matter may be referred to my colleague, the Home Minister, and he can report when there is anything to report. There is none so far as I know, I mean to say, factually. I personally am not aware of anything which is not in the press. It is true that press accounts are varied and sometimes slightly exaggerated; something actually happened, but if it is so desired, I can certainly ask my colleague, the Home Minister, when he gets any proper report, to place it before the House.

12 NOON

Mr. CHAIRMAN: That is all what the House is interested in.

Shri BHUPESH GUPTA: Will the hon. Prime Minister be agreeable to have a discussion on it?

Mr. CHAIRMAN: No. We are deeply concerned about this and he Home Minister, when he has any information, will keep this House informed.

Shri BHUPESF GUPTA: We want to discuss such matters,

Mr. CHAIRMAN: You raise a question about your view that Bombay should go here or there. That is not what we are discussing at this stage. You will have discussion on the Re-organization of the States Reorganization Commission later.

THE HINDU SUCCESSION BILL,
1954—continued

Mr. CHAIRMAN: Mr. Prithviraj Kapoor.

THE HINDU SUCCESSION BILL, 1954—continued

Mr. CHAIRMAN: Mr. Prithviraj Kapoor.

THE HINDU SUCCESSION BILL, 1954—continued

Mr. CHAIRMAN: Mr. Prithviraj Kapoor.
बिल, 1954

[भी पुस्तिका कारण]
आवेदनकार नहीं हैं। मैं अपने बच्चों में और आत्मकार करार में असंबंध हूँ। मैं यंत्रज्ञात की इस जवाब को ब्रह्मारण करा रहा हूँ, अन्य
किसी द्वारा हैं। मैं यह संस्करण चित्र में देखने करेंगे जिसे नीचे निम्नलिखित करने का कारण है। यह नीचे दर्शाया है,
कि हर समय की दृष्टि से विवेचना द्वारा तीनों ने जिन बातों को जिन्दगी का निर्माण करना है।

एक अद्वैत इलेक्ट्रिटीनेट पिकलैंड के बारे में पैसा होता है, है। है कि ऐसी बातें जो इलेक्ट्रिटीनेट का कारण है। है।

बड़ा स्थान है। इस इलेक्ट्रिटीनेट का कारण है। है। इस इलेक्ट्रिटीनेट का कारण है। है।

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Mr. Deputy Chairman, when we are considering this Hindu Succession Bill, which was really overdue, we should not be misled by emotions, by catch-words. Several hon. Members who have preceded me have tried to look at this Bill from the emotional point of view. I may at the very outset say, an hon. Member who spoke in the last session, a lady Member, has curious notions about the functions of women in our society. She thinks that there is absolutely no distinction between man and woman, that there should be no distinction in their education as they have to perform exactly the same duties in society, and therefore, there should be equal division of property between boys and girls.

Sir, I disagree with that viewpoint. I think women have a special function to perform in society. Women have a special function to perform in society, and when they have a special function to perform in society we should make suitable laws. The laws of inheritance should be so modelled that their separate functions are fulfilled.

Similarly, Sir, it has been pointed out that a woman, as an Ardhangini, must get half share in the property of her husband. Now, I ask from the point of view of fairness the woman will get half share from her husband and according to this Succession law she is going to get one full share side
[Shri Kishen Chand.] by side with the son from her father as daughter. Is it fair and right that she should get two shares while the boy gets only one share. Nobody denies that the woman should not get any share, and I am in full support of it that the woman should get some share. The question is whether she should get it from her father's house or from her husband's house. Our society is built on the basis that a woman, after she is married and goes to her husband's house, completely identifies herself with her husband's family; she becomes part and parcel of the husband's family and it is quite right and fair that she should get her proper share from her husband's property. I would even go a step further that she should get half the share from her husband's property. But I will certainly oppose giving any share to a married woman from her father's house. She has left that household and she has adopted a different household as her normal house and, therefore, when we are dividing the property of a man half the property should go to the wife. The other half should be distributed among his sons and unmarried daughters in a certain proportion.

DR. SHRIMATI SEKTA PARMA-NAND (Madhya Pradesh): What happens after the daughter gets married?

SHRI KISHEN CHAND: If subsequently she gets married she has already received half share. If she is going to lead a single life, half the share should be quite enough. We should be fair and just. We should give to every party such share as is going to be usefully utilised by that party. So that there are only two cases. A woman who is going to remain unmarried all her life should get half a share from her father's property.

AN. HON. MEMBER: But can you legislate these ifs and buts?

SHRI KISHEN CHAND: At the time when a person dies and his property is divided it is a question of fact; it is not a question of ifa and buts. At that moment the daughter will be either married or unmarried. When the property of the person is being distributed there will be some sons and there will be some daughters who are unmarried and there will be some daughters who are married. My suggestion is that at that time only the sons and the unmarried daughters, should get a share. If the unmarried daughter marries subsequently she gets nothing from her father's property. After all you cannot legislate for all future times. You are legislating at the time when the person dies—and his property is being distributed among his heirs. At that time a certain situation arises and for that situation I have suggested a method, for distribution of his property. Subsequently if the daughter marries, it does not matter. If in the life-time of the person certain daughters are married, even if dowry is not given certain presents are given to the daughter. Every man wants to marry his daughter according to his stavas. Normally the expenses in marriage and the expenses in giving of gifts are so large that many people have to borrow even beyond their means from private parties. Sometimes it is very difficult to repay these debts.

Then, Sir, I may point out that in our country there are only six or seven lakhs of assesses. The rest of the people are of lower middle class. 80 per cent, of our people live in villages and their total wealth consists of certain land or a little shop dealing in retail business. The number of rich persons is being reduced. We are trying to establish a socialistic pattern of society where property will slowly disappear and the majority of people will belong to lower middle class. Their total assets which they will leave behind will not exceed twenty five thousand or thirty thousand rupees. Now, when we are distributing a small landed property and a small shop which is the means of livelihood. I should like to know, Sir, whether it is right and proper that we
should create complications by g'ving an equal share to the married daughter, thus bringing in the son-in-law, the father-in-law, the mother-in-law all these relations of the other family—into the family of the person who has died.

SHRI K. S. HEGDE (Madras): That will be so even if it is half share.

SHRI KISHEN CHAND: A half share is given when she is unmarried and when she is living with her brothers. After marriage she goes away, and she has already received her share. The complication arises when the daughter who is living somewhere else gets a share. And here not only she herself comes but brings along with her her husband, her father-in-law, her mother-in-law and all her husband's relations. When they come and try to live in that one particular house, all complications arise. As I have said, there is absolutely no objection if only the daughter remains.

Well, Sir, the question of fragmentation of land has been raised here. Certain hon. Members have asked "What would happen if there are more sons?". Well, we are not considering a hypothetical case. An equal number of boys, and girls are born in this country. If you give an equal share to the daughters, the total amount of fragmentation will become double. It is not a question of considering one particular family and saying, "Supposing there are six sons only in that family". I am saying that taking it collectively there are nearly five crore families, and there are children in all the five crore families. There are some boys and some daughters. It is quite possible that certain families may have only boys and certain families may have only daughters. But taking it collectively, if you give share to the daughters also, the total fragmentation will become double. In a particular case there may not be additional fragmentation because there are only boys in that family, or there may not be much fragmentation because there are only daughters. But if you give an equal share to the boys and girls in every family, then the fragmentation will become double.

Now, Sir the third objection is with regard to the management of property and the carrying on of agriculture. It has been seen that women do not perform both these functions. Who is therefore going to look after their land? Who is going to look after their shops or business concerns which they inherit? Normally it is a man's job. What will happen is that the woman's husband, or if she is unmarried, then possibly her brother or some other relation, will come in. Now, Sir, we are legislating for our society, and in the matter of social laws we cannot get results immediately. It is not a sort of scientific laboratory where we perform an experiment and know the results immediately. For the last 2,500 years our society has been carrying on. Certain hon. Members have cast aspersions on it. They have said that we have been very cruel and unjust to women and all our evils are due to that unjustness. Well, I do not agree with them because with all our faults our society has survived. That is because there is an inherent stability in it. There is something wonderful in our society that allows it to carry on, and that is the stability of our laws. We have not hurriedly changed our laws. I maintain, Sir, that it is entirely on account of our laws or continuity of our laws that our society has remained in its present condition. All other countries which had civilisations in the past are without any civilisation now. Those civilisations have disappeared completely. You can think of Egypt, you can think of Greece, you can think of Syria and you can think of Babylon. What is it that is keeping and maintaining our society? I think, Sir, it is the justness and the fairness of our laws and our social structure. Well, the results are before you. The society has survived and the other civilisations have disappeared. Well, there may be other causes also. I do not say that this is
Hindu Succession [RAJYA]

[Shri Kishen Chand.] the only cause, but it is a potent cause. And therefore we should be fair and just.

Sir, several hon. Members have pointed out that there are very great hardships in this Bill. In the first place, this law applies to intestate cases. And yet when you are defining the word 'intestate', you say that the Mitakshara property cannot be ..........


SHRI KISHEN CHAND: You want the law to apply only to self-acquired property. Then why do you bring in for distribution also the Mitakshara property? You should be consistent. This Bill should apply to the entire property. If it applies to the entire property, then the person must have a right to dispose of the entire property by will. But if this law applies only to the self-acquired property, then you should remove all the clauses which apply to the Mitakshara property. It is very curious that when we criticise this Bill from different angles, different hon. Members take up different points of view, and they do not look at the Bill as a whole. In clause 3(g) the definition of the word 'Intestate' has been given as follows:

"'intestate'—a person is deemed to die intestate in respect of property of which he or she has not made a testamentary disposition capable of taking effect."

That means it does not apply to the Mitakshara property. I have sent in an amendment trying to widen the scope of this definition whereby this definition will extend to all property including the Mitakshara property.

PROF. G. RANGA: Why?

SHRI KISHEN CHAND: Because I think, Sir, that the entire property, whether self-acquired or inherited, vests in the person who has inherited it and therefore he should have a full right to dispose of it. Otherwise what will happen is that all clauses which relate to the Mitakshara property will have to be omitted from this Bill, and I know that hon. Members are opposed to that! They want to retain the Mitakshara part of it, and therefore it will be much better to change the definition of the word 'intestate'.

Now, Sir, I would like to refer to the various examples given by Mr. Bisht with respect to the Note of Dissent in the Report of the Joint Select Committee. It has been pointed out that it a son separates himself from the Mitakshara family and sets up his own house, and then if the partition takes place, the share of the daughter is fixed on the basis that no separation has taken place at all. I submit, Sir, that this difficulty can be easily overcome if we make certain alterations in this Explanation. We want every party, the boys and girls, to get an equal share! If the share taken away by the son who has separated from the family is included at the time of partition or at the time of division, then the daughters will get a bigger share and the dutiful son who has remained in the family will get a smaller share. Now if you want to overcome this difficulty, there is a very easy solution. If a son separates from the family and takes away his share, that son as well as the share taken away by him should not be included in the remaining property which is left by the person at the time of his death. Let us take an example. Supposing A has three sons, B, C and D. If B has separated and taken away his share, then I submit, Sir, that when the property of 'A' is divided, only C and D should get their share-from the remaining property, and the son who has separated should not have any further claim.

SHRI J. S. BISHT (Uttar Pradesh): If all the sons separate, nothing will be left.

SHRI KISHEN CHAND: Even if all the sons separate, then the father's
A share will remain. If all the sons separate from A, some share of A will remain.

Shri J. S. Bisht: He may will it away.

Shri Kishen Chand: If you assume that the father has no love for his daughters, and if he does not want to give them any share, then he can always will away everything. You cannot stop that unless you bring in an amendment to say that nobody can distribute by will more than half of his property, as is the case in the Muslim law. But as it is, if all the sons go away, even then a share of the father will remain and the daughters can divide it among themselves because the sons who have separated out and gone out of the family have no further claims, I have sent in certain amendments to this effect so that this difficulty is overcome.

