[Mr. Deputy Chairman.]

we will have to forego our lunch on Monday and Tuesday, and if necessary also sit extra after six o'clock. So I would request hon. Members to be brief while speaking on amendments. There are 204 amendments. Except three or four clauses all the clauses have got amendments, as many as 30.

The House stands adjourned till 2-30 P.M.

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

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

REPORT OF THE COMMITTEE ON PETITIONS

SHRI J. R. KAPOOR (Uttar Pradesh): Sir, I beg to present the Report of the Committee on Petitions dated December 10, 1954, in respect of the petitions relating to the Hindu Marriage and Divorce Bill, 1952, presented by Shrimati Parvathi Krishnan to the Rajya Sabha on December 7, 1954.

THE HINDU MARRIAGE AND DIVORCE BILL, 1952—*continued*

THE MINISTER FOR COMMERCE (Shri D. P. Karmarkar): Mr. Deputy Chairman, I think it is my duty at the outset to say that I have followed the proceedings on this Bill very carefully and where I was not myself able personally to attend the debate, I should also add, I have read the report of the speeches made here with the care and attention that they deserve. I appreciate very much the frank expression of views by various Members who hold those opinions. This is not one of those measures in which opinions are likely to be conventionally for the purpose of what sometimes is known in Parliamentary language as teasing the debate. This is a subject which has exercised the minds of different sections of the community for many years and it should be no surprise to anyone whatever that different views should be expressed and would continue to be expressed on the floor of this House or on any other forum where this matter might crop up. But I must say, Sir, that I am happy to note that the strength of the opposition to this measure, which we considered to be progressive and as one that is required by the needs of today in the interests of society as a whole, is much diluted. In fact, apart from one or two speeches which went to the fundamental roots of the measure which we propose to get through, I was not able to discover that violent opposition which might have characterised the same speeches some years back. That is surely an indication of the fact that during all these years largely because the measures which we have introduced here are undoubtedly in consonance with the spirit of the Hindu law as it has been understood through the centuries and largely on account of a better understanding of what is proposed to be done. It is for these two reasons that the opposition has met us today in a diluted form. I should say, Sir, that it has been a delight to me to have listened to this debate. It has educated me also.

I should also add here—though it is a little unconventional—new as I was to this Bill so far as the piloting was concerned, I would not have been able to render my duty in the humble measure which I might hope to, were it not for the full guidance of my esteemed colleague, the Minister for Law, and his officers, particularly the experienced draftsman Mr. Raj Gopal who has been such a precious asset to that Ministry. I am not formal when I say this both in respect of this House and of the Law Ministry because, Sir, when I rise to speak I have to address myself to this subject with a sense of responsibility which, if I might be permitted to say so, is greater in this particular subject than

it might be the case with some other lighter subjects, because ultimately what we are going to decide on the various issues that have been placed before the House is something of very great consequence to the Hindu community as a whole And in so far as this is only a prelude to what is coming in regard to all Indian citizens, with regard to India as a whole, we have to take into consideration not only how far we should go and how far not to go It is a recognised fact that what we know as Hindu law today as interpreted by the courts during the last century and this has been the result not of one thought, not of one man's thought, but of many persons thoughts Not only that, in the very essence of things the Hindu community, meaning the word community in a much larger sense than what is usually given to it, the Hindu people—I might as well say—have always been used to a system of unconventional assimilation and when we sit down here today to legislate for the whole of the Hindu people we have to take that aspect also into consideration. To my mind what we are doing is one further step in the evolution of Hindu law and therefore of Hindu society. It is from that point of view, standing at this point of time, that we have to realise, when we look back over the last 2,000 years or more it may be, that the Hindu society has been thinking about this in circumstances much more difficult than now and when we sit here to legislate incorporating in our legislation items which we consider as improvements, I think today our task is a little easier than it was before, the time of Manu or Yagnyavalkya or someone. Today we have easier means of communication What happens here is broadcast to the whole country tomorrow. We have better means of educating the people to what we consider as necessary reforms in the interests of the whole Hindu people. And when we legislate on an issue like this I think that we have to avoid two possible dangers in our thinking Of course, I am not concerned with the sort of man and woman war that sometimes appears to be waged both outside and on the floor of this House. It is not a question either for the man or for the woman Sometimes an impression gets abroad that the whole *raison d'etre* of this measure is the uplift of women Well, women form a very important part of our society. If it were only that, then this mutual war could be tolerated But, Sir, we look at it not from the point of view of man or woman. At a given point of time we look at it as a social question and when we look at it from that point of view, I think these small differences minimise themselves Ultimately howsoever objective a person may be, they say that he cannot forget that he belongs to a nation, they say that he cannot forget that he belongs to a community and it is not a surprise to me to find if man is not for a moment able to forget that he is a man or if a woman is not able to forget for a moment that she is a woman They are likely to be partial to each other Leaving all these smaller extraneous considerations, out of our purview, we have to look at this question from, if I may say so, a profounder point of view and when we imagine the new things that we are trying to introduce through this measure, for a moment we are likely to forget the debt that we owe to the past Ultimately, as I said, there have been different *smritikars,* different people holding different views One of the *smritis,* I understand, said on the lines that we have been thinking. About *sapinda* there is a *smriti* There is authority for possible divorces under certain circumstances And when we discuss these questions, we naturally rivet our attention not on whether the period for marriage after divorce should be three years or one year, or what should be the period within which a person may apply for divorce or whether the period for remarriage after divorce should be one year or six months, or who is to be the guardian, whether it should be the mother or someone else, or whether the condition of staying with a relation of half-blood, as provided

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by this measure, is necessary or not. All these things have to be considered no doubt with due attention to their importance but certainly we cannot allow our mind to be clouded by these other things.

So, for my convenience and for the convenience of the House, I should like to invite the attention of the House to some salient features which are likely to be forgotten in the din of more unimportant issues. When I think about the matter I feel that there are two propositions on which, if logically we look at this question, there could be very little difference of opinion. The first is that this question of marriage is not to be looked at, in the context of Indian conditions, simply as a contract. In the Hindu law, as all of us know, we look upon marriage both as a sacrament and as a civil agreement and the consequences arising out of this Hindu idea of marriage have to arise not only from the fact that the Hindu marriage has been considered as a sacrament but also from the fact that it has all the implications of a civil agreement. So, Sir, a certain amount of rights and responsibilities have been imposed upon both the parties to the marriage. I feel, Sir, and I hope that the House will agree with me that if there is one question—out of the two questions that I am posing before the House—on which there is no difference of opinion, that is the question of monogamy. The question of monogamy whether in the enlightened conscience of early days or in the enlightened conscience of today allows no difference of opinion. Sir, I had the privilege of listening to the very learned speech of my esteemed friend from Poona, Mr. Deogirikar. He traced for us the ups and downs and the various vicissitudes of the position of women in our society. Well, I will hardly agree with his thesis that there was a time of complete virtue and of complete demoralisation. When I read the history of the past thousands of years, I cannot resist the temptation of telling myself that it is not exactly a correct interpretation of history. We record things in history but many times it appears to me that the unrecorded facts of history are more important than the recorded facts. We delve into the past and find out what Parashara said, what Manu said and what Yagnyavalkya said and what various other thinkers said. But many times the unwritten history, as I said, is at least as equally important as the written history. And when I look at the history of this particular question of marriage and divorce from that point of view, I find writ large—may not be visible sometimes and possibly to a large extent visible writ right across the face of history that if there is any one fact basically, it is this high idea which we have placed before ourselves in respect of this very sacred union between man and woman. I do not want to take this House over all the past. The whole literature is available. Nor do I want to wax eloquent on what was past or on what is present, but the one thing that occurred to my mind as I was listening to the debate, is that even in the old times women were held high. People put the age of *Rigveda* as 2,000, 3,000 or 4,000 years. One cannot say. But when the poet came to describe Indra the God and wanted to pray to him, that is the first recorded tribute to the woman that I find. How does he describe? In a part of the verse he says: "सुरण गृहे त". He says, in your house, Oh, Indra, there is everything plentiful to eat. Earlier than that he says "कल्याणीर्जाया" He says, "you have got a wife at home who is Kalyani." When we come to the Upanishad times we find a Maitreyi challenging Yagnyavalkya to explain the Truth. Yagnyavalkya says, "you cannot understand this Truth. It is much beyond your comprehension. Do not insist on that." She insisted and we find the delightful spectacle of Yagnyavalkya preaching in highest terms a philosophy which has remained even to this day in enduring terms, as the core of Hinduism. We find Draupadi in Mahabharata, a source of trouble perhaps, but then

representing the ideal type of woman. Coming later to Rajput times, from the medieval times to modern times. Many a time, as I said, we are misled in respect of some of these matters by what is visible. In the society they say do not take the highest as an average, do not take the lowest as an average. To my mind it is a false reading of history if some one comes and tells me that there was any period in Indian history where the best of thought and of a marital life did not exist in terms of the highest felicity. In fact, Sir, oddly enough at this moment it occurs to me that when the same Yagnyavalkya wanted to describe what the highest joy in philosophy was, he could not find any other simile:

"तद्यथा प्रियदा संपरिष्वक्त: सन्न वेद बाह्यं नान्तरम ।

Just as a man covered with domestic felicity is in the highest of joy; he is not conscious of what happens outside or inside." I am not prepared to believe for a single moment that in the long course of history of Indian society the good type of man has ever conceived of marital happiness in any terms but these. Holding that view, I feel sometimes that it is wrong for us to allege or it is wrong for us to argue as if we make that allegation that we have borrowed this idea or that idea from the West or other countries. Well, there have been things in the West or East which we feel like taking. There is also the lesson of history before us, there is the experience of other societies. And when we look at this from this point of view, I feel for myself that whatever reforms we undertake in respect of marriage, supplemented with divorce in necessary cases, I feel that we have to keep in our minds, before our mind's eye, the norm of how the Indian society has been behaving—and without doubt so far as my mind is concerned—in the manner in which we want to behave now and in the future. Many times it appears unreal to me when we talk of thirty-six crores of people in India. I think that it is more important that we should think in terms of nine or ten crores of families, because ultimately it is they who would go to make the basic strength of our social fabric. It is not the solitary man or the solitary woman that becomes the strength of the society. It is the unit which we have been calling sacred, it is the family that is the unit of society. Many times when we look at the history of other countries, we do see sometimes, I might say, the evils of unbridled freedom. In many matters, years back the European countries and the United States and many other countries went ahead. When I was thinking of our own system, I am reminded of a small picture that I had occasion to see in New York. That was three years ago, when there was a revulsion against the large number of divorces that were taking place in the United States. I forget the figures, but I believe—if my memory serves me right—that what was nine per cent. in 1901 became about thirty-one per cent. in 1949. The picture was very expressive, a picture from which we might take our own warning. In the first scene, there come a young man and a young woman freshly married. It is all delightful, flowers, cheers, smiles and everything. A month later the husband comes home dead tired and the wife has not prepared his tea. He gets a little hurt. He does not quarrel. Some time later the woman goes out to attend a women's meeting and she returns home late, and the husband is hungry for food. Then begins a quarrel. In the fourth scene there is divorce. That has been an extreme representation, but that was a picture meant with a view to educate American society. Well, if anything that we undertake follows that line, we have to take care of it. It does not matter if it curtails the freedom of the man or woman to that little extent. We do not want freedom at any cost and at the risk of breaking up the system of what is known as the family. Having made sure of the foundation upon which we rest, if we look at this question of monogamy, I feel we will be able to understand that it is not a mere mundane thing, but it is something higher, something ennobling. I

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feel that, when we come to look at the provisions of our divorce,—and we say according to us advisedly, we do not want to make divorce an easy matter. Sometimes the views expressed by some people legalistically give a false impression that divorce might as well be embodied in the Constitution, as a fundamental right, as if divorce is not the second best remedy but the first best remedy; that divorce is the logical conclusion of marriage, by an over-emphasis on what is a provision against contingencies. The basic fact is that we want *our young men and young women* to live round the family, the hearth and home and their children riveted to each other—riveted to the children and riveted to the home. I will not use the religious word, but if there is an equivalent word it is "sacred". And when we look at that question from that point of view it is clear so far as the provision of monogamy is concerned we are on sure ground.

