

[Shri Jawaharlal Nehru.] employment and production and the largest measure of social justice attainable.

Our Second Five Year Plan seeks to rebuild rural India, to lay the foundations of industrial progress, and to secure to the greatest extent feasible opportunities for weaker and under-privileged sections of our people and the balanced development of all parts of the country. For a country whose economic development was long retarded these are difficult tasks 'but, given the effort and the sacrifice, they are well within our capacity to achieve.

The Plan which is now presented to Government for submission to Parliament is a result of the labours of large numbers of persons in the Central Government, in the States at various levels and leaders of thought and opinion in every part of the country. In its preparation men and women in all walks of life have given generously of their time and experience. The enthusiasm and the widespread participation which have gone into the making of the Second Five Year Plan are the best augury for its fulfilment."

SHRI KISHEN CHAND (Hyderabad) : May I ask three points in this connection.

MR. CHAIRMAN: Three points?

SHRI KISHEN CHAND: Just for clarification. The first point is this. The hon. Prime Minister has said that four Committees are being set up and hon. Members can be members of one Committee at a time. But considering the wide range covered by those various Committees, it will be far better if Members can join at least two Committees and the time-table be so arranged that they can join two Committees. The second point is that the Prime Minister has talked about Planning Commission in two parts—one from the long-term point of view and the other from the short-

term point of view. May I point out to the Prime Minister that there has been a difference of opinion in the Planning Commission itself and the phenomenal rise in the prices of foodgrains and cloth during the last six months has been so large that there is danger that our entire planning may founder on the rocks of inflation. Instead of two Planning Commissions, will the Prime Minister consider having Execution Committees? It is even more important than the Planning Commission.

MR. CHAIRMAN: You are not seeking clarification. That is not clarification. You are making suggestions.

SHRI KISHEN CHAND: No, Sir, I want to know what steps are being taken in this connection by the Prime Minister .....

MR. CHAIRMAN: Well, I think the Prime Minister has honoured the House by making a pretty long speech. In presenting the Report, it was not necessary for him to have made a long speech. He could have said, "I present the Report" or said a few words. But he has given us the advantage of a speech. You are having Committees; you are having a general debate. You had better hold your soul in patience till that date.

SHRI JAWAHARLAL NEHRU: May I say, with regard to the first point that the hon. Member has raised, that Members are meeting the Minister of Planning and they can discuss that matter?

SHRI H. N. KUNZRU (Uttar Pradesh) : Sir, you said that the Prime Minister honoured us by placing the Report before the House and explaining it. Is it not his duty to do so as Prime Minister?

MR. CHAIRMAN: Dr. Kunzru, these documents are generally laid on the Table or presented with a few words. That is all that I meant.

SHBI H. N. KUNZRU: But there is no question either of the Prime Minister or any Minister honouring us by making a speech.

### PAPERS LAID ON THE TABLE

#### STATISTICAL INFORMATION REGARDING THE WORKING OF THE PREVENTIVE DETENTION ACT

THE MINISTER IN THE MINISTRY OF HOME AFFAIRS (SHRI B. N. DATAR): Sir, I beg to lay on the Table a copy each of the following papers:—

(i) Statistical information in the form of statements regarding the working of the Preventive Detention Act, 1950, during the period 30th September, 1954 to 30th September, 1955.

(ii) Statistical information in the form of statements regarding the working of the Preventive Detention Act, 1950, during the period 30th September, 1955 to 31st December, 1955.

(Placed in Library- See No. S—176/56.)

SHRI BHUPESH GUPTA (West Bengal): Sir, I have a submission to make. I think that we are going to be supplied with that kind of report that we have received last year. We request the Government, along with the Report, to supply us with the copies of the charge-sheets given to various detenus in various States as well as the copies of the replies to the charge-sheets which are placed before the Advisory Board. Only then would it be possible for us to go into this question carefully and see how the Preventive Detention Act is being operated in the various States. In the absence of these things, the mere statistical data as to why the detenus have been kept in detention and how many, does not help us very much in applying our minds to review the work of the Government.

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And the Government, as far as I know, are in possession of all the charge-sheets and of all the representations made by the detenus on this. Therefore, I request him through you, before the discussion comes up, that such material should be supplied to us so that we can effectively participate in the discussion.

SHRI JAWAHARLAL NEHRU: It is rather an unusual request, Sir, for this House to convert itself into some kind of a Supreme Court of Appeal or Court of Revision over the Advisory Councils and see that all these charge-sheets come before them. The hon. Member suggests that evidence should be placed before him. I do submit that it is quite extraordinary. This procedure would be a very improper precedent to establish.

SHRI BHUPESH GUPTA: I never thought that I was making an extraordinary suggestion. I thought that we were to go into this with the necessary material. Nor did I for a single moment think of becoming the Supreme Court or some such thing. After all, we are Parliament—representatives of the people—and we should like to know how the Preventive Detention Act which affects the rights and liberties of the people is being worked in the country. These materials are necessary for that purpose, in order to bring our wisdom to bear on the subject. That is all that we want and I do not think the Prime Minister is right in thinking that I am making an extraordinary suggestion or trying to create a precedent, an impossible precedent, in this House.

#### RESERVE BANK OF INDIA NOTIFICATION REGARDING RESERVE BANK OF INDIA (NOTI:—REFUND RULES, 1935)

THE MINISTER FOR REVENUE AND CIVIL EXPENDITURE (SHRI M. C. SHAH): Sir, I beg to lay on the Table, under the proviso to section 28 of the Reserve Bank of India Act, 1934, a

copy of the Reserve Bank of India (Central Office) Notification No. 7 dated the 28th April, 1956, publishing certain amendments to the Reserve Bank of India (Note—Refund) Rules, 1935. [Placed in Library. See No. S—180/56.]

### MESSAGES FROM THE LOK SABHA

#### I. THE STATES REORGANISATION BILL, NM 1956

#### II. THE CONSTITUTION (NINTH AMENDMENT) BILL, 1956

#### III. THE TRAVANCORE-COCHIN APPROPRIATION BILL, 1956

SECRETARY: Sir, I have to report to the House three messages received from the Lok Sabha signed by the Secretary of the Lok Sabha. They are as follows:—

I

'I am directed to inform Rajya Sabha that Lok Sabha, at its sitting held on the 14th May, 1956, has passed the following motion extending the time for presentation of the Report of the Joint Committee of the Houses on the States Reorganisation Bill, 1956:—

#### MOTION

'That the time appointed for the presentation of the Report of the Joint Committee on the Bill to provide for the reorganisation of the States of India and for matters connected therewith be extended upto the first day of the next session.'

II

"I am directed to inform Rajya Sabha that Lok Sabha, at its sitting held on the 14th May, 1956, has passed the following motion extending the time for presentation of the Report of the Joint Committee of the Houses" on the Constitution (Ninth Amendment) Bill, 1956:—

#### MOTION

"That the time appointed for the presentation of the Report of the Joint Committee on the Bill further to amend the Constitution of India be extended upto the first day of the next session'."

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"In accordance with the provisions of Rule 133 of the Rules of Procedure and Conduct of Business in Lok Sabha, I am directed to enclose herewith a copy of the Travancore-Cochin Appropriation Bill, 1956, as passed by Lok Sabha at its sitting held on the 14th May, 1956.

2. The Speaker has certified that this Bill is a Money Bill within the meaning of article 110 of the Constitution of India."

Sir, I lay the Travancore-Cochin Appropriation Bill on the Table.

#### THE HINDU SUCCESSION BILL, 1965

श्री गोपीकृष्ण विजयवर्गीय (उपाध्यक्ष भारत) : अध्यक्ष महोदय, हिन्दू सक्सेशन बिल पर मैं ने कल शाम को बोलना शुरू किया था और मैं ने अपनी यह राय जाहिर की थी कि यद्यपि कन्या को मिलने वाला हिस्सा लोक सभा के संशोधनों से कुछ कम हो गया है तो भी इससे क्योंकि स्त्री की साम्प्रतिक दशा सुधारने में हम एक कदम आगे बढ़ाते हैं इसलिए हमें इसको स्वीकार करना चाहिये।

[MR. DEPUTY CHAIRMAN in the Chair.]

उपाध्यक्ष महोदय, हिन्दू ला के बारे में जितनी कमेटियां पहले बनीं उनके मसौदे काफी आगे बढ़े हुए थे। मसलन, सर बी० ए० राव कमेटी हिन्दू ला के बारे में बनाई गई थी उसके मसौदे में भी यह बतलाया गया

था कि हमको मिताक्षरा के कानून को रखने की जरूरत नहीं है और ये जो मिताक्षरा के सम्बन्ध में राइट बाई बर्थ और राइट बाई सर्वायबरशिप के नियम हैं उनको हटा देना चाहिये। राव कमेटी की सिफारिशों को हम कानून की शक्ति नहीं दे सके। उसके बाद विधान परिषद् के सम्मुख जो हिन्दू कोड बिल का ड्राफ्ट पेश हुआ था उसको भी हम कानून की शक्ति नहीं दे सके। मतलब यह कि हम कुछ पीछे ही हटते गये। उसके बाद यह जो नया हिन्दू सक्सेशन बिल का मसौदा बना इसमें भी हम कुछ पीछे ही हट गये। हमने एक तरह से मिताक्षरा के साथ एक समझौता सा कर लिया है। जो कुछ राज्य सभा ने पास किया था उसको भी लोक सभा ने कम कर दिया है लेकिन यह संतोष की बात है कि लोक सभा ने कम से कम कुछ उसूनी मामलों में उस बात को कायम रखा है कि लड़की को सेल्फ एक्वायर्ड और सेपरेट प्रापर्टी में हिस्सा दिया जाय। लड़के के बराबर, इसलिये हमें इस बिल को, इन संशोधनों के सहित, समाज सुधार का एक कदम मानते हुए स्वीकार करना चाहिए।

उपाध्यक्ष महोदय, हमारी अनपढ़ जनता में अक्सर इसका बहुत नारा लगाया जाता है कि धर्म और संस्कृति खतरे में है और बहुत से ऐसे कुछ वर्ग हैं जैसे जमींदार, जागीरदार या पूंजीपति लोग—मैं यह नहीं कहता कि उनमें सारे लोग ऐसे हैं लेकिन उनमें काफी ऐसे लोग हैं—जो कि इन सामाजिक समानता को, जो कि आने वाली है, अच्छी नहीं समझते हैं, उनको यह अच्छी नहीं लगती है और जो आर्थिक समानता आ रही है वह भी अच्छी नहीं लगती है। इसलिये उन्होंने कुछ प्रतिक्रियावादी और दकियानूसी संगठन खड़ा कर लिया है और उनमें से कई एक लोगों ने, इस हाउस में और उस हाउस में भी, जो प्रतिगामी दृष्टिकोण है उसको सपोर्ट किया है। हिन्दू महासभा के या रामराज्य परिषद् के या दूसरे किसी संगठन के जो लोग हैं—इतिहास के ऐसे बहुत कम लोग हैं जो कि दोनों हाउसेज

में आये हैं और यह भी नहीं है कि सब इसका विरोध करते हों लेकिन कुछ लोग हैं—जो कि इसका विरोध करते हैं और वे उन्नी मनोवृत्ति के परिचायक हैं, जैसा कि कहा गया है "स्त्री शूद्रौ नावियाताम्", ये स्त्री और शूद्र के अधिकारों के सख्त दुश्मन हैं और उनको ही यह बात अच्छी नहीं लगती है वरना अधिकांश लोगों को यह बात पसन्द है कि लड़की को जायदाद में से हिस्सा दिया जाय। मेरा यह ख्याल है कि समाज सुधारकों को इस विषय में जनता में प्रोपेगैंडा करने में कोई मुश्किल नहीं पड़ेगी और उनको हमेशा हिन्दू कोड के कानूनों तथा दूसरे कानूनों को समझाते रहना भी चाहिये ताकि यह जो रूढ़िवाद है वह पनप न पाये।

इस वक्त जो मिताक्षरा कानून जारी है वह मनु और याज्ञवल्क्य का बनाया हुआ नहीं है वह तो अंग्रेजों की प्रिवी कौंसिल के कुछ फैसलों वगैरह से बन गया है और ये लोग जो कि आज पुराने वेस्टेड इंटरैस्ट का प्रतिनिधित्व करते हैं वे अंग्रेज साहब लोगों के और अंग्रेज जज साहबों के फैसलों को ही मनु या याज्ञवल्क्य का फैसला समझ बैठे हैं। अगर हम मिताक्षरा कानून को हटा देते हैं और दाय भाग के कानून को जारी कर देते हैं तो इससे हिन्दू धर्म का नाश नहीं होता है। आखिर दाय भाग का कानून भी तो हिन्दू धर्म का ही है और इसी प्रकार दक्षिण भारत में जो अलीय संतानम् या मरुमक्कतायम् कानूनों की पद्धतियां हैं वे भी हिन्दू धर्म के अंग हैं, ये सब उससे अलग नहीं हैं। इसलिये हिन्दू धर्म के नाश का नारा लगाना बिल्कुल गलत चीज है।

मैं यह कहना चाहता हूँ कि लोक सभा ने जो २७ संशोधन भेजे हैं उनमें मुख्य संशोधन धारा ६ में है, उसमें काफी परिवर्तन किया गया है। इसके अतिरिक्त माता को दूसरे क्लास में से उठा कर पहले क्लास में रखा गया है और लड़की के लिये ड्वेलिंग हाउस के बारे में जो परिवर्तन किया है वह ठीक है।

[श्री गोपीकृष्ण विजयवर्गीय]

भारा ६ में जो परिवर्तन किया गया है उसको भी वर्तमान परिस्थिति में हमको मंजूर करना ही चाहिये क्योंकि कम से कम इतना तो हुआ ही है कि लोक सभा ने इस बात को तसलीम किया है कि जो सेल्फ एक्वायर्ड और सेपरेट प्रापर्टी होगी उसमें लड़की को लड़के के बराबर हिस्सा मिलेगा, इसके अलावा जो पुराने लोगों का खयाल था कि मिताक्षरा का कानून अभी कायम रखना चाहिये उसको भी उसने ज्यों का त्यों रखा है। तो हमारा कदम कुछ आगे बढ़ा है। मेरा यह खयाल है कि कुछ न होने से कुछ होना अच्छा है, पूरी रोटी न मिलने से थोड़ी रोटी का मिलना भी अच्छा है। इसलिये इस कानून को और ज्यादा सुधारने के बजाय हमको इसे इन मौजूदा संशोधनों के साथ ही स्वीकार कर लेना चाहिये क्योंकि अगर इसको ज्यादा सुधारेंगे तो इसमें बहुत वेर लगेगी।

मिताक्षरा के विषय में मेरा अपना खयाल यह है कि यह मिताक्षरा का कानून एक प्रकार से नागपाश की तरह है जिसने कि हिन्दू समाज के गले को जकड़ रखा है, यह मिताक्षरा का कानून एक प्रकार से क्षय रोग के समान है जो कि हिन्दू समाज को लग चुका है और अगर इसको नहीं मिटाया जायगा तो हिन्दू समाज मिट जायगा। जब तक कि मिताक्षरा के राक्षस को नष्ट नहीं किया जाता है तब तक उज्ज्वल और तेजस्वी हिन्दू समाज आगे नहीं निकल सकता है।

