

are proposed to be opened in foreign countries during the year 1955?

THE MINISTER FOR COMMERCE AND INDUSTRY (SHRI T. T. KRISHNA-MACHARI): Three, Sir; at Hamburg, Cairo and Aden.

POWER STATIONS IN BHAKRA NANGAL PROJECT

424. SHRI M. VALIULLA: Will the Minister for IRRIGATION AND POWER be pleased to state:

(a) the names of the power stations in Bhakra Nangal Project that will go into production within a year (the names of the power stations may be given in order of their priority in production);

(b) what is the installed and firm capacity of these power stations; and

(c) how the load is to be distributed?

THE DEPUTY MINISTER FOR IRRIGATION AND POWER (SHRI J. S. L. HATHI): (a) One power house at Gan-guwal was put into commission in January this year. Another, at Kotla, situated 6 miles downstream of Gan-guwal Power House, is expected to go into commission by December 1955.

(b) These two power houses at Nangal will function as an integrated unit. Their installed capacity would be 96,000 K.W. and firm capacity 72,000 K.W.

(c) The three States of Punjab, PEPSU and Rajasthan are partners in the electricity part of the Bhakra Nangal Project. Each partner will be entitled to receive power as a matter of right, but subject to use in its own area, up to maximum of the electricity available, calculated in proportion of its share of stored water supply, *i.e.*, in the ratio of 62-36 per cent., 22*42 per cent, and 15-22 per cent, respectively. Surplus power will be sold from the common pool to Delhi State and Himachal Pradesh, including BHaspur.

SOUTH EAST ASIA TREATY ORGANISATION

425. SHRI M. VALIULLA: Will the PRIME MINISTER be pleased to state:

(a) how many of the Colombo Powers have joined the South East Asia Treaty Organization and which are they; and

(b) which are the States who have not joined the said Organization?

THE PARLIAMENTARY SECRETARY TO THE MINISTER FOR EXTERNAL AFFAIRS (SHRIMATI LAKSHMI MENON): (a) So far as the Government of India are aware, only Pakistan among the Colombo Countries has joined the Manila Treaty.

(b) The rest of the Colombo Countries *viz.* India, Indonesia, Burma and Ceylon are not parties to the said Treaty.

PAPER LAID ON THE TABLE

NOTIFICATION PUBLISHING AMENDMENT TO THE TEA RULES, 1954.

THE MINISTER IN THE MINISTRY OF LAW (SHRI H. V. PATASKAR): Sir, on behalf of Shri T. T. Krishna-machari. I lay on the Table, under sub-section (3) of section 49 of the Tea Act, 1953. a copy of the Ministry of Commerce and Industry Notification No. 47(32)-Plant/54, dated the 19th March, 1955, publishing an amendment to the Tea Rules, 1954. [*Placed in Library. See No. S-113/55.*]

**THE HINDU MINORITY AND GUARDIANSHIP BILL, 1953—
*continued.***

MR. CHAIRMAN: Mr. Pataskar will continue his speech on the amendments to clause 7 of the Hindu Minority and Guardianship Bill.

THE MINISTER IN THE MINISTRY OF LAW (SHRI H. V. PATASKAR): Sir, yesterday, I was replying to several

[Shri H. V. Pataskar.] amendments that had been moved to clause 7 of this Bill and I explained the real implication of the provisions contained in sub-clauses (2) and (3) of clause 7. Now, turning to subclause (1) I may point out to hon. Members the scheme of this subclause. Here we lay it down:

"The natural guardian of a Hindu minor has power, subject to the provisions of this section, to do all acts which are necessary or reasonable and proper for the benefit of the minor or for the realization, protection or benefit of the minor's estate; but the guardian can in no case bind the minor by a personal covenant."

That is the scheme of sub-clause (1) -of this clause. Here we lay down the powers of the natural guardian, and I think they are wide enough for all practical purposes. In sub-clause (2) we then try to lay down the restrictions on those powers and naturally, they are only with reference to the immovable property. Some hon. Members in fact, pleaded that the provision contained in this sub-clause was likely to hamper the work of the natural guardian; and somehow or other they have thought that it would be proper to move an amendment saying that along with the restriction on immovable property, there might be restriction placed with reference to dealing with movable property also, in sub-clause (2). I, however, think that, apart from the fact that this is inconsistent with the general scheme, it is not possible to do it, because of difficulties. Now, will it serve any effective purpose? For instance, in the case of immovable property, if it is dealt with, say transferred, mortgaged, gifted or something else is done by the guardian of the minor, then it is easy to follow that property that is in the hands of a third party. It is not so easy to do that with reference to the disposal of movable property. By the time the minor becomes a major, I do not know how he will be able to follow that movable property

that is in the hands of other people to whom it has been transferred or gifted away. And there is no such provision anywhere in the present Guardians and Wards Act, for the simple reason that if any such restriction is placed on the natural guardian, it would not serve any useful purpose, while at the same time, it might hamper the proper work of the natural guardian. For instance, there is a sum of money which has been left to the minor. The natural guardian wants to merely invest it, or change its present investment to a better one. He has to do all those things so long as they are necessary for the benefit of the minor. And so long as they are for the benefit of the minor, they are all covered by sub-clause (1). If the natural guardian does nothing and the movable property is just wasted away, then naturally the minor, when he becomes a major, will proceed against the guardian for damages on account of the wrong management of the property. In no case will he be able to follow the movable property. It is a well-known thing and I do not think I need dilate on this point. So from that point of view, it is not proper that positive restriction be placed on the capacity of the natural guardian to dispose of the property and no reference is made to movable property so far as sub-clause (2) is concerned. Moreover, as I said, this clause, it may be noted, more or less gives a certain degree of latitude to the natural guardian—who of course, can be only the father or the mother—to deal with the movable property of the minor, to do what they think is in the best interest of the minor. And even with respect to the immovable property, as I have pointed out, the present provision is necessary. Much of the argument was based on the fear that it would take considerable time before the guardian is able to obtain the permission of the court as is required under this law. Now, if you do away with the previous permission of the court, what are the consequences likely to be? Suppose there is imminent need to mortgage the property, because the

minor is very ill and something has to be done for which money is needed. In such a case, the natural guardian can do the needful and as I pointed out yesterday, sub-clause (3), as it is drafted, does not lay down a penalty. It only says:

"Any disposal of immovable property by a natural guardian, in contravention of sub-section (1) or sub-section (2) is voidable at the instance of the minor or any person claiming under him."

So, it will be seen that it is only made voidable at the instance of the minor. When he attains majority and if he too feels that that money was actually required, he will not make it void. I do not think any son or daughter would, if any such thing is done by the guardian for the good of the minor, exercise this option in that manner, and after having obtained education or medical relief, would turn round and say, "No, I want to void that transaction." If he does, then naturally consequences will follow. But it is only a voidable thing, it is not void. If the minor had obtained benefits, then he would have to pay back the money. So, what is provided here is very reasonable and I do not think it will come in the way of normal actions; of the natural guardian, actions which he takes in the interest of the minor for the preservation of his property and his interests. Looked at from that point of view, the whole clause is quite proper.

Of course, as I said yesterday, so far as sub-clause (2) is concerned, it has been suggested that the provision in the original Bill regarding restricting the period to five years, should be there. As I have already said, that is covered by amendment No. 24 standing in the name of Shri Dasappa and as it seems to be the general wish of the House, I am prepared to accept that amendment.

Then, there is amendment No. 21 moved by Shri Rajagopal Naidu. The

first part of the amendment is the same as what we have here. In the second part he says that the necessity of obtaining the previous permission of the court should be deleted. But as I have already explained, this previous permission is necessary for it will enable the guardian to obtain a better price and also give a clearer title to the purchaser. I have explained how sub-clauses (1), (2) and (3) are to be read and what will be their effect and in the light of that, I do hope that the hon. Member will not press his amendment. I realise that the amendment was only moved with the object of seeing that there are no unnatural hurdles in the way of the natural guardian. As I have explained there are really no such hurdles. So, I am not able to accept that amendment.

Then, there is amendment No. 22 which says that for the existing words the words "provided that no personal covenant shall be binding on the minor" be substituted. But as was admitted by the mover, Shri Govinda Reddy, himself, the substance is the same in both the cases. No doubt, the wording suggested may sound better, but in view of the fact that the wording in the sub-clause is taken exactly from one of the rulings, I think the hon. Member will agree that instead of trying to change it in order to make it sound a little better, we should stick to it, because if we change it, in some court of law they may argue that there was something in it, otherwise, why was it changed by the Legislature? So, it is better to stick to the wording which has been the subject-matter of interpretation by courts.

Then there is amendment No. 23 which seeks to delete the words "without the previous permission of the Court." I think this amendment is to the same effect as the one I dealt with earlier. I am unable to accept this. Then, about amendment No. 24, as I have already stated, I am accept-

[Shri H. V. Pataskar.] ing that, part of that amendment. Amendment No. 25 is by Shri Govinda Reddy which says: "the natural guardian shall not mortgage or charge any part of the immovable property of the minor save for its improvement." The idea, as the hon. Member explained, is that for purposes of making improvements in the property he need not go to the court and get its permission. Well, if it was really so simple a thing I would have found no difficulty, but I apprehend that under the garb of improvement there may be unscrupulous guardians who may go on incurring any expenditure by charging that property, and the so-called improvement might really be no improvement, but the burden created on that property for the purpose of effecting that improvement might harm the property itself whereas it is the object of this Bill that the minor's property should, as far as possible, be preserved for him till he attains majority. In view of that objective I don't think it is necessary. Supposing he wants to make some real improvement and spends some money and does it, then in normal cases, if it is for the benefit of the minor, no minor is likely to void it subsequently when he attains majority; and if at all the guardian thinks that there is any risk in it which he should not undertake on his own then he can approach the court and get its permission inasmuch as the property does not belong to the guardian but belongs to the minor. Therefore, I think that this amendment also is not necessary.

Then there is the amendment No. 26 by the hon. Mr. Kishen Chand. Well, he wants a positive provision that the natural guardian shall have these powers without any sort of restriction. For reasons already explained I am unable to accept this amendment. Yesterday my hon. friend Mr. Kishen Chand made a speech and I do not know how to call it. His complaint was that I did not accept those amendments which according to him might

be sound but they were not sound according to me. He also said that I was putting party pressure on Members due to which they withdrew their amendments. Nothing of the kind and in these social measures there is no desire on the part of any party or group or myself that they must stick to what I have done. As a matter of fact I have accepted an amendment which I thought was probably a better thing than what I originally thought of the matter. If it was possible for me to accept this amendment I could have done it. I cannot do so because it strikes at the very root of what has been done in this Bill so far as the protection of the minor's property by the natural guardian is concerned. I am unable to accept it in spite of anything that may be said to the contrary. If it cuts across the principles with which this Bill has been brought forward, and the underlying basis, I am unable to accept any amendment of this kind.

Then comes amendment No. 28. I have already said that we don't think that any purpose will be served by adding- the words "movable or" and that it is not necessary to do it.

Then comes amendment No. 29.

SHRI B. K. P. SINHA (Bihar): If you don't accept the other one it goes automatically.

SHRI H. V. PATASKAR: Then, there is amendment No. 30 by Mr. Tankha. This is also consequential and I cannot accept this amendment.

Then comes amendment No. 31 of Mr. Dasappa. The same reasoning applies here as applies to the amendment of the hon. Mr. Sinha.

Then comes amendment No. 32 by Shri Kishen Chand. It is consequential to the other amendment which he had' moved and which I had said I could, not accept.

Then amendment No. 33 goes; it is also consequential.

Then comes amendment No. 34 by Shri Rajagopal Naidu which seeks to replace the words "an evident advantage" by the words "the benefit". I have carefully considered the proposition of my hon. friend. The words "an evident advantage" used here are already there used in section 31 of the Guardians and Wards Act. There also it is said: "Permission to the guardian to do any of the acts mentioned in section 29 shall not be granted by the court except in case of necessity or for an evident advantage". What we want to do is that by this clause we are going to provide that there will be application to the court on the lines of the application for which provision is made in section 29 of the Guardians and Wards Act. Therefore, as far as possible, it is desirable that when we make reference to another section in an existing Act which has been operating for the last so many years we try to stick to the terminology that has been used in that Act and in respect of which no difficulty has been experienced till now. As I said, in section 31 of that Act the provision is: "Permission to the guardian to do any of the acts mentioned in section 29 shall not be granted by the court except in case of necessity or for an evident advantage to the ward" and (here is no intention to depart from what has been laid down in that Act and also there is no special merit in the rulings which are there in the case of benefit as they will all be prior to the passing of this measure, because originally the whole scheme regarding disposal of property of a minor was drawn on a different basis and they had dealt with the powers of the guardian, minor, etc. and in that connection words like "benefit" etc. have been used and there are the case laws. Now, that we are going to modify the law, those case laws which are applicable to all Indians alike cannot apply and cannot be cited in view of what we are specifically saying here in respect of natural guard-

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ians. As regards the procedure we want to refer to the procedure contained in this section of the Guardians and Wards Act and I think the hon. Member himself will agree that it is much better to stick to the wording which is already in that Act.

SHRI P. S. RAJAGOPAL NAIDU (Madras) There is not much of case law in respect of "evident advantage" used in section 31. Section 31 only deals with the powers of *de facto* guardians—for what purposes he can dispose of the property. We are now dealing with the powers of natural guardians.

SHRI H. V. PATASKAR: I did not want to take up time on that point as to why there is no case law with respect to that word and also why there is a lot of case law with respect to what is "benefit" and what is not "benefit" and what is "necessity". It is due to the fact that those cases where there has been a discussion of all this "legal necessity" and "benefit" were all cases of guardians of Hindu minors acting in a particular way and certainly the question has been arising whether it was or was not for the benefit of the minor and whether it was or was not for the necessity of the minor. Therefore, there is a lot of discussion on those issues. So far as this matter is concerned when the matter goes to the court and for an evident advantage the permission has to be granted, that permission will not be given according to the terms of the case law on the subject and naturally the case law will diminish after this Bill comes into force. So I do not think there need be any fears on this score and as a matter of fact much of the present litigation on the subject will disappear after the modification of this part of the Hindu law regarding minors. And in any case, in any future case it is much better that we stick to the wording which is there and not try to change it. I, therefore, suggest to my hon. friend not to press this amendment.

Amendment No. 35 is consequential and I do not accept it.

SHRI B. K. P. SINHA: I hope you will accept my amendment No. 37. That makes the meaning very clear. That is the language in all the Acts.

SHRI H. V. PATASKAR: You mean your amendment No. 37, the last portion of sub-clause (6) of clause 7: "local limits of whose jurisdiction any portion of the property is situate." I accept that amendment. I think it is consistent and it is also referred to in the Civil procedure Code and in other laws from which this is taken.

T Amendments Nos. 21 to 23, 25, 28 to 31, 34 and 35 were, by leave, withdrawn.

MR. CHAIRMAN: The question is:

2.6. "That at page 3, for lines 3' to 37, the following be substituted, namely:—

(2) The natural guardian, and not any other guardian, shall have, power to mortgage or charge, or transfer by sale, gift, exchange or otherwise any part of the immovable property of the minor if it is done in the interest of the minor."

The motion was negatived.

MR. CHAIRMAN: The question is:

24. "That at page 3, for lines 30 " to 33 the following be substituted, namely:-

(2) The natural guardian shall not, without the previous permission of the Court,—

(a) mortgage or charge, or transfer by sale, gift, exchange or otherwise, any part of the immovable property of the minor, or

(b) lease any part of such property for a term exceeding five years or for a term extending more than one year beyond

the date on which the minor will attain majority'."

The motion was adopted.

MR. CHAIRMAN: The question is:

37. "That at page 4, line 22, for the words 'the greater' the word 'any' be substituted.