Sir, of course, that leads me to the ancillary question of what should be the age of marriage for the purpose of this measure. We originally thought, according to the original Bill, that 15 and 18 were good enough ages for the girl and the boy. Later on, owing to the fact of having considered various modern tendencies, the Joint Committee, after giving full consideration according to their lights, came to the conclusion that the ages may be increased a little. I wanted the reaction to this proposal of both men and lady Members of this House. I find, Sir, that the consensus of opinion in this House is that we might retain the ages of 15 and 18. And I do not think we would be wrong in accepting those ages as good ages. One of the reasons that have been given, and I think it is sufficiently plausible and strong, is that we have to look not only to the urban areas, but also to the rural areas. Sir, the modern way of life is by itself introducing some reforms. In the cities, Sir, we find educational facilities and other facilities existing. Girls may be intermediates or even graduates; educational facilities are available. But, Sir, when we come to the villages, we do realise that we have to take into consideration the conditions obtaining there. There are no equivalent facilities for education. There is no tendency yet for the father or the mother to allow an increase in the age of their girl beyond a certain age. And for myself, Sir, speaking personally,—in this particular measure, as the House very well knows, there is no fettering in respect of any section of the House; any one can give his opinion according to his conscience—*I feel that the ages of 18* and 15 for boys and girls, as provided in the original measure, are quite good ages. Well, if things advance further, we might sit again—the succeeding Houses might sit again—and take up other measures.....

DR. SHRIMATI SEETA PARMANAND: Is it your personal view that the ages should be 18 and 15, as you said just now?

SHRI D. P. KARMARKAR: I have given the House my reaction—what I have felt—as my personal view.

Then, Sir, certain points have been made regarding the conditions of marriage. I feel, Sir, that this is, so far as I can see, the most important question. Sir, clause 5 speaks of conditions for a Hindu marriage, and clauses 6, 7 and 8 are ancillary to this clause. I will not draw the attention of the House in detail, giving my reactions to the various suggestions that have been made. It will be physically impossible to do so. And, therefore, Sir, I take the liberty of going hurriedly through these various provisions, making reference to the broad suggestions that have been thrown out. Under clause 6, for instance,—Guardianship in marriage—it has been suggested that some more guardians should be added. Well, if you were to add them, the list may be too long. In any case, we have to be in consonance with the Hindu law as established. There are also some minor

amendments proposed. It has been asked "Why should it be compulsory for a bride to have actually lived in the case of a half blood relation as provided for here by the Joint Committee?" The reply is obvious, because for instance in the case of a half brother, we have to take a little more precaution than in the case of a full brother.

There is also another point sought to be made by our friend, Shrimati Lilavati Munshi. And that is about the medical examination. As I see, subject to correction, no amendment on that point, I need not dwell at any length on that point; but still she devoted almost one-third of her speech to that point. I should like to say, Sir, that the suggestion made would be absolutely impracticable, because it is not that a large percentage of our people is suffering from physical ailments like incurable leprosy or incurable venereal diseases, and the like. In order to ensure oneself, as a condition precedent to a valid marriage that a particular person is not suffering from any real disease, that is to say, in other words, to put it bluntly, the first question to the father of the bride would be "Are you quite sure that your daughter is not suffering from a venereal disease?" and *vice versa* Not only that, but a further question that would be put would be "Are you prepared for a compulsory medical examination?" Well, Sir, we all know how impracticable it would be, as also absolutely unnecessary I may point out, Sir, that to subject any one to pre-medical examination like the entrance examination to the University—for a compulsory medical test—is something which looks quite absurd. But since it has been suggested by a distinguished social reformer like Mrs Munshi, I am trying to be moderate But if it were to come from somebody else, I would at once say, it is absolutely unworkable, impracticable, and an unacceptable suggestion. Having said that, Sir, I do not propose to bother the House with the other amendments dealing with the conditions for a marriage.

There has been one amendment in respect of clause No. 7. Sir, in respect of the ceremonies for a Hindu marriage, it has been suggested that registration, *ipso facto,* may be one of the ways of celebrating this marriage. Well, there have been other enactments providing for a registered marriage, but, Sir, so far as this is concerned, as I said, we do not want really to go further than we really should, in the interests of the society as a whole, and we do not want to mix up things with what we have said here We want to make this law, in view of the conditions prevalent today, as little irksome as possible. Some of my friends over here said "Why not make this law permissible?" Sir, when that is asked, I am afraid that the substance of this measure is not well appreciated In this measure, Sir, certain things are unavoidable. The limitation regarding age is unavoidable. This question like that of monogamy is unavoidable, and there are some features of this law which are applicable to every one. If anybody contravenes these provisions, he is taken to a court of law for punishment Excepting giving rights in certain cases, nothing is compulsory. A man may go through any particular ceremony Well, ceremonies also vary in the North or in the South. There is an old type ceremony, there is a new type ceremony which has mixed up all sorts of things with the old type of ceremony. But then, we have allowed each particular community to adopt its own ceremonies If there is any community in India, which has the simplest type of marriage—I am only speaking on a hypothesis—like that of Dushyanta and Sakuntala well interpreting this clause 7, they are free to do so, if they can establish that the marriage is according to a particular custom or usage We do not want to disturb that. Ultimately, according to each community, people look upon certain things as the essence of the marital tie. We do not want to complicate this measure by including registration also for the purposes of a

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valid marriage. We have provided for registration, but we have given the discretion to the States, and it is more for purposes of record. It is not at all for the purpose of rendering a marriage valid according to law.

Then I come to clause 9 about restitution of conjugal rights. With very great respect, I failed to appreciate the very vigorous opposition by some of my hon. friends here against clause 9. It is futile, they say. You can take a horse to the pond but you cannot make it drink. I do not at all see the harm about this clause. This question of making the other party come round may be repugnant to some minds, but it may well be that this clause by itself may have a salutary effect. In any case, having studied all the observations made in this regard, I have not found any single argument against the acceptance of this clause. To my mind, this clause can be helpful and in no case be harmful to anybody's interests, unless one holds the view that it should be either marriage or separation and nothing between and unless one is a whole-hogger that way. My hon. friends who had exercised their minds over this doubtless know of another provision, I think, in sub-clause (2) of clause 29.

DR. SHRIMATI SEETA PARMANAND (Madhya Pradesh): It is sub-clause (2) of clause 23 on page 10 of the Bill.

SHRI D. P. KARMARKAR: It has been made the duty of the courts to try to bring about reconciliation and have the marriage tie retained. We have given a directive to that effect through this measure. These two clauses, read together, give a complete picture. Restitution is a legal word. It is as if one is returning back something which one has taken away. But the sense in which it is used with reference to a right is not the same as in the case of a return of a house, for instance.

Then, Sir, clause 11. This has given rise to some difficulty, although the number of such cases is bound to be very limited. This clause deals with what we might call pre-Act marriages dealt with in sub-clause (1) and post-Act marriages dealt with in sub-clause (2):

> "(1) Any marriage solemnized before the commencement of this Act shall be null and void and may, on a petition presented by either party thereto, be so declared by a decree of nullity if—
>
> (a) a former husband or wife of either party was living at the time of such marriage; or
>
> (b) the parties at the time of such marriage were within the degrees of prohibited relationship:
>
> Provided that no such marriage shall be, or shall be declared to be, null and void if the marriage was valid under any law, custom or usage in force at the time of such marriage.
>
> (2) Any marriage solemnized after the commencement of this Act shall be null and void and may, on a petition presented by either party thereto, be so declared by a decree of nullity if it contravenes any one of the conditions specified in clauses (i), (iv) and (v) of section 5."

Sir, I have listened very carefully to the various objections made—I should say the various relevant objections made—and I think the Madras Act gives the right, I suppose, to the first wife, and we have given it to the second wife.

SHRI H. N. KUNZRU: Yes.

SHRI D. P. KARMARKAR: We have discussed the matter, and after having considered the whole thing, I am in a position to say that in so far as this question is concerned, and having considered very carefully the amendment tabled by my esteemed friend, Diwan Chaman Lall, in respect of this, and also the consequential amendment to clause 13 relating to divorce, I think that the difficulties pointed out may be removed by my accepting that

amendment. I will not read it out, because the amendment is before the House.

SHRI S. N. MAZUMDAR: What is the number of that amendment?

SHRI D. P. KARMARKAR: Then on clause 12, I would like to say what I have to say when we come to the amendments proper.

SHRI S. MAHANTY: On clause 11, what is the number of the amendment which you have accepted?

SHRI D. P. KARMARKAR: They are under clause 11 and clause 13.

MR. DEPUTY CHAIRMAN: We will look into them when we come to the amendments.

SHRI J. S. BISHT: Will the hon. Minister please clarify whether he accepts amendment No. 95 or 96?

DIWAN CHAMAN LALL (Punjab): No. 95 is to be withdrawn.

SHRI D. P. KARMARKAR: I would like to understand from my friend Diwan Chaman Lall, who has also moved an amendment to clause 13.....

DIWAN CHAMAN LALL: I am not pressing the amendment with regard to clause 11.

SHRI D. P. KARMARKAR: He is not pressing amendment No. 95.

DIWAN CHAMAN LALL: That is right.

SHRI D. P. KARMARKAR: We shall come to that point when we come to the amendments. We are bound to have a lot of discussion on that.

MR. DEPUTY CHAIRMAN: We will come to that when we take up the amendments.

SHRI D. P. KARMARKAR: Then I should like to invite attention to clause 13, *viz.* the divorce part of it. I shall not dwell very much on this because we have various amendments and we will be discussing them later on. But something has been said about an adulterous life, for instance, being difficult to prove. The question also arose whether the adulterous life should be for three months, six months or more, etc., since divorce cannot be had for three years. I think it was my esteemed friend, Pandit Kunzru, who said that the words "adulterous life" should be substituted by something else. Well, Sir, we have to strike a balance in these matters. Ultimately these things will be difficult to prove in the court, and so we have to be satisfied with the best possible course in the present circumstances. People do not have witnesses when they do such things. Certainly, this is very difficult to prove, but the reason for this distinction from the earlier provision is that we require a little stronger ground in the case of divorce than in the case of judical separation. We have said that it should be an adulterous life. It is very difficult to define this, whether it should be continued adulterous life for one month, or for six months or for ten days. I think that ultimately we shall be able to evolve something, but it would be utterly impossible to legislate for it. But if you put it to any jury, they should be able to say that it is an adulterous life that he is leading, or not. Possibly it might exclude a single act of adultery, I am not sure. But then we would not like to disturb the wording as it exists at present largely on account of the fact that you could make a single lapse from fidelity a ground for divorce, but, as I said, we don't want to make divorce absolutely easy. But under the circumstances, I feel that the wording that has been adopted is proper.