Then I come to the question of complete ownership by women. I certainly agree with it; I welcome it, but trouble will arise in regard to income-tax. Under the present Income-tax Act all the income from the property of the woman is added to the income of her husband and income-tax is paid on it. This question is inter-related to the income-tax law. If you give full ownership of the property to the woman, let the income-tax law also be subsequently changed that the income from the property owned by the woman will be considered to be her income and tax levied on it.

Shri C. P. Parikh (Bombay): Even now self-acquired property of the woman is not included in the property of the husband.

Shri Kishen Chand: I know that the self-acquired property of the woman is not included in the property of the husband.

Mr. Deputy Chairman: Anyway, it is for the Finance Minister to consider.

Shri Kishen Chand: I welcome the idea of women getting complete ownership. I am only pointing out this difficulty.

Mr. Deputy Chairman: I don't think they will grudge to pay income-tax to the Finance Minister.

Prop. G. Rang A: They also have got to pay.

Shri Kishen Chand: They will have to pay, but the question is about the rate at which they will have to pay. Supposing her income is added to the income of the husband and the husband is asked to pay the full tax, the husband may not be able to pay it.

Shri K. S. Hegde: If it is improper, let us amend it.

Shri Kishen Chand: I am only asking hon. Members to understand the implications of it.

Mr. Deputy Chairman: Anyway, we will pass a separate Act for that. You go ahead now with the Hindu Succession Bill.

Shri Kishen Chand: You see the whole point is that you are doing it retrospectively. Because you are giving it retrospective effect, my point is that certain persons will be adversely affected. Therefore my suggestion is that in future ownership by women may be complete, but in regard to the past, we should not really make it retrospectively applicable. I am only opposing that portion where it says 'retrospectively applicable'.

Then, Sir, I come to the question of the list of heirs. I entirely agree with Mr. Kane when he says that in Class I of the Schedule, there are too many persons, if you read this schedule, you will come to the conclusion that this is not a Hindu Succession Bill but probably it is the Muslim Succession Law being applied to the Hindus.

Dr. Shrimati Seeta Parmar: It is a precursor of the Civil Code which is to come.
I SHRI KISHEN CHAND: What will happen is this: Suppose there are two or three brothers and one sister. The sister may claim her share from the brothers. It is quite possible that there might be some sort of rivalry between the brothers. One brother may not be willing to sell his portion, while he is not in a position to purchase the share of the sister. The result will be that due to their quarrel, one of the brothers who is slightly better off will increase the value of the property in order to deprive his other brother who is not well off. Therefore, it will cause unnecessary hardship. My point is that a residential house or business should not be included in the assets of the person who has died, at least in so far as the share of the daughter is concerned. With regard to residence also, a daughter may come and reside but if she is also permitted to bring the other relations of her husband, there will be all sorts of quarrels.

SHRI N. D. M. PRASADARAO (Andhra): Supposing the son sells his share.

SHRI KISHEN CHAND: Hypothetical cases can always be quoted by hon. Members.

Then certain hon. Members say that illegitimate children should also be considered as legitimate and entitled to succession. We are legislating for our society. Ninety-nine decimal four per cent, of the people marry in this country. Only 0.5 per cent, remain bachelors. Probably even among this 0.5 per cent, only a fraction of them keep concubines and will have illegitimate children.

SHRI K. S. HEGDE: Why are you correlating bachelors and illegitimate children?

SHRI KISHEN CHAND: We want really to encourage the system of marriage in our society. That really leads to stability and that leads to the maintenance of society. Therefore, when we are making laws, we should really aim at an ideal society. Some
people have said that some persons may keep concubines and have illegitimate children and therefore we must recognise them for purposes of succession. Do you want to encourage that type of thing and encourage elements which are disrupting our society? That is real disruption of the marriage system. You may not believe in the marriage system. I know that certain hon. Members or certain Party Members think that the system of marriage should disappear, that there should be no property etc. They are criticising this Bill from a different angle. They are not recognising this Bill from the angle that we want to preserve the Hindu society in its normal condition with the marriage system as a prevalent thing. Therefore I think that it is very necessary that such a Bill should come but the hon. Minister and the Joint Select Committee have introduced large number of clauses in it which are detrimental to the progress of Hindu society and which I think, are going to lead to disruption of the Hindu society, we should be very careful when we are passing this law that we should not disregard the Constitution. The Constitution says the men and women are absolutely equal before the law. In this Bill half the clauses are going to lead to inequality. They are going to give more share to the women than to men. In one breath you say that our Constitution gives equal share. If you want equal share, as the women have gone to husband's families, therefore they should get half share. If she gets half share, there is absolute equality. Why should she also get from the father?

SHRI J. S. BISHT: Will you please clarify as to what is her position when the husband is living?

SHRI KISHEN CHAND: She continues to get half property from the husband. After all you spend only the income and when the husband is alive, the entire income is shared between the man and the woman. They collectively manage the entire income and they share it. Why do you want a separate income? He brings the entire income, gives it to the family and the family uses it.

SHRI H. C. MATHUR (Rajasthan): Is it his contention that there is no difference between the husband and the wife so far as property is concerned?

SHRI KISHEN CHAND: The hon. Member seems to think that in certain cases there may be some husbands who don't share their complete income with their wives but in majority of cases I maintain that it is the women who spend the money the husbands bring. These are realities.

SHRI H. C. MATHUR: It is not a question of arrangement. It is a question of rights and status of women. Let the hon. Minister clarify it.

SHRI KISHEN CHAND: I submit that in social laws and in marriage relationship we should go by the practice and the usual way of living. We are not making an absolute society. Here the practice is that the entire income is shared by the family and is spent by the family. So I think that this type of law is going to create inequalities, by trying to give the woman a share both from her father's family and from her husband's family and therefore to say that it is an election pledge is an erroneous statement. You are going to change the society and disrupt our society under the name of some sort of modernism or some sort of progress. It is a curious idea of progress. If you think of just following or imitating what is happening in Europe or England, then you are an advanced or modern person but if you go back to your own culture or your own tradition, you are of course backward and you are not progressive. I think it is a curious argument which we introduce when we are considering such important Bills which are going to really change the structure of our society. I submit that this Bill should be recast.
वर्तमान में, इस विषय से संबंधित कुछ संदर्भों में, हिंदू समुदाय के इतिहास में इतिहास से संबंधित है। अतः वर्तमान में, हिंदू समुदाय के इतिहास में इतिहास से संबंधित है।

...
[Hindu Succession Bill, 1954]

This Bill is a step towards providing a uniform law for the distribution of the estate of deceased persons. The Bill seeks to correct certain anomalies in the existing laws and to provide a fair and just system of inheritance. It aims to ensure that the estate is distributed among the heirs in a manner that is equitable and in accordance with the principles of Hindu law.

The Bill contains provisions for the recognition of joint family property, the rights of widows and children, and the distribution of estate among various classes of relatives. It aims to provide a clear and concise framework for the settlement of disputes that may arise in the course of inheritance.

The Bill is an important step towards ensuring that the rights of all parties are protected and that the law is applied in a manner that is fair and just. It is hoped that the implementation of this Bill will lead to a more harmonious and equitable system of inheritance.

[RAJYA SABHA]
MR. DEPUTY CHAIRMAN: It is time, Mr. Vaidya. Please wind up.

SHRI KANHAIYALAL D. VAIDYA: Sir, I will take some five minutes more

MR. DEPUTY CHAIRMAN: Five minutes? You have said almost everything. What more is to be said? Just wind up.

SHRI KANHAIYALAL D. VAIDYA: Sir, I have a little more to say and if you permit me, I would speak for five minutes more.

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

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

The House re-assembled after lunch at half past two of the clock, Mr. DEPUTY CHAIRMAN in the Chair.
Hindu Succession (RAJYA SABHA) Bill, 1954

[अंश सामाजिक तरीके, कुछ विशेष नियम
प्रणविष्ट हैं आपका आज का, वर्तमान समाज का जो अंतर्क्ष हैं उसमें प्रणविष्ट नियमों के
उनके नियम अन्तर हैं तो वह कम से कम कुछ सीमाओं के अंदर या कुछ प्रारंभिकों के साथ
इसने लागू करने के लिए आप विवाह करने,
अन्यथा यदि लंबी प्रक्रिया का मानक अनुशासन से
कुछ अन्य नियमों ने भी कहा। इसकी प्रक्रिया भी कुछ अधूरी बहुत समय होगा। गरीबों के
यह समय ही भी पितृतिवाद से है। उसके
दूरबीन है। इस कानून के उन पर साभार होने से
उनको न कोई असर होना चाहता है न कोई विवेक
लाभ होना चाहता है और न उसमें कोई असर
dूरहे या उद्धर होना चाहता है। वहाँ पर इस कानून
के रूप में मीटिंग विलक्षण करने की प्रारूपी भी
हमारी सरकार की नहीं है। और भी बहुती सी
भावों। उम्मीदी सरकार करने के बाद इस अन्तर
भावना का मानक का सफाई नहीं कर पाये है।
सामाजिक रूप में यह यह कानून उन लोगों
में भी साधा करना जरूरी होगा तो निर्मल रूप
में सामाजिक जीवन में आगे होना हुआ भी उनका
जीवन आत्मवाणिज्य हो जाएगा और मुख्यमंत्री
में गिरावटों की जमो में उठी होगी। विवाह
करने इस संबंध में प्रमाण आयोग से ज्ञान दिया
या इसमें कुछ उपकरणों के अंदर एक
मीटिंग तरीके पर ईस्ली नीति से उसको लाभ
विभाग उन लोगों के जीवन के रूप में कोई
गढ़वा न हो।

एक और अर्थात वात में कहना पारता है,
जबी हम उन लोगों अर्थात दोनों से विचार करने
में जो कि सुपराङ्कन है। हमारी बैठक में भारतीय
गरीब का जो आदर है, वह बहुत सुदर आदर है।
ढौंगे, आत्मवाणिज्य के लिए कुछ भी कहा
जा सकता है। कुछ सुझाव बतौर इन दो व्यक्तियों
में होती रहें प्रमाण आयोग आपको
इस प्रकार का कानून नहीं इस रूप का नहीं
करना पाता है। जो भी सामाजिक सुझाव या आत्मवाणी
की जाती है जनता के द्वार से कहती है और
बहुत ही जानती इस प्रकार में वह लोगों को
करने तक तक वह आत्मवाणी और सामाजिक
SHRI K. S. HEGDE: Mr. Deputy Chairman, the Bill before us is a momentous one. I do not think this Parliament has discussed or passed any socio-economic measure of an equal importance. As such, we are, in duty bound to examine the provisions of this Bill with the utmost care and attention as it is likely to affect us in every day life. Objections have been taken to the general objectives of the Bill on several grounds. Several friends in this House have said, “We have an immortal law which has stood the test of time for 2,000 years. As such, it is bound to continue in its present form without any change.” I am quite un liable to appreciate the logic of this argument. Society has changed; ways of life have changed. I do not think today anybody will conscientiously say that he is living in a joint family in practice though there may be a joint family in law. Joint family is dead as dodo; still, several of us are crying, "Long live the joint family". That is the irony of the situation. This aspect of the case was very carefully examined by an eminent committee presided over by Sir Benegal Narsing Rau and the report of that committee is available to us for our guidance and assistance, I do not, when I say that the law requires changes, in any manner condemn the law as laid down by Manu or Yajnavalkya or the others. The law is a result of the social actions and reactions of the particular time. Undoubtedly the law, as enunciated by these great Munis, was quite good for the time when they were enunciated or placed before the country. Times have changed; our customs have changed; our manners have changed and our habits have changed. As such, such a change today in the law has become absolutely necessary.

