्ल आदि जुर्मों को बन्द करने के लिये कानून बना रखे हैं, लेकिन फिर भी

ये तमाम चीजें होती हैं। इसलिये यह कह देना कि ये तमाम चीजें होती हैं, इसलिये कोई कानून न हो, यह कोई दलील नहीं है। मैं यह समझता हूँ कि इससे पूरी समस्या हल नहीं होगी, लेकिन केन्द्रीय सरकार के इस कदम का स्वागत ही होना चाहिये, क्योंकि कम से कम पहली मर्तबा इस सिद्धांत को सरकार मान रही है कि दहेज की प्रथा बन्द होनी चाहिये।

यह सभी लोग जानते हैं कि यह दहेज की प्रथा कितनी घृणित चीज है और इसके कारण लोगों को कितनी जिल्लत उठानी पड़ती है और कितना अपमान सहना पड़ता है। इसी के कारण पहले लड़कियों को पैदा होते ही गला घोट कर मार दिया जाता था। आजकल यह प्रथा बन्द हो गई है, लेकिन यह न समझिये कि बिल्कुल बन्द हो गई है। लड़की की शादी के वक्त वालदेन को बड़ी मुसीबत का सामना करना पड़ता है, इसलिये अब भी कहीं कहीं लड़कियों को मार दिया जाता है। जब लड़की की शादी हो जाती है तब भी और शादी होने से पहले वालदेन को जितनी परेशानी उठानी पड़ती है, वह सभी लोग जानते हैं। मेरी जानकारी में भी ऐसी मिसानें मौजूद हैं कि लड़कियों की शादी हो गई, लेकिन उतना दहेज नहीं दिया गया जितना की ठहरा था, इसलिये या तो उन लड़कियों को मार दिया गया या उन हो खुदकुशी करनी पड़ी। इसलिये ऐसी कुप्रथा को, जो हमारे समाज पर एक प्रकार का कलंक है, बन्द करने के लिये अवश्य कानून होना चाहिये।

मुझे यह आशा थी कि इसको अधिक से अधिक सख्त बनाया जायेगा और इसमें अधिक से अधिक सख्त सजायें रखी जायेंगी, जिससे लोग डरें और यह चीज न होने पाये। लेकिन मेरा एक निवेदन अवश्य है कि किसी भी कानून की पृष्ठभूमि में सामाजिक आंदोलन अवश्य होना चाहिये। जब तक हमारे समाज का नैतिक स्तर ऊंचा नहीं उठता है, तब तक कानून किसी बुराई को बिल्कुल नहीं

बन्द कर सकता। कानून केवल सहायता दे सकता है। इसलिये हम सब को मिल कर यह कोशिश करनी चाहिये कि हमारे समाज का वातावरण ऐसा तैयार हो कि लोग खुद दहेज देने के लिये तैयार न हों।

आज यह कहा जाता है कि लड़कियों को शिक्षा दी जानी चाहिये, लेकिन मैं कहता हूँ कि लड़कियों को शिक्षा देना और ज्यादा भार बन जाता है। बेपढ़ी लड़की के लिये बेपढ़ा लड़का तलाश कर लेना आसान है, लेकिन अगर आपने अपनी लड़की को इंटरेंस पास करवा लिया तो लड़का कम से कम एफ० ए० पास होना चाहिये, अगर आपने अपनी लड़की को एफ० ए० पास करवा लिया तो लड़का कम से कम बी० ए० पास होना चाहिये, अगर आपने अपनी लड़की को बी० ए० पास करवा लिया तो लड़का कम से कम एम० ए० होना चाहिये, अगर आपने अपनी लड़की को एम० ए० पास करवा लिया तो लड़का कम से कम रिसर्च स्कालर होना चाहिये। और लड़का जितना पढ़ा होता है उतनी ही उसकी कीमत बढ़ जाती है। मैं सदन को सूचना देना चाहता हूँ कि देहातों में जितने हाई स्कूल खुल गये हैं, उनमें ५० फीसदी नहीं तो ४० फीसदी ऐसे लड़के पढ़ते हैं, जो सिर्फ शादी के लिये पढ़ते हैं। अगर वे फेल हो जाते हैं, तो उनके घर वाले प्रिंसिपल से कहते हैं कि उनको पास कर दो और एक साल और पढ़ने दो ताकि अच्छी शादी हो जाय यानी अच्छा पैसा मिल जाय। तो आज शिक्षा का लक्ष्य इस तरह का हो रहा है और मौजूदा शिक्षा हमारे लिये बरदान नहीं सिद्ध हो रही है बल्कि अभिशाप सिद्ध हो रही है। इसलिये पढ़े लिखे आदमियों को और जो राजनैतिक नेता हैं, उनको समाज के सामने आदर्श पेश करना चाहिये।

श्री उपसभापति : १० मिनट हो गये।

SHRI NAWAB SINGH CHAUHAN:
At least ten minutes should be given to me, Sir.

Mr. DEPUTY CHAIRMAN: Ten minutes are over.