Then something was said about the virulent and incurable form of leprosy and about suffering from venereal disease in a communicable form and then, I suppose, of an incurably unsound mind. There have been amendments about the periods also. Here also there is a view which says that no leprosy is incurable, that no venereal disease, in these days of modern

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scientific advance is incurable, and so this would be redundant. Their argument is that there will not arise any cases of this type because we cannot prove any disease to be incurable. There again, we have taken a practical view of things and the Joint Committee has been well advised in keeping this wording as it is and so far as I can see and as I have been able to understand, there again we don't want that simply because the man is suffering from leprosy it should entail a condition for divorcing him or a right to divorce him nor in the case of venereal disease unless it can be proved to be in a communicable form. As I said, in these matters we have to weigh the matter. There is always room for difference of opinion in this matter and I would not like to fetter the discretion of the House by being positive either way except saying that to my mind, well, this would do. As I said a moment ago, there are some matters in this Bill where rightfully different views could be taken about particular points and so I would not like to dwell longer on this point.

I think there has been some suggestion about sub-clause (vii) of clause 13 that seven years is too long a period for a man not to be heard of. There again, I suppose the presumption of the law is that, according to the present conditions, if a man has not been heard of as being alive for a period of seven years, he is presumed to be dead. It interested me much to compare what our old Smritikaras said, and I have found that one of them had said at a particular place that the period which should be sufficient for a woman to divorce her husband should vary with the purpose for which he has ostensibly gone. If he has gone out on a study tour, and has not been heard of thereafter and you have a period of one year, that would be something wrong. If a man has gone out for a final appeal in the Supreme Court in an outside area, he should normally return within six months and he cannot be expected to be away for five years and so in that case the period would be different.

SHRI H. D. RAJAH: He should be able to travel by air.

SHRI D. P. KARMARKAR: If he has made a promise that he would return by air, the period to be fixed under the Smritikara will be probably seven days. There again we have accepted the current notion of what we consider to be right. Here for the purpose of divorce, we are thinking of the man who is civilly dead or is considered as if he is dead and therefore this provision of seven years is in accordance with the current notion, regarding the circumstance when we consider that as a ground for divorce.

Something has been said about homosexuality and there have been some interesting amendments regarding that, but if the hon. friend who has proposed them presses them, then we shall consider them at that time.

In regard to clause 14, it was asked "Why no petition till after three years of marriage?" There again, we don't want to be hasty about it. We do want to give some sort of time for adjustment. What happens in the case of, say, incurable leprosy and why should she wait for three years? Well, if the modern science has advanced so much, we don't want to deny an opportunity for up-to-date doctors to try their hand. What might look like incurable today might be cured next year or the year next to that. Here also, as I said, we have come to some *via media*. You cannot test it just straightaway as you can say two plus two makes four. I don't think that it would be possible for anyone to say that three years, not a day more or less, is the absolutely correct period. We don't want to make it too long—it would be impractical to say, as some have attempted to say, that for ten years after marriage, there shall be no divorce. That is not a reasonable proposition We want to make it a reasonable length of time after marriage. We don't want to make it too short either by reducing it to one or two years as it has been proposed.

Then I come to clause 15—when divorced persons may marry again. Here we have provided for a year. The suggestion is, why not six months? Well, there is something about that. There have been marriages of course which involve *Smashana Vairagya* and within a few months after that, you think of marriage. In this thing also we don't want to have the prospect of a very early marriage to influence the divorce also. We could make it six months, there is nothing absolutely fixed down as a rigid line of law but we do want to make a party feel certain that in any case even after obtaining a divorce, there will not be any marriage for one year—not that it might be a deterrant. We don't want swift action after the divorce is over. I submit—I have not been able to delve into the mind of the framers. We don't want the people to contemplate a marriage even before the divorce proceedings are completed. Regarding the period, there is very little to choose between six months and a year. I should leave that question to the discretion of the House without being emphatic on that, but to my mind, a year after divorce is reasonable.

Then, Sir, there are some procedural matters about jurisdiction and all that. A small point was made about making it absolutely compulsory not to publish any proceedings in respect of divorce cases. We have said that the publication should not happen except with the previous permission of the court. As I have said in my opening remarks, if I remember aright, in the United Kingdom, for instance, the provision of the law in such matters is that the court is open to everybody, except where, in the public interest, the court thinks it necessary to shut out anyone or the public and the press. Here we have said that it will be the other way that it shall not be open or lawful to anyone 'to print or publish any matter in relation to any such proceedings except with the previous permission of the court." So normally they will not be published, but if the court thinks it fit, in the interest of society or for any other purpose, it can grant the permission.

SHRI H. D. RAJAH: What happens if the parties do not want it to be published?

SHRI D. P. KARMARKAR: Subclause (2) says that before proceeding to grant any relief under this Act, in every case it shall be the duty of the court to make every endeavour to bring about a reconciliation between the parties.

Something has to be said about clauses 24 and 25. As I said I was a little unhappy about these two clauses, and what I said was in view of the economic conditions prevailing today. One argument that was put forward by hon. Members was that if the wife is a rich lady—and someone mentioned the case of cinema stars—if she is earning lakhs and crores, why not compel her to give either maintenance *pendente lite* or alimony and maintenance if there is a decree, to the husband? Well, we had a lot of interesting discussion on this point and we have had vigorous arguments repeated. I think Mr. Mahanty was very vigorous about it and he argued very vehemently and asked, "Why should the lady have it both ways? If the woman can claim and get alimony and maintenance, she should be prepared to give also". I am quite sure, if this is pressed, none of the lady Members present here would hesitate to accept that challenge and say, "All right, come along." But they also said, due perhaps to a little partiality for their own sex, that in view of the present conditions the wife should not be compelled to grant either maintenance *pendente lite* and expenses of proceedings or the maintenance, after the decree is given to the husband. I am quite sure, Sir, either way it is not going to work hardship on the woman, for ultimately if the House agrees to have it uniform both ways, the court will have to consider whether the wife is in a position to pay, before giving a decision.

SHRI H. D RAJAH: The question will arise only if she is in a position to pay.

SHRI D. P. KARMARKAR: In any case the man will be left with the feeling or rather the vicarious satisfaction that some man belonging to Hindu society in India will be depending on the purse of his wife, in case the man happens to be a divorcee. But this is a point on which I would not like to detain the House any further. After listening to all the discussion, and the vehement arguments put forward by my sisters here in respect of this matter I could not very well appreciate the attempt made by some here to give the wife the right and not the husband in respect of seeking a divorce. I am afraid, they are treading rather ticklish ground. I have, of course, my sympathies with them and I can make a 25 per cent. allowance for feelings of natural partiality. The argument probably is that if men have been tyrannous in respect of their rights for such a long long time, why not the women have this freedom for ten years? But that is an argument that passes my understanding and I am sure they do not mean, even if they say it.....

DR. SHRIMATI SEETA PARMANAND: Why not?

SHRI D. P. KARMARKAR: I don't think they mean what the words look like meaning. I am sure, they do not want to say, for instance, that if a wife is leading an adulterous life for ten years she should go scot-free; that in case she is suffering from an incurable disease she should go scot-free. If so, it is a false notion of compensation.

DR. SHRIMATI SEETA PARMANAND: Please read the amendment properly; I have not said so.

SHRI D. P. KARMARKAR: If the cap does not fit her my hon. friend need not intervene. I am not for treading that ground at all, for it is a rather difficult ground and I have avoided treading it.

DR. SHRIMATI SEETA PARMANAND: I am only explaining the position which the hon. Minister seems to have misunderstood. I am saying that "incurable disease" is included as one of the grounds on which a divorce can be sought.

SHRI D. P. KARMARKAR: Very well then.

SHRI S. MAHANTY: May I ask the.....

MR. DEPUTY CHAIRMAN: No interference, please.

SHRI S. MAHANTY: I am not interrupting, Sir. When I was speaking, you allowed the hon. Minister to interfere. I only.....

MR. DEPUTY CHAIRMAN: Order, order.

SHRI S. MAHANTY: I want only to put a question.

MR. DEPUTY CHAIRMAN: Yes, what is it?

SHRI S. MAHANTY: Does the hon. Minister equate the position of women with that of the Scheduled Castes when he refers to a protection for ten years' period?

SHRI D. P. KARMARKAR: To equate women and the Scheduled Castes is rather not fair either to the one or the other. But that is quite a different matter. I was on the point that it was not rational for ladies to insist that they should go scot-free for ten years. We are not looking on the matter either from the point of the man or that of the woman. If we compare the oppression of the man and the woman, as someone said—I forget who—it is rather the man who is and has been oppressed. When I was listening to the arguments that were being advanced during the course of the debate, I was reminded of a joke that was going round that

when a man and a woman come together, they never plan things for the future and so ultimately they say that marriage is one of the biggest gambles in the world, and with all these precautions and well-considered provisions in the Bill which we have sought to create with our experience, I would like to hazard the remark, in spite of all these things, we will not be able to reduce a whit from the chances of a marriage. It is one man's luck that he can oppress a woman and it is another woman's luck that she can oppress a man. It is just a domestic matter and it all depends on the personal equation.

DR. R. P. DUBE (Madhya Pradesh): Yes, it always does.

SHRI D. P. KARMARKAR: I am not on the legal point, I am on the ground which on self-examination.....

SHRI P. T. LEUVA (Bombay): Self-examination?

SHRI D. P. KARMARKAR: Yes, self-examination and the examination of others. My friend, if he is sincere, will agree when I say that—and that is true of all of us—that the decision is yours, but the veto is your wife's. That has been the subtle influence which I am proud our women in India have been exercising all along during the centuries. If anyone of us were to write his autobiography honestly, that will be the picture that would emerge.

SHRIMATI CHANDRAVATI LAKHANPAL (Uttar Pradesh): One-sided picture.

SHRI D. P. KARMARKAR: That is my side of the picture, and not the hon. Member's side of the picture.

SHRI H. D. RAJAH: Then why destroy that picture?

DR. SHRIMATI SEETA PARMANAND: Not in essential matters.

SHRI D. P. KARMARKAR: I may say that man may have dominated the household affairs, dominated the purse of the family. The man sometimes forces decisions on his wife.

DR. SHRIMATI SEETA PARMANAND: Why not you have it that way?

SHRI D. P. KARMARKAR: I am coming to the other point.

DR. SHRIMATI SEETA PARMANAND: Why don't you allow women to have their say in this?

SHRI D. P. KARMARKAR: We have all along been.....

SHRI B. K. MUKERJEE: What more do you want?

MR. DEPUTY CHAIRMAN: Order, order, Mr. Mukerjee.

SHRI D. P. KARMARKAR: I am very sorry, Sir, that my esteemed friend here interrupts because as soon as she interrupts, there is an inevitable inspiration behind for Mr. Mukerjee to interrupt. I was on the point of explaining. I do not want to take more time of the House.

SHRI S. N. MAZUMDAR: The point about alimony is not clear.