It is true, Sir, that in the past the law was tribal in character. Later on it became the law of the religion. As some of the Hindu friends would say, for a Hindu everything is a part of his Dharma, his very birth, his very death and every action that he takes in every moment of his life. It is undoubtedly true in a broader conception. But, today, in a secular society, we have got to separate religion from secular life and we have got to so order our secular life as to suit our social conditions. It is no good saying that the religion has laid down something different. We are not going to be fettered and imprisoned by things that have been ordained to us centuries and centuries ago or probably two thousand years ago. This is one aspect of the case.

Again I have heard other friends who probably are fighting a rearguard action and trying to pfail the measure, though not openly, but through an indirect process and who say that
[Shri K. S. Hegde.] this Bill will mean fragmentation of our property. To them it looks that the cardinal principle is that we live for the property and not property for us. I thought property was for our happiness, for our enjoyment and for our utilisation, but my hon. friend from Hyderabad, Mr. Kishen Chand, was saying that we must live for the property and the property must be intact. It does not matter whether it is for our enjoyment or not. I do not think such a shaping of our economic life is ever possible at all.

Now so far as the fragmentation of the agricultural land is concerned, that is an entirely independent matter and I am sure the Government will deal with it independently. But, so far as the division of ancestral property is concerned, it comes within the sharing of the property and it does not come within the question of the small holding or big holding or fragmentation. If the arguments of our learned friends like Mr. Kishen Chand are to be accepted, then there should be no division at all. There must be primogeniture and that is the logical conclusion. I do not think that anybody in this House would be willing to vote for the primogeniture system. Undoubtedly, it is true that the way of life that we have practised for centuries cannot be changed suddenly and we can only slowly change, but slowly at least we must change. This Bill has been before the country for the last over 15 years. If you will permit me to repeat myself, one of the most eminent committees consisting of, among others, no other than a jurist of international fame like Sir Benegal Narsing Rau, Messrs. Dwarkanath Mitter, J. R. Gharpure and T. R. Venkatarama Sastri went into the matter and they were not revolutionaries. They did not think in a very loose way or in a wild way. They were not prepared to make changes for mere changes’ sake. I will place before you what they say. This Committee approached this task very very cautiously and in a thorough manner. They themselves say on page 39 of the Report: “We ourselves have throughout our work entertained a considerable bias in favour of the existing law and have made changes only when we felt them to be absolutely necessary. The changes have been restricted by us within the narrowest possible limits.”

These are words of great jurists. What is more, very eminent men in law, men who knew what they were saying, not those who talk through their hats, men like Sri Srinivasa Iyengar, one of the greatest Hindu Law lawyers wrote as far back as 1911 saying that the Hindu joint family system should be abolished; the daughter should be given a share. His view was reiterated by very eminent men like Sir Sivaswami Iyer, Right Hon. Sastry and a large number of others. Now if these eminent men could contribute to this thought, then it requires a lot of thought before we completely reject an idea of this nature.

One argument always brought forward is that this Bill is slightly different from the former Bill; so let us go back to the country. This is merely dilatory tactics. I am not questioning the bona fides of those gentlemen who are putting forward this idea, but my own belief is that they are certainly fighting a rearguard action in this matter. They are not bold enough to oppose the measure, but they want to pick holes in the measure and try to delay what they cannot defeat. That seems to be the attitude and it is not fair either to the country or to this House to take an attitude of this type. This Bill has been considered by the country over and over again. It has been before the country for years and years together. Three committees have gone into the matter. Now we have a Bill before us. It may be defective; it may require certain modifications. Let us do it. We as elected representatives of the people have a right to make certain changes to bring this in conformity with the will of the people.
Now, having said that, Sir, you will also permit me to tell this House that the Bill, coming out of the Joint Select Committee, has assumed a shape and character which is wholly unacceptable in several respects. I thought this Bill was intended as a socioeconomic measure, an instrument to revolutionise the Hindu society. I thought it was intended as a step towards the Civil Code. I thought it was intended to make the law uniform. But what do I find in this Bill? The Mitakshara system is retained as the Mitakshara system; the Dayabhaga system is retained as Dayabhaga system; the Marumakkattayam system is retained as Marumakkattayam system and the Aliyasantana system is retained as the Aliyasantana system. Instead of bringing about uniformity in the measure the Bill still retails the different laws and still divides the people of this country as before. I want the hon. the Law Minister to examine the measure and find for himself whether he has achieved the objective for which this Bill was designed and whether the provisions contained in this measure are in conformity with that objective. In fact, if I may say so, even in the provisions for devolution of property, different rights have been laid down so far as the males are concerned and different rights have been laid down so far as the females are concerned. It is a small matter and it should be changed. In several other respects, instead of bringing about uniformity of law, it has made diversity more diverse. Now what is the intention? We want a territorial law. If you want that here, there is only one possibility of doing it and it is to get rid of the joint family system. Unless and until you get rid of the joint family system you can never bring about an effective reform in the Hindu society. In fact I do not think I can put it better than what the Rau Committee did at page 16 of their Report.

PROF. G. RANGA: You have to wait. You should make provision for the social security of the people before you can think of abolishing the Mitakshara system.

90 R.S.D.—j.
[Shri K. S. Hegde] to dispose of his properties, and during his lifetime, the son should not be entitled to claim a partition. The brothers should inherit the paternal estate in equal shares which should, on their deaths, go to their respective heirs." This is the opinion of the eminent jurist, late Srinivasa Iyengar. It is your experience, as a lawyer, that much of the civil litigation that is pending today is due to the joint family system; the coparcenary right and attendant thereon the right by birth gives great scope for litigation. Today no man is able to utilise his wealth to advance himself either in the commercial field or in any other industrial undertaking. He is not able to pledge his property and get the necessary money. He is not able to sell it. Today he lives for the property; the property is not for him. That is the situation that is existing in the country today. Instead of boldly tackling this question, this Bill has merely tackled one aspect of it—undoubtedly the important aspect—giving a share to the daughter. Nothing more; nothing less. I am not minimising the importance of the aspect that has been tackled by the Bill. It is an extremely important one. It is not only a question of social justice, but it is also economically necessary for the advancement of the country but that will not solve the problem that we have set before ourselves. If we want progress, if we want to have a socialistic pattern of society......

PROF. G. RANGA: You will have a capitalistic form of society if you abolish Mitakshara. If you examine it properly..............

SHRI K. S. HEGDE: Mr. Ranga is pitting his knowledge as against the knowledge of the eminent jurist like......

PROF. G. RANGA: It is no good quoting him. You examine it now properly. It is no use being a traditionalist.

I
is no joint family system. I have not seen the heavens falling in any of the countries. Merely by prejudice you cannot say that something that has been existing all these days is the only good thing and that should exist. Sir, I do not think it can brook a day's delay. It is no good the hon. Minister saying that he will bring forward a separate Bill to deal with the joint family system. The best time is probably now or probably it will be never. That is so far as the Bill is concerned.

Now, coming to the share to be given to the woman, I am entirely in agreement with the principles enunciated in the Bill. I may say that the Report of the Rau Committee was faulting in this respect. They themselves said that logically speaking the daughter is entitled to a full share, as much as the son is entitled to but they thought that as a concession to conservative opinion and as a first step they would give the daughter only half a share. Now, that recommendation was made in the year 1942 and nearly 15 years have passed since then. We have had a mighty war after that and there have been enormous social and economic changes. Women have come to the forefront during the war and they occupied many places of position, trust and responsibility. Today they are playing an important role in the Indian society and I see no reason whatsoever at all to make any distinction between a son and a daughter (Interruptions.) You will permit me Sir, to ignore the interruptions which I am not able to follow.

Sir, many arguments have been advanced to say that the daughter should not be given a share but all those arguments are worn-out arguments and most of them look to be moth-eaten. They have been merely repeated ad nauseam and I do not think that I should waste the time of the House in examining those contentions which, if you will permit me to say, are merely reactionary in conception. I fail to see in what way there could be a difference for a parent as between his son and his daughter and if there could be no difference in filial relationship, there could be no differentiation in the matter of inheritance as well. But when I say this, undoubtedly I do not mean to support the view that the law should be retrospective in character. I find that in this Bill it has been made retrospective in some places, as for instance, in clause 16. An eminent lawyer like Mr. Pataskar is in charge of the Bill and I am surprised that in a measure of this nature he should have recommended retrospective application of the law. It is one of the accepted principles of law that no law, unless it is absolutely necessary, should be made retrospective in effect. Many rights might have been created; many expectancies might have been created. Expectancies are small things but rights are bigger and every law of this character must necessarily be prospective and not retrospective. For example, there will be a number of litigations today pending in the country. A reversioner may have filed a suit against a woman who has sold the property. Now, immediately by passing this measure you are giving a right to these alienees; by converting this into an absolute right the plaintiff will lose the cause of action merely because the law has now retrospectively bestowed some rights on the women who otherwise would not have had those rights. Alienations might have taken place; gifts might have taken place; so many other things might have taken place and suddenly you come and say that what was merely a life estate is now made into an absolute estate. Of course, one argument is there that this law must have been made long time back. I agree with that but if that has not been done, that is the mistake of the legislature and for that reason you cannot penalise the people who have expectancies before them.

DR. SIRIMATI SEETA PARMA-NAND: That would serve them right.

SHRI K. S. HEGDE: My hon. lady friend thinks that for the fault of the legislature the country should be
[Shri K. S. Hegde.] punished. I cannot appreciate the logic of that argument.

DR. SHIRMATI SEETA PARMA-NAND: When you are trying to do social justice, some hardship is bound to be there.

SHRI K. S. HEGDE: I quite agree but that hardship should be laid at the door where it is already existing. If there is hardship between a lady who has a life estate the hardship must be borne by the person who has already taken a life share. 3 P.M. Otherwise, where are we going to stop it? How far back are you going? The proper way is 'hereinafter'—you can put down the date today or you can put down a future date—from that day onwards the rights will be enjoyed. In a matter like this, we should not be called upon to say right from 1910 or 1920 the law would be deemed to be applicable. Many widows might have died. Those who persist in living will have largely ................

DR. SHIRMATI SEETA PARMA-NAND: In the case of divorce, we have given this right of getting divorce to women in respect of polygamous marriages and that was done to give relief where relief was required.

SHRI K. S. HEGDE: Oftentimes precedents land us in great difficulties. Now, Dr. Seeta Parmanand did not realise the implications of giving the right of divorce in the case of polygamous marriage. There is a state of tyranny existing, because the husband has married another wife. So, you are giving her a relief, to relieve herself of the burden of having that husband. Here it is not so at all. You are depriving somebody's property. So far as that is concerned, I am not saying that Parliament has not the right to make a law retrospective, but it is one of the accepted canons of law that normally no legislation is made retrospective in character.

SHRI H. V. PATASKAR: May I ask one question? It will only affect, according to you, reversioners and SABHA Bill, 1954 reversioners are still undefined. Of course, there will be some dislocation, but it is not as bad as it is being made out......

DR. SHIRMATI SEETA PARMA-NAND: As a Member of the Select Committee, we laid it down from this point of view........

SHRI K. S. HEGDE: Are we having a debate?

DR. SHIRMATI SEETA PARMANAND: Justice was not done by giving a limited estate only to the widow and that is being remedied by giving retrospective effect.

SHRI K. S. HEGDE: I would like to carry this argument to its logical conclusion. Injustice was done to many ladies who are dead. Why don't we resurrect them? It is a matter of legal policy, and not a matter of logic. Now, in the matter of legal policy, I hope I have the support of the hon. Minister when I say that it is an accepted canon of law that normally 'we never make a law retrospective........

SHRI H. V. PATASKAR: Normally it is not resorted to.

SHRI K.S. HEGDE: In fact, there are constitutional limitations in certain countries that law should not be made retrospective. Of course, in our country our constitutional limitation only extend to Criminal law—we cannot give effect retrospectively to law relating to crime. So far as the Civil law is concerned, advisedly the Constituent Assembly has not said that the Legislature has no right to make a law retrospective.