श्री नवाबसिंह चौहान : मेरे कहने का मतलब यह था कि हम आदर्श उपस्थित करें। हमने सरकारी कर्मचारियों के लिये नियम बना दिया है लेकिन यह ठीक से नहीं दिखाया जाता कि कितनी डाउरी ली या नहीं ली और उसका कोई सबूत भी नहीं हो पाता। इसलिये हमारा यह फर्ज है कि हम इस बारे में आदर्श उपस्थित करें। जो मिनिस्टर्स हैं, नेता हैं, एम० पी० हैं, बड़े बड़े सरकारी कर्मचारी हैं उनको यह प्रण कर लेना चाहिये कि जब हम अपने लड़कों की शादियां करेंगे तो एक पैसा भी दूसरों से नहीं लेंगे। जो बड़े बड़े लोग हैं जब तक वे ऐसा नहीं करते हैं तब तक यह बुराई दूर नहीं होती है। जितने सरकारी नौकर हैं उनमें ही यह चीज ज्यादा है। एक मामूली हैसियत का लड़का है लेकिन अगर वह आई० पी० एस० में या पी० सी० एस० में या और इम्तिहानों में आ गया तो हजारों रुपयों के वारे-न्यारे हो जाते हैं। इसलिये गवर्नमेंट सर्वेंट कांडक्ट रूल्स में यह चीज होनी चाहिये या यह हो कि जिसकी शादी हो जाय उसी को इम्तिहान में बैठने का मौका मिलेगा। दिक्कत यह है कि तमाम नियम बनते हैं लेकिन फिर भी तरह तरह की बातें होती हैं और तमाम चीजों में ब्लैक मार्केटिंग चलती है। होगा यह कि डाउरी की बात छिपे छिपे हो जायगी और आपके सामने यह बात नहीं आयेंगी, जो स्टेटमेंट आपके सामने आयेंगे वे बिल्कुल गलत स्टेटमेंट आयेंगे। तो मेरा कहना है कि कानून के साथ साथ नैतिक प्रचार का होना भी आवश्यक है। कानूनों का पारित होना जरूरी है, लेकिन उसके साथ ही साथ जो राजनैतिक नेता हैं और दूसरे लोग हैं और जो बड़े बड़े सरकारी कर्मचारी हैं वे इस चीज को प्रारम्भ करें कि हम अपने बच्चों की, लड़कों की शादी में एक पैसा भी नहीं लेंगे। चूंकि समय नहीं है, इसलिये मैं आपको धन्यवाद दे कर अपनी बातों को समाप्त करता हूँ।

MR. DEPUTY CHAIRMAN: Shri B. K. P. Sinha is not here. Shri Bisht is not here. Yes, Shri Ram Sahai. Just five minutes please. The time allotted for this Bill is over. We are just giving a few minutes more. That is all.

श्री अमोलख चन्द (उत्तर प्रदेश) :
१० मिनट तो राम सहाय जी को दीजिये ।

श्री राम सहाय (मध्य प्रदेश) : १०
मिनट से कम में क्या होगा ?

MR. DEPUTY CHAIRMAN: The time that was fixed for this Bill is over, and there are two or three more speakers.

श्री राम सहाय : श्रीमान उपसभापति जी, मैं इस डाउरी प्राहिबिशन बिल का स्वागत करता हूँ । अभी हाउस में इसके बारे में दो तीन प्रकार के मत प्रकट किये गये हैं । राजकुमारी अमृत कौर ने तो यह फर्माया कि सोशल लाज बनाने की जरूरत नहीं है । लेकिन, देश की जो स्थिति है उसमें बहुत असें से हम ऐसा देखते हैं कि हमें इस प्रकार के लाज बनाने पड़े हैं और उनसे लाभ हुआ है और उसी प्रकार में यह समझता हूँ कि जब यह बिल हमारे सामने आया है तो अवश्य ही यह हमारी कुछ बुराइयों को दूर करेगा । इसके बारे में श्री अमोलख चन्द ने यह फर्माया कि इसमें डाउरी के बारे में जो दो हजार रुपये की तादाद रखी गई है, वह बहुत कम ; है वह कुछ ज्यादा होनी चाहिये थी, मेरा उनसे यह निवेदन है कि जो धनाढ्य पुरुष हैं, वे किसी न किसी प्रकार से अपनी लड़कियों को बाद में भी दहेज दे सकेंगे । उनके लिये कोई इस प्रकार की मुमानियत नहीं है । फिर, जो पैतृक सम्पत्ति है वह भी यदि किसी प्रकार का बन्धन नहीं लगाते हैं, तो निश्चय ही उनकी लड़कियों को मिल जायेगी । तो इसमें जो दो हजार रुपये की तादाद रखी गई है वह कोई कम नहीं है । हमें तो हर एक प्रकार के कार्य में, इस बात को देखना है, कि साधारण लोगों

को किस तरह से सहूलियत हो सकती है ।

श्री अमोलख चन्द : लड़की को जो आप जेवर वगैरह पहनायेंगे वह ही दो हजार रुपये का हो जाता है ।

