1301

ANNOUNCEMENT RE. TIME-TABLE FOR BUSINESS.

MR. DEPUTY CHAIRMAN: Before I call upon Mr. Madhava Menon to speak. I would like to make an announcement regarding the time-table for. the remaining part of the current session. I have to inform the House that the Business Advisory Committee has settled the following time-table for Government legislative and other business for the remaining part of the current session of the Rajya Sabha:

> Time proposed in the Rajya Sabha.

- 1. The Hindu Marriage and Divorce Bill (excluding the time taken today) 11 hours.
- 2. Preventive Detention (Amendment) Bill

10 hours.

3. Tea (Second Amendment) Bill

1 hour.

4. Indian Tariff (Third Amendment) Bill

1 hour.

5. Prevention of Disqualification (Amendment) Bill 1 hour.

6. Resolution re: Railway Convention Committee's Report

4 hours.

7. Appropriation Bill (General)

2 hours.

8. Appropriation Bill (Andhra)

1 hour.

9. University Grants Commission Bill (Reference to Joint Committee)

3 hours.

10. U.P.S.C. Report (Debate on Private Member's mo tion)

3 hours.

11. Debate on Progress of Planning

5 hours.

In order to be able to fulfil this programme the House will also sit on Saturday, the 11th and Saturday the 18th December 1954. and also between

5 and 6 in the evening. Ts it the desire of the House to sit between 5 and 6 today?

SEVERAL HON. MEMBERS: No, no.

SHRI H. C. MATHUR: May I know, Sir, if the Business Advisory Committee had been coerced into fixing these timings because the period of the session at which the Committee met was too late in the day for it to advise Government and the Chair in this matter, instead of meeting on the first day when the session began?

MR. DEPUTY CHAIRMAN: I was present at the meeting of the Business Advisory Committee and if you can take my word, I think it was an agreed programme that the Business Advisory Committee arrived at.

SHRI H. C. MATHUR: No, Sir.....

MR. DEPUTY CHAIRMAN: No, no.

THE HINDU MARRIAGE AND DIVORCE BILL, 1952—continued.

MR. DEPUTY CHAIRMAN: Yes, Mr. Madhava Menon.

SHRI K. MADHAVA MENON (Madras): Sir, I will not be able to finish if I start now.

MR. DEPUTY CHAIRMAN: You may begin now and continue after the lunch break.

SHRI K. MADHAVA MENON: But I will not be able to attend after the lunch interval. So I would give my chance to some other Member.

MR. DEPUTY CHAIRMAN: Has Mr. Kishen Chand given notice of an amendment?

SHRI KISHEN CHAND (Hvderabad) : YeSi Sir, but I will not speak for more than fifteen minutes.

MR. DEPUTY CHAIRMAN: I do not want to shut out anybody. I will first

[Mr. Deputy Chairman.] give a chance to those who have not sent in amendments and then call chose who have sent in amendments

SHRI SUMAT PRASAD (Uttar Pradesh): Sir, this Bill has led to a great deal of controversy. Opinions in progressive sections have welcomed it as a Bill which will go a long way in bringing about equality between man and woman, while orthodox sections of the Hindu community think that it is an inroad upon the sacramental rights of Hindus. The high ideals of marriage which were laid before us by our rishis remain as ideals and very few persons live up to those ideals. For instance, it has been ordained that a man and a woman have no right even in their married life to sexual intercourse unless they do so with a desire to beget children and if they violate this, then it is considered by our shas-tras that they commit the sin of adultery. But how many people live up to this ideal? So we have to make adjustments and this measure of divorce has become necessary on account of the channed circumstances of society in which we are living. 1 P.M.

The high ideal of pativratya is to be adored but if a woman cannot live up to that ideal and if her husband is disabled or becomes seriously ill or if there is some other justifiable cause, then certainly she should not be forced by society to live up to the high ideal of pativratya for, in that case, apparently she will be living all right but she may have to lead a life of infamy and shame. Therefore. I submit that on account of realistic considerations divorce has to be allowed under certain restricted circumstances. This Bill, I say, has taken care to see that divorce is not granted merely for the asking. This right is given only under certain circumstances. Strictly speaking, this right, if given, will not much improve the position of women.

MR. DEPUTY CHAIRMAN: You may continue in the afternoon, Mr. J3um«t Prasad.

Mr. Karmarkar, could you sit from 5 to 6 P.M. today?

SHRI D. P. KARMARKAR: I have no objection. Sir.

MR. DEPUTY CHAIRMAN: I think if we sit one hour extra each day, it will give three hours more and we can accommodate more Members

SHRI D. P. KARMARKAR: I very humbly agree, Sir.

MR. DEPUTY CHAIRMAN: We sit from 5 to 6, i.e., up to 6 P.M. so as to give opportunity to as many Members as possible.

SHRI D. P. KARMARKAR: In fact I thought myself that we could cut out two hours from another Bill and add them on to this so as to provide opportunity to as many Members as possible.

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

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

The House re-assembled after lunch at half past two of the clock, Mr. DEPUTY CHAIRMAN in the Chair.

SHRI SUMAT PRASAD: Sir. me Hindu Widows' Re-Marriage Act was passed about a century ago, but the measure has not become popular and very few widows take advantage of that. Even those who want to marry are under a certain disability and they find it very difficult to get a suitable husband for them. I think the case of a divorced woman will not be better and it will be difficult for her to secure a suitable husband; she will be under a disability. This measure has got to be passed for in hard cases it will give some relief. Under certain circumstances divorce becomes inevitable as it will stop a greater evil and will save certain sisters from unnecessary hardship. This is after all an adjustment and I believe very few persons will take advantaep of this mpasurp

So far as clauses of the Bill are concerned, I want to make certain observations. Now, for instance, in U.P. and other parts of the country where *Mitakshara* prevails, *sapinda* means seven degrees in the line of ascent from the father and five degrees from the mother. In this Bill I see that five degrees are provided in the case of father and three dpgrees in the case of mother. I would suggest that the existing practice may be maintained, that is, seven degrees in the line of father and five degrees in the line of mother. The people of Bombay will not suffer from any difficulty as it has been provided in the Bill that if there is a custom to the contrary, the custom shall prevail.

Similarly, I find that in the case of prohibited degrees, marriage can take place, according to the scheme of the Bill, between the children of first cousins. This will not meet with approval in U.P. as there is no custom like that.

Then, clause 11 of the Bill declares marriages mentioned therein which are governed by sub-clause (1) (a) to be null and void. In sub-clause 11(1) it has also been provided that if such marriages are permissible by custom or law, then this clause will not affect them. Under these circumstances the two provisions nullify each other. It would be much better if the provision of clause 11(1) (a) be not given retrospective effect. Then there will be another difficulty. If a marriage is declared null and void and one of the partners dies, then the other will not be able to inherit because it is placed under the category of 'void', and not of 'voidable.' If it is considered necessary then in case there are more wives than one it be made possible for any one of them to get the marriage dissolved. It is much better that clause 11(1) be placed in clause 13 providing for divorce and on this ground also one of the wives may apply for divorce.

Then, similarly there is another clause, clause 12, and I am referring

to clauses_t(I) (a) and 12(1) (b). Now particularly referring to clause 12 (1) (a) it will be difficult after the lapse of a term say of 15 years, to prove that at the time of marriage the husband was impotent. On this ground I would submit, Sir, it would be much better that this provision be deleted from here in the Bill and it may be allowed to remain only as a ground for divorce and provision be made in clause 13 to this effect.

Then, I come to clause 14. In clause 14 it has been laid down that for three years marriage generally cannot be divorced. Supposing the husband changes religion, then it will be impossible for the wife to pull on with him even for a single day. Under these circumstances, it is no use prolonging this agony and the wife should be allowed to institute a suit for dissolution immediately.

This clause 25 has perhaps been taken from the Bombay Divorce Act. I find that it reads: "Any court exercising jurisdiction under this Act may.

at the time of passing any decree....."
—that is, it covers both cases, the case of divorce and the case of judicial separation—but the next few lines make it clear that it will not cover the case of judicial separation. I read:

".....order that the respondent shall, while the applicant remains unmar ried..... "—so this implies it will cover cases of divorce only; it will not cover cases of judicial separation. Now I refer to the provision in the Indian Divorce Act. In that Act there is a clear provision for alimony in case of divorce as well as of judicial separation. I think it should be re-drafted and a similar provision made in this Bill also.

Then, I want to say something about restitution of conjugal rights. Many other Members have spoken about that. I think this clause is more or less redundant. Even under the existing law it is impossible to force any man or woman to have restitution of conjugal rights. Attachment of property only takes place. So it is much better if this clause is deleted if the

[Shri Sumat Prasad.] husband or the wife, as the case be, I deserts each other for a period of two | years, then it will be a very good ground for judicial separation and ! then later on it can be made a ground { for divorce. The principle involved in j the Bill is that in case of hardship a husband or a wife may be provided with a remedy. After all the remedy of divorce is not a very desirable one. It disrupts harmony. However, it is a measure by way of adjustment. So, Sir, care should be taken to make it not very easy and to let the restrictions which have been provided in this Bill remain as they are. Only under certain circumstances it should be made expeditious, e.g., in the case of conversions.

If retrospective effect is not given to the provisions of the Bill, particularly regarding divorce, then it will meet to some extent the criticism of the orthodox Hindu section of the society.

So far as monogamy is concerned, everybody has approved of that. I do not find even a single woman who has opposed this or has provided any contingency where a departure should be made from that. It will make home life for women more happy and it will stop to a great extent the question of desertion.

I agree with Mrs. Munshi that it is much better if a provision is made that before marriage it may be necessary to have medical examination, for in that case many complications which arise later on will be avoided. Sir, I support the principle underlying the Bill.

श्री डीं॰ नारायण (बम्बई): उपसमा-पित महोदय, बड़े हर्ष के साथ में इस विधेयक का समर्थन कर रहा हूं। बहुतों को शक था और खास कर के मेरी बहनों को कि शायद यह बिल लाया ही नहीं जायेगा परन्तु ग्राज हम देख रहे हैं कि जिस किसी भी रूप में क्यों न हो, सब को पसन्द हो या न हो, वह बिल याज हमारे सामने है।

ग्राज इस तरह के कानन बम्बई, मदास श्रीर सौराष्ट्र में मौजूद हैं। अच्छा होता कि इस कान्न को बनाते वक्त वे तमाम कानन विचार में लाये जाते ग्रीर कुछ ऐसा कानून बनाते जिससे कि जिन राज्यों में इस तरह के कान्न बने हैं उनमें ग्रीर इसमें कोई फर्क नहीं आता। कल यहां एक सवाल खड़ा किया गया, डा॰ क्जरू साहब ने सवाल उठाया कि बम्बई राज्य का जो कानुन है वह इससे कुछ भिन्न है। उस पर हमारे माननीय मंत्री ने कहा कि आप ऐसा धमेंडमेंट पेश कर सकते हैं जिससे कि वह रिपील हो जाय। मुझे कुछ बाइवर्य मालूम हुबा कि बगर कोई राज्य आगे वढ़ जाना चाहे या प्रोग्ने-सिव होना चाहे तो उसको यहां से कहा जाय कि नहीं हम आपको पीछे खींचना चाहते हैं, आप आगे न जायं। इससे तो यही अच्छा होता कि उनको बला कर के या उनके सलाह मशविरे से इस तरह का कानन बनाया जाता जिससे कि यहां के कानन में श्रीर राज्यों के कानन में कोई फर्क नहीं रहता।

इस विधेयक को देखने से यह साफ़ प्रतीत होता है कि इस विधेयक के दो उसूल हैं, एक दिभार्या प्रतिबन्ध और दूसरा तलाक या डाइबोर्स । दिभार्या प्रतिबन्ध एक ऐसी चीज है जिसको एक ग्रादर्श की दृष्टि से सब मानते हैं । यदि पुरुष के लिये एकपत्नीव्रत होने की आवश्यकता है तो मैं नहीं समझता कि हिन्दुओं के लिये ही यह ग्रावश्यक क्यों बनाया जाय और मुसलमानों के लिये और औरों के लिये क्यों न बनाया जाय। मैं इस हिसाब से नहीं कह रहा हं कि मुसलमान मज-

हम से अलग हैं या हम कुछ अलग हैं, में यह एक इंसान की हैसियत से कहता हं कि यदि एकपत्नीत्रत होना पुरुष के लिये बहुत अच्छी बात है तो बहु सब पुरुषों के लिये खास कर के हिन्दुस्तान में रहने बाड़े सब पुरुषों के लिये, जहां कि स्त्रियों और पुरुषों की संख्या करीब करीव बरावर है, होनी चाहिये। डाइवोर्स तो मुसलमानों में पहले से है ही।

आज यह देखा जाता है कि स्त्रियों के साथ जितना न्याय होना चाहिये उतना नहीं होता है। "जिसकी लाठी उसकी भेस" यह कहावत मशहर है और स्त्रियों के बारे में इस कहावत का प्रायः प्रयोग किया जाता है । हम लम्बी चौडी, वडी-बडी बातें भले ही करें परन्तु स्त्रियों के साथ जिस तरह से वर्ताव किया जाता है उसे देखते हुये हुमें यह सोचने का आज मौका है कि हम ऐसा विधेयक बनावें जिससे कि स्त्रियों को अधिक न्याय मिठे और उनके साथ समता का सम्बन्ध स्यापितः किया जाय।

श्री कि गोरी राम: ग्रव तक क्या अन्याय हआ है ?

श्री डी० नारायण : ग्रन्याय की वात करते हैं? आज ही देखिये कि पहणों के हजार गुनाह माफ हैं परन्तु यदि स्त्री से एक गनाह हो जाय, यहां वहां कोई गलती हो जाय तो उसको समाज में बदनाम होना पड़ता है।

श्री बी० बी० शर्मा (उत्तर प्रदेश): माफी तो कहीं नहीं है।

श्री डी॰ नारायण : लेकिन जापकी प्रतिष्ठा में तो कभी नहीं होती। अच्छा मझे बोलने दीजिये । 89 R.S.D.

विवाह के लिये जो मियाद रखी गई है उसका कुछ भाइयों ने विरोध किया। मैं तो १६ ग्रौर २१ वर्ष का इसमें जो सझाव है उसका समर्थन करता हं। कहा गया है कि देहाती जनता में इसका पालन नहीं होगा । मैं ग्रापसे कहता हं कि जिस देश में ८० फ़ीसदी लोग अपढ़ हैं, जहां सौ में घरसी जनता देहात में रहती है वहां समाज सुधार के बारे में जनता कछ तो पीछे रहेगी ही और उसके पालन कराने में कुछ दिक्कतें तो पैदा होंगी ही। शारदा एक्ट के बारे में क्या हुआ। १३ वर्षकी उमर पहुरे रखी थी फिर भी ८ या १० वर्ष की उमर में शादियां लोग करते थे और आज भी जब कि वह १५ वर्ष हो गई है तब भी उसका पालन सौटका हो रहा है ऐसी बात तो नहीं है। तो समाज सधार के बारे में देहाती समाज को कुछ आगे खींाना ही होगा ग्रौर घीरे घीरे उत्तसे अच्छी बातें मनवानी होंगी। इस लिहाज से जो मियाद यहां रखी गई है उसको मैं बेहतर सम-झता हं।

यव में घारा १० और १३ की स्रोर श्रापका ध्यान खींचना नाहता हं । ये दोनों धारायें जुडी शियल सेपेरेशन श्रीर डाइवोर्स के बारे में हैं। इतमें इतके लिये जो कारण लिखे गये हैं वे ग्रलग अलग लिखे गये हैं। मेरी निगाह में इसको कोई यावश्यकता नहीं थी कि कारण यलग दिये जायं। कहों कहीं कड़ शब्दों का ही फर्क दिखाई देता है ग्रीर कहीं कुछ बातें कम कर दी गई हैं। क्लाज़ १० में है "a virulent form of leprosy or venereal disease" ग्रीर क्लाज १३ में है "virulent and incurable"। मझे डर है कि आप किसी दो डाक्टरों को [श्री डी॰ नारायण] लीजिये तो उनकी रायएक न

बुला लीजिये तो उनकी राय एक न होगी कि लेप्रासी िक्लेंट हैं या नहीं हैं। एक डाक्टर कहेगा कि विक्लेंट हैं और दूसरा कहेगा कि नहीं हैं। फिर आज कल के माडनें मेडिकल साइंटिस्ट्स का यह कहना है कि लेप्रासी अच्छी हो सकती है इनक्योरेबिल नहीं है। यहां डाइवोर्स के क्लाज में लिखा गया कि इनक्योरेबिल लेप्रासी हो तो डाइवोर्स मिले। में तो यह कहूंगा कि अगर लेप्रासी के कारण से डाइवोर्स देना चहते हैं तो विक्लेंट और इनक्योरेबिल दोनां शब्दों को निकाल दीजिय, सिफं लेप्रासी रिखये। न्यायाधीश अपनी निगाह से देख लेगा कि लेप्रासी है या नहीं।