One other difficulty that will arise is in regard to the estate of women. There are the estates of the widow, there are the estates of the daughter. In the case of the estate of the daughter, although in legal language 'expectancy' is uncertain, one could almost say who are the next reversioners, taking the other things. Expectant people need not die before the particular thing happens. So, in
the case of persons who are expecting property, by one stroke of the pen you are trying to take away that right by merely giving an additional right to a person who never expected that right.

(Interruption.)

MR. DEPUTY CHAIRMAN: Order, order.

SHRI K. S. HEGDE: That is why I am submitting that it would not be proper to make this law retrospective. It will have a number of repercussions and it will land us in great many difficulties in this case.

Now, when we make a law, one thing we must be very careful. We should not have individual cases in our view. To my mind, it looks as if this particular retrospective measure has been influenced by individual cases. If so, I condemn it. We are not concerned whether lady 'A' or lady 'B' gets an estate. That should be far from our minds. If that is so, I do not see any reason whatsoever why you are making the law retrospective in character.

SHRI H. V. PATASKAR: How can that be so?

PROF. G. RANGA: Each Member of the Select Committee had one lady in view, I suppose.

SHRI K. S. HEGDE: If that were so, it would be an extremely bad way of dealing with the matter and especially when we are dealing with property, it would be dangerous if we tried to make the law retrospective.

Now, another aspect which I would like to place before the House is this. One of the objectives of the amendment of Hindu law is to take away the effect of certain supposed to be wrong decisions on the question of pious obligation. The doctrine of pious obligation has created innumerable difficulties and the Rau Committee definitely recommended that that obligation must be removed. And today what do we find in the Bill? Pious obligation continues as it is and this doctrine of pious obligation has been responsible for the ruination of several families and they would like to continue the evil effects of it in the present Bill.

Another aspect that I would like to touch upon is that of giving property right to illegitimate children. It shocked me when I read it. It has left me in a state of complete confusion when I read it over and over again. When we passed the Bill on monogamy we thought we had given the go-by to all other women—whether married wives or 'unmarried wives' in the words of the Law Minister—at least as an idealism. I cannot say that there will be no exceptions, and exceptions always prove the rule. Just as an individual must have an idealism, the law must have an idealism about it. I am humbly asking the Law Minister, "What is the idealism before you when you provide for share for illegitimate children? Are you taking away the effect of monogamy which you were so good to present to the House?"

SHRI H. V. PATASKAR: This is what I myself had pointed out.

SHRI K. S. HEGDE: Then, I submit that this is an error of the Select Committee.

SHRI H. V. PATASKAR: I am not in a position to say that. You can say that.

SHRI K. S. HEGDE: It is true that certain individuals will undoubtedly suffer, but is that the object of a legislation? It may be argued under the old Hindu law, illegitimate children were given either maintenance or a share. Under the old Hindu law we were allowed to marry any number of wives. We thought it to be wrong and we changed it. Today it is quite wrong to have more than one wedded wife and one might have—what word I do not know—'unmarried wife'...
SHRIMATI SAVITRY DEVI NIGAM (Uttar Pradesh): Nobody is saying that.

SHRI K. S. HEGDE: I only want you to say that loudly. Nothing more. This is a piece of legislation which will impeach the moral character of the nation and I would not expect this House to pass this piece of legislation whatsoever at all.

And now, I would like to deal particularly with clause 7 of the Bill with which I am personally interested in the sense that I come from a place where this part of the law is practised extensively. Unfortunately, in the Joint Select Committee there were probably no Members who were intimately aware of the position of the law existing in certain portions of West Coast. There were Members governed by the "Marumakkattayam law", but there were no Members who could speak about the *aliyasantana* law.

In the *aliyasantana* system, there was no right to claim a share in the property till the year 1949. So was the case in the case of *marumakkattayam* till the year 1932 or 1933—I am not quite sure which year it was. I may, for the information of this House, say that in the year 1932 a common Bill was introduced in the Madras Legislature affecting both the *marumakkattayam* and the *aliyasantana* laws—the laws being more or less similar in most aspect. The Bill was passed by the House. Then a deputation went from the South Kanara District to His Excellency and requested him that the *aliyasantana* people be separated and the provisions confined to others. His Excellency was pleased to remit back the Bill with a recommendation that the people governed by the *aliyasantana* law, might be separated. That is how a separate *marumakkattayam* Act alone was passed and the *aliyasantana* law was dealt with separately. After that several attempts were made to bring the law giving right of partition to the different communities governed by the *aliyasantana* law. It was only in the year 1949 that the present *Aliyasantana Act* was passed. Under the provisions it is only the branches that have been given the right of partition. Individual members have no right. The position of a male in the *aliyasantana* is analogous to the position of the female in the *Mitak-shara* system and males were given only a limited estate. Even under the old law as settled by the decisions of the court, the males are only entitled to maintenance or were given a share by contract or by agreement of all the parties. When a partition was effected it was on the basis of per capita division and that was the provision in the *Marumakkattayam Act*. In case of the *Aliyasantana Act*, a slight departure was made. The males will not be given an absolute estate. So also females without children were not be given absolute estate. They were given a life estate, but a share was recommended by adopting the principle of half *per capita* and half *per stirpes* think all these things were not before the Joint Committee when the draft regarding Clause 7(1) was considered. By this measure, we have now been thrown into a welter of confusion. I do not want to tire the House with the details of a system of law which affects only a few people. Undoubtedly, my only request would be that the hon. Law Minister would examine this matter with care and, if necessary, in consultation with the members governed by this system of law and the *marumakkattayam* system also, which are more or less common and try to bring in a measure which this House would be pleased to accept. I do not want to go into detail for this reason that it would be extremely difficult to explain the difficult provisions of this law to each and every individual Member of this House because they would not be familiar with it. It has got its own implication. Let me not be understood to say that I want these people to be excluded from the general *Hindu Succession Bill*. Far from it. I want that they should be governed by the
same Hindu Succession Bill as the other people would be. The only difficulty comes in regard to the transitional provision. How are we going to incorporate these people into the picture of a general Hindu Law? It would not be difficult if you are prepared to abolish this system root and branch. Otherwise, it would be difficult for this reason. You cannot have a patriarchal system and a matriarchal system and incorporate these two into one. Either both these systems will have to be abolished or at least one of them will have to be abolished. If you are fighting shy, to abolish the mitakshara system; at least give us the privilege and liberty to abolish the aliya santana system root and branch, and fit us into the picture and from this day onwards, we shall be one under the general Hindu Law; otherwise it will be absolutely impossible.

With these remarks, let me again give my generous support to the provisions of the Bill in so far as the share for the daughter is concerned. As to how exactly it should be shared, there might be a difference of opinion. The matter shall have to be further examined. I would also humbly request the hon. Minister to see whether he can find his way to bring into this measure other equally important provisions like the disintegration of the joint Hindu family system, the abolition of the right by survivorship and the abolition of the right by birth and take away the odium of the doctrine of pious obligation. If he cannot do it for any reason, at least the measure to the extent it has been brought must receive our support and the daughter’s share should undue: no circumstances be affected either in quantity or in quality. With these words, I support this Bill.

SHRI M. P. N. SINHA (Bihar): Mr. Deputy Chairman, much has been said in favour and against this Bill not only in this House but outside also. It is open to be so as it is a very important measure and is going to affect the society vitally.

Let us first examine this Bill further, which is a natural outcome of the revolution that has taken place in this country. A political revolution, in its wake also brings social and economic revolution, as we all know. We have passed a few very important pieces of legislation so far as the status of women in society is concerned. My regret has been that when those Acts were passed, distinction was made on account of religious consideration. That certainly offends against the fundamental rights of the people, who live in this country. When you legislate and also bring in the question of religion and province, certainly it does not look well. For example, in the case of the Widow Remarriage Act and in other Acts also relating to the rights of women, certain distinctions were made between Hindus, Muslims and Christians.

Well, that apart, I will now come to this Bill which is before us. We have had occasion to listen to some very interesting speeches made in this House. I mention hon. Members, Mr. Dinkar who comes from my province and Mr. Prithviraj Kapoor, the great actor. They are not here in the House just now, I believe; we were greatly entertained by the speeches of these two hon. friends.

Much has been made of a small thing. The point is that our Constitution grants equal rights to all people living in this country. Male or female, no distinction has been made there. Once that principle is accepted, any anomaly that exists or any difference that remains should be removed. It has been said that by passing this Act, there will be friction in the family, that the affection—the sweet relationship—of the brother and the sister will be affected and that the girls will be converted into boys the hon. lady Members of this House will also be converted into males. All those things have been said. But the point is: will that really be a fact? My own impression is that when you have <some property, you can be better respected than when you have to be at the
[Shri M. P. N. Sinha.] mercy of some other person. A girl in the family no doubt gets all the affection of the parents and her brothers, which she deserves. But I think that she will be more respected and the affection will grow from day to day if she has also better status economically and legally. Let us examine this point further. Suppose, there are four brothers and two daughters in a family. The four brothers have undoubtedly a share in the property. But on that account, their affection does not diminish. Does it? Well, in the same way, the affection between the brother and the sister will not diminish so long as other causes do not crop up. In that case, there will be dissensions and differences between the brothers and sisters alike. Therefore, it is wrong to say that on account of this, their affection will be lessened.

It has been said that a woman has to do this and to do that in the Hindu Society, and that women have always got a superior position. Is that so? Where people are not mindful of their duties the case is different. It has been said on the floor of this House that in the Hindu Society a woman has no better status than a serf. We all know the injunctions of Manusmriti. It says:

“Where women are respected, there gods roam about. Gods live there.”

(Where women are respected, there gods roam about. Gods live there.) This is our principle; our maxim of Life. We all want the gods to roam about our houses. We want the blessings of gods and that is our ideal. By lapse of time and on account of so many causes things have gone worse but the ideal remains. Therefore, it is very cruel for us, men, when our lady folk rise up and only abuse us. True, we have had some bad cases also. There have been bad cases of men, there have been bad cases of women also. Therefore, this Bill will not affect either the affection or the status of the boys or those of the girls in the family.

Regarding one or two particular provisions of the Bill, I have to say something. The girl must get a share in the property, but there is one thing about which I have to say something. This also amounts to getting a share in the dwelling house. Well, although I do not feel strongly about it, but probably it will not be advisable to give the married girl a share in the house property. If she is not married she must have a share and the right to dwell in the dwelling house. But if and when she gets married, then she should be given the price of her share by the other male members of the family, the brothers and others. On the other hand if the brothers are so nice and they want the sisters or the nieces to remain in the family dwelling house, all glory to them. Well, two friends live in the same house and live very comfortably and cordially but that should be so only if the brothers want it.

My friend Mr. Kishen Chand has said that if the girls are given shares in the property it will be very difficult for them to manage the business or the cultivation which they inherit. I am sorry he is not here. Does he not know that women and girls are best sellers? They manage business better and the sales are more brisk. Regarding cultivation perhaps he does not know that at least in the part of the country from where I come—that in the lower strata of the society or even in the lower middle class families women-folk have a great hand in the raising of crops and cultivation of land. In fact, I think they do more work on the fields than the men-folk who go and work in the factories or some other big towns to earn their livelihood and supplement the income of the family. If he means big cultivations, then the men-folk there do not work with their own hands. The lady proprietress of big farms will engage labour just in the same way as the male farmer. I do not think there is much weight in that argument.

