(a) in clause (iv) of sub section (1), after the words "may specify in this behalf" the words "or is otherwise consider ed sufficiently qualified to be enrolled as such as the Central Government may consider fit" shall be inserted; and

(b) for clause (v) of sub-sec tion (1) the following clause sha31 be substituted, namely: —

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

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

SHRI M. C. SHAH: Sir, 1 move:

"That the Bill be passed."

MR. DEPUTY CHAIRMAN: The question is:

"That the Bill be passed."

The motion was adopted.

MR. DEPUTY CHAIRMAN: The House stands adjourned till 2-30 P.M.

The House then adjourned for lunch at five minutes past one of the clock tUl half patet two of the clock.

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

LEAVE OF ABSENCE TO DR. B. R. AMBEDKAR

MR. DEPUTY CHAIRMAN: I have to inform the hon. Members that the following letter has been received from Dr. B. R. Ambedkar-

"I came to Bombay or treatment and had hoped to be able to return to Delhi in time. Unfortunately, I have not recovered. I am, therefore, unable to attend and apply to you for leave of absence. I hope the Rajya Sabha will grant my request."

Is it the pleasure of the House that permission be granted to Dr. B. R. Ambedkar for remaining absent from meetings of the House from 29th March 1955, till the end of the Ninth Session and from all meetings of the House during the current Session?

(No hon. Member dissented.)

Permission to remain absent is granted.

MR. DEPUTY CHAIRMAN: Mr. Pataskar.

THE HINDU SUCCESSION BILL, 1954

THE MINISTER FOR LEGAL AFFAIRS (SHRI H. V. PATASKAR) : Sir, I beg to move: •

"That the Bill to amend and codify the law..... "

SHRI B. K. MUKERJEE (Uttar Pra desh): Sir, I rise on a' point of order. The point of order is this. The motion moved by the hon. Minister in charge of this Hindji Succession Bill is out of order, and it should be declared as out of order for the following reasons.....

MR. DEPUTY CHAIRMAN: He has not yet moved the motion. You may raise the point of order afterwards. He has just started.

SHRI BHUPESH GUPTA (West Bengal): Reactions start with anticipations.

MR. DEPUTY CHAIRMAN: Mr. Mukerjee, you may raise the point of order later.

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

"That the Bill to amend and codify the law relating to intestate succession among Hindus, as reported by the Joint Committee of the Houses, be taken into consideration."

MH. DEPUTY CHAIRMAN: Yes, now you may speak.

SHRI B. K. MUKERJEE: Sir I wish you to declare this motion as out of order.....

SHRI BHUPESH GUPTA: Why?

SHRI B. K. MUKERJEE: Don't be impatient. I am not impatient cer tainly. This Parliament is the supreme and highest institution in a democra tic country .....

SHRI S. N. MAZUMDAR (West Bengal): We need not be told all that

(Interruptions).

MR. DEPUTY CHAIRMAN: Order, order. Let him go on.

SHRI B. K. MUKERJEE:..... and the Chair is to safeguard the rights and privileges of the Members of this Parliament. The Parliament is supposed to safeguard the interests of the people of this country. And as a part of the Parliament, the Members of this House also have got a responsibility to the people outside. And you, Sir, are the custodian of the rights and privileges of Members of-this House and you are to safeguard and to see that the Members of this House can perform their duties and responsibilities within the four corners of the
Constitution.

t

(.Interruptions.)

MR. DEPUTY CHAIRMAN: Order, order.

SHRI BHUPESH GUPTA: On a point of order.....

MR. DEPUTY-CHAIRMAN: No, let him finish, What is your point of order, Mr. Mukerjee?

SHRI B. K. MUKERJEE: I have said before let them understand thai the motion made by the hon. Minister in charge of the Bill is, out of order and I have got to advance my argu ment to declare it as out of order.....

(Interruptions.)

MR. DEPUTY CHAIRMAN: What are your grounds?

SHRI B. K. MUKERJEE: Now, the Members are supposed to work and conduct the proceedings in this House within the framework of the Consti tution as well as the Rules of Proce- durs and conduct of the business of this House. And you are to see that everybody in this House follows the spirit and the words of the Rules nf Procedure.....

(Interruptions.)

MR. DEPUTY CHAIRMAN: Let ui hear him.

SHRI BHUPESH GUPTA: On a point of order.

MR. DEPUTY CHAIRMAN: No. We have already a point of order.

SHRI BHUPESH GUPTA: On a separate point of order which I raise.....

MR. DEPUTY CHAIRMAN: No. Let him finish. Yes, Mr. Mukerjee.

SHRI B. K. MUKERJEE: Mr. Deputy Chairman, communism in our country is exhibited by violence and, there fore, my request is. .....

MR. DEPUTY CHAIRMAN: There is no violence here.

SHRI B. K. MUKERJEE: But violence has come from the communist party. Now, I wish that as you are the custodian of the rights and privileges of the Members of this House, who are also responsible to the public outside, you are committed to act according to the spirit and

the words of the Rules of Procedure which are to be followed in this House.....

PROF. Q. RANGA (Andhra): "What is the rule?

SHRI B. K. MUKERJEE: Why do you become so impatient, you being an old Member and an old Parliamentarian? You have not listened to what I say.....

(Interruption.)

MR. DEPUTY CHAIRMAN: Older, order.

SHRI B. K. MUKERJEE: Now, rule 76, sub-rule (4) of the Rules of Procedure says:

> "Where a Bill has been altered the Select Committee may, if they think fit, include in their report a recommendation to the Member in charge of the Bill that his next motion should be a motion for circulation, or, where the Bill has already been circulated, for recirculation."

Now, the only question which arises is as to whether this Bill has changed fundamentally the Bill which was committed to the Select Committee. For that purpose, I will now refer you to the Minutes of Dissent recorded in the Report by various Members In Minute of Dissent No. I, the Member says:

> "I cannot support the final draft for the following reasons: —
>
> (1) It is a fundamental principle of all social legislation that the law should not result in a violent shake up of the society. However progressive and enlightened....."

(Interruptions.)

(Shri *Bhupesh Gupta rose to speak.)*

MR. DEPUTY CHAIRMAN: Mr. Gupta, please sit down. If necessary, I will hear you.

SHRI B. K. MUKERJEE: "..... In all conscience, I cannot support the draft." Now, we go to Minute of Dissent Np. IV.

MR. DEPUTY CHAIRMAN: You need not go into all these details. You have only to refer to the point of order.

SHRI B. K. MUKERJEE: I will have to point out the relevant portion there. It says:

> "The Hindu Succession Bill, 1954, as it has come out of the Joint Committee, is changed in many fundamentals which create new and numerous problems going to the root of the society some of theclauses which have been accepted by the majority of the Committee are, according to me, unjust, inequitable, and controversial."

Then, again, on page xiii .....

MR. DEPUTY CHAIRMAN: What is the point of order?

SHRI B. K. MUKERJEE: The point of order, I am going to explain.....

MR. DEPUTY CHAIRMAN: Don't waste the time of the House. I want you to point out the point of order.

SHRI B. K. MUKERJEE: I am elaborating the point of order for your advantage.

MR. DEPUTY CHAIRMAN: It is not necessary.

SHRI B. K. MUKERJEE: You need more clarification as to why I raise the point of order. As you see, I am referring to the Minutes of Dis sent.....

MR. DEPUTY CHAIRMAN: Please hear me. You depend upon rule 76 (4)?

SHRI B. K. MUKERJEE: Yes.

MR. DEPUTY CHAIRMAN: That is, you say that has been violated. What is your point of order, I want

[Mr. Deputy Chairman.] to understand. You say that rule 76(4) has been violated. Is that the only point?

SHRI B. K. MUKERJEE: There is another point also.

MR. DEPUTY CHAIRMAN: Come to the other point.

SHRI B. K. MUKERJEE: Now, we go to sub-clause (3).....

(Interruptions.)

MR. DEPUTY CHAIRMAN: Order, order. Please hear him. You say sub-clause (3) of this rule?

SHRI B. K. MUKERJEE: It says circulation. It must be circulated. It says:

> "(3) The Select Committee shall in their report state whether the publication of the Bill directed by these rules has taken place, and the date on which the publication has taken place."

SHRI P. T. LEUVA (Bombay): Has not the Committee said it?

SHRI B. K. MUKERJEE: Nothing has been said by the Committee.

MR. DEPUTY CHAIRMAN: These two points you say have been violated?

SHRI B. K. MUKERJEE: I have got to submit a little more.

SHRI R. P. N. SINHA (Bihar): May I ask him to talk a little less loudly?

MR. DEPUTY CHAIRMAN: Anything else?

SHRI B. K. MUKERJEE: One Mem ber.....

SHRIMATI C H A N D R A V A T I LAKHANPAL (Uttar Pradesh): Can the hon. Member be allowed to waste the precious time of the House?

MR. DEPUTY CHAIRMAN: Any Member can raise a point of order.

SHRI B. K. MUKERJEE: I do not understand. I seek your protection, Sir. Again and again, Members feel that I am wasting the time of the House. I am leading them to conduct themselves properly to the satisfaction of the people whom they represent here.

MR. DEPUTY CHAIRMAN: Come to the point. You must be quick.

SHRI B. K. MUKERJEE: Yes, yes. Now, one Member has said on page xxx: "If the Committee was of the view that the country is ready for its recommendations, then it was its duty to re-circulate the modified Bill for public opinion before it was considered by the Parliament." Now, there was a question raised that the Committee has got to give some direction to the Member in charge of this Bill. But we do not find anything either in the Report or in the proceedings of the sixteenth meeting of the Select Committee. They are silent about this matter. Therefore, I have got to raise this point of order that this motion is out of order and you, as the custodian of the interests of the Members of this House, direct the Minister and this House to refer this Bill to the Select Committee again for completion of all the procedures that have got to be completed according to the Rules of Procedure.

SHRI BHUPESH GUPTA: I am opposed to this point of order. This should not be allowed.

MR. DEPUTY CHAIRMAN: I am giving my ruling. Mr. Mukerjee has raised a point of order, that Rule 76, sub-rules (3) and (4) have been violated. Rule 76, sub-rule (3) says:

> "The Select Committee shall in their report state whether the publication of the Bill directed by these rules has taken place, and the date on which the publication* has taken place."

SHRI B. K. MUKERJEE: Before this .....

MR. DEPUTE CHAIRMAN: I am giving the ruling. In fact, it is mentioned on page iii of the Report that this has been published in the *Gazette* of India Extraordinary, Part II, Section 2, dated the 26th May 1954.

Rule 76 (4) says:

> "Where a Bill has been altered, the Select Committee may, if they think fit, include in their report a recommendation to the Member in charge of the Bill that his next motion should be a motion for cir culation or, where the Bill has already been circulated, for re circulation." ,

The Select Committee in their Report has not made any such recommendation to the' Minister that the Bill should either be circulated or be re-circulated. Under the circumstances, there is no point of order and we will proceed with the Bill.

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

> "That the Bill to amend and codify the law relating to intestate succession among Hindus, as reported by the Joint Committee of the Houses, be taken into consideration."

I shall briefly try to narrate the course through which this Bill has passed, since it was first published with the permission of the Chair nan in the *Gazette* of *India Extraordinary,* dated the 26th of May 1954. After such publication, the Bill was introduced in this House on 22nd December 1954. After that, a motion was made in this House that the Bill should be referred to a Joint Committee of both Houses of Parliament. And this motion was discussed in this House for our days, from the 22nd March to the 25th March 1955, both days inclusive, and was passed almost without a dissentient voice. After this, I moved a similar motion in the House of the People on the 5th May 1955. It was discussed there, on the 5th, 6th and 7th May and 25th July 1955. That House concurred in the recommendation of this House to refer the Bill to a Joint Committee by a very large majority. After that, the Joint Committee was finally constituted on the 16th August 1955.

The Joint Committee consisted of thirty Members from the House of the People and fifteen Members from this House. The Committee held sixteen sittings, at which the Bill was considered, and subsequently, the Report of the Committee was presented to this House on the 19th September 1955.

I make mention of these facts In order to show as to how a very large number of chosen Members of both the Houses took part in the deliberations of an important measure like this. Even before that, it should be noted that, while the matter was being discussed in this House, about twenty-five Members took part in the discussion, and when it was discussed in the Lok Sabha, as many as fifty-two Mem-•bers participated in the discussion. All the points that were raised during the discussion of this Bill in both the Houses of Parliament were duly taken note of by the Joint Committee. The points raised in the various opinions obtained on the Bill when it was circulated were also considered by the Joint Committee. The present Report is the considered opinion of that body which was a representative body of both the Houses. The charge, therefor-', which is oftentimes made against this Bill, that it is either being rushed or being hustled, or not being properly considered, is hardly justified, in view of the facts which I have already mentioned. I am aware of the importance of this subject; I am aware of the strong sentiments that prevail in the country regarding this question; I am also aware that for many, many long years, on account of peculiar conditions in our country—social, political and economic—women have not been treated on a footing of equality. This Bill is certainly going to make a change in the current ideas of society in this

[Shri H. V. Pataskar.] matter. , I understand and realise all these feelings and sentiments connected with a subject like this; but the speeches which honourable Members delivered at the time of the discussion of the original motion in both Houses will show very clearly that there was almost unanimity that, so far as women are concerned, the inequality in the matter of succession attached to them on the ground of sex should be removed. There did not appear to be any substantial difference of opinion on this necessity of removing this inequality. Naturally, when you come to the actual solution of a problem like this, difficulties are bound to crop up; and they have cropped up in this case. By and large, I hope I shall be able to convince hon. Members of this House that the Joint Committee had done their very best under the existing circumstances.