डा॰ राधा कुमुद मुकर्जी (नामनिर्देशित): इफेक्शस लेप्रासी रखिये।

श्री डी॰ नारायण : इनफेक्शस के बारे में भी दो मत हैं। इसलिये में कहूंगा कि सिर्फ लेप्रासी शब्द रखा जाय। यह कोई ऊंची और अच्छी बात नहीं है कि एक दूसरे को दुख और आपत्ति के वक्त में छोड़े और अगर कोई जाना चाहता है तो वह इसलिये नहीं जायेगा कि लेप्रासी विकलेंट हो गई है बल्कि जये एक दूसरे के दिल में लेप्रासी के कारण नफरत पैदा हो गई है उस बजह से इससे फायदा उठायेगा। इसलिये मेरा तो यह विचार है कि विकलेंट ग्रीर इक्योरेबिल लेप्रासी की जगह सिर्फ लेप्रासी रखा जाय।

दूसरी बात निरियल डिजीज के सम्बन्ध में हैं। इसमें भी वही चीज है कि डाक्टरों का काम बनेगा, ग्रौर कुछ नहीं होगा। आप जानते हैं कि दुर्भाग्य से डाक्टरों के सर्टिफिकेट आप जितने चाहें उतने पैसे से मिल सकते हैं। कोई वेनेरियल डिजीज इंक्योरेबिल है या नहीं, इसके बारे में कई रायें हो सकती हैं। इसलिए गरीब प्रजा को, गरीब जनता को डाक्टरों के और पढ़े लिखे लोगों के सुपूर्व करना ठीक नहीं होगा।

तीसरी बात यह है कि जुडीशियल सेपेरे-शन के लिये सेक्सअल इंटरकोर्स एक कारण लिखा गया है। सेक्सअल इंटरकोर्स साबित होने पर कोई व्यक्ति जुडीशियल सेपेरेशन प्राप्त कर सकेगा । मैं आपसे कहना चाहता हूं कि ग्राप ऐसे केसेज को साबित कैसे कर सकेंगे। यह साबित करना बढ़ी महिकल बात है, श्रौर हिंदस्तान जैसे देश में जहां कि दो रुपये, या पांच रुपये में गवाह मिल सकते हैं, वहां किसी को फंसाना एक मामूली बात हो जायगी । ग्रौर दूसरी एक बात आपको ध्यान में रखनी चाहिये कि पुरुष के बारे में सेक्सग्रल इंटरकोर्स की कोई बात कही जायगी तो इससे उसकी प्रतिष्ठा नहीं बिगडेगी, परन्त स्त्रियों के बारे में सेक्स अल इंटरकोर्स का दोष लगाया गया तो वह स्त्री समाज से उठ जायगी। डाइवोर्स हो जाने पर उससे कोई शादी नहीं करेगा । इसलिए सेक्सअल इंटरकोर्स की बात इस तरह से यहां रखना ठीक नहीं है।

इसी तरह से एडल्टरस लाइफ जो लिखा गया है उसके बारे में भी मेरा यह कहता है कि उसकी जगह आप जिस तरह ते बोम्बे ऐक्ट में उसके लिये प्रोबीजन है, उस प्रोबीजन की पसन्द कर लें तो बहुत अच्छा होगा क्योंकि एडल्टरस लाइफ का शब्द ही ऐसा है जो एक तरह से तिरस्कार ब्यक्त करता है।

श्री डो॰ पी॰ करमरकर : बोम्बे के ऐक्ट में क्या है?

श्री डो॰ नारायण : मैं अभी कहता हूं। बुंबह यह है: "That the defendant of a husband has another woman as a concubine or if a wife is a concubine of another man or leads the life of a prostitute."

श्री • डी • पी • करमरकर : अगर प्रास्टी-ट्यूट है तो आप माफ करेंगे ?

श्री डी॰ नारायण : मैं माफ नहीं कर रहा हूं, मैं इसको इसलिये पेश कर रहा हूं क्योंकि जो कौन्क्युबिन या प्रास्टी-ट्यूट होगी वह जाहिरा होगी, उसके बारे में साबित करना कोई मुक्किल काम नहीं होगा। एडल्टरस लाइफ या सेक्सु-अल इंटरकोर्स, जो किसी कारण या गलती से चोरी छिपे हो जायगा और जिसके जाहिरा होने के कारण से स्त्री को इच्छा विरुद्ध जो दुनिया से उठना पड़ेगा, समाज से उठना पड़ेगा, उससे जो फल मिठेगा वह इससे नहीं मिठेगा क्योंकि उसने एक रास्ता पसंद कर लिया है। इसलिये मेरा कहना है कि मेरी इस बात को मंजूर कर लिया जाय।

श्री डी० पी० करमरकर : माननीय सदस्य की यह राय है कि कोई आदमी या श्रीरत को एडल्टरस न कहा जाय, कौनक्युबिन कहा जाय ?

श्री डो॰ नारायण : मेरे कहने का मतलब यह है कि मौजूदा धारा से स्त्री को बदनाम करने की कोशिश की जायगी और यह ठीक नहीं होगा क्योंकि इच्छा विरुद्ध उसकी समाज से प्रतिष्ठा जाती रहेगी।

एक बात मुझे खास कहनी है डाइबोर्स के बारे में । वह यह है कि क्लाज १३ में डाइबोर्स के जितने कारण लिखे हुये हैं, उनमें सबसे ज्यादा महत्व का एक यह कारण भी होना चाहिये कि जिसने दो

विवाह कियं हैं और जिसकी दो बीबियां जिन्दा हैं वहां पर पहली या दूसरी जो मांगे उसको डाइवोर्स मिले । (Time bell rings) ग्राप जानते हैं कि दूसरी बीबी तभी की जाती है जब पति पहली बीबी को पसन्द नहीं करता है। इसलिये पहली बीबी को तो डाइवोर्स का अधिकार होना ही चाहिये। जैसा कि बोम्बे एक्ट में अधिकार दिया गया है, क्योंकि सबसे ज्यादा अन्याय यदि किसी पर होता होगा या अपमान सहन करना पड़ता है तो वह पहली बीबी को करना पडता है । ऐसी हालत में उसे हक होना चाहिये कि वह डाइबोर्स ले सके । परसों हमारे माननीय मंत्री जी ने अपने प्रस्तावित भाषण में यह कहा कि किसी को पहली स्त्री से लड़का न हम्रा तो उसने दूसरी शादी कर ली। यदि लडका होना आवश्यक है तो मैं पछता हं मंत्री महोदय से कि आगे जो नये विवाह होंगे उनमें क्या परुषों के लिये लड़कों की जरूरत नहीं मालम होती। आप मिहरबान होते हैं तो परानों के ऊपर ही होते हैं, नयों के ऊपर क्यों नहीं होते ? अब इस कानून के मृताबिक जिनकी शादी हुई और लड़का न हुआ तो उसको अप दसरी शादी करने की इजाजत नहीं देते और जो शादी कर चुके हैं उनके लिये यह कह कर इजाजत देते हैं कि नहीं साहब, लड़का न होने के कारण उन्होंने दसरी शादी कर ली। इसलिये आपकी यह बात बद्धिसंगत नहीं है। इसलिये मेरा कहना है कि बोम्बे ऐक्ट की तरह इस विधेयक में भी, जित के दो बीवियां हों उननें से एक बीबी को डाइवोर्स मांगने का अधिकार रहना चाहिये ।

श्री डो॰ पो॰ करमरकर: पहली बीबी को, दूसरी को नहीं। श्री डी॰ नारायण : क्लाज १३ के ता में "गिल्टी आफ रेप, सोडोमी और स्टिएलिटी" की जगह "किन्वस्टेड" का जाय तो वह स्त्रियों के लिये बहुत हल बात हो जायगी क्योंकि अगर यह गिबत हो जाय कि उसने रेप या सोडोमी है तो उस बहन के लिये ठीक रण हो सकता है कि वह डाइबोर्स गि सके। अगर वह दोष लगाएगी, गल्टी बनाएगी गवाह लायेगी तो उसके लिये बहुत मुशकिल काम होगा उसको गिबत करना और आपस में वैर मोल गि इसलिए "गिल्टी आफ रेप, सोडोमी गैर बेस्टिएलिटी" की जगह आप "किन्व-ंड" लगा दें।

आखिरी बात मुझे यह कहनी है-जो बड़ी अच्छी बात इस बिल में है-धारा २२ के सम्बन्ध में कि केसेज इन कैमरा सुने जायं। परन्त इसमें भी में यह कहना चाहता हं कि "if either partyso desires or if the court so thinks fit" इन शब्दों को निकाल दिया जाय, इनकी कोई अवश्यकता नहीं । मैं तो कहना चाहता हं कि हर एक डाइवोर्स का केस इन कैमरा चले क्योंकि देश की हवा ऐसी है, देश के अखबार ऐसे हैं कि जहां कहीं छोटी सी बात मिल जाती है तो उसको बढ़ा चढ़ा कर के दिखलाते हैं। इसलिए मैं यह कहंगा कि आप ऐसा करदें कि डाइबोर्स की हर बात इन कैमरा हो । मेरे कहने का मतलब यह है कि जिस देश में इतने अपढ लोग हैं, जो बेनारे गावों में रहते है, उनके लिये कानुन सीवा सादा बनना चाहिये। उनके लिये इतने कंप्लिकेशन पैदा कर देना कि डाक्टर की जरूरत पड़े, वकीलों

की जरूरत पड़े, गवाहों की जरूरत पड़ें ठीक नहीं। उनसे तो बेबारों की मौत आ जायगी। कहां से वह डाक्टर लायेंगे, कहां से वे वकील लायेंगे और कहां से वे गवाह लायेंगे। इसलिये इसकी जितना सीधा साधा बनायेंगे उतना देश का मला होगा।

मैंने दो चार सुझाव जो यहां पर किये हैं, मुझे उम्मीद है कि आप उनको मान लेंगे और उनके ऊपर सोव विवार कर के उन्हें इसमें दाखिल कर लेंगे।

MR. DEPUTY CHAIRMAN: Dr. Subbarayan.

DR. P. SUBBARAYAN: In view of the point of order, I raised this morning, I do not propose to speak though I did want to speak on this very important and progressive measure.

श्रीमती चन्द्रवती लखनपाल (उत्तर प्रदेश) : उपाध्यक्ष महोदय, वर्तमान यग परिवर्तन का युग है । आज हमारा समाज एक महान कान्ति के अन्दर से गुजर रहा है। चारों तरफ तरह तरह के परिवर्तन नजर धाते हैं, सामाजिक ग्रीर आधिक परिवर्तन हो रहे हैं। उन परिवर्तनों का प्रभाव हमारे जातीय जीवन के हर पहल पर पड़ रहा है । चारों तरफ परिवर्तन हो रहे हैं, लेकिन एक चीज ही है जिसके ऊपर परिवर्तन के यग का कोई असर नहीं पड़ा है, भीर वह है हमारा सामाजिक विधान । आज सदियां गुजर जाने पर भी, सँकड़ों वर्ष बीत जाने पर भी हमारा सामाजिक विवान वैसे का वैसा ही अटल श्रीर अपरिवर्तित खड़ा है। होना तो यह चाहिये था कि जैसै जैसे समाज की चालें बदलती, सामाजिक और आर्थिक व्यवस्थाएं बदलती, वैसे वैस हमारा सामाजिक विधान भी बदलता । किन्तु वैसा नहीं हुआ

श्रीर उसका परिणाम आज जो होना चाहिये था वही हमारे सामने उपस्थित है। चारों तरफ असंतोष है: स्त्रियों में असंतोष, पृष्वों में असंतोष, हर जगह ग्रसंतोष ही असंतोष नजर आता है। किन्तु उस असंतोष के पीछे आज वह कौनसी भावना है जो कार्य कर रही है ? उसके पीछे प्रजातंत्र की भावना है, समानता की भावता है, समान अधि-कार की चाह है जिसमें कहीं भी कोई भी विषमता न रहे। विषमता को दूर करने की भावना, सब तरह के भेद-भावों का अन्त करने की भावना आज इस असंतोष के पीछे कार्य कर रही है। इसी भावना को आधार बना कर हमारे देश ने अपनी सदियों पुरानी पराधीनता की बेड़ियों को छिन्त भिन्त कर दिया। आज इसी भावना के ग्राघार पर दूसरे एशियाई देश स्वतन्त्र हो रहे हैं श्रीर अपनी पराचीनता की बेड़ियां तोड़ रहे हैं।

आज जबकि चारों ग्रोर स्वतन्त्रता का युग है, स्वतन्त्रता और समानाधि-कार की आवाज है, भारतीय स्त्री ही एक ऐसी है जो कि जब वह अपनी श्रोर देखती है तो वह यह अनुभव करती है कि उस की सनाज के अन्दर एक बड़ी अजीब अवस्था है, उसकी और पुरुष की स्थिति में आपसे में बड़ा भारी भेद है। स्त्री अपने भौतिक और मानवीय अधिकारों से वंचित रखी गई है और इसका परि-णाम आज जो स्त्री के अन्दर होता है असंतोष का, वह स्वामाविक ही है। कित इस असंतोष और निराशा में डूबी स्त्री के लिए आज स्वतन्त्र भारत का संविधान मुक्ति का संदेश लेकर आया । इसके अतिरिक्त अपने देश के विचार-

शील व्यक्तियों का भी उसको समध प्राप्त हुआ। उन सच बातों का य असर हुआ कि आज एक आवाज दे उठती है समान अधिकारों की ग्रै पुराने कोड को बदल देने की।

3 P.M.

आज हमारे सामने जो नया विधा लाया जा रहा है वह उस असंतोष 🕫 जो कि आज हमारे समाज के अन्दर स्त्रिय और पुरुषों के अन्दर है, दूर करन उद्देश्य से हैं। कहा जाता है कि यह विधा केवल स्त्रियों की मांग पर लाया उ रहा है, जैसा कि कल श्री सक्से ने कहा था कि यह विवान कुछ फैस बिल स्त्रियों की-तित्तिलयों की-मांग प लाया जा रहा है, लेकिन मैं उन बतलाना चाहती हुं कि आज का विषेयक है वह तितलियों की मांग । नहीं, किन्तु ग्रौर भारत की संभ्रा महिलाश्रों की मांग पर लाया जा र है। यह विषेयक उन महिलाओं की म पर लाया जा रहा है जो घरों की चह दिवारी के अन्दर बैठी हैं, जो कि सदि से पुरुषों के अत्याचार सहती चली रही हैं। उन सब स्त्रियों की भाव इस विधेयक के अन्दर अंकित और प्रा ध्वनित हो रही है। यह जो विचान उसमें भारतीय महिलाओं की ध भारतीय विचारशील पुरुषों की भाव प्रतिबिम्बित है।

इसके धतिरि।त, आज मैं उन लो के बारे में कुछ कहना नहीं चाहती जिनको सामने की विषमता दिखाई । देरही है। जैसा कि मैने कहा हमारे समाज के अन्दर कई तरह विषमताएं हैं, आज हमारा समाज का के अन्दर से गुजर रहा ै। किन्तु।

[श्रीमती चन्द्रवती लखनपाल] लोग अब भी हमारे देश के अन्दर ऐसे हैं जिनको क्रान्ति दिखाई नहीं देती, उन लोगों से भुझे कुछ कहना नहीं है। मुझे तो उन लोगों से कहना है जिनको यह विषमता दिखालाई दे रही है, जिनको आज यह सामाजिक कान्ति दिखलाई दे रही है जिसके फलस्वरूप आज इस सदन के सामने यह विधेयक प्रस्तुत किया गया है। उन लोगों का कहना यह है कि आज समाज के अन्दर जो विषमता ग्रौर भेद फैला हुआ है, समान अधिकार देकर उसको दूर कर सकते हैं। इसलिए वे कहते हैं यदि स्त्री को तलाक का अधिकार मिलना चाहिये तो पुरुष को भी क्यों नहीं मिलना चाहिए । इसीलिए उनका यह कहना है यदि स्त्री को पुरुष एली-मनी देतो क्यों न स्त्री भी पुरुष को एलीमनी दे इस तरह की विचारधारा आज हमारे अन्दर काम कर रही है। किन्तु में इस सम्बन्ध में यह कहना चाहती हं कि मैं इस विचार घारा से बिलकुल असहमत हूं । ग्रगर इसी तरह की घारणा को लेकर हम स्त्री धौर पुरुष के बीच की असमानता को दूर ्करना चाहते हैं तो यह गलत है । हम स्त्री ग्रौर पुरुष को समान अधिकार देकर ही विषमता को दूर कर सकते है, इस बात से में सहमत नहीं।