Then, Sir, I have to say something about illegitimate children. In
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Nopinion the illegitimate child should also get a share. Sir, a child is born in this world by certain acts of a male and a female. What is the fault of the child? If the child of a lawfully-wedded pair gets a share there is no reason why this child, who is not at fault for its coming into being, should not get a share. It has been said that if illegitimate children get their share illegitimacy will increase. Here also I do not agree. My own impression is that the moment a man realises that by bringing forth illegitimate children he will be diminishing the share of his legitimate children he will be more cautious and more careful about his own acts. Today what happens? A man, who has no sense at all and has a concubine, goes on producing children thinking that he has no duty towards the orphans because his own children will not be affected. But if he knows and realises that by his own act he will be affecting the interest of his legitimate children he will be more cautious and perhaps this in itself will prevent that kind of acts which produce illegitimate children. So that provision should be retained.

I then pass on to two very important points. I do not know—I was not here the whole of the time—if some of my friends have had much to say in this regard. In clause 26 it has been said that if a widowed daughter-in-law remarries before the inheritance opens, she will not get a share. Personally I am inclined to disagree. My objections are not very serious because after all that woman who has come to a particular house was there for a short time only and has completely severed her connection after her remarriage. Ordinarily I think that it will put a sort of hindrance in the remarriage of the girl before the inheritance opens, she will not get a share. Personally I am inclined to disagree. My objections are not very serious because after all that woman who has come to a particular house was there for a short time only and has completely severed her connection after her remarriage. Ordinary, I think that it will put a sort of hindrance in the remarriage of the girl but then it will take some time before the society thinks seriously of it. My serious objection is to the retention of clause 28 of the Bill which provides:

"Where, before or after the commencement of this Act, a Hindu has ceased or ceases to be a Hindu by conversion to another religion, children born to him or her after such conversion and their descendants shall be disqualified from inheriting the property of any of their Hindu relatives, unless such children or descendants are Hindus at the time when the succession opens."

That is to say, you will lose your share when the inheritance opens by changing your religion. Sir, in the Constitution it has been provided that in the matter of religion no distinction will be made. Every man will be free to hold his own religion or to a conversion of religion. Here you are putting some sort of hindrance in the matter. Religion is a matter of faith and there should be nothing which will stand in the way of a man for holding a particular faith. Sir, may I ask why a man is converted into another religion? To be more concrete, take the case of a Hindu who becomes a Christian or a Muslim. Why does he do so? In most cases by reading their scriptures or by listening to the prophets or by thinking over the process, he thinks that he will have certain advantages in this world and the world beyond. It is on account of so many things that come from faith that he changes his religion. Take the case of a boy who is born a Hindu but then becomes a Christian or a Muslim because of the change of the religion of his father. Well, does he lose all the affection of the parents on account of that conversion?

Shri H. D. RAJAH (Madras): Certainly he does.

Shri M. P. N. SINHA: He does not. In certain cases he might lose. He may continue to be helpful and affectionate to the parents even after their becoming Christian or Muslim. Therefore it does not look well in this new age to take away from him the usual rights and privileges on account of his holding a particular religious faith.

Shri H. D. RAJAH: Then you plead for a civil code and not for this Hindu Succession Bill.
SHRI M. P. N. SINHA: That is a different matter. If I had my powers, I would have done away with all these different Acts and I would have had only one Act for all men and women. My point is this that simply because a young man becomes a Muslim or a Christian, he should not lose all his rights and privileges in the family where he was born. That is an offence against the principles laid down in the Constitution. I should have full freedom to propagate my religion, and I should have freedom to ask people to embrace my religion. I have got every right to propagate my religion in this country because that is allowed by the Constitution itself. This clause will offend against fundamental rights laid down in the Constitution. A man has every right to choose a religion for himself. It looks as if you want to bestow all your affection only if your son or your daughter has the religion of your choice, not of his or her choice. This is not a sound principle. Therefore, I say, Sir, that this clause—clause 28—should be deleted. I would request the Government not to have any halfhearted measures. Sir, so much storm was raised over the Divorce Bill or the Hindu Marriage Bill. I told them then and I repeat it now that those Acts will never affect the relation of a real husband and wife. We have a certain philosophy of life; we have a certain culture and we have certain things inherent in our blood. A Hindu lady is so strongly attached to her husband that she will not divorce her husband by the mere passing of such measures. Such measures are useful only to those who are living the life of a cat and a dog. In such cases it is better if they get a divorce. Similarly I say that by passing this measure there will be no lessening of affection for sisters. On the contrary there will be an improvement in the relationship. And nothing should be introduced in this Bill which will offend against the fundamental principles laid down in the Constitution. I find the Government always bringing in half-hearted measures. I do not accuse them, because that is bound to happen where people have divergent views and where they have to go forward with caution. But I feel that it is for the hon. Members of this House to strengthen the hands of the Government by giving their support in a matter like this. This is a sort of socio-economic reform, and in this matter I think the Government should feel that they have the support of most of us.

Then, Sir, there is another thing to which I want to draw the attention of the hon. Members of the House. In clause 30 it has been stated as follows:

"No person shall be disqualified from succeeding to any property on the ground of any disease, defect or deformity, or save as provided in this Act. on any other ground whatsoever."

Well, you can compare this clause with clause 28. What is the general rule today with regard to mitakshara families? If a person suffers from, say, leprosy, or is absolutely dumb and deaf, well, he won't succeed. Here you say that this will not be any bar to his succession. But in the same breath you say that if she or he has changed her or his religion, she or he will not get a share. I therefore most strongly support clause 28 of the Bill.

Sir, several hon. Members have spoken for and against this Bill. In my opinion this is a measure whose introduction has been rather delayed. But better late than never. I must congratulate the Government for bringing forward this Bill, and I support this Bill wholeheartedly.

SHRI C. P. PARIKH: Mr. Deputy Chairman, this is a very important Bill because it aims at the social progress which had been lacking in the past, especially in the dark ages of the Mohammedan rule and the British rule. The wrongs that our society had perpetuated on our females in India have been thought fit to be rectified. I see, Sir, that the title of the Bill is given as "The Hindu Succession Bill".
But I would have liked the title to be "The Hindu Property Bill", because we must examine the lot of married women in this country before succession. According to this Bill the rights of female heirs are recognised only at the time of the death of the father. Now the age of the father may be 36 years and that of the girl may be 18. Now it is very likely that before the father's death the girl might have reached the age of 50, and till then she does not derive any benefit owing to this Bill. Our Hindu law does not confer any benefit on married women in our society. That is the main thing, Sir. I have seen examples where sons are rolling in wealth and the womenfolk of that very family are practically—I am not saying 'starving' but—suffering from want of facilities for education and medical facilities for their children. I think that that state of affairs is now sought to be cured by this Bill. Our Hindu law does not confer any benefit on married women in our society. That is the main thing, Sir. That state of affairs is now sought to be cured by this Bill. I say, Sir, that at least to the married women you should have given part of the expenses which the family incurred every year. I will explain this point. The family has a certain income and a certain expenses. Now the expenses are incurred on those who are living in the family, I mean the sons, the sons' wives and the unmarried daughters, not the married daughters. The married daughters are living in other houses, and the expenses incurred in their husbands' houses may not be adequate enough for the maintenance of their children or for their training and medical facilities.

I think that it should therefore be laid down that a part of the expenses which the family incurs should be given proportionately to the married daughters and their children according to the share which will accrue under the Bill which is now sought to be passed. Therefore we are giving to our female heirs too little in one respect. Therefore, I say that in regard to this some provision should be made at this late stage even or another Bill may be brought forward shortly in order that married daughters do not have to undergo a lower standard of life, a much lower standard of life, when they get married. This should not be U't sight of. What is the use of giving property to them after 32 years of their marriage, when they may be dead. They might have passed their whole life in misery.

SHRI J. S. BISHT: A son also will get it only after the father's death.

SHRI C. P. PARikh: But the son lives in the family, enjoys the income of the family, while the married daughter goes to another family, where she has to reduce her standard of life to one-tenth or even to one-hundredth of her previous standard of life.

SHRI J. S. BISHT: She may go into a richer family.

SHRI C. P. PARikh: Whether richer or poorer, this is the lot of the married daughters.

DR. R. P. DUBE (Madhya Pradesh): Whose fault is it?

SHRI C. P. PARikh: The fault is that of our society, because we have not laid it down that she should get her due share of the expenses. I would like to explain that a married daughter will get her share of the corpus only when the father is dead. Till then she does not get anything. That is the point. It should be incorporated in this Bill or in some other Bill that she should get her proportionate share of the value of the family’s expenses.

While saying this, I will also say that the share which is now thought fit to be given to the female heirs is a little too high. Now, we are giving her a full share, while in the original Bill it was only half a share. I have no quarrel with giving a full share to married daughters, but let us understand the implication of giving to a daughter a share equal to the son. First of all, we must understand
that a married daughter enjoys benefits from two families, the family of the husband and the family of her father. The property, which a married daughter will have, will be according to her share in the husband's family; in addition, according to this Bill, at the death of her father, she would also get a share in the father's property. Therefore, she has a double advantage, having property from two sources. Therefore, naturally her share should be only half.

There is another aspect to the question. In a joint family there is common property and common income, and all the sons are working for the family and contribute to the income of the family, whether they be wage-earners, whether they be in the professions, whether they be in agriculture or industry, or whether they be in service. All the sons contribute to the family income, while the married daughter goes out of the family. She does not contribute anything towards the income of the family. (Interruptions.) If the hon. lady Members get up and ask me any question, I can always answer them, because I don't understand their interruptions.

DR. SHRIMATI SEETA PARMA-NAND: Supposing a son is not earning at all but is only wasting the family's money.

SHRI C. P. PARIKH: The lady Member should not forget that the whole Indian society has continued to exist because of the joint family system. The poverty of India which is very distressing, has been borne because of the joint family system. Mr. Hegde may say anything, but we have often seen that a single wage-earner in the family supports ten persons in the family.

SHRI C. P. PARIKH: The lady Member should not forget that the whole Indian society has continued to exist because of the joint family system. The poverty of India which is very distressing, has been borne because of the joint family system. Mr. Hegde may say anything, but we have often seen that a single wage-earner in the family supports ten persons in the family.

SHRI C. P. PARIKH: Yes, even now, they live so in most cases.
the people of India. In a joint family, it has often happened that one brilliant boy has come to the rescue of the whole family. I think that should not be forgotten.

Now, I come to the widow's share. Under the Bill widows without children will also get a full share. There should be a difference made between widows without children and widows with children. Widows without children should not get a full share as is made out in clause 10 and Class I of the Schedule. Widows, if they have children can get full share. Widows, when they have no children should be given only one-third of the share which their husbands would have acquired if they were living.

SHIRMATI LAKSHMI MENON (Bihar): What about sons without issues?

SHRI C. P. PARIKH: Sons can have issues after even 40 years.

SHIRMATI SHARDA BHARGAVA: Widows can also re-marry.

SHRI C. P. PARIKH: If the son is 60 years and has no children then naturally he gives all his property to his brother. That is the society in which we live. Therefore widows without children should get only one-third share.

Now mother is included in Class I but I think, along with the father, she should be in Class II. Because if his process is maintained, then mother will be receiving a share from each son and if there are four sons, she will receive four shares.

DR. R. P. DUBE: What is the basis that all the four will die before her?

SHRI C. P. PARIKH: That has happened. What is the use of giving the mother more share in order that the division is greater and greater? It should be reduced. It is happening in England that there are rich widows and so many people are running to marry rich widows. That should not happen in this country, in order that our morality, our social status and our women's position which have been adored and revered in foreign countries and in the whole world as an example may be maintained with all the strength. I have already said that in the joint family system, even though the sons are not staying with the father at present—and the joint family system has been tottering to that extent—still, they are co-operating with them in agriculture, commerce and industry because they know that if they divide, naturally each one will have to be a wage-earner and if they are in one business and if they pool their energies, it will be like a co-operative society within the family and instead of being in the hands of another, they are in the hands of the father. If in the joint families the sons may not be living together at present, that may be on account of so many ladies not agreeing to stay and live together. After the Independence, we have lost reverence for the elders. That should not be denied. Owing to the political thought which we have got or owing to the contacts with foreign countries, we have lost reverence for our elders. That should not be denied. If we see the practical side we will see that even though the sons are staying separately, the business, whether in the field of agriculture, trade or commerce or industry, they join together because the greater advantages are by pooling all the sources and the resources are there greater when all the sons and other sharers put their resources together.