SHRI D. P. KARMARKAR: It has been the privilege and the pride I should say, of the womanhood of India—I am speaking without prejudice to the legal rights to be given to womenkind—to have a most powerful influence on mankind. In India a subtle and powerful influence has been exercised all along by womankind and, if you have to be honest to yourself, it is to-day exercising in the Indian body politic also. I would give a corollary. In the olden days, there was a particular kind of dress and we had some sort of a head dress; then the Muslims came and we changed into the *pyjama;* when the British came, we turned to the pant and coat but womanhood of India continued as it was. My hon. friend is embarrassed because she cannot contradict me. If there is anything, any one element

[Shri D. P. Karmarkar.]

that has been more responsible for keeping the best traditions of Indian culture, it is Indian womanhood. I would take credit, less to myself as a man and I would give all the credit to the ladies.

DR. SHRIMATI SEETA PARMANAND: We are conscious of it.

SHRI D. P. KARMARKAR: Very well, they are conscious but sometimes they argue quite as if they are absolutely unconscious. Anyway, I would not like to dwell on this point further because it is not a matter to be lightly treated and with all this legislation we would still like to retain the very subtle and very powerful influence that the mother and daughter are exercising in India all along. Whatever militates against that should be done away with.

SHRI H. D. RAJAH: And this Bill is the result.

SHRI D. P. KARMARKAR: I am afraid I cannot join issue with him but if he tries a little more with womankind he may change his views.

Then, Sir, I come to the savings clause. In respect of the savings, Sir, there was one difficulty, that is to say, earlier we wanted to keep all the earlier Acts intact in so far as they were not repugnant to the provisions of this Bill. We thought on further consideration that that might create a complication and so, Sir, after having thought about the matter I am in a position to agree to an amendment again by Diwan Chaman Lall repealing certain previous enactments. I would dwell on that when we come to that particular amendment but I feel that the law would be simpler on account of the acceptance of that amendment. There would, then, be no confusion. My hon. friend—I miss him here now, my hon. friend 'Maharashtrapathi' I used to call him, Mr. Deokinandan Narayan—attached much importance to the Bombay and Madras Acts. I studied the Bombay and the Madras Acts once again, for my own knowledge, and found that excepting those aspects which might be preserved regarding the conditions of divorce, we were much more on rational grounds than the other two Acts. All credit to the States who have undertaken this legislation earlier, Bombay, Saurashtra, Baroda, like that but, Sir, with a view to have this measure put in a simpler form I do really feel that the amendment of Diwan Chaman Lall to the extent it goes removes the various defects and I think it would really lead to simplicity if we accepted that amendment.

Sir, again and again two particular points were raised. One of them arises not so much from the point of view of admissibility but from the point of view of the substance of it because you have rightly ruled that particular point out of order, namely, the constitutional aspect. I feel that there is nothing wrong; of course, I will not dwell so much on the point about it being *ultra vires* on a point of law, but I dwell on it from the point of view of substance because whatever the legal effect of a particular question may be—that is separate—we should not do anything militating against the spirit of the Constitution. Sir, ultimately the argument, when boiled down comes to this: We have the Hindu community; we have the Parsis; we have the Muslims and we have other communities also. All the other communities excepting the Hindus and Muslims have their own laws definite, in a manner not confusing. Again and again this argument that the Muslims have not been included in this measure has been brought forward. My hon. friend over there has tabled a lot of amendments, if I may say so very respectfully, of a very futile nature. He wants the word 'Hindu' wherever it occurs to be substituted by the word 'Indian', the purport of it being that whatever interpretation is put upon the wording .. .

SHRI KISHEN CHAND (Hyderabad): On a point of order, Sir. When the motion is before the House, the hon. Member can reply but how can

he do so when I have not formally moved the amendments?

SHRI D. P. KARMARKAR: I am only hoping that in view of my explanation the hon. Member may be tempted to save the time of the House by not pressing his amendments.

SHRI KISHEN CHAND: How can he say so without hearing my arguments?

SHRI H. C. MATHUR: He is anticipating.

SHRI D. P. KARMARKAR: In any case, it is the normal practice when amendments are before the House in a proper manner to point out one's reaction, if that is possible. This is one of the important points which, in a sense, may be *bona fide* advanced or may be advanced as a cover for something else. I was myself rather surprised to read a leading article in a journal known for its objective presentation of news and for its sobriety of views. A number of objections were raised and I tried to dive through them, as I tried to dive through the arguments also of my friend Mr. Mukerjee. I read his speech with great care and I was in greater trouble in trying to find the substance of it.

SHRI B. K. MUKERJEE: On a point of clarification, Sir. My whole contention was that this was not the forum where legislation of such sort should be undertaken. It was better to allow the States to undertake legislation of this kind. This is what I said. Is it not a matter of substance?

SHRI D. P. KARMARKAR: Sir, I do not mean any offence to him but if he reads his speech tomorrow or today, after this discussion, he will find that there is no reference to the States at all as I said, it was not a reflection on him and he is an intimate friend of mine and I am quite sure he will not misunderstand me when I say—Sir, it is also my right though I did not want to say it in the beginning—that when I read through the debate one idea struck me Mr. Mukerjee need not take offence if it does not apply to him but one idea struck me and that was this: If we go on as we are going on in respect of our speeches, I fancy to myself that it is possible in some future legislation people may think of introducing as one of the grounds of judicial separation, if not for divorce, the art of making too long and garrulous speeches. I say that without offence and I do not refer to anyone in particular.

SHRI KISHEN CHAND: You may come in that class.

SHRI D. P. KARMARKAR: I did that with the indulgence of the House. Unfortunate people like us have to wade through the debate, after listening to it. It may be difficult sometimes but that is not the point.

Sir, I was dealing with this point and I should like to say that it is a historic fact that both Hindus and Muslims have had their own personal laws and religious texts for a long time. Article 44 of the Constitution does recognise separate and distinctive personal laws because it lays down as a directive to be achieved that within a measurable time India should have a common uniform civil code. Therefore, Sir, what is being done in cases like this is to introduce social reform in respect of a particular community having its own personal law. The institution of marriage is differently looked upon by Hindus and Muslims and, therefore, the question of dissolution of marriage is also differently to be tackled. The educational development of the two communities has also to be taken into account. Article 14 does not lay down that any legislation that the State may embark upon must necessarily be of an all embracing character. Social reform may be brought about by stages. It may also be territorial or it may be community-wise.

SHRI S. MAHANTY: What about article 15?

SHRI D. P. KARMARKAR: With respect to article 15, it was pointed

[Shri D. P. Karmarkar.]

out that there was no discrimination based *only* on the ground of religion. The various entries in the Concurrent List like marriage and divorce, minors adoption etc., were all examined and it was pointed out that it was competent under these entries for the Legislature to deal with the personal laws.

SHRI H. D. RAJAH: There is the Supreme Court. Why are you worried? Let them pass this law.

SHRI D. P. KARMARKAR: What I am worried about is these interruptions here.

SHRI H. D. RAJAH: That does not matter. You can go on.

SHRI D. P. KARMARKAR: I am not worried about it really.

SHRI S. MAHANTY: Who pointed out?

SHRI D. P. KARMARKAR: We were advised; we thought about the matter and we came to this conclusion that although this does not mean that Part III could be over-ruled, the essence of the classification in the present case is not the religion but the fact that Hindus and Muslims have all along had their own personal laws and it is that personal law of each of the communities which is now being or which will hereafter be modified. So, Sir, that is what I should like to say about Hindu law.

There was another point, I think, made by our esteemed scholar member of this House, Dr. Mookerji over there. I need not refer to his speech in detail. He quoted two High Court Judges, one of them I think is the Chief Justice, while as against them one of my friends quoted another ex-Judge. I think one cancels the other. When I was thinking about his speech Sir, having great regard for him—he knows that I have great respect for him—I thought to myself after minutely reading between the lines, not the lines themselves but between the lines, that his was an attempt just to keep the people on the proper line. I interpreted his advice the other way about that "God bless you; go along with the measure but take care to see that the essentials of Hindu society are not all forgotten. He must congratulate me for divining his mind or I would congratulate him for having accepted in my argument what is obvious and inescapable.

Sir, anyway it was a happy feature of this debate, as I said earlier, that there was no attempt to try to beat down this measure by unduly pressing the point that this is something revolutionary. Where have you consulted the people? What do the people say about it? This is a matter that we have to judge on the strength of the enlightened conscience of the community. This is not a measure for referendum as such, and as I said a moment earlier, it all depends upon the stress that we give to a measure of this kind. You can wax eloquent on the point of *sapinda* relationship and quote authority that it should be seven generations excluding the present one on the mother's and father's side, that these wise gentlemen of the Rajya Sabha have decided on a lesser number, that the *sagotra* relationship has been eliminated; you may say that people born in the same *gotras* had *sagotra* relationship and there should be no marriage between them. Many thousands of people do not know all these things and who were their ancesters during the preceding few generations. The ordinary uneducated and uninformed man cannot understand all these things. These things are not known to them and followed by them. Only a few orthodox people know and observe these things. We must tell him the rationale of the thing. Here we are living in the twentieth century which sees changes in several spheres which were not there in olden times. If you say to-day, quoting authority, that a girl is to be married at the age of eight, is it practical? Therefore we have provided the age of 15. What is wrong there? If you put it to the

man: "Look here, your son must be earning before he can marry", it is reasonable. It is stupid to marry in such a position and at the age of ten ordained by Shastras. Such marriages are so to say not at all taking place now. It all depends. I have been able to stand this measure not as the Minister-in-Charge, piloting this Bill, but as a citizen who will be affected by this law and whose children will be affected by this law. When I look on this measure I feel this measure may be characterised by reformers as a very modest measure, as a very cautious measure, a timid measure, and we have approached the question in a manner not to hurt unnecessarily the susceptibilities of anyone. When fights take place about this it is not as if the reformer comes and says that "you old Shastric men; you are out of date; you do not know anything" but it is an appeal to society to rise to the occasion, rise to the circumstances of the case,—how little we have put upon the Hindu society as a compulsory thing.

Lastly, Sir, it was sought to be made out that this law was compulsory. Except in respect of those provisions regarding which it may be said compulsory in the sense that there is a penal liability, in respect of all the others the whole thing is absolutely permissive. For example, I might take as a bride for my son someone according to this law or someone according to the Shastric injunctions. There is what we need, full scope for permissiveness. It is nothing as a mandatory, a minatory and compulsory measure being forced down the throats of the whole community. We have just enabled.....

SHRI B. B. SHARMA (Uttar Pradesh): Just on a point of clarification. Is monogamy permissive or compulsory?

SHRI D. P. KARMARKAR: I thought my friend was entirely for monogamy. If he has changed his mind between yesterday and to-day I should like to stand corrected about him. I think he still stands by monogamy, knowing him as I do. I have no doubt about it.

SHRI B. B. SHARMA: Yes, I am for it.

SHRI D. P. KARMARKAR: He is absolutely so and he is out of court to ask that question. We have seriously considered the matter and I take it that there is no doubt that bigamy should be made penal. As I said there are two or three things. Monogamy is a thing accepted by the conscience of the community from time immemorial. Let us not discuss about it and here we have left no scope for plural marriage. Lest marriage should be irksome under hard circumstances we have provided the necessary corollary, divorce, which is logical.

Sir, I promised myself half an hour; I was almost out of order when I took this long time. But I thought I would not be doing justice by this House were I not to touch upon the important points of this measure. Apart from whatever minor amendments are there and apart from people who have conscientious objection to any change, I am looking forward, Sir, to as unanimous an opinion on this measure as possible.

MR. DEPUTY CHAIRMAN: The question is:

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

The motion was adopted.