The motion was adopted.

T Amendments Nos. 32 and 33 were barred, being consequential.

MR. CHAIRMAN: The question is:

"That clause 7, as amended, stand part of the bill."

The motion was adopted.

Clause 7, as amended, was added to the Bill.

MR. CHAIRMAN: Now, we pass on to clause 8. There are half a dozen amendments. They may be formally moved now.

PANDIT S. S. N. TANKHA (Uttar Pradesh): Sir, I move:

38. "That at page 4, line 31, for the word 'revive' the words 'continue to be effective' be substituted."

43. "That at page 5, for lines 10 and 11, the following be substituted, namely:—

'(6) The right of the guardian in respect of the guardianship of a minor girl shall cease on her marriage'."

MR. CHAIRMAN: Clause 8, along with the amendments, is now open for discussion.

PANDIT S. S. N. TANKHA: Mr. Chairman, the amendments which I have moved to clause 8 relate to subclause (2), wherein the words are:

"An appointment made under subsection (I) shall have no effect if the father predeceases the mother, but shall revive if the mother dies without appointing, by will, any person as guardian."

[MR. DEPUTY CHAIRMAN in the Chair.]

Now, Sir, the change that I desire to make is that for the word "revive" the words "continue to be effective" be substituted. This change is merely a formal change of words without effecting any change in the substance of the clause. Why I desire this change to be effected is because I consider that the word "revive" connotes the power which the father had in appointing a guardian by his will had ceased to exist with his death and that it was revived, that is to reborn on the death of the wife in the event of her dying without leaving a will appointing any guardian for her minor children. As I understand the position, I am inclined to think that what this clause intends to convey is more or less something like the position which exists in Hindu law in respect of the right of heirs-at-law to the property of a Hindu male and which right stands in abeyance during the lifetime of the widow and comes into existence upon the widow's death. That being the position, I take it that what this clause intends to convey is that it is not that the appointment of a guardian made under the will of a Hindu father dies with his death, but that that appointment continues to exist and stands in abeyance so long as his wife is alive; but becomes effective on the death of the wife without having made any appointment under her will. Therefore, I think that substitution of the words suggested by me in the amendment will be better suited and more in conformity with legal phraseology than the word "revive" used in the Bill.

Now, as regards my amendment No. 43, the present provision is like this,

Sub-clause (6) of clause 8 reads:

"The right of the guardian so appointed by will shall, where the minor is a girl, cease on her marriage."

This conveys the idea that it is in the case of the guardianship of a girl, where the appointment is made by will alone.....

MR. DEPUTY CHAIRMAN: This clause deals with only testamentary guardians.

PANDIT S. S. N. TANKHA: There is no other provision on the subject in the Bill.

MR. DEPUTY CHAIRMAN: In the case of a minor girl the husband is the guardian. We have passed that clause.

PANDIT S. S. N. TANKHA: It does not state that the right of the guardian appointed under this Act will cease on the marriage of the girl.

MR. DEPUTY CHAIRMAN: This is a special section providing for testamentary guardians.

PANDIT S. S. N. TANKHA: So, this provision must be provided that as soon as the girl is married

SHRI H. V. PATASKAR: May I draw the attention of the hon. Member to clause 5(c) which we have already passed and which says: "in the case of a married girl—the husband:"

PANDIT S. S. N. TANKHA: Am I to take it, Sir, that if a guardian has to be appointed for a married girl, then the appointment can be made of the husband only?

MR. DEPUTY CHAIRMAN: It is not for appointment. It is for natural guardians of a Hindu minor.

PANDIT S. S. N. TANKHA: Clause 5 deals with natural guardians of a

[Pandit S. S. N. Tankha.] Hindu minor. Let us take another case. Suppose a guardian has been appointed for a minor girl, but after the appointment of the guardian she is married. Now, how does the appointment of the guardian come to an end? Where do you provide for that? You must mention somewhere that if an appointment of a guardian has been made for a minor girl, that appointment shall come to an end as soon as she marries

SHRI J. S. BISHT (Uttar Pradesh)": It does not deal with the appointment of the guardians; it deals with the natural guardians.

MR. DEPUTY CHAIRMAN: Immediately on her marriage, the husband becomes the natural guardian.

PANDIT S. S. N. TANKHA: My difficulty is this. I am contemplating a case where the appointment of a guardian has been made for a minor girl. Now, at that time, when the appointment was made, she was not married: and therefore, the only person who could be appointed at that-time was a guardian who had been appointed. Now, supposing later that girl is married. How is the power of the guardian to pass on to the husband? There is no provision anywhere in the Bill for such a contingency.

SHRI J. S. BISHT: That is governed by the Guardians and Wards Act.

MR. DEPUTY CHAIRMAN: The Guardians and Wards Act will apply and the husband will make an application to the court.

PANDIT S. S. N. TANKHA: From that point of view. Sir, I have suggested that the words as used by me in my amendment may be made generally applicable, so that the appointment of the guardian will come to an end on the marriage of the minor girl in any case, whether that appointment of the guardian was made by will, or made by court. I do realise that there

is this little difficulty, as you just now pointed out, Sir, that this clause relates to the appointment of a guardian by will but all the same I do not think it will make any difference, if the words of this clause as amended by me are made generally applicable and are put in elsewhere in a suitable place.

SHRI H. V. PATASKAR: Sir, with regard to the first amendment, I think the only purpose for which it has been moved is that it will be better language. Beyond that, I think there is no other idea. But as a matter of fact, I would like to draw the hon. Member's attention to the provisions contained in clause 8, which runs as follows:

"(1) A Hindu father entitled to act as the natural guardian of his minor legitimate children may, by will, appoint a guardian for any of them in respect of the minor's person or in respect of the minor's property (other than the undivided interest referred to in section 12) or in respect of both."

So, sub-clause (1) of clause 8 lays down that the father, as a natural guardian, has got the right to appoint somebody else, by will, as a guardian. And then follows the sub-clause (2) which says-

"An appointment made under subsection (1). shall have no effect if the father predeceases the mother, but shall revive if the mother dies without appointing, by will, any person as guardian."

So, we contemplate an exceptional case in which probably the mother is living, and the father has made a will. And what happens is that even in spite of the fact that in his will the father has appointed somebody else as a testamentary guardian, it shall have no effect; if the father predeceases the mother. Therefore, what happens is that as long as the mother is alive, that ceases to have any

effect. And in spite of the fact that the father has appointed somebody as a testamentary guardian, that part of the will becomes ineffective, without any consequence. But it was thought that supposing the 'mother' also dies, and that too without making a will, without appointing somebody by her own will, then in such a case, we should make some provision to the effect that the original provision made by the father may be said to have revived. Therefore, I think the word "revive" should stand in view of the discussion that took place in the Select Committee because, for all practical purposes, it is only reviving a thing. Therefore, according to me, this word is quite good, and it need not be disturbed.

As regards the other amendment, Sir, as I have already said, this is a Bill which relates only to the natural guardians. But there are, I think, other provisions in the Guardians and Wards Act, which deal with other matters as to what the court should do in particular cases. Therefore, I think that the other amendment also is not necessary, so far as this Bill is concerned.

PANDIT S. S. N. TANKHA: Sir, I beg leave to withdraw my amendments, Nos. 38 and 43.

Amendments Nos. 38 and 43 were, by leave, withdrawn.

Clause 8 was added to the Bill.

MR. DEPUTY CHAIRMAN: Now we take up clause 9. There are some amendments.

PANDIT S. S. N. TANKHA: Sir, I move:

44. "That at page 5, for the existing clause 9, the following be substituted, namely:—

'9. It shall be the duty of the guardian of a Hindu minor to

•For text of amendments, *vide* col. 4300 supra.

look to the minor's proper maintenance, support and education and to act in the best interest of the minor in all other matters affecting him."

SHRI E. C. GUPTA (Uttar Pradesh): Sir, I move:

45. "That at page 5, for the existing clause 9, the following be substituted, namely:—

'9. *Guardian to bring up minor as a Hindu.*—It shall be the duty of the guardian of a Hindu minor to bring up the minor as a Hindu."

SHRI S. N. MAZUMDAR (West Bengal): Sir, I move:

46. "That at page 5, lines 13—16, for the words 'in the religion to which the father belonged at the time of the minor's birth and, in the case of an illegitimate child, in the religion to which the mother belonged at the time of the minor's birth' the words 'as a good citizen of the Republic of India' be substituted."

SHRI J. S. BISHT: Sir, I move:

47. "That at page 5, line 14, for the words 'the minor's birth' the words 'his change of religion' be substituted."

MR. DEPUTY CHAIRMAN: The clause and the amendments are open for discussion.

PANDIT S. S. N. TANKHA: Sir, the amendment moved by me is to the effect that the clause, as it exists should be substituted by the following clause:

"It shall be the duty of the guardian of a Hindu minor to look to the minor's proper maintenance, support and education and to act in the best interest of the minor in all other matters affecting him."

[Pandit S. S. N. Tankha.] Now, why I want this change to be made in this clause is because here in the clause, as it exists at present, only the religious aspect of the matter has been emphasised and nowhere has it been provided that the guardian should look to the education, to the comfort and to the proper upbringing of the child, which are in fact the primary duties of a guardian. As for myself, Sir, I do not think it is at all necessary to give any directions to the guardian regarding the religion of the minors, because they can themselves look to that matter when he or she grows up. That will come automatically, at the proper time. But there are other aspects which are very much more necessary for the upbringing of the child, and which should be brought to the special notice of the guardian. And, therefore, I have suggested in my amendment the words "to look to the minor's proper maintenance, support and education." I have specially suggested this so that this matter may be prominently brought to the guardian's notice, and he may know as to what his duties in respect of the minor particularly are.

SHRI S. N. MAZUMDAR: Mr. Deputy Chairman, in support of my amendment I shall give my reasons only in brief, because this matter has been discussed at length earlier. I have suggested in my amendment that it should be the duty of the guardian of a Hindu minor to bring up the minor as a good citizen of the Republic of India.

There are two aspects of this question. The first one is, as was discussed earlier, that this emphasis laid on bringing up the minor as a Hindu is quite unnecessary. It is not only unnecessary, but it is also one-sided and lopsided. This emphasis with regard to the religion, in my opinion, is unnecessary, because very few conversions take place. All the religious communities in India are

more or less, stable communities, and to provide into the body of the Bill *oaky* 'he bringing up of the child as a Hindu, and excluding all other duties, is, I think, allowing overemphasis on that aspect -of the matter.

Secondly, Sir, we are speaking of a secular State and we are aiming at a uniform civil code. Therefore, this emphasis on the religious aspect to the exclusion of other aspects is, I think, undesirable.

The main intention of bringing up the minor should be to bring him up as a good citizen of India. It may be argued—I do not know the exact position—that there are some provisions in the Guardians and Wards Act. If there are provisions there, then what is the special necessity for embodying this clause in this Bill? Nothing will be lost if it is not there and the hon. the mover himself said that nothing would be lost if it was not retained here. If it is retained, it gives rise to many difficulties, because the term "Hindu" has a very wide meaning. There is the historical background behind it. There are many other considerations that attach to this concept. Concepts about religion also vary. If one is asked to define religion strictly, I don't think anybody would be able to do it, because at one end it may be taken as introspection, probing into the realities of life, into the truths of life; and on the other side, it may be taken to mean certain acts, certain observances, certain customs. etc. Here also the term "Hindu" is used in its wider sense. Still difficulties would arise. That is how the Select Committee—the majority of them— incorporated an amendment in the original clause that the minor should be brought up in the faith of his father. Difficulties will arise in this way. If a minor whose father was a Sikh is brought up as a Jain, legally here is nothing wrong with it, but

then the objection may be raised, "No, he should be brought up as a Sikh". Similarly, there will be objections if a minor whose father was a Jain is brought up as a Sikh. Actually, these objections have been raised.

These objections, according to me, are hypothetical and unnecessary. Really such things do not and will not happen. Secondly, now the tendency among progressive Hindus is that these differences in faith should not be over-emphasised, that only the unity among them should be emphasised, because these different faiths arose in different times in different contexts, and all these faiths had something to contribute to our store-house of knowledge, to our philosophy. Even those who do not subscribe to religion as such have many lessons to draw from the teachings of these faiths. Each of these faiths—Jainism, Buddhism, Sikhism, etc.—apart from being a faith, had a philosophy of its own, each had a theory of knowledge, and I think their contributions, especially of Jain philosophy, are very valuable. We know that Buddhism, in addition to being a faith, is also a philosophy. It dealt with the theory of knowledge. It dealt with many other aspects of life which have enriched the whole field of Indian philosophy. Historically, we find that each one of these faiths had its role to play and they had their different connotations. We know that Buddhism and Jainism arose as a sort of revolt against the Brahmin domination, against the predominance of the *Karma Kanda*, against the rigid observances, against certain rites and rituals and also certain rigid customs of the society which were being sought to be preserved. New social conditions arose, commerce developed, trade developed, and the necessity was felt for introducing changes. The necessity was felt for a re-examination of the entire system of values. Buddha, apart from preaching the ways of attaining *nirvana* and *moksha* busied himself with questions of the theory

of knowledge, and he introduced certain changes which were very radical considering the times in which he lived.

SHRI J. S. BISHT: What is the relevancy of all this to the present question?

SHRI S. N. MAZUMDAR: If the hon. Member is a little more patient, I will explain. The relevancy, I can tell my friend, Mr. Bisht, is this. I am trying to emphasise the point that all these different faiths which are covered within the wide meaning of Hinduism—Buddhism, Jainism, Sikhism, etc.—had a specific role to play in the context of their times. From each of these sources we can take and we must take what is good, what is valuable in order to reach our goal of a happy and prosperous India.

SHRI J. S. BISHT: What has the poor guardian to do with all this philosophy?

SHRI S. N. MAZUMDAR: I may tell my friend, Mr. Bisht, who seems to be very much concerned about the poor guardian that he should tell them not to over-emphasise the differences between these faiths but should emphasise their essential unity.

SHRI J. S. BISHT: Does he want the minor to be brought up as an atheist?

SHRI S. N. MAZUMDAR: In Indian philosophy atheists have an honoured place. Samkhya philosophy does not admit of God. Even in Nyaya, God is brought in only as a hypothesis to prove certain conclusions. If we follow the Indian traditions, we will find that atheists have an honoured position in India. My submission is that these differences should not be over-emphasised but only their unity should be emphasised, and the best way to emphasise that unity is to over-emphasise these aspects of religion, and to bring up the minor as a good citizen of India. Otherwise

[Shri S. N. Mazumdar.] if this is retained, difficulties will arise. Even in the Select Committee these difficulties arose, and the hon. the mover himself said that in his opinion nothing would be lost if this clause was not retained. My submission is that if we are thinking of retaining this clause, then it should be amended in the way which has been suggested by me in my amendment. The hon. Minister has accepted two amendments, and may I express the hope that he may accept my amendment also particularly in view of the fact that he himself seems to be inclined in that direction?

SHRI R. C. GUPTA: The Bill before the House is the Hindu Minority and Guardianship Bill and we are concerned with the case of a Hindu minor. The question is how he should be brought up by the guardian, during his minority, whether he should be brought up as a Hindu or in some other religion. I consider that it is elementary that a Hindu minor should be brought up as a Hindu. There is no reason why he should be brought up in any other religion but the religion of Hinduism. Is there any justification that a minor should be subjected to the change of religion simply because he happens to lose his father's protection on account of change of religion? Is it fair to the minor that he should be brought up in any other religion? We are not concerned with any other class of minors here. This Bill relates to a Hindu minor and there is absolutely no justification why a Hindu minor should be brought up in any other religion. Clause 9 as it stands today in the Bill does not go to the extent of protecting a Hindu minor being brought up as a Hindu. There may be cases in which he may be forced to be brought up in some other religion. I don't want to repeat the arguments which I had advanced while speaking on the first reading that there may be a case in which a Hindu minor will have to be

brought up as a Muslim or Christian or a Jaina etc. if this clause is allowed to remain as it is. The Joint Select Committee which made the change does not give any reason for this change. It merely says:

"The Joint Committee after careful consideration have come to the conclusion that the guardian of a Hindu minor should bring up the minor in the religion to which the father belonged at the time of the minor's birth, and have modified clause 10 of the original Bill accordingly."