श्री राम सहाय : पहनाने का जो कार्य है, वह उस वक्त तक ही सीमित नहीं रहना चाहिये, जब कि माता-पिता लड़की की शादी करते हैं, बल्कि बाद में भी होना चाहिये । जब लड़की अपने पति के घर, शौहर के घर, जायेगी तो वहां भी बहुत कुछ पहनेगी, वहां अपने शौहर से, पति से, भी बहुत कुछ मिल सकता है । इसलिये महज इस बिना पर ऐसी आवश्यकता नहीं है कि शादी के समय ही उसको माता-पिता और पति की ओर से बहुत ज्यादा धन दिया जाये ।

फिर हम देख रहे हैं कि यह प्रथा बहुत ज्यादा बढ़ गई है, जैसा कि अभी हमारे नवार्बसिंह चौहान जी ने बताया, कि लड़के की जैसे जैसे क्वालिफिकेशन बढ़ती जाती है, वैसे वैसे उसकी कीमत भी अधिक बढ़ती जाती है । यह वाक्या है कि अगर एक लड़का मैट्रिक है तो शायद उसकी कीमत हजार या दो हजार रुपया हो, लेकिन अगर वह रिसर्च स्कालर हो तो उसकी कीमत पांच, सात हजार रुपये से भी ज्यादा बढ़ जाती है । इतना ही नहीं, बहुत से लोग तो शादी के बल पर ही लड़के को फारेन क्वालिफिकेशन हासिल करने के लिये भेजना चाहते हैं । ऐसा देखा गया है कि दहेज में जो अर्थ या धन मिलता है उससे ही फारेन क्वालिफिकेशन के लिये भेजते हैं । तो इस प्रकार की जो प्रथा है, वह हमारे समाज के लिये कोई अच्छी प्रथा नहीं है ।

राजकुमारी जी ने यह भी फर्माया कि लड़कियों को शिक्षित करें, तो यह दिक्कत दूर हो जायेगी, लेकिन मेरा अनुभव यह है कि शिक्षित होने के बाद भी यह दिक्कत दूर नहीं हुई है । मेरी जानकारी में बहुत सी ऐसी

लड़कियां हैं जो कि एम० ए० बी० टी०, एम० ए० एल एल० बी०, एम० ए० और बी० ए० की परीक्षा पास करने के बाद भी कुंवारी बैठी हुई हैं और उन्हें कोई सूटेबिल पति नहीं मिल पा रहा है। बहुत से माता-पिता ऐसे हैं जो कि इस बात का अहद करते हैं कि हम डाउरी नहीं देंगे लेकिन जब शादी करने वालों को यह मालूम हो जाता है कि उन्होंने ऐसा अहद कर रखा है और डाउरी नहीं मिलेगी, तो उनसे वे बातें करना भी पसन्द नहीं करते हैं। ऐसे इस्टैसेज मौजूद हैं जहाँ कि इस प्रकार की चीज हो रही है।

तो मेरा कहना है कि हमारे समाज में जो यह कुप्रथा है, इसको दूर करने के लिये यह बिल बहुत आवश्यक है। मुझे प्राचीन काल का तो मालूम नहीं, लेकिन हमारे इतिहास में इस तरह की बात नहीं मिलती है कि किसी लड़की की शादी के संबंध में कुछ करारदाद किया गया हो या रुपया देना तय किया गया हो, लेकिन, कुछ जमाने से यह चीज इतनी बढ़ गई है कि इसका कोई अन्त नहीं है। कभी हमारा यह ख्याल था कि अब शायद संभव है कि इसमें कुछ कमी आये, लेकिन यह चीज बढ़ती ही जाती है। जैसे जैसे लड़के की क्वालिफिकेशन बढ़ती जाती है वैसे वैसे माता-पिता की लालसा भी बढ़ती जाती है। हमने देखा है कि इस वजह से बहुत सी लड़कियां जल कर मर गई हैं। जब उन्होंने देखा कि उनके माता-पिता उनकी शादी करने के योग्य नहीं हैं और किसी प्रकार से भी उनकी शादी नहीं कर पाते हैं तो वे जल कर मर गई हैं। हमने यह भी देखा है कि बहुत सी लड़कियों को अपने सास-ससुर के घर पर रहते हुये भी हमेशा इस बात का सन्ताप रहा है कि उनको उनके मैके से उतना दहेज नहीं मिला है जितना कि मिलना चाहिये था और वे वहाँ हर प्रकार से सताई जाती रही हैं। तो मैं समझता हूँ कि संभव है कि इस बिल से जैसा चाहिये वैसा फायदा न हो, लेकिन हमारे देश में, हमारे समाज में, इस प्रकार के लोग अवश्य हैं जो कि इस बिल की सीमा के अन्दर ही कार्य करने में अपना

गौरव समझेंगे। इसलिये मैं यह समझता हूँ कि ऐसे बिल को अवश्य ही पास होना चाहिये और इस बिल से हमको अवश्य ही लाभ होगा।

MR. DEPUTY CHAIRMAN: Mr. Jaspat Roy Kapoor. Please be very brief.