इस सम्बन्ध में मैं आपके सामने एक उदाहरण प्रस्तुत करना चाहती हूं। मान लीजिये दो व्यक्ति हैं। एक के पास दस रुपया है दूसरे के पास १०० रुपया है। आप दोनों को बराबर राशि देना चाहते हैं। मान लीजिये आपने दोनों को ५०-५० रुपया दे दिये। इस तरह से एक के पास १५० रुपये हो गये। भौर दूसरे के पास ६० रुपये हो गये।

यदि ग्राप दोनों को समान ग्रवस्था में रखना चाहते हैं, तो आपको, जिसके पास १० रुपया है, उसे आपकी १४० रुपया देना होगा, जब वे दोनों बराबर राशि पर पहुच जायेंगे। तब आप उन को समान अवस्था में ला सकेंगे। अर्थात् जिसके पास कम है उसको आपको ज्यादा देना पड़ेगा । इसी प्रकार दुसरा उदाहरण लीजिये । एक रेस (दौड़) है, उसमें दो व्यक्ति हैं। उनमें ५ एक व्यक्ति 'क' है औरदूसरा 'ख' है। 'क' 'ख' से सौ कदम आगे है। दोनों एक ही वेग से दौड दौड़ते हैं। अगर दोनों एक ही वेग से दौड़ते रहेंगे तो दोनों में फासले का अन्तर बना रहेगा। अगर ग्राप चाहेंगे कि दोनों के बे.च जो अन्तर है वह दूर हो जाय तो हमको पहले उन दोनों को एक रेखा पर लाकर खड़ा करना होगा, एक लाइन पर खड़ा करना होगा। अर्थात् जो सौ कदम आगे है उसको सौ कदम पीछे हटाना होगा या जो सौ कदम पीछे है उसको सौ कदम आगे लाना होगा। अगर हम दोनों को समान गति से बढ़ने देंगे तो दोनों के बीच जो अन्तर है, जो फासला है, वह हमेशा ही बना रहेगा। इसलिए मेरा यह कहना है कि स्त्रो और पुरुष आज एक जीवन की दौड़ में भाग छे रहे हैं। पुरुष स्त्रों से सौ कदम आगे है और स्त्री पुरुष से सौ कदम पोछे है। अगर हम दोनों को समान अधिकार देते हैं तो दोनों के बीच अन्तर हमेशा ही बना रहेगा, अर्थात् स्त्री पुरुष से हमेशा सौ कदम पीछे हो रहेगी। अगर हम यह चाहते हैं कि दोनों समान स्थिति से फायदा उठायें तो हमें पहला काम यह करना पड़ेगा कि दोनों को पहले एक जीवन स्तर पर लाकर खड़ा करें, अर्थात् या तो हमें पुरुष को पीछे

लाना होगा या स्त्री को आगे ले जाना होगा जिससे कि उनके बीच में सौ कदम का अन्तर है वह दूर हो जाय । इसका अर्थ यह हुआ कि पुरुषों के अधिकारों पर कुछ नियन्त्रण करना होगा और स्त्रियों को कुछ विशेषाधिकार देने पहेंगे। अगर हम ऐसा नहीं करेंगे तो हम स्त्रियों को पुरुषों के समान नहीं ला सकेंगे। और जो विषमता है उसको दूर नहीं कर सकेंगे।

'मोनोगेमी' के सम्बन्ध में इसी नियम का पालन किया गया। इस विधेयक द्वारा हमने पोर्छ।गेमी जो रिवाज, जो प्रया बन्द कर दिया, पुरुषों के अधिकारों पर नियन्त्रण कर दिया और पुरुष जो स्त्रियों से आगे खड़ा हुआ था, उसको थोड़ा पीछे हटा कर दोनों को एक लाइन में लाकर खड़ा कर दिया, जो ठीक ही किया। लेकिन हमने डाइवोर्स के क्षेत्र में नया किया, यहां पर हमने उस नियम का पालन नहीं किया। डाइवोर्स की मांग तो स्त्रियों की थी, इस क्षेत्र में जो भी सुविधा मिलनी चाहिये थी, वह स्त्रियों को ही मिलनी चाहिये थीं, पुरुषों को तो पहले से ही बहुत सी छट मिली हुई है । पुरुष जब चाहे शादी कर सकता है। जब चाहे तब पहली स्त्री को छोड़ कर दसरी, तीसरी, चौथी और पांचवी शादी कर सकता है। आवश्यकता तो स्त्री की थी जिसको इस बारे में छट दी जाती। यह मांग तो स्त्रियों की थी कि उन्हें विशेष अवस्थास्रों में सम्बच विच्छेद का अधिकार दिया जाये। किंतु 'डाइवोर्स' का अधिकार पुरुष और स्त्री दोनों को इस विधेयक में दे दिया गया है। -इसका नतीजा यह होगा कि जैसी स्थिति

आज कल हमारे देश की है, उसमें पुरुष इस अधिकार का दुरुपयोग स्त्री के विरुद्ध करेगा । स्त्री इस हथियार के होते हुए भी उससे ज्यादा फायदा **नहीं** उठा सकती। इसके अर्थ यह हुए कि स्त्री को अधिकार देना या न देना बराबर हो जाता है। स्त्री श्रीर पुरुष को समाना-धिकार, डाइवोर्स का अधिकार, देने का अर्थयह हो जाता है कि पुरुष तो इस अधिकार से फायदा उठा सकदा है किंतु स्त्री नहीं । इससे तो स्त्री पुरुष का अत्याचार का शिकार बनी रहेगी। मेरे कहने का मतलब यह है कि स्त्री से जीवन की दौड़ में पुरुष सौ कदम आरो है, यदि हम चाहते हैं कि दोनों का स्टेटस एक हो जाय, तो जीवन की दौड़ में दोनों को एक ही रेखा पर लाकर खड़ा करना होगा । हमें पुरुष के अधि-कारों पर थोड़ा नियन्त्रण करना होगा ग्रौर स्त्रियों को विशेष अधिकार **देने** होंगे। जब तक हम स्त्री को पुरुष के साथ एक लाइन पर खड़ा नहीं करेंगे, उनको विशेष अधिकार नहीं देंगे तब तक स्त्री श्रीर पुरुष समान स्थिति में नहीं आ सकते स्त्री ग्रौर पुरुष उसी हालत में एक स्थिति में आ सकते हैं जबकि हम उनको एक स्टेटस पर ले आवें। हमारी बहुन श्रीमती लीलावती मुशी ने कहा कि दोनों को समानता का अधिकार चाहिए। में भी इस सिद्धान्त का समर्थन करती हं, समानता के अधिकार से प्रायः में सहमत हं, इस तरह दोनों को समान अधिकार प्राप्त होने चाहियें। किन्तु समान अधिकार उसो स्थिति में दिया जान। चाहिये जबकि दोनों को एक स्टेटस में लाया जाय, एक लाइन में जब तक दोनों को खड़ा नहीं किया जायगा तब तक आप समानता का सिद्धान्त लाग् [श्रीमती चन्द्रवती लखनपाल]
नहीं कर सकते हैं। इसलिए अगर हमें
समानता का सिद्धान्त अपनाना है तो
स्त्री को विशेष ग्रिथकार देने होंगे ग्रौर
उसको परुष के बराबर में लाना होगा।

इसी प्रकार एलिमनी के सम्बन्ध में भी यही नियम लाग् हैं। समानता का नारा लगाने वालों ने यह कहा कि स्त्री को अगर एलिमनी मिलती हैं तां परुषों को भी मिलनी चाहिये। यह ठीक हैं लेकिन आप वस्तिस्थिति को दीखये। दंश की वास्तविक स्थिति क्या है ? आज हमारे समाज की स्थिति यह हैं कि पुरुष कमाता हैं लीकन स्त्री नहीं । आज जायदाद का अधिकार पुरुष को प्राप्त हैं; स्त्री को नहीं। सम्पत्ति का मालिक परुष ही होता है, स्त्री नहीं। इसके अतिरिक्त समाज में सारी स्विधाएं पुरुष को प्राप्त हैं। स्त्री को केवल डिसए बिलिटीज प्राप्त हैं। आज समाज में कपाभाजन पुरुष ही हैं, स्त्री नहीं हैं। एंसी अवस्था में जब समाज के अन्दर दोनों के स्टंटस भिन्न भिन्न हैं, दोनों के स्टंटस में बमीन आसमान का फर्क हैं तो दोनों से एक सा रोल, एक सी ही जिम्मेदारियों की आशा क्यों की जाये। जो वस्त्रीस्थीत है उससे आंखें मंद करके अगर हम कान्न बनाने बँठींगे. तो लोग हमें क्या कहेंगे ? लोग हमार कपर इंसेंगे । इसके अतिरिक्त कि क्या यह न्याय हैं. क्या यह बोडिमत्ता है कि स्त्री पुरुष को एलिमनी दं ? में कहना चाहती हूं कि समानता के समर्थकों को एंसी स्थिति नहीं पदा करनी चाहिये जिस से अन्याय बढ । एसा करने में जो समानता लाने का आप का उद्देश्य हैं वह परा नहीं होगा और विषमता बनी रहेगी।

में एक बात ऑर यह कहना चाहती हूं कि हमें यह ध्यान रखना होगा कि तक लीफ कहां हैं ऑर जहां तकलीफ हैं वहां से उसको दूर करना पढ़ेंगा। इस सिलिसले में में यह भी कहना चाहती हूं कि पांलीगेमस विवाहों के अन्तर्गत चाहै पहली स्त्री हो, चाहे दूसरी स्त्री हो, चाहे तीसरी स्त्री हो, जो भी रिलीफ के लिये प्रार्थना करती हैं उसको मौंका मिलना चाहिये। एंसा

कोर्ड बन्धन होना चाहिये कि पहली को माँका मिले. या दूसरी को माँका न मिले या तीसरी को माँका न मिले। हमें यह देखना चाहिये कि तकलीफ कहां हैं। मुझे आज शिकायत इस बात की हैं कि बहां कांटा नहीं लगा है, वहां आप कांटा निकालने को दाँडते हैं. जहां घाव हैं ही नहीं वहां मरहम पद्टी करने के लिये जाते हैं । मेरा कहना यह है कि जहां घाव है वहां मरहम पद्टी कीजिये. जहां कांटा लगा हें वहां से उसको निकालने के लिये जाड़ये । अगर आप एसा करेंगे तो जिन की तकलीकों को दूर करने के लिये यह हिन्द मेंरिज बिल लाया जा रहा है और जो लाखों और हजारों बहनें मृक्ति की प्रतीदा कर रही हैं, उनको हम वास्तव में रिलीफ पहुंचा सकेंगे। उनको हम रिलीफ तभी पहुंचा सकेंगे जब कि जो सिद्धान्त में ने आप के सामने रखे हैं. उन पर हम चलेंगे। वह सिद्धान्त यही हैं कि हम स्त्री और पुरुष दोनों को समानता का अधिकार दुवें । आज प्रजातंत्र के यूग में कोई भी विचारशील व्यक्ति इस सिद्धान्त का विरोध नहीं कर सकता। मैं इसकी सब से बड़ी समर्थक हूं। स्त्री और पुरुष दोनों को समानता के अधिकार मिलने चाहियों। लीकन जो उनको समानता के अधिकार मिलें वे थियोरीटकल न हों बल्कि वास्तविक हों। वे एसे हों जो कि जीवन में अन्भव किये जा सकते हैं और जो जीवन में देखे जा सकते हैं। हमें एंसी समानता नहीं चाहिये कि जो कहने के लिये समानता हो लेकिन वास्तव में उसका असर उलटा पह रहा हो ।

मींने सेलंक्ट कमेटी के अन्दर एक यह सुझाव रखा था कि कम से कम १० साल के लिये केवल रिययों को ही डाइवोर्स का अधिकार मिलना चाहिये। इसके लिये यही कारण और युक्तियां मींने वहां रखे थे कि स्त्री को इस प्रकार का विशेषाधिकार दंकर ही हम स्त्री पुरुष दोनों को इंक्वल स्टंटस पर ला सकते हैं—दोनों को समानता के स्थान पर ला सकते हैं। सेलंक्ट कमेटी में इस पर विचार हुआ लेकिन कोई खास असर नहीं पड़ा और इसको वह समर्थन प्राप्त नहीं हो सका जो होना चाहिये था।

श्री डी० पी० करमरकर: क्या स्त्री को १० वर्ष तक पूर्ण स्वतंत्रता द' दी जाय ?

श्रीमती चन्द्रवती लखनपाल : डाइवोर्स का अधिकार १० वर्ष तक केवल स्त्री को ही दं दिया जाय । यह अधिकार पुरुष को १० वर्ष तक नहीं मिलना चाहिये।

अन्त में. मूझे पूरी आशा हैं कि जो विचार मैं ने सदन के सामने रखे हैं. उन पर सदन गंभीरता के साथ विचार करेगा और पहले १० वर्ष तक डाइवोर्स का अधिकार केवल स्त्री को ही दिया जाये इस सम्बन्ध में जो में विचार अमेंडमेंट के रूप में आगे लाऊंगी उनको पास करंगा ।

SHRI TRILOCHAN DUTTA (Jammu and Kashmir): Mr. Deputy Chairman, an hon. Member of this House today raised the matter of the application of this Bill to Jammu and Kashmir State. Clause 1, sub-clause (2) of the Bill makes an exception in the case of my State. The hon. Member, Mrs. Munshi seemed to be sure finhat constitutionally this Bill could be applied to the Jammu and Kashmir State just as she said that it had been considered in the case of removal of untouchability. I may assure her that none will be happier than ourselves if in the present context of constitutional relationship, such a solution of the matter could be found. In any case, I am sure that .my State welcomes this Bill as a very desirable piece of legislation and I hope that, before long my State will have a measure on similar lines passed by its own Assembly. Let there be no doubt about that point. We have the proud privilege of being citizens of India and we are very jealous of that privilege. We have acceded to India and our accession to India is irrevocable. We have maintained that accession, that connection, in spite of all the difficulties, in spite of all the destruction, that we have been subjected to. We were always a part of India, are a part of India and will remain a part of India in spite of the war and destruction that we were subjected to,

despite all the threats of future war and international intrigue of the enemies of peace and progress. Our national movement led by the great organisation, the National Conference, went always in unison with the great national and freedom movement of India. Our heart beats in unison with yours and will continue to do so.

So, I welcome this Bill and wish to join others in congratulating the Government for bringing forward this measure. I want to make a few general observations also as regards this Bill. Just as there are two main features of this BilL i.e., monogamy and divorce, there are two main counts of objections too. so far as I understand. Number one is that this Bill does not uniformly apply to all communities of India. Secondly, that this Bill would disrupt the Hindu society, and that this goes counter to the orthodox or the Shastric view of life.

So far as its application to the other communities is concerned, I think that those who oppose the Bill mainly mean the Muslims. I hold that this measure is very beneficient and it should apply to all communities alike but I agree with the position as it stands now that it should not immediately be made applicable to all and I maintain that there is nothing unconstitutional or communal about it. It is according to the objective situation as it obtains today. We cannot afford to forget the circumstances and the past history. The schisms and the dents caused in our society by foreign rule are still there. We are very happy that they are being healed but let them be healed perfectly. In that case all the people, all the communities of India will come to have a uniform civil code as it has been advocated by certain hon. Members of this House.

The other day, an hon. Member of this House—probably, Dr. Shrimati Seeta Parmanand—referred to China in this connection. China is a country which could not be called reactionary, which could not be said to have any

[Shri Trilochan Dutta.] communal feelings. Our Prime Min ister Panditji has been deeply influenc ed by China because they are doing some really good things

PROP. N. R. MALKANI: He said that he was deeply impressed, not influenced.

SHRI TRILOCHAN DUTTA: He said that he had been influenced by China in certain things and China had been influenced by him in certain matters. But 'impressed' may be a more correct word. So, I said, in China so far as the national minorities were concerned, they were not hasty in imposing social legislation on them. Leave aside social legislation. Take the question . of land reforms. Land reform is a measure upon which their edifice of the stability of the country, the mass . awakening and the mass consciousness were, to a very large extent, built, but you will be surprised to know-probably most of you may know it-that land reforms had not been applied so far as the Muslims and other national minorities were concerned. This is what I found when I went to China . about two years back. So, I submit that there is nothing very bad about it. We know that India is marching ahead now-we are marching on very healthy lines under the leadership of our great Prime Minister, and, no doubt, very soon the time will come when we will have uniform personal code or such Acts which will apply uniformly to all communities and all the people.