No reason has been assigned as to why the minor should be brought up in any other religion. The minority is a period where extra care is needed. It is a different matter that after attaining majority the minor might change the religion but to place a boy at that tender age in the hands of a person who would have to bring him up in any other religion besides Hinduism is not very safe. Therefore, I submit that there is absolutely no justification whatever for change of this clause. The amendment which I have proposed is the one which was contained in the original Bill. So my amendment only replaces the clause in the original Bill. It was included in the Bill after due consideration of the feelings of the Hindus on the subject. I would suggest to the hon. Minister, without adding any other argument, that my amendment is innocuous that a Hindu minor should be brought up as a Hindu and this must be a condition that he should not be brought up in any other religion but in the Hindu religion.

Mr. Mazumdar has suggested that a change should be made that a minor should be brought up as a good citizen of the Republic of India. I cannot understand what is the meaning of this phrase. Everybody should be brought up as a good citi-

zen, of India and everybody is brought up as a good citizen though he may turn out to be a bad citizen. That is a different matter. We are concerned here with the care of a Hindu minor. To say that he should be brought up as a good citizen of India may complicate matters further. Suppose the guardian thinks that if he becomes a Christian, he might become a good citizen; another may think that if he is brought up as a Muslim he might be a good citizen and so on. So this amendment of Mr. Mazumdar does not seem to me to serve the purpose which he has in view. Therefore, I oppose his amendment and press my amendment for acceptance of the House

SHRI J. S. BISHT: Sir, I propose a very minor change in this, *i.e.*, for the words "the minor's birth", the words "his change of religion" be substituted. We have said:

"It shall be the duty of the guardian of a Hindu minor to bring up the minor in the religion to which the father belonged at the time of the minor's birth".

I want it to read as "to which the father belonged at the time of his change of religion".

It is only to bring it in consonance with (a) of the proviso to clause 5, which says:

"Provided that no person shall be entitled to act as the natural guardian of a minor under the provisions of this section—

(a) if he has ceased to be a Hindu".

So I presume that this clause 9 will come into operation only when this proviso comes into operation. That is to say, when the father ceases to be a Hindu or the mother ceases to be a Hindu, at that time the guardian, who will presumably be a guardian appointed by the court, is directed to bring up the minor child in the religion of his

father. Therefore, I want to place this particular point of time at the time when the father changed his religion. Because that is the time when he ceases to become a guardian of his child. I think this is more in consonance with the law as already passed under clause 5. I hope it will be accepted. This law refers only to Hindu minors. Of course, no direction can be given that the child will be brought up in Muslim or Christian religion. It is presumed that it will be the faith of the father, which means in this case a Hindu father, and a Hindu is already defined in clause 2 very thoroughly and that is why this thing is put in there.

Regarding Mr. Gupta's amendment, I entirely agree with his views but the difficulty is this. If he looks to that definition in clause 2 and if his clause is taken up there, the difficulty will arise. Probably he means by "Hindu" strictly Hindu and not a Buddhist or a Jain or a Sikh. In that case the difficulty will arise that if he is to be brought up as a Hindu under this definition, what Hindu will he be? He is the son of a Hindu and he may be brought up by a Buddhist or a Jain and so on. That is why it has been put "in the faith to which the father belonged". If he was a Buddhist, he will be brought up as a Buddhist etc. He cannot be brought up in any other way.

With regard to Mr. Mazumdar.....

MR. DEPUTY CHAIRMAN: He will reply.

SHRI J. S. BISHT: My hon. friend did not have the courage of his conviction and that is why he wanted to camouflage the whole thing by using the words "as a good citizen of the Republic of India." He should have said that he should be brought up as an atheist.

SHRI S. N. MAZUMDAR: If I had said that the clause should be negated, the Chair would have ruled it out. Under the rules I had to take this remedy.

SHRI KAILASH BIHARI LALL (Bihar): Sir, also feel a difficulty I want to put a question on my difficulties. I know of a case in which a young man belonging to the so-called Hindu faith changed his religion and became a Christian and he married a Christian lady. During the course of their union they had 3 daughters of the ages of 12, 9 and 7. Then that young man changed his religion and became a so-called Hindu. Now, what will be the religion in which those daughters should be brought up? The wife did not change her religion and a quarrel went on between the two.

SHRI GULSHER AHMED (Vindhya Pradesh): What was the religion of the wife?

SHRI KAILASH BIHARI LALL: Christian. She did not change the religion but that quarrel was not so much public. It was between them and they maintained their union as well but the man became again a so-called Hindu. In what faith should those daughters have been brought up under this Bill?

SHRI J. S. BISHT: That will be a marriage under the Special Marriage Act or Christian Marriage Act?

SHRI KAILASH BIHARI LALL: After the passage of this Bill, all those Acts will be abrogated, I take it. If it comes under this Guardianship Bill so far as guardianship is concerned, I think if the father claims to bring up the daughters.....

MR. DEPUTY CHAIRMAN: Please address the Chair.

SHRI KAILASH BIHARI LALL: Yes, Sir. If the father claims to bring up the daughters in his religion—the daughters are aged, say ten to twelve years or something like that—then how will this be in conformity with this provision here? That is my difficulty and that is what I want to know.

1 P.M.

MR. DEPUTY CHAIRMAN: House stands adjourned till 2.30 r.M.

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

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

SHRI P. T. LEUVA (Bombay): Mr. Deputy Chairman, I rise to oppose the amendments which have been moved on clause 9. Now, Sir, I will first take up amendment No. 44 which has been moved by my friend Mr. Tankha. The effect of this amendment would be that it would lay down an obligation on the guardian to provide proper maintenance, support and education. The moment we accept this amendment it would amount to this that any person can compel the guardian, irrespective of his capacity, to provide proper maintenance, support and education.

PANDIT S. S. N. TANKHA: Not all.

SHRI P. T. LEUVA: Now, Sir, the moment you give statutory effect to such an idea in the Act itself, whatever duties or rights are created, they can certainly be enforceable by law. If you read the amendment you will find that the duty of the guardian is to provide proper maintenance, support and education. The moment you accept this amendment the effect is that any person who is interested in the minor can go to a court of law and file a suit that the guardian is not giving proper maintenance, support and education to the child and, therefore, the court must pass a decree for the purpose of providing proper maintenance and education to that minor.

PANDIT S. S. N. TANKHA: That will always be in keeping with the property and the status of the family of the minor.

SHRI P. T. LEUVA: The question whether a person has got property or not is another question altogether.

The very fact that you make it a statutory obligation on a guardian to provide proper maintenance and education to the minor becomes an enforceable duty of the guardian. Whether he has got property or not becomes immaterial. Therefore, Sir, unless and until we assure by law that a guardian is indemnified in respect of the expenditure that he may have to incur for the support and education of a child, we are putting a duty on a person without giving him the means thereto, if we accept this amendment. I would, therefore, oppose this amendment which has been moved by Mr. Tankha. The spirit or the motive or the intention of my hon. friend might be very noble, but we are dealing with a question of law and regarding questions of law you must be very particular that it does not lead to injustice to any person. There may be a poor parent, there may be a poor mother and suppose the husband is dead then the mother is the natural guardian and she may not have got any property to maintain and support the child. But the moment you accept this amendment it becomes the duty of the mother to provide education, support and maintenance and that too "proper" and "proper" is a word which is very vague and it can be interpreted in so many ways. I would, therefore, submit that if we accept this amendment we are putting an obligation which is not warranted.

Now I would go to the next amendment which has been moved by Mr. R. C. Gupta. Now, Sir this amendment restores the original position as it existed at the time when the Bill was sent to the Select Committee. But the Select Committee has given a different clause. Now, I would like to analyse the effect of both the clauses. According to the clause as it has emerged from the Select Committee, it means that when there is a minor and if the father either converts himself or dies, then it is the duty of the natural guardian to bring

up that child in the religion of the father at the time of the birth of the minor. Now, Sir, I will give an illustration. Suppose there is a Jain father and he has got a child and the child is a minor. Now after either conversion of the father or the death of the father it becomes the duty of the guardian to bring up that child in the Jain religion because at the time of the birth of the minor his religion was Jain. According to this clause which has emerged from the Select Committee it is the obligatory duty of the guardian to maintain and bring up that child in that particular religion. Now if we look at the amendment as has now been proposed, it becomes quite different altogether. I will refer to the amendment which has been moved by my friend Mr. Gupta. It reads like this:

"It shall be the duty of the guardian of a Hindu minor to bring up the minor as a Hindu."

Now, so far as the question of "Hindu" is concerned, we have to look to its definition in the Bill, which is given in clause 2. According to clause 2, Sikhs, Jains and Buddhists are all classified as Hindus so far as this particular Bill is concerned. The meaning of this amendment would be that if there is a Jain father and he has got a child, a minor, after the death or conversion of that father, according to the present amendment it would be the duty of the guardian to bring up that child as a Hindu. Now what would be the result? In order to satisfy the conditions of that clause it would be quite sufficient for the guardian to bring up a Jain child as a Sikh or to bring up a Jain child as a Buddhist or to bring up a Buddhist child as a Jain. It would still satisfy the terms of the amendment as it is proposed now. But the idea behind it was always there that the person should be brought up in the religion to which he belonged at the time of his birth. Now, if we accept this amendment

[Shri P. T. Leuva.] what happens? Suppose the mother was a Sikh and the father was a Jain, according to the accepted notions of day, a child follows the religion of the father and the son of a Jain is Jain for all purposes so far as the law is concerned. If the mother is a Sikh, after the death of the father during the minority of the child, the mother is the natural guardian of that child. Now the mother, if she chooses, can bring up that child as a Sikh and she will not commit any contravention of the amendment which has been now proposed. I do not think that Mr. Gupta has got that view in his mind. Really speaking the idea is that a person should be allowed to follow his own religion till he attains majority. After all the question of conversion is a state of mind when a person can think for himself and decide for himself, and a minor should not be originally compelled to become a convert by the actions of his guardian. If you accept the amendment as it is now proposed, the mother or any other natural guardian would be perfectly within his rights to convert the child to any other faith because Sikh, Jain and Buddhist have been recognised as Hindus so far as this particular Bill is concerned. Therefore, without committing any breach of the law, the mother would be entitled to convert the child to any other faith. I do not suppose, Sir, that that can be the intention of the majority of the country. We do not want that a child which is born as a Hindu or a Jain should be made to change his religion during his minority without considering his wishes and only when he attains majority he can decide for himself whether he wishes to live as a Hindu or a Jain or a Buddhist.

SHRIMATI MONA HENSMAN (Madras): May I ask a question? Usually, it has been my experience and I would put it to the House. Now when a father changes his religion the children change it with him unless they are majors and usually the minor children go with the father into

the new religion. Now I just wish to know this. Supposing a father suddenly becomes a Christian or a Muslim from having been a Jain and has taken the minor child or children with him, then, Sir, the guardian would probably have quite a problem. What does my friend propose to say there?

SHRI P. T. LEUVA: With my limited knowledge of law, I can say that so far as the Hindu law is concerned and so far as this Bill is concerned, if the child belongs to the Hindu community as such, the conversion of the father does not affect the religion of the minor children. It cannot be affected. The moment there is conversion the father loses the right to become the natural guardian of the child.

SHRI P. S. RAJAGOPAL NAIDU: You are mistaken.

SHRI P. T. LEUVA: So far as the child is concerned, with the conversion of the father, the status of the minor is not changed at all and this law does make a specific provision that at the time of the conversion of the father, if the child belongs to a particular religion, he will continue to follow that faith till he attains majority and decides for himself, because under this present provision itself it has been made clear that the child will be brought up in the religion to which he belonged at the time of his birth. So, even though the father may change his religion, it does not affect the position of the children at all. So, I would submit.....

SHRI GOPIKRISHNA VIJAIVARGIYA (Madhya Bharat): If he changes his religion two or three times?

SHRI P. T. LEUVA: He might become a Hindu one day and a Muslim the next day. A person is entitled to change his own status, but he is not entitled to change the status of any other person by changing his own status, because the minor child is not

a major. And, therefore, he is not in a position to judge for himself what he should do and in order to avoid this contingency that people might go on changing religions and that will affect adversely the interests of the child, it has, therefore, been laid down here that the conversion of the father should not affect the status of the minor as such. I would, therefore, submit that the clause as it stands today reflects the public opinion in our country.

SHRI GULSHER AHMED: May I ask one question? Suppose, the mother is a Christian or Muslim, the husband is a Hindu. The husband dies &nd the child is a minor. What is the position? Can she be appointed a guardian, or if she gets converted to Hinduism, what will be the position?

SHRI P. T. LEUVA: According to the present provision, as it stands, if the mother is a Muslim or a Christian, the religion of the child is not to be decided with reference to the religion of the mother. The religion of the minor child is to be decided with reference to the religion of the father. It is an accepted principle that the child follows the religion of the father. If the mother is a Muslim, suppose the father dies, the mother is still entitled to become the natural guardian of the minor child, but that does not go to show.....

SHRI H. C. DASAPPA (Mysore): How can he cease to be a Hindu?

SHRI P. T. LEUVA: I am assuming for a moment that she remains a Muslim—even then the status of the child does not change merely because the mother happens to be a Muslim.

SHRI P. S. RAJAGOPAL NAIDU: With your permission, Sir, may I read this sentence from Mayne's "Hindu Law"? "The religion of the father settles the law which governs himself, his family and his property.

A child in India under ordinary circumstances, must be presumed to have his father's religion and his corresponding civil and social status "

SHRI P. T. LEUVA: That is also the Indian Succession Act. In this very Bill if you will refer to "use-5, the proviso sa^:

"Provided that no person shall be entitled to act as the natural guardian of a minor under the provisions of this section—(a) if he has ceased to be a Hindu".

So, the moment the father ceases to be a Hindu, he loses his right of natural guardianship itself. But that does not mean that the religion of the child is also altered. The child continues to be a Hindu if the child was born as a Hindu, he will continue to be a Jain, if he was born a Jain. Now, Sir, we should not give any scope to persons who want to change the status of the child by changing their own status.

SHRI GULSHER AHMED: Is it a fact that the religion of the child is the religion of the father?

SHRI P. T. LEUVA: That is settled law. accepted everywhere, that the child always follows the religion of the father. There is no dispute about that.

Now, the next question arises that after the father changes his religion what is the position of the child under the Bill as it is proposed? If you look at clause 5, you will find that a person who ceases to be a Hindu has no right to become a natural guardian. He ceases to be natural guardian. Then the mother steps in. The minor is now under the guardianship of the mother. The question is: What should be the religion of the child?

DR. SHRIMATI SEETA PARMANAND (Madhya Pradesh): Even if the mother is a Muslim? Sir, the

[Dr. Shrimati Seeta Parmanand,] hon. Member just said that even if the mother was a Muslim, she would continue to be the natural guardian.

SHRI GULSHER AHMED: Suppose the father was a Hindu and he becomes a Muslim; the wife also becomes Muslim. What is the position?

SHRI P. T. LEUVA: Then the question will arise as to who is entitled to the guardianship of the child, because the father and mother both being Muslims are not entitled to the guardianship. Then, the provisions of the Guardians and Wards Act will come into play. There is a similar provision in the Guardians and W i Act also. So far as I know, it is section 24 and there is a judgment of the Privy Council also that the child must be brought up in the religion to which he belonged at the time of his birth.