There are a few Minutes of Dissent attached to this Report of the Joint Committee; but mostly they relate to matters of detail rather than to matters of the principles underlying the several provisions made in this Report.

Before I turn to the details of the provisions made in this Report, I would preface it with a few general remarks. It must be remembered that this is a Bill to regulate succession to the property of Hindus. The question of succession arises only in the case of death of a person and that too, with regard to the property which that person is possessed of at the time of his death and in respect of which he has made either no earlier disposition or has made no will, with respect to its devolution after his death.

In India, as I had already said, for long period past, a Hindu family was regarded as the unit of society and that naturally led to certain developments. For instance, if the family is to be regarded as the unit of society, naturally, any woman who is born in that family, but who goes out by marriage to another family, has no place in fhe structure of such a family. By marriage, she becomes a stranger to that fami'y. With this central conception, therefore, what has been developed in the course of some centuries is meant for the preservation of that family as the unit and it was from this point of view that the doctrine of right by birth and its corollary, the right by survivorship, came to be introduced and associated with this joint family. This is what came to be known as the Mitakshara joint Hindu family. The other important variation of the joint family is the joint family known to Hindu Law as the Dayabhag joint family. The Dayabhag school of Hindu Law operates only in small areas of our country like Bengal and Assam. In the rest of the country, the Mitakshara school of law—of course, with several variations— operates in different parts of India, except some part in the South, where an entirely different system of family, namely, the matriarchal system of family, with all its variations, prevails

As regards the Mitakshara school of Hindu Law, where it prevails, there is no succession so far as joint family properties are concerned; and as this system operates over a very large part of India, in those parts, the idea of inheritance to a female does not find favour, because, as I said earlier, a female had no place as a member in the Mitakshara joint fam'iy. The membership of that joint family, which is called Mitakshara coparcenary, is confined only to male members.

Another important aspect of this system of Mitakshara joint family is that the coparcener, who is necessarily a male, has no difficulty so far as his rights in the coparcenary property are concerned; he can claim partition of his share and get it separated at any time; and even a mere intention on his part to separate is enough, to sever his connection with the coparcenary and become the separate owner of his share in the joint family property.

When the Bill was first introduced in this House, in clause 5 of the Bill, it was mentioned that the Bill would not apply to joint family properties or

anv interest, therein which devolved by survivorship on the surviving members of a coparcenary. When the matter was discussed in both Houses, .a very large number of hon. Members objected to this, on the ground that this was neither fair nor logical. Nor was it consistent with the objective of having one uniform law, at leasl for Hindus in the country. The force of this argument is irresistible, and the Joint Committee had to deal with this difficult and delicate task. As I have already said, we have decided to deal with the matters covered by the original Hindu Code in parts, and this part deals with the question of succession amongst Hindus. As I have already pointed out, there was not only no hardship, so far as members of such a coparcenary are concerned, but they get their rights to the exclusion of •female heirs in general. But with respect to female heirs, if they are to be altogether excluded from the right to inherit under any circumstances in a joint Hindu family of the Mitakshara type, the Bill would fail to serve any usefu' purpose. The Joint Committee, therefore, came to the conclusion that the Bill will not be complete unless the question of female heirs being entitled to a right of inheritance even in Mitakshara joint families was taken into account. They have, therefore, provided a share to some female heirs even in respect of property gove-ned by the Mitakshara school.

Sir, having come to the conclusion that this Bill should also make provision for a share to a female heir in coparcenary property, the Joint Committee gave very careful consideration to the question as to how best this decision could be implemented. As bon. Members are aware, a similar question had arisen when we passed the Estate Duty Act. Estate duty is a measure of taxation on property which comes to a person by inheritance. At that time, the same difficulty arose. In India, in tie case of a large number of people who are governed by the Mitakshara system of Hindu Law, there is no inheritance with respect, at any rate, to the joint family properties which are held by the families concerned. If all such properties, or any interest in such properties, were to be altogether excluded from taxation, because they went by survivorship and not by inheritance, it would have defeated the very purpose of the taxation measure of that kind. It was, therefore, decided that, for the purpose of this taxation in the form of estate duty, the interest of a deceased coparcener should be treated as if his interest in the coparcenary property has been separated from the rest of the coparcenary property just prior to his death. The Joint Committee, following up this precedent, therefore, decided to adopt a similar method for the purpose of giving a female heir a share in the property of a deceased member of a Joint Hindu coparcenary. And just as the purpose of the estate duty could be achieved without disrupting in any other manner the joint Hindu family governed by the Mitakshara school of law, the Joint Committee also have tried to give a share to the daughter on the same basis without necessarily disrupting the joint Hindu family. This is the scheme underlying clause 6 of the Joint Committee's Report.

As Members are aware, at the time of the framing of the Hindu Code, which was once brought before Parliament and which was even considered by the Select Committee of the Provisional Parliament, they had tried to abolish the Mitakshara system of inheritance altogether, from the date of the passing of that Act. As a consequence, they proposed to abolish the right by birth and the right by survivorship, which are the invariable concomitants of that system, and they, thus, tried to make the Dayabhag system applicable to all Hindus. The present Joint Committee has not gone to that length, so far as the present Bill is concerned. I am sure, if the Joint Committee had decided to abolish, immediately and in this Bill, the family system of Mitakshara school, it would have been open to the objection that this should not be done by this Bill, which was a Bill mainly

[Shri H. V. Pataskar.] dealing with the question of intestate succession, and that this should more appropriately be dealt with by another Bill dealing directly and mainly with the question of joint families. Such an objection may not have been valid but the Joint Committee thought it advisable not to provide for a changeover from the Mitakshara system to the Dayabhag system, as was proposed to be done in the "lapsed Hindu Code".

The Joint Committee, therefore, proceeded first by making a positive provision in clause 6 that, whenever a male Hindu, having an interest in a Mitakshara coparcenary property, dies after the commencement of this Act, his interest in the properly shall devolve, by survivorship, upon the surviving members of the coparcenary and not in accordance with the provisions of this Act.

PROF. G. RANGA: Why not in accordance with the provisions of this Act?

SHRI H. V. PATASKAR: The idea underlying is that in the case of Mitakshara coparcenary, even after the passing of this Act, so far as the male members Are concerned, it will always pass by survivorship, and we do not interfere with that family. If there is a female heir of Class I who is entitled to a share, then the basis of the provisions will be that, to that extent, without affecting the rest of the joint families of the Mitakshara system, she will be entitled to get her own share. Sir, I will just try to explain it a little more.

Sir, in order, however, that the females mentioned in clause 1 of the Schedule attached to the Bill should ne entitled to a share In the property of such a deceased person, the Joint Committee have tried to do it by the addition of the proviso to clause 6; and this is done on the basis that the Interest of the deceased had been *allotted to him on* a partition made immediately before his death. The underlying idea is that, while trying not to disrupt the joint family of the Mitakshara type by this Bill, a daughter or a female heir in class ? would also get a proper share in the property of the deceased coparcener. Various formulae were considered for achieving this purpose, and while discussing all these formulae, what the Joint Committee had in mind was that justice should also be done to the daughter, or to such other female heir in class 1, in the matter of getting her proper share. Several difficulties had to be taken into account. For a proper understanding of the scheme of clause 6, I would like to mention some of the main features of the Hindu joint family, the Hindu Mitakshara family and the Hindu Dayabhag family.

Sir, I am trying to take a little more time because there seems to be a good deal of misconception in regard to this matter.

A joint Hindu family consists of all persons lineally descended from **a** common ancestor and includes their wives and unmarried daughters. A daughter ceases to be a member of a father's family on marriage and becomes a member of her husband's family. That is the conception of a joint family.

3 P.M.

A Hindu coparcenary is a much narrower body than a joint family. It includes only those persons who acquire, by birth, an interest in the joint coparcenary property. These are the sons, grandsons or great-grandsons of the holder of the joint property for the time being; that is to say, the three generations next to the holder, in unbroken male descent.

The property inherited by a Hindu from his father, father's father or father's father's father is ancestral property. Property inherited by him from other relations is his separate property. The essential feature of ancestral property is that if the person inheriting it has sons, grandsons or great-grandsons, they become joint owners with him and become entitled to it by reason of their birth. So *tar*

as separate property Is concerned, the holder is the absolute owner thereof. But separate or self-acquired property, once it descends to the male issue of the owner, becomes ancestral in the hands of the male issue who inherits it.

A coparcenary is purely a creature of law. The interest of a coparcener in the coparcenary is a fluctuating interest, capable of being enlarged by deaths in the family, and liable to be diminished by births in the farrily. It is only on a partition that a coparcener becomes entitled to a definite share. No female can be a coparcener under the Mitakshara law.

The two main incidents of coparcenary property are, that it devolves by survivorship and not by succession, and it is property in which the male issue of the coparcener acquires an interest by birth. A coparcener has the right to claim partition of his share at any time and mere intention to separate is enough to sever bis interest in the coparcenary.

According to the Dayabhag law, the son_s do not acquire any interest, by birth, in ancestral property. Their rights arise for the first time on the father's death. On the death of the father, they take such of the property as is left by him, whether separate or ancestral, as heirs and not by survivorship. The father has absolute power to dispose of ancestral property. A coparcenary under the Dayabhag law may consist of males as well as females. That is a more liberal school of thought. In the Dayabhag law, there is no unity of ownership but only unity of possession, and each has got a well-defined share in the coparcenary property.

Every coparcener in a Mitakshara joint family is entitled to a share upon partition. A father separating from his sons may or may not reserve to himself a share on partition. Where, for example, A, the father, has three sons, B, C and *D,* and he separates from them all reserving one-fourth share to himself, and a son *F* is born to A after the partition, F will take on A's death, the one-fourth share allotted to A at the partition and also the whole of A's separate property, to the entire exclusion of *B, C* and D, because the other sons are separated sons. Where, on the other hand, the father has not reserved a share to himself on a partition with his sons, a son, born or begotten after the partition may get the partition reopened and get a share allotted to him, not only in the property as it stood at the time of the original partition, but also in subsequent accumulations.

I will just explain clause 6, because that is the most important part of this Bill. Clause 6 proceeds on certain assumptions which will be made clear by the following illustration. I take the illustration of A, who dies and leaves behind *S,* a son, D a daughter and S-l, another son. The son S has got three sons, S-2, S-3 and S-4. Son S-l has got another son, S-5. Now, what are the assumptions which are made, so far as Clause 6 is concerned? The first is this, that A, the deceased, had not separated from the coparcenary at the time of his death, if he has, the position is simple. If he was separated, then, there will be no difficulty. All his children would share equally in the property. Even if S had become a divided son before his father A had taken his share away from the coparcenary property, all children, including S, would presumably share equally in the father's property on his death, because the Bill makes no distinction between divided and undivided sons, as in the existing Hindu Law. This was sought to be made clear by clause 7 of the original Bill, but the Joint Committee thought it was not necessary to do so, in view of the provision contained in clause 4 of the Bill. I need not dilate on this. There was a provision like this in the original Bill, but since clause 4 makes it clear, that there is to be no distinc tion between a divided and undivided son, that was omitted.

[H. V. Pataskar.]

The second assumption is that the share of *D,* the daughter, should be equal to the share of each of the two sons, S and S-l, as far as possible.

The third assumption is that, for the purpose of removing inequalities, a special formula should be devised for computing the share of the daughter in the interest of the deceased, and this was done by deeming the interest of the deceased A to include the interests of S, S-l, S-2, S-3, S-4 and S-5. This requires a little explanation. Under the law as it stands, in a Mitak-shara family, A, the father, his sons and grandsons, have got the same interest in the property. What was tried to be done is that the property would be divisible only into three equal shares, on the death of A, *S* and S-l taking per *stirpes.* This is what is provided in clause (a) of the *Explanation.* I will, here, read that clause:

> "For the purpose of the proviso to this section, the interest of the deceased shall be deemed to include—
>
> (a) the interest of every one of his undivided male descendents in the coparcenary property ....."

The word "descendant" has been deliberately used, so that the sons and daughters could get an equal share in the family property. This is what is provided for in clause (a) of the *Explanation.* In the illustration already mentioned, if *A* died, leaving behind both S and S-l as his undivided two sons and a daughter *D.* the object is to give the daughter a share equal to that of S and S-l, i.e., one-third in the property of A. If there is no provision as made in clause (a) of the *Explanation, S* and S-l, the two sons, would claim that they have already got, by birth, one-third share each in the property of A, i.e., two-thirds of the property of A and that, in the remaining one-third, to which A was entitled, they would succeed equally with the daughter. If this provision was not there, it would be open to the argument that when A died, the two sons would have got one-third each, which means two-thirds would go, and in the remaining one-third, they would also share with the daughter. (Thus, the daughter would actually get one-ninth.) In order to obviate that, this clause (a) of the *Explanation* has been provided. For example, if A's interest in the coparcenary was valued at Rs. 9,000. the two sons were already owners by birth in that interest to the value of Rs. 6,090 and in the remaining interest valued at Rs. 3,000, they would be entitled to succeed equally with the daughter, and thus, the daughter would be entitled to an interest worth only Rs. 1,000, *i.e.,* one-ninth of the interest of A. Even if we provide that she should share equally with the son, this would be the result, if sub-claus& (a) of this *Explanation* was not there and it is on that account that it has been provided.