उपाध्यक्ष महोदय, हमारे देश में समय समय पर बड़े बड़े सुधारक हुए हैं और उन्होंने पुराने रूढ़िवाद से लड़ाई लड़ी है। हमारे भारतवर्ष के प्राचीन धर्म और संस्कृति के इतिहास में उपनिषदों के प्रणेता हुए और जो सुधारक हुए उन्होंने पिछले कर्मकांड के खिलाफ जबरदस्त लड़ाई लड़ी और उन्होंने ज्ञानकांड में सब को समानता का अधिकार दिया। उसके बाद गौतम बुद्ध हुए, महावीर हुए और रामानन्द वगैरह हुए। इन दिनों

में महर्षि दयानन्द, राजा राममोहन राय वगैरह हुए और इन सब लोगों ने पुरानी रूढ़ियों से लड़ाई लड़ी है। आज की यह लड़ाई भी उसी तरह की है और आज जब हम स्त्रियों के अधिकारों को विस्तृत करना चाहते हैं तो ये प्रतिक्रियावादी लोग इसका नारा उठाते हैं कि हिन्दू धर्म खतरे में है। कुछ वर्ष पहले लोग लड़कियों को पढ़ाते नहीं थे तब महर्षि दयानन्द ने, राजा राममोहन राय ने तथा दूसरे लोगों ने लड़कियों को शिक्षा देने का नारा उठाया था और सती प्रथा को भी खत्म करने के लिये आवाज उठाई थी। उस वक्त भी यह नारा उठाया गया था कि अगर सती प्रथा को हटाया गया तो सतीत्व नष्ट हो जायगा, लेकिन वह नारा गलत साबित हुआ। उस समय भी शायद बहुत सी स्त्रियां यह समझती थीं कि सती प्रथा के हटने से हमारा नाश हो रहा है उसी तरह से शायद आज भी भारतवर्ष की नारियां यह समझती हैं कि मिताक्षरा के कानून के मिटने से हम स्त्रियों का नाश होगा लेकिन मेरा तो अपना खयाल यह है कि कुछ समय के बाद वे ऐसा समझ जायेंगी कि यह जो कुछ हो रहा है वह उनके अनुकूल ही है।

आज सब से ज्यादा श्रेय हमें अपने प्रधान मंत्री श्री जवाहरलाल नेहरू जी को देना चाहिये कि उन्होंने हिन्दू धर्म के उद्धार से सम्बंधित इस काम में खाने तौर पर दिलचस्पी ली। वैसे ही इसके लिए हमारे ला मिनिस्टर, श्री विस्वास और पाटस्कर साहब भी धन्यवाद के पात्र हैं क्योंकि उन्होंने भी सामाजिक सुधार के कानून को आगे बढ़ाने में बहुत ज्यादा मिहनत की।

अब मैं बस इतना कह कर समाप्त करता हूँ कि आज के युग में हमने भारतवर्ष की नारियों को उनका अधिकार दिलाने में और उनका उद्धार करने में जो यह कार्य किया है वह वास्तव में इस देश के इतिहास में एक नया पन्ना हमने जोड़ा है। इसके लिये हम सब बधाई के पात्र तो हैं ही, लेकिन पुरुष वर्ग ने

इस दिशा में जो प्रमुख हिस्सा लिया है उसके लिये वह और भी ज्यादा बढ़ाई का पात्र है।

**श्रीमती सावित्री निगम ( उत्तर प्रदेश ) :** उपाध्यक्ष महोदय, यह विधेयक जो रूप लेकर लोक सभा से वापस आया है उसे देख कर मन सचमुच खिन्न हो उठा है। श्रीमन्, देश के अन्दर न्याय और सुखों के उचित विभाजन के लिये तरह तरह के नये कानून लाये जा रहे हैं। इनकम टैक्स के महकमे को ही देख लीजिये, किस तरह स्लैब सिस्टम वर्गों लाकर जो मनी की होर्डिंग होती है, उसको रोका जा रहा है। इसके अलावा, आपने देखा कि इस्टेट ड्यूटी बिल भी पास हो चुका है और हाल ही में इश्योरेंस को नेशनलाइज करने का विधेयक हमारे सामने आ चुका है। इन सब चीजों को देखते हुये यह समझ में नहीं आता कि किस प्रकार हम राष्ट्र की अर्थांगिनी स्त्री को, उसे बिना सम्पत्ति में समान अधिकार दिलाये हुये, अपना वह उद्देश्य पूरा कर सकेंगे जिस उद्देश्य से हम यह विधेयक लाये हैं। श्रीमन् जो थोड़ी सी सुविधा इस विधेयक के द्वारा राज्य सभा ने दी थी उसको इस प्रकार तोड़ मरोड़ दिया जाना सामाजिक दृष्टि से न्यायसंगत और युक्तिपूर्ण प्रतीत नहीं होता। बार बार लॉ मिनिस्टर महोदय ने यह कहा है कि कोर्पोरेशन के राइट्स और मिताक्षरा फेमिली की रक्षा के लिये लड़की के अधिकार को सीमित करना पड़ा है। मैं यह जानना चाहती हूँ कि आखिर मिताक्षरा परिवार को रखने की या उसकी रक्षा करने की क्यों इतनी अधिक चिन्ता की जा रही है। जमींदारी अवालिसन और उद्योग धंधों के राष्ट्रीयकरण के बाद फिर हम यदि मिताक्षरा परिवारों के रक्षा की बात सोचें तो यह बिलकुल १६वीं शताब्दी की सी बात प्रतीत होती है। इस प्रकार श्रीमन्, सम्मिलित परिवार तोड़े बिना इस विधेयक को स्टेट्यूट बुक पर लाने वाली बात एक बीती हुई कहानी बन चुकी है। एक मुर्दा प्रथा के लिये जीते जागते लोगों के साथ इस प्रकार

अन्याय करना और उनके अधिकारों का अपहरण करना कहां तक उचित है, यह मैं जानना चाहती हूँ।

श्रीमन्, संयुक्त परिवारों की कहानी एक अशु लिखित कहानी है जहां लड़ाई, कलह, ईर्ष्या द्वेष के अतिरिक्त हमेशा अन्याय का ही बोलवाला रहा है। इसलिये उनका तो टूटना ही उचित था। मिताक्षरा सिस्टम को बिना तोड़े हुये देश की व्यवस्था में समाज सुधार का मोड़ लाना या देश के आर्थिक ढांचे को समाजवादी ढंग का बनाना, यह एक दुःस्वप्न की बातें करना है। श्रीमन्, मिताक्षरा प्रोपर्टीज को सरकारी संरक्षण देना, दम तोड़ते हुये कैपिटलिज्म को फिर से रस देकर जीवित रखना है।

श्रीमन्, आज १५, १६ वर्षों से हम लोग सुनते आये हैं कि स्त्री को उसके अधिकार मिलने वाले हैं। बड़े बड़े वादे दिलाये गये, बड़ी बड़ी उम्मीदें बांधी गईं, लेकिन अंत में हुआ यह—खोदा पहाड़ और निकला चूहा। कहा जाता है कि स्त्रियों को बराबर अधिकार दिलाया जा रहा है, लेकिन पिता के हिस्से का पूरा नहीं बल्कि उस में से भी सब भाइयों को बराबर का हिस्सा देकर लड़की को दिया जा रहा है, अर्थात् लड़की को पिता की जायदाद का नवां या दसवां हिस्सा दिया जा रहा है, जो कि बिलकुल नहीं के बराबर होगा। लॉ मिनिस्टर ने हम लोगों को संतोष दिलाने के लिये बहुत अच्छी तरह से बार बार कहा कि सेपरेट प्रोपर्टी में आपको हक दिया जायगा। मैं उनसे पूछती हूँ कि इस आर्थिक कठिनाई के जमाने में भला आजकल सेपरेट प्रोपर्टी कभी किसी की हुई? आज कल कौन बचाता है? जो पैतृक सम्पत्ति है उसको इसमें स्थान दिया ही नहीं गया। मैं हैरान हूँ यह देख कर कि समाज ने, रीति रिवाजों ने, धर्म ने, जहां पुरुषों को हर जगह अपर हैंड दिया है वहां उसके साथ ही साथ पुरुष वर्ग के साथ पक्षपात किया है। हमारे

## [श्रीमती सावित्री निगम]

कानूनों तक में भी यह पक्षपात इस बीसवीं सदी में वैधानिक बनाया जा रहा है। अभी थोड़े दिन पहले विनोबा जी ने सत्य ही कहा था कि जब तक कोई स्त्री शंकराचार्य नहीं बनेगी तब तक शास्त्रों से और धर्म से पक्षपात दूर नहीं होगा। यही स्थिति, श्रीमन्, यहां भी है। संसद् सदनों में यदि स्त्रियों की संख्या आधी से अधिक होती तो इस तरह कभी भी लोक-सभा या राज्य सभा में इस बिल का यह भाग्य न हुआ होता और न ही इस विधेयक को इस तरह तोड़ा मरोड़ा गया होता। जो थोड़ा अधिकार बड़ी मुरिकल से, छीन झपट कर, लड़ कर और आरजू मिन्नतें कर के, यहां राज्य सभा में दिलाया गया था उसको भी वहां लोक-सभा में इस प्रकार अपहृत कर दिया गया है, यह देख कर मन बड़ा ही खिन्न हो उठता है। श्रीमन्, स्त्रियों को जो भी अधिकार दिये जायेंगे यह तो होगा नहीं कि वे उनका उपयोग किसी विदेशी के लिये करायेंगी या अपने धर्म को फेंक देंगी। स्त्रियों को जो अधिकार दिये जायेंगे उनका उपयोग वे अपने ही परिवार में अपने बच्चे, भाई या पति के कल्याण के लिये ही करेंगी, इसलिये जो भी अधिकार उनको यहां दिये गये थे, उनको उसी प्रकार रहते देना चाहिये था।

आज जिस दूरदर्शिता, बुद्धिमानी तथा अकथ परिश्रम के साथ माननीय पाटस्कर साहब ने इस विधेयक के पास करने में पूरी नहीं तो थोड़ी कामयाबी तो अवश्य ही हासिल की है, तो मैं उनसे यह निवेदन करूंगी कि इसी प्रकार वे अगले वर्ष में एमेंडमेंट लाकर पैतृक सम्पत्ति में भी स्त्री को पूरा पूरा अधिकार दें और अधिकार दे कर के एक उचित न्याय की व्यवस्था करें।

श्रीमन्, लोक सभा में एक ऐसा भी संशोधन हुआ है जिसका कि मैं हादिक स्वागत करती हूँ, और वह है जहां क्लॉज

१० में मां को शिड्यूल २ से निकाल कर प्रथम शिड्यूल में रखा गया है। उसके सम्बन्ध में बहुत कुछ कहा जा चुका है, इसलिये उस पर मैं अधिक कहने की आवश्यकता नहीं समझती। लेकिन क्लॉज १७ में जो हज्बेड के ईयर (heir) को कैटेगरी "बी" में लाकर रखा गया है वह मुझे उचित बिलकुल नहीं जान पड़ता। आप ही बतायें, कौन पिता यह चाहेगा कि उसकी गाढ़ी कमाई उसकी मृत्यु के बाद एक बिलकुल दूसरे परिवार में चली जाय और फिर लौट कर उसके अपने परिवार में न आ जाय। इसलिये इस सम्बन्ध में सुधार अवश्य किया गया होता।

श्रीमन्, पेज १० की लाइन ३० और ३१ में जो यह शब्द ओमित किये गये हैं कि Whose husband has left no dwelling house इसका मैं हादिक स्वागत करती हूँ, क्योंकि सम्भव है कि किसी भी विधवा स्त्री के कई एक इवेलिंग हाउसेज हों लेकिन फिर भी विधवा की समाज में जो स्थिति है वह किसी से छिपी नहीं है और कल तक जो घर की राजरानी रही थी वह विधवा होते ही घर की दासी से भी बदतर हो जाती होगी। सम्भव है कि उसके दस घर हों, लेकिन उसको चैन की सांस लेने को न मिले और बेचारी को अपना जीवन निर्वाह करने के लिये अपने पिता के घर आ कर शरण लेनी पड़े। इसलिये यह जो संशोधन हुआ है उसका भी मैं स्वागत करती हूँ।

श्रीमन्, क्लॉज २५ में "has been deserted" की जगह "has separated from" जोड़ देना अधिक युक्ति संगत प्रतीत होता है। इसके अतिरिक्त मैं यह भी कहना चाहती हूँ कि विधवा की जो लिमिटेड इस्टेट है उसको "एन्सोल्यूट इस्टेट" या "फुल इस्टेट" बना कर जो भूल को सुधारा गया है वह बड़ी ही प्रशंसा की बात हुई है। उसका भी मैं हादिक स्वागत करती हूँ।

श्रीमन्, जहां तक हम दोनों सदनों के सदस्यों का सम्बन्ध है, हम आपस में सहयोगी और कोलीग हैं। उनका हम आदर करते हैं और उनके प्रति श्रद्धा रखते हैं। लेकिन इस अवसर पर मैं आवश्यक नहीं समझती कि मैं अकारण उनको भ्रम में डालने के लिये ध्वन्यवाद दूं या आभार प्रकट करूं। मैं अदब के साथ कहना चाहती हूं कि जो कुछ महिलाओं को इस विधेयक के द्वारा दिया गया है वह न दया की भीख है, न भेंट अथवा दान। थोड़े से भी जो अधिकार दिये जा रहे हैं उनसे नर और नारी दोनों का ही समान रूप से कल्याण होने वाला है, बल्कि मैं यह कहूंगी कि इस विधेयक के द्वारा स्त्री को जो थोड़े से अधिकार दिये जाने वाले हैं उससे एक बहुत बड़ी सामाजिक भूल को सुधारा जा रहा है क्योंकि स्त्री को जहां गलत कानूनों के द्वारा पहले अधिकार विहीन बना दिया गया था, जिससे कि वह अशक्त, अबला और निर्जीव बन गई थी और उसी के कारण हमारे देश को सदियों तक गुलामी का सामना करना पड़ा था, वहां उस सुधार से हमारी उस भूल को दूर किया जा रहा है। इस भूल सुधार से जगत जननी शक्तिमान होगी और उसके साथ ही साथ उसकी संतान भी शशक्त होगी। इसलिये इस अवसर पर मैं केवल उन्हीं लोगों को जिन्होंने उस भूल सुधार में योग दिया है, बधाई देना चाहती हूं।

माननीय श्री कपूर ने समाज में स्त्रियों की जो स्थिति है उसका लम्बा चौड़ा बखान किया और कहा कि समाज में हमेशा उनका स्थान आगे रखा जाता है और उनका नाम पहले लिया जाता है, जैसे सीता राम, लक्ष्मी नारायण आदि। कन्याकुमारी के मन्दिर में कन्याओं की पूजा होती है, आदि आदि जो बातें उन्होंने कहीं, उनके विषय में मुझे यह कहना है कि समाज के अन्दर कथनी में स्थिति जो कुछ हो, चाहे स्त्रियों के गौरव से आकाश गूजे, पर वास्तविकता यह है कि करना ४ उनके पतन से पाताल भी

कांप रहा है। उनके लिये न सावन सूखे न भादों हरे। श्री कपूर जी कन्याओं की बातें करते हैं लेकिन कन्याओं के बध या विक्रय या आत्महत्या की बातों को उन्होंने बिल्कुल भुला दिया। श्रीमन्, मैं क्या कहूं, वे बुजुर्ग हैं, लेकिन मैं इतना जरूर कहना चाहती हूं कि ये जो आर्म चेंबर पोलिटिशियन हैं, जब वे कुर्सी से उतर कर जन समुदाय के बीच में आयें, तब उन्हें पता चले कि स्त्री को किस प्रकार कष्टों और कठिनाईयों का सामना करना पड़ता है। स्त्रियों को परावलम्बन, निर्धनता और आर्थिक अभावों के कारण क्या क्या नहीं भुगतना पड़ता है। उन्होंने व्यक्तिगत आक्षेप करते हुये कहा कि शायद मिसेज निगम को कोई ऐसा एक्सपीरियन्स हुआ होगा। श्रीमन्, मैं इसका क्या उत्तर दूं लेकिन मैं उन्हें विश्वास दिलाना चाहती हूं कि हम यहां अपने प्रतिनिधि के रूप में नहीं बल्कि जनता के प्रतिनिधि के रूप में बैठे हैं। इसलिये हमें उनके बीच में काम करने से जो अनुभव प्राप्त होता है उसके आधार पर हम कोई राय कायम करते हैं। जहां तक व्यक्तिगत जीवन का सम्बन्ध है उसके लिये तो मैं यह कहूंगी कि जितने अच्छे मेरे पिता भाई और पति हैं, वैसे अच्छे सब लोग होते तो न पार्लियामेन्ट की आवश्यकता रह जाय और न कोर्ट्स, कानून या किसी ऐसी ही अन्य वस्तु की आवश्यकता रह जाय।

श्रीमन्, इसके अतिरिक्त मैं इस विधेयक के पास करने में जो हमारे सभी सहयोगियों ने सहयोग दिया तथा माननीय पाटस्कर जी ने जो अक्षय परिश्रम किया उसके लिये मैं उन्हें हार्दिक ध्वन्यवाद देती हूं।

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

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

DR. W. S. BARLING AY (Madhya Pradesh): Mr. Deputy Chairman, we are now at the fag end of the discus-



[Dr. W. S. Barlingay.] sion on this important piece of legislation.