MR. DEPUTY CHAIRMAN: Mr. Leuva, take another case. Suppose both the father and the mother have converted themselves and the children also are brought up by them as either Muslims or Hindus for a number of years, say till the age of seven years or eight years. The question of guardianship is not contested in the court, the children go with the father. Suppose the father or mother dies. On the date of the birth of the child, he will have been a Hindu, but during all these seven or eight years, he is brought up as a Muslim or a Christian. What will be the position?

SHRI P. T. LEUVA: Now, Sir, strictly speaking it is the duty of the guardian to bring up the child as a Hindu, even though both the mother and father changed their religion.....

MR. DEPUTY CHAIRMAN: That will be the import of the clause as it

SHRI JASPAT ROY KAPOOR (Uttar Pradesh): Clause 5 says, "No person shall be entitled to act as the natural guardian of a minor if he has ceased to be a Hindu." The mother and father, both having become converts, will lose their right to continue to be the natural guardians. But in the case that you have been pleased to cite, will this Bill apply, Sir? It will not apply.

SHRI P. T. LEUVA: So far as the child is concerned, the Bill will still apply.

MR. DEPUTY CHAIRMAN: A boy who is sixteen years is still a minor. He has been brought up as a Muslim or Christian, although at the time of his birth he was a Hindu. Do you mean to say that whatever training or background of religion he has received during these sixteen years.....

SHRI P. T. LEUVA: Sir, the parents have committed a breach of law and the parents cannot be allowed to change the religion of the boy. In the eyes of law, the boy will still remain a Hindu.

DR. SHRIMATI SEETA PARMANAND: Sir, both the parents have changed their religion, but the children continue to be Hindus. And as such they do succeed to the joint family. They are considered as Hindus even if the training has been under any other religion.

SHRI GULSHER AHMED: Just one point, Sir. The mother is a Muslim; the father is a Hindu. The Hindu converts himself into a Muslim. What will be the position of the mother? Can she remain the guardian? She is a Muslim and she cannot be a guardian.

SHRI P. T. LEUVA: That is exactly effect of clause 5; under the provisions of this Bill only a Hindu can

Shri P. T. Leuva: He is a guardian of a Hindu. If there is a Hindu minor child, only a Hindu can be its natural guardian under the provisions of this law. There is no dispute about this. And natural guardians are only two, the mother and father.

SHRI GULSER AHMED: In view of the fact that we have passed the Special Marriage Act, if the mother is a Muslim lady, she is naturally entitled to become the guardian of the child.

SHRI H. V. PATASKAR: May I just intervene to explain the scope of this clause 9? When we were dealing with clause 5, we were naturally dealing only with the question of natural guardians. But so far as clause 9 is concerned it does not apply only to the natural guardians. It would not be correct to say that. The scope here is a little wider. (Intemptio?7s.) I would not give my opinion just now, but I would like to have the views of this House.

SHRI P. T. LEUVA: Sir, the word "Hindu" in common parlance, applies to Jains, Buddhists and Sikhs. Now that is the common belief. But the public opinion in those particular faiths is that they are not part and parcel of the Hindu religion. They claim to be separate entities. Jains claim to be separate from the Hindu religion. Sir, it is a question of opinion, a question of belief. If the Jains believe that they are separate from Hindus, if the Buddhists believe that they are separate from Hindus, then we should not foist our beliefs and views on them. We have recognised the fact that Sikhs and Hindus are separate. Even in the census reports, Jains, Buddhists and Sikhs are classified separately. They are not classified under the heading "Hindus".

SHRI S. N. MAZUMDAR: Sir, we have already accepted the principle when we passed the Hindu Marriage Bill that Sikhs, Jains and Buddhists were included in the term "Hindus".

SHRI P. T. LEUVA: Yes, but so far as the purposes of that particular Act are concerned, Jains, Buddhists and Sikhs can be construed as Hindus.

MR. DEPUTY CHAIRMAN: We have passed clause 2 also.

SHRI P. T. LEUVA: But that is only for the purposes of a particular law. It does not change the character and the status of Jains as such. I would, therefore, submit that the draft which/as emerged from the Select Committee is the proper draft, and it reflects the opinion in the country.

SHRI J. S. BISHT: May I just submit for clarification of the point that I have tabled my amendment No. 47, which suggests that for the words "the minor's birth" the words "his change of religion" should be substituted, that is to say, at the time of the change of the religion of the father? For instance, a Christian or a Muslim becomes a Hindu, and he has children. Now after three or four years, supposing he dies. What would happen then? Now he is governed by the Hindu law of minority. Now if you want that the child should be brought up in the religion of the father at the time of his birth, then he must be brought up like a Muslim.

SHRI P. T. LEUVA: Whose birth? The child's birth, and not the father's birth.

SHRI J. S. BISHT: Yes, the child's birth. I say that when the child was born, he was a Muslim or a Christian.

MR. DEPUTY CHAIRMAN: Supposing a Muslim family or a Christian family has been converted to Hinduism. At the time of the birth, the minor was a Muslim or a Christian. But at the time of the conversion of the father, he dies as a convert. Then the question of guardianship comes in. Then according to this clause, the minor is not a Hindu, because at the time of his birth, he was either a Muslim or a Christian.

SHRI P. T. LEUVA: Sir, the very basis of this clause is that a person cannot be allowed to change the status of any other person by changing his own status. Merely because a Muslim becomes a convert to Hinduism, he cannot alter the status of his Muslim children. They still remain Muslims.

MR. DEPUTY CHAIRMAN: That legal implication.

SHRI H. V. PATASKAR: Without expressing my opinion, I would like to place some information before the hon. Members. So far as the present law is concerned, Sir, normally the presumption is that the child naturally belongs to the religion of the father. That is the presumption over the world. He belongs to the religion of his father at the time of the birth.

Now there are two opinions with regard to the change of religion. There are some who think that if at all there is to be a change of religion during the minority of the child, it should not be allowed to take place unless the child exercises his option whether he would like to continue in the father's religion or not. I think that is the law. But still there are other cases in which our courts have held that a Hindu father by becoming a Christian does not lose his right to say in what religion the minor son should be brought up, and unless there are special circumstances, the court will not interfere with the decision of the father that the child should be brought up the Christian religion. That means that the present state of law is that it would be open to a father to change his religion and also to change the religion of the minor child. That is the present state of law. But I think that so far as the question of the religion or the faith is concerned, naturally the only ground should be this. What was the religion of the father at the time of his birth? And there would be nothing wrong if the child, after

attaining majority, changes his religion.

SHRI GULSHER AHMED: Sir, I want to.....

MR. DEPUTY CHAIRMAN: Afterwards.

SHRI GULSHER AHMED: It is no use putting my point afterwards.

MR. DEPUTY CHAIRMAN: Do you want to put a question to Mr. Leuva.

SHRI GULSHER AHMED: Yes, Sir. He says that the religion of the father should be taken to be the religion of child. Supposing the mother is a Muslim and the father is a Hindu, and the mother is pregnant and the father dies. What would then be the religion of the child? Would it be a Muslim or a Hindu?

SHRI P. T. LEUVA: Now, Sir, I would reply to that question. We are making a provision for the children who are born of a Hindu marriage, a marriage which has been performed under the Hindu Marriage Act.

(*Interruption*)

SHRI B. K. P. SINHA: Mr. Deputy Chairman, may I, with your permission, say something?

MR. DEPUTY CHAIRMAN: Not now.

SHRI B. K. P. SINHA: I will just help him.

MR. DEPUTY CHAIRMAN: I do not like these interruptions.

SHRI P. T. LEUVA: Sir, my proposition is this. The draft which has come from the Select Committee should be accepted, because the minor should not be compelled to change his religion merely because the father has changed his religion.

PANDIT S. S. N. TANKHA: Sir, my friend says that the minor should not be compelled to change his religion, and that it is not right on our part to insist upon the minor to change his religion. But I say that by the

wording used in the Bill, you will be compelling the minor to change his religion in certain cases. Now, Sir, take a case where the child, when he was born, was a Christian or a Muslim, and his parents were Christians or Muslims. Later they convert themselves into the Hindu religion. Now after ten years the father again converts into the Christian or Muslim religion. In such a case the child even though he has been brought up as a Hindu for several years will be required to be brought up in the religion of his birth, namely, the Christian or the Muslim religion as the case may be. -

MR. DEPUTY CHAIRMAN: Mr. Tankha, that point has been discussed already.

PANDIT S. S. N. TANKHA: My submission is, Sir, that you are compelling the child to change his religion.

MR. DEPUTY CHAIRMAN: . The minor cannot change his religion unless he attains majority.

3 P.M.

PANDIT S. S. N. TANKHA: The child has been brought up in the Hindu religion for the last nine years, and then at the age of 10, his father changes his religion. You compel him to become a Muslim or a Christian, a religion in which he was born.

SHRI P. T. LEUVA: That would apply equally to a Hindu child. If his father becomes a Muslim, do you want him to become a Muslim alone with his father?

PANDIT S. S. N. TANKHA: Not at all.

SHRI P. T. LEUVA: If there is a Muslim father who has got a child and that Muslim father becomes a Hindu if we accept my hon. friend's argument, what will happen

PANDIT S. S. N. TANKHA: That is not my argument. M" argument is

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that it should be the duty of the guardian to bring up the child in the religion to which his father belonged at the time of the conversion. Therefore, it should be the duty of the guardian to bring up the minor in the Hindu religion and not in any other, since the religion of the father at the time of his conversion must necessarily be Hinduism, otherwise this Bill will not apply.

SHRI P. T. LEUVA: Suppose a person changes his religion three times, during minority of the child. Which stage will you take into consideration?

PANDIT S. S. N. TANKHA: The last one.

SHRI P. T. LEUVA: Why?

SHRI S. MAHANTY (Orissa): Sir, only one at a time should speak. We want to know who is speaking.

SHRI P. T. LEUVA: I would submit that so far as the religion of the child is concerned, it should be the religion of the father at the time it was born. If at the time of his birth, his father was a Hindu, then he should be brought up as a Hindu. If we accept the amendment of Mr. Bisht, so many difficulties will arise, because we will never be able to say which conversion is to be taken into consideration. I would therefore, submit that the clause as it has emerged from the Select Committee must be accepted.

Another amendment to which I would like to refer is that of Mr. Mazumdar. He says that a minor should be brought up as a good citizen of India. I could not believe that he would raise the argument that a good Hindu is not a good citizen of India.

SHRI S. N. MAZUMDAR: The hon. Member did not hear me evidently I said.....

MR. DEPUTY CHAIRMAN: You need not repeat your arguments.

SHRI P. T. LEUVA: According to the opinion of many persons, a Communist may be a bad citizen of India. According to him, a Congressman may be a bad citizen of India. So far as becoming good citizens is concerned, you must leave it to the people concerned. We are only discussing the question of religion here, whether the minor should be brought up in a particular religion or not. In view of the fact that the term "good citizen" is such a vague term and would admit of so many violent interpretations, we will never be able to implement such a provision. Therefore, I would request my hon. friend to withdraw his amendment, in view of what I have said.

SHRI S. N. MAZUMDAR: About the violent interpretations?

SHRI P. T. LEUVA: If you go to any court of law, you will find that the words which he has used are capable of being interpreted in so many different ways. According to him I may be a bad citizen of India, but according to the hon. Members sitting on this side of the House, I may be a good citizen of India. I would, therefore, submit that the amendment should not be accepted and that the clause as it has emerged from the Select Committee should be supported.

(Shri H. C. Dasappa and Shri Jaspat Roy Kapoor rose.)

SHRI S. N. MAZUMDAR: Sir, it looks that the Press Commission Report may not be taken up today. I submit that a day should be fixed as early as possible for taking up the Press Commission Report.

MR. DEPUTY CHAIRMAN: It will be taken up.

SHRI S. N. MAZUMDAR: It seems unlikely that it will be taken up today.

MR. DEPUTY CHAIRMAN: If Members do not co-operate, we cannot finish this Bill.

SHRI H. C. DASAPPA: Sir, we have taken up so many years over this and just when we have got to the final stage, if we are to hurry like this, I do not know whether we will be doing justice to this.

MR. DEPUTY CHAIRMAN: Why, do you want to speak?

SHRI H. C. DASAPPA: Yes, Sir.

MR. DEPUTY CHAIRMAN: Please be very brief.

SHRI JASPAT ROY KAPOOR: I hope some other Members also will be given an opportunity.

SHRI H. C. DASAPPA: Sir, I am very much indebted to you for giving me this opportunity.

MR. DEPUTY CHAIRMAN: I do not want this Bill to be carried over to Monday. You must finish even the third reading today, even if we have to sit a little late.

SHRI S. MAHANTY: If the Press Commission Report is to be taken up, we are prepared to sit, but we are not prepared to sit for this Hindu Minority and Guardianship Bill.

MR. DEPUTY CHAIRMAN: The Press Commission Report will be taken up early. The House will have two days for its discussion. If we finish this earlier, we will take it up.

SHRI H. C. DASAPPA: Two things clearly emerge from the discussion on this Bill. In the first place, if we try to meddle with the fabric of the

Hindu Law in any one regard, it has necessarily so many repercussions and a number of results follow from it. Secondly, this Bill which looked in the beginning to be non-controversial as the hon. the Law Minister himself said, is now bristling with controversies. Even this clause, I find, is highly controversial, and it is difficult for me to make up my mind as to what exactly is the correct thing to do in the circumstances. I am even tempted to omit this clause altogether and leave the Hindu law as it is being administered now to guide us in the future. Otherwise we will be restricting the scope of certain things. I am afraid that no one section of people will be satisfied with any provision that one might approve of here. If you leave the clause to remain as it was in the original Bill, even then it will be a difficult proposition, because there are persons who do not like a Sikh or a Jaina to be brought up as a Hindu, and on the other hand, if you leave things as they are now in this Bill as it has emerged from the Select Committee, even then it will lead to a lot of difficulty. Take the case of a father with minor children, where there is no question of any property of the minor as distinguished from that of the family. Clause 5 provides that the natural guardian is the guardian not only of the property of the minor but also of the person of the minor. Clause 5 which deals with the guardianship of both the person and the property of the minor provides that in case the father changes his religion, he will cease to be a natural guardian of his child. Now that means that he cannot act as the natural guardian of the minor. Who should come now as the guardian of this minor whose father gets converted to a separate religion? Under what provision can we bring any other guardian than the father unless it be that he is unfit to be the guardian of the minor child? Have we ever envisaged the result of a thing like that? Are there not hundreds of fa-

thers who change their religion and with the change of their religion, the minor children adopt the new faith as a matter of course? No court in terferes and in no case can the court be moved to declare the father unfit for that very reason and see that a fresh guardian is appointed. So that will be the effect of this change of religion. Now in clause 9 it means

MR. DEPUTY CHAIRMAN: Clause 5 is already adopted by the House.

SHRI H. C. DASAPPA: I am talking of clause 9.

MR. DEPUTY CHAIRMAN: Clause 5 has been adopted by the House.

SHRI H. C. DASAPPA: I am telling the House what an anomaly it gives rise to that a person ceases to be a natural guardian by the mere change of religion and we have got to find somebody else to be the guardian.

MR. DEPUTY CHAIRMAN: The Court can appoint him.

SHRI H. C. DASAPPA: That I believe is going far beyond what the present law provides for. In this also there will be a considerable amount of difficulty in giving effect to the provisions of this Bill. If you have it as it is, namely:

"It shall be the duty of the guardian of a Hindu minor to bring up the minor in the religion to which the father belonged at the time of the minor's birth and in the case of an illegitimate child, in the religion to which the mother belonged at the time of the minor's birth"

then it will give rise to a lot of controversy. I appeal to the hon. Law Minister. (Interruption.)