Now I come to the share of the predeceased daughter. Now her share should be reduced by further half i.e., the daughter of a predeceased daughter should get one-fourth but not half. The reason is this. She belongs to three families—the family of the daughter's father, the family of the mother and the third may be her own. She will derive the benefit from three families. Therefore her share should not be as stated in this Bill.
Another thing which is there in this Bill and which the Minister for Legal Affairs has admitted is that divided sons and undivided sons have the same rights in succession. This is again a blow to the joint family system. Practically under the mitakshara law, a person is entitled to partition and he gets his full share. After getting his full share, if he is to be given a share according to this Bill at the death of the father, I think we are asking all the sons to get division of the property immediately they attain majority. Because what will happen is this. When the father is, say about 40, the son may be 20 and the son knows that between 40 and 55, the father may have more children and naturally his share will be reduced, particularly when the shares are to be given to female heirs also and so he will know that it is better to get out of the family in order that he would get more share than the daughters.

DR. SHRIMATI SEETA PARMA-NAND: Why not have dayabhaga for the whole country?

SHRI C. P. PARIKH: I would advocate that if necessary. I would say that even under the mitakshara system if a son is born and he asks for partition, he should not be allowed whole share but should be allowed only half share and after the death of the father, he may be entitled to the other half share. He may be allowed to separate but be given only a half share and not full and at the death of the father he may have the balance of the share. At present it is very ridiculous to understand the Bill in the way in which it is framed and presented to us that a daughter will be getting double or treble the amount than a son—an undivided son—who is staying in the family. May be that the implications of this are not fully realized. Why should the implications be not realized? Because, so many Minutes of Dissents are there. 12 out of 45 Members have dissented on one issue or another. This is very important and I think it is no use rushing through this Bill without proper discussion in this House. This House is a revising Chamber. It should not be forgotten. We should not pass a measure in hurry and leave to the other House to find many loop-holes which we may have left. Therefore, it is very necessary that we must go through this Bill very carefully, even if more time is taken so that we may put it on a sound basis which all may accept.

With regard to absolute ownership, I say that although absolute ownership to female heirs is very necessary, it is essential, so long as those females have children. They should not be allowed to alienate that property in their husband's family or in their father's family unless for charitable purposes. Three courses must be open to them. First is, they can give the entire amount to charity. Secondly to a single heir in the husband's family or in the father's family because if the widows are not cared for and if some son or daughter in the other family takes care of them, then they may give the whole property. That does not matter but at least that property should not go out of the family and that restriction should remain if the females have no children. This is necessary on this account that our social status and dignity of women and the credit that we have acquired for this country on account of our women's status in the past as well as in the present, should be maintained. Otherwise so many persons will be running after the widows to marry them. That is the whole thing. The sanctity of the family life will also go. This is borne out by this fact that under clause 26, if the widow remarries, she is not entitled to a share. That by itself says that if the widow does not remarry and has no children, then the property should go within the family of her husband or father.

(Interruptions.)

[THE VICE-CHAIRMAN (SHRI H. C. MATHUR in the Chair.)]
PROF. G. RANGA: You want to condemn her?

SHRI C. P. PARIKH: Then I don't know how we have made a provision to give full share to illegitimate children. I think by this we have practically scrapped the whole measure of Hindu Marriage Act in which monogamy was, for the first time, after so many years of oppression, sanctioned in this country and we were now giving a go-by to it practically. Members of this House may be aware that certain persons, even though they have good wives, are running after others. Even though these men show great outward respect outside, for their wives, still they run after other women, like dogs. Now, what is the present position? At present illegitimate children have no right to property, they have only the right to maintenance. But according to this measure, we give them full share in the property. Therefore it is a sort of a sanction to those ladies who are hankering after wealth to trap certain persons or to allow certain persons to trap them, it is vice versa. The whole position is, these illegitimate children..................

DR. SHRIMATI SEETA PARMA-NAND: The hon. Member was showing so much pity to the daughters in the beginning. I do not know how he is consistent in making these remarks now.

SHRI C. P. PARIKH: My hon. friend the lady Member has, I am sure, intelligence enough to understand the consistency of my remarks. At present illegitimate children are not recognised and so these men are not bringing those ladies or those children into their house at present. They are doing all their transactions in a secret manner in order that society may not blame them. But once this Bill is passed and becomes the law of the land, those ladies will actually begin to stay in the very same house, as nurses or companions, teachers or in so many other different ways. And their children also will come into the house. Therefore, if we pass this measure, there will be sobs and tears not only among the married wives, but also among the children. I would like hon. Members to realise what wrongs we are perpetrating on Hindu society in this manner, when we profess to reform it. At present, wherever men are having illegitimate connections, their homes are not happy. Their married life is not happy. Their wives and their children are always neglected, when the men return home late at night. And hereafter, those persons will bring these ladies into the very house and so, as I said, the sobs and tears of the wives and children will be increased, I think, ten-fold. And the sin of that will lie on the Members of this House and the other House who will be parties to the passing of such a Bill.

I am glad the Minister for Legal Affairs has said that he himself is not confident whether this is the correct position.

SHRI H. V. PATASKAR: The hon. Member takes a bad view of society.

SHRI C. P. PARIKH: Regarding clause 32, the hon. Minister says that the matter may be examined. According to Mitakshara law, no will can be made of ancestral property. As long as no will can be made, we have to take conditions as they are and it is no use going on pious wish....................

SHRI H. V. PATASKAR: I think the hon. Member is in favour of giving the power to make wills, to the joint family, I suppose.

SHRI C. P. PARIKH: If the father wants to make a will he will make the will for his sons giving to them equitably and fairly. The father will give the property to the sons and not to outsiders, even though the son be lame or blind.

DR. SHRIMATI SEETA PARMA-NAND: Does he leave anything for the daughter in his will?
SHRI C. P. PARIKH: The daughters will be there always, especially when this Bill is passed. The daughter will get a half share and the psychological effect of all this in the country will be there. They will be treated by the father during his life time much better, than they are being treated at present, because the daughter is to take a share in his estate after his death, so he will think, "Why not give her better chance during my life-time?" This Bill is meant to rectify the wrongs which were perpetrated on the daughters.

Now I come to the right of preemption. It is said that he who offers the highest price will be preferred. But I think preference should be given to the son and among members of the same family there should not be any competition. I also submit that the court's award should be final and binding and to those who wish to buy a property, ten per cent this way or that should not make much difference. There should be no auction. No one should try to become richer by depriving his brother of his own share. One brother may be in a position to pay a higher amount and the other may not be. The reasonable decision of the court should be accepted and it should be binding. I actually feel that arbitration would have been quite sufficient, instead of bringing in the court here.

As regards agricultural property, that is a very important subject which, of course, will be taken care of by the different States when they legislate their Tenancy Acts and the measures dealing with consolidation and prevention of fragmentation of holdings. »

These are some of the observations that I have to make on this measure and with these remarks I support the motion.

SHRI H. D RAJAH: Sir, I am grateful to you for giving me this opportunity to make a few observations on the subject of this Bill. I want to throw my entire weight in favour of this Bill, minus ten pounds, because as you see me now, Sir, I am weighing some ten pounds less than before. Well, I am in favour of the ladies as I am in favour of every human being in the world. I should like to congratulate the Government on their sagacity and political wisdom for having introduced this Bill which confers on the women in Hindu society equal right in the property of the parent. But they have so timed the Bill that by the time this Bill is passed with all the provisions in it, there will be no property left. You see, on the political plane we have decided on the setting up of a socialistic pattern of society. And with that background we called all the ladies who were agitating, shouting and demanding a share in the property and said to them, "You come here. We are going to give you property". That means that by the time the Bill becomes the law, these women will face emptiness and nothing else. That is one aspect of the problem.

The second aspect is this. We have so far developed the idea of a clannish life, with all this tall talk of democracy and constitution and equality of rights for women and all that, still in our outlook, in our actual life we are primitive and tribal. You see how many provisions are incorporated in this Hindu Succession Bill? You have in it: The Aliyasantana law, the Mitakshara law, the Dayabhaga law, the Marumakkattayam law, the Nam-budri law, the Travancore Nanjinad Vellala law, the Travancore-Cochin Kshatriya law, the Travancore Krish-nanvaka Marumakkathayee Act, the Cochin Marumakkathayam law and so on and so forth. And not being satisfied with this tribal outlook, see what a primitive outlook we have on society. My hon. friend here Mr. Sinha wants to give the right to every Hindu who becomes a Muslim to get his share of the property. So not only does lie leave the sect to which he belongs, but when he quits, and takes on another religion, he will take away some portion of the property.
that was left by his ancestors. Look at the crude way in which people begin to think of life and of themselves.

Sir, in every civilised country, where I have gone and seen, women are not inferior in status in whatever field we take but, they are equal and more assertive and are having their share by virtue of the law of the State. The law is framed in such a manner that there is no distinction between a man and a woman in the eyes of law. If it is a question of voluntary partnership, there are certain regulations to which they should conform. What more? In a decent civilised society, if a man and woman live together as husband and wife for a period of three years, they are deemed to be married people. There is no obligation on the part of these people to go even before a registrar or a purohit or a pandit to get their marriage registered or solemnised. The law is so elastic there. After all, the law is made to regulate society and if people voluntarily regulate themselves and lead a life of a decent citizen, law has no place there. Look at the way in which so many inhibitions have been made in this Bill; there is the child, the child's child and the child's child's child and all that sort of tribal idea. This is a tribal idea and way of legislating for three generations which will mean roughly about 150 years with the socialistic pattern on the top. This incongruous way of life is not what a decent Parliament will do, if we can help it. Unfortunately that is not to be. The rights of men have been so much obsessing the women that even if the equality of status was conferred upon them by the Constitution they feel inferior and want to assert their right by means of a law. Why should these men in this House feel so chary about their better half or the worse half?


SHRI H. D. RAJAH: The half is the same anyway. They are having it always to themselves. Give it with grace. I appeal to my fellowmen here not to fight this way and that way but to give ungrudgingly and wholeheartedly. I know of instances where women of wealthy families cynically steal from their sons because they happen to stay with their sons and give the money and things to their daughters who are married in other houses. The same process repeats again when the daughters-in-law come; their mothers cynically commit theft of the sons' fortunes and properties and pass them on to the daughters. All these monstrous things in life will disappear when you confer a right by birth on every child born in a house irrespective of the sex of the child. This is pure paternal instinct. I cannot make a distinction between my daughter and my son. If I buy some little piece of jewellery and adorn it on my daughter, I spend twice that money on my son's education. If I want to get my daughter properly married, I spend an equal amount on my son's higher education. Therefore, a parent cannot think in terms of differentiation between his own progenies. Of course, there is this difficulty. There is this Mitakshara law which confers a right only on the male members born in a family. I asked this morning of my learned friend and legal luminary, Mr. Pataskar, as to what happens with regard to clause 6. He himself said that the Mitakshara family is not much impaired by this law. Again there is some seclusion. I want a law which will cover all humanity, a simple code giving the rights to people as a whole as to how they should inherit property, as to what should be their position if any property is at all left. We should not have a law in which invidious distinctions are made which will be the hunting ground for lawyers to make money. If, in spite of the socialistic pattern of society, anything is left, that will be divided ungrudgingly between all the lawyers who would interpret this law. The women or the men or the children of the family will be completely at the mercy of these racketeers who will create litigations throughout the coun-
Shri H. D. Rajah] try; they will have lot of things to do and will have lot of scope due to the difficulty on our part to interpret this complex legal affair.