MR. DEPUTY CHAIRMAN: I would like to finish discussion of this Bill before 4 o'clock. Therefore, I would request hon. Members not to take more than five to ten minutes each.

DR. W. S. BARLINGAY: Sir, I do not want to take much time of the House. Let me say at the very outset that I entirely support the motion that has been brought before this House by the hon. Minister for Legal Affairs and that for the very simple reason that I feel that in these matters, and especially at the present juncture, discretion is the better part of valour. At the same time let me make it perfectly plain that we do not agree with all the amendments that have been proposed by the Lok Sabha in regard to this Succession Bill. But as I have said, in the interest of the Bill and especially in the interest of the womanhood of this country, it seems to me that it is much better to agree to these amendments and not to waste the time of the House any further.

I do not agree with Shri Vijaivar-giyaji in all that he has been saying about the Mitakshara system of Hindu Law and I am sorry he seems to have entirely misunderstood that system. This Mitakshara system, I must say, has been one of the best systems ever devised in any society in the world. The only difficulty is that it is not now in-tune with the times. That is the whole trouble. If we really understand the spirit of the Mitakshara system, I would say that in point of fact, it is like a system of life insurance. We had, a few days back, an ordinance issued, nationalising life insurance. What was this system of Mitakshara but a species of life insurance in those days? In those early days, the State was not a very powerful entity and it was inevitable that the family should take, so to say, the place of the State. Therefore, when Shri Vijaivargiyaji said that the Mitakshara system was like a demon sitting on our necks and all the rest of it, I felt sorry and I cannot possi-

bly agree with those remarks. Sir, the difficulty with regard to this system has been that our society has been patriarchal and in this society, woman had to leave the home of her father and go to the home of her husband. That was the main difficulty. Otherwise, I am sure our Rishi would have made women also coparceners in all the family property. I have not the slightest doubt about that. There was this very genuine difficulty, the difficulty on account of this peculiar circumstance, and women were completely deprived of all their independence. And so, now is the time when we ought to restore back their independence to them. As has been said by Manu:

पिता रक्षति कौमारं,  
भर्ता रक्षति यौवनम् ।  
पुत्रः रक्षति वार्द्धक्ये,  
न स्त्री स्वातन्त्र्यमर्हति ॥

He has very clearly said that it is not possible for us to make woman a member of our coparcenflpy. She cannot be independent at any stage of her life. In her childhood she has got to be protected by the father; in her youth she has got to be protected by her husband and when she grows old, she has got to be protected by her son. Therefore, woman does not deserve independence at all. That is what he said.

Let us also remind ourselves of what Lord Buddha said about women. When he was talking of his Sangh or order, he said, "Well, I am not in favour of introducing women into the Sai.gh." But subsequently he was persuaded to do so. Then he said that on account of the introduction of woman into the Sangh the Sangh destined to last thousands of years .....

SHRIMATI LAKSHMI MENON (Bihar): Thousands of years? A thousand years.

DR. W. S. BARLINGAY:..... would last now only for a few years. It is no use blaming either Manu or Budha. They were talking in terms of the circumstances which existed in their own times. Buddha, for instance, was a very liberal minded

man. None-the-less the state of affairs or the conditions in that society were such that they could not possibly have talked in a different way.

Sir, with regard to clause 6 which appears to me to have been completely whittled down by the Lok Sabha, I would briefly say this much. According to Mitakshara the share of the father always includes the share of his descendants. The Members of the Lok Sabha, I won't say the Lok Sabha itself, but certain Members of the Lok Sabha, have completely forgotten the fact that even according to the Mitakshara system, when there is partition of coparcenary property, all the members of the coparcenary do not get *per capita*. Suppose for instance, in a coparcenary there are three sons of one brother, and there are two other members who are sons of another brother. The point is that there is no *per capita* division, that is to say, there is no division of that property into five parts. What happens is this. First of all there is division into two parts. And then one part has got to be divided into three other parts and the other into two parts. They take *per stirpes*. That is a very important point.

The second important point which has been completely forgotten by many Members of Lok Sabha is that even according to our *Shastras* while the parents are living, it is not possible for the children to ask for partition in the coparcenary property. That really shows the spirit that is behind the Mitakshara system. As I said, I do not agree with people like Shri Vijaivargiyaji that this was a very bad system which has been sitting on our neck and all the rest of it. I did not relish those remarks at all. But at the same time, I wish to say that it is a good thing that now that we are at a different stage of our society, we had better abandon that system which has outlived its usefulness.

Then I would like to make one more remark and I would have finished. That relates to amendment No. 16. It does seem to me that the

present amendment is really a very unhappy one and the original clause ought to be restored.

I recognise the fact that clause 17 (2) is fortunately not amended and, therefore, in point of practice, clause 17(1) will apply only to property which is self-acquired. In regard to self-acquired property, the whole question boils down to this. Are the heirs of the husband nearer to the wife or are the father and the mother nearer to her? After all, I know the conditions in our society as well as anybody else and I feel in my heart of hearts that the father and the mother are clearly nearer to the woman than the heirs of the husband. Here it is a question of the heirs of the husband, not of the husband. This would be an entirely different matter. So, I feel that this amendment number 16 is not really a happy amendment. All the same, I do say that women of this country have gained a very fundamental point; they have gained in point of principle although they may have lost in point in detail. None-the-less, what they have achieved is really a very remarkable thing. They have, in substance and in principle, made the people of this country agree to this that hereafter men and women in this country will, in the eyes of law, be on the same level. That is a very great achievement and, therefore, Sir, I wholeheartedly support the motion which has been brought forward by the hon. Minister for Legal Affairs in this House.

SHRI JASWANT SINGH (Rajasthan) : Mr. Deputy Chairman, for the last two days, I have been waiting to see whether in this House too, as in the other House, there would be hon. Members, both from the ranks of the Congress as well as those representing the other parties, who would point out the difficulties in accepting the Bill in this form. I feel, even though I am a new Member in this House, that it has become my privilege to oppose this Bill and to put before this House the point of view of orthodox Hindus. According to me, this question has got three aspects.

[Shri Jaswant Singh] economic, social and religious. As far as the economic question is concerned, from the very birth, a girl is placed in a better position than the boy. As long as she remains unmarried, she is the darling of the house and is really the pet. Every care and affection is showered on her by the parents. When the time comes for her being given away in marriage, the parents, whether they can afford it or not, try to spend as much money as possible and give the girl away to a man with whom she can be the happiest. Just now, the hon. Member who spoke before me explained that after marriage the girls are given a special place in our religion. Once *kanya dan* is performed, the girl goes to a different house and severs completely her connection with her parents and with the home in which she was born. There are people in our country who, even though they do not have a pie to sustain themselves, have borrowed or stolen or secured money otherwise to give the girl away in a happy home. In Rajasthan, there is a community of Brahmins; there are lakhs and lakhs of people in that community. In that community, it is very very" difficult for a girl to be given away in marriage because it costs very heavily. The result is that in this big community consisting of lakhs and lakhs of people, hundreds of brothers have to go unmarried in order to save money for giving away the girl in marriage and also give that girl *stridhan* on which she can sustain herself for a long time.

There is one more aspect. There is an amendment to clause 17 in the Bill which says that in certain circumstances, even the mother and father will be able to inherit property from the girl. This has not only the economic and social aspect; to many of us, it is a religious question also in this sense that under the Hindu system, we have always been holding that we should give everything to the girl but, under no circumstances, expect anything from her. If a certain property is to revert to the parents. I I

would submit to this hon. House that there are people in the country who, under this system may inherit lakhs and lakhs of rupees and tons of gold and jewelry but I am absolutely certain! They will not touch them with a pair of tongs even because they consider it a sacrilege to accept anything from the girl. Right from the time of her birth till she is alive or till her children are alive, the parents always give her and her children but do not accept anything from the girl. So, the economic question does not hold good here. If she has been given in *kanya dan*, she goes to a different house and becomes the *grihalakshmi* of that house. If hon. Members of this House feel that she should be made more secure, then they should see that it is done in her husband's home. According to our system, once she has been given away in marriage, she has no place at all in her parental home.

The social aspect of the question is mixed up with the question of equal status for men and women. In regard to this question, I would only like to submit that God has made some fundamental difference between a man and woman. Under no circumstances could there be equality in all respects. At the time of the Provisional Parliament, there was a question of the unmarried women in service being sent away on their getting married. There was a pressing demand on the late Sardar Patel to remove this disparity, from hon. lady Members. For a number of days he would not give any reply but on being pressed, one day, he said, "So long as God does not remove one fundamental difference between man and woman, this disparity shall always remain" and I think that those of the lady Members who want equality of status in every respect would do well to bear in mind this remark of the late Sardar Patel. Not only this; man and woman have got their own different spheres; in some spheres one is predominant while in the other, the other is predominant. Take the case of warfare; here it is wholly

men who predominate; this is because of the circumstances and of the nature of the work. Because of the physical system and physical differences, only women can play greater part in a particular sphere while men can play it in other spheres. In these circumstances, there cannot be any question of equality of status at all. In the circumstances in every sphere there cannot be the question of equality of status. After independence one attempt has been made to give women higher status and that was in regard to the Special Marriage Act about two years ago. Our Indian culture and Sanskriti have been very different as far as women are concerned and, Sir, we see that during the last two years, since that Act was passed what has been the result? Have we fully observed the culture that was behind it? What do we see in the papers? During the last two years there have been - thousands and thousands of divorces, and if that Act is not repealed within a short time, I should not be surprised if in due course of time we surpass America so far as divorces are concerned. So one test has been before our Indian womanhood and I am sorry to say that in that respect we have not - \*^d encouraging reports. In the circumstances in all respects the social status of woman and man cannot be on the same level.

Lastly I would like to come to the religious aspect of the question. I do not know why it is only on the poor Hindu, *i.e.*, on the Hindu religion that these inroads are made always in the name of social reforms. Certainly we consider that the Mitak-shara system is a part of Hindu society and Hindu Dharan. Hindu Dharm is a very wide term in which different systems prevail, and the Mitakshara coparcenary property or the Mitakshara system is a system in Hindu Dharm, and it has played a very important part and it will play a very important part- in the future also whatsoever inroads may be made on it. We have seen that in the past thousands of years very big inroads

I have been made, but every time our Hindu religion has come out victorious, and we have not the least doubt even HOW that, whatever inroads by reformers may be made on this religion, it is certain to come out victorious in the end.

SHRI GOPIKRISHNA VIJAIVAR-GIYA: Does the hon. Member think that Dayabhaga is not Hindu religioia?

SHRI JASWANT SINGH: I said there are several systems in Hindu Dharm, and each system has got its own part to play.

SHRI KISHEN CHAND: . But Mitakshara is the system prevailing in the largest part of the country.

SHRI JASWANT SINGH: Now coming to this question from the religious point of view I would say that it is no doubt that by this measure this Mitakshara system of Hindu society has been crippled but it has not been completely destroyed and it can never be, but so far as we orthodox Hindus are concerned, we have a grouse in the matter of why the Hindu religion should alone be selected for this iKToad. In India there aTe many \*/Tefigions and it cannot be said that these defects are found only in the Hindu Dharm and social reforms are needed to be incorporated only in this and not in any other religion. If a common law is e»acted which will apply to all religions, certainly we will not have the least ground for any bad feeling, but particularly we are seeing that for the last so many years only this particular Hindu religion is being selected for the inroads and we have a serious grouse about this.

Eventually, Sir, before taking my seat, I would like to say a few words in connection with what the hon. lady Member, Dr. Mrs. Parmanand, said yesterday at the conclusion of her address to the House. She referred to the Yagna being performed and she was happy that the whole thing was being done nicely in accordance with the requirements of a Yagna. In regard to this remark of her, Sir, I would only say that when *Purna*

[Shri Jaswant Singh] *Ahuti* is being done to-day, certainly i she and other Members of her mode *I ot* thought would get the merit of this Yagna if it is done according to the Vidhi and according to the Shastras but, as I have submitted, from the religious point of view and from the social point of view and also economic point of view this measure is not going to benefit anybody, not even the ladies, and so far as the educated ladies are concerned, well, they may rejoice that they will have their way, but then there are millions and millions of orthodox sisters and daughters who would not like this measure to be passed, because it will vitally affect them in economic matters, in social matters and in their religious feeling. So, to come to this Yagna, I would only say, Sir, that this Yagna, if it is Yagna at all, is being performed against the tenets of our Shastras and against our Vedas, and whatever good result the sponsors of this measure may expect out of it, I am sorry to say, Sir, that it will have just the contrary result and it is not going to benefit anybody:

Thank you very much.