Then, so far as the second objection is concerned about this Bill being likely to disrupt the Hindu society, as going counter to the *Shastric* view of life, I don't agree with that contention. Why do we respect our prophets, our great men, our great law givers and wise men? They are respected even now because those great *men*, those law givers, those prophets gave us the solution for the social ills then prevailing. They gave solutions for very acute problems facing the people then. That is why they were able to command the respect and veneration

of the people of those times, and no religion, no society, no great man has ever put his foot down and said that after him. no changes could be made so far as bringing about solution of the social problems subsequently is concerned. I have all respect for my Muslim friends and I hope I am not far wrong in saying that if the great Prophet allowed the Muslims to have four wives. I am told that historically it was so because when he came. Arabs had so many social ills and one of them was that a Bedouin married even 100 wives. The Prophet did not want to scare away the people or to shock their consciousness by bringing thent straightaway to one wife. So he said 'AH right, you can have up to four wives.' Similarly, so far as the Hindu society is concerned, it could not be .said that changes were not made from time to time. It is a different thing that so far as the ignorant people were concerned, there was a sort of religious halo around about everything. That is different.

Now let us take widow marriage. Time was when in the Hindu society widow marriage was not considered to be a good thing. I distinctly remember having read in one of the works of Swami Vivekananda that the reason why widow marriage was banned among the Hindus was that at one stage in the Hindu society, the number of women became far larger than the number of men and so the Hindu law givers at that time ordained—we must remember that Hindu society was full of vigour, full of life, and they wanted to maintain that vigour and life—that in future no widow should re-marry because thereby she would evidently be encroaching upon the right of one of her sisters. That is how it came

The greatness, the vigour of Hindu society has consisted in its catholicity, its tolerance, its capacity for adjustment to the objective situation, and we shall be doing great service to the Hindu society if we let that keep on, if we make changes in our social structure, in our social laws, according to the demands of the situation.

It looks my time is up but I wanted Sir, to refer to a few clauses of the Bill. Now I shall not refer to the points already raised by other hon. Members. I would like to give my opinion so far as this question of reconciliation is concerned. An hon. Member had said something about it. I would like to invite the attention of the House through you, Sir, to the absolute necessity having better arrangements for reconciliation. In this Bill I find that so far as judicial separation is concerned or consideration of divorce is concerned, this is to go before the district court. As you know, Sir, the district courts are so much over-worked, they have so much of other civil work before them that they have neither the time nor the patience to approach the question with a human and a patient mind. I do not mean to say that they are not human; of course they are human, but they are too over-worked to have either the time or the patience for this kind of work, to understand the differences between the parties, between the husband and the wife and to bring about reconciliation. Therefore, I would submit that for some at least for ten years, let us have time. special courts for this purpose-sort of reconciliation courts. Or if you cannot do it, let us statutorily attach some reconciliators to such civil courts. And these should, if possible, be necessarily women because it is the woman who, with her sympathetic heart and human understanding, can do it best. After all, this Bill is being framed in order to free the Hindu woman of certain disabilities—certain social disabilities she is suffering under. Therefore, I would submit that, in the event of acute differences cropping up between the husband and the wife and institution of a case by either for judicial separation or divorce, there should be special courts, if possible, presided over by women magistrates, or if that is not possible, special courts with women reconciliators so that they could bring about reconciliation. I remember having witnessed a case in a People's Court in China and the case that

Hindu Marriage

was then before the court was very

pertinent to the issue now before us. A woman had brought a suit against her husband saying "I have separated from him and I won't permit him to reside with me. He, being a worker in a factory, should go to the workers' dormitory. I do not want to live with him." That was what she said. The husband was very hot about it and said, "I won't go to the dormitory. She is a bad woman. She has illicit relations with someone else. So I will continue here." The woman too was very hot, hot in the face, hot in the ears. But I found the woman reconciliator very calm and sweet, explaining to them both, and remonstrating with them. She told the husband, "Well, I think, for the present, your wife is very hot about it. She has strong feelings about it. So why not go to the dormitory for some time? I know after some time reconciliation will come about and you will be able to live together." Well, I don't know what happened later on, but the husband went quietly to the dormitory.

So, I submit the chances of reconciliation are there and we should have special machinery for concentrating more on reconciliation than on the grant of judicial separation or divorce. If the latter is inevitable, let it be. but that should be the last resort

Then I want to say something about clause

MR. DEPUTY CHAIRMAN: It is time, Mr. Dutta

SHRI TRILOCHAN DUTTA: Pardon?

Mr. DEPUTY CHAIRMAN: You have already exceeded the time-limit by four minutes.

SHRI TRILOCHAN DUTTA: Sir, I wanted to say something on certain clauses of the Bill which have not been referred to by speakers heretofore but if there is no time. I shall sit down but I will conclude by reminding the hon. Members of this House that today the eyes of not only the enlightened sections in India, but of the whole of womenkind are on us and we are

[Shri Trilochan Dutta.] also at the bar of judgment of the whole world. Our great Prime Minister, Shri Nehru, has raised |(s in the estimation of the world, in the councils of the world, by his policy of objectivity, peace and progress. Let us not shake the confidence and the esteem that we have achieved in the eyes of the world. Let us not give them the impression that internally or in fact we are orthodox, conservative, insular and retrograde. Let us keep up our reputation.

Moreover, we have seen that so far as the women Members of this House are concerned, they all spoke unanimously and with great feeling about the Bill, and that means that the words came from their hearts. Great hopes are pinned on us by our daughters and sisters. We love and respect them, no doubt, but let us win their gratitude too by agreeing to the passage of this Bill. I support this Bill.

SHRI R. C. GUPTA (Uttar Pradesh): Sir, there is no doubt that the present Bill is a highly controversial one and there are good reasons for it. People outside this House and also in this House seem to be arrayed in two camps, one in favour of the Bill and the other against it. And the reason for this is not far to seek, because the orthodox sections think that the present Bill is an attack on religion, whereas the other section thinks that it has nothing to do with religion, that it is because of the necessity of the times that this present measure has been brought up. I feel that the truth lies on both these sides. There is no doubt that this Bill is in some ways a departure from the orthodox Hindu religion. But at the same time it is also true that it is not really an attack on Hindu religion. Hindus have enjoyed this right of divorce directly or indirectly in a large measure and in a number of cases. More than 40 per cent, of the population enjoyed this privilege of divorce by virtue of customs and usages. It is true that the higher castes, the higher classes

Hindus did not allow this custom apply to them. But now the qu tion has come up to the fore beca of western education and because the impact of western thought and there is a demand for dissolution marriage on certain grounds. I : that there is some justification for ' demand because we cannot deny fruits of education to half the popi tion. And if as a result of that e cation and as a result of the imj of the western education the dem is made by the women of India is reasonable for men not to concede demand, if it is within reason; limits? Therefore, I would not lik enter into this question as to whe it is an attack on Hindu religior not. I would personally not liki have a clause dealing with divorce. I am certainly not opposed to it, cause I know there is a demand f< in the country from a large sec of women.

This Bill contains provisions marriage and divorce. A large r ber of the speakers, practically all spoke before me have spoken onl the question of divorce and very has been said on marriage. My ol tions to this Bill relate to that po of it which deals with marriage seems to me that there has been n< mand put forward by the wome India or anybody else so far as marriage portion of it is concerned cept in one particular that there a demand for monogamy. probably, was not necessary in i to introduce monogamy for the si reason that in actual practice Hindus have, been observing n gamy for a very long time. Of cc it cannot be denied that there certain persons, whose number is not very small, who indulged in gamy. The religion all polygamy but in actual practice was monogamy. I would have n jection, and I still have no obje if this marriage portion of the contains a clause relating to r gamy alone. This Bill should very simple measure containing clauses guaranteeing two rights

nonogamy and the other of dissolu-1 of a marriage under given cir-nstances but, I find, in this Bill a of other provisions have been in-porated and some of them have n bodily borrowed either from the acial Marriage Act or from other vs. They seem to have encumbered! measure and have made Bill, a certain extent obnoxious. Clauses and 12, to my mind, are the most jectionable clauses. They relate to id and voidable marriages. I do not! any justification for introducing ;se two clauses. There was no de-ind on behalf of the women of the untry that the marriage should be clared void or voidable; what they inted was a dissolution under cer-in circumstances, when they cannot ill on with their husbands and they anted certain rights to be granted to em in consequence of the dissolution the form of alimony or maintenance, you allow these two clauses, clauses and 12, to remain on the Statute 30k the effect would be disastrous, le children of such marriages would •actically be deprived of the inherit-lee which they would otherwise get om their ancestors. At the present loment, if the marriage takes place etween a girl and a boy when they re younger than 16 and 21 respective-' as laid down in clause 5, a decree f nullity is granted and the result f such a decree would be that the hildren would only inherit the parents nd nobody else. What will happen 3 those children? Who will take care f them and what will be the share of nheritance which they will get? They rill simply be deprived of all their ights. In order to solve the problem if a few women in the country, you vill be creating a colossal problem of i numberless children who will come nto existence by virtue of the marriage between the couple whose marriage is leclared null and void. My respect-:ul submission to the Government is hat they should drop these two clauses. Both these clauses, clauses 11 and 12, contain two parts, one dealing with past marriages and other with the marriages that take place after this Bill is enacted. I think both these

parts are obnoxious and not one of them should be kept. The object is monogamy and that would be served if you penalise the person who does not observe monogamy. If a man marries twice, he should be held to be guilty of bigamy and you may give him deterrent punishment; you may send him to jail even. I would not have any objection. He may be penalised in some other way; for example, you may provide that he would have to give his second wife a half share in his property if he marries while his first wife is alive. That may be a good thing but you should not lay down that if he marries again while his first wife is alive, he would not only be held guilty of bigamy and penalised in the form of giving maintenance and alimony but on top of that, the issue of that marriage should also suffer in that it should not inherit from anyone else but the parents. I would say that it would be illegitimate. This issue is considered as legitimate only for certain purposes, that is. the issue can inherit the parents and not beyond that. What is the fault of the children who are being deprived of their rightful share? Why should they be punished in that manner? These two clauses seem to have been borrowed bodily from the Special Marriage Act. That is a special enactment but here we are concerned with the entire community which contains about 80 per cent, or 90 per cent, of illiterate people; they do not understand their rights and liabilities.

I will refer in this connection to clause 5. There are six conditions laid down therein and some of them make the marriages voidable. What really pains me is the second condition, which says, "neither party is an idiot or a lunatic at the time of the marriage". If a marriage between such parties takes place, what is the fault of the children and why should they be disinherited? It is no fault of theirs if a marriage between such parties is performed either by the parents or by the parties themselves if they had attained the prescribed age. I really cannot understand why the children should be penalised.

[Shri R. C. Gupta.]

The third condition speaks about the age of marriage. The bridegroom should be more than 21 and the bride more than 16. I can only refer to the experience of everybody in respect of the Sarda Act. In spite of that Act, marriages are performed in very very large numbers which offend the provisions of that Act. The Sarda Act lays down that the girls should be more than 14 years at the time of marriage but beyond stating that, it did not provide that if such a marriage were performed the marriage would be void or voidable. If this rule is to be followed strictly, I can, with confidence, say that there will be millions of marriages in the country wherein you will have to enforce this strict provision of the law and thus declare such marriages void or voidable, as the case may be. I think the gravity of these two provisions was not realised when they were incorporated bodily from another enactment, which is a specific and special enactment.

Similarly, there is clause 6 relating to guardianship in marriage. Where was the for necessity providing a separate guardianship in this Bill? We have today, another Bill pending in the Lok Sabha—the Minority and Guardianship Bill—and we have also the Guardians and Wards Act. You may have a simple provision here saying that the consent of a guardian is necessary, whoever may be the guardian. Everybody knows who the guardian is, whether it is under the Guardians and Wards Act or whether under the Bill that is now pending.

MR. DEPUTY CHAIRMAN: You have only two minutes more, Mr. Gupta.

SHRI R. C. GUPTA: Yes, Sir, I am just finishing.

I would submit one thing more and that relates to clause 25 which contains provisions about permanent alimony and maintenance. Probably the idea is to allow permanent alimony and maintenance in case of judicial separation as well as divorce but the

language leaves room for doubt that it applies only to the case of divorce. If the intention of the Government is to exclude judicial separation, I think Government should revise that intention

SHRI D. P. KARMARKAR: It says, ".... in any proceeding under this Act"

SHRI R. C. GUPTA: That is all right; in the beginning, the language is very wide and it seems to include both judicial separation and divorce if you come below down you will find the language as follows: " the res pondent shall, while the applicant re mains unmarried....".

Now in the case of judicial separation there is no question of married or unmarried. The couple is married and then they remain married so that the use of the word 'unmarried' here excludes judicial separation altogether. The clause is to be revised in my •pinion.

One thing more and I shall finish. In this Bill an attempt has been made to place males and females on an equal footing so far as alimony, maintenance-and all that are concerned. I think, it is very hard and it is neither just nor equitable and the husband should not be permitted to get maintenance or alimony from his wife; it is the right of the women. We want to uplift and better the lot of the women. Now if there is such a husband who wants to depend unon the earnings or the property of his wife he does not deserve the right to be placed on an equal footing with woman here. Such cases will be hardly -001 per cent, and for them no provision seems to be necessary. This Bill is intended to benefit the women of the country and this provision should remain for their benefit only. I think that this is a slur on man and this part of the provision should go.

May I have your permission to say one thing more with regard to the 'application of the

MR. DEPUTY CHAIRMAN: You should have to regulate it to your time also; it is one minute more.

SHRI R. C. GUPTA: In sub-clause (1) (c) of clause 2 you say that this Act would not apply to a Muslim, Christian, Parsi or Jew by religion, and then you add: "unless it is proved that any such person would not have been governed by the Hindu law or by any custom or usage as part of that law in respect of any of the matters dealt with herein if this Act had not been passed." I think this sub-clause should go. This measure applies to Hindus only. You have coined a particular definition and you say 'Hindu' is one who is not a Muslim, Christian, Parsi or Jew by religion. The other communities left out or some of them may later on desire that this Act should be made applicable to them. Therefore, to enable the Government to do this easily, you may put in a clause in this Bill—and I think it will be very beneficial—that the Government by notification would have the right to include any territory desiring to come under the operation of this Act or any community or particular tribe desiring to do so. Such a provision might serve the purpose better without the necessity of having to bring forward amending Bills.

श्री कन्हैयालाल डी० वैद्य (मध्य भारत) : उपाध्यक्ष महोदय, हम आज जिस विवाह संस्था के सम्बन्ध में कानन ला रहे हैं. वह दो हजार साल परानी एक ऐसी संस्था है कि जिस में इस देश में पचास तरह के रोग घर कर गये हैं। आज हमारे देश में स्त्री एक खच्चर की भांति विकय की वस्त बनी हुई है। जिस प्रकार हम बाजार से एक खच्बर ले आते हैं और उस पर सवारी करनें के साथ साथ जितना बोझा चाहते हैं उतना बोझा लादते हैं, इसी प्रकार स्त्री के साथ जो चाहे विवाह कर सकता है। यह हमारे देश में स्त्री की दशा है।

श्री एच० पी० सक्सेना : ग्राप के हिस्से में ?

श्री कुन्हैयालाल डी० वैद्य : देश में सर्वत बहुत अधिक है। में यह कहंगा कि इस देश में स्वतन्त्रता प्राप्ति के बाद जैसे जैसे हम सामन्तवादी संस्थाओं पर प्रहार करते हैं, वैसे वैसे इस देश में तुफान खड़े होते हैं। इस सदन में भी अगर वह पुराना सामन्तवादी मनोवृति का तूफान हो तो हमें उस सामन्तवाद को खत्म करना है। स्वतन्त्रता प्राप्ति के बाद हमें अपने देश में सामाजिक और आर्थिक कांति के कार्य को परा करना है। जो विवाह संस्था की समस्या है वह भी उस सामाजिक और आर्थिक कार्यक्रम से बहुत कुछ सम्बन्ध रखती है।

ग्राप इस बात को भली भांति जानते है कि इस देश में छोटी छोटी बच्चियों का विवाह होता है। माता पिता अपनी छोटी विच्चयों का विवाह ग्रपनी इच्छा से कर देते हैं। एक कहावत है कि गाय और कत्या जहां भेज दी जायं दहां चली जाती हैं। गाय को कसाई के घर भेज दीजिये तो वह उसके घर चली जाती है। यही हालत हमारे यहां कन्याश्रों की है. स्त्रियों की है। इसके साथ साथ आप यह देखिये कि यदि किसी स्त्री के पति की मत्य हो जाय, तो बह स्त्री अश्म मानी जाती है। जीवन भर उसको काले वस्त्र पहन कर रहना पड़ता है। उसको अपने सारे आभूषण को त्याग देना पड़ता है। उसको बहुत ही अपमानजनक जीवन विताना पड़ता है। यह है हमारे यहां स्त्री समाज की दशा। उसे सब प्रकार के अत्याचारों का शिकार होना पडता है। सम्पन्न घरों की बात छोड दीजिये। जिन घरों में आज रोडी की चिन्ता है उनकी दशा देखिये।

MR. DEPUTY CHAIRMAN: These general observations are out of place here. Please give your observations on the particular clauses of the Bill, how you want to improve them, whether by deletion or amendment, and they will be quite relevant.