SHRI JASPAT ROY KAPOOR: (Uttar Pradesh): Mr. Deputy Chairman, Sir, belonging to a sub-section of a community in which dowry, until a few years back, was absolutely unknown, naturally, I have been brought up in an atmosphere which makes me shudder when I think that anybody should demand or offer dowry. But even so, I cannot conceive of a more useless piece of legislation than this one. It will serve absolutely no purpose whatsoever. It will remain ineffective, it will be inoperative, and to discuss this measure here or even send it to a Select Committee is a sheer waste of time, money and energy. I wonder why we should become so very crazy in the matter of enacting legislation on all sorts of good, bad and indifferent, useful and useless things. We seem to be developing the idea somehow, that if we have to face any evil—be it social or economic evil—the easiest and the best way to solve that evil or problem is just to enact legislation and be satisfied with it. We are enacting legislation day in and day out. There is such an amount of legislation in the country that everybody is getting absolutely tired of it, and if one were to ask either a lawyer or a judge who deals with this as to what legislation there is in regard to a particular subject, he cannot tell one that such a law is on the subject, but he will have to consult the library and then only he will be able to tell him that such is the complete law on the subject. By enacting such measures we are simply holding our laws open to ridicule. What is the use of passing laws which cannot be enforced, which can be easily circumvented? Just now, my hon. friend, Mr. Ram Sahai, said that

[Shri Jaspat Roy Kapoor.]

any amount of money could be given by the father of the girl after the marriage was over. Exactly that will be so if you have this legislation. Now does that not mean, is it not a clear, frank and honest admission of the fact, that this will be an absolutely useless piece of legislation? The object is that a large amount of money should not be given in marriages. Whether it is at the time of marriage or a few days after the marriage, makes no difference. So my submission is that legislation like this should not be enacted. Now it is a very good wish, a very pious wish. But then pious wishes cannot be implemented through legislation. We have to create public opinion. If it is contended that the enactment of this legislation would help us to create public opinion. I submit it is absolutely a wrong notion; it will not create public opinion at all. On the other hand, the public opinion that will be created is that it is a useless piece of legislation, and everybody will laugh at it, and the public opinion will be to the effect that laws are being enacted not to be implemented, not to be obeyed but to be defied somehow or other. There will be none in this country who will look down upon a person who does not act according to the provisions of this measure.

Now the one fundamental thing about this legislation is that it appears to me—and it must be appearing to all other hon. Members of this House also—that it is absolutely a communal piece of legislation; you do not want the benefit of this legislation—if it has any benefit whatsoever—to go to the country at large; you want to confine it only to a particular community. Why? If it is something good . . .

THE DEPUTY MINISTER OF LAW (SHRI R. M. HAJARNAVIS): Which community has the hon. Member in mind?

SHRI JASPAT ROY KAPOOR:
. . . let every section of the society

be benefited by it. On the one hand we claim—and rightly claim—that we are a secular State; on the other hand, on every possible occasion we legislate for the social reforms of only one section of the community, sometimes this section, sometimes that section. I therefore submit, Sir, that fundamentally it is wrong to have such social legislation which will be applicable to only one section of the community.

Next, Sir,—I will not take long—I shall refer to two or three provisions of this measure. Now take clause 2 of this measure, where it is stated:

“‘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”***

Now who are the two parties to a marriage? The bride and the bridegroom, I suppose, and none others. The bride never gives anything by way of dowry to the bridegroom in the Hindu society. Of course the bridegroom, sometimes, if he has no parents, does give something to the bride by way of dowry. But then you say:

“***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.”***

Now what you mean probably is that the parents of the girl are giving the dowry on behalf of the girl. But that is absolutely against the prevailing notions of the Hindu society and Hindu dharma. The parents give something in dowry to the bridegroom, not on behalf of the girls, not on behalf of the daughters, but on their own behalf. They give the *kanya* in *dan* to the bridegroom. It is they who give the dowry; even the *kanya* is called *kanya dan*. And whatever *dan* and whatever dowry the parents give, they give not on

behalf of the daughters, but on their own behalf, in the discharge of their own duty towards the daughter. I wonder if you can catch hold of any parent who may commit an offence with the definition of 'dowry' given in clause 2. Now this is something which is worth considering. I mean, no parent of a girl, no father or mother of a girl gives anything in dowry on behalf of the girl, but on his or her or on their own behalf. They consider it their sacred duty to do so and therefore they do it.

Now I come to one absurd suggestion contained in clause 8 of this Bill where it is said:

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

"Non-cognizable" is all right. "Bailable", it is good and kind enough. But what do we have in the end? "And non-compoundable." What a wonderful idea, Sir, to say that once the prosecution is launched, once the bridegroom is prosecuted, or the father of a bridegroom or bride is prosecuted, the case shall not be compounded at all. It will be non-cognizable; it will be bailable, I mean the offence committed, up to a stage, but once the case is before a court of law it will be absolutely non-compoundable; not even the court will be given the discretion to sanction the case being compounded; we don't see it mentioned that it is compoundable with the permission of the court. That means, once someone appears before a court of law as an accused, either he is acquitted or he has to go to jail, or has to be subjected to a heavy fine. This is something, Sir, which appears to me—if it is not considered to be a strong term—an absolutely absurd proposition.