DR. P. SUBBARAYAN (Madras): Mr. Deputy Chairman, I was listening to the speech made by my hon. friend the previous speaker with great care, but I am afraid he has forgotten that we are living in the middle of the twentieth century and not in the middle ages. Women's rights have come very much to the fore and our Constitution itself provides for equality of sexes and therefore I think we have got to move with the times and solve the problems as they occur. It may be the economic conditions were such that in the old days the joint family was a haven to which members of the family went when they were in trouble. But that is not the case to-day. I would like to remind my hon. friend that the joint family system is already broken up in many ways and particularly by decisions of the Privy Council, who did not understand our system of law, and brought in the

English law even in our law of succession. I would like to quote on« instance only and that is the rule against perpetuities. The rule against perpetuities was not a part of Hindu law at any time as commented upon by our ancient commentators, but th« English judges being accustomed to interpretation of law according to their own property system introduced this rule here, and it is part of Hindu law to-day. Thus Hindu law has not remained static. It has grown by judicial decisions because of the English system of law which we adopted, and interpretations by courts have changed many texts which have been quoted in this House because judges on the bench interpret the law and there is such a thing as Judge-made law and Judge-made law certainly affected Hindu law in many matters and it stands as part of the law of the land. Though the best of the English judges sac and interpreted our texts, our customary law remains to a certain extent and therefore I would like to tell my hon. friend: Law grows. Society is never static, and therefore there is always growth. I certainly am not satisfied with some of the amendments that Lok Sabha has carried, but as my sisters have said, this is a charter of liberty of freedom for women, and let us accept it as it is and give them this charter to-day in the hope that it would be improved as time goes on and each one will get her or his right in the proper manner. I have been telling my hon. friend the Minister for Legal Affairs that this piecemeal sort of dealing with Hindu law has its own dangers. If the Rau Bill as appended to the Hindu Law Committee Report had been dealt with as a whole, we may not have met with all the difficulties we are meeting with to-day. I hope it will be possible for a Law Minister of the Government of India one day to codify this legislation and put the whole picture before the public, because then only will we know what will be the rights of each person.

With these words, Sir, I commend this Bill to the House.

3 P.M.

Shri H. N. KUNZRU: (Uttar Pradesh): Sir, I greatly sympathised with my hon. friend, Shri Pataskar, in the very difficult position in which he was placed yesterday. Because of the office that he occupies he tried to defend both the amendments made in this House and the amendments made in the other House. But I am afraid that he did not succeed in his efforts at least so far as clause 6 of the Bill was concerned. There are some changes made in the other House which I approve of; for instance, the transfer of the mother from Class II to Class I in the Scheduled of heirs and the saving of the rights of those entitled to maintenance under the existing law. But I am unable to agree with the change that it has made in clause 6. Sir, I am not concerned just now with whether the share of the daughter will be large or small. What I want to know is, what is the principle on which the amendment of the Lok Sabha is based? The daughter, broadly speaking, has no right to inherit any portion of her father's property, not even that part of his property which is self-acquired. That right is being conferred on her for the first time but in respect of this property, that is, self-acquired property, we have accepted the principle of equality between the son and the daughter. One should have thought therefore that in respect of property belonging to a Hindu coparcenary the same principle would be followed. What is the essential difference between the two that would justify us in treating self-acquired property and property belonging to a Hindu coparcenary in different ways? I confess that I can discover *no* principle on which any distinction can be made between the two. The Mitakshara Hindu joint family is for all practical purposes the Hindu coparcenary. If therefore the property belonging to a Hindu coparcenary is going to be treated differently from self-acquired property of a person, will not complications arise in respect even of the property which is supposed to be self-acquired? The

joint Hindu family is disintegrating but it is still the rule and the property that is supposed popularly to have been earned by the father may be the result of joint exertions of the father and his children. Therefore how is one going to distinguish between the property of a Hindu coparcenary and the property belonging to a Mitakshara joint Hindu family? When a man dies, his sons may contend that the property should be distributed in accordance with clause 6 and not in accordance with clauses 8, 9 and 10 read together. I think this may create a serious complication. We are now for the first time conferring on the daughter the right to inherit from her father on the same terms as her brother. Why should we not confer the same right on her in respect of the distribution of the property belonging to the Hindu coparcenary? The idea of a notional partition has been accepted in this Bill. Both clause 6 and clause 32 which deals with testamentary disposition of property accept that idea. If this idea is acceptable, what is the reason for making any difference between the two kinds of property that I have referred to? I think that we shall be proceeding on an intelligible principle and making the administration of the law easier if we make no distinction between the self-acquired property and other kinds of property. •

Perhaps I may give an illustration in order to make my meaning clearer. A man is carrying on a business. He is, what you call, a self-made man. He has made his way in life, not because of any money inherited by him from his father but because of his ability and industry and the help that he has derived from his sons. His sons are engaged with him in his business, not as paid servants, but as members of the family, looked upon by all the employees in that business as proprietors along with the father. Now, is such a property in any essential respect different from the property belonging to a Hindu coparcenary? Cannot the sons in such a case claim that the partition between them and

[Shri H. N. Kunzru] their sisters should be made not in accordance with clauses 8, 9 and 10 but in accordance with clause 6? For this reason I say once more that it appears to me that it is better to accept clause 6 in the form in which it was put by this House than in the form to which it has been altered by the other House.

I should like just to say one word more about amendment No. 26 which is an amendment to clause 32 which deals with testamentary disposition. I am glad, Sir, that the right to maintenance of certain persons who were dependent on the person who has left property behind are going to be protected but their enforcement under the law as it will be when this Bill is passed will be even more difficult than it is today. If the property is to be unequally distributed between the different persons, how is the right to maintenance to be enforced? Under the existing law I think the position in respect of this matter is much easier but when the property has been unequally divided how is the right to be enforced against each person who receives a part of the property? This shows how regrettable it is that this deals only with one part of Hindu law, namely, inheritance, and that the other parts of Hindu Law are to be dealt with separately. This Bill shows the necessity of dealing with the joint Hindu family and the right to maintenance at as early a date as possible. Questions have arisen in connection with this Bill which make it plain that without a new law dealing with these matters this law in spite of some advantages that it will confer on daughters will be regarded as an imperfect measure. I hope, therefore, that Government will take the earliest possible steps to introduce legislation in order to enable us to have a complete Hindu Code in the near future. Such a Code was placed before the provisional Parliament. It was drafted in accordance with the recommendations of the Rau Committee. But owing to the opposition that it met with, it could not be passed into law and Government pro-

ably thought that there would be less opposition to piece-meal legislation than to a comprehensive Code. The opposition has not been as stiff in respect of the conferment of the right of inheritance on daughters as it was some years ago, but that, I think, is due more to the efflux of time than to the procedure followed by Government. I do not see why this Bill should have been prejudiced in anybody's eyes had it included provisions relating to joint Hindu families and maintenance, etc. It was indeed the change in the existing Hindu law with regard to inheritance that was at the bottom of the opposition in the provisional Parliament to the Hindu Code. Had that been taken out of the Code, the whole Code might have been passed. Now if you place a Bill relating to succession before us, I see no reason why other matters relating to property should not have been included in it. Opposition to the Bill could not have become greater than it was when the Bill was first discussed here. It is not possible for me for the reasons that I have given to say that we should agree with the changes made in the other House. I know that, the House will by a large majority accept those changes, but I say for myself that the change made by the other House in clause 6 was a mistake and that if possible, it should be amended.

SHRI C. P. PARIKH (Bombay) : Mr. Deputy Chairman, I rise to support the amendment to clause 6, because this clause is very controversial. Originally when the Bill was introduced the daughter's share was half. When the Joint Select Committee met they changed it again to full and the son's share in the coparcenary property was also to be included; and, also, the divided son's share was to be included for the purpose of calculation. When the Bill came from the Joint Select Committee to our House, we deleted the provision of including the divided son's share. And when the Bill went to the other House, they very well saw that the provisions which were adopted in the Bill were not suited or were not in consonance

with the economic and the social system of our country. And according to them, the Lok Sabha Members sent this amendment and I congratulate the Members of the Lok Sabha on having passed this Bill in this manner and sending this amendment. When we discussed this amendment to this clause in our House there was great vehemence and enthusiasm. We passed it with a majority of 62, against, I think, a minority of 42. And now we have' to revise our decision and most of the Members who were enthusiastic over it have also revised their decision, because they have seen what we are doing now. I will try to explain what I mean. I will point out here that this is the first instance in which the judgement, prudence and wisdom of Rajya Sabha Members\* have been challenged by the other House and rightly challenged, in my opinion. And I think when we pass certain-measures of this nature we should be very cautious and our enthusiasm should not outstrip our wisdom and our judgement. As for this amendment, I will try to explain. I will first try to explain the clause that we passed from this House and in that we gave the daughter a share in the brother's property, coparcenary property. The whole coparcenary was considered as one and the sons even though they had built up, increased and added to the coparcenary property, had to share with their sisters. That was not existing in the Hindu law and we introduced it. I would not mind giving the daughter a full share, but to give a share from the 1 son's property is, I think, going too far. And we were going at the root of building property. How is property built? Suppose Rs. 10,000 is the family property. Then, it will earn one thousand rupees. If it is Rs. 20,000/- it will earn not two thousand rupees but two thousand and five hundred rupees. The greater the property employed in business, industry or agriculture, the higher the return. That is well-known under the present industrial and economic structure of the country. According to this, the

sons are building' up the property, increasing the property and adding to it. And as Pandit Kunzru has just said, the sons are going into the father's business, but the daughters are not going into the father's business. The daughters are not managing the business.....

SHRIMATI T. NALLAMUTHU  
RAMAMURTI (Madras): Why not?

SHRI C. P. PARIKH: They are not. And I think the moment daughters are to manage the factory or business, we will lose a good deal. We want our women-folk for much greater things. They have much superior positions in homes than they have outside and men have always adored them for doing such work \_\_\_\_\_

SHRIMATI T. NALLAMUTHU  
RAMAMURTI: Would he like them to be Members of Rajya Sabha?

SHRI C. P. PARIKH: I would like them to be half the number of Rajya Sabha. But what will happen to our homes? That should not be forgotten. When we are demanding certain rights I think, we must know the responsibilities also and how we will be able to discharge those responsibilities. *Now*, Sir, this amendment was passed in order that the son's share may not be given to her. Now, coming to the amendment which Lok Sabha has passed, Lok Sabha says in father's property, whether it is separate or coparcenary, if it is intestate, then the daughters will share equally with the son. This is as it ought to be. We adopt the principle of equality of sex. In the father's property the daughter's share should be equal to that of the son. That is very good. Because it is the father who has earned his property. But if the son has earned the property, then naturally the sister should not have a share in the property of the brother because the brother has his own children who will have a share in it. Therefore, she is pouncing upon the rights of the brother's sons. Therefore, that provision



[Shri C. P. Parikh] was wrong and that was rightly amended.

Coming to the question of the father's share, a father may have two sons and one daughter. He will be giving one share to the daughter. I think that this principle which has been enunciated is going to make a great improvement in the social status of our women, as the hon. lady Member says. I say not only her social status will be raised, but the economic status of the whole country will be raised. We are not passing through a social revolution, but an economic revolution. Every family has some capital and income. Now, every female—every daughter—in the House will have a share in the father's property. Some families are rich, some families are poor. By this amendment, overnight, the families which are poor will become rich because the daughter's share will go to the husband's house. Our Constitution talks of reducing inequality. I say that this measure is going to reduce the inequality between families, because the inequality between the poor and rich families will vanish and they will come to some better standard. 50 per cent are males and 50 per cent are females in our country and hundreds of thousands of families will be enriched by this measure. There will be more equitable distribution of wealth and income in the country. That is a great thing to be achieved and that should not be forgotten.

The other provision is the right to will away the property—clause 32. It is given for the first time, as regards the coparcenary property. Now, if the Lok Sabha had accepted what the Rajya Sabha had passed, what would have happened? The father would have circumvented the provisions of this Bill by making wills. There would have been many wills; there would have been partitions and the daughters would not have got a share, even though the Bill would have asked the father to give her a share. Because the sons are contributing to their income and that I will have to

point out. If you see the figures of income tax paid in 1948 or 1949, you will find that there were 67,000 Hindu undivided, joint families. It was only eight years back. But today the joint families are only 36,000, even though the total number of assesseees has remained the same or has become more. Therefore, reduction in the number of joint families is going on fast. I mean to say that people are dividing their shares. The father and the son divide the shares in the property. It is only on account of Income-tax that this division takes place. There is no real division in the family. For business purposes, for industrial purposes or for agricultural purposes, the family remains joint, but for payment of income-tax, they have separated their shares and therefore, the number of joint families is getting reduced. It does not mean that this in reality affects the co-operation in the families. If the Bill as we passed had remained as it was what would have happened? Fathers would have circumvented the provisions of this Bill in so many ways, because the sons would have been obliged to give a share of their own to their sisters. That difficulty was there and on account of that, the love and affection in the family would have also been lost. By bringing this Bill in the present position, we are building up the society and I think that there will be no circumvention and the joint family, wherever it exists, will continue to remain joint. It may be said that the joint family system is disrupted. There are registered partners; there are private limited companies. You will find there that 50 per cent, of these represent the members of the family. Therefore, it shows that division is never helpful to anyone. It is only unity that builds up property and everybody is after property. Therefore, in order to raise our standard of living and in order that we may put our resources together, this amendment is necessary. The sons will not separate; they will continue to remain in the family. My impression is that there are so many ways by which this provision will help

the social and economic structure of the country, which will be very good for the future.

One more point as regards widows. It appears that the widow's share is reduced because in the present system, the widow gets share equal to that of the son and daughter. Now her share will be reduced because the coparcenary property will be divided between the sons, daughters etc. and the widow. I, however, say that it will not be reduced in reality because the husband very well knows that 'after my life the daughter-in-law will not take care of the widow and the widows share will be given by will. Even though the widow's share appears to be reduced, it will never be reduced; in my opinion, it will remain the same.

Coming to the amendment in regard to mother, it is a very good amendment. Nobody will be opposed to it because is there a son in the country who will object to the share that is given to the mother? For whom does the mother keep her share? It is only for her own children. If you will give her a share, she will transfer it later to her children. She will live frugally and will also add to it and she will not waste it. So, in her hands, the share is safe.

What I want to point out is that this Bill, as now emerging, is going to create a great social and economic revolution, especially in enriching many families in the country which no measure—not even the measure of the Finance Minister—will achieve.

With these words, I support this Bill, Sir.

SHRIMATI T. NALLAMUTHU HAMAMURTI: Sir, this Bill has been "thoroughly thrased out both in this House and in the other House and has gone through stormy discussions and debates, through much stress and strain anVhas finally come to us.