By the provision in clause (a) of the *Explanation, A's* interest will be deemed to include the interest of his undivided sons and, in that interest which would thus be of the value of Rs. 9,000, the two sons and the-daughter would get equally, *i.e.,* each of the two sons and the daughter would be entitled to get a share in-A's interest, valued at Rs. 3,000 each. The provision in clause (a) of the Explanation is, thus, necessary to carry oat the intention that the daughter and the son should share equally in the undivided interest of A in the coparcenary property.

(4) That partition during the lifetime of the deceased should not be allowed to defeat the rights of the daughter. This is provided in clause (b) of the *Explanation.* This clause provides that, where after the com mencement of this Act and before the death of the deceased, a male descendant, *i.e.,* a son, grandson or a great-grandson, has separated from the coparcenary, by a partition, and taken his share, then the interest of the deceased shall be deemed to include even this separated share for

ihe purpose of determining and allotting a share to a female relative.

This clause provides for cases after the commencement of this Act and it does not touch any partition that has taken place prior to this Act.

In the above illustration,—I will now continue with the same illustration—if S gets divided from A, after the commencement of this Act and before the death of A, and either takes away his own share or the son with his grand-sons *S-2.* S-3 and S-4 have all gone away from the coparcenary, the share or shares tj.ken by them would be taken into account in computing the share of *D.* That is, what they have tried to say is for the purpose of determining the share of the daughter, it shall form part of *A's* property. This is not the final word. I am still explaining. On the one hand, it was felt that if no such provision was made in clause 6, after the passing of this Act. the sons of *A* would effect the partition, nominal or real, from A, and thus deprive the daughter of her legitimate share in the property as given to her by this law.

The idea underlying this provision in clause 6 is this. If this provision was not there, some people thought that probably, if there was a partition between all these sons, ultimately, what was left to the daughter would probably be only one-ninth. For example, in the illustration above, if A's interest in the coparcenary was valued at Rs. 9,000, S and S-l by their partition would take away interest valued at Rs. 6,000, leaving A with interest valued at Rs. 3,000 only, and thus, when the succession opens after A's death, the daughter *D* would only be entitled to one-third of that share, *i.e.,* the share valued at Rs. 1,000 only. It is in order to avoid such a contingency that clause (b> has been put in the *Explanation.* Thus, while the two sons would ultimately get shares in the original interest of *A,* valued at Rs. 8,000, the daughter would be entitled to a share m it. valued only at Rs. 1,000, *i.e.,* one-ninth. It is *to* prevent any such contingency tost the provision in clause (b) of the Explanation is made.

This provision looks a little harsh and shows some distrust of the male members of the coparcenary in the illustration mentioned, the distrust of the father and the brothers as well. Because in the illustration, there are only sons. Unless the father and son both combine together to deprive the daughter it cannot be done—of course, such a contingency would not arise. But at the same time, it should be noted that this will not apply to partitions effected b'efore the commencement of this Act. Because they are all taken as bona *fide* partitions. It applies only to partitions made after the commencement of this Act.

There is some difficulty which has been pointed out by one of the Minutes of Dissent and that is a difficulty which has to be taken into account. The difficulty that has been pointed out by some hon. Members of the Joint Committee, in their Minutes of Dissent, is that supposing in the illustration which we have taken. *S,* the son, gets separated **from** the family after the commencement of this Act, and takes away his share, during the life-time of *A,* he would take away as his share interest valued at Rs. 3,000, out of the interest of A of the value of Rs. 9,000. S-l the other son, continues joint with *A,* till his death. In such a case, for the purpose of determining the share of -D, the daughter, the interest of A would be deemed to include the interest of *S,* the son, who had already separated and taken away his share, valued at Rs. 3,000. Thus, D, the daughter, would claim and be entitled, under this provision, to get a share valued at Rs. 3,000. This could only be out of what has been left with the son S-l, who had continued joint with the father A. He would thus be left only with interest valued at Rs. 2,000. Thus, in such a case, the

[Shri H. V. Pataskar.] daughter would get a share larger than the share of S-l the undivided brother. So much is being made of by way of criticisms that this is one of the results that might follow. The Joint Committee had no intention to cause such hardship to the undivided son against the daughter. Another view that could be urged in this connection is that, after all, succession means inheritance to property that belongs to a person at the time of his death, and it would be desirable to drop clause (b) of the *Explanation.* At the present moment, there is an atmosphere of distrust and suspicion, due to long-standing sentiments associated with this matter, but the forces of natural love and affection are far stronger than mere sentiments. It would be more desirable to rely upon the forces of natural love and affection, and I am personally of the view t'>at there would Lie very few brothers, indeed, who would normally resort to partition as a device to deprive the sister of her rightful share given by law to her. In any case, the father will be there to see that no such injustice is done. A father naturally loves his daughter as well as the son, and would be safely relied upon to take suitable action, to prevent any such devices being resorted to for the purpose of depriving the daughter of her rightful share.

Clause (b) of the *Explanation* to clause 6 has been subjected to criticism in some of the Minutes of Dissent, and I am sure, this matter will be duly considered in this House. The Joint Committee had appointed a Sub-Committee to consider the drafting of a suitable clause to carry out their objective in this connection. They unanimously agreed to a draft which will be found in Appendix III of this Report. While considering this matter, I recommend to the House to consider that draft also. Consistently with the idea of providing a share to the female heir equal to that *of.* **a** male heir, even in a Mitakshara joint family, there should not be much difficulty in finding a solution of this matter, or for the removal of this seeming anomaly. People need not be agitated because there is something which looks like an anomaly or which is anomalous in one small part of the provision in clause 6.

While the Bill was being considered in both the Houses of Parliament, there was considerable opposition to the provision in clause 5, which laid down that this Bill shall not apply to any property, succession to which is regulated by the Madras Marumak-kattayam Act and the several other Acts mentioned in sub-clause (3) of clause 5. All these Acts relate to matters which are governed by that system of law which can broadly be described as the matriarchal system prevailing in the South-West coast of India. This sub-clause (3) is now omitted, like sub-clause (1) of clause 5 which related to property governed by the Mitakshara school of law. This is a right step in the direction of having one uniform law. The Joint Committee, by incorporating clause 7 in the Bill, have provided for succession also to the interest of persons governed by the different laws prevailing in this matter on the west coast of India. Thus, the Joint Committee has rightly provided for succession in respect of all Hindus. A very satisfactory feature of the provisions contained in clause 7 is that it has secured the unanimous approval of all those honourable Members of Parliament who represent the areas where this matriarchal system prevails. I wish I would be able to say the same thing about the provisions contained in clause 6, after some suitable modification.

The definition of "related" in the original Bill has been widened, with the resuit that an illegitimate child shall not be deemed to be related to its mother, but to its father, if known. It has, however, been made further clear that this extension of the meaning of "related" will not enable any

such child to claim any right or interest in any property belonging lo any one else. Thus, while an illegitimate child might be said to be related to its father, if known, it will not entitle him to claim any rights as against his -say, uncle or any other relative. The original provision in the Bill conformed to the provision, contained in the Rau Committee's Report. The Rau Committee, in this matter, had tried to follow the provisions contained in section 9 of the English Legitimacy Act of 1926. Every one has sympathy with any child being branded as illegitimate. In birth, as in death, all are equal and whatever be the social faults of those who are responsible for giving birth to such a child, the child itself must not be made to suffer for the faults of some one .else. A child is always born innocent. However, the .question in this case is a little different. Some critics of this provision have gone to the length of saying that even children born of women who led a life of shame will be covered by this provision. In such cases, fathers can never be known and this provision will not cover them. I think this is purely due to prejudice. However, it will have to be carefully seen whether such a provision will enable those who want to violate the provisions of the Hindu Marriage Act regarding monogamy. There are many people wha are married, and who, finding that their marriage had not been fruitful for want of a child, desire to marry again during the life-time of the first wife, in such a case, they might resort to the device of keeping an unmarried wife in the house and achieve their object of having a child which will be legitimate. In such a case, while the child will be legitimate, its natural mother will continue to bear the stigma of an unmarried wife and the law of monogamy will be violated. I am sure, the House will seriously take this aspect of the matter also into consideration.

SHRI H. C. DASAPPA (Mysore): Sir, what is this "unmarried wife"?

SHRI H. V. PATASKAR: If the hon. Member is not able to follow, I cannot help.

SHRI H. C. DASAPPA: I can understand an "unmarried woman" or an "unmarried lady". But how can there be an "unmarried wife"? Therefore, this baffles me. *(Laughter.)*

SHRI H. V. PATASKAR: The matter is very simple. I do not think that hon. Members are justified in treating this matter, which I want to place before them in all seriousness, in a light manner. And I have used the word deliberately. I find that a man chooses to keep a woman in his house as if she is his wife. He cannot marry her because of the law of monogamy. And then, he gets a child. The child is legitimate, but the mother of the child, the woman, continues to bear the stigma. And this was the least abusive name by which 1 could call **her,** under the circumstances.

SHRI H. C. DASAPPA: But that may become an offence, whatever the nature of the wife.

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SHRI H. V. PATASKAR: Sir, let me proceed. I am not quarrelling with anybody on words. If a better word occurs to anyone I will accept it in all humility.

SHRI V. K. DHAGE (Hyderabad): I suggest the word "wife" may be put within inverted commas.

SHRI H. V. PATASKAR: Sir, another important change made by the Joint Committee is the provision that each surviving son or daughter shall take equal share. In the original Bill, each surviving daughter was given only half a share. It should be noted that even the Select Committee which was appointed by the Provisional Parliament to report on the lapsed Hindu Code Bill, had given the daughter a share equal to that of the son. The Joint Committee also agrees with the last Select Committee in this matter. I am glad the chosen representatives of Parliament, both Provisional and

[Shri H. V. Pataskar.] the present one, agreed on this point, which is only just and fair. Some people object to this equality of share on the ground that the family has already to spend large sums of money even at the cost of family property, for the marriage of a married daughter. But it is to be borne in mind that much money has to be spent in some cases also for the marriage of the sons and the provision of ornaments for their wives, *i.e.,* the daughters-in-law of the family. Ruinous marriage expenses are a matter of common condemnation, and hardly any part of it enures for the benefit of the daughter in case of necessity. It is hardly fair and just that a daughter should be denied equal share on account of something which has been done not mainly for her and at any rate, a large portion of which does not enure for her benefit. I am sure after the passing of this law, marriage expenses will go down and the evil of dowry will diminish. Not only that, but the status of women as a whole will rise.

Now, a daughter once married is treated as dead in the house of her father. Whatever the social and economic conditions in the past, in the present conditions of society, a married daughter in the house of her husband or father-in-law, after the passing of this law, will always feel that she has a placϵ in her father's house and that she is not a mere helpless being who has to depend upon the sweet will and the whims of her husband, or the members of her husband's family. The husband or the members of the husband's family will also begin to feel that the wife or the daughter-in-law is not wholly at their mercy and will give her better treatment. The psychological aspect is far more important than the material one.

From the material point of view also, in case of death of her husband, or in the case of her being discarded by him, the father's shelter will be available to her as of right. Even now she might be getting it, but only as a matter of mercy from the brothers, or more often their wives. Having embarked on the task of recognising the dignity of person, irrespective of any distinction of sex, the only right thing to do will be to treat her equally with the son. How can we, consistently with the provision in the Constitution, that there shall be no discrimination on the ground of sex, give the daughter half a share and give the son a full share in the property of the father? If an unmarried daughter becomes entitled to a sha're in her father's estate after his death, I am sure, her brother will spend for her marriage out of her share in the inheritance. There is no reason to suppose otherwise.

The original Bill abolished the Hindu, woman's limited estate with respect to property, which may hereafter be inherited by a Hindu female. The Joint Committee have now provided that properties held by Hindu women, at the commencement of this Act, should also be held by them as full owners and not as limited heirs.

As regards succession to property held by female Hindus, the Joint Committee have laid down that, if a female-Hindu dies childless, then,'—

(i) in respect of property inherited by her from her father or mother, that property will devolve upon the heirs of the father, and

(ii) in respect of property inherited by her from her husband, or father-in-law, it will devolve upon the heirs of the husband.

It is but fit and proper that, in the matter of succession, in the first instance, the property descends, i.e., goes down to sons, daughters, son's sons or son's daughters, etc. But, under the peculiar conditions of our country, if there are no descendants, the property of a female Hindu should devolve upon the heirs from that family from, which the property had come to ner.

SHRI GOPIKKISHNA VIJAIVAR-GIYA (Madhya Bharat): How will xhe property remain intact?

SHRI H. V. PATASKAR: I would not like to be disturbed now. Anyway, that was the idea and that is there.

This is an exception to the general rule of succession anywhere else, but it is justified by the peculiar conditions in our country.

By clause 24 of the Bill, right of pre-emption is given to the heirs so that if any heir wishes to dispose of his share in the property, the other heirs may claim a right to pre-empt. This provision is in general terms and applies to all heirs. The provision in this respect in the original Bill was not in such clear and explicit terms and was not applicable to all heirs.

Although in this Bill (clause 6), right of getting a share even in the Mitakshara joint family propery is given to a female heir, it has to be noted that she has not been made a coparcener of that joint family. Such property may be business or other immovable property. The right of preemption provided by clause 24 will tend to allow properties to continue in the family, if the coparceners or other heirs want to preserve them for the family.