There is a provision in clause 3(1) (j) about illegitimate children. I happened to read the minute of dissent of Dr. Barlingay—I am sorry he is not here—and I think there is some sort of truth in what he says. He says that illegitimate children are allowed to have a share of the property by this provision but it has a bad effect also. "This would seem to be contrary to public morality and this could hardly be said to be the intention of the Committee". If a woman, due to economic conditions, leads a very different life—I do not want to name that word here—and if she remembers that a particular man is the father of that child, that child has a right to the property of that man according to this Bill but then there is that fundamental differentiation between a man who keeps a woman or a man who goes to some public woman and then begets a child. There is no such distinction with regard to this. We have passed a law by which we have made a provision making monogamy compulsory on every Hindu. I should like to ask, "How far does this piece of legislation go with that provision in our marriage law?" This is inconsistent with that decision by which you recognize a particular aspect of life of a man with regard to the sharing of his property while you compulsorily make him lead a monogamous life. Better learned people will consider this and give proper ideas and information about it.

There is only one other important matter and I am done. When this piece of legislation is enacted into law, it will again create and perpetuate a differentiation in our country in the form of Hindus and others. Now, I would ask in all earnestness, "How long will it take for us to bring about a simple law which gives the fundamental principles as to how a citizen of this country—not a Christian, not a Jew not a Muslim and not even a Hindu but a citizen of India, a citizen of this great Republic—will adjust his monetary relations, how he and his children will share the property and what will be the method by which that sharing will take place while allowing him to live a peaceful life in this country? How long will our Government take to bring in a Law of that nature which will command the uniform support of every patriotic Indian in this country irrespective of the creed to which he belongs?

With this question, Sir, I wholeheartedly support this Bill with all its imperfections and I wish the women of this country a great future.

PROF. G. RANGA: Mr. Vice-Chairman, I am all in favour of this Bill in its essential aspects. I am very glad that from every quarter of this House approval has come to the main principles of this Bill, namely, that women should be treated equally with men in regard to the division of properties that our parents are to have and are having. There was a time when in the previous Houses of legislature there were advocates of orthodoxy in this country who were so bitter against any kind of reform that, with the support of the then Government, they were able to hold in any such piece of legislation. Fortunately for us, we have had a different leadership in the Government during the last eight or nine years and in spite of the dynamic support given by the Prime Minister, we have had to wait for all these eight years before this Bill could come to this House and before such more or less universal support could be given to it. This is due to the need for preparing the public opinion in this country and I am sure, Sir, the House as a whole welcomes this very welcome change in the public opinion of this country. It is, at the same time, necessary for us to examine why so much of support is being given to this Bill now whereas in the earlier stages it was
not so. Some of our friends, including my learned friend, Mr. Hegde, spoke against the introduction of the mitakshara system in this Bill. I am inclined to think that so much of this support given to this measure today has been forthcoming because this principle has come to be incorporated by my hon. friend, Mr. Pataskar. They have quoted many authorities both of the past and also of the recent past in favour of the abolition of the principle of mitakshara. They all very distinguished names. Unfortunately for us, although my hon. friend, Mr. Pataskar, does not claim to be as great a legal luminary or a religious authority as the past authorities had been, it has been given to him to devise this very ingenious method of reconciling within the same system of law both this new principle of treating men and women as equals in the eye of law in the matter of distribution of property and also this age-long principle of social security and social insurance which we have had till now in the shape of the mitakshara principle in property.

Sir, I am not very particular whether the old joint family system continues to function in the same old fashion. What I am particular about is this that the property inherited by any individual should not be disposed of by that particular individual at his own sweet will and in an arbitrary manner if he so wishes, but that that particular property should be treated as a social trust and should be handed down to his progeny, as it has been the practice in the past in our country, to his sons, and from now onwards, if this Bill becomes a law, to all his children, both boys and girls. That is the main principle.

SHRI J. S. BISHT: How will you prevent it?

SHRI H. P. SAKSENA (Uttar Pradesh): He wants it to be continued.

PROF. G. RANGA: I want it to be continued.

SHRI J. S. BISHT: But then how? I may just explain my point to my hon. friend. Suppose a man has got three sons and say two daughters. The moment, this law is passed this is what will happen and in fact it is already happening, as I hear from my friends, namely, people are making wills and other arrangements in anticipation. But what will happen is that the three sons and the father will divide it among themselves, partition it. So each man comes to hold the same position as if it is self-acquired property. Then this idea of ancestral property disappears, and then he can will it off. How can you prevent this?

PROF. G. RANGA: Well, Sir, it comes to this. So far as the present properties are concerned, if a formula can be devised by which this kind of anticipatory mischief can be prevented, I would certainly welcome it. But just let us look at it for the future. Suppose today I am in possession of a lakh of rupees worth of property and I have four children, two daughters and two sons. Each one of them gets Rs. 25,000 worth of property after my death. Then, that son of mine, anyhow after this law is passed, will not be able to do away with that Rs. 25,000 irrespective of the interest of his children. That is the most important thing. This is not being made for one generation. It is being made for any number of generations, successive generations. It only means this that the grandsons and grand-daughters of a particular person are safeguarded and are assured of a particular share in the property of their grandfather. Now is there anything wrong in that? It may not be necessary if you were to have social security in this country. As one of our friends had put it, if we have all the social securities and all the social services that we find prevailing in richer countries and more prosperous countries, then all these safeguards might not be necessary.

SHRI J. S. BISHT: Are the Bengali Hindus governed by the dayabagha
PROF. G. RANGA: That is no reason why the benefit that I am having is to be taken away from me and three-fourths of this country has been having this particular benefit. Now I cannot understand why merely because the other one-fourth of the Hindus have not been any the worse off that this particular benefit should be removed from those three-fourths of the people. And who were the people who wanted to remove it? Those people who made their own fortunes, who developed such tremendous faith in their own qualities of making money and built up their own properties and their own fortunes and they began to ridicule the whole system. No doubt those were great lawyers, eminent lawyers, who were quoted, and when those quotations were being given, Sir, my mind was going over certain of the passages, which were similar passages, that I read in a book called 'Religion and Capitalistic System. Rise of Capitalism' by R. H. Tawny, an eminent British socialist, who was in European civilization, who pleaded for similar laissez-faire, similar individual property, similar dictatorship of the father over the disposal of the whole of his property, self-acquired as well as inherited property. It was the capitalists; it was the Calvinists; it was those people who pleaded for it, who wanted capitalism to have full sway in the West, who pleaded for this kind of system so that all these people could go free to go and acquire as much property as possible and then dispose of it in whichever manner they liked to do so that capitalism could grow, could progress. That was the system. It is no good. Those eminent jurists who had been quoted were too much influenced by a man called Bentham, who was the high priest of the English system of laissez-faire, the English system of Darwinism, when it comes to it. Now, we were not wedded to that system anyhow. We, on the other hand, are trying to skip over it and progress towards social security. That is the essence of what we call 'socialistic pattern'. We would like really to assure some kind of social security to the whole of our population. If we cannot do it, if on the other hand only 15 or 20 or 30 or even 50 per cent, of the people are having only a modicum of it today, I do not see any reason why we should deny them that. That is the gravamen of my charge anyhow against those gentlemen who are pleading for the universalisation of the so-called daya-bagha system.

SHRI J. S. BISHT: With the abolition of the zamindari............

PROF. G. RANGA: If you are in love with the dayabagha system—my friend comes from the Kumaon area, which is somewhere there in some corner of this country—you are welcome to it. If my Bengali friends want to have their dayabagha they are welcome to it. I do not know why you should impose that on me; I cannot understand this.

DR. SHIRIMATI SEETA PARMA-NAND: How can you then have a common civil code later on?

PROF. G. RANGA: My friends ought to realize one thing. If a father were to be given complete freedom, as it is now under the dayabagha system or whatever it is, to dispose of the property as he likes, as our great national leader, ex-President of the Congress, Sri S. Srinivasa Ayyangar, the eminent jurist, wanted to confer upon him, he disposes of it; he becomes a dictator. There would be nothing left either for the girl or for the boy to be taken. He can play mischief. My friend wants to help the unmarried mother. Who knows, this kind of fellow may hand over everything to an unmarried mother and her children to the detriment of the children of his own legally acquired wife.

SHRI H. P. SAKSENA: 'Unmarried mother', what do you mean by it?
PROF. G. RANGA: One who becomes the unmarried wife of somebody, not legally married, and if she gets children she becomes the unmarried mother of those illegitimate children. It comes to two sides of the same coin, but he brings in another complication. Now under this daya-bagha system an unscrupulous husband, who goes against law, who does not care to observe the rule of monogamy, who is unashamed to degrade another unmarried woman to the status of an unmarried wife, that man would then play this mischief with his own married wife, with his own legitimate children and then give away all the property, not only self-acquired property—self-acquired property, one can understand—but his inherited property also. I say 'No' to this. We should not allow this. We should not give scope to this kind of mischief. So many other things can be, said in favour of this mitakshara system. Now I do not see any reason why it should be abolished. I do not see any reason why you should insist on those of us who believe in a certain form of life to get rid of it unless you are really in a position to lay firm foundations for the establishment of social measures here so that the children and grandchildren of various other people also can be assured of some protection.

SHRI J. S. BISHT: Do not apply it to the mitakshara family at all.

PROF. G. RANGA: My friend says, 'do not apply it to the mitakshara family', and then hon. lady Members would begin to say that this law would be confined only to Assam, Bengal and Kumaon and nothing else. They will ask, 'what about the rest of India?' I cannot understand why this sort of stomach-ache comes in for these friends when we try to give some protection for our grandchildren. Actually, Sir, I do not gain anything as father. My sons would be gaining because of my father's property. He wants me to have an additional power over that. But I say that I do not want to have any additional power over my father's property; my sons must have the power; my daughters must have the power.

SHRI J. S. BISHT: What will happen to the daughter?

PROF. G. RANGA: The daughter comes in along with the boy. Her son also will have the same right if you want to give it to him.

SHRI J. S. BISHT: Why are you making this distinction between the son and the daughter? You are very particular about the son's sons but......

PROF. G. RANGA: I am merely mentioning it. Son includes daughter according to me because we make no distinction today between the two. I am clear in my mind that so far as the present generation is concerned.

(Interruptions by Dr. Shrimati Seeta Parmanand.) Anyhow, the hon. lady Member is not going to get anything from her father because she is already old enough.

DR. SHRIMATI SEETA PARMANAND: One does not worry to have legislation for oneself.

PROF. G. RANGA: I am only concerned with the daughters and sons of the present age and those of the future. My son and my daughter must have the right as per law to equal partition of my father's property. Whatever I have acquired from my father I have no business to alienate it without their permission. That is the essence of the mitakshara law.

SHRI H. C. DASAPPA: May I put one question to my hon. friend? When you saddle the son's rights so far as inherited properties are concerned with this kind of encumbrance, namely, that he cannot alienate his property as he chooses because he has children, why don't you saddle the rights of the daughter also with the same kind of encumbrance?

SHRI J. S. BISHT: That is exactly the point. Why do you make a distinction?
PROF. G. RANGA: I make no distinction at all. Now, here is one lady *L'. She acquires Rs. 10,000 worth of property from me, her father. Now, this 'L' comes to have two children, a son and a daughter, and these two should have the same right over whatever she gets from me. Certainly; if it is not there, you ask for it.

SHRI H. C. DASAPPA: It is not there.

PROF. G. RANGA: What you have in it, you keep it. If you want something more, you ask for it. Merely because you do not have all that you want, for God's sake do not get rid of what you have in it.

SHRI J. S. BISHT: Then logically make the daughter a coparcener with right of birth.

PROF. G. RANGA: Right of birth? Do it. What I am concerned with is only this. Just at present you are asking for very much more. Merely because I have asked for some little thing, you say, 'Why don't you extend it to this and that?' But who prevents you from doing that? So far as mitakshara law is concerned..............