MR. DEPUTY CHAIRMAN: We shall now take up clause by clause consideration of the Bill.

The motion is:

> "That clause 2 do stand part of the Bill."

[Mr. Deputy Chairman.]

There are 13 amendments. No. 7, Shri Kailash Bihari Lall's amendment, is a negative one. So it is ruled out. Those who are present will please move their amendments.

SHRI KISHEN CHAND: Sir, I move:

8. "That at page 1, line 13, after the word "Sikh" the words or Christian or Parsi or Jew be inserted."

11. "That at pages 1 and 2, for lines 15 to 24 and 1 to 6 respectively, the following be substituted, namely:—

'(c) to any other person domiciled in India who is not a Muslim'."

18. "That at page 2, lines 7 to 10 be deleted."

Diwan CHAMAN LALL: Sir, I move:

9. "That at page 1, line 15, for the word 'India' the words 'territories to which this Act applies' be substituted."

16. "That at page 2, after line 6, the following be added, namely:—

'(1A) Notwithstanding anything contained in sub-section (1), nothing contained in this Act shall apply to the members of any Scheduled Tribes within the meaning of clause (25) of article 366 of the Constitution unless the Central Government, by notification in the Official Gazette, otherwise directs'."

19. "That at page 2, line 10, for the word and figure 'sub-section (1),' the words 'this section' be substituted."

SHRI R. THANHLIRA (Assam): Sir, I move:

10. "That at page 1,—

(i) in line 16, for the word 'unless' the word 'if' be substituted; and

(ii) in line 17, the word 'not' be deleted."

14. "That at page 2, line 4, after the word 'belonged' the words 'and who accepts the religion concerned' be inserted."

SHRI B. M. GUPTE (Bombay): Sir, I move:

13. "That at page 2, lines 3-4, for the words 'a member of the tribe, community, group or family to which such parent belongs or belonged' the word 'such' be substituted."

DR. SHRIMATI SEETA PARMANAND: Sir, I move:

17. "That at page 2, after line 6, the following be added, namely:—

'(1A) The Act shall not apply to the Scheduled Tribes for a period of ten years or such later period as the Government may direct'."

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

SHRI D. P. KARMARKAR: Which of the amendments, Sir?

MR. DEPUTY CHAIRMAN: We have taken up clause 2. Amendment No. 7 is ruled out of order. Nos. 12 and 15 are not moved as the Members are not here. So all the other amendments and the clause are open for discussion. Yes, Mr. Kishen Chand. You speak on all your amendments please.

SHRI KISHEN CHAND: Mr. Deputy Chairman, you will please permit me if I speak on the amendments to clause 1 and the Title also because they are all related to one another. If on principle the House does not accept one of them then there is no point in really repeating or discussing or taking vote on all the amendments. Therefore I would try to give the

reasons why I have sent in all these amendments. The hon. Minister in his concluding remarks referred to them and I would try to show how his remarks were not justified.

I submit, Sir, that apart from the fear that this Bill in its present form may be declared *ultra vires* by the Supreme Court, I submit, Sir, that under the Secular State if we are to attain the object of the Bill—the fundamental thing is the object of the Bill—the name must be so stated that it suitably represents the idea underlying the Bill. The hon. Minister said that only the Hindus and the Muslims have got personal laws but that all the other religions have got definite civil laws; *i.e.* the Christians, Parsis, Jews have got separate civil laws; and therefore, this Bill entirely refers to the Hindus. I submit that when Hindus are over 85 per cent. of the population, out of 40 crores it is 34 crores, and when this Bill will apply to them, is it not better to refer to them as "Indians"? In the ordinary life also, out of one hundred people, if a certain thing applies to about 95 people, will you try to enumerate the ninety-five persons or say one hundred minus five. From the common man's point of view, whenever you are trying to define a thing, instead of enumerating a large number or a larger group, it is far better to enumerate the whole group and give out the exceptions.

I submit that in my amendments, this Bill is called the *Indian* Marriage and Divorce Bill and wherever the word "Hindu" occurs, it is replaced by the word "Indian", and yet exception is made in the case of Muslims, Christians, Parsis or Jews. The scope of the Bill will remain just the same. There will be no difference in the scope of the Bill and yet by its very name the Bill will become applicable to all the citizens of India, with the exception of a few communities. It will have the added advantage that at a later stage if the Muslims of India, through their representatives in the Lok Sabha and the Rajya Sabha, come forward and suggest that they do not want the exceptions, you will have only to delete one little phrase regarding "exception". That deletion would make this Bill applicable to the Muslims also, but if you keep the Bill in its present form, you will be handicapped by this great difficulty and at that moment you will have to bring a completely new Bill, completely change your Act. My amendments do not extend the scope of the Bill. Of course, I have put in an amendment where it would affect the scope of the Bill because I thought that the Christians, Parsis and Jews, have civil laws applicable to marriage which are considerably similar to this, except for certain permissible clauses like marriage between cousins. The representative of the Parsi community in this House, Mr. Italia, gave his full concurrence to this Bill. In the case of Christian Members of this House also, though they did not speak on behalf of their community, their general acceptance of this Bill shows that it is not repugnant to their ideas or their religion. Therefore, I do not see any reason to accept the historical back ground that because some few years back the Hindu Marriage and Divorce Bill was introduced in Parliament and this is going on, we must stick to this nomenclature. I submit that the new nomenclature is not going to extend the scope of the Bill and it is going to attain its full object. Therefore, I would suggest to the hon. Minister to leave aside prejudices and not to stick to his words. When he is attaining the object of the Bill with better words, he should willingly accept them. I have nothing more to add except that when I am not extending the scope of the Bill, I do not see any reason why this better nomenclature should not be accepted.

I will say one word more. I do not see how and by what stretch of imagination, Buddhism, which is a world religion—it is being followed in Ceylon, China and Japan—is brought under the definition of Hindus. Subclause (2) of clause 2, at page two,

[Shri Kishen Chand.]

says: "The expression 'Hindu' in any portion of this Act shall be construed as if it included a person who, though not a Hindu by religion, is, nevertheless, a person to whom this Act applies by virtue of the provisions contained in sub-section (1)." That means you are giving to the word 'Hindu' a new meaning, that though the person may not belong to the Hindu religion it will apply to him. I am simply surprised. This is a novel way. You are creating a new dictionary, *i.e.* a word is given a meaning which it does not possess. If you want to introduce it, you can call it by any other name. Much rather you can use the word or the letter 'A'. Therefore, I think that it is a great mistake. At least in this clause 2, sub-clause (2), the word 'Hindu' should be replaced by the word 'Indian', that is, 'the expression Indian in any portion of this Act shall be construed as if it included a person.....' Therefore I have moved my amendments.

MR. DEPUTY CHAIRMAN: Members who have moved amendments will speak first.

Diwan CHAMAN LALL: Mr. Deputy Chairman, I have moved this amendment.

> "That at page 1, line 15, for the word 'India' the words 'territories to which this Act applies' be substituted."

It is purely a procedural amendment. It has no substance to it. As you will notice, the Act applies to the whole of India except the State of Jammu and Kashmir. That you will find in the preliminary section, the short title and extent. In clause 2, sub-clause (c), it is stated: "to any other person domiciled in India." Obviously it excludes the State of Jammu and Kashmir in the title, but it does not exclude the State of Jammu and Kashmir in sub-clause (c) of clause 2. Therefore, for "India" I wish to substitute the words "territories to which this Act applies." That is the short meaning of this amendment.

Now, in regard to my other amendment, that is one of substance. I desire to be as brief as possible because I think we ought to try and get through this measure as quickly as we can. This amendment is:

> "That at page 2, after line 6, the following be added, namely:—
>
> '(1A) Notwithstanding anything contained in sub-section (1), nothing contained in this Act shall apply to the members of any Scheduled Tribes within the meaning of clause (25) of article 366 of the Constitution unless the Central Government, by notification in the Official Gazette, otherwise directs'."

Now, Sir, the two articles of the Constitution which come into play in respect of this particular amendment are article 366 and article 342. Article 366, as you will notice, refers to "Scheduled Tribes" and in sub-section (25) it gives the definition of the 'Scheduled Tribes'. 'Scheduled Tribes' mean such tribes or tribal communities or parts of or groups within such tribes or tribal communities as are deemed under article 342 to be Scheduled Tribes for the purposes of this Constitution." Now, under article 342, the President has been empowered to name certain tribes as those coming within the purview of this particular section. Article 342 reads:

> "342. (1) The President may with respect to any State and where it is a State specified in Part A or Part B of the First Schedule, after consultation with the Governor or Rajpramukh thereof, by public notification, specify the tribes or tribal communities or parts of or groups within tribes or tribal communities which shall or the purposes of this Constitution be deemed to be Scheduled Tribes in relation to that State."

4 P.M.

Now, Sir, the reason why it is suggested that these Scheduled Tribes be excluded for the moment is because they have their own peculiar customs and their own peculiar culture, which it would be a crime on the part of this House to disturb Nevertheless, the power rests with the Parliament and with the Government to make such changes in respect of the application of this measure to those tribes as and when the Government feels that that application should be made Therefore, the power is left in the hands of the Government by notification to include any particular tribe which may desire that the provisions of this measure may apply to it and which may desire to take advantage of the provisions of the measure for itself The power is there in the hands of the Government to include that particular tribe by notification as one of those tribes to which this law applies But for the moment it is necessary that we should exclude the Scheduled Tribes from the purview of this measure, until we are quite sure how the provisions of this measure are going to affect the culture and the customs and usages of those particular tribes.

SHRI R THANHLIRA Sir, my amendment relates to sub-clause (c), of clause 2 I want to change the word "unless" to read "if" and delete the word "not" If my amendment is accepted, this clause will read as follows

> "This Act applies to any other person domiciled in India who is not a Muslim, Christian, Parsi or Jew by religion, if it is proved that any such person would have been governed by the Hindu law "

Here, the Bill concerns the Hindus, but I find the provision in this Bill itself gone out of its province. According to my reading of this subsection, it means that even those who do not profess the religion of Hindu, Muslim Christian, Parsi or Jew, are to come within this Act, and this is applied to them I know that there are many thousands of people who do not belong to any of these religions. I feel that if this Act is applied to those people, it is tantamount to making a false conversion, so to say, of those people into Hindu or any one of these religions India is a very vast country It contains all kinds of people There are all kinds of religions also I know that there are some areas even in Manipur State where there are many thousands of people who do not belong to any of these religions mentioned in this Bill They are tribals, they have their own religions, they do worship, they offer sacrifices to their Gods According to this Act, if it is accepted as it is now I think it means that it will apply even to those people without their consent So, it is very unfair in consideration of those people unless and until we have got their consent, they are not Hindus, they are not Christians, they are not Parsis, they are not Jews, neither are they Muslims

SHRI K B LALL *Rose to interrupt*

MR DEPUTY CHAIRMAN Order, order Please address the Chair

SHRI R THANHLIRA I do not know what you are going to call them I know that they belong to the tribal people They have their own religion, they have their own form of worship, they also offer sacrifices to their Gods I think that we find the same sort of people not only in that side but also in some parts of Central India I feel that in consideration of those people, this portion will have to be suitably amended So, if we accept this Bill as it is now, it means that those people, when they contract marriage, will have to prove before the authority that they do not belong to Hindu etc as specified in this Act. That will be very inconvenient and it will cause nuisance to them. I feel that my amendment is a very fundamental one as it affects the religion and the sentiments of our own people in India.