As regards the other points I wanted to touch on, all of them have been made out by several other speakers, and it would serve no useful purpose if I repeated them. In the end I have to say only two things. Firstly, these

matters should be left for creating public opinion, and if the Government is anxious to make its own contribution in that direction, let it issue a directive to the Central Social Welfare Board that it should take some positive, active, specific steps in this direction; it is a sphere where the Social Welfare Board may do something useful and may spend some substantial amount of money to create public opinion. It is spending a lot of money on jeeps; very often on useless jeeps it is wasting money. Rather than squander money over jeeps it would be much better if a portion of that money is diverted to this noble object.

There is one thing, Sir, about which I would like to seek a clarification from the hon Minister. That point was raised by my hon. friend, Mr. Amolakh Chand, yesterday who, during the course of his remarks, said that ornaments worth more than two thousand rupees, if they are given to the daughter would come within the mischief of this Bill. My reading of this Bill, Sir, is that it is not so but then I speak subject to being corrected by the hon. Minister, because whatever ornaments the girl carries with her is not a part of the dowry; it is part of her own *stridhan*, and it will certainly be open to my hon. friend, Mr. Amolakh Chand, to allow his daughter do so, and if he has granddaughters—I hope he will be blessed with a number of them—it will be open to them, under the provisions of this measure, to carry with them as much load of gold as they can, or as much as he and his noble sons and wealthy sons may be able to give them. I do not think that whatever gold or clothes are taken by the girls on marriage are tabooed under this measure. If that is not so, if my hon. friend, Mr. Amolakh Chand's view is correct, then this Bill must stand doubly condemned. But, as I read it, I do not think that that comes within the mischief of this measure, but even without that mischief being in this Bill I think it is an absolutely useless and wasteful piece

[Shri Jaspat Roy Kapoor.]
of legislation, and the sooner we wash our hands off it, the better it is, though I entirely agree with the object that dowries must be stopped.

DR. W. S. BARLINGAY (Bombay):
Mr. Deputy Chairman . . .

MR. DEPUTY CHAIRMAN: Please speak for five minutes.

DR. W. S. BARLINGAY: I would not take more. The Bill itself is very small.

MR. DEPUTY CHAIRMAN: And enough has been said about it.

DR. W. S. BARLINGAY: Sir, I must confess that I feel a little perplexed to speak on a Bill like this. The object of the Bill is undoubtedly a good one, but it seems to me that on the whole one has got to come to the conclusion that this Bill is not going to serve any very useful purpose in our society.

Sir, especially after reading the definition of the term "dowry", which excludes all presents etc. below the value of Rs. 2,000, I feel that, taking into consideration, generally the average income of the citizens in this country, virtually this Bill will not cover any case whatsoever, excepting the cases of a very few rich people in this country. The main point to which I wish to invite the attention of the learned Law Minister is, however, a constitutional one.

Sir, it is quite clear that this Bill puts a restriction on personal liberty under Article 19 of the Constitution. Now, if you impose any restrictions on personal liberty or freedoms of any kind, those restrictions ought to be reasonable restrictions. The question, therefore, is whether the restrictions on personal freedom, that are sought to be imposed in this Bill, are at all reasonable.

Now, if you kindly turn to Clause 2 of this Bill, you will find that the word "dowry" has been defined not on the basis of any natural, social or legal principle. Why do you condemn

the dowry system? You condemn dowry because there is an element of coercion so far as the contract of marriage is concerned. The other party in effect says, "Well, I will not accept your daughter in marriage unless you give your daughter such and such property". Here, there is an amount of coercion. That is the main point. But so far as this particular definition is concerned, if we read this definition very carefully, we will find that this definition is not at all based on any matter of principle. Presents are not completely excluded as you will kindly see from sub-clause (ii) of Clause 2:

"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 thousand rupees in value in the aggregate."

All that is excluded from the definition. So, it is not really a question of principle, whether dowry is objectionable or not, but it really comes to this. If you give dowry but you do not exceed the limit of two thousand rupees, there is no objection at all. This can hardly be called a moral principle. This is not a moral objection to giving of dowry. This is only some sort of a make-believe, some sort of a social adjustment. That is about all. This is not really a matter of principle.