SHRI KANHAIYALAL D. VAIDYA: If you will allow me some more time I will have an opportunity to deal with the clauses as within 15 minutes it is not possible for me to deal with them. I have prepared so many notes and I would require more time to do justice to *my* speech.

MR. DEPUTY CHAIRMAN: Just come to the clauses. Why all these ramblings?

SHRI KANHAIYALAL D. VAIDYA: I am dealing with the general problem and so far as the general problem is . concerned

MR. DEPUTY CHAIRMAN: The general problem we have discussed; it has come out of the Select Committee; now the Select Committee Report is before you.

श्री कर्हैयालाल डो० वैद्य : में यह अनुभव करता हूं कि इस देश में जो स्थिति इस वक्त विवाह संस्था और स्त्रियों की है, जसको सुधारने के लिये यह कानून विलक्ष्ण अपर्याप्त है। अपर्याप्त इसलिये हैं कि आप पूर्ण कानून विवाह संस्था के विषय में नहीं बना रहे हैं। इस कानून में बहुत सी खामियां हैं। आप इस बात की रोक इस कानून में नहीं कर रहे हैं कि एक खूढ़ा आदमी एक युवा लड़की से शादी नहीं कर सकेगा। इस कानून में इस बात की स्वतन्त्रता है कि वह एक नहीं चार बार डाइवोर्स करे और १६. १८ या २० वर्ष की लड़की से शादी कर ले।

जैसामें कह रहा था, स्त्री आज हमारे -समाज में एक व्यापार की वस्तु बनी हुई है। उसका कय होता है, विकय होता है। जहां गरीवी है वहां ऐसे भी प्रश्न खड़े होते हैं कि मनुष्य अपने घर में अपनी कन्या को अधिक अवस्था तक रखनहीं सकता। आप १८ या १६ वर्ष की अवस्था इस कानून में रख रहे हैं। लेकिन एक गरीव आदमी आज अपनी आर्थिक दृष्टि से मजबूर है कि वह अपनी कन्या की शादी जल्दी कर दे। जो दो हजार वर्ष से व्यापार की संस्था चली आ रही है, यदि उसमें हम सुधार करना वाहते हैं तो हमें पूर्ण कानून बनाना वाहिय।

इसमें एक व्यवस्था यह भी है कि यदि विवाह करने वा हे लोग माइनर हुये, तो उनके गाजियन्स जो हुये उनकी स्वीकृति से विवाह हो जायगा। इसका अर्थ यह हुआ कि माइनर्स की शादियां हो सकेंगी। अगर माइनसं की शादी करना बरा है श्रीर इस सम्बन्ध में श्राप एक कांतिकारी कदम उठाना चाहते हैं, तो यह आवश्यक है कि जब तक आप इस प्रथा को रोकिये-गा नहीं, यह बुराई दूर नहीं होगी। इस देश में करोड़ों लोग देहातों में रहते हैं, पिछडे हुये क्षेत्रों में रहते हैं, पहाड़ी और जंगली इलाकों में रहते हैं। जंगली जातियां हैं, पिछड़ी हुई जातियां हैं, उनको A P.M. न तो अभी आपकी इस स्वतन्त्रता का कुछ भान हुआ है और न उनके यहां कोई रोशनी पहुंची है। उनके यहां आपने न तो शिक्षा का प्रार किया है और न उन्हें यह बात मालम हुई कि उनकी भलाई के लिये सरकार क्या कर ही है। तो यह विवाह का कान्न कहीं उनके लिये मुसीवत और बलान बन जाय। कोई भी काम

जो सरकार करना चाहती है उसको वह

काम इस दृष्टि से करना चाहिये कि सारे समाज का कल्याण हो ग्रौर जो पुरानी रूढियां हैं, रीति-िवाज हैं ग्रौर जो परानी बातें चली ग्रा रही हैं उनमें कांतिकारी
परिवर्तन कर के समाज का ढांचा ऐसा
बनाया जाय जिससे कि जो हमारी बहनें
कय-विकय ग्रौर व्यापार का साधन बनी
हुई हैं, वह न हो।

श्री किशोरी राम: ऐसे व्यापार में ब्लैक मार्केट भी होता है या नहीं ?

श्री कन्हें यालाल डी० वंद्य : विल्कुल होता है । श्रगर कोई रेजोल्यूशन बलैक मार्केट के लिये आयेगा तो मैं सब बताऊंगा । बड़े बड़े शहरों में जो बहुत से चकले और बाजार फैले हिये हैं वे हमारी आंख खोल देने वाले हैं । वे हमारी ही बात को, हमारे ही कृत्यों को बताते हैं कि हमने समाज के साथ क्या क्या किया । अगर हमें भारत में जिस प्रकार से नारी की पूजा करने का श्रादर्श माना गया है उसका कुल अनुभव होता तो जो लोग इस समय इस तरह की बातें करते हैं वे न करते । मेरा निवेदन हैं कि जो भी कानून श्राप बनायें उसे कृपया पूर्ण बनायें और उसे समाज के सब अंगों के लिये बनायें ।

[THE VICE-CHAIRMAN (SHRIMATI PARVATHI KRISHNAN) in the chair.]

श्री जे॰ एस॰ बिष्ट: बताइये तो कि किस तरह से पूर्णता आये।

श्री कन्हैयालाल डी० वैद्य : पूर्णता लाने का तरीका यह है कि आप खंडित कानून न लाइये । अभी आप विवाह-विच्छेद बिल ला रहे हैं, फिर उत्तराधिकार बिल लायेंगे। तो मेरा कहना है कि विवाह संस्था के अन्दर जितने प्रश्न हैं उनको एक कानून में लाइये। आपने जो हिन्दू समाज को अलग रखा है उसको अलग रखने की नीति को खत्म कीजिये और संविधान के अन्तर्गत जो हिन्दुस्तान के नागरिक हैं, उन 89 RSD

सब के लिये एक कानन बनाइये। यह जो ग्रलग ग्रलग ट्रकड़ों में कानन बना रहे हैं वह ठीक नहीं है। हम एक क्लासलेस सोसाइटी बनाने की बात करते हैं और फिर हिन्द समाज के लिये ही एक कानून बनाते हैं। इस सदन के बाहर बहुत से लोग चिल्लाते हैं, जिन्होंने नारी को कय-विकय का साधन बना रखा है, वही धर्म के नाम पर हजारों दस्तखत करवा कर पेटीशंस सदन में भिजवाते हैं। जो लोग यह ग्रावाज उठाते हैं कि यह काम धर्मशास्त्र के प्रति-कुल हो रहा है वे सामन्तवादी तत्व हैं ग्रौर इन सब तत्वों का हमें मकाबिला करना है। हमारी सामाजिक कान्ति तब तक पूरी नहीं हो सकती जब तक कि हम बिना किसी भेदभाव के सब लोगों के लिये एक कान्त न बनायें । कई सदस्यों नें यह प्रश्न उठाया कि मुसलमान भाइयों के लिये ग्रीर किरिनयन भाइयों के लिये यह कानन लागु नहीं होता। मेरा कहना है कि हिन्दुस्तान में रहने वाले हर एक नागरिक के ऊपर यह कानून लाग होना चाहिये। जब राजाओं के सवाल ग्राया तो सारे राजाओं के साथ एक ही तरह का व्यवहार किया गया। यह नहीं हम्रा कि हिन्दू राजाओं को लिया और मुसलमान राजाओं को छोड़ दिया । मुसलमान होने के नाते निजाम हैद{।बाद को छोड़ नहीं दिया। तो जो विवाह की संस्था है वह भी एक बिल्कल सामन्तवादी व्यवस्था है और यदि उसको सधारना है तो सरकार को चाहिये कि वह सारी सामाजिक स्थिति को घ्यान में रखे।

इसमें यह लिखा हुग्रा है कि यह सभी हिन्दुओं पर लागू हो जायेगा तो जैसा कि मैं निवेदन कर न्हा था कि पहाड़ों में जनजातियां रहती हैं, ग्रौर भी बहुत सो

[श्री कन्हैयालाल डी० वैद्य] जंगली जातियां हिन्दुस्तान में रहती हैं तो अगर यह कानून उन पर लागू हुमा तो वहां बजाय क्रांति लाने के उनके जीवन को महिकल बना देंगे। ग्रब जब कि सेलेक्ट कमेटी से यह बिल पास हो गया है, तब में नहीं समझता कि मान-नीय मंत्री महोदय ग्रपनी तरफ से कोई अमेंडमेंट प्रस्तुत करेंगे ग्रौर इसकी व्यवस्था ग्रच्छी करेंगे।

श्री डी० पी० करमरकर : अगर आप ग्रमेंडमेंट्स लायेंगे तो उन पर विचार करेंगे।

श्री कन्हेंयालाल डो० वैद्य : आपकी बड़ी कुपा है जो आप इस विषय पर विचार करने को तैयार हैं। मेरा निवेदन यह है कि इस बिल से यदि किसी को कुछ कठिनाइयां पैदा होती हैं तो उनको दुर किया जाये।

इसरी बात मझे यह कहनी है कि सरकाः ने बहुत सारे कानून बनाये हैं, सरकार बहुत से अच्छे ग्रच्छे कानुन बनाती है लेकिन वे सिर्फ ग्रलमारियों की शोभा ही बढ़ाते हैं। शारदा ऐक्ट की क्यादर्दशाहोरहीहै वह ग्राप सब को मालम है। शारदा ऐक्ट से सिर्फ अधि-कारियों ने नाजायज कायदा उठाया है, अगर कहीं किसी नाबालिंग की शादी हुई तो उसमें गडबड़ डाली और पैसा पैदा किया, इसके अलावा ग्रौर कछ नहीं किया। उन लोगों ने उसके कान्तिकारी उद्देश्य को पुरा नहीं किया। तो मुझे सरकार से निवेदन करना है कि उसे केवल कानून बना कर ही संतोष नहीं कर लेना चाहिये, बल्कि समाज सधार के लिये देश में वातावरण का निर्माण करना चाहिये ग्रीर देश की जनता को समझाना चाहिये कि वर्तमान विवाह संस्था में क्या क्या खरावियां हैं। जब तक कि स्त्रियों के ग्रन्दर चेतना नहीं लायेंगे, उन्हें अपने प्रवार-कार्य के द्वारा जाग्रत नहीं करेंगे तब तक इस कानून का कोई असर नहीं होने वाला है।

हम एक बड़े महत्व का कानून सदन के सामने ला रहे हैं परन्तु समय के अभाव के कारण सदन के बहुत से अच्छे ग्रच्छे लोगों के विचार सुनने से हमको विचत होना पड़ा है, जिनको कि हम सुनना चाहते थे। इस कानुन पर विचार करने के लिये समय का ग्रभाव हो गया जो कि नहीं होना चाहिये था। इसके लिये एक या दो दिन का समय निकालना आवश्यक था क्योंकि जो दो हजार वर्ष की भूल है उसको सुधारने के लिये हम निर्णय करने जा रहे हैं। तो मेरा स्थाल है कि हमें केवल इस बिल को कानून का रूप देकर ही संतोष नहीं कर लेना चाहिये बल्कि समाज में जो खराबियां हैं उनको भी व्यान में रखना चाहिये ग्रीर ग्रपनी बहनों को इस बात का पुरा मौका देना चाहिये कि वे इस कानून से पुरा पुरा लाभ उठायें। ऐसा लाभ नहीं उठायें कि घड़ाघड़ डाइवोसें की दरहशस्तें अदालतों में चली जायं।

(Time bell rings.)

केवल एक दो मिनट में समाप्त करता हं। मेरा निदेदन है कि इस देश के ग्रन्दर राम और कृष्ण की परम्परा रही है ग्रीर हमारे समाज में बहुत सी आदर्श नारियां हुई हैं। मैं कहंगा कि महात्मा गांधी जिस मां केपुत्र थे या जवाहर लाल जी जिस मां के पत्र हैं, वे नारियां कोई पेरिस या इंग्लैंड हो कर के

नहीं आई थीं और नये स्वरूप से शिक्षित नहीं थीं बल्कि वे सब भारत की नारियां थीं जिन्होंने कि ऐसे नररत्नों को पैदा किया। इस देश के अन्दर नारियां अपना बहुत ऊंचा स्थान रखती हैं ग्रौर जो भी उनमें गिरावट आई है उसका मुख्य कारण आर्थिक है। सब से बड़ा अभिशाप गरीबी है। अभी श्री ग्रार० सी० गप्ता साहब ने कहा कि यदि परुष स्त्रियों से अपने खर्चे के लिये मांग करेंगे तो पुरुष के लिये यह बहुत बुरी बात होगी । मैं कहंगा कि आज भी बहुत से पुरुष हमारे समाज के अन्दर स्त्रियों की ग्राम-दनी पर गुजर करते हैं, उनकी कमाई से रोटी खाते हैं और ग्रपनी जिन्दगी विताते हैं। यह सब गरीबी का अभिशाप है और हमें उस गरीबी को मिटाना है।

तो ग्रन्त में मेरी प्रार्थना है कि इस कानन के ग्रन्दर जो खामियां है उनको दूर करना चाहिये, उसके लिये प्रयत्न करना चाहिये और जल्दबाजी के अन्दर यह कह कर कि समय नहीं है, जिन पहलुओं पर विदार करना चाहिये उन पर विचार न करें। ऐसी दशा में यह कानन पास तो चरू हो जायेगा, लेकिन उसका जो कःन्तिकारी स्वरूप आना चाहिये वह नहीं आ पायेगा । अतः मेरा निवेदन है कि इस विधेयक पर पूर्णध्यान देकर विदाः करना चाहिये। इन शब्दों के साथ इस विधेयक को लाने के लिये में मंत्री महो-दय को ग्रीर सरकार को बधाई देता हं ग्री इसका समर्थन करता हं।

DH. RADHA KUMUD MOOKERJI: Madam Vice-Chairman, the observations that I feel inclined to make on the Bill before this House are influenced, among other considerations, by two facts. The first of these facts is that this Bill is opposed by a vast majority

of the Hindu population for whom it is meant. I agree that it is sometimes the duty of the legislature to give a lead to the country and pass social legislation in advance of the times. But normally speaking it is the supreme duty of the legislature to follow the mandate of the people and not go against their expressed wishes. I may be wrong in my assessment of this fact, but I put it to Government and also to this House that they must note that this Bill is highly controversial in character and has been opposed by a large majority of our people. My second fact is this that the Government were pleased to circulate this Bill for the purpose of eliciting public opinion, but unfortunately the Government is not prepared to respect its own commitment in the matter and has practically ignored the most authoritative opinion that has been expressed with reference to this Bill by many competent judges. I, therefore, feel that I am influenced by these two facts which cannot be denied. The first fact is the opposition of the people concerned; and the second fact is that the authoritative opinion of the country is not very favourable to the Bill.

Now, I have also some objections to certain general aspects of the Bill. In fact, I am anxious to record my objections to some of the principles and provisions of this Bill, because, in my opinion, the philosophy upon which it is based is not quite sound from the sociological point of view and militates against the very spirit of Hindu civilization. It seeks to destroy the principle which differentiates Hindu from western civilization. The Bill is inspired by the western view of life which attaches more value to the romance of marital relations and married life than to parenthood in which marriage attains its fruition. The Hindu system conceives of parenthood as something that is permanent, unchangeable, and inviolable. The Bill makes it changeable and subject to emotional whim and caprice. We are always talking glibly and taking pride in India's superiority in spirituality. But spirituality must not be in the

LDr. Radha Kumud Mookerji] It must be embodied in institutions which can influence and shape the common life of the country. It must be brought down from the clouds into the market place, from the sphere of intangible ideas to that of the concrete. The Hindu family is the most typical expression of Hindu spirituality. It is based on the principle that marriage must be indissoluble just as parentage is. It is not subject to the play of passions. It is not subject to the secular law of contract. The Bill seeks to change popular psychology as to the sanctity of marriage and family and loosen the ties of family as the very foundation of society. It thinks more of husband and wife than the father and mother in whom they are to be permanently merged to protect the child and the future of the race. The Upanishads presenting Hindu thought at highest enjoin: "PitHdevo Bhava Matrideuo Bhava." The purity, the integrity of the family is a supreme social concern. That is why Asoka, whose ideals we have adopted in fashioning our National Flag, was never tired of preaching that religion like charity must begin at home and be founded on the purity of the family, the cultivation of proper domestic relations towards father, mother, preceptor, friends, acquaintances and kinsmen.