DR. SHRIMATI SEETA PARMANAND: I wanted to say the same thing which Diwan Chaman Lall said. But I should like to add that this is necessary as well as practicable, because the Government has already appointed Tribal Ministers for a period of ten years, which proves the fact that these people are culturally not on par with the people in other parts of the country. So, Sir, nothing would be wrong if we give them some time. I have therefore suggested the period of ten years, or, as long as the Government thinks it necessary. So, it is practically the same as Diwan Chaman Lall's amendment.

SHRI RAJAGOPAL NAIDU (Madras): Sir, I rise to oppose amendment No. 16 which stands in the name of Diwan Chaman Lall. He wants, Sir, that this particular Bill should not be made applicable to the Scheduled Tribes. It is no doubt true, Sir, that Scheduled Tribes are the most backward in our country. The only argument that has been advanced by the mover of the amendment is that they have their own peculiar customs and peculiar manners. It may be admitted, Sir, that all the sub-castes of the Hindu community have their own peculiar customs and peculiar manners in the matter of marriages. I cannot understand, Sir, why there should be an exception made in the case of the Scheduled Tribes, simply because the customs and manners are different from others. In this connection, Sir, I will read here clause 29(2) of the Bill, which states as follows:

> "(2) Nothing contained in this Act shall be deemed to affect any right recognised by custom or conferred by any special enactment to obtain the dissolution of a Hindu marriage, whether solemnized before or after the commencement of this Act."

So, when there is a provision made under clause 29(2) of this Bill, I am unable to see why a particular exception should be made in the case of the Scheduled Tribes. Sir, I leave it to the House to decide it. There is ample provision made here in this Bill, and there need not be any particular exception made for the Scheduled Tribes.

DR. RADHA KUMUD MOOKERJI (Nominated): Sir, I wish to place before this House certain historical reasons, in the light of which it should consider the amendment that has been moved by my friend, Mr. Kishen Chand. I wish to inform the House that the term 'Hindu' is nowhere to be found in our ancient literature, within the entire range of Sanskrit, Prakrit or Pali literature. The term 'Hindu' is a foreign term which was invented for India by India's friend and neighbour, Iran. In fact, the term is first used in an inscription of about 520 B.C. issued by the Emperor Darius I, while giving the list of the provinces that then formed the Persian empire. The term 'Hindu' is first used there, but this term is a corruption of the term 'Sindhu'. Iranians thought that Indians should be described as a people living on the banks of the great river *Sindhu* or Indus. But because they could not pronounce the letter 'S', they pronounced it as 'Hindu'.

MR. DEPUTY CHAIRMAN: Is it not too late in the day to think of the term? We know what the Hindu law is, and courts have interpreted that term, and there have been a number of decisions and a number of interpretations.

DR. RADHA KUMUD MOOKERJI: There is no harm, Sir, if we try to correct a monumental historical error while on the subject of social legislation.

MR. DEPUTY CHAIRMAN: We are not concerned with ancient history now.

DR. RADHA KUMUD MOOKERJI: Now, Sir, the proposal is that the term 'Hindu' should be replaced by the term 'Indian'. I think, Sir, that the term 'Hindu' is.....

MR. DEPUTY CHAIRMAN: What I am pointing out is that the term

'Hindu' has attained a certain connotation in our judicial system.

DR. RADHA KUMUD MOOKERJI: If you will kindly let me have five minutes, I shall make my point clear. Sir, my point is that the term 'Hindu' is a strictly territorial term, and is not to be associated with any kind of religious connotation. And, in fact, if we read the entire history of our country, we shall find that it was possible even for the Greeks to call themselves 'Hindus'. Similarly, we can think of a Muslim Hindu, that is to say, the term 'Hindu' means 'any citizen of India, irrespective of his religion'. And therefore, Sir, I say that this great historical, synthetic and comprehensive truth is not to be absolutely brushed aside, simply because an error has accumulated for ages. So, I think, this is an occasion on which perhaps we may just introduce this kind of a correction, on the basis of our national history, and there is no harm if we say that this particular law may be called "The Indian Law of Marriage and Divorce", so that by having the term 'Indian' we can bring in all the inhabitants of India, except perhaps the Muslims who have their own personal law. Except Muslims, the term 'Indian' should include all the inhabitants of India. And this is an absolute truth of history.

SHRI B. M. GUPTE: Sir, in sub-clause (b) of the Explanation under this clause, two conditions have been laid down, if the law is to apply to legitimate or illegitimate children of mixed marriages or mixed cohabitation. The first condition is that one of the parents must be Hindu, Buddhist, Jaina or Sikh, and the other condition is that the child should have been brought up not only as a Hindu or a Buddhist or a Sikh or a Jaina, but it is further insisted that he must have been brought up into one of the sub-divisions of Hindus, that means, a tribe, a community, a group or a family. And I submit that this is undesirable. When our Prime Minister is crying himself hoarse against casteism and communalism, we are laying unnecessary emphasis upon the child being brought up even in one of the sub-divisions among the Hindus. I think, it should suffice if it is brought up as a Hindu, or brought up as a Buddhist, and so on. Why insist further that he should be brought up in a community, in a family, or in a caste or a tribe? That is not necessary at all. And, therefore, my amendment is to that effect. I will just give an illustration. Suppose, a Brahmin gentleman has married an English wife, and he is staying in Bombay, Calcutta, or some such big city. He is living the life of an ordinary Hindu, and not the life of an orthodox Brahmin. And he gets a son. Now, naturally, because the father is not leading the life of an orthodox Brahmin, his son also is not brought up as a Brahmin, but he is brought up as a Hindu. According to this definition, as it stands, the son would not be governed by this Bill, because it is said here that he must be brought up in the community or the caste of a Hindu. I therefore submit, Sir, that this further insistence that he should be brought up in the tribe, the community, the group or the family, is quite unnecessary and undesirable. It is sufficient if he is brought up as a Hindu. That is my submission.

JANAB M. MUHAMMAD ISMAIL SAHEB (Madras): Sir, I want to say a few words only with regard to the amendment moved by my hon. friend, Mr. Kishen Chand. There, Sir, he has made it clear that Muslims are not brought under the purview of his amendment, and Muslims are exempted. Sir, though he has exempted the Muslims from the purview of his amendment, other communities like Christians, Parsis and Jews, are being sought, by this amendment, to be brought under the operation of this law. Sir, the Bill before us has been based upon the Hindu personal law, and it has been drafted primarily as a Hindu personal law. It has been before the public all this time as the Hindu personal law. Now, will it be fair at this stage, though some Members belonging to those communities

[Janab M. Muhammad Ismail Saheb.] might have expressed a view favourable to the amendment, to bring those communities under the operation of this law? That is the question that I wanted to put to the hon. the mover of the amendment, Sir. In this connection, Sir, I want to express my gratitude to the mover of the amendment, as well as to the hon. the mover of the Bill, for showing their great consideration to the views and the feelings of the Muslim community, and for their having exempted them from the operation of this Bill, because there is the personal law for them, based on, and part of their religion, and they hold religion as the most sacred and valuable thing in their life. And therefore it is, Sir, that I am expressing my gratitude to the hon. Minister as well as to the mover of this amendment.

SHRI S. MAHANTY: Sir, I rise to support amendment No. 16, standing in the name of Diwan Chaman Lall, as also amendment No. 17, standing in the name of Dr. Shrimati Seet Parmanand, except that this law should not apply for a period of ten years. But, so far as the principle is concerned, this fact has to be borne in mind that even among the tribals of India what to speak of polygamy even polyandry is still prevalent. Therefore, it is a matter of public policy.

SHRI H. D. RAJAH: Do you want to encourage polygamy?

SHRI S. MAHANTY: Now, Sir, my friend has posed a question as to whether I want to encourage polygamy. But, what I want to say is. Sir, that even if the Todas of Nilgiris wish to have monogamous marriages, how the Government is going to provide them with the required number of women there. So, the question has to be judged from a practical point of view.

SHRI H. D. RAJAH: Then say 'polyandry'.

SHRI S. MAHANTY: Yes, polyandry. Similarly, Sir, in this Bill, you will find a provision about registration. Now, with all that illiteracy that is rampant among the tribal populations, how—I ask in all seriousness—is this law going to be applied to those tribal populations? Unless, of course, one is a wishful thinker, one would never recommend that this Bill should be applied to the tribal population. Therefore, I once again commend this amendment of my esteemed friend, Diwan Chaman Lall, to the House for acceptance.

DR. W. S. BARLINGAY (Madhya Pradesh): Mr. Deputy Chairman, I am inclined, with all respect, to support the amendments proposed by my friend. The question has been debated, and has been before this House for a sufficiently long time, as to whether this House, or rather this Parliament, is competent to change the personal law of the Hindus, or of the Muslims, or of any particular community in this country. Now, I am definitely of the view that so far as the powers of Parliament are concerned, there is no doubt whatever that Parliament is perfectly competent to enact laws which change the personal law of the various sections of the citizens in this country. About that there is no doubt at all in my mind. But, nonetheless, the question does arise as to whether it is proper for Parliament to enact things of this sort. That question is a little difficult and a little ticklish if I may say so. In our Constitution, the relevant articles are 13(2), 14 and 15(1). Now, if you will kindly permit me, I will read out these articles.

Article 13(2) states as follows:—

> "The State shall not make any law which takes away or abridges the rights conferred by this Part and any law made in contravention of this clause shall, to the extent of the contravention, be void."

Then, Sir, article 14 reads as follows:—

> "The State shall not deny to any person equality before the law or

the equal protection of the laws within the territory of India."

Then article 15(1) says that "the State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them." Now, in this case, what will happen? Take the case of monogamy. I am absolutely for monogamy. There is not the slightest doubt in my mind that it is not dignified for a person to marry a second wife while the first wife is alive. It is not dignified both from the point of view of the husband and of the wife. There is no doubt at all about it. Is it suggested then that that will be undignified for a Hindu but would be dignified for a Muslim. If you read the Preamble of the Constitution, it says:

> "We, the people of India.....assuring the dignity of the individual and the unity of the Nation;"

Now, it seems to me that what is undignified for a Hindu should also be undignified for a Muslim and *vice versa*. It should not therefore be argued that monogamy is dignified for a Hindu but it is not dignified for a Muslim. As I said, I am not arguing that it is not open to Parliament to enact laws changing the personal law either of the Hindus or the Muslims. I am not saying that but nonetheless it does seem to me that some very minute distinction has got to be made in this case. You will remember that some time ago, some hundreds of years ago, what was enforceable in this country before the Indian Penal Code was enacted was the Hindu Criminal Law. Then the Indian Penal Code was substituted for it, but it was not substituted so as to be applicable to the Hindus only. It was made applicable to Hindus and Muslims alike. Therefore what I am suggesting to you and to the House with all respect is that, if you want to change the personal law, whether it be of the Hindus or the Muslims, by all means do it but then, if you want to make any distinction, then that distinction must be relevant for the purpose of that particular law. Suppose you want to make a law with regard to women and children, by all means do it. There is a special clause in the Constitution for that, but my point is that, if you want to make a law which applies only to women and children, then that distinction between general citizens and women and children must be relevant for the purpose of that law. Now, in the case of monogamy, what I am suggesting is that the distinction that you make is not at all relevant to the purpose of the particular law. Now, I will illustrate this.

MR. DEPUTY CHAIRMAN. You have made your point sufficiently clear, Dr. Barlingay.