A new clause 25 has been added to the Bill, making special provision regarding the dwelling house. A dwelling house of the family is a matter of great sentiment in our country. Besides, in the rural conditions obtaining in our country, it is the prime family necessity. A daughter generally passes by marriage into another family and has to stay normally in her husband's family house. It is true she is likely to act under the influence of her husband. Under these circumstances, the Joint Committee decided that a female heir should not be given the right to claim partition of a dwelling house, until the male heirs choose to divide their shares in the dwelling house and partition the same. The female heir has, however, been given the right of residence in such a house. As we are aware.....

DR. P. C. MITRA (Bihar): It applies only to the female heirs?

SHRI H. V. PATASKAR: Only for the females.

As we are aware, in many cases, the female heir may be a woman discarded by her husband, or may be a widow whose husband has left no houses, and it is likely that in such cases she will come and reside in the house of her father. That is the main reason why ihe Joint Committee specifically mentioned this right of residence in the family dwelling house of a female heir.

While considering this question of inheritance amongst Hindus, many new questions arising out of the changed social and economic conditions have arisen. For instance, while discussing this matter, many hon. Members suggested that an unmarried daughter may be given a share in the father's property but that a married daughter should not be given such a share. Now, a married daughter might be well placed or might be in indigent circumstances. The same might be true of an unmarried daughter. There might be an unmarried daughter who is well educated at the cost of the family and might be fitted to earn well for herself, and there might be an unmarried daughter neither endowed with charm nor intellect by nature. Similarly, in the case of sons, one might have been educated at the cost of the family and might be a good earner, the other might be poor in intellect and incapable of earning enough. In business too, one may be able to earn a good deal and another may be wanting in qualities necessary for good business. Any uniform hard and fast rule regarding such a matter is not possible. The best thing to do therefore would be to give every Hindu the right *to* make a will regarding his property. Even if he is a member of the Hindu Mitakshara

[Shri H. V. Pataskar.] family, he should have a right to make a will in respect of his interest in the coparcenary, because he is the best person to decide all these matters. If one of his daughters or sons is well •placed, he must be in a position to provide less for him or her; if, on the contrary, one of them, for any reason, needs more, he must be in a position to provide more for him or her. If he has already spent more for the marriage of a daughter, he must be in a position to decide what he should do about it. Clause 32 provides this testamentary right to a Hindu. But, as it stands worded now, it will not enable a Hindu coparcener to make a will in respect of his interest in the coparcenary. I think the House will duly consider the question of Buitably amending clause 32 of the Bill, from this point of view, if my suggestion is approved.

Class 1 of the Schedule has come in for a good deal of criticism. According to the present Hindu Law, there is. what is known as, the heirs in the compact series.

I would like my hon. friend, Dr. Kunzru, to listen to me. We had a talk about this.

There is at present what is known as the heirs in the compact series. In the Rau Committee's Report, this list comprised only—

(1) son *

(2) widow

(3) daughter

(4) son of a predeceased son

(5) widow of a predeceased son

<6) son of a predeceased son of a predeceased son.

(7) widow of a predeceased son of a predeceased son.

(Interruption.)

I have heard the remark. I am only saying here that the law as it at present stands contains six persons. Of course, the Rau Committee added one more, that is the daughter.

This list, except with regard to the daughter, comprised heirs on the basis of the *pinda* theory. The Select Committee on the lapsed Hindu Code did not change this list, but based it on what they called preferential heirs, on the ground of natural love and affection. For the first time, the Rau Committee added the daughter and the Select Committee on the lapsed Hindu Code said that it should be based not on the *pinda* theory but on the theory of natural love and affection, and they raised the number to seven. In the original Bill, this list was increased by the addition of three more heirs:

(1) daughter of a predeceased son

(2) son of a predeceased daughter

(3) daughter of a predeceased daughter.

This was done on the ground of equal representation to descendants of predeceased sons and daughters. The list thus contained ten preferential heirs. The Joint Committee have added to this list two more heirs. They have added the mother and the daughter of a predeceased son of a predeceased son. The heirs in Class 1. now. are thus 12 in number.

According to the present uncodified Hindu Law, the heirs in what is known as the compact series of heirs are 6ix in number. Thus, it will be seen that the present list, as approved by the Joint Committee, contains six more heirs. It will thus be seen that nothing very revolutionary is being made by this list of heirs, except that it adds the daughter, the mother and heirs claiming through the daughter. The list contained the descendants through the male heirs; what has been added is the mother and the descendants of the daughter. That is where the list has been enlarged.

People, who argue against this, argue on the basis that every Hindu

who dies hereafter will leave behind ail these categories of heirs and then say how absurd the whole thing is. Actually, I found one hon. Member arguing that all these were there and if some more were added, according to his calculation, only a very small fraction of the estate would be available to each heir. Nature too is doing its work and I am sure, such prolixity of heirs is hardly possible. There have been only very few instances, so far as I know, where many heirs were left, except perhaps in the case of Maharajas or Nawabs.

SHRI BHUPESH GUPTA: We have got 500 of them.

SHRI H. V. PATASKAR: The list only shows which are the heirs who, if in existence, will be entitled to receive property, in preference to those mentioned in Class 2. I find that there is absolutely no justification for making such calculations. After all, what is said is. if there are heirs in Class 1. any one of them or two or three— whatever the number—they shall get preference over the heirs mentioned in Class 2. That is the only important thing. That has been the object and this has been in existence all along in the Hindu Law, though the number was a little less. If heirs are to be classified on the basis of natural love and affection, then naturally, proximity of sons and daughters en the same footing cannot be avoided. The Joint Committee added mother to this list on two grounds. One ground is that there can be no one nearer than the mother from the point of view of natural love and affection. If you want to base your classification on that basis, then, who can be nearer than the mother? The second ground is: The mother is already the most preferential heir among certain sections of Hindus. As we know, naturally the mother is already there in a much higher and stronger and nearer position than any one else. After all, to the mother who remains in the family, there can be very little objection, even j sentimentally, or otherwise. After all, I in the case of a daughter, there is some difference that she goes out and that property might go[1] out and there may be some trouble. But what will the poor old mother do?

I have dealt with almost all the important provisions contained in the Report of the Select Committee. Ever since this question of the reform of Hindu Law was first seriously raised in the year 1937, it has gone through various stages and the matter has all along been a matter of great excitement on the part of different sections of our society. However, having started with this task, it should be our duty and endeavour to try to settle this question as expeditiously and as satisfactorily as we can.

Political and economic changes are moving fast not on'y in our country but also all over the world. In our country, our freedom has cast on us added burdens. Political freedom will have little meaning without economic readjustment to lead to the contentment and prosperity of Indian society as a whole. We are already pursuing several measures in that direction, that is, in the direction of economic adjustment. There can be no economic adjustment without the establishment of a just social order. Tc secure justice, social, *economic* and political, to all our citizens is the pledge which we have taken by our Constitution. We have to achieve this by peaceful means. The only peaceful approach to this matter of social justice can be by means of legislation. That is why we recently passed the Untouchability (Offences) Act to secure social justice to that large class of our countrymen to whom it is due. At one time, this question of the removal of untouchability had raised great storms and there was widespread excitement. We have boldly, but peacefully, faced that problem and I have no doubt that it will soon be a question of the past.

By this legislation we are trying to solve another but greater and wider social problem. Since the attainment of freedom, the poetical and economic

[Shri H. V. Pataskar.] life of the people has undergone vast changes and' we cannot allow social conditions to exist which are entirely inconsistent with the changed economic and political life of the country. I would, therefore, appeal to the hon. Members of this House to look to this measure with a desire to find a solution of the longstanding social problem.

I know, interested parties will try to take advantage of deep-rooted prejudices and sentiments in respect of such a question, but that need not deflect us from our task. I am aware, we are not writing on a clean slate. We have to take note of the existing conditions of our society as much as the necessity to change them in conformity with our objective. I agree, we must make an attempt to coordinate the existing with the future, so that the present will be transformed 1>y a process of evolution into something which suits fee future. There is no desire suddenly to disrupt the life anywhere, whether in cities or rural areas, and whatever suggestions were made in this regard have received earnest and careful consideration -at the hands of the Joint Committee.

One such suggestion was: In the •case of a woman, give her rights in the family of her husband, but do not give her any rights in the family of her father. If by this is meant that she should be given the right to inherit only to her husband after his death, then, that right is already provided for her by the Deshmukh Act of 1937, the only thing being that her right is iimited under that Act to'mere enjoyment of the property so inherited during her lifetime. It will easily be seen that that does not remove the inequality and the hardships to which women are subjected. If what is meant by giving the woman rights in her husband's family is that, by marriage, she should become a co-parcener a'ong with her husband in the joint family of the husband. I am afraid -such a coparcenary will never work. As I said on the earlier occasion, such a coparcenary is unknown to law and unworkable in practice. I would appeal to these people to visualize a joint family consisting of, say, three brothers and their three wives under modern conditions. Marriage of a male coparcener even in rural areas almost invariably leads to his separation from the joint fami'y. Joint family system itself has now become unsuited in these days of individualism and to try to make these innovations in that system will only lead to confusion. It is on that account that those suggestions could not be taken into consideration.

A fear is expressed in certain quarters that this Bill will interfere with problems of land policy. This is due again to another misconception. This Bill is one which lays down the personal law of the Hindus. My attention was drawn to the provisions of section 59 of the Punjab Tenancy Act. It lays down certain rules of devolution regarding agricultural lands in that State. Now, that law relates to agricultural lands and it applied to all, whether they are Hindus, Parsis, Christians or Muslims, and their personal laws of succession can never override the provisions of that Act relating to devolution of interest in agricultural lands. In India, land tenures, their holdings, and many matters connected with that question, are different from area to area. The question of a general and common land policy for the whole country is yet to be evolved. When evolved, it will apply to all Indians alike in so far as lands are concerned, and the personal laws of Hindus will not have an overriding effect over them. A good deal of misconception in this matter prevails in those parts of the country where once zamindari tenure prevailed and where, after the abolition of zamindari, new occupancy or tenancy rights are created by different Acts. I am informed that there are such Acts in Uttar Pradesh, Bihar and some other States. The land po'icy in those States will not be affected by the provisions of this Act which is a personal law dealing with the question of succession amongst Hindus. If still, some

hon. Members think that for the purpose of removing misapprehensions in this regard some provision to remove them should be made, that mattei can foe considered by the House wilhout any difficulty.

Let us consider the matter also from the point of view of making this measure acceptable to as large a population of our country as possible, by trying to find out solutions for real difficu'ties. The Joint Committee has tried its utmost in that direction and it is now for this House to consider ■these solutions which have been placed before them.

I have respect for the sentiments and feelings of all. Unfortunately, they vary from one extreme to another. The problem is difficult, but it is crying for solution for the last eighteen years and more. Let us try to resolve it by mutual accommodation. We cannot delay it, for delay will not be in the best interests of the society. Our so'ution may not meet with universal approval, but it will be our endeavour to solve this matter in the true spirit of its being in the best interests of our society and the eountry as a whole.

I remember, Sir, with gratefulness, the high tone and the underlying high spirit of the debate in this House at the time when this Bill was agreed to be referred to the Joint Committee, almost with unanimity, and the principles underlying the Bill were accepted. I am sure, and I feel corfident that, with the same spirit and with the same high tone, this motion which I *am* making wil! find favour with all the hon. Members of this House.

Sir, I move my motion.

Ms. DEPUTY CHAIRMAN: Motion moved:

> That the Bill to amend and codify the law relating to intestate succession among Hindus, as reported by the Joint Committee of the Houses, be taken into consideration.

SHRI V. K. DHAGE: May I make a .suggestion to the hon. Minister? He has maae a very important speech today, and it will be very helpful to the Members if the speech is circulated afterwards.

AN HON. MEMBER: Quite so.

SHRI B. K. MUKERJEE: I want to move an amendment to this motion.

MR. DEPUTY CHAIRMAN: Not now. It is already before the House. "Vou have not given notice of any such amendment.

SHRI B. K. MUKERJEE: I may request you, Sir, to waive the rule and you can do so under rule 81, if required.

MR. DEPUTY CHAIRMAN: I am sorry I cannot take notice of any amendment now. Yes, Mrs. Lakshmi Menon.

THE PARLIAMENTARY SECRETARY TO THE MINISTER FOR EXTERNAL AFFAIRS (SHRIMATI LAKSHMI MENON): Mr. Deputy Chairman, Sir, it is with very great pleasure that we welcome this new measure which has been just introduced by the hon. Minister. During the last few years, we have seen how this measure has been treated in a rather unpopular, undemocratic and perhaps unparliamentary way, by mobilising the reactionary forces in? the country to put a stop to a law which was needed to meet the changing demands of our society. Ten years ago when the B. N. Rau Committee's Report was published, there was general discontent because the daughter was given half the share of the son. Since then, that share has been raised to be equal to that of the son. The whole thing appears almost like the interview of Tarquin the Proud with Sibyl.

SHRI M. GOVINDA REDDY (Mysore j: What is that interview?

SHRIMATI LAKSHMI MENON: I am going to tell you that. Sibyl had

[Shrimati Lakshmi Menon.] nine books of wisdom and these were_ offered to Tarquin the Proud at a certain price. He refused to accept it because he thought that the price was very heavy.