Recently, the University of Chicago convened a symposium of the learned sociologists of U.S.A. to discuss the vital social problem of America on the future of the American family and the consensus of opinion at the symposium was that family ties must be tightened up as far as possible, in the interests of the child as the supreme concern of society.

Now, as regards the second fact, to which I have referred, I will just place before the House certain very authoritative opinions and I ask the House to consider the importance of these. First, I shall cite the opinion of the hon. the Chief Justice of the Madras High Court—who cannot be accused of any special prejudice in favour of Sanskrit culture or learning. He says:

"I would confine the application of the provisions as to divorce only to persons who have chosen to marry under the Special Marriage Act, Those who marry according to the Sastric rites should be governed by the spirit of the Smritis which is against the doctrine of divorce. Such a course is more advisable at the present state of Hindu society and more suited to the social sense of the community today. I am. in any event, against any provision for judicial separation." Now, I come to the authoritative opinion of Justice Venkatarama Avvar of the Madras High Court. He says: "Reading the Bill as a whole, the impression which I have formed is that it is not calculated to promote peace and happiness in home Some say that it is purely an enabling measure. But, frankly it must be recognised that an enabling legislation in social matters must result in the entire society being affected It is the experience of all societies that if married persons realise that it is not easy to dissolve the marriage, they will adjust their differences and in the long run there will be a happy domestic life. The notion that marriages can be dissolved easily will tend to the break-up of the home on trifles. It is therefore. necessary that the provisions as to divorce should be stiffened." He further says. "Reading the Bill as a whole, it leaves the impression that marriages can easily be dissolved. I should not be surprised, speaking as a Judge of the High Court, if within a few years after the passing of the Bill, it becomes necessary to establish hundreds of courts all over the country for dealing with marital cases under the Act."

SHRI S. N. MAZUMDAR (West | Bengal): That has not been the case in Madras, Baroda or Saurashtra

DR. RADHA KUMUD MOOKERJI: I am simply placing before you some of the opinions expressed.

Now I come to the opinion of Sir S. Varadachariar, who was a Judge of the Supreme Court. He says, "Seeing that in practice monogamy is almost

the rule, opinions may well differ as to the necessity for a statutory prohibition of polygamy. By long tradition in this country, taking a second wife does not always involve a rupture with the first wife, or putting her away."

I do not want to take more time of the House, but I wish the Government especially to carefully examine the opinions of these authoritative lawyers and judges, expressed on the Bill. They should not go by the standard of quantity, but by the standard of quality. With reference to the assessment of these learned opinions, I feel that perhaps there is yet time to make this Bill less inoffensive and more beneficial to the society, for whom it is intended. I agree that there have been some improvements effected by the Joint Committee, on the clauses of the Bill, and when the clauses are taken up, I shall then have an opportunity of saying something on those clauses. But, for the time being, I say that perhaps the philosophy on which the Bill is based is not quite sound from the sociological point of view, and it militates against the very spirit of Hindu civilisation. In fact, we are all proud of the message that India has given to the world, and that message is the message of spirituality, of nonviolence, and of universal brotherhood. But I am afraid, this law will let loose the forces of violence within the sacred precincts of domestic life.

श्रीमती सावित्री निगम: उप-सभाव्यक्षा महोदया, इस विधेयक का में हर्ष के साथ हार्दिक समर्थन करते हुये माननीय ला मिनिस्टर तथा माननीय करमरकर जी को, जिन्होंने इस बिल को पाइलट किया है, उन सब तमाम बहिनों की ग्रोर से, जो कि इस बिल की बहुत दिनों से प्रतीक्षा कर रही थीं, हार्दिक धन्यवाद देना चाहती हं ।

महोदया, इस विधेयक के विधय में यह कहना है कि यह देशवासियों की इच्छा के विरुद्ध है, या देश के छोग इस विधेक

यक को नहीं चाहते हैं, सत्य का एक प्रकार से गला घोटना है। आज से नहीं वर्षों से समझदार देशवासी इस बिल के पास होने की प्रतीक्षा करते आये हैं। इसका सब से बड़ा सबत यह है कि कांग्रेस ने अपने एलेक्शन मैनीफैस्टी में हिन्द कोड बिल पास करने की बात कही थी फिर भी ग्रोवर व्हैलिमिंग मेजोरटी में कांग्रेस ने आम चुनावों में विजय प्राप्त की । यह इस बात का बहुत बड़ा सबत है कि देशवासी इस विघेयक का बहुत दिनों से इन्तजार कर रहे हैं ग्रीर यह विधेयक देशवासियों की इच्छा के अनकल हीं पेश किया गया है। जैसा कि अभी श्री मुकर्जी साहब ने कहा कि यह जो विधेयक है वह देशवासियों की इच्छा के विरुद्ध है और यह स्प्रीच्छलिज्म और हिन्दुइज्म को धक्का पहुंचाने वाला है, यह सर्वथा गलत है। इसके बारे में जो यह कहा जाता है कि इस बिल का समर्थन केवल वही बहिनें कर रही हैं जिन पर इस बिल का सीधा असर पड़ता है, बिल्कुल गलत है। वे बहिन जिन पर इस बिल द्वारा सीघा असर पड़ने वाला है, वे इतनी दबी हुई है, इतनी अत्याचार पीडित हैं, कि उनमें बोलने श्रौर मंह खोलने की शक्ति ही नहीं है। इस बिल का समर्थन तो केवल वही सौभाग्यवती स्त्रियां करती हैं जिनमें आज इतनी शक्ति है कि वे अपने पतियों की उदारता ग्रौर सहयोग के कारण अपनी पीडित बहिनों को निरंकुश पतियों के अत्याचार से बचाना चाहती हैं ग्रौर इसलिए इस विधेयक द्वारा उनका पुरा पुरा समर्थन कर रही हैं । समस्त समझदार स्त्री-वर्ग का विश्वास है कि यह विधेयक ऐसे स्वस्थ समाज का निर्माण करेगा, जिसमें पतिवता दमयन्तियों का मान रखने

श्रीमती सावित्री निगम] बाले नल पैदा हो सकों जो उनके पति-कृत्य की रक्षा के लिए सार्थी बनने को नैयार हो सकें । यह विघेयक निःसन्देह

देश में एक ऐसे समाज का निर्माण करेगा जिसमें ऐसे वाल्मीकि पैदा हो जायेंगे भ्रीर ऐसे आश्रम पैदा हो जायेंगे जहां सतियों और सीताओं के सतीत्व की रक्षा हो सकेगी।

हमारे मुकर्जी साहब ने जो रायें पढ़ी हैं, वे उन लोगों की हैं जिनके दिन बीत चुके हैं, जिनका जमाना जा चुका है। आज हमारा देश एक नवीन क्रान्ति यग से गुजर रहा है। इस सोशल लेजिस-

होने वाली हैं, इसमें किसी को कोई सन्देह नहीं होना चाहिए । मैं उनसे यह कहना चाहती हूं कि अभी तक इस तरह का कोई सोशल बिल नहीं था। मैं

लेशन द्वारा देश में एक नई क्रान्ति

उन से पूछना चाहती हूं कि वे बतायें कि तमाम नवजात शिशु कहां से लाये जाते हैं। दिल्ली में पांच महीनों के

अन्दर १२ नवजात शिशु मारे गये, इस

तरह से यहां पर पाप होता है भीर हत्याएं होती हैं, उस वक्त उनके स्प्रीचु-अलिज्म और हिन्दुइज्म को किसी प्रकार

का धक्का क्यों नहीं लगता ? मिस्टर मकर्जी ने बड़ी अजीव दलील दी कि स्त्रियां जानवझ कर ऐसे पतियों से शादी करती हैं जिनकी पहले से परिनयां होती

हैं। बड़ा आश्चर्य है कि उन्हें इतना भी नहीं मालम कि ९९ फी सदी स्त्रियों को कभी स्वप्न में पता नहीं रहता है कि उनके पतियों के दूसरी पत्नियां हैं। मैं उन से

प्रार्थना करती हं कि वे अपनी राय बदलें ब्रीर नये जमाने की मांग को सुनें।

हिन्द सोसायटी के ट्टने की, हिन्द धर्म दें बक्का रूगने की उन्हें बड़ी चिन्ता है किन्त

मेरा कहना यह है कि उन्होंने हिन्द धर्म की महानता को, हिन्दू धर्म की सहिष्णता को बिल्कुल समझा ही नहीं । हिन्दू धर्म में इतनी सहिष्णता रही है कि उसके कारण वह अब तक फलता-फूलता रहा है। कौन नहीं जानता पांडवों ग्रीर धतराष्ट् की जन्म-कथा? कौन नहीं जानता पंच कन्यायें अब भी पवित्र मान कर पुंजी जाती है ? हर पजा के पहले हम पवित्रता के साथ उनका नाम लेते हैं। श्रीमन, पर हमने सनातन धर्म का पालन नहीं किया, हम तो पोंगा-पंथी में पड़ गये और हमने स्वेच्छाचारिता का धर्म मान लिया ।

SHRI K. B. LALL (Bihar): On a point of order. Is it in order to address the Chair as 'Shriman' when 'Shrimati' is there?

श्रोमती सावित्री निगम: सदियों से हमारे देश में ऐसे विषम, विचित्र ग्रौर पक्ष-पातपूर्ण आर्थिक ग्रौर सामाजिक नियम बने हुए हैं, जिनके कारण स्त्रियों को निरंक-शता भीर अपमान सहना पडता है। पुरुष वर्ग को तो पूरी तरह से स्वतंत्रता भौर खुली छुट है कि वह जिस तरह से स्त्री वर्ग को सताना चाहे सता सकता है। कान्त किसी व्यक्ति के व्यक्तिगत अधिकारों की रक्षा नहीं करता है, आज का कान्त तो रक्षक की जगह तक्षक बन गया है। आज इस तरह के नियम और कानन बन गये हैं जिनके कारण स्त्रियों को हमेशा ही बैकवार्ड रहना पडता है श्रौर उनमें तमाम सोशल डिसएबिलिटीज और खरावियां उत्पन्न हो गई हैं। हमारा देश वर्षों से गुलाम रहा है श्रीर उसमें तरह तरह की खरावियां पैदा हो गई हैं। ग्रव हम स्वतंत्र हो चुके हैं ग्रौर समाज में जितना भी बराइयां है उनको हमें दुर करना है। आज हम एक सामाजिक कांन्ति के यग से गुजर रहे हैं । आज हम इस विधेयक द्वारा उस जर्जर समाज का कायाकल्प करने जा रहे हैं तब हमें इस बात पर परा परा ध्यान रखना चाहिए कि यहां की स्त्रियां, जो सदियों से पिछड़ी रही हैं, उनको पुरा पुरा संरक्षण दिलाने की व्यवस्था करें।

मुझे यहां पर एक बात ग्रौर कहनी है, जिसका सजेशन श्रीमती चन्द्रवती लखनपाल ने अपने नोट आफ डिसेंट में दिया है। उन्होंने यह सुझाव दिया है कि तलाक का अधिकार १० वर्ष तक केवल स्त्री के लिए ही सुरक्षित रक्खा जाय, या यह नियम बना दिया जाय कि जितने विडोअर्स हैं उनको विडोअर्ज के साथ हो शादो करने का हक हो। अगर हम ऐसा करते तो हम इससे स्त्रियों का स्थान ऊंचा उठाते ग्रौर यह एक उचित कदम होता।

स्त्री की आर्थिक दरिद्रता को देखते हए सरकार को दो बातों का ध्यान रखना चाहिए । पहली यह है कि स्त्री के लिए तलाक या जुडिशियल सेपेरेशन के लिए कोई कोर्ट फोस न रखो जाय ग्रौर सर-कार को श्रोर से फी कानुनो सलाह दे दो जाय, जैसे कि सरकारी मामलों को सरकारी वकील देखते हैं, वैसे ही स्त्रियों को कानुनी सलाह दी जाय ग्रीर जुडि-शियल सेपेरेशन के मामले एक महीने के अन्दर तय किये जाने चाहियें।

जहां तक ऐलिमनी का सवाल पैदा होता है, इस बिल में पुरुषों को भी यह अधिकार दिया गया है कि वे स्त्रियों से एलिमनी पा सकते हैं। यह सब को भली प्रकार से विदित है कि स्त्री को अपने पिता की सम्पत्ति पर कोई ग्रधि-कार नहीं है। जब तक हम स्त्रियों को सम्पत्ति पर अधिकार नहीं देते तब तक

परुषों को इस प्रकार का कोई हक नहीं होना चाहिए । हमारे समाज में स्त्रियों की आर्थिक दशा बहुत खराब है, वे पुरुषों के मुकाबले आर्थिक दृष्टि के बहुत गिरो हुई हैं। इस तरह उनसे एलिमनी मांगना एक प्रकार से उनके हक को भी मारना है। इसलिए जहां तक स्त्री से एलिमनी लेने का सवाल है, उसको यहां तब तक न लाया जाय जब तक कि स्त्री को जायदाद में हक न मिल जाय। एलिमनी के बारे में जो क्लाज २५ है, उसके सब-क्लाज (३) लाइन तीन में लिखा है "She has not remained chaste" तो इसका नतीजा यह होगा कि हिन्दू सोसाइटी में जो चेस्टिटी का शहरों में मापदंड है कि जहां एक हिन्द स्त्री किसी पुरुष से बात करने लगी तो सारा समाज कहने लगता है कि यह स्त्री चेस्ट नहीं है और बड़ो खराब स्त्री है, इसी बात को लेकर पृष्ठष एलिमनी देने से बच जायेंगे । ऐसी स्थिति में एक स्त्री के सम्बन्ध में यह प्रव करने के लिए केवल एक दर-ख्वास्त की जरूरत रहेगी और पुरुष एलिमनी देने से बच जायगा, तो जैसे यह कहा गया है : If she is living an adulterous life or if she is living the life of a prostitute इसको एक अमेंडमेंट स्वीकार करके तुरन्त हटा देना चाहिए ।

इसके अलावा में एक चीज और कहना चाहती हूं। मैंने ऐसे केसेज देखे हैं कि अगर कोर्ट से डिग्री हो जाती है ग्रीर मेंटेनेंस फ़िक्स हो जाता है, फिर भी पति महोदय एक दो महीने रुपया देकर बन्द कर देते हैं। एक स्त्री बार बार कोट नहीं जा सकती है और इस प्रकार उसको एलि-मनी से कोई विशेष लाभ नहीं होता है। जैसा मैने अमें डमेंट में दिया है, हम को

श्रामता सावित्रा ानगम]
ए लिमनी के लिए कोई न कोई रोक
लगाना चाहिए । जो एलिमनी न दें
उनको कुछ न कुछ फ़ाइन देना पड़े।
मुझे आशा है कि सरकार मेरे संशोधन
को अवस्य स्वीकार करेगा।

ऐसा मुझे प्रतीत होता है कि महंती महोदय किसी स्वप्त देश में रहते हैं। जो कांस्टिट्यूशन में स्त्रियों को अधिकार मिले हुये हैं, उन्हीं से उनको ईर्षा होती है, यद्यपि मेरा विचार यह है कि यदि उनको चौथाई अधिकार ही मिल गये होते तो आज स्त्रियों की हालत बहुत सुधर जाती । उन्हें यह पता नहीं है कि दहेज प्रथा ने समाज में क्या हैवक किएट कर दिया है। उन्हें यह पता नहीं है कि ग्राज डेजर्ट ड वाइब्ज और विडोज जिन की सिस-कियां आज हवा में सुनाई पड़ती हैं, उनकी क्या हालत है। किस प्रकार से स्त्री का दर्जा समाज में इतना नीचा है कि उसे जीवन भर एक मृत व्यक्ति के नाम पर रोना पड़ता है। उसे ऐसा करने के लिए विवश किया जाता है। किन्त इसके विपरीत पुरुष अपनी स्त्री को मत्य के १५ दिन के अन्दर दूसरी शादी तय कर लेता है। ऐसी दशा में मुझे ऐसा लगता है कि महंती महोदय किसी स्वप्त देश के रहने वाले हैं। आज २० वीं सदी में भी जो स्त्री के कय-विकय की कहानी है उसकी श्रोर महंती महोदय ने ध्यान नहीं दिया ।