DR. W. S. BARLINGAY: What I say is that, if monogamy is dignified for Hindus, then it must be equally dignified for the Muslims, and if in Indian society the Muslims are allowed to marry something like four wives, then it will be discriminating against the Hindus to say that they should marry only one wife and not more. That is my point.

جناب سید مظہر امام (بہار) : ڈپٹی چیرمین صاحب - میں اس بل پر بولنا نہیں چاہتا تھا مگر میں نے اپنے دوست شری کشن چند کے اسٹیٹمنٹ کی وجہ سے یہ مناسب سمجھا کہ میں اس پر کچھ کہوں - قبل اس کے کہ میں کچھ کہوں میں یہ عرض کر دینا چاہتا ہوں کہ میں اس اسٹیٹمنٹ کی مخالفت میں کھڑا ہوا ہوں - اس کی سب سے بڑی وجہ یہ ہے کہ اس سے پہلے جب یہ بل پبلک اوپینین کے لئے بھیجا گیا اور جب سلیکٹ کمیٹی میں بھیجا گیا اسوقت تک یہ سمجھا گیا کہ صرف ہندوؤں نے پرسنل لا میں چینجیز کئے جا رہے ہیں - آج یہ انڈین کا لفظ لاکر

[سید مظہر امام]

وہ تمام کمیونیٹیز کو اس میں شامل کر دینا چاہتے ہیں جن سے اس کے متعلق کوئی اوپینین نہیں لی گئی ہے - اس وقت اس طرح کا لفظ لا کر اس کو چیلنج کرنا میرے خیال میں مناسب نہیں ہے -

تمام اسپیچیز کو سننے کے بعد جو دوسری چیز میری سمجھ میں آئی ہے وہ یہ ہے کہ ہمارے ان تمام دوستوں نے جنہوں نے یہ برابر کہا ہے کہ مسلمانوں کو اور دوسری کمیونیٹیز کو اسمیں شامل کیا جائے انہوں نے بھی اس بل کی مخالفت کی ہے - اگر ہمارے دوست یہ چیز اپنے لئے بہتر نہیں سمجھتے ہیں اور اس بل کی مخالفت کرتے ہیں تو وہ اسے ہمارے لئے بہتر کس طرح سمجھتے ہیں - اگر وہ خود یہ سمجھتے کہ یہ بل ایک عمدہ چیز ہے اس لئے اس میں مسلمانوں کو شامل کیا جائے تو میں یہ سمجھتا کہ انکی بڑی خوش نیتی تھی اور وہ ہمارے لئے بہتری چاہتے ہیں - لیکن جب وہ خود اس کو اپنے لئے مناسب نہیں سمجھتے اور اسکی مخالفت کرتے ہیں تو پھر کیوں اس میں دوسری کمیونیٹیز کو شامل کرنا چاہتے ہیں -

اس کے علاوہ میں اپنے دوستوں سے یہ بھی عرض کرنا چاہتا ہوں کہ اس وقت تک مسلمانوں میں جو ڈیورس اور طلاق کے قانون ہیں عورتوں کے حقوق جو ہمارے یہاں ہیں اور مہر کے لئے جو قانون ہے وہ اس سے بہت زیادہ ایڈوانسڈ ہیں - میں سمجھتا ہوں کہ اس لئے حکومت نے ان چیزوں کو سوچ کر مسلمانوں کو اس سے بری کر دیا ہے - میں حکومت کا شکریہ ادا کرتا ہوں کہ اس نے ہمارے قانون کو برقرار رکھا ہے اور اس کے اندر کسی قسم کا کوئی دخل نہیں دیا ہے -

میں ان الفاظ کے ساتھ اس امنڈمنٹ کی مخالفت کرتا ہوں -

[**सैयद मजहर इमाम** (बिहार) : जनाब डिप्टी चेयरमैन साहब, मैं इस बिल पर बोलना नहीं चाहता था मगर मैंने अपने दोस्त श्री किशन चन्द के अमेंडमेंट की वजह से यह मुनासिब समझा कि मैं इस पर कुछ कहूं । कब्ल इसके कि मैं कुछ कहूं, मैं यह अर्ज करना चाहता हूं कि मैं इस अमेंडमेंट की मुखालिफत में खड़ा हुआ हूं । इसकी सब से बड़ी वजह यह है कि इससे पहले जब यह बिल पब्लिक ओपीनियन के लिए भेजा गया और जब सलेक्ट कमेटी में भेजा गया उस वक्त तक यह समझा गया कि सिर्फ हिन्दुओं के पर्सनल ला में चेन्जेज किये जा रहे हैं । आज यह इंडियन का लफ्ज लाकर वह तमाम कम्युनिटीज को इसमें शामिल कर देना चाहते हैं जिनसे इसके मुतल्लिक कोई ओपीनियन नहीं ली गई है । इस वक्त इस तरह का लफ्ज लाकर इसको चेंज करना मेरे ख्याल में मुनासिब नहीं है ।

तमाम स्पीचेज को सुनने के बाद जो दूसरी चीज मेरी समझ में आई है वह यह है कि हमारे उन तमाम दोस्तों ने जिन्होंने यह बराबर कहा है कि मुसलमानों को और दूसरी कम्युनिटीज को इस में शामिल किया जाये, उन्होंने भी

†Transliteration in Devnagari script of the above speech

इस बिल की मुखालिफत की है । अगर हमारे दोस्त अपने लिए यह चीज बेहतर नहीं समझते हैं और इस बिल की मुखालिफत करते हैं तो वह इसे हमारे लिए बेहतर किस तरह समझते हैं ? अगर वह खुद यह समझते कि यह बिल एक उम्दा चीज है इसलिए इसमें मुसलमानों को शामिल किया जाये तो मैं यह समझता कि इनकी बडी खुशनीयती थी और वह हमारे लिए बेहतरी चाहते हैं । लेकिन जब वह खुद इसको अपने लिए मुनासिब नहीं समझते और इसकी मुखालिफत करते हैं तो फिर क्यों इसमें दूसरी कम्युनिटीज को शामिल करना चाहते हैं ?

इसके अलावा मैं अपने दोस्तों से यह भी अर्ज करना चाहता हू कि इस वक्त तक मुसलमानों में जो डाइवोर्स और तलाक के कानून हैं, औरतों के हकूक जो हमारे यहा हैं और महर के लिए जो कानून हैं वह इससे बहुत ज्यादा एडवान्स्ड हैं । मैं समझता हू कि इसलिए हुकूमत ने इन चीजों को सोच कर मुसलमानों को इससे बरी कर दिया है । मैं हुकूमत का शुक्रिया अदा करता हू कि उसने हमारे कानून को बरकरार रक्खा है और इसके अन्दर किसी किस्म का कोई दखल नहीं दिया है ।

मैं इन अलफाज के साथ इस अमेंडमेंट की मुखालिफत करता हू ।]

SHRI K B LALL I have given notice of an amendment for the de letion of this clause altogether but it has been ruled out but I think I have got a right to speak on this clause to say why I oppose it

MR DEPUTY CHAIRMAN You can oppose it right through, lock, stock and barrel

SHRI K B LALL That I am doing I am glad that our renowned historian, Dr Mookerji, has given support to my ideas That is the stand that I have been trying to stress He wanted the substitution of the word 'Indian' for the word 'Hindu' Only I was trying to bring home to my friends that the term 'Hindu' should not be taken to denote persons belonging to the Hindu religion but that it should be taken as a geographical term meaning the residents of this country So, if you give the secular sense to that word 'Hindu', the whole purpose will be served. My Muslim friends here have become apprehensive that we want to rope them into this law They also need not fear Let them be living on communal lines as merrily as they like, let the Jains Sikhs and the Buddhists go their own way, but so far as the enacting of this law is concerned, I wanted that the door should be kept open that we should not be told that we are communal-minded, that we are narrow minded and that we make legislation for one community only Of course the door should remain open and all should come in under the definition of Hindus and I have seen very many Muhammadans even saying "We are Muslims by religion but Hindus by nationality being residents of India" As a matter of fact in other countries also they are called Hindus I don't mean to suggest that we should encroach upon their personal law or their communal laws but why should we bang the door against those who voluntarily want to take advantage of the national laws? Suppose a Hindu boy or girl finds a partner in the Muhammadan community and they want to marry, they need not be told that there is no law to have such marriages Just as the hon Minister said that this is a permissive legislation, I want that in the same permissive spirit you could have kept the door open and kept it so wide open that all persons could have come within it and saved yourself from the charge of making a communal legislation So far as the definition of the word 'Hindu' is concerned I had given another amendment as to how the word 'Hindu' should be defined I don't know why people should be in love of communalism I don't know whether my friends who believe in calling Hinduism have ever thought of what is Hinduism that they adore so much It is something like imagining things

[Shri K. B. Lall.]

They are always in love of calling Hinduism and believing in Hinduism but I have not seen a single friend either here or elsewhere who has come up and said "This is the Hinduism that we follow". They say that it is a combination of so many religions that we follow and that is Hinduism. Then, why not bring in two or more —Christianity and Islam, the Jews and the Parsee? If it is a combination of all religions which you call Hinduism, why restrict it? So it is only love of narrowism, not Hinduism, a communalism that make them call themselves Hindus or as following Hinduism. I will only submit that by deleting clause 2 and accepting my definition of "Hindu" they will not only clarify the confusion that is existing in the country by calling Hindus as a community but even carry away nationalists like Shri Kishen Chand from suggesting the word "Indians". I don't know why you should be afraid of the word "Hindu" as a secular term. If you clarify that term, 99 per cent. of the apprehension will go out even from the minds of Muslims because I know even in the early days of the Imperial Council Sir Syed Ahmed used to say "I am a Hindu by nationality but my religion is Islam". I can quote many Muslims who will say so if you only clarify Hinduism. There is no such thing as Hinduism and you are not following Hinduism. If you make Hinduism a religion, then the Muslims will say that they are not Hindus and so all others can say. If you clarify these things, all your laws will be in conformity with your national principles and you will be keeping your door open for all those who want to take advantage of the national laws. With these words, I oppose the clause.

SHRI H. D. RAJAH: Sir, two points were raised and I am unable to find out from the clever speech of our hon. Minister as to whether he replied to those points at all.....

MR. DEPUTY CHAIRMAN: We are now concerned with clause 2.

SHRI H. D. RAJAH: With clause 14.....

MR. DEPUTY CHAIRMAN: We are concerned with clause 2.

SHRI H. D. RAJAH: To clause 2, clauses 14 and 15 apply and Mr. Kishen Chand has moved an amendment.....

MR. DEPUTY CHAIRMAN: You mean amendment No. 14?

SHRI H. D. RAJAH: The first amendment moved by Mr. Kishen Chand regarding the word "Indian" in place of "Hindus."

MR. DEPUTY CHAIRMAN: There is no such amendment before the House.

SHRI H. D. RAJAH: We are discussing Mr. Kishen Chand's amendment?

MR. DEPUTY CHAIRMAN: Mr. Kishen Chand's amendment is No. 8.

SHRI H. D. RAJAH: It is as follows:

"That at page 1, in the Short Title, for the word 'Hindu' the word 'Indian' be substituted".

MR. DEPUTY CHAIRMAN: We are not concerned here with the Title Mr. Mathur.