MR. DEPUTY CHAIRMAN: There is too much of subdued talk in the House.

SHRI H. C. DASAPPA: I would appeal to the hon. Minister to see if one of these two things cannot be

[Shri H. C. Dasappa.]
done—either give up this clause and
don't have it at all in the Bill.....

SHRI P. S. RAJAGOPAL NAIDU: It is too late.

SHRI H. C. DASAPPA: It is never too late to right a wrong. Or if the hon. Minister is not willing to give up the whole clause, at least have some such small amendment like this:

"It shall be the duty of the guardian other than the natural guardian to bring up the minor in the religion to which the father belonged etc."

I don't want to take much time of the House but I feel that some such thing would eliminate much of the controversy over this. 1

SHRI JASPAT ROY KAPOOR: Mr. Deputy Chairman, I venture to speak a few words on this clause because I am assured that the hon. Minister has an open mind on this subject, otherwise it would have been futile to speak on this if any convincing arguments were not going to be accepted by him. To me the necessity for accepting the amendment which stands in the name of Mr. Sumat Prasad appears to be very obvious. Now it stands probably in the name of Shri Gupta. We are considering the question as to in what religion a Hindu minor should be brought up and the intention of all of us is that a Hindu minor should be brought up in the Hindu religion and we have to see whether the wording of clause 9 amply meets our wish. I submit that partially it does meet our wishes but partially it does not. I do appreciate the contention of the hon. Minister that hereafter the boy, if he were born as a Hindu, will be brought up in the Hindu religion even if, at a subsequent stage, the father converts himself into Muslim or Christian faith. I appreciate this new change. But then I am afraid it does not cover the case. I will just cite. Sup-

posing the father dies and the mother also dies and at the time of death, both the mother and father and also the child are Hindus, but then at the time of the boy's birth that boy's father and mother were Muslims. So though at the time of the death of the father and mother both were Hindus, for the simple reason that at the time of the birth of the child 10 or 12 years ago the father and the mother were Muslims, unfortunately this Hindu boy will have to be brought up as a Muslim or Christian as the case may be, by the guardian who may be appointed under the Guardian and wards Act. That is very anomalous position.

SHRI H. P. SAKSENA (Uttar Pradesh) :
Why do you call him a Hindu minor?

SHRI JASPAT ROY KAPOOR: For the simple reason that at the time of the death of the father and mother

SHRI H. P. SAKSENA: Why not at the time of birth?

SHRI JASPAT ROY KAPOOR: Under the law he is a Hindu. It might be said that such cases would not be many. I am prepared to admit that contention but while we are framing a law, we have to so frame it as it may cover all possible cases. We are not framing this legislation merely for the majority of Hindus. We are framing it for all Hindus and we should so frame it that it may cover all possible contingent cases also. When in the definition of Hindu we have said it specifically that one who is a convert to Hindu religion from Muslim or Christian religions will also be a Hindu, we presume that there might be cases—there may be few or many, that is entirely beside the point—but there would certainly be some cases of Muslims or Christian or Jews converting themselves into the Hindu faith. Then while in the definition we are making provision for all such cases, in clause 9 we are ousting all those cases as it were. We are compelling the minor Hindu boy to bfr

brought up in the religion of his father and mother as it was at the time of his birth which may be Hindu or Muslim or Christian.

I don't want to give more illustrations because even this one illustration should be sufficient enough to convince the hon. Minister if he is prepared to listen to what I am submitting.....

MR. DEPUTY CHAIRMAN: For the same purpose you cannot have two dates—the date of birth and the date of conversion. Law has to be definite. Either you have to prefer the date of birth or the date of conversion.

SHRI JASPAT ROY KAPOOR: I am not referring to the date of conversion at all nor am I referring to the date of birth. I simply want that if at any particular moment the question arises as to in what particular religion the Hindu minor should be brought up, the simple answer to that should be that he should be brought up in the Hindu faith. That should be the simple answer to this question.

MR. DEPUTY CHAIRMAN: Here the question is what the religion of the minor is—is it the religion that he has at the time of birth or at the time of his father's conversion? That is the point.

SHRI JASPAT ROY KAPOOR: No with due respect, I submit that so far as clause 9 is concerned, the question is not what is the faith of the minor. It presumes that the faith of the minor is Hindu. We are dealing with the question of Hindu minor; as to what is the faith of the minor is entirely a different question. With that we are not concerned so far as clause 9 is concerned. It may be a question to which we may have to provide an answer in this Bill. But that is an entirely different thing. We may have an additional clause put in, if necessary. I have not given thought to that. You, Sir, seem to have given *some* thought to it and if it is con-

sidered necessary to provide an answer to the question which you have been pleased to put, then some clause may be added. But here, so far as clause 9 is concerned, we are dealing with a Hindu minor. The fact of the existence of the Hindu minor is admitted. Now, having admitted that, the question arises under which faith that Hindu minor should be brought up. To that the simple answer, would be the phraseology given in the amendment proposed by Shri R. C. Gupta, that he should be brought up in the Hindu faith.

SHRI H. P. SAKSENA: But my question... May I ask a simple question of the hon. Member? How did you determine that the minor was a Hindu minor at the time you determined that he was a Hindu minor? By what process did you determine that the minor was a Hindu minor? SHRI JASPAT ROY KAPOOR: By the same process by which this question would be determined even if clause 9 is adopted in its present form. But my hon. friend is raising an entirely different question. He wants to know how the faith of the minor is to be determined.

SHRI H. P. SAKSENA: Yes.

SHRI JASPAT ROY KAPOOR: Not the question of how a Hindu minor is to be brought up?

SHRI H. P. SAKSENA: No.

SHRI JASPAT ROY KAPOOR: That is an entirely different question altogether.

SHRI H. P. SAKSENA: Then how are you dealing with a Hindu minor? Who is he? How do you determine that?

SHRI JASPAT ROY KAPOOR: That is a question which has to be addressed to the hon. Law Minister. We are here dealing with a Hindu minor. Whether a minor child is a Hindu or not is entirely a different question

[Shri Jaspal Roy Kapoor.] But having admitted that in a particular case where there is a child in flesh and bone before us, that that particular child is a Hindu minor, how is he to be brought up is the question. Is that child to be accepted as a Hindu minor, is an entirely different question and we are not dealing with that question, so far as clause 9 is concerned. But if it is admitted that that child is a Hindu minor, then the next question that arises is: Under what faith is he to be brought up? And the simple answer to that question ought to be in the terms of the amendment standing in the name of Shri Ram Chandra Gupta. If you are not accepting that amendment, then you will be excluding from the purview of this clause 9, the case that I have referred to. And there are several other cases of this type which I need not refer to now, because of the shortness of time at my disposal. But this one case is good enough to bring out the great necessity for accepting the amendment of Shri R. C. Gupta. I do most humbly submit that the hon. the Law Minister may be pleased to accept that amendment so as to remove this anomaly. We are not particular that the amendment of Shri R. C. Gupta should be accepted in the very terms in which it has been moved, though for the time being, it does appear to me that it is not easy to find a good substitute for that. If the hon. Law Minister can find a good substitute for that amendment, we may accept that.

SHRI H. V. PATASKAR: Sir, this is no doubt, even to my mind, a very important provision. The whole idea underlying this Bill, as I have been saying, is like this. The recognition of natural guardians, that is number one, and then putting some restrictions on the powers of the natural guardian, that is number two; and the removal or abolition of the *de facto* guardian.

MR. DEPUTY CHAIRMAN: That is clause 5. That is a different clause.

SHRI H. V. PATASKAR: That is true, Sir. What I am trying to show is that whether it be in this clause or in the other clauses, the main idea of this Bill is this.

In the original Bill the provision to which this amendment refers stood as clause 10 and it ran thus:

"It shall be the duty of the guardian of a Hindu minor to bring up the minor as a Hindu."

Without going into the details, definition of "Hindu" and all that, if a Hindu is there, his child should be brought up as a Hindu.

MR. DEPUTY CHAIRMAN: That is very simple.

SHRI H. V. PATASKAR: Yes, Sir, it looks very simple. But when we come to the question of who are Hindus and whether Hinduism is a religion, all the trouble crops up. For instance, as I said at times, we conceive of Hinduism as a religion. At other times or for other purposes, we conceive of it as a culture. Broadly speaking, we say all these people are Hindus, but there is nothing definite about it, as in the case of Christians or Muslims, for instance. If we say that so and so is by religion a Christian, it is something clear cut.

SHRI JASPAT ROY KAPOOR: May I submit.....

SHRI H. V. PATASKAR: If I am interrupted, I may lose the thread of my argument.

SHRI JASPAT ROY KAPOOR: I do not want to obstruct the hon. Minister, but I only want to bring it to his notice that the word "religion**" is nowhere in this amendment.

SHRI H. V. PATASKAR: That is exactly the point I am coming to. This fact was discussed in the Select Committee and I am trying to show to all hon. Members also those who had not taken part in the discussion that there is this distinction we con-

ceive of Hinduism as a religion and sometimes as a culture. On this clause, there is a considerable amount of misgiving, a considerable amount of feeling, what it really implies, what it should mean all that. From that point of view, as I said, to my mind also this is an important clause. I was trying to show, as my hon. friend would have seen if he had followed me, that there is this fundamental distinction. Originally the word "religion" was not there. The Select Committee has referred to religion. It happens like this. When we say so and so is a Hindu, we compare him to another who is a Christian or a Muslim. So far as a Christian is concerned, we know that the Christian is one who believes in the Bible and considers Christ as the Messenger. We need not here go into other details, like Roman Catholics and all the rest of it. Also in the case of a Muslim, it is clear that he believes in the Koran and for him Mohammad is the Prophet. But when we come to the Hindu, there we get confusion. So and so is not a Hindu because he is a Hindu by religion. Hinduism is not of that type. Broadly speaking there are so many people in Hinduism. There are people who believe in God and there are those who do not believe in God. There are those who believe in idols and also those who do not believe in idols. There are all sorts of people, because after all the word "Hindu" meant resident in this country and all that. I need not go into the detailed history of those things. So the confusion is because Hinduism is thought of as a religion in contrast with the other religions. So the previous provision was that the minor should be brought up as a Hindu. What is implied? Of course, Mr. Leuva was at great pains to say that the definition of "Hindu" should include everybody. Here also we find in clause 2(1) (a) it is stated that this Act will apply:

"to any person who is a Hindu by religion in any of its forms or

developments, including a Virashai-va, a Lingayat or a follower of the Brahma, Prarthana or Arya Samaj,"

also

"(b) to any person who is a Buddhist, Jaina or Sikh by religion".

And let us remember that we have already passed that clause. What is meant in that provision? In the first part, if he is a Hindu by religion in any of those forms, it shall apply to him. And then again in the second part, we say it shall apply to even a Buddhist, Jaina or Sikh. These are distinct religions and to them also this Act will apply. Originally, the provision was, as I said, that it was the duty of the guardian to bring up the minor as a Hindu. The implication is that if the word "Hindu" is capable of being interpreted, because the word "religion" is not there, it should be in the broad sense. We may do it with an open mind, or otherwise. The only restriction that we want is that so far as the question of a person who is a Hindu minor is concerned belonging to any of these categories, though by religion he may be a Buddhist, Jaina or Sikh, he should not be brought up as a Hindu. That may be argued that way, but normally, no difficulty will arise. Even now the courts have been interpreting the position and naturally they say the boy is to be brought up in the tradition and culture of the family and all that. So far as the Guardians and Wards Act is concerned, there has been no complaint on this score, that the courts had done anything that was wrong. The court does look to all these things. But when we keep this provision it is clear that a direction is given in clause 9 that it is enough if the minor is brought up as a Jaina or Sikh or any of those different forms—only thing is that he should not be brought up as a Muslim or Christian, these being the two main religions, though there may be others. That was the underlying idea. Of course, this amendment is the same as clause- 10

[Shri H. V. Pataskar.]

in the Bill as it was introduced. Of course, I am not responsible for it. I am only saying it. I came on the scene a little later. That must be the idea with which they contemplated that clause 10 of the original Bill and it was there in the Rau Code also. Then when it was being discussed in the Select Committee I made no secret of my views in this matter either. At the beginning I thought everyone agreed to the form of clause 10 of the original Bill. It was all general talk and general talk is always pleasant. But when it came to the question of what would be in conformity with clause 2, then some people thought that if a Sikh is there, a Jaina is there and a Buddhist is there this should be the underlying feature. How to change it? And then came in this amendrrnt:

"A Hindu father entitled to act as the natural guardian of his minor legitimate children may, by will, appoint a guardian for any of them" etc.

Of course, there is nothing wrong in it. I have also nothing to say because it may be consistent with the interests of the minor that if a man is Sikh he should be brought up as a Sikh, and if somebody says it I don't find any religious objection. That is what is done. When this matter was considered then we were led to this amendment. But I find now there are various difficulties. I looked into the law on the subject in regard to persons of different religions and I also looked into the point that was raised by my hon. friends Mr. Tankha and Mr. Kapoor. We thought that so long as it was vague lik" that no details were necessary. Then when the Select Committee considered it and were to put it in the precise form, we find now, the question of religion came in, and something had to be decided, whether it should be the religion of the father and when it should be. As I said, the

general principle of law is that when a child is born, the child takes the religion of his father and I find that it is also the law as it stands now and that is what is said in a Privy Council case:

"From the very necessity of the case", observed their Lordships of the Privy Council "1 child in India under ordinary circumstances must be presumed to have his father's religion and his corresponding civil and social status and it is, therefore, ordinarily and in the absence of controlling circumstances, the duty of a guardian to train his infant ward in such religion." Then there have been cases also where it was held that a Hindu father by becoming a Christian does not lose his right to say in what religion his minor son should be brought up and unless there are special circumstances the court will not interfere with the decision of the father that a child should be brought up in the Christian religion.

these questions, therefore, cropped up. Then again cases also were pointed out and as Mr. Tankha says there may be another change of religion now-a-days. There may be marriage between persons of different religions and that will be a matter to be considered and we are more concerned with the minors' welfare rather than with the religious aspect of the minors. So I also find that likely to crop up on account of this provision. Let us see what we do with this clause. The object here is not for the recognition of natural guardians or to say what the powers of the natural guardians under the Hindu law should be. This is with respect to any guardian, *de facto* guardian included, and more or less the effect of this clause 9 is that it widens the scope of clause 5 because this more or less is a direction and when the matter goes to a court, the court will have to pay attention to what we decide in respect of this clause. It says now:

"It shall be the duty of the guardian of a Hindu minor to bring up the minor in the religion to which the father belonged at the time of the minor's birth" etc.

So this is more or less a direction. After enacting this clause or that clause (old clause 10), whichever you enact it will be more or less a direction to the court. To that extent it is a modification of the Guardians and Wards Act as we say that the guardian shall bring him up in the faith to which the father belonged at the time of the minor's birth. I leave it to the hon. Members to decide what we should do in respect of this clause. If we really think over the matter, difficulties are bound to arise and there may be some cases where, whether we accept that provision or this provision in the Bill before us, it is likely to lead to conflict in respect of interpretation; conflict with respect to the word, as to what is meant by "religion", whether it includes this or includes that. Now the point to be considered by us is whether it is really necessary that we should have any provision of this nature because in the absence of that it will be easy for the courts to get on smoothly under the Guardians and Wards Act. In England also, from whose Act this Guardians and Wards Act was taken, and where there are no differences as between Hindus and Muslims here but all the same there are the differences between the Roman Catholics and the Protestants, these cases arise according to the present state of law there. It is much better if we think that there are likely to be complicated cases arising whether we resort to this clause or the old one and then the best thing is to leave it as is being done now with respect to all people under the Guardians and Wards Act and it is still my view that with respect to individual cases it is much better in all such matters to leave it rather to the court than try to lay down a formula which will apply to all manner of

cases. Therefore, that is the course open to me. Now, these are the three propositions now open before us. There is the original clause which is a little wider and there the use of the word "Hindu" gives the latitude that the minor may be brought up in any of those religions which are referred to there and in respect of persons to whom this Act is applicable. Then comes this clause which was drafted in the Select Committee and they thought that there was no general feeling against this provision. Of course, when we are making this attempt to rope in all these people it is no good denying the fact that still there is this tendency that everybody wants to stick to the particular form of Hinduism to which he belongs. Therefore, that is probably covered by this. In spite of what we may decide here whether it be the religion at the time of the minor's birth or at the time of the father's conversion cases will naturally arise when there will be complications.