बड़े आश्चर्य की बात है कि बहुत से समझदार समझे जाने वाले लोगों ने भी ऐसी अजीब दलील दी है कि ग्रगर इसको सिविल कोड बना दिया जाय तो वे इसे पास करेंगे। यह बिल्कुल एक बहाना है ग्रीर बिल्कुल एक थोषी दलील है। उनका कहना यह है कि यह मस्लिम समुदाय पर क्यों नहीं लागु होता है। उन्हें चाहिए कि किसी बात के कहने के पूर्व तोन दफा सोच लिया करें। मुस्लिम समुदाय में जो स्त्रियों को अधिकार प्राप्त हैं, वे इतने अधिक हैं कि ग्रगर उनको इस कानून में लायेंगे तो उनको श्रौर पीछे घसीट लेंगे। मुस्लिम स्त्रियों को प्रापर्टी में हिस्सा मिलता है और उन्हें मेहर से संरक्षण भी मिलता रहता है। आज मुस्लिम समाज में हिन्दू समाज से स्त्रियों को हालत कहीं अच्छी है। अगर आप यह समझते हैं कि यह कानून अच्छा है तो आपको चाहिए कि आप इस के लिए प्रतीक्षा करें कि यदि वे इसकी अच्छा समझेंगे तो वे खुद इसको अपनाने का प्रयत्न करेंगे। यदि आप यह समझते हैं कि यह अच्छा नहीं है तो आप उनको क्यों पीछे घसीटना चाहते हैं ? इस प्रकार यह बिल्कुल थोथी दलील है। वैसे मुसल-मानों के प्रति हमें बहुत उदार होना चाहिए और खास तौर से उस समय जब कि माइनारिटीज बहुत प्रोग्नेसिव हैं और उनमें स्त्री का सामाजिक स्तर बहुत ऊंचा है। मैं आशा करती हूं कि जब तक मुस्लिम वर्ग के भाई-बहन इस विधेयक को स्वीकार न करें, इसको हिन्दू वर्ग तक ही सीमित रखना चाहिए।

प्री ऐक्ट बायगैमस मैरेजेज के बारे में जो बात निश्चित हो गई है वह बिल्कुल ठीक है कि स्त्रियों को तलाक का अधि-कार मिलेगा।

कस्टडी आफ चिल्ड्रेन के बारे में मुझे यह कहना है कि मां को ही यह अधि-कार १२ वर्ष की उम्र तक मिलना चाहिए। ग्रीर यदि पिता को तलाक दुश्चरित्रता के कारण दिया गया है तो लड़की के मामले में गार्जियनशिप का अधिकार उसकी शादी तक मां को ही मिलना चाहिए।

एज के प्रश्न को लेकर के यहां काफी बादिवबाद हुआ।

(Time bell rings.)

मैं कैवल दो मिनट में ही समाप्त कर दंगी । आज के इस प्रगतिशील युग में जब कि फैमिली प्लानिंग का हम लोग समर्थन कर रहे हैं ग्रीर यह देख रहे हैं कि कितने नन्हे बच्चों की अकाल मृत्य होती है और नन्हीं नन्हीं बच्चियां विधवा हो जाती हैं और जल्दी शादी होने के कारण इकोनामिक इंडिपेंडेंस नहीं हो पाती है, ऐसी स्थिति में मेरा निवेदन है कि विधेयक में जो एज निश्चित की गई है वही ठीक है ग्रीर मैं उसका समर्थन करती हं। जो लोग यह कहते हैं कि शारदा ऐक्ट से शादी की उम्र गांवों में नहीं बढ़ी, वे सत्य को घोका देते हैं। वे कहते हैं कि हम को कोई एज लिमिट नहीं रखनी चाहिए क्योंकि शारदा ऐक्ट सफल नहीं हुआ, तो उस दलील का यही जवाब हो सकता है कि डाकेजनी के लिए कानून बनाया है, फिर भी डाके-जनी होती है तो क्या उस कानुन को समाप्त कर देना चाहिए और डाके को कोई जुमें नहीं मानना चाहिए। इसलिए यह जो शारदा ऐक्ट की दलील दी जाती है उस पर कोई ध्यान नहीं देना चाहिए। मेरा निवेदन यह है कि १६ और २१ वर्षकी जो उम्र रखी गई है उसी को स्बीकार करना चाहिए।

डाइवोर्स के सम्बन्ध में लोगों ने कहा कि यह जो तीन वर्ष की अविध निश्चित की गई है वह अधिक है। अगर हम इस अबिध को कम करते हैं तो फिर इस विधेयक से लाभ के बजाय हानि ही होगी आसिर विवाह एक पवित्र बन्धन है। इस लिए उसकी रक्षा के लिए हमको पूरा पूरा सहयोग देना चाहिए। इस बारे में हमें स्टेप बाई स्टेप चलना चाहिए।

इसी प्रकार ऐसा लगता है कि कांजूगल राइट्स के क्लाज को मिसेज मुंशी ने समझा नहीं। इससे उन पति पितनयों को एक होने का फिर से मौका मिलेगा जो कि अपने मां बापों के झगड़े के कारण इच्छा होते हुए भी एक साथ मेल से नहीं रह पाते।

THE VICE-CHAIRMAN (SHRIMATI PARVATHI KRISHNAN): YOU can speak on these points during the clause by clause consideration. Now you may confine yourself to general remarks only

श्रीमती सावित्री निगम: अन्त में मुझे यह कहना है कि हिन्दू धर्म ग्रौर हिन्दू नारी का सतीत्व इतना महान् है कि ऐसे एक नहीं वरन् सैकड़ों विषेयक पास हो जायं तो भी न तो हिन्दू धर्म को चोट पहुंच सकती है ग्रौर न उसको धक्का लग सकता है। अतः मेरा निवेदन है कि सब को समान भाव से इस विधेयक का स्वागत ग्रौर समर्थन करना चाहिए।

Shri D. D. ITALIA (Hyderabad): Madam Vice-Chairman, I have great pleasure in supporting this Hindu Marriage and Divorce Bill. Some of my friends may wonder why I welcome this Bill. I do so for two reasons. Firstly I think it is high time that some progressive social reformofor the advancement of the vast population of our country are introduced. The growth and progress of our society is entirely depended upon the social reforms and progressive measures that we bring about. Secondly, I support this Bill because I feel that my Hindu friends should not think that the Parsis are against such reforms. The Parsis

[Shri D. D. Italia.]

always welcome such progressive measures. Therefore, I heartily congratulate the hon. the Law Minister for introducing this important piece of legislation in spite of oppositions and various objections raised by the orthodox people. In this Bill, there are two main provisions, viz. monogamy and divorce. I think these are not anything new, because in all advanced countries and also in some of the States in India, and in certain communities such Acts are in existence. Among Parsis, we have a Marriage and Divorce Act which was introduced in Bombay as long ago as 1876. A very large portion of the Parsee population are staying in Bombay. In our Parsee Marriage and Divorce Act there is monogamy as well as divorce. During the last 80 years the Parsees always respected monogamy and they never thought of having polygamy. During the last 80 years I have not heard or seen a single Parsee who has been drawn to the court for polygamy and prosecuted. In my opinion polygamy is practically disappearing from many communities and societies. Even among Muslims where they are free to marry four wives according to Sariat they prefer to have only one wife. I think the economic condition of our country is such that it is very difficult even to maintain one wife and so 1 don't think anyone will consider having more than one wife. Under the Parsee Act divorce is permissible but even there no one thinks it advisable to go to a court of law for divorce for simple reasons unless the differences are of such a nature as not to be reconciled. Only under compulsion and unavoidable circumstances they have, in a few cases, had resorted to the court for divorce. I am glad that in this Bill marriageable age is going to be raised for girls from 15 to 16 and for boys from 18 to 21 years. It is greatly essential for the couple to understand their responsibilities towards each other and so the marriage age has necessarily to be increased. I think the Bill which is introduced viz., the Hindu Marriage and Divorce Bill is similar in many respects to the existing Parsee Act except in one respect viz., in the Parsee Act marriage between cousins is permissible i.e., marriages between the children of two brothers, between children of two sisters and between children of the brother and sister whereas in this Bill marriages between cousins are prohibited. The Parsee population is the smallest in the world and there are hardly 1,20,000 people in this world and for the growth of our community, it is advisable to have marriages between cousins otherwise there wilt be great difficulty in finding partners for them.

[MR. DEPUTY CHAIRMAN in the Chair.]

As regards restitution of conjugal rights, judicial separation, custody of children, the three years period for presenting divorce petition after marriage, and registration of marriages, etc., they are all provided in our Act too. Some of the hon. lady Members objected to alimony being paid to the husband. When woman wants to have an equal right, I don't understand why there should be discrimination and objection to paying alimony to the husband. After all the court will decide whether the woman is in a position to pay the alimony, and to what extent she will be able to pay and so I think that clause should remain. But to my mind, there is no doubt that a self-respecting husband can never ask for alimony from a divorced wife and disgrace himself. In my opinion marriage must not be considered to be a mere farce and so divorce must not to be made easy. I am glad that in this Bill divorce is made somewhat difficult.

Finally, I would like to draw the attention of the hon. Law Minister to the restriction imposed that after divorce, one or the other cannot remarry before the lapse of one year. I do not understand why there should be such a restriction. In my opinion, as soon as a decree is passed by a court for divorce, and the period of appeal is lapsed, then the parties muet be left free to remarry whenever they like. With these few words, I whole-hearted ly support this Bill.

SHRI S. N. MAZUMDAR: Mr. Deputy Chairman, I shaU not go into all the details because the time is also very short. Is my time fifteen minutes or ten minutes?

MR. DEPUTY CHAIRMAN: You can take fifteen minutes if you want, as the maximum.

SMRi S. N. MAZUMDAR: Then I shall try to economise as far as possible. First I must say that I was rather surprised and pained to listen to the speech of Dr. Radha Kumud Mooker-ji. I have great respect for him-unfortunately he is not here-and I have read many of his books and in fact I think myself almost as a student of his though I have not been his student directly. Well, when we think of this piece of legislation, it is true that it is a very controversial measure and opinions from different sides have been expressed by eminent persons no doubt but equally eminent persons have expressed their opinions in favour of passing this piece of legislation. Moreover, as has been pointed out by many early speakers, this piece of legislation has been before the country for a long time and we know of this background and so it is not necessary to go into the details of that. The Rau Committee toured the country, and examined witnesses from various sections of life and actually its observation is that among women who opposed the introduction of such measures, they are women from the aristocratic class. But the majority of progressive women were in favour of introducing this piece of legislation.

Now I respectfully like to submit to the opponents of the Bill like Dr. Radha Kumud Mookerji that when we think of such measures, we should also take into consideration not only the spirit of the times but also should re-examine our attitude to the past. We are proud of our, ancient heritage and we should preserve all that was fine and best in our tradition. I am in full agreement with that and I am

not less zealous in this matter but in order to take full advantage of our ancient traditions, it is really necessary to have a historical view of that and so far I have come across particularly one author of repute-Dr. Kasi Prasad Jaiswal—whom I found taking a very realistic view and at the same time a scientific and historical attitude to the question of our heritage and also to the question of the development of Hindu society. As has been rightly pointed out by many hon. Members, the Hindu society has never been static because social forces are such that no society can remain static. There have been changes in society— changes for the good and changes for the bad-both. Hindu law has never remained static. There have been changes in it, ideological changes, and the results of these changes we find embodied in our treasure houses of ancient knowledge, in the Smritis, in the Dharma Shastras, in the Artha Shastras, and we should not take only one side of this question. I respectfully submit to those hon. Members who oppose this Bill to go through the interpretations of the development of Hindu society which have been presented by Dr. Jaiswal. He has shown the development quite clearly. Some people seem to think as if there was only one immutable or eternal law based on Dharma. That is not the fact. What was prevalent in Kautilya's times was repudiated in the later period by Manu Smriti. As regards Manu Smriti, according to Jaiswal it was actually compiled in the period of the Brahminical revival, after the Buddhistic period. And so many of the liberal things we find in the period of Kautilya are repudiated by Manu. But things could not stand there. Things had to develop and due to the influence of various forces, society also had to adapt itself to changed conditions. Therefore, we find that after Manu Smriti we find various other Smritis. They do not agree with each other on many points. We find that Yagyaval-kya to a great extent differs from Manu. The position of women in Manu Smriti was very inferior; but Yagya-valkya regards woman as a full legal

[Shri S. N. Mazumdar.]

person. He gives woman full rights of inheritance. We find after Yagyaval-kya that in Narada Smriti they have gone still further and Narada Smriti is sometimes called the most secular of the Smritis. In Narada Smriti which was quoted by some hon. Members here, we find that in certain circumstances the remarriage of even a married woman is allowed. Actually in this Bill we are today not going very far beyond Narada Smriti. Later on, it must be admitted, if we look at these things from a historical point of view, that the later commentators of the Smritis tend to be more and more conservative in their interpretations. Sir, I would commendthough I am nobody to commend such a great scholar as Jaiswal-a careful study of the views of this eminent scholar. He has pointed out how the conditions of the times were reflected in the Smritis in the Artha Shastras and in the Dharma Shastras. He has pointed out that Manu Smriti is a product of the Sunga period, after the down-fall of the former Buddhist kingdoms and after the period of ascendency of the Brahmins. And in it there were certain, what may be called retrograde steps. In Yagyavalkya Smriti which was a product of the period of Sata-vahana empire, when commerce was expanding, when trade was expanding, when the philosophy of Buddhists had influence, we find there were very liberal provisions. As was pointed out by Shri Gopikrishna Vijaivargiya, one of the important features of this Bill is that it abolishes caste, so far as marriage is concerned. In this matter also, if we go through our past literature, if we take a historical view of the development of our society, we find that in Manu Smriti the caste distinctions are not only rigid but Manu Smriti is very vindictive against the Sudra. But in Yagyavalkya's time we find that the treatment /to Sudras recommended by the Smriti is not so vindictive and it is not so rigid. There has been some liberalisation. In this way, if we really look into our heritage, then the lesson which in my opinion we should take from a study of our ancient history

and our heritage, is that Hindu society also was never static, but that it was developing and progressing. It absorbed all that was good, even if it came from outside and it also evolved from within. There were then great conflicts of opinions. There were social changes. There were social upheavals and social revolutions. The philosophy of Buddhists arose and it had a very liberalising influence on our social conditions. We should not forget that. We should also not forget in our zeal to support this Bill the real facts and put some other and wrong interpretation on our history. I would like to mention this just because my hon. friend Shri Deogirikar while supporting this Bill gave an interpretation of history which I think is a wrong one, and which I think would give us a wrong outlook. Unfortunately, I have not the time to go into all the necessary details, but I will only point out here that the position of women in the Smritis, in the pre-Buddhist period was inferior and they were definitely dependent on men. Woman was inferior and man was always given the superior place. But after the Buddhistic period we find a new outlook or a new orientation, because the Buddhists allowed woman even pravrajya. Nuns could own property and she had many other rights. Later on there was again a somewhat retrograde step. It will be wrong to say that only the Aryans honoured women and not the others. I refer to this because there was mention of Mangols and others here. I raise this point here because we should not forget that in India ours is a composite civilization. It is not the product of the Aryan civilization alone. It is a composite civilization for it is the product of the Aryan, the Dravidian, the pre-Dravidian and other civilizations. All these cultures have mingled into one harmonious whole. Let us bear in mind that even in India even today where there exist remnants of the matriarchal system—as for instance in Malabar or among the Khasis in Assam—the position of women is very good, it is not inferior to tflat of men, and in fact their position is in some respects even superior to that of

men and they have an honoured position.