We women and Women's Voluntary Organisations like the Women's Indian Association and the All India Women's

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conference throughout the length and bredth of the country who had been working in the field of social reform and social uplift for the past quarter of a century and had demanded through press and from many platforms, through door-to-door propaganda for recognition by law of equal rights to women not only to inheritance of property, but in all spheres of life, we know, what work we had to put in, what toil had been gone through, in shaping public opinion to make it come into line with our demands. We know that all that is there. And certainly, the Bill as it stands is not perfect. As for the matter of that, what Bill is perfect in its very inception? Life is there and goes along and we live and learn. Though there are many shortcomings in this Bill, still we appreciate and welcome, the passage of this Bill in the Lok Sabha. We thought that the Lok Sabha was a youthful body with a 'go ahead' spirit which would effect violent and radical changes in legislation. But we find that we in this Sabha are much more youthful and progressive than the Lok Sabha. But still we are grateful to them for the small mercies shown and in that spirit, the women in this country—the veteran social workers—welcome this Bill because something is better than nothing. The daughter's right to inherit father's estate, and her right as an individual and the mother's position have been recognised. The daughter has a right of residence and entry into her father's household, not of course with her begging bowl and asking for a pittance but as her birth-right. In many directions, I am sure, the Bill will be changed with the goodwill of this House and the other House whom we are going to convince as days go along. And therefore, we are very very happy about this Bill and we congratulate our hon. Minister for Law, Mr. Pataskar, on the fight that he has put up and the way he has piloted the Bill. No doubt the Rau Committee had made more liberal I provisions, and we are not unaware I of that, but still we want to see this

[Shrimati T. Nallamuthu Ramamurti] measure to be able to see the light of the day as soon as possible. The Bill has been mooted for many years, and we want at least a partial realisation of all our dreams through the final passage of this Hindu Succession Bill in this house of knowledge and wisdom Shri Pataskar has been praised by my sister, Dr. Shrimati Seeta Parmanand, who called him a *purohit* who has performed a great *yajna*. His indeed has been a Herculean task—we saw how hard it was for him (in the Lok Sabha) to break through the "Cake of Custom" and therefore, all the more credit goes to him and we appreciate all that he has done. It was really creditable for him to have done whatever he has been able to do, and I hope we will contribute all that we can to make the Bill complete some time in future. Ideas are welcome and contributions and suggestions for inclusion in the Bill are welcome, and I hope ultimately this House will pass the Bill, and there will be rejoicings over the country, because I know that the women all over the country have expressed the view that although the Bill is defective in certain directions, still they are happy that it is going to be passed, and I am voicing here our deep sense of gratitude. And above all, I must say how grateful to, and how proud we are of, this great son, of India—our Prime Minister, Pandit Nehruji for championing our cause and for standing up with courage of conviction for the womanhood of India—of past and present.

Sir, in the other House, various references were made to the modern women. I am not here to dwell on such things. We have cherished our women; we have looked up to them in many a term of eulogy, of Lakshmi, Seeta and Savitry. Shri Sapru had said that woman was made out of man, quoting the Bible. I was trying to answer him the other day that in our country there was no question of one being made out of the image of the other. We have the higher

conception—of *Ardhanareeswaram* half the deity as man and half the deity as woman. Why should we follow the example of other countries? We have praised the woman as a *Shakti*, (as para-shakti) a great *Shakti*, and as such all our activities and all our branches of knowledge (klatas) are represented as women, and as such our culture is our own and we will find a way out of the difficulties that are there in this independent India. Women have been granted franchise for the mere asking and on the basis of equality with men. Why should we quote other countries and say how late they reached the stage of equality and how late women were given the property rights? We never jumped through the windows of Parliaments on the top of speakers and we never broke glasses to gain franchise for women. We never had a suffragette movement in this country. We always stood for Ahimsa *Paramo Dharna*, and we said peacefully "Let us have franchise", and it was given for the mere asking—adult universal franchise—and with such gracious gesture from our men, it came from our fathers, brothers, husbands and sons. Why should we doubt and say that all the co-operation that is necessary in this piece of legislation will not be forthcoming in the future? With that trust, Sir, I wish this House, the other House, and all the leaders of our Government, to see that all that is best for us is achieved through a piece of legislation that would be complete.

Then, Sir, some reference was made to mother *tayam* and father *tayam*, *Makkal tayam* and *Marumakkat tayam*, and it was said "This is better" or "That is better". I have seen the father-dominated households and I have also seen the mother-dominated households. Of course, I won't go into the details of those things. I have also seen the *tarwads* of Malabar, and I have seen our own families where the father, the brother, the husband and the son are all very great godheads. My own mother was brought up in the old way. She

used to tell us that we must walk softly, and the earth must not tremble when we walked, and we must make no noise. If my brother climbed up a tree, he was applauded, but if I went and climbed up even a branch, they said "Oh, what is this? You are bringing disgrace to the family." And in that differential style we were brought up, and psychologically we were made to think that we were different from men. And when the father entered the household, everything was still and quiet. The mother said "Oh, keep quiet, father has come." But it was my father who fondled his daughters more than his sons. While my mother was very hard upon the daughters. So, in that way we have gone along. I am not saying that the father-domination is absolutely wrong or the mother-domination is absolutely wrong. But I am here to claim equality in the sense that we shall be companions throughout our life performing this great pilgrimage of achieving the highest and the noblest for our country. I have seen a *Marumakkal* household. I would not mention here anything about it, lest I should be taken as disparaging those who come from the West coast. Well, I entered a big and ancient family where the daughter of the house was singing her soul out as it were to reach God—such excellent music it was—and the mother was seated, and she was ordering somebody, who was going about with his upper cloth folded round his waste to spread the mat and to bring something or the other. And this gentleman was standing with just a loin-cloth and doing like this. This lady was seated in a regal style and was commanding and ordering that person to spread the mat and to call this person or that person. The girl, the daughter of the house, was singing and we were listening. Then, finally I asked "Where is the father of this child" And it was pointed out that this gentleman who was doing all this work in that house was the father. So, Sir, I do not want that kind of mother-domination, nor do I want any kind of father-domination to the sacrifice of our

womanhood. We are here in this twentieth century asking for equal rights in order not to have this picture where there is not everything that is beautiful.

Sir, in our ancient law, women were cherished for various attributes of theirs. In fact, our poet, Bharati, has said "Angalum Pengalum sari nigar sama na maga vazhvom inda Nattilay". Our women must be equal to men. And the greatest of saints and sages have looked to women for their helpfulness and for their services to them. It is not that I do not wish to render services. I am still a woman. My friend on my left said that if a woman goes and shares the business of the father, her home would be destroyed. He said that her home life would be destroyed. I am surprised that at this age such expressions are coming out from our men. Women today are there in every walk of life. They are gaining more and more economic independence, and they are going to stand on their own feet. At an age like this, to talk like this is really derogatory to the womanhood of India, and is denying what the Constitution has conceded to us. Why should we not enter business? If we can become Members of the Rajya Sabha, if we can become Cabinet Ministers, Ambassadors, if we can become doctors, if we can become lawyers and if we can become air pilots because of the N.C.C.—I am proud of the N.C.C. Girls Division—why should we not be sharers in our fathers' business? What would happen to our homes? We are coming from our homes, and our homes get on very well. Indian women will not neglect their homes even if you want them to. That is the tradition of Indian womanhood. I look to the time when we will be ourselves and not like the women of this country or that country. We are ourselves and we will be ourselves. I want to tell you what our Poet Tiruvalluvar had said:

"Adichirkinialley Anbudayalley Pathi  
chol thavaratha Pavai Adiva-

[Shrimati T. Nallamuthu Ramamurti] rudi pin thoongi mun ezhum Ped-aiye Poneero en thoongum kangal enakku"

He gives praise to his wife for many things. "You sweet lady, who has rendered so many good services to me, "pin thoongi mum ezhum pethaiye" You go to sleep after all of us go to sleep, and get up early in the morning before we all get up from bed. How shall I part with you?" There is an English saying also:

O, woman, in our hours of ease,  
uncertain, coy and hard to  
please .....

But when pain and anguish wring the  
brow, a ministering angel thou."

We are nurses, we are Ministers but we are still mothers. We shall not neglect our homes. At the same time, the option should be given to us to reach the highest that is provided in the -Constitution and in the Fundamental Rights, equality of status in every walk of life.

With these words, I would like to say that I am thankful to the Members who have been very sympathetic towards our demands and who have made this Bill possible, to the Members of the Lok Sabha and the Rajya Sabha, to the Ministers, to all those including our Speaker who had a hand in the shaping of this legislation. I would end my speech with this appeal, "May this House see the day soon when all those defects that have been pointed out would be remedied and the women of this land will come into their own and be a help and not a hindrance to the men of this country, when we will reach the ideal of *Ardhanareeswara* and *Parasakti*, when *Ahimsa Paramo Dharma* will always be there as the birthright of this country.

MR. DEPUTY CHAIRMAN: I have to inform hon. Members that there are still 4 more Members to speak.

Long speeches will only delay the passage of the Bill.

SHRIMATI K. BHARATHI (Travan-core-Cochin): Mr. Deputy Chairman, after a very risky voyage through the stormy sea of the Lok Sabha, sometimes dashing against very ancient and submerged rocks, sometimes braving different spices of sea monsters, sometimes twisting and spinning in whirlpools, this little boat of progressive legislation has reached the calm shores of the Rajya Sabha, to be repaired for further use. My congratulations are due to the venerable old pilot, old in the sense of experienced and matured, who very bravely and skilfully saved the partly damaged boat from foundering in those turbulent waters. Now, it is left to our goodwill to repair it for longstanding use or to keep it as such so that it can be launched again very carefully at least for some time.

Coming from a State where women enjoyed equality with men in every sphere, from time immemorial, I am not very much excited over the present Bill as it has emerged from the Lok Sabha. I am not at all enamoured of the present provisions, however progressive they might look in the eyes of others, but in the meantime I do not hesitate to admit that the present Bill is a bold step forward, in a good direction. Even if it does not give women economic freedom as such, I do not hesitate in saying that it is a vital step forward. It has at least shaken the lethargic mind of a section of Hindu society, who still dream that they are living in the ancient glory of the Vedic age. Anyway, the basic idea underlying this Bill should be appreciated.

Sir, during the past few years we have enacted many a progressive measure in the Parliament, but in my humble opinion, nothing is so important as the present one. I am sure that this Bill will in future pave the path for the complete economic emancipation of Hindu women.

Apart from Kerala and Assam, the lot of Hindu women has not been a good one. It was due to no fault of the Hindu women but to the social structure that had long survived. The daughter was looked upon, very lovingly, as an unwanted element in the family. Please excuse me when I say that.

Today, everything is changing in this world, except the minds of some people who are furious because the world did not fit in with their way of thinking. We are as if in a fast moving bus. Those people who cannot catch the bus, let them be stranded on the road, or let them be left behind and let them dream of Manu, Yagnavalkya and the rest of the saints. Their position is a bit ridiculous unless they move with the fast changing world. Our country has undergone a political revolution. It is undergoing an economic revolution but if we want real progress, we should undergo a social revolution. This triple revolution will usher in the dawn of a new era of which every Indian should be proud. This is a major measure of social reform towards that social revolution. Sir, I do admit that I am rather disappointed in the recasting of clause 6 which now confines the daughter's share only to the father's interest in the coparcenary. But I feel that it can be justified as a concession to a section of the conservative Hindu society who grudge so much to show an act of mgre justice to their daughters even at this late stage. Sir, I am satisfied at achieving fundamental social reform on so broad a basis of general agreement. It was really interesting to me to hear in the Lok Sabha friends saying that the agricultural lands will be split up if the girl be given a share, that the sanctity of the sweet home will be marred or will be disturbed if the accursed son-in-law be allowed to get in and so on. Everybody very conveniently forgets that he is, first of all, a son-in-law and then only he becomes a dutiful father of the menace of a daughter. In our State, as Mrs. Ramamurti was kind enough to tell

you, we women never fought for own right, nor did our mothers, nor did our grandmothers. I am proud of our men who have generously offered us all these rights. Not only these but even better rights they offered us. Of course they are intelligent men, I must say, because the result is they enjoy the love, confidence and respect of our women. Our society did not go to pieces because the women there enjoyed better rights, or property rights. Even if it is a small tiny State, as some hon. Member remarked in this House, I am proud to say that though the States is small, it produces men who have big minds. Yes, Kerala has produced some of the finest specimens of human beings. Sir, only by mutual cooperation and understanding between the opposite sexes a society can progress. Suppression of human rights is no achievement anywhere. I am glad that these amendments are generally acceptable to this House. Before I sit down, I want to announce our happiness at the strange coincidence that today happens to be the birthday of our Law Minister Mr. Pataskar and all the blessings of the Hindu women we shower on his venerable head for the pains he took for the sake of the Hindu women. Thank you.

**श्री राम सहाय (मध्य भारत) :**

उपसभापति महोदय, इस बिल के सम्बन्ध में मुझे बहुत कुछ नहीं कहना है। प्राविजनल पार्लियामेंट के सामने जब यह बिल इस शकल में नहीं बल्कि कोड की शकल में आया था तो उस वक्त इसका जितना अपोजीशन था उससे अब बहुत कम अपोजीशन रह गया है।

कोपार्शनरी प्रापर्टी के सम्बन्ध में या कोपार्शनरी सिस्टम के सम्बन्ध में कुछ बातें कही गई हैं। उनके बारे में मैं कुछ निवेदन करूंगा। मेरा तो यह निवेदन है कि मैनेजमेंट ऐंड इंज्वायमेंट आफ कोपार्शनरी प्रापर्टी उसी तरह पर है जिस तरह पर कोआपरेटिव मूवमेंट या सहकारिता के आधार पर बनने वाली सोसाइटीज हैं।

[श्री राम सहाय]

हम अपनी पिछली चीजों को भुलाते जाते हैं और आगे की चीजों की तरफ ध्यान देते हैं। आज गवर्नमेंट और बहुत से लोग कोआपरेटिव मूवमेंट को अच्छी तरह से चलाने का प्रयत्न कर रहे हैं, लेकिन उनको कामयाबी नहीं मिलती है। क्यों नहीं मिलती है? उसका केवल यही कारण है कि हमारे जो पिछले सिद्धांत और पिछले आदर्श हैं उनको हम भुलाते जाते हैं। अगर हम कोपार्शनरी सिस्टम को ध्यान में रखते हुये कार्य करें तो यकीनन मैं यह कह सकता हूँ कि यह कोआपरेटिव मूवमेंट अच्छी तरह से चल सकता है। आप देखिये कि कोआपरेटिव मूवमेंट के जो सिद्धांत हैं, करीब करीब वही सिद्धांत कोपार्शनरी प्राण्टी या कोपार्शनरी सिस्टम के सम्बन्ध में हैं। कोपार्शनरी सिस्टम के मूल सिद्धान्त कम्युनिटी आफ इन्स्ट्रुमेंट ज्वाइंट पुजेशन और ज्वाइंट ओनरशिप हैं, इसी प्रकार कोआपरेटिव मूवमेंट है। सहकारिता के आधार पर जो सोसाइटीज बनती हैं उनमें भी यही बात रहती है। जब हमारे सामने यह लक्ष्य है और गवर्नमेंट इस बात के लिये बहुत कोशां है और बहुत मेहनत कर रही है कि कोआपरेटिव मूवमेंट की तरक्की हो तो हमारा सब का यह कर्तव्य हो जाता है कि जो हमारा कोपार्शनरी सिस्टम है उसको हम उचित स्थान दें और उसमें जो जरूरी तब्दीलियां हैं उनको करें जैसी कि इस बिल में की गई हैं। पहले कोपार्शनरी सिस्टम में स्त्रियों को अधिकार नहीं था लेकिन अब आवश्यकता के अनुसार तब्दीली करके इस बिल में उनको अधिकार दिया गया है। यह हमने बहुत अच्छा काम किया है। अभी एक माननीय सदस्य श्री जसवंत सिंह न इसके बारे में विरोध किया और अपने यहां की बहुत सी मिसालें दीं। इसमें कोई शक नहीं है कि हम सदैव से स्त्रियों का हर प्रकार से आदर सत्कार करते आ रहे हैं। लेकिन मैं उनसे मालूम करना चाहता हूँ कि क्या उन्होंने

कभी इस बात पर ध्यान दिया है कि पुरुष जो गलतियां रात दिन करते हैं, यदि उनकी दशांश या शतांश गलतियां किसी महिला से ही जायें तो उसकी क्या दुर्दशा सोसाइटी में होती है। उसके लिये न कोई स्थान घर में रहता है, न कुटुम्ब में रहता है, न मुहल्ले में रहता है, न ग्राम में रहता है और मैं तो यहां तक कहूंगा कि ऐसी भी मिसालें हैं कि उसको अपना प्रदेश भी छोड़ना पड़ा है। इतना बुरा असर जिन कारणों से हमारी सोसाइटी पर पड़ा और जिनके नतायज और फल हम सब को भुगतने पड़े हैं वे सब क्या इस बात के लिये काफी नहीं हैं कि हमारी आंखें खुलें और स्त्रियों के जो समानता के अधिकार हमारे कांस्टिट्यूशन में रखे गये हैं वे हम उनको दें। कोपार्शनरी सिस्टम के बारे में मेरा यह विश्वास है कि अगर हम उस पर अमल करें तो जहां हमारी बहुत सी समस्याएँ हल होती हैं वहां हमारे कुटुम्ब में जो अकर्मण्य या दूसरे प्रकार से कमजोर व्यक्ति रहते हैं उनको भी उससे बहुत सहायता और मदद मिल सकती है। इस प्रकार हमारा यह कर्तव्य हो जाता है कि हम यह देखें कि जो हमारी व्यवस्था है, जो हमारा धर्मशास्त्र है उसमें ऐसे चेंजेज कर दिये जायें जो समय के लिहाज से आवश्यक हों।

अन्त में मैं हाउस का और समय न लेकर केवल इतना निवेदन करूंगा कि श्री पाटस्कर बड़ी दिक्कतों का सामना करते हुये इस बिल को इस स्टेज पर ले आये हैं कि अब यह कानून के रूप में बदलने जा रहा है। मैं इसके लिये उनको बहुत बहुत धन्यवाद देता हूँ और इतना कह कर अपना भाषण समाप्त करता हूँ ?