MR. DEPUTY CHAIRMAN: But if you keep the present clause as it has emerged from the Select Committee don't you think you will bind the Court to the religion of the minor at the time of his birth? The court in that case will not exercise its mind. Therefore, there will be hard cases also. Whereas if you reinstate the original clause (old clause 10) the court will exercise its mind and find out what is best for the minor by rinding out the conduct of the parties, the training that has been given to the minors, and there will be scope /or the court to exercise its mind.

SHRI H. V. PATASKAR: That is my opinion too.

SHRI P. T. LEUVA: There is m question of natural guardian and his religion in which the minor is to be brought up, and so far as the Guardians and Wards Act is concerned the court has got jurisdiction under that Act.

MR. DEPUTY CHAIRMAN: Here it does not say anything about natural guardian.

SHRI P. T. LEUVA: So far as the natural guardian is concerned, that question would never arise because the court does not come in. In case the guardian has to be appointed that will be under the Guardians and Wards Act.

MR. DEPUTY CHAIRMAN: This is not necessary because the application would be under the Guardians and Wards Act and this Act does not repeal the Guardians and Wards Act.

SHRI JASPAT ROY KAPOOR: It will cover the case «v natural guardians also.

SHRI H. V. PATASKAR: This clause provides for the case of a Hindu minor and the natural guardians are there. But if the matter goes to court under the Guardians and Wards Act, natural guardians or other guardians, the court will decide the issue. We are not dealing with only natural guardians here. All what we are trying

SHRI P. T. LEUVA: My submission is that when an application is made for appointment of a guardian by court the provisions of the Guardians and Wards Act would apply and the court will exercise its discretion only under that Act. So the question of Hindu guardianship and minority will not be affected at all.

SHRI H. V. PATASKAR: Whenever an application is made under the Guardians and Wards Act, naturally when these provisions are supplemental in respect of a Hindu minor, the court will have to be guided by whatever we decide on that matter in this Act. To that extent there is no ambiguity.

SHRI B. K. P. SINHA: Mr. Deputy Chairman, I have a very small thing to say

MR. DEPUTY CHAIRMAN: He is replying.

SHRI B.'K. P. SINHA: I want a clarification. It seems to me that this amendment, this confusing clause, was put in by the Committee to allay the fears of Buddhists, Shiks and Jainas. But this affects the position of Sikhs, Jainas and Buddhists also. Suppose at the time of the birth somebody was a Christian or a Muslim. Now, later the parents become Buddhists or Jainas or Sikhs. If they die, then their children instead of being brought up as Buddhists or Jainas or Sikhs, will have to be brought up as Christian or Muslim. So, their position is also affected. I do not see how it allays their fears. It makes things worse even for them.

SHRI H. V. PATASKAR: Therefore, my submission is this, Sir. We have discussed the whole clause from every point of view. My own suggestion is that nothing would be lost if we do not at all make any provision regarding this matter and leave these cases 'o be decided by the court without any direction from us. As Mr. Leuva was saying, if at all a case goes to the court, they can decide it. So far as natural guardians are concerned, it is a different matter. Even then, as I said, supposing the natural guardian becomes a Christian, and previous to that he was a Hindu. We want to restrict him and he must bring up the child as a Hindu. Will it be in the interests of the child to make such a restriction, that is what we have to consider. Who else will take care of the child? As I find from the discussion, difficulties face us at every stage, whether we accept the one or the other. Therefore, it would be much safer not to try to have any provision of this nature. Let us leave it to the courts and there has been no instance up till now where the courts have interfered with religion. They have been working very satisfactorily.

MR. DEPUTY CHAIRMAN: May I take it that you are for deleting clause 9, altogether?

SHRI H. V. PATASKAR: I have no objection.

MR. DEPUTY CHAIRMAN: Then, the House will have to vote down clause 9.

SHRI H. P. SAKSENA: Of course. The House may or may not give the permission.

MR. DEPUTY CHAIRMAN: What about the amendments?

SHRI JASPAT ROY KAPOOR: May I ask this, Sir? As between the clause as it now stands and the amendment suggested by Shri R. C. Gupta, I wanted to be guided by the superior wisdom of the hon. Law Minister. Which would he prefer—to delete clause 9 altogether or accept Mr. Gupta's amendment? Which is his first preference and which is his second preference?

MR. DEPUTY CHAIRMAN: Suppose the clause is not voted down, what is the position? I have to take the vote of the House.

SHRI H. V. PATASKAR: I think the majority of the Members are inclined to delete the clause.

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MR. DEPUTY CHAIRMAN: Then, I will put the clause as originally.....
(*Interruption.*)

PANDIT S. S. N. TANKHA: If clause 9 is deleted, all the amendments tabled to that clause will go. automatically.

MR. DEPUTY CHAIRMAN: As long as there are amendments, I cannot put the clause to the vote of the House. If the sense of the House is that clause 9 should be deleted, let all the amendments be withdrawn. I leave it to the Members.

tAmendments Nos. 44 to 47 were, by leave, withdrawn.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 9 stand part of the Bill."

tFor text of amendments, vide cols. 4305-06 supra.

The motion was negatived.

Clause 9 was deleted from the Bill.

Clause 10 was added to the Bill.

MR. DEPUTY CHAIRMAN: Now, we come to clause 11, There are two amendments.

SHRI R. C. GUPTA: Sir, I mover

48. "That at page 5, line 20, the words 'or deal with' be deleted."

MR. DEPUTY CHAIRMAN: The clause and the amendment are open for discussion.

SHRI R. C. GUPTA: I wish to say only a few words with regard to clause 11. My amendment is that the words "or deal with" be deleted. We have given a go-by to *de facto* guardians. At the same time it is true that there was considerable feeling in the House that the scope of the natural guardians should be widened. That has not been done. Therefore, we are left with two natural guardians only, the father and the mother. As I said before, *i.e.*, there are a number of cases in which the parents die leaving small properties to be managed by the near relations. The experience of the past has not been very unhappy. Mostly the properties have been managed properly by the near relations such as brothers, paternal uncle, grandfather, grandmother and so forth. Now, if we retain the words "or deal with" it really gives a blow to all management of the minor's property after the death of the parents. I am quite in agreement that no other relation except the natural guardians should have the power to dispose of the property. But I am not in favour of taking away the power of management of small properties and driving such persons to a court of law to obtain permission for the appointment of a guardian in every case, for obtaining permission for management, etc. Therefore, I do not think any good purpose would be served by keeping the words "or deal with". It

[Shri R. C. Gupta.]

is quite enough that the *de facto* guardians are not permitted to dispose of the property. That is a small clause and I have no objection to it. But for the purpose of management of a small property, it seems to me necessary that near relations should have been permitted to act as natural guardians. But the scope of the natural guardians has not been widened. Therefore, I think it is necessary that these words should go, and the properties of the minor are properly and cheaply managed.

SHRI P. S. RAJAGOPAL NAIDU: Sir, I rise to oppose the amendment of my friend, Mr. Gupta. If this amendment is to be accepted, it would mean that we are accepting the retention of the words "*de facto* guardians". It is our intention that we have to do away with the *de facto* guardians in this Bill. If these words are to be deleted, what will happen is that a certain amount of leniency, a certain amount of liberty, will be given to some of those persons who will step in and who will intermeddle and squat on the minor's property.

Sir, it has been stated, at the time of the movement of this Bill for reference to the Joint Select Committee, and also before, when it was referred for circulation for eliciting public opinion, that we are completely doing away with the *de facto* guardians in this Bill. Of course, some difficulties might arise if we do away with *de facto* guardian. Supposing the child loses both the father and the mother, and there is nobody to look after the property of the child, and nobody goes to a court of law to get himself appointed as the guardian of the child in order to manage the child's property. What will be the position then? Can the man who manages the property be deemed to be the *de facto* guardian? What will be his powers in that case, and to what extent will he be able to deal with the minor's property? All these difficulties will naturally come up.

Sir, I submit that the hon. Minister should be very clear in his statement, because when he was replying to the debate, he seems to have observed that he was not going to completely do away with the *de facto* guardians, and that to a certain extent he will have to recognise the *de facto* guardians. That is what, I remember, the hon. Minister said. But if that principle is to be accepted, what will be the position? We have to use some other words in place of "deal with", because the words "deal with" will mean dealing with the minor's property for the advantage of the minor.....

MR. DEPUTY CHAIRMAN: The point has been thrashed out at great length. Therefore try to be very short.

SHRI P. S. RAJAGOPAL NAIDU: I am going to be very short, Sir. In this connection, Sir, I have to invite your attention to what the hon. Mr. Biswas had stated when the Bill was being referred to the Select Committee. He stated as follows:

"The Bill, like the Rau Committee's draft, seeks to abolish *de facto* guardians, if I may use that expression, and this point may perhaps be disposed of first. *De facto* guardians are more or less interlopers and although they may, in a given set of circumstances, act for the evident advantage of the minor, I think the time has come for the abolition of this class of persons in the eye of the law."

Sir, either we are completely doing away with the *de facto* guardians, or we are not completely doing away with them. If we are doing away completely with them, they are not to remain here for any purpose. But if, as the hon. Minister has stated, we have to recognise these *de facto* guardians to a certain extent, we have to be very clear about it. When a vacuum is created and when nobody goes to a court of law to get himself

appointed as the minor's court guardian, what will be the position? It will be better, therefore, if the hon. Minister is very clear in what he says. Does he completely do away with the *de facto* guardians, or does he recognise them to the limited extent of managing the minor's estate for the advantage of the minor?

SHRI H. V. PATASKAR: Sir, I am > sorry I cannot accept this amendment for the simple reason that we are trying to abolish all *de facto* guardians so far as the minor's property is concerned, because what this clause says is:

"After the commencement of this Act, no person shall be entitled to dispose of, or deal with, the property of a Hindu minor merely on the ground of his or her being he *de facto* guardian of the minor."

And naturally, I do realise that the implication of the words "deal with" will be that he will not also be able to manage that property. But the trouble is that if we once allow management of the property, then anything can come under it. Therefore, I will now make it perfectly clear that the effect of passing this clause 11 will be that so far as the property of the minor is concerned, nobody, in the name of being a *de facto* guardian, will be able to do anything. Of course, as regards the minor's person, anybody can take care of the person of any minor. So, the effect of this provision will be that nobody will be able to dispose of, or deal with, or in any way affect the property of the minor. That point, I think, is clear, and that is our intention. I, therefore, oppose this amendment.

SHRI R. C. GUPTA: Sir, I beg leave to withdraw my amendment.

tAmendment No. 48 was, by leave, withdrawn.

tFor text of amendment, *vide* col. 4350 *supra*.

Clause 11 was added to the Bill.

MR. DEPUTY CHAIRMAN: Now we take up clause 12. There is one amendment of Mr. R. C. Gupta. Mr. Gupta, will the proviso to this clause not serve your purpose?

SHRI R. C. GUPTA: No, Sir. I only want to add the word "ordinarily".

Sir, I move:

50. "That at page 5, line 25, after the words 'no guardian shall' the word 'ordinarily' be inserted."

MR. DEPUTY CHAIRMAN: The clause and the amendment are open for discussion.

SHRI R. C. GUPTA: Sir, the object -of my amendment is very simple. And it is this. There are some hard cases, and to meet the rigour of those hard cases, this clause provides a proviso which says:

"Provided that nothing in this section shall be deemed to affect the jurisdiction of a High Court to appoint a guardian in respect of such interest."

Now, Sir, going to a High Court in small matters will involve heavy expense. I merely desire to add the word "ordinarily", so that in hard cases the courts may be able to exercise their discretion in appointing the guardians, *i.e.*, the District Courts or the City Civil Courts. The object is that the expenses should be as little as possible. I gave some instances also. In the case of bank deposits, Government securities and court deposits, it becomes necessary either to obtain a succession certificate or a guardianship certificate. With that view, Sir, I have tabled this amendment.

SHRI B. K. P. SINHA: Sir, I oppose this amendment of my friend, Mr. Gupta. I do not see any necessity for this word to be put in here. You rightly pointed out, Sir, that the pro-

[Shri B. K. P. Sinha.] viso was there. Earlier the hon. Minister stated that the chartered High Courts had got this power. Now what is sought to be done is to extend that power to all the High Courts. I will quote what Mr. Sastri, that great commentator on Hindu law, has said. He has referred to a Privy Council case, *Gharibulla v. Khaliq Hussain*.

MR. DEPUTY CHAIRMAN: What is the date of that case?

SHRI B. K. P. SINHA: 30 Indian Appeals. The year is not given. But that is a Privy Council case. There it is laid down that in the case of the Hindu joint family property, a guardian, in the very nature of things, cannot be appointed, and should not be appointed. Then he discusses the High Court judgements—later judgments, of course; and this is what he says:

"Whatever powers might have been vested in the various High Courts, it is doubtful whether in the face of the above Privy Council decision, a guardian for the interest of a minor member of a Mitak-shara joint family property can be appointed."

So he has doubted the powers of the High Courts. He supports the Privy Council judgment, and supports it in view of the principles embodied in Hindu law. Now we may make an exception in the case of the High Courts only. This power is an extraordinary power, and it should be vested really in courts of real status, courts which can inspire confidence all through. The litigants cannot have that confidence in such a matter in the Munsiff's Court or in the Sub-Judge's Court or in the District Court. They can only rely on the High Court and on no other court.

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SHRI H. V. PATASKAR: I have nothing more to add. The only effect

of accepting it will be practically to minimise the effect of this provision itself. As I said, of course the powers of the High Courts have been extended as you also rightly pointed out. I think that this amendment should be withdrawn. I would appeal to my hon. friend to withdraw it.

SHRI R. C. GUPTA: Sir, I beg leave to withdraw it.

fAmendment No. 50 was, by leave, withdrawn.

MR. DEPUTY CHAIRMAN: The question is:

That clause 12 stand part of the Bill.

The motion was adopted.

Clause 12 was added to the Bill.

MR. DEPUTY CHAIRMAN: Clause 13. There are three amendments.

SHRI M. GOVINDA REDDY (Mysore): Sir, I move:

51. "That at page 5, for the existing clause 13, the following be substituted, namely:—

13. *Welfare of minor to be paramount consideration*,—(a) in the appointment or declaration of any person as guardian of a Hindu minor by a Court, the welfare of the minor shall be the paramount consideration, and

(b) no person shall be entitled to the guardianship by virtue of the provisions of this Act or of any law relating to guardianship in marriage among Hindus, if the Court is of opinion that his or her guardianship will not be for the welfare of the minor."

SHRI J. S. BISHT: Sir, I move:

52. "That at page 5, the existing clause 13 be renumbered as sub-clause (1) thereof, and after

For text of amendment *vide* col. 4354 *supra*.

line 36, the following new subclause be added, namely: —

'(2) Notwithstanding anything contained in section 4, the provisions of section 39 of the Guardians and Wards Act, 1890, will apply for the removal of a natural guardian or a guardian appointed by will under this Act'."