SHRI J. S. BISHT: It is all very complicated and it................

PROF. G. RANGA: I know it is very complicated and that is why for the last several years this law has been hanging fire. And for the last 15 years you have not been able to make a law here in spite of all the modernised legislatures. And it has needed the Maharashtrian ingenuity of my friend Mr. Pataskar to quietly put in this ancient principle here so that the new legislation can pas, muster. That is how he has done it and I congratulate him to the extent that it prevents mischief. If, however, my hon. friends are not satisfied with this alone, then for God's sake do not run down the whole thing.

SHRI H. C. DASAPPA: The daughter can be trusted to safeguard the properties of the children much more than the son. That can be a good enough reason.

PROF. G. RANGA: I am not going to argue between the daughters and the sons. I am very clear about one point and that is, it would be wrong for anybody to say that merely because the daughter gets married and goes into some other family and she becomes a partner in the property of the other family, she should be given half a share. I do not think that that is quite correct. Wherever she goes she takes this property with her and that property along with whatever other property that comes in because of her marriage is available to her children. We are thinking not only of a particular daughter. The daughter is only one person but she becomes a personality according to our law and in our society because she becomes the prospective head of a family and that family is going to be benefited. What does it matter whether that particular portion remains with the sons or with the daughters? Anyhow it comes there into the family.

Now, the third point is this. I am not at all in favour of this unmarried wife, her children and so on. It is likely to lead to all sorts of complications, especially with the political quarrels in our country. Is anybody quite sure that he is not likely to be inveighed by some of his own political opponents—not man or woman—that there is somebody there waiting for him to ask for a share in his property? And who can be quite sure that merely because a person says that so and so is living in such and such a liaison, it is a correct statement of fact? It is likely to get us into all sorts of complications. Similarly because we have so much sympathy for our women, let us not commit another mistake.

SHRI S. N. MAZUMDAR (West Bengal): But for getting that property, that claim will have to be pro-

ved.
PROF. G. RANGA: How is that to be proved? Once there was a big litigation in Madras; it was over the legitimacy of a son. Both the father and the mother claimed the son to be their own but the father said that that particular woman was incapable of producing children. They went to the Privy Council and spent lakhs and lakhs of rupees and the whole thing ended in a terrible scandal. Many things happen. Why do you want unnecessarily to introduce this complication? You need not have passed the other legislation. Sir, it takes my breath away to see the hon. Minister come here and say, 'You have passed the law of monogamy but nevertheless I must allow people to go round that law, have unmarried wives and beget children'. What is this absurdity? You provide for breaking that law and sanctify the breach of that law.

SHRI H. V. PATASKAR: Do not drag in only the Minister. It is the proposal of the Select Committee.

PROF. G. RANGA: It is the proposal of the Select Committee but unfortunately Mr. Pataskar has fathered this. He cannot escape from this unmarried mother.

SHRI H. C. DASAPPA: It is a multi-fathered child.

PROF. G. RANGA: This is really something like saying, 'I make the law. Nobody need bother about it.' The law-giver himself says, 'You need not bother about it. Produce as many children as you like. Have as many liaisons as you like. So far as property is concerned, they can have the property.' Sir, it is an indefensible stand for a Minister to take, not to speak of other people.

SHRI H. V. PATASKAR: It it I who first brought it to the notice of this House that this is the result which I; likely to follow and it is rather unfortunate that you should "be charging me.

PROF. G. RANGA: Anyhow, I hope better counsels will prevail. This Bill is not going to lose its value merely because you remove this anachronism out of it. If you like, make it easier for people to separate.

SHRI BHUPESH GUPTA (West Bengal): This provision has to be..............

PROF. G. RANGA: You have passed your divorce law. If you are not satisfied with it and if you make it easier for people to separate......

SHRI BHUPESH GUPTA: Rare exceptions.

PROF. G. RANGA: You can have rare exceptions whenever you want; otherwise you will finish with us. We cannot afford to do that. We have to be careful about these things. Now, Sir, so much for that particular point.

Then, my next point is with regard to the right of pre-emption. Lots of people have seen all sorts of ghosts. I am only looking at it this way. I hope that this particular point of view might meet with the approval of my hon. friend the Minister-in-charge of this Bill. So far as those daughters who are married and who have got their own husbands and children are concerned, we need not admit this right for them to come back into the father's house and claim a room or two rooms. But so far as unmarried daughters and widows go, surely they have a right to remain in the House. Their right to remain in the house or claim for a portion of it, as is considered to be legitimate in the case of sons, should be admitted by everybody. We should not raise any objection in regard to that. I think it was rather very unfair for some of our friends, some distinguished Members also, to say that the woman with her army of ten other women and so on would come. No. They have every right, as much right as the sons themselves, to have a hare in the parent's home whenever they do not have any other home. Whenever they have
(Prof G. Ranga.) any other home, I am sure, according to Indian women’s habits, they certainly do not like to impose themselves on others and make a nuisance.

Then, I come to pre-emption. Where is any harm to allow that, the right of selling their portion to that brother or sister who is prepared to pay the highest price? But some of our friends have raised some objection that it should be left to the court, that it should be left to a tribunal. We know only too well—the peculiar thing is that it may be an unconventional thing for me to say so, we are all very unselfish people, more unselfish in regard to everybody else, but less unselfish when it comes to our own people. We seem to think that we have every right to take something away from our brothers or from our sisters. We do not seem to think it to be just as bad, because we think that sister or that brother is indiscreet, is incapable, is foolish, therefore is likely to waste it; whereas, we are capable of protecting the family property. There is always that kind of feeling. Then, the two sons or three sons combine and they try to keep down the price, so that the poor girl would not get her proper share. Why should you not allow these two or three boys to compete with each other? Where is the harm? You are bringing in the principle of equality. Are you quite sure that all the brothers are having equal fortunes? Will it not be affected hereafter? One boy will get a beautiful girl as wife; another boy will get a girl with plenty of property; the third one with much more property. There is still that inequality. They put up with it. They are prepared to have that social democracy among themselves in spite of their economic inequality. So, why should we break any bones at all about this particular provision in this Bill? The girl should be allowed to sell it to that brother of hers who offers a higher price.

Then, I come to the question of litural holdings. I can only say one thing. Why during all these years so much of hubbub in the country, so much uncertainty, so much fear also, as to what might happen if equal rights were to be given to women in regard to property and so on?

Today, people in our villages have taken for granted that their daughters are also going to get equal share and they have begun to settle down to that particular conception. Everything depends upon that. It is a question of expectation and the boys and girls now look at each other with a sense of humour and then they say, well, we are going to be equal. Finished, they have accepted it. That is one of the great wonders of this country. They struggle and struggle for the status-quo. The moment they find that the status quo cannot be maintained and a change has to be made, even better than the British people they seem to accept the change with a sense of humour. They have come to accept that. Having looked at it that way, look at this agricultural economy of our country. Certainly it is going to be upset. There is no doubt whatever that it is going to be a very big upset. But then that upset has to be tackled somehow and so we have tried to devise various other ways. Merely because the land is going to be subdivided and that is likely to upset. our own agricultural economy, we cannot very well say to our girls: "Now, look here, you have a right to divide the property of your grandfather, according to your birth, equally between boys and girls, but you cannot very well touch the land." Then, to whom is it to belong? Anyhow, if it is divided among the sons, you are having some fragmentation, and a little more fragmentation could be put up with. You have got to put up with that nuisance and deal with that in a different way, from an economical point of view. So, I am in favour of extending the benefits of this Bill to agricultural interests also...

Then, I come to the next point. Some of our friends, and eminent friends also, said: "why not have one-system of law for the whole of this country? Why do you have all these-
various systems" and our friend has enumerated nine of them, I think. Sometimes uniformity has its own special advantages; but diversity also has its own advantages. It all depends on how you may look at it also under what circumstances and in what social set up. There is no need if in a particular part of the country, people like to have the dayabhaga system. They have been accustomed to it and they go ahead with it. In other areas, there is the mitakshara system, there is the marumakkattayam law and the aiyasanta law. But we must emerge from the tribal system into this and that ......................

SIHII J. S. BISHT: You are incorporating some of these provisions of marumakkattayam law in this Bill.

PROF. G. RANGA: Even that is objected to. I say we need not object to this. We need not fight shy of it. Only try to harmonise it. Mr. Hegde has requested the hon. Law Minister to deal with the aiyasanta system of law. So, I am not one of those who wish to impose any kind of law on those people who are not so very keen on it or not ready for it. Till now the Mohammedan law of property has been considered to be in advance of the Hindu law. After this Bill is passed, the Mohammedan women will begin to think "that our women will be better off than themselves. Then it would be open to our women as well as their women to carry on propaganda among their women and prepare public opinion so that they would be willing to accept the law. Therefore, it deals only with that small portion of our people. But nevertheless, our people are property-minded. Do we consider it to be wrong? Do they consider it to be wrong in Soviet Russia to encourage every one to go on saving and investing in Government bonds or enterprises so that Government will be able to develop its own enterprises? They do not. Our people are property-minded. Why do you say, "We should not be wedded to property; we should not be slavish to property"? But property should certainly subserve the social interest; at the same time our people have got to be helped to cling together, as much as possible, to co-operate with each other in order to see that the social property as a whole is augmented by their individual and family efforts which can be strengthened and furthered if this law were to be suitably amended and implemented in a truly legal fashion and not in the manner in which it has been suggested that people should be allowed to go round the law.

Lastly, I look at this law not merely as a matter of religion, as a matter of property and also as a matter of culture. Today, we all know that not more than 15 per cent of people have any property of their own. Therefore, it deals only with that small portion of our people. But nevertheless, our people are property-minded. Do we consider it to be wrong? Do they consider it to be wrong in Soviet Russia to encourage every one to go on saving and investing in Government bonds or enterprises so that Government will be able to develop its own enterprises? They do not. Our people are property-minded. Why do you say, "We should not be wedded to property; we should not be slavish to property"? But property should certainly subserve the social interest; at the same time our people have got to be helped to cling together, as much as possible, to co-operate with each other in order to see that the social property as a whole is augmented by their individual and family efforts which can be strengthened and furthered if this law were to be suitably amended and implemented in a truly legal fashion and not in the manner in which it has been suggested that people should be allowed to go round the law.
जीवन के तार का चार कारण हैं। यदि जीवन का तार कारण है तो इसमें हम जीवन का महत्वपूर्ण हिस्सा है। इसके लिए यहाँ कुछ सलाह।

1. स्वास्थ्य: एक स्वस्थ जीवन अत्यधिक महत्वपूर्ण है। स्वास्थ्य का असर नहीं है। स्वास्थ्य के लिए रूपांतरण और अन्य उपचारों का उपयोग करें।

2. खाद्य: स्वस्थ खाद्य स्वस्थ जीवन के लिए अत्यधिक महत्वपूर्ण है। स्वस्थ खाद्य के लिए रूपांतरण और अन्य उपचारों का उपयोग करें।

3. शौचालय: स्वस्थ शौचालय स्वस्थ जीवन के लिए अत्यधिक महत्वपूर्ण है। स्वस्थ शौचालय के लिए रूपांतरण और अन्य उपचारों का उपयोग करें।

4. समय: स्वस्थ समय स्वस्थ जीवन के लिए अत्यधिक महत्वपूर्ण है। स्वस्थ समय के लिए रूपांतरण और अन्य उपचारों का उपयोग करें।

5. अन्य: अन्य उपचारों का उपयोग करें।
THE VICE CHAIRMAN (Shri H.C. Mathur): Savitriji, I think you have still something to say?

SHRIMATI SAVITRY DEVI NIGAM: Yes, Sir.

THE VICE CHAIRMAN: Then you will continue tomorrow. The Secretary will read a message.