DR. P. C. MITRA: We are not in Rome; we are in India.

SHRIMATI LAKSHMI MENON: The ' offer being rejected, she burnt three of them and after a lapse of time offered the remaining six at the same price. Again being refused, she burnt three more, and after some interval, asked the same price for the remain ing three and sold them for that same price. The reason why I am referring to this is because there was a time when the mere mention of share to the daughter was regarded as blas phemy and heresy; then half the share was accepted and now hon. Members are faced with the proposi tion of accepting equal share and if this is not accepted, the time will come—I regret to say—when as a result of intelligent pursuits of gain ful occupations, women will beat back the men and will receive a share .....

(Interruptions.) DR. P. C.

MITRA: Never, never.

SHRIMATI LAKSHMI MENON: The hon. Member in the front seat might raise his arms; he might shout; he might do anything that he likes. He will be like the fictitious Dame Partington with her mop who tried to push back the Atlantic with her simple broomstick and he will find that the changes will submerge him. The rights which we regard as progressive today will become just a matter of course in the years to come.

Sir, I want to recall to this House that hon. Members have taken the pledge by the Constitution and that Constitution was framed not by the women of India but by a Constituent Assembly, 97 per cent, of the members of which were men and great fundamental rights have been pro claimed in the Constitution granting equal, social, political and other justice .....

DR. P. C. MITRA: And also illegitimacy?

SHRIMATI LAKSHMI MENON: ..... to all citizens of India. All these have been granted in our Constitution by our brothers and by our colleagues and today when a simple measure like this comes up, they raise their voice of protest and they ' take recourse to unparliamentary methods to see that the measure is not placed on the Statute Book. Sir, it is not a secret, as far as this House is concerned, how during the last few days the decisions of the Business Advisory Committee were upset, and how signatures were asked from the same people who had signed before for its introduction, to postpone it. Now, even at this last moment, when the hon. Minister was on his feet, an attempt was made to see that this Bill was not introduced here in this House.

SHRI J. S. BISHT (Uttar Pradesh): No, no. We carried it through unanimously last time.

SHRIMATI LAKSHMI MENON: I mean the Bill as it has emerged from the Joint Select Committee.

Sir, I want to point out something else. One has only to go through the Report to see how the Joint Select Committee behaved. At no time was-more than two-thirds of the members present. Only at one meeting out of the 16 meetings held were there 30 members; at other times, the number varied between 19 and 26. This shows that if the members of the Joint Select Committee were anxious to put forward their point of view, whether reactionary or progressive, it does not matter, if they were anxious to da their work properly, they would have attended the meetings and they could ha^e made the recommendation

which the hon. Member ardently pleading for the under-privileged all the time has made. He rose on a point of order, but there was no point of order. Unfortunately, he did not know what order was when he tried to create disorder in this House. I may tell the House that we are not living today in a pastoral soc.ety where men till the soil and women milk the cows.

SHRI BHUPESH GUPTA: But Mr. Mukerjee wants to live in it.

SHRIMATI LAKSHMI MENON: May be; perhaps there are many other Members who not only live in those days but think behind those years even. Sir, today w.e are proclaiming that we are working towards a socialistic pattern of society. We proclaim that we abide by the Constitution. Is this the kind of leadership, is this the kind of democracy, is this the kind of socialism that we are going to have in which women are denied their elementary and basic rights?

DR. P. C. MITRA: Is there any country where they have wonen leaders?

MR. DEPUTY CHAIRMAN: Order, order. Don't get excited.

SHRIMATI LAKSHMI MENON: Sir, I seek your protection.

Sir, appeals are made almost every day that the women of this cour try phould come forward and participate in all these ventures, in Community Projects, in National Extension Service Blocks, and in many other things which are meant for the progress of the country.

DR. P. C. MITRA: And in kitchen too.

SHRIMATI LAKSHMI MENON: Soon we will find that many Members of this House are fit only for the kitchen and not for the work of this House. This is not the way to behave in the House. It is a disgrace that hon. Members who are legislator? and representatives of the people should behave in this irresponsible way IIH'I because.....

{Interruptions.)

SHRI MAHESH SARAN (Bihar): This is not a remark to be made in the House.

MR. DEPUTY CHAIRMAN: Come to the Bill, -Madam.

SHRIMATI LAKSHMI MENON: I am giving the preface, Sir. A great responsibility rests on the members of this House to see that the pledges that they have taken and sworn by the Constitution are implemented. Therefore, there is no point in trying to obstruct the passage of this Bill.

Now, I come to the Bill. The Bill as a whole is a great advance towards article 44 of the Constitution. One of the Directive Principles is to have a uniform civil code. Earlier, when the motion for reference of this Bill to the Select Committee was moved u> this House, I had spoken—as many others had done—and said that one of the reasons why we should give our unstinted support to this Bill was that this is the first step towards a national civil code. We had also urged at that time that these customary and other laws which were not included as part of the Hindu Law should be brought within the ambit of this new Bill so that the entire Hindu community in India will be governed by the same law. It is with a great sense of relief that we find that the Joint Select Committee under the able direction of the hon. Minister has been able to accomplish this. Sir, Marumakkat-tayam and Aliyasantana laws are laws in which daughters and sons inherit equally and yet they were willing to give up some of their rights and some of the sentiments that they had entertained for the customary laws so that our country may have a uniform code •and law. There was a time when Dayabhaga was the law and when we argued that we must have one uniform law to ensure equality and justice, the hon. Minister said that I was suggesting the 'Malabarisation' of thfc whole of the Hindu Law. Today, we

I.Shrimati Lakshmi Menon.] have found a compromise which has produced a synthesis of the existing systems, a synthesis which ensures the great principles of our Constitution and marks a step forward towards a national civil code.

Sir, the reason why even non-Hindus are against this Bill is an interesting matter to be enquired into. Non-Hindus, that is, the minority communities which are still governed by other personal laws, like the Mus-Jims, Christians, Parsis and others.....

SHRI A. DHARAM DAS (Uttar Pradesh): We are far more advanced than what you have provided for in this Bill.

SHRIMATI LAKSHMI MENON: ..... are afraid, that if this Bill becomes law, they will be having a system of law in which women do not have the same rights as they will be having under this law. And, therefore, instead of accepting a progressive measure which will set the pace for these laws as well, they want to hamper it, so that the sanctity of those laws can be maintained.

4 P.M.

Here, I congratulate the Joint Select Committee as well as the Law Minister and those other Members in this House who have supported us, when we put forward the demand of having a common civil code in which all these different systems of law will be syn-thesised, for their co-operation.

Now, we come to two or three other characteristics of this new changed law, which has claimed the attention of this House. Sir, women's organisations all over the world, I should think, are watching with great interest, this clause in the Bill giving equal right to daughters and sons. It is a big move and it is also a move which was expected of our Government, because it is in conformity with our professions and beliefs, as far as equality of rights is concerned. Now, in years past, the one argument advanced against making the daughter simultaneous heir with the son was that there would be fragmentation of holdings. It does not matter if a family has six sons and the property is divided among the six sons, as long as they happened to be sons. There was no fragmentation. The moment there is a son and a daughter and the property is divided between the two, into two shares, there will be all the evils of fragmentation of holdings. You can read that in our texts and see around us also. Now. that hurdle has been crossed. Nobody talks of fragmentation of holdings, because we know, under the new land policies that our Governments follow, there can be legislation for consolidating holdings and also legislation which would do away with those items which we fear in this law.

Now, fresh bogies are raised. We are told that the natural affection of the brother to the sister will be spoiled if the daughter were given a share, that there will not be any affection *or the family, because she will cons pire with her husband, with the son-in-law, and there will be utter confusion in the joint family. This only shows the complexes that some of our Members entertain, where women's rights are concerned. Every body here, I am sure, who is a father and who has a daughter says, and many of them have told me "now, look at me, I have divided my pro perty equally among my sons and daughters or I have only one daughter and all my property .will go to the daughter." Yet, they do not want other people's daughters to get an equal share in their parents' property. This is most unfair.....

DR. P. C. MITRA: Concubine's daughter also.

SHRIMATI LAKSHMI MENON: I agree with the Legal Affairs Minister that giving a share in the family property to the daughter will produce great changes in our society. Today w» hear of girls committing suicide

because their fathers cannot find the dowry for their marriage. These things go on unacknowledged and unrecognised by our society because they think it is only natural for a girl, who cannot have the dowry, to commit suicide. In the time of *Snehalata,* it has happened. Therefore, what does it matter? On the other hand, if one person dies of starvation or if one person is shot down, the Members of Parliament will raise short notice questions. They will raise half-hour discussions. But hundreds of girls might kill themselves, because of the social evil of dowry, and nothing is heard in this House or anywhere else ..... '

SHRI S. N. MAZUMDAR: It may also be noted that those people who raise such questions when people are shot, are supporting this Bill.

SHRIMATI LAKSHMI MENON: Sir, I want to point out, as a parallel, how in France after the Second World War, when women were given equal rights to property and also opportunities; for occupation, their conditions improved and prostitution, which was a vice in France, disappeared. Today, these girls who are left out, because they do not inherit, who have no rights in their ancestral property or their family property, are used for trafficking. Women and children are used to be kept in homes and *ashrams,* and all sorts of immoral activities are encouraged, because you have a large number of dispossessed, unfortunate, women who have nowhere to go. They may be young widows or they may be women from poor families who have not got the wherewithal to live by. Sir, when every woman has a right, or those who come from families having property have a right in the property, her status automatically improves. She does not become, as one of the Members heartlessly and callously said some time ago, an outsider to the family, because she is married. The daughter now, as the hon. Minister has pointed out, will have a homestead. She will not be neglected. She will have a status, and she will still go on loving her brothers and parents, as she had loved them before. If a person can have natural affection for the parents without any right whatever in the ancestral property, is it possible to imagine that she would lose all that affection because she gets a share in the family property? The difficulties that would arise from partitioning the homestead have been solved and the Minister has assured the means by which that has been done.

The second step which is very, very remarkable indeed and which is very necessary is the giving of absolute estate to the women's property. The Hindu women's limited estate has been a source of unmitigated litigation, because the legal necessity had to be proved and every time a property has been mortgaged or sold without the consent of the collaterals or the heirs, the thing became a question for litigation. Now, all that will disappear, because by having absolute estate over her inheritance, the woman becomes her own agent and she is not dependent upon the lawyers for the endorsement of her right.

Sir, much has been said and a good deal of levity has been provoked when the question of illegitimate children has been mentioned. People very seldom know, or they do not care to know, what is meant by legitimising the illegitimate child. It is done in every civilized country. Where paternity is established, naturally the child develops a claim in the property, or in the rights of its parent, and this has been done. And I think, it is only in conformity with modern ideas of illegitimacy that we have accepted thi\ A child is neither legitimate nor illegitimate. A human being is born a child and it does not matter whether it is born inside wedlock or outside wedlock. And it is disgraceful that in any country we should have a law which would penalise children of that category or children born outside wedlock. If there are difficulties, these are difficulties which can be looked into during the debate during the second reading of the Bill,

[Shrimati Lakshmi Menon.] Lastly, I would like to pay a tribute to the late Shri B. N. Rau, whose tolerance, whose wisdom, whose understanding, and whose vision of what the country should have, enabled us to have this Bill. We know that Members who have become interested in the Bill only recently know very little about the great services he has rendered for the cause of the codification of Hindu- Law.

SHRI R. P. N. SINHA: Why don't you pay a tribute to Dr. Shrimati Seeta Parmanand?

SHRIMATI LAKSHMI MENON: I Will pay my tribute to Dr. Shrimati Seeta Parmanand. You wait.

I will pay my tribute again to the Minister for Legal Affairs, Mr. Patas-kar, who has brought into this Bill, not so much his own ideas as the progressive ideas which are favoured by the progressive elements in this country.

PROF G. RANGA: Including himself.

SHRIMATI LAKSHMI MENON: Including himself, certainly.

Before I sit down, I want to utter a word of warning to those Members who ,are determined—because they have shown their determination in more ways than one—to see that this Bill is modified.

Recently, we have seen how protests against the Hindu Code Bill have taken the form of Sati or Pathi Puja.

AN HON. MEMBER: What is Sati?

SHRIMATI LAKSHMI MENON: That means throwing a woman into flames when th$_e$ husband dies.

PROF. G. RANGA: They have done it as a protest against this Bill.

SHRIMATI LAKSHMI MENON: Even when the husband was living.

PROF. G. RANGA: Is it not exactly imagination?

SHRIMATI LAKSHMI MENON: You read the newspapers. You will know all this. You will find that these are the very people who are going to revive those very things which were followed a hundred years ago. It will not be a surprising thing. Some ci. these people who profess great idealism in certain cases become grea'. reactionaries when the question of woman's right comes. They seldom think that this law has nothing to do with women alone. It has everything to do with the Hindu family—toe Indian family, Indian citizenship. All these misconceptions are due to the fact that we think that the family ultimately means men. 'Dharma' means regulation of women's lives so that a man may do anything he likes. They have the means to regulate women's lives so that men can have what they want. This double-standard of morality has always been the basis of Hindu custom or religion. You may refer to the shastras and things like that. It has happened in practice. I am not thinking of scriptures. I am thinking of what is going on around me and in front of me and I do not see any difference at all.

PROF. G. RANGA: That is not an argument of any aid to us.