SHRI H. C. DASAPPA: Sir, I move:

55. "That at page 5, for the existing clause 13, the following be substituted, namely: —

'13. *Welfare of minor to be paramount consideration.*—(1) In the appointment or declaration of any person as guardian of a Hindu minor by a Court, the welfare of the minor shall be the paramount consideration,

(2) No person shall be entitled to the guardianship by virtue of the provisions of this Act or of any law relating to guardianship in marriage among Hindus, if the Court is of opinion that his or her guardianship will not be for the welfare of the minor'."

MR. DEPUTY CHAIRMAN: The clause and the amendments are now open for discussion.

SHRI M. GOVINDA REDDY: In this clause, there is no material change. Only it is broken up into two without changing either the language or the meaning of the clause.

MR. DEPUTY CHAIRMAN: Amendments Nos. 51 and 55 are exactly the same.

SHRI H. V. PATASKAR: In Mr. Govinda Reddy's amendment, there is the additional word "and".

SHRI M. GOVINDA REDDY: The latter part of the clause governs the

former part. The intention of the framers seems to be that in the appointment of a guardian for a Hindu minor by a court, the welfare of the minor should be the primary consideration. This is the first part. Then the second part says:

"No person shall be entitled to the guardianship by virtue of the provisions of this Act or of any law relating to guardianship in marriage among Hindus, if the Court is of opinion that his or her guardianship will not be for the welfare of the minor."

The latter portion is conceived to disentitle a man who is not fit to be the guardian of a minor from being the guardian of that minor. The latter portion, as the clause as framed now, i.e. about disqualification, will only apply to guardians appointed or declared by the Court. This is evidently not the intention of the framers. So, if these two parts are separated, the intention will be made very clear. The amendment seeks to do this.

SHRI H. C. DASAPPA: Sir, it has already been explained that this clause contains two distinctly different sets of ideas. In the way in which this clause is constructed, it looks as though the latter part would be governed by the former, i.e. would apply to guardians appointed or declared by the Court. By splitting up, things would become clearer, because even in the case of the natural guardians, i.e. the father and the mother, in case he or she becomes unfit, then there must be a provision for stopping them from so acting. If the two parts are bifurcated, then it becomes quite clear, and it will be open to anybody to move in the court with regard to the unfitness of any natural guardian.

MR. DEPUTY CHAIRMAN: Supposing there is a semi-colon there after the word "consideration."

SHRI H. C. DASAPPA: I have got a full-stop there.

SHRI M. GOVINDA REDDY: Even if a semi-colon is there, it will not make any change.

SHRI H. V. PATASKAR: I think it will be much better to have them as two separate clauses.

SHRI J. S. BISHT: My only purpose in moving this amendment is to make sure that a natural guardian also can be removed, if he misbehaves and does not act properly. The hon. the Law Minister promised yesterday that there would be an amendment brought forward for this purpose.

MR. DEPUTY CHAIRMAN: Mr. Leuva has tabled an amendment for this purpose.

SHRI J. S. BISHT: It reads:

"The provisions of this Act shall be in addition to and not, save as hereinafter expressly provided, in derogation of the Guardians and Wards Act, 1890."

I want to know whether the removal of a guardian will come under this provision.

MR. DEPUTY CHAIRMAN: Surely. The provisions here will be in addition to the provisions there. Only where questions have been specifically provided for in this law, the other Act will not prevail.

SHRI J. S. BISHT: In that case, I will recommend to the hon. Minister to make this as clause 2 and then renumber the other clauses, instead of making this 1A.

MR. DEPUTY CHAIRMAN: Yes, they will be renumbered.

SHRI H. V. PATASKAR: I accept amendment No. 55.

Amendments Nos. 51 and 52 were, by leave, withdrawn.

For text of amendments, *vide* cols 4356-57 *supra*.

MR. DEPUTY CHAIRMAN: The question is:

55. "That at page 5, for the existing clause 13, the following be substituted, namely: —

'13. *Welfare of minor to be paramount consideration.*—(1) In the appointment or declaration of any person as guardian of a Hindu minor by a Court, the welfare of the minor shall be the paramount consideration,

(2) No person shall be entitled to the guardianship by virtue of the provisions of this Act or of any law relating to guardianship in marriage among Hindus, if the Court is of opinion that his or her guardianship will not be for the welfare of the minor'."

The motion was adopted.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 13, as amended, stand part of the Bill."

The motion was adopted.

Clause 13, as amended, was added to the Bill.

MR. DEPUTY CHAIRMAN: Then we take up Mr. Leuva's amendment.

SHRI P. T. LEUVA: Sir, I move:

56. "That at page 5, for the existing clause 1, the following new clause be inserted, namely: —

'1A. *Act to be read as supplemental to Act VIII of 1890.*—The provisions of this Act shall be in addition to and not, save as hereinafter expressly provided, in derogation of the Guardians and Wards Act, 1890'."

MR. DEPUTY CHAIRMAN: The amendment is now open for discussion.

SHRI P. T. LEUVA: Sir, the purpose of this amendment is this. Clause 4(b) of this Bill reads:

"any other law in force immediately before the commencement of this Act shall cease to have effect in so far as it is inconsistent with any of the provisions made in this Act"

According to this, if there is any law which is inconsistent with the provision of this law, the former shall be repealed, but there is no provision here to show that whatever is not contained in this Bill but contained in any other law should be kept alive. For this reason, this amendment makes it quite clear that the Guardians and Wards Act of 1890 is not in any way repealed unless it is inconsistent with the provisions of this law. There, there are several provisions which are not contained in this Bill and in order that the courts may be guided also by the provisions contained in the Guardians and Wards Act, this provision has become necessary. This is the reason why this amendment has been moved. For example, in the Guardians and Wards Act there is a definite provision defining the relationship between the guardian and the minor as being that of a trustee, but there is no provision for that here, and we want to make it clear that the relationship between the guardian and the minor will be governed by the provisions in the Guardians and Wards Act. For this reason, my amendment has become quite essential.

SHRI R. C. GUPTA: Sir, I only wish to say that the proper place for clause 1A should be as a separate independent clause 14, because Clause 1A seems to me to be incongruous in the context of clause 1. It will be much better to put it as clause 14, as an independent clause. Moreover, No. 13 is very ominous. So we shall have

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it as the 14th clause and avoid that clumsiness in the Bill.

SHRI H. V. PATASKAR: I find that so many doubts were expressed as to whether the intention was in any way to affect the provisions of the Guardians and Wards Act; so far as the provisions here were not inconsistent with the provisions of that Act—and as I have been saying from the very beginning the idea was not to substitute any law of the Hindus in place of the Guardians and Wards Act but to make them supplemental to it—the amendment proposed will make that position clear. As I have already said, I accept it.

MR. DEPUTY CHAIRMAN: Probably it would be better if this clause is made either as clause 3 or 5 because clause 4 excludes.

SHRI H. V. PATASKAR: It should be before 5.

MR. DEPUTY CHAIRMAN: It should come after definitions. This may be clause 3.

SHRI H. V. PATASKAR: It should be even before the definition clause. It should be clause 2.

MR. DEPUTY CHAIRMAN: The question is:

58. "That at page 1, after the existing clause 1, the following new clause be inserted, namely:

'1A. Act to be read as supplemental to ACT VIII of 1890: — The provisions of this Act shall be in addition to and not save as hereinafter expressly provided, in derogation of the Guardians and Wards Act, 1890.'

The motion was adopted.

Clause 1A was added to the Bill.

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

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

"That the Bill, as amended, be passed."

MR. DEPUTY CHAIRMAN: Motion moved:

"That the Bill, as amended, be passed."

SHRI S. N. MAZUMDAR: Sir, at this stage I shall not take much time of the House, so I shall be very brief. Two of my amendments have not been accepted and the necessity of one amendment has been obviated by deleting the clause itself. Though my amendments have not been accepted, still I welcome this measure and I have no hesitation in saying that this is a definite improvement on the state of affairs which now exists. From the trend of discussion in this House, it is very clear that these reform measures have obtained the general support of the House and also the public outside. Also I am very glad to note that an assurance has been forthcoming from the side of the Government that after all these measures are passed by instalments then all these measures will be consolidated into a Hindu code. So this will take us undoubtedly a step forward but at the same time while welcoming this measure and giving it my support, I would like to impress upon the Government the necessity of seeing that the measure which is already pending before the other House should have a speedy passage. We have passed the Hindu Marriage Bill and that has not yet been taken up by the other House. The Rajya Sabha has passed it and it may be said to the credit of the Rajya Sabha that all the social reform measures have originated in this House and this House has passed all these measures and also improved on them. Even as regards this Bill, when it came from the Select Committee, it

was a definitely improved one; particularly there was a definite improvement in regard to the fact that the discrimination which was there in the draft Bill as regards the right of the mother to appoint a testamentary guardian, that discrimination was removed by the Joint Select Committee and the mother has been given almost equal right with the father in the matter of appointment of a testamentary guardian. The Select Committee improved upon it and also the House has improved upon it to some extent in the sense that the clause which was discussed at length regarding the provision about bringing up of the minor as a Hindu, after all, that has been deleted. The deletion does not mean that the House wants to destroy Hinduism or deletion of Hinduism but all the complications which would have arisen from that have been avoided. So while the measures have been passed by the Rajya Sabha, they require to be passed by the other House before they can be placed on the Statute Book and as we know, that these measures were long over-due, it is very necessary to see that these measures are taken up for consideration by the other House as soon as possible and I hope these measures will get a speedy passage there also and these measures will be placed on the Statute book as early as possible so that mainly the improvement in conditions of Hindu women which is the main attention of this Bill can take effect legally. With these few words, I support this Bill.

SHRI H. C. DASAPPA: Sir.....

MR. DEPUTY CHAIRMAN: Women are not interested. They are interested only in property?

SHRI H. C. DASAPPA: Sir, may I join my hon. friend Mr. Mazumdar in congratulating the hon. Law Minister.....

SHRI S. N. MAZUMDAR: I have not congratulated him.

SHRI H. C. DASAPPA:for piloting this Bill so successfully. He paid a very handsome compliment in the sense that this is a vast improvement over its original form and I believe that is enough of appreciation of the work of the hon. Minister. I agree with him in saying that this is not the final shape of this Bill itself or of the allied Bills. I have not the slightest misgiving that in due course of time the hon. Law Minister will plan out a consolidated code for Hindus and will be able to bring it before us in a full and comprehensive shape so that if there are any few adjustments that have got to be made, any changes that have got to be effected, any inconsistencies that we may find between one part and the other and also if there are any overlapping provisions, of which I believe there are plenty in these various provisions, all these will be set right. And so in that pleasurable anticipation we will await and I hope he will not deny us an early and successful realisation of that anticipation of ours.

This Bill which was very modestly placed before the House by the hon. Law Minister, as a very non-controversial measure, it will be seen, has taken six days. It has taken this House six days to discuss the various provisions of this Bill which is a pretty long time for a Bill of about 13 clauses.

MR. DEPUTY CHAIRMAN: What! began as a simple Bill.

SHRI H. C. DASAPPA: Yes, Sir. What began as a simple measure and had not only developed controversy, but had also assumed big proportions. But this I may say very boldly and in a very confident manner. The hon. Law Minister, at first gave us the impression that he was going to be very firm and unyielding, but as the Bill progressed we found great responsiveness on his part to comply with the opinion of this House. Sir, if democracy is to thrive, if it is to progress,

there must be this responsiveness on the part of those who are in charge of the affairs of the State. Otherwise, if there is a certain closing of the outlets of their brains, to any fresh air or ideas, I believe that will spell disaster to the land. In that rather wider sense also I am greatly delighted to see the progress of this Bill and to see it emerge from this House in an improved manner.

I do not want to refer to some of the important changes that have been made in this Bill. It is true that the position of the mother was very much inferior to that of the father as a guardian when the original Bill was placed before this House and I think the Rajya Sabha can well take some credit for having put forward the need for such an amendment as in clause 8 in a pointed manner. We cannot have two natural guardians, the father and the mother, and create a situation where the father could supersede the rights of the other natural guardian—the mother. That was readily appreciated and I think that provision in clause 8 of the Bill is one which can serve as an example for all other measures that we may adopt, relating to the relative rights of man and woman.

There are also certain other provisions to which I need not refer at this stage. With regard to the curtailing of the right of the natural guardian in the matter of making these long-term leases, it was extremely good of the hon. the Law Minister to have met with the wishes of this House and accepted that particular amendment, and also to have seen to it that there was no inconsistency in regard to this respect between the Guardians and Wards Act and this Bill that is going to be enacted. Likewise with regard to clause 9. I think it has been a rather quick and wise decision on his part to have agreed to the deletion of that clause.

SHRI GULSHER AHMED: Thanks to the lawyers.

SHRI B. K. P. SINHA: The hon. Member is one of them.

SHRI H. C. DASAPPA: There are all sorts of definitions of lawyers. We also know of people who run down lawyers as if they were the worst culprits. I am reminded of a definition of a lawyer I saw somewhere.

AN. HON. MEMBER: What is that?

SHRI H. C. DASAPPA: A lawyer is one who saves the properties of others only to make them his own. They were saying that of lawyers.

SHRI GULSHER AHMED: But that position is changed after the advent of the Welfare State.

SHRI H. C. DASAPPA: They feel that the lawyers do no real service to the country.

Well, I need not refer to the other clauses. Now, having given this compliment to the hon. Law Minister, I hope he will not mistake me if I say that it is quite possible that when the Bill goes to the Lok Sabha there will be a similar attempt on the part of many an hon. Member of that Sabha to introduce the very amendments which were placed here and which could not receive the sanction of this House. I have got that feeling and I may be forgiven for that. I only sound this note, so that he may be prepared for it. I know his capacity to negotiate things and I am extremely confident that he will see that when it emerges out of the Lok Sabha it will be just what it is to day, as it has come out of the Rajya Sabha. But I have got my own feelings that in certain respects, there will be a good deal of pressure brought upon him to incorporate some of the amendments which we have not been successful in introducing in this measure. I am mentioning this just to

SHRI P. S. RAJAGOPAL NAIDU-He will not accept them.

SHRI H. C. DASAPPA: He may not accept, but we cannot say whether he would find the Lok Sabha as malleable and plastic as ourselves and as obliging

SUM GULSHER AHMED: You should have confidence in the Law Minister.

SHRI H. C. DASAPPA: I refer specifically to this point, that we have done away entirely with *de facto* guardians and we have confined the list only to the natural guardians—virtually they are only two, for the husband of the married girl does not figure much here—and so I feel that it will create a vacuum. There is no doubt about that. I certainly feel that way and I am still to be convinced to the contrary.

This Bill, I am afraid, is highly coloured by the fact that all those who have had something to do with it are people highly cultured, educated, in high society and in urban areas. I doubt if they had placed themselves in the position of a simple, illiterate villager who has got to look after the person and the property of a minor. You drive him to the court, tax him for all the litigation that is inevitable, ask him to keep an accountant, maintain accounts, furnish periodical accounts to the court all these things are not very easy. Only those people know the difficulty" who have had experience of handling these things and I believe the working of the Act will not be so easy as some of the sponsors of the Bill imagine it to be. And what is more, as Mr. Govinda Reddy was saying, today we are thinking of a socialistic pattern of society. The Government is coming in contact daily, I might even say hourly, with the vast mass of our people. In days past, the villager could hardly contact any Government officer and he hardly knew who was functioning as Government either in the State or in Delhi. But today, it is not like that.

We are planning from the bottom. We want to know the requirements of the *vanchayats*, the villager's requirements and so on. We want to meet the primary and essential requirements of the villager. That is the position today. When that is the case, my own view is that we cannot altogether ignore the views of the villager. We cannot neglect him any more. When there "is so much of illiteracy in the land, so much of poverty in the land, I ask you, how is it possible for the villager to do all these things that you want to be done in the Bill, to look after the minor by keeping an accountant, to furnish accounts, to go to the court and all these things?