So, what I suggest to you is this that if there are restrictions—and that is laid down in the Constitution if there are restrictions on personal liberty—those restrictions must be reasonable. Now, the question is if you do not base the definition of dowry on any social, legal or moral principle, but only on the basis of certain pecuniary limitations, the question is whether those limitations can be called reasonable within the meaning of that particular Article, namely, Article 19 of the Constitution. I may humbly submit that this is not the case. If you say that these restrictions are reasonable, you will have to prove two things, namely, that these

restrictions on personal freedom are reasonable, and that the distinction which is made between dowries below Rs. 2,000 and above Rs. 2,000 is also reasonable. Now, Sir, I feel that these pecuniary restrictions are extremely unconstitutional because they tend to discriminate between the lower and the upper strata of society in our country. That really constitutes discrimination. Sir, I was really wondering whether in view of this, discrimination is not really involved in this definition of the word "dowry" here. If this is the sort of discrimination that you make between the higher and the lower strata—if you say, for instance, that so far as the poorer people are concerned, you would not prevent them from giving dowry, but so far as the rich people are concerned, you will prevent them from giving dowry—it is unconstitutional. The question, therefore, is whether this sort of discrimination does not come within the meaning of Article 14 of the Constitution, and also whether that is a reasonable restriction within the meaning of Article 19 of the Constitution. This is all that I wanted to say in the matter. Thank you.

SHRI AHMAD SAID KHAN (Uttar Pradesh): Mr. Deputy Chairman, Sir, my feelings about the measure are rather mixed. While I welcome Clause 2 of the Bill, the last portion of sub-clause (ii) is not acceptable to me. I am all for putting restrictions on those who demand big amounts at the time of marriage. I am told that in some castes it is a custom now to put some sort of a price on their boys. If he is a B.A., they say, the girl's parents should pay Rs. 10,000. If he is an M.A., then Rs. 12,000. If he is in service, then Rs. 15,000 or Rs. 20,000. I agree that this should be stopped. But at the same time I do not see any reason why a man who wishes to give by his free will to his daughter a good dowry or money or security, should not be allowed to do so.

Sir, you know in India the custom is that when a girl is married, the

parents wish to provide her with all the necessities and requirements of running a new home. That is the custom among all the people; it may be Muslims, Hindus, Christians or Parsies. And this is a good custom, because this girl, leaving her own hearth and home, going with a stranger, does not know what is in store for her in future. She has nothing before her, but darkness, uncertainty. She is sailing on an uncharted sea. Therefore, it is the duty of the parents to give her enough, economically, so that she may be able to run her house. Now, Sir, this limit of Rs. 2,000 is so small that even a middle-class man will say that it is impossible to confine any dowry within that limit. If he wants to give ten saris, a set of cutlery or crockery, linen, etc., even these things will amount to more than Rs. 2,000. Therefore, Sir, I am of the opinion that this last portion should be omitted. If there is anybody who demands it, then certainly he should be punished. But when there is no demand and when somebody wants to give something to his daughter of his free-will, the law should not stand in the way of that being done.

SHRI JASPAT ROY KAPOOR: But anything which may be given by free-will is not prohibited. It should not have any consideration for marriage.

SHRI AHMAD SAID KHAN: Anyway, Sir, I do not think it is quite clear, and I would like the hon. Minister to make it clear that any gift given as a result of one's free-will, without any demand, will be permissible.

Then, Sir, I also agree with my friend over there in regard to what he has said about clause 8. In clause 8, Sir, these offences have been made non-compoundable. I agree with him that they should be made compoundable. If there are any quarrels, they should be compounded and they should not be made non-compoundable. Thank you.

SHRI R. M. HAJARNAVIS: Mr. Deputy Chairman, Sir, I listened to the debate on the Resolution which had been moved by a private Member on the same subject—I am referring to the Resolution moved by Mr. Jugal Kishore—it appeared then that all the sections of the House would welcome a measure which tended to eradicate the evil of dowry. It was felt that only the Government's policy of inaction stood in the way of that reform. So, in pursuance of the assurance, which was then given by the Law Minister, we have come forward with this Bill. We now find that criticism is voiced in certain quarters that this Bill is a useless piece of legislation. Well, Sir, the Government do not take that view and the Government do not share the apprehensions of those who feel that this legislation, although difficult to enforce, would be a dead letter.

Sir, as I made it clear in my opening speech, the main burden of carrying out this reform will be laid on the shoulders of the society itself. It will be the task of social reformers to create public opinion and to stir the social conscience. I am not going to be persuaded by the view that if some law is enacted and if one more weapon is added to the armoury of our society, the social reform movement will suffer for the reason that this additional power is vested in the Government.

Sir, instances have been cited of certain ineffective Acts on the Statute Book. But we must acknowledge the fact that a measure's remaining on the Statute Book itself helps in creating a certain public opinion. If persons who are disobeying the law know that they are committing some offence, the effect is likely to be wholesome. And I am quite sure that when we add this piece of legislation to the efforts of our social reformers, certainly their hands would be strengthened. Mr. Kapoor permitted himself to indulge in a very cheap gibe. He says that apart from this legislation,