Coming to the general question of this Bill, I would submit to the opponents of the Bill that if we really want to carry forward our ancient heritage, then we should not think in terms of an immutable Hindu civilisation, as if Hindu society and Hindu philosophy are something hide-bound, something immutable, something which cannot be changed. Secondly, I would like to submit to the opponents of the Bill that while they raise the bogey that with the passage of this Bill, the passage of the enabling provisions of this Bill enabling divorce be sought and granted in certain cases, our society would go to pieces, they are by this argument not doing a service to our society. Actually, I would submit that they are doing a definite disservice to Hindu society. In one breath they raise the argument that our ideals are immutable, that our ideals are so strong that they last for ever. But in the very next breath they advance the argument that if some enabling measure like this Bill is passed then society will go to pieces. I beg to differ from such hon. Members. After all, the provision of divorce is not something new among us. As I have already stated, even in Narada Smriti they had allowed the remarriage of a married woman, though that may not be strictly called divorce. Secondly, Hindu society had to adapt itself to various forces and exigencies. 90 among the so-called lower castes and in the vast majority of people in Hindu society, divorce was granted by custom. Among these classes in which divorce is easy, divorce is not easily resorted to. I shall not be wrong, I think, if 1 claim that married life among the so-called lower classes is far more stable and happy than among the others

5 P.M.

Secondly, Sir, some of the States in India had enacted divorce Acts long before this but it is the experience of these States that after such Acts were passed there have been fewer cases of

divorce. Nobody has made the claim that in Madras or Bombay or Saurash-tra or even in Malabar where divorce conditions are very easy the Hindu society has gone to pieces. I have iiot come across even the most stalwart of champions of the Hindu Mahasabha making such a claim. What does it show? It shows that where there is scope for adjustment, where there is a spirit of living with the times, people do adjust themselves. We need not fear that the passing of these enabling provisions will lead to a ruin of the society. It is true that if we take the case of certain Western countries, we will mid that divorce has become very easy and loose but there also if we really make a critical sociological study we shall find that this is prevalent only among the parasitic classes and it is only in such cases that there is a rush or a queueing up in the divorce courts. This is evident among the film stars and such other people but honest and poor working people in those countries do not take to such things. Even though such enabling provisions are there, such people have not taken advantage of it and have not rushed to the courts for a dissolution of their marriages. Whenever people live together in matrimony there must be and is bound to be adjustment and a psychological blending. Where a few people go to the divorce courts, they will go there when it has become absolutely necessary and absolutely impossible for them to live together. If we examine the cases the importance of which is rather exaggerated, we will find that this is prevalent only among the exploiting classes, who are now in a decadent state only among the parasitic section where they exalt the cult of sex, exalt the cult of the base instincts in man. It is only in such society that you see this mad rush to divorce

My time is over and so I will not enter into a discussion regarding the provisions of the Bill about which I have given a minute of dissent. I shall refer to those matters at the clause by clause consideration stage.

SHRI K. C. KARUMBAYA (Ajmer and Coorg): Mr. Deputy Chairman,

[Shri K. C. Karumbaya.]

I congratulate the Government and the '; hon. Minister for having brought up this Bill. It is a very progressive and an important social measure. I wonder why the opposition has brought in too much of heat and controversy in opposing this Bill. The Bill is a very simple one and it revolves on only one thingmonogamy and this also is a permissive thing in nature. The opposition said that this is the first of its kind wherein Hindu society has tried to modify the social custom. As we know, in the last one hundred years, so many changes have taken place in the Hindu society; the aboriginal custom of sati or sahaga-rnanfr. was abolished about one hundred years ago by one stroke of the pen. The Widow Remarriage Act was introduced as also the Sarda Act. So many social legislations were brought in and the Hindu society has not gone to pieces, as the opposition to this Bill has made out. It is not correct to say that the Hindu society will be ruined: on the other hand, we find that it is progressing slowly. The majority of the Hindus have been practising widow remarriage from time immemorial. Unfortunately, we have no statistics but if we had those facts, we would know that it is only those communities who are supposed to be not so very civilised or who are supposed to be lower in status who have enjoyed their family life better than those so-called higher classes adopting sati or sahagamana or child marriage. It is only these people who are not adopting widow remarriage.

The word 'co-existence' has been recently brought to the front regarding international life but one of our friends who spoke before me was using that word in a very derisive manner but I would give a different meaning to that word. It is surely in existence from time immemorial; each community in Hindu society has been practising its own ways of social life and customs and they ha'e been living very happily. I would call this co-existence. After all, the Bill before us is permissive in nature.

1 We tell our friends who oppose this Bill that it is only a permissive measure; nobody is compelled to have recourse to that Bill but we allow only those who want to take advantage of the provisions to do so. Our learned pandits have been bringing forth a lot of objection and they have warned us that Hindu society and Hindu culture would go to dogs. We have had so many changes and yet the society did not go to dogs. Whenever social changes are brought, such criticisms are not rare. Such great men as Buddha and Shankara were not spared. Gandhiii also was not spared. When he entertained a harijan for the first time in the Sabarmati AhjSVam, the people refused to give help to the Ashram and Gandhiji was almost under ex-communication. These things are, therefore, not new and I would ask the hon. Minister in charge to see that the Bill is passed as it has emerged from the Joint Select Committee without any change whatever. The Joint Select Committee has given enough attention to it and this Bill suits the present circumstances. After all, it is only a permissive measure. If any change is at all necessary, there is only one and that is with regard to the age of the girls. The age of sixteen has been fixed and it is said that the girls can marry only with the permission of either the parents or of the guardians. The only change necessary is that permission of the parent or the guardian should be obtained till the girl is 20 or 21. There also I do not think that an amendment is necessary and I leave it to the hon. Minister in charge to do. The Bill might be passed as it is and I congratulate the hon. Minister and the Government for having brought, the Bill.

MR, DEPUTY CHAIRMAN: Mr. K. B. Lall.

SHRI K. B. LALL: I choose not to speak in protest because I think there is no order followed so far as the calling of the names is concerned.

Unless there is a remedy found, once and for all, I think it is no use speaking.

MR. DEPUTY CHAIRMAN: You are not speaking?

SHRI K. B. LALL: I am not speaking.

SHRI KISHEN CHAND: Mr. Deputy Chairman, we are discussing the motion to take this Bill into consideration. I would have liked the hon. Minister to have given a thorough justification of every clause and explained to us why the clauses in the *original Bill were changed by the Select Committee. It is rather curious to find the hon. Minister saying that he is prepared to accept amendments on it; if so the list of amendments should be given by the hon. Minister who pilots the Bill. He must carefully explain what importance is attached to the various clauses and to lhe alterations made by the Select Committee in them.

Principally this Bill is very similar to the Special Marriage Act except for some minor changes here and there and if it were not for those minor changes I think it would have been far better if the hon. Minister had said that the Special Marriage Act is applicable to all Hindus. By the addition of one sentence there would have been no need for this Bill. When we enact a separate Bill called the Hindu Marriage and Divorce Bill, we must consider what is the basic idea behind this Bill. It has been pointed out by several hon. Members that the basic idea is monogamy and side by side with monogamy the natural consequence of divorce will come in. I fully concur with the idea of monogamy in spite of the fact that there will be certain cases of hardship, and in certain cases women would have preferred bigamy to divorce. Take for instance, the case of a husband who is very very keen to have children and th wife is unable to produce them. Now under this Bill some sort of faked-up excuse will be found for

divorcing the woman. It is quite possible that the woman would have liked to continue as a second wife and permitted her husband to marry again. Anyhow, considering the larger context that the hardship involved will be small as compared with the benefit that will be derived, I would certainly say that I welcome the idea of monogamy. But Members should not be under the impression that it will be an unmixed blessing. Once we adopt this idea of monogamy, the question of divorce arises. I submit, Sir, that the entire discussion in this House is really centring round this idea, and in the matter of divorce whether it should be easier or a little more difficult. As I said before, divorce is a natural consequence of monogamy because in life it is possible that misfits may have married and when misfits have been married, it is not advisable to continue the misery in their life and the law must permit a divorce.

Support for this Bill has come from various quarters for various reasons. Hon. Members of the Communist Party have supported it because in their political theory religion has no place. They think that religion is really a dope for misguiding the poor man, for giving him some sort of consolation, and they want the removal of religion as early as possible. 1 submit, Sir, that the support to this Bill that has come under the garb of modernism is really an attempt to disrupt society, an indirect attempt la bring religion into contempt. Then on the other side support has come from certain ladies outside the House who probably have frustrated lives or have been childless widows and a large number of signatures have been obtained. But we should carefully consider, when we are examining this Bill, whether the clauses on divorce are really suitable or not, whether they are not too easy, and eventually whether they are not going to lead to the disruption of Hindu or more correctly the Indian society. As a matter of fact, I would have liked that

[Shri Kishen Chand.J this Bill was called the Indian Marriage and Divorce Bill, and amendments have been sent to that effect, because under the definition of 'Hindu' we have included so many religions of the world like Buddhism, Jainism, Sikhism and many other religions of the tribal people. When you use the word 'Hindu' to cover all these religions, why don't you call it the Indian Marriage and Divorce Bill and in one of its clauses make the exception, that this Bill will not apply to Muslims, etc.? By just that one line that this Bill will not be applicable to the Muslims you could have attained the objects of this Bill and yet not introduce a Bill with a religious name in it in a secular State like ours. I think that the amendments that I have sent in, if adopted, will change the name of the Bill and yet the scope of its application will be the same as at present.

The question of divorce is really dependent upon our attitude to marriage. If marriage means a civil contract between two persons who want to lead more or less independent lives and live together for the sake of economic adjustments, it will give a completely different outlook and in that case I suppose these divorce laws are not easy enough and there should be still more easy divorce laws. There should be a law of mutual consent. One day they are married; the following day they can divorce themselves; as the two individuals want to lead separate lives and their living together will not be conducive to economic necessity. My concept of marriage is different. My concept of marriage is that the two together harmonise in such a way that they really become one person, and if this ideal be adopted the result will be that I shall try to make the conditions for divorce as strict as possible, so strict that very very few persons will be able to take advantage of that provision and in only such cases where there is real hardship divorce will be possible. Otherwise adopt the other concept and go in for laws similar to the Special

Marriage Act where there is mutual consent and you can have divorce at any time. If we concede that the whole structure of society is based on families and we want to live in families, then for the continuity of the family it is essential that when the children are growing up there is no breaking-up of the family. In the first two or three years of married life there is the glamour of marriage. After that children start coming in. There are financial difficulties; there are all sorts of troubles. The result is that the attraction between the husband and the wife is naturally less and it is in this period that the breaking-up of families generally takes place. When the children are growing up, if you break up the family, you are not only separating two persons but you are depriving the children of the guardianship of their parents. Hon. Members have said that the custody of the child should be with the mother. Up to the age of five it may be right, but after the age of five when the child wants education, it is a matter of common acceptance that the guardianship of the father is very essential, the guidance of the father is essential to mould the character of the growing child. So I do not think it will be advisable that after the age of five the child should be placed in the custody of the mother. He should have the custody of the father and yet he wants the affection of his mother; and so the difficulty arises. I have sent in an amendment that no divorce should be possible after seven years of marriage. When two persons can live together for seven years, when they have enjoyed each other's company, and the prime of youth has gone away, when the woman is, about 27 or 28 or the man is over 30, is it fair to break up that family? If they could not adjust themselves they should have known this fact earlier and they should have separated. When they were young they could have married again and tney could have settled down in a new life. They would not have so many children. Of course, those who have married in the past, for them

1373

you can give a period of one year during which they can seek divorce. But all marriages that take place after the enactment of this Bill should be governed by this rule that the divorce will only be permissive after two years of marriage and before seven years of marriage has elapsed. After seven years of marriage, whether for good or evil, they are joined together for life and nothing should separate them. It has been pointed out that if a woman or a man becomes unhealthy and contracts any disease after, say, ten years of married life, is it fair that after living together for ten years one should divorce the other and not be handy and helpful in taking care of the other?

Then, a great deal of objection has been raised about alimony. One hon. lady Member all the time she spoke was referring to 'the cart before the horse'. I could not understand how the succession law is more important and should be taken up before this Hindu»Marriage and Divorce

' SHRIMATI SAVITRY NIGAM: I suppose the hon. Member feels.....

SHRI KISHEN CHAND: answering you (Shrimati Savitry Nigam). The hon. Member thinks that in this country where eighty per cent. of the population lives in rural areas, where they have got five acres of land, the daughter should also add to the fragmentation that is already taking place, that out of the five acres of land, the daughter should also be given a share. Probably, she thinks that—under our present law, if the father leaves a debt, the sons have to make it good-the daughter, or son-in-law or daughter-in-law should also be burdened with that debt, debts contracted for giving dowry to the daughters. It is all unrealistic. Persons who have never had childrer to marry do not realise the difficulty. They do not realise the actual situa tion. They simply say, "It is putting the cart before the horse." In th(urban areas also, how many people

leave property behind? Probably, at the most one house—one house for all the children to live together. The hon. lady Member wants the son-in-law and the brother-in-law to live together and create trouble.

DR. SHRIMATI SEETA PARMA-NAND: What happens when there are more sons?

SHRI KISHEN CHAND: And then I should like to 'mow: Is this alimony paid out of patrimony or is it a current recurring expenditure from what a man or a woman earns according us he or she is the guilty person? It is a basic fact that it is the guilty person who will have to pay. It is not ihe innocent person who has to pay even if he is capable of paying. Supposing the wife seeks divorce from the husband on account of some act of the husband, even if the wife is a rich woman and the husband is a poor man, she can claim alimony.

Dr. Shrimati SEETA PARMA-NAND: Suppose the husband is the guilty man?

SHRI KISHEN CHAND: If th« husband is the guilty person and the woman is seeking divorce and the woman is rich, in that case the hus band cannot claim any alimony from the woman, because it is only the guilty person who has got to pay the nony. On the contrary we expect an adulterous woman who has been divorced by her husband, and if she is a rich woman, she will have to pay alimony. I will give you one example. You know Field Marshal

MR. DEPUTY CHAIRMAN: No names need be mentioned.

SHRI KISHEN CHAND: Well, Sir, he is not a Member here. It is a thing which has come in every paper.

MR. DEPUTY CHAIRMAN: You can say all that without mentioning the name.

SHRI KISHEN CHAND: He was formerly the Commander-in-Chief of

[Shri Kishen Chand.] India. His wife left him and married some other man. There was a decree, and the injured husband was paid ten thousand pounds as damages. In this House several hon. Members have spoken of a sense of chivalry and that it is against chivalry. I do not see where the conception of chivalry comes in. It is after all a simple case of justice. Whether the party is poor or not, one party is wrong and whichever party is wrong must be made to pay some sort of damages for the wrong inflicted on the other party. It is not a question of chivalry at all. It is a question of right and justice. The alimony will not be paid out of patrimony. If the hon. Member wants the daughters to share the property and the debts of the father, she is welcome to do so; but I think that most hon. Members will strongly oppose that; in the small land that is available in our country as patrimony, they will not introduce the daughter in it at all.

DR, SHRIMATI SEETA PARMA-NAND: What will you do if you have more sons?

SHRIMATI PARVATHI KRISHNAN (Madras): It would be bad luck.

SHRI KISHEN CHAND: It is not a question of how many sons or daughters one has. Does she want the debt of the father to go to the daughter also? They only want things which are favourable to them and not tne unfavourable past at all.

As I said in the beginning, on the Whole this Bill, taken together, has tried to compensate for various items. There are some clauses which will act as a deterrent against divorce; and some clauses which will put obstacles in the way of easy judicial separation, and all that thing. On the whole, I think, this Bill is a fairly good attempt at compromising various sections of public opinion. But the spirit of some of the amendments is to so shape the Bill, that the counter-balancing parts are distorted in a way that the balance is lost. So, I would submit that it was the duty of the Minister piloting this Bill to have clearly explained tu

us how the Select Committee in their wisdom so adjusted these various clauses that this Bill is more or less approved by all sections of the House, except for some alterations which will have to be made. For example, I may suggest one alteration. In the Indian Penal Code, enticing away a married woman is a penal offence. After the passing of this Bill, there will be no need for such a clause, because marriage is a civil contract and under a civil contract if a woman leaves the custody of her husband, naturally it is a civil act and there will be a <.-ivil law under which compensation may be given to the aggrieved person. Similarly, adultery under section 497 of Indian Penal Code will have to be amended. I have sent amendments relating to the repealing clause. I am only referring to clause 30 of this Bill. In the repeals I have added those two sections of the Indian Penal Code.

SHRI D. P. KARMARKAR: Sir, would my hon. friend like that enticement should be free after the passing of this legislation?

SHRI KISHEN CHAND: The hon. Minister has adopted the very idea that it is not enticing away. After all, the woman must be going of her own will. In the fundamental rights if women want to exercise their right, who can stop them? I am trying to say that you have got to be careful; when you draft a Bill you have got to be clear about the basic idea behind it. The basic idea is that it is a civil contract, a civil contract between two persons who want to lead individual lives but live together for the sake of economy and on the basis of that idea the whole Bill has been drafted and society must bear the consequences of that. I support the Bill.

MR. DEPUTY CHAIRMAN: Mr. Hemrom is not here. I think there is nobody else who will speak today. The House stands adjourned till 11 A.M. tomorrow.

The House then adjourned at half past live of the clock till eleven of the clock on Friday, the 10th December 1954.