DR. ANUP SINGH (Punjab): Mr. Deputy Chairman, at this late stage I do not propose to go into the merits or demerits of any of the clauses of the Bill or the amendments. I would however like to make a few very broad generalisations, which, I think are pertinent to the discussion. T9

begin with I for one, would have preferred to see the passage of the original Hindu Code Bill in its entirety. However, I recognise with some of the previous speakers, the difficulties of a "Legislator and particularly the difficulties of an administrator because if your law, whether it is dealing with political economic or social sphere, is out of tune with the general thinking of the people, it creates formidable difficulties in its implementation. It is well, therefore, that we have chosen the method of compromise. We have chosen the method of a happy medium between the zeal of a social crusader and I think, the timidity of the social thinking of some of the Members both in this House and in the other House. I am therefore fully in agreement with the Bill as it stands today in the hope that at the first opportunity, as Dr. Kunzru has said, the Government will utilize the opportunity of expanding and broadening the provisions of this Bill and I am sure that by that time through argument and persuasion, public opinion will be built up so that the Bill will be accepted.

4 P.M.

Then again, as one of our lady Members, I think very appropriately drew our attention to the fact, if we are going to progress as a nation and as a country, we must strike at the various problems that confront us, in the political, economic and social fields simultaneously. In the political field, we are all aware that in a very short, period we have achieved notable success. Since the days of Independence, we have evolved a Constitution and we have laid the foundations of a secular State and we are marching forward. In the international field also, I think we have won a notable victory by recommending a course of action of peaceful co-existence. In the economic sphere, we have laid the foundations—not very secure as yet.—of the socialist pattern of society. There has been the First Five Year Plan and then this Second Five Year Plan and as the Prime Minister indicated today, we are in the right

direction, although we have yet to go a long way. But unfortunately, Sir, at least from my point of view, we do not seem to have the same rapid rate of achievement in our social sphere. I yield to none in my admiration for the basic social structure that we have evolved during long centuries and which has stood the test of time. It was quite in tune with the prevailing conditions and situations of those times. But I am afraid that unless we move forward and unless we move forward boldly, we would be left behind. I am sure that we recall how not very long ago, there were people, not perhaps in this House, but quite a large number of people outside, who defended most passionately, and eloquently the system of *satee* and even now we still find some rare example of that horrible practice; and people in thousands come round and praise and eulogise the lady, who of course, is not to blame. But we all realise that that practice is most abominable and it should not be defended. Similarly, not very long ago there were many protagonists of untouchability. And it took a great deal of fight and courage on the part of social reformers and our great leader, Mahatma Gandhi, as we all know had to resort to fast so many times, to bring about a mental change, to bring about a revolutionary social change in our outlook. Now untouchability has been abolished. The present Bill simply seeks to give equality to our daughters and to our sisters and to our womenfolk, and I think that it will not be saying too much if I observed that before very long, we will get accustomed to the implications of this piece of legislation and people who now conjure up all kinds of devastating possibilities, who say that the social system will break down, that the sanctity of the home will be destroyed, will find themselves mistaken. These are familiar things that one hears over and over again when there is a fight between conservatism and social revolution and progress. The same arguments more or less in the same tone and with the same zeal have been repeated. I therefore with these few words, com-



[Dr. Anup Singh.] mend this Bill in the hope that subsequently and before long, the original Hindu Code Bill will go through this House and the other.

SHRI V. PRASAD RAO (Hyderabad) Mr. Deputy Chairman, it is only with mixed feelings that I extend my general support to this Bill. I wish I could join those hon. Members who showered profuse praise on the Minister for Legal Affairs; but I feel that this Bill does only fractional justice to the majority of Hindu womenfolk in India. Sir, we are well aware of the fact that the majority of Hindu women, perhaps more than 80 per cent of them, are re-governed by the Mitakshara system. As far as the Mitakshara system is concerned, this Bill, in spite of the assertions of so many hon. Members and of even the hon. Minister for Parliamentary Affairs, does only fractional justice. Let me illustrate my point. Suppose a father who has 150 acres of land has two sons and two daughters. If he dies intestate, each son would get 60 acres and the daughters would get only 10 acres. I want to ask the hon. Minister whether this is the equality that is being accorded to women about which so much has been said in this House? In this respect, I think the Bill as it was passed by the Rajya Sabha was far better and it would have been far better if the amendments of the Lok Sabha were not accepted. There are so many other things also with which I do not agree. But in spite of all this, I consider it definitely an advance over the existing situation. At least it accepts in principle that woman should have an equal share though not in a coparcenary, in practice, under Dayabhaga it is conceded, secondly, it is also accepted that woman should not be a limited owner, but that she should be the absolute owner. These two achievements are no mean achievements and I want to give due credit to the hon. Minister for bringing forward at least these two things. (This Bill has also exploded the myth of "S\*TrV) But in these

changing times, in this dynamic age, I think this is very meagre and it is not sufficient. The woman should get the full share and full equality along, with man.

By this Bill, the first step has been taken to see that woman is accorded, at least in theory, equal rights with man. The hon. Minister has promised that this Bill is not dealing with the joint family system and that shortly he would come with another piece of legislation and I hope that it would come up very soon. I also hope that our sisters and daughters throughout India, especially those whose inheritance is covered by the Mitakshara law, will agitate for that legislation and see that the Minister comes out soon with that legislation which would accord full equality to woman. It has been said by the hon. Minister that if woman is given equal share in the coparcenary, then there will be a great upheaval and there will be so many disruptions in the joint family. But what exactly is happening today? The daughter among the propertied classes, unless she is given an amount approximate to a share cannot be married. So *de facto*, what is happening among the propertied classes is that the daughter is getting a share, in actual practice, though not under the name of a share. I think every hon. Member will agree with me when I say that everywhere in India, unless a good amount of dowry is given, no daughter can be married nowadays.

If the same thing is made *de jure*, I do not think such a big upheaval as is feared by the Minister would take place.

We say that we give them equal rights. Very good. We have given them political rights also but these political rights can never be a reality unless they are also given economic equality. If this Bill is only the first step to accord them such equality, surely it should be welcome. We should not stop here. We who are professing a goal of a socialistic pattern of society, cannot stop with this but should go ahead and see that

women under the Mitakshara law are also accorded equal rights.

Finally, Sir, I am interested in the explanation to clause 4 which says,

"For the removal of doubts it is hereby declared that nothing contained in this Act shall be deemed to affect the provisions of any law in force providing for the prevention of fragmentation of agricultural holdings or for the fixation of ceilings or for the devolution of tenancy rights in respect of such holdings".

This is very important in view of the fact that in Hyderabad State where land ceilings are in force, they are sought to be set at naught by having recourse to the Hindu Succession Bill and by constant fragmentation. I think this explanation or this provision in clause 4 would help to see that wherever ceilings are in force, they are not set at naught by landlords by having recourse to the Hindu Succession Bill when it becomes an Act. If this proviso needs to be expanded further, I feel the Minister will do that.

SHRIMATI LAKSHMI MENON: Mr. Deputy Chairman, I did not originally intend to participate in this debate but I find that in the course of the two days' debate, many of those things which have been discussed and given up as unnecessary have been brought into the orbit of the debate in this House. It is rather unfortunate that our best attempts to meet out social justice to women have been upset in the debates and in the official amendment moved by the Government. That is the most unfortunate part; if the amendment came from the Opposition or from one of the reactionary groups, it would not have hurt women as much as it does now because it is an official amendment. All the same, Sir, times are such and the atmosphere is such — the reactionary elements and their pressures are such — that we are compelled to accept the amendment but let it not be regarded as a compromise; the

country does not take it like that. I have here, Sir, got three letters which I received yesterday from men and women, which give clear expression to what the reactions of the men and women are with regard to this amendment. I would like to read at sentence each from each one of them.

"With deep regret we want to inform you that the Hindu Succession Bill, instead of raising the status of women, reduces the security of women. The official amendment to clause 6 in the Lok Sabha gives too much property right to sons. Please just read Dina-mani' Editorial of 10th May which illustrates the working of clause 6",

SHRI V. PRASAD RAO: The Congress Party need not have accepted that amendment.

SHRIMATI LAKSHMI MENON: Number two:

"I feel sorry to hear that the official amendment to clause 6 in the Lok Sabha reduces the status of women instead of putting the female heirs along with the male heirs. The official amendment places the female heirs in a lower place".

Then comes another long memorandum.

"The Hindu Succession Bill came out of the Rajya Sabha with full hope of doing justice to the Mitakshara women, a large section of Hindu women in India, but due to the official amendment to clause 6 in the Lok Sabha, the Hindu Succession Bill loses its real merit. Instead of doing justice to women, the amendment to clause 6 leads to greater injustice. We are of the opinion that the Mitakshara system may be excluded from the purview of the Bill."

This shows how very unhappy large sections of women in this

[Shrimati Lakshmi Menon.] country are. All the same, we feel, as many Members had pointed out, that something is better than nothing but it should not be taken as our willingness to accept those and just remain quiet.

Many of the Members here referred to this Bill as a victory for women and as securing justice for women. They are under a misapprehension. Justice is obtained not for women or for men; it is obtained for society as a whole. When we speak of social justice, it does not mean that a certain amount of justice should be done to men and a little more or less to women. Social justice demands that human beings should be treated as human beings. As the late Mrs. Naidu used to say, the soul is above sex. "When we consider human beings or when we consider human rights, we would not regard them as men and women but just as human beings and that is why in the Universal Declaration of Human Rights, reference is not to men and women but to human beings. So, I want them to disabuse their minds of that concept of justice being meted out to women. It is a minor triumph for the nation itself because our country is committed to certain things, to certain principles. So, when we try to implement them in this fractional manner, we are trying to fulfil a duty to ourselves and not doing a little social justice to women. I think that attitude of mind should be changed. The other day, our Chairman said, "deeper the roots, slower the growth" in another connection. How true it is with regard to the Hindu legal system. We are proud of the fact that we have a legal system which goes back to centuries or perhaps millenniums but, in the course of these centuries, its branches have decayed; it has accumulated a lot of dead wood and all that this reform attempts to do is to enable the tree to grow well and put forth healthy branches by cutting out some of these dead wood. However, our society seems to feel very very reluctant to take an axe and cut down those branches which are dead or are

dying, to allow the growth to proceed in a healthy manner. Therefore, Sir, it is in a spirit of compromise and in a spirit of disappointment that the women of India greet this Bill. At the same time, considering the very slow progress that we have made in the field of social reform, it is a matter for congratulation that some of the broad principles of social justice which were originally envisaged in the Bill were left intact. For one thing, the hon. Minister pointed out again and again that in the self-acquired property of the father, the daughter shares equally with the son as if it is something very revolutionary that the children of a father should inherit equally "what the father has earned.

If, as some of our Members say, all the money that a family acquires is a result of the enterprise and the efforts of the male members, I think they are completely ignoring the fact that the circumstances which make a man or men work happily in the family rest on the women.

Sir, one of our great industrialists in the House said that women were incapable of doing business, that the moment a woman takes up a business the whole thing is destroyed. I would request him to take a trip to Burma or, if he does not want to spend so much money on that trip, I would ask him to go as far as Darjeeling and see how women conduct business, conduct commerce far more efficiently than men do.

SHRI BHUPESH GUPTA: And with less evasion of income-tax.

SHRIMATI LAKSHMI MENON: Yes, with less evasion of income-tax. Sir, it is no good shutting your eyes to facts. Every man in this Sabha will admit that the efficiency of his home, the economy with which it is run, the moral principles on which these homes rest are due to their women. They may not confess it in public, but I would say that men who do not confess that are cowards.

The other allegation is that once women get justice and freedom there will be a disintegration of society. I think it must be due to the fact that most of our Members read the Bhag-wat Gita. If on the other hand they thought about things themselves, they will find that the permanent foundations of society, the basic values on which a stable society rests are those virtues which are found in men and women, honesty, chastity, truthfulness, generosity. All these things are virtues which we have idolised in our Goddesses and these are the things that make for a stable society.

Now I come to the question whether the law by itself can bring about disintegration or stability. Law is only an aid.

(Interruption).

Law may be an ass, but it is also a useful ass and it is useful for carrying burdens. Law is only an ancillary help as far as social reform is concerned. It is not necessary for me to recapitulate here how, although we passed the Widow Remarriage Act in 1857, very few widows were remarried. We had the Child Marriage Restraint Act, but even today we find that hundreds and thousands of child marriages take place. But we cannot deny that legislation is also the beacon light; it shows us the way; it shows us the light; it shows the way we are travelling, and it is in that respect alone that this Bill has any value in changing our society.

Sir, the emancipation of women comes not by law alone. In fact law is the least part of it. Emancipation of women results as a result of their education, as a result of the awareness of their social responsibility and when women ask for rights please remember it is not because rights by themselves have any fascination for them; it is because it gives them the capacity to take up social responsibility. If you give us education we will be able to understand the problems that face the country. If you

give us legal education we will be able to help you to make good laws, and if you give us civic responsibility you will be living in cleaner cities and if you give us national responsibility then you will be living in a better administered country. Sir, these are the things that we want, and if we have asked for rights for justice in changing the Hindu legal system it is because of this.

Sir, before I conclude I want to say what are the three definite gains we have made by this legislation, firstly, equality of the daughter and the son to inheritance; secondly, the acceptance of the absolute estate and the abolition of what is known as the women's estate and, thirdly, Sir, for the first time in the history of social legislation in India we have laid the foundation of a legal system which will apply to all Hindus, and this is far beyond the limits contemplated in any of the earlier committees' reports, that is, today the Marumakkattayam families in Malabar as well as the Dayabhaga and Mitakshara families, they all come within the orbit of one legal system, namely, the Hindu law. That, I think, is a great achievement and I think we are all very proud of it, and if we want further changes I would request all our brothers to bring them here and remind them that the tree is known by its fruits. If we want to implement the principles we profess, let us produce the legislation which will give justice to women and then we will know that we say what we believe.