there are a large number of Acts which we are now passing. I do not think that his disapprobation is deserving. After all, Sir, we are no longer a simple society. In a simple society, even a few laws will do. But as and when our social relations become complex, every activity has got to be provided for by way of rules and regulations. Here we have our Constitution. We find that the rights of every possible authority have been circumscribed and demarcated. Then the powers of the Legislature and of the Executive have also been circumscribed by the Fundamental Rights. Under these circumstances, Sir, if any order is to be made against any individual or against any authority, it must have the backing of law. Suppose, we try to enforce a certain rule or a certain regulation, the question would naturally arise: Is this regulation in accordance with our law? Does this law conform to our Constitution? Therefore, Sir, it is necessary for every such authority which is exercised to have some basis in law. My friend can compare our Statute Book with that of a geographically smaller society or a numerically smaller society like that of the United Kingdom. Is their Statute Book thinner than our own Statute Book? I am quite sure that as our society becomes more and more complex, as our State enters more and more fields and as our State assumes more and more responsibilities, we shall need more and more laws and not less and less laws. Probably, Sir, my friend might be thinking that his time is wasted here. But I can assure him that his time here—he is a very assiduous Member—is very well-spent.

Then I must point out that this question is not to be looked at from the point of view as to whether any prosecutions are launched or those prosecutions are likely to be successful. In this connection, Sir, I may refer him to a controversy which is at present going on in England. I believe, last month an Act of social reform came into force in the United Kingdom—I think, probably in London. It

was the Street Offences Act. Now, Sir, there is a controversy going on as to whether the enforcement of that Act will be satisfactory, or whether the vice will be driven underground. And yet, Sir, in the United Kingdom, they took the view that however difficult it might be, they must not only legislate on that subject, but they must also try to enforce it as best as they can.

Sir, this question is not again to be judged merely from the point of view of the number of prosecutions to be launched. It is no criterion to see whether a particular law is being obeyed or not, whether any prosecutions have been launched. If the law is broken a number of times, it might very well be argued that that law has not the sanction of the community. But I think it can be reasonably argued that if there are a few prosecutions, then those few prosecutions themselves indicate that our society has, by and large, accepted the principle of that legislation.

Then, Sir, I myself agree that mainly we shall have to rely upon public opinion for the enforcement of this law. Today, Sir, everyone agrees—in conferences, on public platforms, in this House also—that this system is an evil system and that this is a pernicious practice which has got to be eradicated.

But since it is not rendered illegal, it has not ceased to be fashionable. After the passing of the Act, nobody will be able to boast that he has been able to get a very large dowry for his son not will it be possible, as another hon. Member said, to insult the family of the bride by saying 'If you have Rs. 20,000 or Rs. 30,000, talk with us, otherwise do not talk with us'. It will cease to have the sanction of the society, it will cease to have the sanction of law and that, I submit, would be a very substantial gain in favour of social reform.

Then I entirely agree with Rajkumari Amrit Kaur that a good deal can be done or most of the reforms can be accomplished by Women's organisations. I have seen dowry being

asked for, dowry being paid, and the manner in which enthusiastically the women members of the bridegroom's family take part sometimes leads me to think whether they have forgotten all the tribulations through which their families passed, when their own dowry was being discussed or arranged. To my mind comes that sentence of Sudraka which he has put in the mouth of Vasanthasena:

अयि विद्युत् त्वमपि च प्रमदनां दुःखं
न जानासि किम् ?

"Are you also insensitive to the troubles of a woman, Oh! Lightning? If I am sure that the sister, mother or anyone of the other women members of the family of the bridegroom sets her face resolutely against this system of dowry, I am quite sure the system of dowry will soon be wiped out, wiped off the face of the society. Therefore I agree with Rajkumari Amrit Kaur that the task can be accomplished much more effectively by women's organisations.

Then in the discussion in the House one positive provision of the Bill has escaped the attention of hon. Members and that, as I said in my opening speech, is the main contribution of this law towards the removal of this evil. It is this. Whatever sum is paid as dowry has been created as the absolute property of the bride and she has a right to claim it and it passes to her heirs. Now more than the penal clauses, I submit this is the provision which will really carry out the object of the Bill that whatever is taken out of the bride's family will go to her benefit.

Then Mr. Kapoor thought that this was confined to one particular community. I find nothing in the Bill which would give it a limited application at all. It applies to all communities.

SHRI JASPAT ROY KAPOOR: Does it? Clause 3 says:

"It does not include dower or mahar in the case of persons to whom the Muslim Personal Law (Shariat) applies."

DR. W. S. BARLINGAY: There the Shariat law is applicable.

SHRI R. M. HAJARNAVIS: Dower is a different thing. It is a deferred payment made by the bridegroom to the bride. It is not regarded as a dowry.

SHRI JASPAT ROY KAPOOR: Contracted before the marriage . . .