SHRI H. P. SAKSENA: All this when the Bill has reached the third reading stage?

MR. DEPUTY CHAIRMAN: I want this Bill to be finished today.

SHRI H. C. DASAPPA: I will stop in a moment, Sir.

MR. DEPUTY CHAIRMAN: We are at the third reading stage.

SHRI H. C. DASAPPA: Sir, you have only to tell me that the time is up and I sit down.

MR. DEPUTY CHAIRMAN: And I think there are one or two more speakers.

SHRI B. K. P. SINHA: Sir, I too want to speak.

SHRI H. C. DASAPPA: Sir, I will finish in less than two minutes. There are several other points which I would like to refer to, but I will not do so now. Therefore, as I said, I feel the hon. the Law Minister may prepare himself for a contingency such as I have mentioned, in the other House.

I am always easily satisfied and I proceed on the basis that half a loaf is better than none. I am thankful

for small mercies, for small concessions which are very difficult to obtain these days and, therefore, I am very thankful to the hon. the Law Minister for having brought this Bill and accepted these amendments and opened the way for further progress in that field. Let me end by saying that I only hope he will bring in a consolidated measure at a very early date and win the approbation of not only this House but also of the whole of the country.

SHRI H. P. SAKSENA: Sir, I look upon this Bill as a precursor of a consolidated measure which would be applicable not only to the Hindus residing in this country, although they are in an overwhelming majority, but also to all other communities residing in this country. That would indeed be a happy day for me. I am glad that the hon. lady Members of this House have won the race for which

SHRIMATI LAKSHMI MENON: (Bihar) : Thanks to you.

SHRI H. P. SAKSENA:they had been endeavouring since long and I hope that this success will not intoxicate them and they will feel satisfied with the progress that they have made. I would only utter a word of caution when they henceforward also proceed from success to success scoring victories after victories over their own rights and privileges, and it is this, that privileges and responsibilities go together. Now that they are entitled to deal with money, to handle it, to manage it, to supervise it, to count it and recount it, it will be known to them now how difficult it was for the menfolk to make all these arrangements.

SHRIMATI MONA HENSMAN: It is not all spending. Have not women helped to save it also?

SHRI H. P. SAKSENA: Yes, indeed, they have had that capacity a thou-

[Shri H. P. Saksena.] sand times more than the menfolk; nobody can deny it. In many ways they have been the saviours of the Indian homes. I know that they are a thousand times superior to the women of other Western countries or even of many other countries of the world. There is nothing to compare with Indian women. That is why we call them.....

SHRI B. K. P. SINHA: Durga.

SHRI H. P. SAKSENA:Devi, mistress of the house and all that.

SHRI B. K. P. SINHA: Superior to Indian men also.

SHRI H. P. SAKSENA: It may be your view; I cannot say that.

My purpose has only been partially served. It is not to my taste to be confronted with measures that deal with one community or another community. India is one. This is the age, this is the generation in which we are confronted with the process of unification; we are not here for separation. This Bill is definitely not intended to unify the communities, which reside here because by its very name and by its very title it is applicable only to one community. That is why, Sir, I did not open my mouth during the last few days when this discussion had been going on because I did not want to associate myself with a measure which is applicable only to one particular community. Anyway, I have not given up hope; I am not in a depressing mood. I know and I trust the Government that is running the administration of the country today, and I hope, as a matter of fact I am confident, that a day will soon come when we will have a Bill which is applicable in all these social matters to all the residents of the country.

With these few words I give this Bill my blessings.

SHRI KAILASH BIHARI LALL: Sir, I would not have risen to speak at this fag end of the day and at the last stage of this Bill, in the third reading stage but for the fact that I was very much misunderstood by the lady Members of the House and I want to make my position clear before them so that they may disabuse their minds of any misunderstanding they have got. I have supported this Bill for whatever it is worth in the very beginning and I am still in a position to support it as it is. My only suggestion even in the first reading was that it is not as it should be. If it is not an offence I may say, as I thought, it was an ill-conceived and haphazardly delivered measure in this House, and now for whatever it is worth I am prepared to embrace it and bless it now if at all it is a matter of satisfaction to some friends here.

SHRI GULSHER AHMED: Lady, Members.

SHRI KAILASH BIHARI LALL: Lady Members and gentlemen Members also. I only feel that in this piece of legislation their enthusiasm has got the better of their wisdom. I never meant that I did not want any reform. I never meant that I lagged behind anybody so far as the position of the womenfolk were to be improved. That was far from my intention. I only said that you should move cautiously in a way which might do good to the society, not that your hap-hazardness or enthusiasm might do you harm. I felt that the position that my friends took up here with regard to such social legislation was like a person who acquires a home and then wants to make it clean and in the process of cleaning it and throwing away the dirt and other unnecessary things, throws even the valuables of the house. It looked to me like that and before you think of doing any good to the society and bringing any improvement in the society you should

see whether you will be really in a position to do so. That was my only purpose when I spoke at the first reading and even today I am maintaining that the way in which this Bill is being ushered into an Act will not do any good to the society. You have yourself seen how many Members got confounded. For instance— my friend Leuva is not here—he began by saying the very thing that I had attempted to say, and he said that the Jains were not Hindus, the Sikhs were not Hindus. That was what I also suggested to my friend the Law Minister and he said that these would be the things that would be coming up later on. It was for that purpose I have said that when we are putting our hands in such cases we are still more confused and you are merely confusing it further and in your enthusiasm of having something you do not think what harm you are doing today to the society as a whole. You usher in a Bill, you usher in a law in the land. How is it going to take shape in the society? That you have seen and I told you how the Sharda Act was working. Similarly, this Bill also will to a great extent remain a dead letter. You will see those who are *de facto* guardians today or even the natural guardians in a sense they will continue to exercise their power and your law "will not even reach them.

SHRI GULSHER AHMED: May I ask if ask whether it is a blessing or a curse?

SHRI KAILASH BIHARI LALL: I am not cursing it. I wish it were better. I am giving my blessings to a still-born child—I am giving you a simile. I am not sure that it is a still-born child. When I give my blessing or when you give your blessing to any still-born child, what do you think? You still hope that the child may survive, if it comes to light. It is not a curse.

SHRI S. N. MAZUMDAR: The child! is all right in the other world.

MR. DEPUTY CHAIRMAN: Order, order.

SHRI KAILASH BIHARI LALL: You are not cursing the child. You wish from your heart of hearts that the child may live—it may be breathing, it may have pulse. You at once see if the child is alive. I am telling you a fact when I say all this. I am not cursing. My friend is again misunderstanding me. I do not dare to do so. Our womenfolk had the right which they could have enjoyed. I say that their property can be in safe custody, their person can be in safe custody. All these things are in my mind. It is not as if I am against all that. Do not presume I am against these. Perhaps you forget in this House that the condition outside this House is very much different—very different from what it obtains in this House. There may be some people who may visualise the ideal things in their minds, but the country is not prepared for ideal things. I have told you that there are families in which the intricacies of this law will not be understood.

SHRI GULSHER AHMED: May I ask you one question?

MR. DEPUTY CHAIRMAN: Order, order. You have to address the Chair.

SHRI KAILASH BIHARI LALL: The Chair is asking me to finish and you are asking me questions. It is no use asking me questions and that means spoiling the trend of my thought.

MR. DEPUTY CHAIRMAN: Please do not heed those disturbances.

SHRI KAILASH BIHARI LALL: Sir, I have told you that when I stand to speak, I am in your protection and you should protect me from all such interruptions. When asking me to speak, you should please ask Members, Sir, not to interrupt. So, I was saying that by ushering in such

[Shri Kailash Bihari Lal] legislation, the village folk would not be benefited. In the case of the large mass of people when the father is dead, the grandfather if he is alive, will be the guardian. He will take care of the property and take care of the minor he will take up the custody Of the person. All these things will go on merrily and the intricacies will remain here in the law book. That will be for a few enlightened men and our educated women who have come here. Of course, for parading before the world we will be surely saying that we have got such liberal laws on the Statute Book. That is one consolation. But look at the practical things. Practically all the things will remain just the same. As some hon. friend said, the pockets of the lawyers will be filled at the cost of the very children, the very minors for whom you are legislating. Of course, there is not so much attraction now so far as property is concerned, because by the time these things take shape, the property will have also ceased to exist. Since we are moving so fast towards the socialistic pattern of society, there may not be property left for the minor to take much care of.

SHRI GULSHER AHMED: Sir, may I ask.....

SHRI KAILASH BIHARI LALL: Again asking.

MR. DEPUTY CHAIRMAN: You continue your speech please. You must also close and you must give some time to Mr. Pataskar to reply.

SHRI KAILASH BIHARI LALL: Sir, I do not want to take much of the time of the House. So, I will close. I was saying that you have not enlarged the scope of the natural guardian and that was there. The so called *de facto* guardians that have been acting up till now will be acting as natural guardians surely— though not legally recognised. With all these defects you are passing it on to the other House. I do not know

what fate it will meet with there. Of course, so many things have been discussed, so many confusions have been raised. I again say that I am not against any such reforms. I am all for these reforms—to give powers to the womenfolk or take care of the minors. And I submit to my lady Members here that they should not have any misunderstanding about me. I am as much advanced as they are themselves with regard to the need for reforms. I was not here in the House when Mrs. Sharda Bhargava spoke and referred to me uncharitably. It is reported that she spoke about me and I was not here. And that has prompted me to make my position clear in this House. It is not that I am a bit behind them so far as reform is concerned, so far as advancement is concerned, so far as taking care of the child is concerned. But I am doubtful that in this law they will be given, much better protection, or they will be given much more rights than what they are enjoying, because so many confusions are left there. As it is, as I have said, confusions are there and complications are there that may be brought forward in a law court. For instance, one little amendment of my friend Mr. R. C. Gupta about adding the word "ordinarily" would have saved a lot of trouble. That also ^{*i} ^bur enthusiasm you have rejected* Of course, in that case I felt that the court would have got their scope in giving protection to the minor. Now, their hands are tied. So, in your over-enthusiasm you have done such things. I am doubtful whether you are doing good. Please do not mistake me that I am against any reform, or that I am against any advancement.

MR. DEPUTY CHAIRMAN: This is the third time you are saying these things.

SHRI KAILASH BIHARI LALL: Sir, I support the Bill with all my heart and let the misunderstanding be removed from the minds of the lady Members.

SHRI H. V. PATASKAR: Sir, it has been my pleasure and privilege also to have discussed, with the active co-operation of all the Members of this House, a measure which I, in the beginning, called was a simple measure. To some extent it was a simple measure. But what gives me greater pleasure is—I will not mince matters—that this forms part of that large question of having a uniform, codified piece of legislation for those who have come to be known as Hindus in this country. I know the difficulties through which my predecessors probably had to go and considering the tortuous processes through which that code has till now passed, I am really happy to find today that in this House—though this may be the least controversial part of that Code—there was a spirit of co-operation and of goodwill. Because even those who do not agree exactly that the codification of Hindu law is going to do any good to the society, I find that there is a change in the atmosphere and even all those hon. Members tried to contribute in the manner in which they could for having a successful piece of legislation. I have found that in the original intention was—though we had to recognise natural guardians—to see that whatever restrictions are reasonable should be placed upon them and they have, no doubt, been placed upon them in this Bill. There was a good deal of controversy about that. But after all is said and done, the way in which for the last six days we discussed it convinces me that all this criticism was with the one and sole object of trying, in their own respective ways in which different Members thought, to improve the Bill in order that the ultimate aim may be achieved. And from that point of view, though it had not been possible for me to accept some of the suggestions made, and though I might have been doubtful occasionally about the correctness or the propriety or the utility of those things, I do not claim that I alone am or what I have said

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is the correct thing. Because after all in matters like this when we are legislating, there are bound to be different points of view. But the main thing is the way in which we handle the problem, and the principles underlying it. And I must once more say that in this matter I have had the greatest co-operation that I could from all Members of this House.

A good deal of anxiety was naturally displayed by several Members as to what the consequences of this Bill would be. And though I may not have shared all those anxieties and may not have agreed with all the suggestions put forward, I can still say one thing that the discussion on this Bill throughout has been very useful to me, in so far as I have been able to make some of the provisions, which, I must say, have improved the Bill after it came to this House from the Select Committee.

It is no doubt true, Sir, as my friend, Mr. Mazumdar, also said that if the Hindu Code Bill had not been put into parts, split up into parts, it would have been very difficult, in spite of the best wishes of the hon. Members of this House, to put through a measure of that size through both the Houses, with the procedure that we had to follow. As a matter of fact, my predecessor probably had to face that difficulty. Comparatively, Sir, matters were very simple when I came on the scene. And I am now trying to deal with them in parts. Therefore, I am as anxious as the hon. Members themselves are, and it will be my task to see that all these parts are gone through during the next few months, or at any rate, during the next year. This may be a simple measure, but at the same time, I attach importance to the fact that by passing this measure we will be passing a part of that Code. And we can take it that there will certainly be further progress with regard to the other parts of the Hindu Code. There is something like

[*Shri H. V. Pataskar.*] a psychological atmosphere which is pervading not only this House, but the entire country.

Now, out of these parts, the Marriage Bill has already been passed by this House, and it only remains to be passed by the other House. And I hope that even before this session comes to an end, at least so far as that Bill is concerned, that Bill will have been passed into law. I am not sure whether there will be time enough to pass this Bill there. But if it is possible to get some time, this Bill will also be passed. But it all depends upon the hours that will be available for work in that House, because this is a Budget Session, and a lot of time is taken up in the discussion of the Budget and all the things connected therewith. But at any rate, the other part, and the most important part, is the Succession Bill. Already I find that this House has done its duty by passing the motion to refer it to a Select Committee, and I am sure that that matter also will be taken up and the Select Committee will be appointed. It, therefore, seems fairly clear now that matters are moving, and I hope that sooner rather than later all these measures will be passed. As I said the other day, and I said it in all earnestness, by splitting up the Code into parts, it becomes comparatively easier to get through it. The other difficulty is that after all the parts are passed, it will be our duty to see that they are all put together, and whatever may be found as not conforming to any other part, will have to be adjusted. I hope all that also will be done. And I am more hopeful about it because of the practically unanimous support that I got here, in spite of differences etc., but that is a different matter altogether. The fact remains that in spite of differences here and there, I find a unanimous support which this House has extended to me in this measure. It may be a staple measure. People

regard it as *on*ly relating to a minor's property, or to the problems which are not directly relating to marriage or succession. That may be so, but all the same, as this is also an important part of that law, I am glad that with the full co-operation of this House, I have been able to get it through.

Here I must refer to some of the hon. Members who moved their amendments. I must tell them that although I was not in a position to accept their amendments, still they also had put forth their views in a very able manner. It is not as if they are always right or somebody else who differs is right, but in all matters of this kind, when two opinions are possible, we have to go forward in a spirit of adjustment and a spirit of compromise. And though I might not have been able to accept all that was suggested by the different hon. Members, yet I believe that in this matter of the social measure I have tried to adjust myself to whatever criticism was made by the different hon. Members of this House, and I believe that this was the first time that I had any occasion to work in such close collaboration with the Members of this House. I might just say that I am extremely happy to find the utmost co-operation in this House, not only co-operation, but also a spirit of compromise and a spirit of adjustment. I found the different hon. Members studiously looking into these matters and studying them. All that deserves not only my approbation, but my thanks also, because it has lightened my burden and my task. I, therefore, again thank you all for all the co-operation that I received from you.

MR.

CHAIRMAN: The

question is:

"That the Bill, as amended, be passed."

The motion was adopted.