SHRI H. P. SAKSENA (Uttar Pradesh):  
You will never believe us.

SHRIMATI LAKSHMI MENON: You may not believe us but we believe in you. Although this much is the largest measure of social justice for which there is general agreement, we accept the amendments proposed by the Lok Sabha and it is only courtesy, Sir, that we should accept their amendments even though those

[Shrimati Lakshmi Menon.] amendments violate the principles for which we stand, but I am sure the Lok Sabha Members, if not in this Parliament, perhaps in the next Parliament, will see that the mistakes that their predecessors have made are rectified, and come to our rescue.

SHRI BHUPESH GUPTA: I hope the women's organisations will see to it that those people who committed this mistake pay the penalty at the time of the next general elections.

SHRIMATI LAKSHMI MENON: Women will see to it; you don't worry about women.

Now, Sir, before I conclude I want to congratulate our Minister for Law and also our Prime Minister without whose guidance and vision this Bill would not have seen the light of day either in this House or in the other House, and it is only fair that, when I congratulate these two, I must not forget the persistence with which our own colleague, Seeta Parmanand, saw to it that the Bill was passed in the Parliament in the current session. It was not a very pleasant task to go round and convince the Ministers who wanted to postpone it for lack of time and other Members who wanted to see that the Bill was shelved like other Bills, and to convince the Prime Minister also that the Bill should be passed in this Session of Parliament. She has done a lot. Perhaps she has made things not too pleasant for others, but the women of India will be eternally grateful to her as well as to our Ministers for the speedy way in which they were able to pilot this Bill.

SHRI JASPAT ROY KAPOOR: (Uttar Pradesh): And not to the Members who voted for it?

SHRIMATI LAKSHMI MENON: Why are you impatient? This is what I do not like. Now I am coming to the Members, but they are always impatient and they will try to anticipate what I am going to say.

Sir, at no time in the history of the Indian women's movement have we ever said that our brothers were not with us. In fact we are always proud of the fact that in India, notwithstanding the pale opposition that we get sometimes from our brothers, by and large they always vote with us and fight with us. But for their support, Sir, and but for their sympathy, we will never have been able to get this legislation through in the two Houses. Sir, there will be opposition. After all, why should everybody think alike? It is not for the fun of the fight that there is opposition. But today Sir, we feel like people who have witnessed a Greek drama, that is, we feel the calm of mind after all passions have been spent. We have lived through passionate moments, when we were filled with anxiety—I would not say hatred—with great anxiety whether the clauses that we were holding sacred will be passed or not and, after all, all the storm and the confusion in the other House had not caused very great damage to the Bill. You do not want women to inherit ancestral property or coparcenary property when you yourself say that there will be very little of the coparcenary property left. We were and we are willing to make that sacrifice. It is only by give and take that we can achieve any progress and the women are willing to give as much as you want to take, but I am sure one day you will realise that it is much better to give than to take.

Thank you very much.

SHRI H. V. PATASKAR: Sir, I am grateful to the hon. Members for the general support which they have given to the motion which I have moved regarding the amendments made in the Lok Sabha. Naturally, as I anticipated, there has been some misunderstanding with regard to the change made in clause 6 and the hon. the Lady Member who just spoke before me referred to certain repre-

sentations which she had received wherein it was stated that by this legislation the status of the women was not going to be improved. I am not surprised that there are still Members, though not in this House, who look upon the present measure as one which will lead to the destruction of what they regard as Hindu religion. On the other hand it may create apprehensions that it does not give full justice. After all, as I said yesterday, legislation is a process of evolution and I would still repeat that the non-violent revolution which we followed for the attainment of our freedom is nothing but evolution speeded up and it is for the purpose of avoiding all manner of complications and upheavals in society that we choose to go by this particular way.

Now, without taking much time I would request the critics on both sides to look cursorily at the history of this legislation and then alone can we get a proper picture of what we are trying to do and put on the Statute Book. It is very easy to criticise it from various points of view but you will find that in the first place the unfortunate part of it is that owing to historical reasons which again I will not enter into, there has been a complete misunderstanding with respect to what is known as the personal law of which this is a part that it has something to do with religion. I will not, Sir, again repeat those arguments. It is a misnomer and I would challenge any Shastri to show that there is a word in Mitakshara or in any of the texts. We hug to the idea of limited estate to woman and so on. It is something which is mixed up with ideas entirely foreign to our system and nobody thought that any of our Shastras or religion were being interfered with. Here I know there is some feeling because it has a history. Social things develop not by themselves; they are interdependent upon economic and political developments. When we were politically dependent, whatever was imposed upon us by those Lords who sat in the Privy Council, nobody

dared to complain that they were trying to interfere with the Shastras. It was meek submission. We submitted to all that; not only that we went on thinking that all that was in the Shastras. Sir, after all, we cannot ignore the things that had happened. After all this, people still hug to that idea and you find echoes of those sentiments here in this House, probably not in that extremist manner as I could hear in the other House. What is the history? Naturally, as I said in social legislation political and economic conditions lead to several developments. The joint family whether of the matriarchal type, whether of the daya-bhaga type, whether of the mitakshara type, whether of the other variations which have cropped up was once, I still maintain, a useful institution in certain conditions which used to exist several centuries back. However things did not improve and during the last few years there was not power with our people or with anyone else to try to effect any change and hence all manner of anomalies have cropped up and we have a picture wherein the Hindu Law was something in the South West, was something else in some other part of India and still something different in another part of the country. And all this was hugged as if it was something which was religious, something which was sacred and something which had to do with religion. The word 'Hindu' does not denote any religion; the religion is Sikhism; there are Lingayats and so many other faiths. After all, religion is an entirely different thing but that shows how difficult the task was that had been undertaken.

Then, Sir, what happened so far as this legislation was concerned? It was said by no less a person than Sir N. N. Sircar that when Dr. Deshmukh brought a Bill before the House then for giving the widow a right—he had tried to include the widow, daughter, mother, everyone—that there was a storm of opposition and he could only succeed in giving the widow some

[Shri H. V. Pataskar.] limited estate. Twenty years passed by and the late Shri B. N. Rau—and I think the hon. Mr. Sapru was also associated with it—tried to take up the matter. They took all possible steps to ascertain public opinion and to canvass support. They tried to consult people and create an atmosphere and the result was that after all those efforts by all those eminent men, they produced a Hindu Code and they wanted to put it through Parliament. I will not go into the whole history of that but they could not succeed, and I believe that whatever the drawbacks which may have arisen on account of splitting up the Hindu Code, if it had been tried to be put through as a whole, probably it may not have been passed and this period of time would have gone by without our achieving anything. It was therefore a right decision taken after the experience gained with respect to the old measure, to take this up in parts. Even now of course there is some improvement in the position but yet during all these long four years in the life of this Parliament we have just succeeded in passing the Marriage law and we are just off the threshold of passing this measure and we have a small Minority and Guardianship Bill that is still pending. The other parts are not yet touched. I do not blame anybody because I feel that while enacting social legislation it is much more difficult. Political or other laws immediately appeal to the people but social ideas cling to the people and therefore social legislation is more difficult to be enacted. This Succession Bill is the most important part of the Hindu Code and supposing we had been able in this Bill to have one uniform law applicable to all Hindu families, none would have been happier than myself but I found when I came on the scene that this Bill related only to inheritance of a small section. As hon. Members are aware in the Mitakshara inheritance is by survivorship which is something different and entirely alien to the idea of succession because inheritance passed on after death. So the diffi-

culties were many. When I took charge I thought that if Mitakshara was to be excluded where also there was the joint family system, what would remain of it. It would only be applicable to Dayabhaga families.

And I know that some of those who were opposed to the very idea of such a legislation, or at least not favourably inclined, urged then, what is this law? To whom are you going to make it applicable? Only to a small fraction. And in the name of that you are codifying or making a uniform law. I could see the force of that argument. And I might say that it is with the co-operation of Members of both this House and the other—with whom I discussed endlessly for days on end as to what should be the way—that we could find a way out of this morass. We found that the way would be, so far as the question of family law is concerned, to keep it out for the time being. When we are dealing with that part, we will deal with it. Otherwise, the whole of this would have foundered on that. At the same time, there was a desire that we should try to give the women—daughter, widow or mother, whoever she may be—a share even in the coparcenary property. And as I have already explained, we explored avenues for this purpose and we struggled on with the help of our friends both here and there. And in the Select Committee we first made one formula wherein we wanted to give the daughter even in that family an equal share, almost an impossible task. Because there is no inheritance in Mitakshara. That was the main trouble. We tried to draw some lessons from the Estate Duty Act. Somehow or other, we had some formula. There was one formula in which we decided that even the interests of a divided son should be taken into account. We found that in such a case the son would be put to a greater hardship than the daughter. We deleted it here. The Bill went to the other House. Naturally there was some force in the argument which I still maintain. That is, if at all the

joint family, so far as this Bill is concerned, is to be maintained, how can I because of the very inherent defect that there is no question of inheritance in the Mitakshara family, support it. Therefore, something had to be done. Naturally we were faced with the question, then why do you take away the right of the son which he has got by birth and which is a vested interest? What could be done by another legislation is different. When I come before you, if I have the opportunity for doing that work, I am sure that those who have been saying that this Bill does not do complete justice to women, will come forward to help me at that time \_\_\_\_\_

DR. P. SUBBARAYAN: Certainly.

SHRI H. V. PATASKAR:..... but at the present moment the position is that at least what could be given without creating more complications in the interests of the deceased should be done. That is what is being done by the present clause 6. So, this is the history of this particular legislation, the way the difficulties were solved, the difficulties through which we have been passing, the sentimental approach which the generality of people have got to a problem of this nature. And ultimately we have reached a formula which, though it may not satisfy all sections, is certainly the best that could be evolved in the circumstances, in respect of which I have at least no doubt in my mind. Of course as I have been saying and I will again repeat that, I myself am aware that in the matter of the Code or the inheritance law, if it is to apply uniformly to all Hindus—leave aside persons belonging to other religions— there must be, as Shri B. N. Rau has put it, one uniform Code. And I would urge with all the force at my command that without any delay, if circumstances and the time permit, we must put together the other parts and that alone will remove anomalies which might be there. Of course, it will all depend on many other factors, for example, Parliament must find the time. We are all preoccupied with

the Planning Commission. My friend, Mr. M. C. Shah, is always there saying this is something which is economic. And he always has priority over any of my Bills, because he says, otherwise you will lose crores of rupees if you do not have this Sales Tax Bill passed. And naturally he always gets priority over me and I am thrown back. So, these are all difficulties. I do not grudge.

SHRI BHUPESH GUPTA: If the party in power makes up its mind, we can pass such Bills in one day.

SHRI H. V. PATASKAR: Yes, if hon. Members wish to pass it in *one* day, I will be glad to have their cooperation. But there are a large number of others who will probably put in so many difficulties in the way. I do not know. I am looking at this question from the social point of view. I am not looking at this as a measure which is particularly in the interests of the Congress party or the Communist party or any other party. We look upon this as distinct from any party. Naturally I must say that the more progressive parties have got a better outlook in this matter, which I am prepared to admit. We have been able to do the best we could in the present circumstances.

Then, I would first say that I have also got a copy of the letter which the hon. lady Member, the President of the All India Women's Conference referred...

SHRIMATI LAKSHMI MENON: All the three letters?

SHRI H. V. PATASKAR: That also is a misunderstanding. And I would like to make it publicly clear that just as some people hug the idea that the joint family is all pervading, it is not so. Now, look at the different strata of our society. We talk of the people in general. What have the poor people got? Where is the question of inheritance in their case? So far as a large proportion of them are concerned, there is no question of



[Shri H. V. Pataskar.] inheritance or status. Now, look to the lower middle class. What is their position? Everybody is in search of service. He is hardly able to eke out his living. Where is the question of their being affected? Look to the higher middle class—doctors, lawyers, engineers, etc. They are all separate. There are very few families. Look to the business men. My hon. friend, Mr. Parikh, could very readily give the figures in respect of these business houses. On account of the Income-tax Act and the Estate Duty Act, they have done their work in partnership. There will be no difficulty. My hon. friend, Mr. Parikh, is under a wrong impression, while supporting the amendment. If women are there in joint families, that will do no harm. If it is really a registered partnership I am sure that the daughter will get an equal share, because after all it is a registered document. How can he escape it? As a matter of fact, it is hugging to the joint family which creates misunderstanding on both sides and that is why I have corrected the impression of many lady Members. They may say that if it is only in the interests of the father, it means they are losing everything. What are they losing? In the case of self-acquired property, most of the fathers and children are separated. They acquire their own property. Look at the society at large. Where is the joint family now? I belonged to a joint family once and I had some land also. But there is no joint family/ ~~fami~~^ now. We could not manage it. It has broken up, during the last two generations by several Acts, by several things. And there is no question about it now. It has just become more of a sentimental thing, not only with respect to men but also with regard to ladies. We deplored, we agitated. Of course, though there might be some disadvantage for the time being, I am sure that at no distant date, the ultimate result would be that there would be no joint family. In the form in which we lay down the laws, because of

the onslaught of economic progress of the country, by your planning, by your fragmentation of land, by the abolition of zamindari, all these are going to lead to this. No joint family can continue under the onslaught of these things, except in the imagination of somebody. Therefore, to my mind, if we take a dispassionate and correct view of what has been done in this Bill, I am satisfied that by the amendment we will confine the interests of women only to the interests of the deceased. In actual practice I do not apprehend that it is going to make much difference. Therefore in my view, after all with all these things we have made progress.

My hon. friend, Mr. Kunzru, whom I always hold in highest respect, gave the case of a father. He said the father by his own exertion had acquired some property and he had sons. I would only point out to him that even now there is a Privy Council case which lays down that in such cases it does not become the coparcenary property. I am only quoting, not Mr. Pataskar's opinion, but the opinion, ~~but th4~~ opinions of Lord Normand, Lord Mac Dermott and Sir John Beaumont. This is a Privy Council decision and all courts are bound to follow it. What I say is that this is such a complicated thing. I do not blame anybody, but the whole of this law deserves to be codified at some stage. That is the suggestion. We should not allow these matters to be decided by parties. I can assure you of only one thing. In such cases, there is no difficulty for the sons at all. If the father and sons acquire, by joint efforts, property, it is not coparcenary property at all. Therefore, it will be the joint property of the father and the sons. The law exists as it is and I am not in any way interfering with it by this present legislation.

SHRI H. N. KUNZRU: The point is: Will the daughter in that case have a share in her father's property only or in the entire property?