SHRI R. M. HAJARNAVIS: It is the sum which the bridegroom promises to pay the bride in case the marriage fails except of course for the prompt dower. Prompt dower is a very small sum which does not properly come in dowry. Except for that, it applies to all communities. He criticised the definition. So far as the definition is concerned, I must acknowledge our debt of gratitude to that very able draftsman, draftsman of great merit, Shri B. N. Rau, who had drafted it for the purpose of the Hindu Code and I do not presume to improve upon that definition. I do not accept the interpretation which my hon. friend put upon it, nor do I envisage so many difficulties at all. Then he permitted himself to a very harsh adjective. About clause 8 he said that he agreed with us that we were rich in making this offence non-cognizable. Then he said that we were correct in making it bailable but in making it non-compoundable, we are guilty of an absurdity. I submit that what we have done is correct, not only correct but absolutely correct. The offence which we are going to create is not an offence like defamation or criminal breach of trust or cheating against an individual. This is not a bilateral matter. If both parties agree, either before any maybe after the marriage, that a certain sum may be paid between the parties in consideration of marriage, then the question would be, should such a transaction be allowed to stand? What we have said is, when a consent to the payment of a dowry has been obtained under almost coercion, then it becomes an offence. When

it is said that you agree to pay a certain amount in consideration of marriage, you have contravened clause 2. Therefore, what is being created is a crime against society, an offence against society, not against an individual. We are taking out this contract or negotiation between two parties and placing it on a social basis. Therefore, we say that the mere fact that two parties have agreed will not make it any the less offence. Therefore we say even though the bride's party and the bridegroom's party subsequently agree that such a payment should be retained, yet the society will not condone that offence at all. They will not permit it to be compoundable at all. Therefore the provision of the Bill by which we make it non-compoundable is in line with the rest of the scheme of the Bill.

As regards the question which Mr. Amolakh Chand posed, the answer of course has been given adequately and properly by Mr. Kapoor himself. Whatever property is given willingly is outside clause 2. It is only when property is paid in consideration of marriage, that the act is hit at by clause 2. I might make it clear to Nawab Saheb of Chattari that out of the dowry as defined by the Bill, we have exempted a sum of Rs. 2000. If Rs. 2,000 is paid by way of dowry, then we have exempted it. It may be as consideration, but whatever property or sum is paid willingly and not as consideration, is a pure gift and is not a dowry within the meaning of clause 2.

SHRI AMOLAKH CHAND: Why not make the law clear on the subject?

SHRI R. M. HAJARNAVIS: I again point out that this is a definition which was framed by that outstanding draftsman, Shri B. N. Rau. We feel that we cannot improve upon that, but the matter is going to the Select Committee and if the hon. Member has any phrase to suggest, we shall surely take that into consideration.

MR. DEPUTY CHAIRMAN: Is that that all?

SHRI R. M. HAJARNAVIS: Yes, Sir, I move.

MR. DEPUTY CHAIRMAN: The question is:

"That this House concurs in the recommendation of the Lok Sabha that the Rajya Sabha do join in the Joint Committee of the Houses on the Bill to prohibit the giving or taking of dowry, and resolves that the following members of the Rajya Sabha be nominated to serve on the said Joint Committee:—

1. Pandit S. S. N. Tankha,
2. Shrimati T. Nallamuthu Ramamurti.
3. Shri Akhtar Husain.
4. Giani Zail Singh.
5. Shri Sheel Bhadra Yajee.
6. Shrimati Yashoda Reddy.
7. Shri Bhagirathi Mahapatra.
8. Shri J. H. Joshi.
9. Shrimati Rukmani Bai.
10. Shri Jugaj Kishore.
11. Shri N. R. Malkani.
12. Shri Abdur Rezzak Khan.
13. Shri D. P. Singh.
14. Shri Abhimanyu Rath.
15. Shrimati Jahanara Jaipal Singh."

The motion was adopted.

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

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

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

THE APPROPRIATION (No. 4) BILL, 1959

THE DEPUTY MINISTER OF FINANCE (SHRI B. R. BHAGAT): Sir, I beg to move:

"That the Bill to provide for the authorisation of appropriation of 51 RSD.—4.

money out of the Consolidated Fund of India to meet the amount spent on a service during the financial year ended on the 31st day of March, 1956, in excess of the amount granted for that service and for that year, as passed by the Lok Sabha, be taken into consideration."

Sir, the excesses for the year 1955-56 in respect of civil and P. and T. Appropriation Accounts were regularised by Parliament in the last Session. In the Sixteenth Report of the Public Accounts Committee, presented to Parliament on the 24th April, 1959, an excess relating to defence accounts for the year 1955-56 was recommended by the Committee for regularisation. Accordingly, a statement giving the details of the excess with the reasons therefor was circulated to hon. Members of this House on the 13th August, 1959. It would be observed that the case relates to certain book adjustments for payment of interest charged on the Consolidated Fund of India but which were incorrectly classified in the accounts as Voted.

Sir, I move.

MR. DEPUTY CHAIRMAN: The question is:

"That the Bill to provide for the authorisation of appropriation of money out of the Consolidated Fund of India to meet the amount spent on a service during the financial year ended on the 31st day of March, 1956, in excess of the amount granted for that service and for that year, as passed by the Lok Sabha, be taken into consideration."

The motion was adopted.

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

Clauses 2 and 3 and the Schedule were added to the Bill.

Clause 1, the Enacting Formula and the Title were added to the Bill.