SHRIMATI LAKSHMI MENON: Watchfulness is needed to defeat the attempts to prevent the passing of this law. Unless we see that the things that we profess are implemented—your Constitution is implemented, our Five Year Plan is implemented—we are unable to get what we want.

With these words, I commend this Bill to the House and I hope that Members, when they understand more about the Bill as our Legal Affairs Minister has pointed out and explained, will realise the essential need for such a Bill, because to-day we are living in 1955—a hundred years after the Widow Re-marriage Act was proclaimed in 1857. And we are living in a community which is far advanced in its economic and politico 1

structure and in its social outlook and We cannot have a legislation which is far behind these conceptions—social and political conceptions which are in currency to-day.

Finally, I wish to point out that we have to show that we have an approach to the social and legislative problems—an approach which is neither idealistic nor reactionary—but an approach which is necessitated by the compelling needs of our times. Such an approach will be a ;rue approach and such an approach only can keep our society together. On the other hand, if we say that laws r< lating to marriage and property are laws which undermine the moral foundations of our society, we are not telling the truth. Sir, morality is not built upon injustice; morality is not built upon prejudice, it is buil; on rectitude of conduct—a correct appreciation of the needs of the times, a correct appreciation and an implementation of the principles which society professes. I hope that these needs will be taken into consideration and the opponents of the Bi 1, if there are any—I know there are not many—will realise that we cannot hold back the change that has come upon us. The most graceful thing would be to accept it and see that other things are done so that the family which is the unit of our society will be maintained and the great and sacred moral standards which we have always been proud to possess, wi'l be valued and cherished.

श्रीमती चन्द्रावती लखनपाल : श्री उपाध्यक्ष महोदय, इस समय जो बिल हमारे सामने सिलेक्ट कमेटी से निकल कर आया है, उसका स्वरूप सिलेक्ट कमेटी से निकलने के बाद पहले से बहुत काफी सुधर गया है ।

DR. W. S. BARLINGAY (Madhya Pradesh): We cannot hear properly.

श्रीमती चन्द्रावती लखनपाल : बिल का क्षेत्र पहले से व्यापक हो गया है, उसका स्कोप पहले से ज्यादा हो गया है ।

श्री व्य० कृ० ढगे (हैदराबाद) : आप जरा सामने आ जाइये तो अच्छा हो ।

श्रीमती चन्द्रावती लखनपाल : श्रीमन्, जो बिल हमारे संमुख है वह सिलेक्ट कमेटी से निकल कर आया है। उसका स्वरूप पहले से कहीं अधिक व्यापक, पहले से कहीं अधिक सुलझा हुआ है । कई गुत्थियां सुलझ गई हैं और कई समस्याओं का हल हो गया है ।

जिस उदारता के साथ सिलेक्ट कमेटी के सदस्यों ने इस बिल के ऊपर कार्य किया है और जिस सूझबूझ के साथ सिलेक्ट कमेटी के अध्यक्ष श्री पटास्कर जी ने इस बिल का संचालन किया है, वह सचमुच प्रशंसा के योग्य है और मैं सिलेक्ट कमेटी के सदस्यों को और श्री पाटस्कर जी को हार्दिक बधाई देती हूं ।

श्रीमन्, इस बिल के सम्बन्ध में अभी तक तो हम यही देखा करते थे कि कुछ बाहर ही चहल पहल हो रही है, कुछ बाहर के लोग ही घबड़ा रहे हैं । लेकिन आज तो मैं यह देख कर हैरान हो गई कि इस सदन के अन्दर भी उन बाहर के लोगों का एक नमूना मौजूद है । हमारे सदन के एक माननीय सदस्य, श्री मुकर्जी, ने जब यह सुना कि यह बिल इस सदन के अन्दर विचार के लिये लाया जा रहा है, तो वे इतना घबड़ा गये कि पांच मिनट तक एक ही बात दोहराते रहे । उनकी समझ में नहीं आया कि वे कौन सी बात कहें । वे जो कहना चाहते थे वह भी नहीं कह सके । मेरी समझ में नहीं आता है कि इस बिल में ऐसी कौन सी चीज है जिससे बाहर के और अन्दर के कुछ लोग इतना ज्यादा घबड़ाये हुये हैं । उन लोगों का कहना है कि बिल के अन्दर बड़ी क्रांतिकारी धाराएं हैं । बिल में सिलेक्ट कमेटी के द्वारा बड़े परिवर्तन कर दिये गये हैं, और बहुतों का कहना है कि इसको वापस जाना चाहिये जनमत के प्रकाशन के लिये लेकिन मैं उन लोगों को आठ साल पहले की बात याद दिलाती हूं जब कि राव कमेटी ने हिन्दू कोड बिल का एक ड्राफ्ट तैयार किया था, और सिलेक्ट कमेटी उस पर बैठी थी । इसमें जिन बातों को बड़ा क्रांतिकारी माना जाता है, वे दोनों

[श्रीमती चन्द्रावती लखनपाल]

ही बातें उनके बिल में मौजूद थीं और इतना ही नहीं कि उन्होंने मिताक्षरा को बिल्कुल खत्म कर दिया था, उन्होंने तो यह सिफारिश की थी कि इस देश के अन्दर मिताक्षरा को चलाने की आवश्यकता ही नहीं है। सारे देश के लिये दाय भाग का कानून चले। उन्होंने यह भी सुझाव दिया था कि लड़के और लड़की का हिस्सा बराबर रहे। इस प्रकार, आज जो बिल हमारे सामने उपस्थित हुआ है वह उतना आगे नहीं बढ़ा है जितना कि पहले सिलेक्ट कमेटी के अन्दर से जो बिल गुजरा था वह आगे बढ़ गया था। एक ओर तो हम कहते हैं कि हम एक बड़े क्रान्तिकारी युग को ला रहे हैं, एक क्रान्तिकारी समाज की स्थापना करने जा रहे हैं, और दूसरी ओर हम एक इंच भी आगे बढ़ने के लिये तैयार नहीं होते। क्रान्तिकारी समाज और क्रान्तिकारी आदर्शों की स्थापना जहां पर हम खड़े हैं वहीं खड़े खड़े नहीं होगी। क्रान्तिकारी सिद्धांतों और क्रान्तिकारी कानूनों द्वारा ही क्रान्तिकारी समाज की स्थापना की जा सकती है।

कुछ लोग हम में से ऐसे हैं जो कि यह समझते हैं कि यह बिल आज जिस रूप में आया है उसके अन्दर मिताक्षरा को भी रखा गया है और जो दक्षिण की व्यवस्थायें हैं, मरुमक्कतायम, अलीय संतानम् और नम्बूदरी आदि, उनको भी रखा गया है, और सारी व्यवस्थाओं को यह बिल कवर करता है। वे कहते हैं कि ऐसा करने से वह सारे का सारा एक गड़बड़ घोटाला बन गया है और इसके अन्दर कोई व्यवस्था ही नहीं रही है। उन लोगों को मैं यह याद दिलाना चाहती हूं कि इस बिल का जो उद्देश्य है उसको वे समझें और एक बार याद करें कि किस उद्देश्य को ले कर, किस आदर्श को ले कर, यह बिल लाया गया है। आजादी के बाद जब यह देखा गया कि इस देश के सारे लोगों के अन्दर ही नहीं बल्कि हिन्दुओं के अन्दर भी एक नहीं अनेकों तरह की व्यवस्थाएं चल रही हैं। उत्तर प्रदेश में कुछ व्यवस्था है, बम्बई में कुछ व्यवस्था है, मद्रास में कुछ व्यवस्था है, बंगाल में कुछ व्यवस्था है। तो युनीफार्मिटी लाने के लिये, एकता स्थापित करने के लिये, यह आवश्यक समझा गया कि समस्त हिन्दू जाति के लिये एक सा विधान लाया जाय और उसका उद्देश्य यह था कि एक युनीफार्म कोड ला कर समस्त देश के अन्दर जितने भी भिन्न भिन्न व्यक्ति हैं, भिन्न भिन्न जातियां हैं, भिन्न भिन्न प्रदेश के लोग हैं, उन सब को एकता के सूत्र में बांधा जाय। मैं तो कहती हूं कि आज जो बिल हमारे सामने है वह वास्तव में इस उद्देश्य की पूर्ति करता है। इससे पहले का जो बिल था वह इस उद्देश्य को पूरा नहीं करता था। इस बिल के द्वारा तो हम अपने उद्देश्य के अधिक नजदीक पहुंच रहे हैं। असल में लोगों के अन्दर जो गलतफहमी है वह इस कारण से है कि वे इस बिल के विषय में राइट एप्रोच नहीं करते। उनका दृष्टिकोण गलत है। दृष्टिकोण के गलत होने का कारण यह है कि जिन लक्ष्यों को सामने रख कर यह बिल लाया गया है वे लक्ष्य उनकी आखों से बार बार ओझल हो जाते हैं। जैसा कि मैंने अभी आपको बतलाया कि इस हिन्दू कोड बिल का एक लक्ष्य तो यह था कि देश के समस्त हिन्दुओं के लिये एक युनीफार्म सिविल कोड बनायें, जिससे कि समस्त देश के अन्दर हम एकता स्थापित कर सकें और दूसरा लक्ष्य यह था, दूसरा उद्देश्य यह था, कि इस देश की स्त्रियों की स्थिति को सुधारें। हमारे देश में स्त्रियों की जो हालत है वह एक अजीब सी हालत है। बहुत पहले की बात तो मैं नहीं कहती, क्योंकि हजारों साल पहले और वैदिक काल में तो स्त्रियों की अवस्था बहुत अच्छी थी, उस जमाने में स्त्रियां कवयित्रियां भी होती थीं। परन्तु मैं तो सौ, डेढ़ सौ, दो सौ, ढाई सौ, साल पहले की बात कहती हूं। तब से ले कर आज तक हमारे समाज का निर्माण इस प्रकार हुआ है, हमारे समाज की रचना इस प्रकार हुई है, कि इसमें स्त्रियों का कोई स्थान ही नहीं है। ऐसा मान लिया गया है जैसे कि देश के अन्दर स्त्रियां बसती ही नहीं हैं, उनका कोई अस्तित्व ही नहीं है। इसका कारण शायद यह है कि

हमारा दृष्टिकोण ही स्त्रियों की ओर एक दूसरे ढंग का रहा है। स्त्रियों को हम हमेशा अबला समझते रहे हैं। हम यह समझते रहे हैं कि वे स्वतंत्रता के योग्य नहीं हैं। हम यह समझते रहे हैं कि स्त्री परतन्त्र ही होने के लायक है। जब स्त्रियों के सम्बन्ध में ऐसे विचार हों कि वह स्वतन्त्रता के योग्य ही नहीं हैं, जब स्त्रियों के सम्बन्ध में ऐसा सोचा जाता हो "ढोल गवांर शूद्र पशु नारी, ये सब ताड़न के अधिकारी" तो यह कोई आश्चर्य की बात नहीं है कि समाज की व्यवस्था में उनका कोई स्थान नहीं रहा है। किन्तु, आज तो युग ने पलटा खाया है, आज तो जमाने की रफ्तार बदल रही है। पढ़ी लिखी स्त्रियां तो क्या, अनपढ़ स्त्रियां भी आज इस बात को मानने के लिये तैयार नहीं हैं कि अपने देश के समाज की रचना में उनका कोई स्थान नहीं होना चाहिये। युग का परिवर्तन तो इस बात से प्रकट होता है कि स्त्री तो स्त्री, पुरुष भी आज इस बात को मानने के लिये तैयार नहीं हैं कि आज का समाज केवल पुरुषों से ही बना रहे। कट्टर से कट्टर पन्थी, हमारे कट्टर से कट्टर भाई, आज यह मानते हैं कि अब वह जमाना गया जब कि केवल पुरुषों का ही समाज रह सके। आज तो हमें एक ऐसे समाज का निर्माण करना है जिसमें स्त्री और पुरुष दोनों ही समता के स्तर पर रहेंगे। जब यह स्थिति है तो यह प्रश्न उठना स्वाभाविक है कि आज हमें अपने समाज की रचना में कौन कौन से मौलिक परिवर्तन करने होंगे। इस प्रश्न का एक ही उत्तर है कि आज स्त्री और पुरुष के अन्दर जो एक जमीन और आसमान का भेद पैदा किया हुआ है उसको हमें मिटाना होगा। दोनों के अन्दर जो डिसपैरिटी है उसको हमें खत्म करना होगा। आज कदम कदम पर स्त्री को अपनी विवशता का, अपनी पराधीनता का अनुभव होता है। उसके सामने स्वभावतः यह प्रश्न उठता है कि एक ही माता पिता की संतान होने पर भी भाई का पैतृक सम्पत्ति पर अधिकार होता है लेकिन बहन का नहीं होता। यदि पुत्र को वह अधिकार हासिल है तो पुत्री को भी क्यों नहीं ? उसी प्रकार से, जो स्त्री अपने पति की अर्धांगिनी कहलाती है उसका अपने पति की सम्पत्ति पर कोई स्वत्व नहीं होता, ऐसा क्यों है ? माता अपने बच्चे के लिये सब कुछ न्यौछावर कर सकती है, सब कुछ बलिदान कर सकती है और अपने बच्चे के सुख के लिये इस जन्म की तो क्या जन्मजन्मान्तर की कमाई को पानी की तरह से न्यौछावर कर सकती है। ऐसी माता को अपने पुत्र की सम्पत्ति में कोई हिस्सा क्यों नहीं प्राप्त हो ? ये प्रश्न आज केवल स्त्रियों के सामने ही नहीं वरन् समस्त देश के सामने हैं, सारे समाज के सामने हैं और हमारे उच्च आदर्शों को चुनौती देते हुये हमारे सामने खड़े हैं और उत्तर मांग रहे हैं। हमें उन सारे प्रश्नों का उत्तर देना होगा और उस उत्तर के रूप में ही आज यह बिल हमारे सामने लाया जा रहा है।