SHRI H. V. PATASKAR: So far as the father's interest goes, it is a joint

property. It is not coparcenary property. The normal rules will apply and the father's interest will go to the normal heirs. There is no difficulty in that. But, as I said, so long as you have not codified the rest of the Hindu Law, such questions are bound to crop up and they have cropped up in the past. So, I say that so far as the present Bill is concerned, the only change made by the other House is in clause G. There have been opinions and sentiments expressed by different sections of this House. I tried to consult my hon. colleague Shri Jaspat Roy Kapoor who is also an eminent lawyer and people of his views and they have been telling me to give the daughter inheritance in the husband's family, but not in the father's property. I will tell him with all the respect in which I hold his opinion and with the utmost consideration that I could give, that I could not introduce something like an anomaly by which the daughter would inherit in the father's property, and as soon as she is married well, that property will revert and get transplanted in another property. That is a law of inheritance which exists nowhere in the world and I do not want to add to the complications which already exist in the law of inheritance and succession on account of several reasons. With all my anxiety to accommodate as far as possible all the different opinions, I have not found it possible to include such provision in the law of inheritance which will only lead to further anomalies. He said, "I have the right to will and I may give to the daughter." They will say that they will always have a share. These are the present sentiments with which we are all engrossed on one side or the other. I believe human nature is the same and fathers all over the world as in India also will have the same regard for their daughters as for their sons. After all many of us have sons and daughters. Whether a father is an orthodox man or a reformer and whatever views he may hold generally, he has regard for both and there will be very few fathers who will not

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have this. They will not dislike their daughters simply because they have got a share. On the other hand, dowry etc. is given. Therefore, on the whole, I believe that this a piece of legislation which, I am sure, has found favour with all. With the co-operation of not only this House but the other House also, it had been possible, after all this turmoil, efforts and struggles during all this period, for us, for the first time, to put on the Statute Book a law relating to inheritance amongst Hindus which, to my mind, is on the whole fair and just to everyone including the sons and daughters. It also improves the scope inasmuch as it places also the mother in Class I. At the same time, it improves the position of women by making provisions about dwelling house, inheritance, etc.

I think that we have been enabled to do these through all our efforts during the last two years and I am convinced that what we are trying to do is something of which everyone of us can legitimately think that we are parties to a new chapter so far as social legislation is concerned. After married and goes to the husband's family, what happens to her is nobody's concern. Sentimentally, I am sure, hereafter the daughter also will not feel helpless. There were references to suicides in Saurashtra. That Government had appointed a committee and that committee reported that the women psychologically felt that if they were neglected in the houses of the husbands they would have no place to go to; they would have no place on which to rely. It is better to quit the world rather than live. I do not mean to say that they were all suicide cases, but the real cause was this feeling on the part of women. They are neither educated nor do they possess any property. With all their hoary past, they do not possess property yet. Naturally, as we come to the hard facts of life, things are a little different. Then whatever is written in poetry, the result has been that that disease is

[Shri H. V. Pataskar.] there, and if we do not curb it at the proper time, it may spread elsewhere. I am sure the daughter will hereafter always feel that whatever happens and in whatever way her husband treats her, she has some place to go to. She has some right to go to a place and live. I am sure that if she is well off, she will never come to the father's family. If she needs security and freedom, then naturally she is entitled to her share.

I again thank all the Members of this House and I would again repeat to them that this Bill originated in this House and it should be the privilege of this House to put this important measure on the Statute Book. I am sure that you will all, with one voice, in spite of the minor differences, today pass it unanimously without any amendment or any opposition. That is my last request.

MR. DEPUTY CHAIRMAN: The question is:

fThat the following amendments made by the Lok Sabha in the Hindu Succession Bill, 1955, be taken into consideration."

The motion was adopted.

SHRI H. V. PATASKAR: Sir, I beg to move:

"That the amendments made by the Lok Sabha in the Bill be agreed to."

MR. DEPUTY CHAIRMAN: The question is:

*Clause 3*

3. "That at page 2, line 3, omit '(gotraja)'."

The motion was adopted.

MR. DEPUTY CHAIRMAN: The question is:

4. "That at page 2, line 21, omit '(bandhu)'."

motion was adopted.

fFor text of amendments, *vide* cols 1956.

MR. DEPUTY CHAIRMAN: The question is:

5. "That at page 3, line 14, after 'Cochin Nayar Act' insert—

'With respect to the matters for which provision is made in this Act'."

The motion was adopted.

MR. DEPUTY CHAIRMAN: The question is:

6. "That at page 3, line 18, after 'governed' insert—

'With respect to the matters for which provision is made in this Act'."

The motion was adopted.

MR. DEPUTY CHAIRMAN: The question is:

7. "That at page 3, line 24, add at the end—

'with respect to the matters for which provision is made in this Act'."

The motion was adopted.

MR. DEPUTY CHAIRMAN: The question is:

8. "That at page 3, omit lines 31 and 32."

The motion was adopted.

MR. DEPUTY CHAIRMAN: 'Amendment No. 9 Mr. Narayanan, do you move your amendment to this amendment?'

SHRI PERATH NARAYANAN NAIR: Sir, I move:

"That in the List of Amendments dated the 11th May, 1956, in amendment No. 9, the proposed sub-clause (iii) to clause 5 be deleted."

I want just a few minutes....

MR. DEPUTY CHAIRMAN: The amendment is before the House. You have already spoken.

SHRI PERATH NARAYANAN NAIR: Sir, I have just brought this amendment and wish to place a few facts before this House and not at all to dilate upon them.

I want the House first of all to understand that this exemption relates to the largest single estate in that part of the country. When we talk of putting a ceiling on land holdings, when cv?n under this Bill— under sub-clause(3) of clause 7, we are aiding the break-up of *szhinam* property. When such is the case, it is not fair that we should give exemption to this tstate; it is not proper. But it is not property considerations alone but human considerations which impelled me to give notice of this amendment. In the holding of this estate, and in the management of this estate, a certain set-up has been evolved and under this set-up, what happens? The Cochin Maharajah's family follows the marumakkattayam system. But the female members of the family are not allowed to marry even within their community. They are kshatriyas. They cannot marry within their community. They can marry only nambudris. Even when they marry, the female of the Rajah's family cannot go to the husband's family and live there, nor can the husband go to the Kovilagam Estate and live with the wife. That set-up is sought to be maintained under this exemption. So, apart from the property consider-ration, there are about 250 female members who are obliged to live in a choking atmosphere within the four walls of their Kovilagam Estate. That set-up does not at all agree with the present-day conditions. That is scught to be perpetuated. I do not know ip'the hon. Minister has been properly informed about these things. I simply want to place all these facts before the House. I am not pressing my amendment. If I press the amendment, hon. Members would be oblige\*\*-to vote for it on merits. But it would involve Joint Session and delay and I do not want that delay to take place. This amendment was not there

originally, and it was later introduced. But there was no need for that. In my opinion, the hon. Minister has been very badly advised in this particular matter.

Sira H. V. PATASKAR: I do not accept this amendment. But there is one mistake which I would like to correct. Yesterday, I gave the figure of 240. But the actual figures are these. There are 241 males and 259 females. So, it is not at all a question of concentration, and I think I have already explained the position.

SHRI PERATH NARAYANAN NAIR: Sir, I beg leave to withdraw my amendment.

\*The amendment was, by leave, withdrawn.

MR. DEPUTY CHAIRMAN: The question is:

*Clause 5*

9. "That at page 4, after line 19, add—

'(iii) the Valiama Thampuram Kovilagam Estate and the Palace Fund administered by the Palace Administration Board by . reason of the powers conferred by pro-^ clamation (IX of 1124) dated 29th June, 1949, promulgated by the Maharaja of Cochin'."

The motion was adopted.

MR. DEPUTY CHAIRMAN: Now we come to Amendment No. 10.

SHRI BHUPESH GUPTA: Sir, I have get to speak on this amendment.

MR. DEPUTY CHAIRMAN: No speech. It has been thrashed out.

SHRI BHUPESH GUPTA: Sir, I think this is the only clause which is controversial, and therefore, we must be allowed to say something.....

MR. DEPUTY CHAIRMAN: Speeches have already been made.

'For text of amendment, *vide* col. 2252 *supra*.

SHRI BHUPESH GUPTA: We could have given notice of amendments.

MR. DEPUTY CHAIRMAN: But you have not given any amendments.

SHRI BHUPESH GUPTA: I would simply say this, Sir, that it was most unfortunate that the Lok Sabha decided to inflict an injury on a very good provision that we made in this House. And I am sure that the hon. Minister would see to it that the original position is restored.

MR. DEPUTY CHAIRMAN: That is all. The question is:

Clause 6

10. "That at page 4, for lines 25 to 38, substitute—

'Provided that, if the deceased had left him surviving a female relative specified in class I of the Schedule or a male relative specified in that class who claims through such female relative, the interest of the deceased in the Mitakshara coparcenary property shall devolve by testamentary or intestate succession, as the case may be, under this Act and not by survivorship.

*Explanation* 1.—For the purposes of this section, the interest of a Hindu Mitakshara coparcener shall be deemed to be the share in the property that would have been allotted to him if a partition of the property had taken place immediately before his death, irrespective of whether he was entitled to claim partition or not.

*Explanation* 2.—Nothing contained in the proviso to this section shall be construed as enabling a person who has separated himself from the coparcenary before the death of the

deceased or any of his heirs to claim on \*intestacy a share in the interest referred to therein."

The motion was adopted.

MR. DEPUTY CHAIRMAN: The question is:

Clause 7

11. "That at page 5, for lines 1 to 18, substitute—

7. (1) When a Hindu to whom the *marumakkattayam* or *nam-budri* law would have applied if this Act had not been passed dies after the commencement of this Act, having at the time of his or her death an interest in the property of a *tarwad*, *tavazhi* or *Mom*, as the case may be, his or her interest in the property shall devolve by testamentary or intestate succession, as the case may be, under this Act and not according to the *marmakkattayam* or *nambudri* law.

*Explanation*.—For the purposes of this sub-section, the interest of a Hindu in the property of a *tarwad*, *tavazhi* or *Mom* shall be deemed to be the share in the property of the *tarwad*, *tavazhi* or *Mom*, as the case may be, that would have fallen to him or her if a partition of that property *per capita* had been made immediately before his or her death among all the members of the *tarwad*, *tavazhi* or *Mom*, as the case may be, then living, whether he or she was entitled to claim such partition or not under the *marumakkattayam* or *nambudri* law applicable to him or her, and such share shall be deemed to have been allotted to him or her absolutely.

(2) When a Hindu to whom the *aliyasantana* law would have applied if this Act had not been passed dies after the commencement of this Act, having at the time of his or her death an undivided interest in *the* property

of a *kutumba* or *kavaru*, as the case may be, his or her interest in the property shall devolve by testamentary or intestate succession, as the case may be, under this Act and not according to the *oliyasantana* law.

*Explanation.*—For the purposes of this sub-section, the interest of a Hindu in the property of a *kutumba* or *kavaru* shall be deemed to be the share in the property of the *kutumba* or *kavaru*, as the case may be, that would have fallen to him or her if a partition of that property *per capita* had been made immediately before his or her death among all the members of the *kutumba* or *kavaru*, as the case may be, then living, whether he or she was entitled to claim such partition or not under the *aliyasantana* law, and such share shall be deemed to have been allotted to him or her absolutely."

The motion was adopted.

MR. DEPUTY CHAIRMAN: The question is:

*Clause 10*

12. "That at page 6, line 10, after 'daughters' insert 'and the mother'."

The motion was adopted.

MR. DEPUTY CHAIRMAN: The question is:

*Clause 12*

13. "That at page 6, omit clause 12."

The motion was adopted.

MR. DEPUTY CHAIRMAN: The question is:

*Clause 13*

14. "That at page 6, omit clause 13."

The motion was adopted.

MR. DEPUTY CHAIRMAN: The question is:

*Clause 16*

15. "That at page 7, for lines 25 to 27 substitute—

'(2) Nothing contained in subsection (1) shall apply to any property acquired by way of gift or under a will or any other instrument or under a decree or order of a civil court or under an award where the terms of the gift, will or other instrument or the decree, order or award prescribe a restricted estate in such property'."

The motion was adopted.

MR. DEPUTY CHAIRMAN: The question is:

*Clause 17*

16. "That at page 7, for lines 32 to 35 substitute—

'(b) secondly, upon the heirs of the husband;

(c) thirdly, upon the mother and father;

(d) fourthly, upon the heirs of the father; and

(e) lastly, upon the heirs of the mother.'"

The motion was adopted.

MR. DEPUTY CHAIRMAN: The question is:

*Clause 18*

17. "That at page 8, line 25, for 'clauses (c), (d) and (e) of sub-section (1), substitute 'clauses (b), (d) and (e) of sub-section (2)'."

The motion was adopted.

MR. DEPUTY CHAIRMAN: The question is:

*Clause 19*

18. "That at page 8, line 31, for Sections 8, 10, 12, 13, 17, 25, and the Schedule' substitute 'sections 8, 10, 17 and 25'."

The motion was adopted.

MR. DEPUTY CHAIRMAN: The question is:

19. "That at page 8, omit lines 40 and 41."

The motion was adopted.

MR. DEPUTY CHAIRMAN: The question is:

20. "That at page 9, omit line 1."

The motion was adopted.

MR. DEPUTY CHAIRMAN: The question is:

21. "That at page 9, omit lines 14 and 15."

The motion was adopted.

MR. DEPUTY CHAIRMAN: The question is:

*Clause 25*

22. "That at page 10, line 30, after 'has been deserted by' insert 'or has separated from'."

The motion was adopted.

MR. DEPUTY CHAIRMAN: The question is:

23. "That at page 10, lines 30 and 31, omit 'whose husband has left no dwelling house'."

The motion was adopted.

MR. DEPUTY CHAIRMAN: The question is:

*Clause 31*

24. "That at page 11, line 16, for 'go to' substitute 'devolve on.'"

The motion was adopted.

MR. DEPUTY CHAIRMAN: The question is:

*Clause 32*

25. "That at page 11, for lines 26 to 29, substitute—

*'Explanation.—*The interest of a male Hindu in a Mitakshara coparcenary property or the interest of a member of a *tarwad, tavazhi, illom, kutumba or kavaru* in the property of the *tarwad, tavazhi, illom, kuturriba or kavaru* shall, notwithstanding anything contained in this Act or in any other law for the time being in force, be deemed to be property capable of being disposed of by him or by her within the meaning of this sub-section!."

The motion was adopted.

MR. DEPUTY CHAIRMAN: The question is:

26. "Rename clause 32 as sub clause (1) and after sub-clause (1), add—

'(2) For the removal of doubts it is hereby declared that nothing contained in sub-section (1) shall affect the right to maintenance of any heir specified in the Schedule by reason only of the fact that under a will or other testamentary disposition made by the deceased the heir has been deprived of a share in the property to which he or she would have been entitled under this Act if the deceased had died intestate."

The motion was adopted.

MR. DEPUTY CHAIRMAN: The question is:

*The Schedule*

27. "That at page 12,—

(i) line 5, after 'widow;' insert 'mother;' and

(ii) line 11, omit 'mother'."

The motion was adopted.

MR. DEPUTY CHAIRMAN: The question is:

*Clause 1*

12. "That at page 1, line 5, for '1955' substitute '1956'."

The motion was adopted.

MR. DEPUTY CHAIRMAN: The question is:

*Enacting Formula*

1. "That at page 1, line 1, for 'Sixth Year' substitute 'Seventn Year'."

The motion was adopted.

MR. DEPUTY CHAIRMAN: All the amendments made by the Lok Sabha in the Bill are agreed to.

The House stands adjourned till il A.M. tomorrow.

The House then adjourned at ten minutes past five of the clock till eleven of the clock on Wednesday, the 16th May 1956