माननीय विधि मन्त्री ने धारा ६ पर बहुत अधिक प्रकाश डाला है। धारा ६ हमारे लिये एक संतोष का विषय है क्योंकि उसके अनुसार लड़की को पहली बार संयुक्त परिवार की जायदाद में अपने भाई के बराबर हिस्सा मिला है। यह बात ठीक है कि उसको "राइट बाई बर्थ" नहीं मिलता, लेकिन "राइट बाइ सक्सेशन" तो उसको मिलता है। हमारे विधि मंत्री ने अपनी दृढ़ता से, अपनी कुशलता से, एक ऐसा सूत्र और एक ऐसा फारमूला निकाला है, जिसके द्वारा मिताक्षरा के जो सिद्धान्त हैं, "राइट बाई बर्थ एंड सर्वाइवरशिप", उनको भी बनाये रखा है और लड़की को पैतृक सम्पत्ति में बराबर का हिस्सा भी दिया है। यह बड़ा ही सुन्दर सामन्वय है। यदि यह सफल हो गया तो बहुत ही सुन्दर रहेगा। लेकिन मुझे तो ऐसा लगता है, और केवल मुझे ही नहीं बल्कि नोट्स आफ डिसेंट में भी ऐसी आशंका प्रकट की गई है, कि अगर मिताक्षरा के कानूनों को साथ साथ चलाया गया, बेटी को अधिकार भी दिया गया और "राइट बाइ बर्थ एंड सर्वाइवरशिप" भी रखा गया तो कोपारसेनरीज के जो भागीदार हैं, लड़के और लड़कियां, उनमें पूर्णतः न्याय और समता नहीं होगी। इसका कारण भी है। बात यह है कि मिताक्षरा जिन सिद्धांतों पर खड़ा है वे सिद्धांत पुराने हो चुके हैं, वे समय के बिल्कुल विपरीत हैं। आपने अभी सुना कि

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हमारा समाज का जो कंसेप्शन है, हमारी जो सामाजिक विचारधारा है, वह सारी की सारी बदल चुकी है। पहले हमारा जो समाज था, उसका यूनिट फैमिली होता था, परिवार होता था, लेकिन आज का युग व्यक्तिवाद का युग है। आज सोसाइटी का यूनिट फैमिली नहीं, इंडिविजुअल हो गया है। आज व्यक्तिवाद का युग है, व्यक्तिगत स्वतन्त्रता का युग है। इसके अलावा एक और भी बात है। वह यह कि मिताक्षरा के अन्दर न जाने कितने सालों से बराबर परिवर्तन होता चला आ रहा है, और इस परिवर्तन के बाद जो उसकी विशेषतायें थीं, जो उसकी खूबियां थीं, वे तो खत्म हो चुकी हैं, और एक खोल के रूप में वह हमारे सामने रह गया है। हम मिताक्षरा के कपड़े के अन्दर एक के बाद दूसरा, दूसरे के बाद तीसरा और तीसरे के बाद चौथा पैबन्द लगाते चले जा रहे हैं। तो जब हम ऐसा करते चले जा रहे हैं तब हमें सोचना होगा कि वह मिताक्षरा का कपड़ा जिसके अन्दर हम हजारों पैबन्द लगा चुके हैं आखिर कहां तक चलेगा। हम चाहते हैं कि सर्वोदय समाज की इमारत को मिताक्षरा के खंडहरों पर खड़ा करें? ऐसी इमारत जो समाजवादी व्यवस्था की इमारत है, जो सर्वोदय की इमारत है, उसको हम खंडहरों के ऊपर, पुराने खंडहरों के ऊपर कदापि खड़ी नहीं कर सकते। इसलिए मेरा तो यह कहना है कि यदि हम पूर्ण स्वतंत्रता चाहते हैं, तो हमें नए आधार पर, नए आदर्शों के आधार पर, एक नए समाज की रचना करनी होगी।

इसके बाद, श्रीमन्, लड़के और लड़की को समान अधिकार दिया गया है। यह एक बड़ा महत्वपूर्ण अधिकार है, और इस अधिकार के द्वारा हमने यह दिखा दिया है कि हमारा आदर्श यह है कि जो कुछ हम कहते हैं वह कर के भी दिखा सकते हैं। विधि मंत्री जी ने ठीक ही बतलाया है कि लड़की को अब भाई के बराबर पैतृक सम्पत्ति में अधिकार मिल जाने से उसको एक स्टेटस मिल जायगा, केवल अपने माता पिता के घर में ही नहीं, बल्कि अपने पति के घर में भी उसको स्टेटस मिलेगा। उसकी पोजीशन न केवल परिवार में बढ़ेगी, किन्तु समाज के अंदर भी बढ़ जायगी। श्रीमन्, इस धारा के ऊपर भी बड़ा विरोध है, बड़ा वावैला, बहुत ही ज्यादा एक्साइटमेंट है। और यह कहा जा रहा है कि लड़की को कभी भी लड़के के बराबर हक नहीं मिलना चाहिए। बहुत से लोग कहते हैं कि उसे कुछ भी हक नहीं मिलना चाहिए। तरह तरह की थोथी दलीलें दी जाती हैं। यह कहा जाता है कि ऐसा करने से भाई और बहिन में प्रेम खत्म हो जायगा, सम्पत्ति के टुकड़े टुकड़े हो जायंगे। लेकिन इन सब का उत्तर देने की मुझे आवश्यकता नहीं, क्योंकि ये बातें अपने आप में एक तरह से खत्म हो चुकी हैं, और इनमें सार कुछ नहीं है। वास्तव में बात यह है कि हमारा लड़के और लड़की की तरफ जो दृष्टिकोण है उसमें मौलिक भेद है। हम यह समझे बैठे हैं कि लड़के और लड़की के अंदर स्वभाव से, प्रकृति से भेद है। लेकिन मैं यह कहती हूं कि यह धारणा गलत है। हम कहते हैं स्त्री जन्म से ही अबला है, वह परतन्त्र है, और पुरुष जन्म से ही सबल है, जन्म से ही स्वतन्त्र है। लेकिन, श्रीमन्, असल में जो भी कोई कमजोरी होती है वह जन्म से कोई नहीं लाता। स्त्री की जो कुछ अवस्था आज है वह वातावरण का परिणाम है, सदियों से वह एक खास वातावरण में रखी गई है। उसकी कमजोरी का कारण ही यही है। अगर पुरुष को भी उस वातावरण में सदियों तक रखा जाय तो वह भी निर्बल, वह भी स्वतंत्रता के अयोग्य बन सकता है। आज वह जमाना गया जिसमें हम यह समझें कि यह इंसान और इंसान के अंदर जो भेद हैं वह प्रकृति का है, वह जन्म से है। आज का मानव यह समझने लगा है कि जो भेद है वह मनुष्य का खड़ा किया हुआ है, वह जन्म से नहीं है। आज का युग समता की ओर जाने का युग है, आज का युग भेदों को मिटा देने का युग है। जिस दिन हम अपने देश के अंदर समता की स्थापना करेंगे और

स्त्री और पुरुष के बीच जो भेद खड़े हुए हैं, या पुरुष और पुरुष के बीच जो भेद खड़े हुए हैं, चाहे वे सेक्स के आधार पर हों, चाहे जन्म के आधार पर हों, जिस दिन उनको खत्म कर देंगे उस दिन हम अपने देश के अंदर एक नये समाज की स्थापना कर सकेंगे, उसी दिन हम अपने युग निर्माता बापू की आत्मा को तृप्त कर सकेंगे, और उसी दिन हम सारी दुनिया को बड़े ऊंचे आदर्श का संदेश वास्तव में देने लायक बन सकेंगे।

इसके अतिरिक्त श्रीमन्, मुझे एक बात और कहनी है और वह यह है कि इस बिल के अनुसार यह कहा गया है कि जो विधवा स्त्री है उसको अपने पति की प्रॉपर्टी पर पूर्ण स्वत्व होगा। यह तो ठीक ही हुआ है। इसमें हमने नई बात क्या की है। यह बात तो विज्ञानेश्वर ने, जो मिताक्षरा कानून के रचयिता थे, उन्होंने ११वीं सदी में ही कर दी थी। जो अधिकार सैकड़ों वर्ष पहले स्त्री को मिल चुके थे, लेकिन कट्टरपंथी लोगों की वजह से जो उसको नहीं मिल पाए, उसी अन्याय का हमने आज एक प्रकार से निराकरण किया है।

एक दूसरी बात इस बिल के अंदर है, जिस पर बहुत ज्यादा वाद-विवाद पाया जाता है, और बहुत ज्यादा बहस भी हो रही है। वह यह है कि माता को अधिकार दे दिया गया है कि उसको पति की संपत्ति मिल जाय। लेकिन, श्रीमन् मुझे सबसे ज्यादा आश्चर्य इसी बात पर हुआ कि इस पर इतना ज्यादा रोष और असन्तोष क्यों है। माता तो एक ऐसी चीज है, जैसा कि मैंने अभी कहा, कि वह अपने बेटे के लिए, अपने पुत्र के लिए सब से नजदीक है। माता पुत्र के लिए सब कुछ कर सकती है। इसके अलावा एक बात और है। स्त्री की तीन हैसियतें हैं। एक पुत्री की हैसियत, एक पत्नी की हैसियत, एक माता की हैसियत। तीनों हैसियतों में हमें उसको एक स्टेटस प्रदान करना है, और जब तक हम इन तीन हैसियतों में उसको एक स्टेटस, एक पोजीशन और एक अधिकार प्रदान नहीं करते, तब तक स्त्री को हम पूर्ण विकास का अवसर कभी नहीं दे सकते। श्रीमन्, यह आक्षेप उठाया जाता कि स्त्री का जो हिस्सा है, वह हिस्सा दुगुना हो जायगा, एक वह पति से लेगी, दूसरा अपने बेटे से लेगी। लेकिन वास्तव में यह आक्षेप उतना ही निराधार है जितना कि दूसरे आक्षेप हैं। श्रीमन्, मां का तो कुछ भी अपना नहीं होता, जो कुछ भी उसका अपना होता है वह अपने पुत्र के लिए होता है। वह अपने पुत्र के लिए बड़ा से बड़ा बलिदान कर देती है। यह मां ही तो है जो हमारे सर्वोदय की कल्पना की मूर्तिमान प्रतिमा है। अभी आचार्य विनोबा भावे ने एक भाषण में कहा था कि सर्वोदय का उपदेश मैं नहीं देता, हर एक परिवार में बैठी हुई मां आज सर्वोदय का संदेश दे रही है। श्रीमन्, यह माता ही है जिसके अंदर हम मानवता के विराट और सम्पूर्ण स्वरूप का दर्शन करते हैं। ऐसी मां के लिए ऐसे आक्षेप उठाना, श्रीमन् मैं कहूंगी, स्वार्थ की, संकीर्णता की पराकाष्ठा है।

श्रीमन्, इस सम्बन्ध में बहुत कुछ कहा जा रहा है और वास्तव में हमारे कुछ भाइयों के द्वारा और बहिनों के द्वारा यह समझा जा रहा है कि यह जो बिल लाया गया है उस से हमारे हिन्दू समाज की आर्थिक व्यवस्था छिन्न भिन्न हो जायगी, धर्म का लोप हो जायगा। लेकिन मैं उनसे कहना चाहती हूं कि इस बिल के अंदर जो कुछ अधिकार दिया गया है वह कोई नया नहीं है। आप कहते हैं लड़की को लड़के के बराबर अधिकार हमने बेकार दे दिये लेकिन यह तो आपके बम्बई प्रान्त में और मद्रास प्रान्त में पहले ही दिया जा चुका है। क्या आप समझते हैं कि बम्बई और मद्रास के अंदर जो वहां सामाजिक व्यवस्था है उसमें कोई प्रलय आ गया है, क्या वहां कोई आसमान टूट पड़ा है? मैं तो कहूंगी कि वहां की सामाजिक व्यवस्था हमारे यहां से बढ़ी चढ़ी ही है, कम

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किसी हालत में नहीं हैं। असल में यदि हम ध्यान से देखें तो लड़की को वास्तव में मिला भी क्या हैं ? उसको पार्टीशन का अधिकार नहीं हैं। जब तक उसका पिता जीवित हैं, वह अपनी प्रॉपर्टी का पार्टीशन डिमांड नहीं कर सकती। और यदि पिता वसीयतनामा कर जाता हैं तो उसके मरने के बाद उसको उस अधिकार से भी वंचित किया जा सकता हैं। श्रीमन्, वह अधिकार ही क्या जिसको कलम की एक नोंक से खत्म किया जा सके?

श्री श्या० सुं० तन्खा (उत्तर प्रदेश): लड़के का हक भी तो खत्म किया जा सकता हैं। मिताक्षरा ला की बात आप कह रही हैं। लेकिन जो सेल्फ एक्वायर्ड प्रॉपर्टी हैं उसमें लड़के को कोई भी बाप हिस्सा पाने से महरूम कर सकता हैं।

श्रीमती चन्द्रावती लखनपाल : मैं एक्वायर्ड प्रॉपर्टी के बारे में नहीं, जॉइंट फैमिली के बारे में कह रही हूं, कि लड़की के अधिकार को अगर पिता चाहे तो वसीयत करके, "विल" कर के खत्म कर सकता हैं। तो मेरा कहना यह हैं कि वह अधिकार ही क्या हैं कि जिसको कलम की एक नोंक से खत्म किया जा सके ? बात कुछ नहीं हैं, लेकिन बेकार का कोहराम मचाया जा रहा हैं। फिर भी हम, इस देश की स्त्रियां, आज इस बिल को भारतीय स्त्रियों की स्वतंत्रता का "मैग्ना कार्टा" मानने के लिए तैयार हैं। हम इसको चार्टर आफ वीमेंस इंडिपेंडेंस मानने के लिए तैयार हैं। क्योंकि यह बिल हमारी बहिनों को प्रथम बार समानता का दर्जा प्रदान करता हैं; प्रथम बार उन्हें कुटम्ब की प्रॉपर्टी में अधिकार देता हैं। इससे, जैसा कि अभी बतलाया गया हैं, स्त्रियों की पराधीनता, आर्थिक पराधीनता का अंत हो जायगा, और उन्हें एक अधिकार मिल जायगा स्वतंत्र होने का। श्रीमन्, यह बड़ा महत्वपूर्ण अधिकार होगा, यह अधिकारों का भी अधिकार होगा। यह आर्थिक स्वतंत्रता का अधिकार वह अधिकार हैं जिसके बिना दूसरे सारे अधिकार बेकार हो जाते हैं, जीरो बन जाते हैं। इस अधिकार को प्राप्त कर के ही दूसरे सारे अधिकार सार्थक बन सकते हैं; इसके बिना नहीं।

श्रीमन्, इसलिए मेरा यह कहना हैं कि इस बिल से हमारे देश के अंदर एक ऐसा वातावरण भी तैयार होगा, जिस वातावरण में स्त्री को एक स्टेटस मिलेगा और उसमें वह कुछ कर सकेगी। आज अपने देश में एक नवनिर्माण का युग आरम्भ हुआ हैं। उस नवनिर्माण में स्त्री ने भी हाथ बटाना हैं; कंधे से कंधा भिड़ाकर पुरुष के साथ आगे चलना हैं। लेकिन जब तक स्त्री का स्टेटस पुरुष का सा नहीं होता, तब तक वह, जो नया रोल और जो नई जिम्मेदारी उसके सामने स्वतंत्र भारत में आ जाती हैं, उसका वह कदापि निर्वाह नहीं कर सकती। उसे आज जो स्टेटस इस बिल द्वारा प्राप्त हो रहा हैं वह ठीक हैं, और हमें आशा हैं और पूरी आशा हैं कि इस बिल के द्वारा जो वातावरण देश के अंदर बनेगा वह ऐसा होगा जिसमें स्त्री अपना योगदान, देश को बनाने में, देश के नवनिर्माण का जो यज्ञ आज अपने देश में हो रहा हैं उसमें पूर्ण आहुति देने में समर्थ हो सकेगी। मुझे आशा हैं कि इस बिल के द्वारा इस देश के अंदर ऐसा वातावरण पैदा होगा। जिसमें पुरुष स्त्री को ठीक दृष्टिकोण से देखेगा; वह उसको दासी नहीं समझेगा; वह उसको एक मनोरंजन की वस्तु नहीं समझेगा। सच्चे अर्थों में वह उसे अपना मित्र समझेगा, वह उसे राइवल नहीं समझेगा, वह उसे फ्रेन्ड, फिलासोफर और गाइड समझेगा, । श्रीमन्, ऐसे दृष्टिकोण को लेकर ही हम अपने एक आदर्श समाज, अपनी कल्पना के समाज, एक समाजवादी समाज की नींव डाल सकते हैं, जिसमें स्त्री और पुरुष दोनों साथ साथ कंधे से कंधा भिड़ा कर समाज की रचना में आगे बढ़ते चले जायंगे।

इन शब्दों के साथ मैं इस बिल का फिर से हार्दिक समर्थन करती हूं।

SHRI J. S. BISHT: Sir, I wanted a ruling from you on this point a:; to whether. when we give[1] notice of amendments to the Bill, we can give .notice of amendments to incorporate those provisions which were contained in Dr. Ambedkar's Select Committee Report with regard to the abolition cf this Mitakshara system.

MR. DEPUTY CHAIRMAN: Please look into the Rules and decide.

SHRI J. S. BISHT: We are not certain at present. If we can give it, it would be better to remove all these complications with regard to Mitakshara and other laws. Can we give it?

MR. DEPUTY CHAIRMAN: You •can give notice of any amendment. Whether it is in order or not, we will •decide later. I cannot guide you as to what amendment to give and what not to give.

SHRI M. GOVINDA REDDY: He "wants to know the hon. Minister's mind.

SHRI K. L. NARASIMHAM {Madras): Sir, I welcome this Bill as Tecommended by the Joint Select Committee as this Bill is a step forward in conferring equal rights to women who have been discriminated against in the matter of inheritance on the ground of sex. This Bill removes the disability of women in the matter of succession. This social equality which the womanhood of our country have been demanding is conceded to a major extent in this Bill. This Bill, dispensing with the traditional limitation, confers equal rights to women to inherit the movable and immovable properties in our courtiy. Sir, we stand for a common civil code. I hope that this will be the basis for framing a common civil code whei eby all the others who are not at present governed under this Bill will come under a common civil code giving social equality to men and women. When we discuss this Bill, we have to trace the history of the principles involved in this Bill. This is the third instalment of the Hindu Code before us and the principles underlying this third important instalment of the Hindu Code have been under the consideration of the Parliament and the public, the woman's organizations and every thinking person in our country. For the first time, it was moved in 1939, and subsequently various Committees were appointed to go into this question. Then a stage had arrived when the agricultural property had to be excluded. Then they decided to give only half the share to the daughter. Then they advanced to a stage of suggesting the exclusion of the Mitakshara system under this legislation. Now, this Bill, taking into consideration the opinions expressed by people outside and the hon. Members in the two Houses, has been brought before us, and I think, generally, it gives the necessary social justice that is urgently demanded in our country. So if any argument is advanced for sending this for eliciting public opinion, I can only consider that as an effort to stop this Bill coming into effect shortly and, in that way, postpone the social justice thai will have, to be given. Even in this House we have noted an hon. Member at the outset raising a Point of Order and trying to put his little finger in the progress of this legislation. These reactionary forces will never want to give social justice to the womanhood and will never believs in social equality and they want to treat the women as servants in kitchen and want to discriminate in various other manners and want 10 put a stop to this progressive measure by suggesting so many things, and also by taking out certain sections and working out through certain absurdities and then pointing out to hon. Members and the people outside that this absurdity will only lead to this position, and so we should not touch the present system. The main argument that is advanced is that it will disorganize the Hindu society. I want to put a simple question to them. Has society been ever static? Is it not changing? Has not the Hindu Law been changed from time to time? Even when Manu

[Shri K. L. Narasimham.] stated certain laws, were they not changed? Actually from the Vedic era, when maharishis and rishis initiated, social 'legislations, they took into consideration the social conditions at the time and they framed laws in that way. Now we are in 1955, when the whole world is advancing. When social equality has been given to women in every other country today, in our country, we still are thinking whether the same elementary thing is to be given or not and to deny that, various means are adopted. While I support this Bill, I have *to say* that it is time that we should pass this Bill and in that way remove the disability imposed on women to inherit preperty, whether it is movable or immovable.

Then, I have to congratulate the Joint Select Committee for making improvements in the Bill. They are of very great importance. They improved the Bill first by including the Mitakshara system also to come under the present Bill. They improved by giving equal share to the son and daughter. They made no distinction between a married daughter and an unmarried daughter. They made no distinction between a property to be inherited by a mother or a property to be inherited by a daughter. They also made a provision for pre-emption so that certain anomalies that occurred out of this division were avoided. So I congratulate the Joint Select Committee for making these improvements and these are improvements on the orgi-nal Bill first moved in the Provisional Parliament and subsequently considered by the then Select Committee. So the history of this Bill has come to a stage when the organizations of women demanding equal rights with men have succeeded to a great extent. They have succeeded in their point, and with this Bill, a new era will begin, when social justice will be established in our country and it will take us to a place where women will be equal *to* men. Now, a woman is denied living wage* ar compared with a man. A man is paid at a particular rate and a woman is paid at a different wage. I know of cases where even when deciding the dearness allowance to be paid to workers, women are discriminated against and the dearness allowance to women 13 given at a lower rate as compared to men. So, this Bill will take us to the position when there will be social equality at all levels.

While examining this Bill at this stage, I may point out certain clauses so that some of the mistakes that may be there in this Bill may be corrected while the House takes up the clause by clause consideration of this measure. One of the clauses that I want to refer to is clause 6. Sir, I am not a lawyer. Nor do I know anything of" civil law or the litigation involved under that. But as a layman, when reading this Bill, I find that this measure attempts to adjust the Mitakshara system, and then give equal right to the daughter as to the son. But while trying to adjust this system* we are led to a position which we never wanted to reach. So I request the hon. Minister piloting this Bill tc go deep into this clause very carefully and, if there is necessity, he should try to make the necessary modifications. The modification should be such that the principle of giving equality to women is not affected. Why I say this is, those who are opposed to-this Bill also are taking up this very clause for modification. They try to' show that it will lead to an absurdit}' and so they want a modification, but that would affect the principle of equality. I am not appealing for a modification in that way. I would request the hon. Minister to take up this clause and read it in detail and see whether adjustments can be made-and whether we can work out a proper solution. I may give one illustration to show how, according to me, the clause will work. There is a joint family with 100 acres of land and the father has two sons A and B, and two daughters C and D. The son *A* separates himself from the joint family with 50 acres. The other so*

B remains with the father in the joint family. Under the existing law, B by right of birth and survivorship inherits the other 50 acres. The pre-, #ent Bill takes us to the position where we calculate the shares under, I think, explanation (b) under clause •6, in which it is said:

> "and the female relative shall be entitled to have her share in the coparcenary property computed and allotted to her accordingly.

While computing that, they assume that the father or the person who owned the coparcenary right has 100 acres. Then first, they want to say, give the daughter her share. So one-f ourth of it goes to each of the daughter and when they are two, as in the •example I have given, then each gets 25 acres and so 50 acres go. In that «ase, the son B may not be having any portion from the joint family Another problem is if A has a son and A has separated from the family after partition. But there is the other sor still in the family and two daughters. Or one son in the joint family is predeceased but he leaves behind a .grandson who inherits certain rights. If you want the grandson's share to be equal to that of the daughter, tha: will lead to a very bad position. So I appeal to the hon. Minister to examine this clause and make modifications so as to circumvent these difficulties. I have got many suggestions. These and other suggestions can be examined and we should finally see that the Mitakshara system is abolished and the Dayabhaga system is introduced in place of the Mitakshara system. That was suggested by the Rau Committee also. So many eminent lawers also have suggested the same. As was suggested by some -hon. friend, the daughter also should be included among coparceners. That recommendation was made by the Select Committee that discussed the question in the Provisional Parliament and they agreed to a suitable clause here. I do not know whether this Joint Select Committee considered thi.-i subject and if so what is their opinion.

In the former Select Committee, their decision is put down in para 87, page 30 of their Report, where they say:

> "On and after the commencement of this Code, no Court shall recognise any right to or interest in any joint family property, based on the rule of survivorship; and all persons holding any joint family property on the day this Code comes into force shall be deemed to hold it as tenants-in-common as if a partition had taken place between all the members of the joint family as respects such property on the date of the commencement of this Code and as if each one of them is holding his or her own share separately as full owner thereof:"

So, these are the three possible positions that one can take and hon. Members may suggest any other solutions. I shall leave it to the House. This can be gone into and decided when we take up the clause by clause consideration and this clause can be further discussed then.

There is another provision in the Bill which the hon. Minister moving it explained elaborately, I mean, the clause relating to the illegitimate child. Such a child was given the right to inherit. The mother is also given absolute rights on other limited estates. All those clauses we wholeheartedly support, and I appeal to all hon. Members of the House to support the Bill in toto, with the necessary modifications, thereby giving specific meaning to it. And while passing this Bill, I think, it is necessary to see that it contains suitable illustrations also wherein the provisions can be explained in simple form so that it may not lead to further litigations and add to the work of the courts. We should have a simple law, a straight law, giving equal rights to men and women and thus base it on social justice. I hope, the House will give due consideration to this.

Lastly, I have to appeal to hon. Members on the other side, who are

[Shri K. L. Narasimham.] the ruling party today, and I have to recall to their memory the resolution which was passed by them in 1931, wherein they initiated that social justice would be given. Also in 1931, they initiated the fundamental rights resolution. Also in the general elections of 1946, they said before the electorate that social justice would be given to all. And today in 1955, it has become the privilege of the party on this side to remind them of their resolutions and ask them to give social justice to the women of India who have been discriminated against in many ways, particularly in the matter of property.

Thank you, Sir.

MR. DEPUTY CHAIRMAN: The House stands adjourned sine one.

The House then adjourned *sine die* at Ave of the clock.