SHRI H. C. MATHUR: Mr. Deputy Chairman, clause 2 and the amendments are under consideration at the present moment and I am speaking on clause 2, as well as on the amendments. I will not cover the whole ground and try to give the same arguments about the constitutional position but I do wish to state that I stand fully convinced that this law as it is before us is discriminatory and it will not bear examination in relation to the articles that my friend has quoted. Even if we get out technically, there is no denying the fact

that this is a complete betrayal of the principles enunciated in the Constitution But even apart from that, we have got to take into consideration, even if it is not inconsistent with the Constitution, even if it is not adhering to the Directives, I want to ask the hon Minister what are the grounds which have been made out by him for not applying this law to all the citizens of India? Some hon Members speaking on this clause said certain things but if we just examine those arguments we will find that there is absolutely no substance in them and those arguments have been contradicted by other hon Members The hon lady Member, Dr Parmanand said that if this Bill is progressive, let us take advantage of it That is true, but what are the reasons for depriving others of the same progressive measure? If the Muhammadans are not forward enough, if they are not yet in that developed stage, if they are backward, let this Bill be applied only to the Hindus, but it is a fact? Will the hon Minister bear the contention that the Muslims are backward in this respect? I absolutely deny that fact and the other Members speaking on this Bill have said that the Muslims are rather more forward in this respect and there would be no difficulty in applying the provisions of this measure to them Another point has been raised that it is a personal law If personal law can be codified in respect of Hindus, there is no reason why the personal law cannot be codified in respect of the Muslims

MR DEPUTY CHAIRMAN Mr Mathur, none of the amendments tabled by Mr Kishen Chand wants the word 'Muslim' to be included

SHRI H C MATHUR Is clause 2 under consideration or not? I am speaking on clause 2

SHRI H D RAJAH What about clause 1?

MR. DEPUTY CHAIRMAN We are not concerned with clause 1 now, Mr Rajah When we take up clause 1 you may get up By that time I know you will be in Madras

SHRI H C MATHUR This question has been taken up even in Pakistan In Punjab this matter has already been taken up and I will just read out only four lines which I have before me It says

> Muslims in Punjab East may be forbidden by law to marry a second wife without first obtaining a decree "

MR. DEPUTY CHAIRMAN We are not concerned with what Pakistan does or does not

SHRI H C MATHUR There are two things—either we cannot touch the Muslim or

MR DEPUTY CHAIRMAN On the question of discrimination, you have already spoken in the general discussion at great length

SHRI H C MATHUR That is a constitutional point and I am not going to speak on the constitutional point

MR. DEPUTY CHAIRMAN We are now concerned with the amendments before us If you have anything to say on them you may speak

SHRI H C MATHUR Is clause 2 under discussion or not?

MR DEPUTY CHAIRMAN Yes, but with regard to discrimination, you have said sufficiently in the general discussion Please don't repeat I am sorry you are giving the same reasons

SHRI H C MATHUR What has been stated was in regard to the constitutional position Now I am going to speak

SHRI V K DHAGE (Hyderabad) May I interrupt and say that there seems to be some misunderstanding as to what Mr Mathur said in the

[Shri V. K. Dhage.]

first speech on the general discussion? He had reserved his speech on the constitutional point when he would move the amendments and he had not dealt with this point in the speech which he made before... ..

MR. DEPUTY CHAIRMAN: There is no misunderstanding on that point.

SHRI H. C. MATHUR: I will speak on the constitutional position while discussing clause 1. But I am discussing clause 2 and I am urging different grounds. I was only mentioning the constitutional position in passing. I say that there is a demand like this even in Pakistan and it would be only well and proper for us to include the Muslims also. I have been provoked to say this further because two friends here have spoken on this subject and they have expressed gratitude to Government for keeping Muslims out.

SYED MAZHAR IMAM: But Pakistan is not the religious head of Indian Muslims.

SHRI H. C. MATHUR: But my point is that the Congress Government is always fighting shy of doing anything where Muslims are concerned and it is this attitude that is again evident in this Bill that has been brought before the House. If they were strong enough, if they felt that they could enact for the whole country, my complaint is why the Congress Government is not feeling itself strong enough to bring a legislation to include the Muslims also? They fight shy of the Muslims and.....

SHRI H. D. RAJAH: That is correct. They are shy.

SHRI H. C. MATHUR: .....and they feel bullied. That is my feeling and I shall express that feeling in the most straight forward manner.

DR. SHRIMATI SEETA PARMANAND: Question.

SHRI H. D. RAJAH: No, that is correct.

SHRI H. C. MATHUR: They must certainly come with such a measure. I do not want to be obstructive in the least degree. I will be satisfied if the hon. Minister who is piloting this Bill tells me that immediately after this Bill is passed he will bring forward another Bill which would meet our demand. The argument has been raised that those of us who spoke on this subject do so simply because we want to be obstructive, that we do not want this particular measure to pass into law. I say, pass this measure within three days, but then please give us the assurance that you will come forth with another measure which will cover our demand. We would be satisfied and we do not want to be obstructive at all, we are not manoeuvring to see that this measure is put off till the devil's day. Pass this Bill, I entirely agree with you. But there is another thing which is to be considered. Apart from the constitutional matter, what would be the effect of passing this measure? The effect will be, in the same country, two types of treatments will be given. The Hindu can marry only one wife. I am very happy about that. But what will happen? When a woman is discarded, she will have no other course open to her except to embrace Islam.....

SHRI H. D. RAJAH: Or say, a man of another faith.

SHRI H. C. MATHUR: .....so that she may be at least a second wife there. There is no place in the Hindu community for a second wife. Therefore the discarded woman will be forced to embrace Islam because that is her only way out, for she can be at least the second or third wife.

DR. SHRIMATI SEETA PARMANAND: No, no.

SHRI H. C. MATHUR: Well, in this sort of thing there is no use being sentimental, it is no use trying to be unnecessarily decent. Whether it is a question of divorce or whether.....

MR. DEPUTY CHAIRMAN: We are not on the question of divorce. You have already exceeded ten minutes.

SHRI H. C. MATHUR: I am only trying to bring to the notice of the House that the result of this measure on the community will be most disastrous.

SHRI R. P. TAMTA: Just one minute, Sir.

MR. DEPUTY CHAIRMAN: Order, order.

SHRI R. P. TAMTA: I will not take long, Sir. As I said in my previous speech, the Parsis have their marriage and divorce laws and among Parsis marriage among cousins is allowed And that community being a small one, if you allow this clause to be there as it is, it will be very difficult for Parsis to get brides and bridegrooms.

MR DEPUTY CHAIRMAN: And so you want them to be excluded?

SHRI R. P. TAMTA: Yes, Sir. I want them to be excluded. That is all that I have to say.

MR. DEPUTY CHAIRMAN: But have you sent in an amendment?

SHRI R. P. TAMTA: The amendment is already there.

MR. DEPUTY CHAIRMAN: Yes, Mr. Karmarkar.

SHRI B. K. MUKERJEE: But the Minister has already replied to the amendments in his previous speech.

SHRI D. P. KARMARKAR: Sir, I never made Mr. B. K. Mukerjee my trustee. Anyway, I will indicate in a few words the amendments which have been moved and which I am in a position to accept. Sir, I am in a position to accept amendment No. 9 moved by Diwan Chaman Lall amendment No. 16 also moved by him, and also this amendment No. 19. I would not like to add to what he has already said, for the reasons advanced have appealed to me. I only want to make a small suggestion which I hope will be acceptable to him. In amendment No, 9, instead of saying "territories" to which this Act applies" I would like to say the "territories to which this Act extends".

DIWAN CHAMAN LALL: I accept the change, Sir.

SHRI D. P. KARMARKAR: And also I am sure he will not have any objection to another small change and that is in amendment No. 16 where instead of putting it as "any Scheduled Tribes" I would like to use the singular and say "any Scheduled Tribe".

DIWAN CHAMAN LALL: I accept it, Sir.

MR. DEPUTY CHAIRMAN: And so amendment Nos. 9, 16 and 19 are being accepted, with the slight changes referred to, in No. 9 and No. 16?

SHRI D. P. KARMARKAR: Yes, Sir. Now, with regard to the points that were raised here, I wish to make it clear at some stage or other what has been enjoined by the Constitution. This question has also been dealt with in two decisions which for the information of my hon. friend Dr. Barlingay who is an expert lawyer, I may refer to here. In two decisions reported in 1951 Madras Weekly Notes, page 846 and 1951 B.L.R. page 779, the Madras Hindu Bigamy Prevention and Divorce Act, 1949, and the Bombay Prevention of Hindu Bigamous Marriages Act, 1946, were respectively challenged on the ground that the provisions contravened articles 15, 14, 15 and 25 of the Constitution. In both the cases it was ruled that there was no such contravention. It was pointed out that marriage is undoubtedly a social institution—an institution in which the State vitally interested. If monogamy is very desirable and the State compels Hindus to become monogamous, it is a measure of social reform and if it is a measure of social reform, the State is then empowered to legislate with respect thereto under article 25(2)(b) notwithstanding that it may

[Shri D P Karmarkar]

~~interfere with, it may~~ interfere with the right of a citizen freely to profess, practice and propagate religion

Sir, with respect to article 14, the position is that the question to be considered is whether there is any reasonable basis for dealing with the Hindus and Muslims as a separate class It is a historic fact, as I stated, that both the Hindus and Muslims have had their own personal laws and religious texts for a long time Article 44 of the Constitution does recognise separate and distinctive personal laws because it lays down as a directive to be achieved that within a measureable time India should have a common uniform civil code Therefore, Sir, what is being done in a case like this is to introduce social reform in respect of a particular community having its own personal law The institution of marriage is differently looked upon, as I said, by the Muslims and, therefore, the question of dissolution of marriage is also differently tackled Sir, as the Law Minister has made it clear in one of his earlier speeches, it is the intention of the Government to implement, as early as possible, what has been laid down as a directive by article 44 of the Constitution

Having said that, I shall indicate very briefly the reasons for my not being able to accept some of the amendments moved

Sir, I am not in a position to accept amendment No 8 because this is not a civil code for all Indians I have already said about No 9 Number 10 is not acceptable to us That is the point made by my hon friend over there, I discussed it with him and he seemed to be half satisfied We cannot accept amendment number 11 The same applies to 12

MR DEPUTY CHAIRMAN Number 12 has not been moved

SHRI D P KARMARKAR I am sorry, Sir.

Number 13 is not acceptable The question is whether the person concerned is brought up as a Hindu, Budhist, Sikh or Jaina or whether he is brought up in a particular community The first will be difficult and the latter will be easy to prove Sir, I discussed it with the mover and he looked like being in a position of withdrawing it Sir, number 14 also is not acceptable to us I have accepted number 16 Seventeen has been ruled out of order and number 18 is not acceptable because this sub clause is necessary for construing the word "Hindu" in the whole of the Act Obviously an amendment in the whole Act cannot be achieved by sort of putting a particular meaning to the word When the substance is not acceptable this outer kernel is not acceptable to us Therefore, I regret that it is not possible for me to accept this Perhaps that is why, Sir, Dr B K Mookerji had something to say that in the whole world the 'Hindu" is a generic term We are not concerned with that because we know that in the United States many people understand Hindu as an Indian It is not by such interpretation that the whole tenor of the Act could be changed For this reason I regret I am not in a position to accept them We accept No 19

MR. DEPUTY CHAIRMAN Where does your "extends" comes?

SHRI D P KARMARKAR That is in amendment No 9, Sir which I have accepted.

DIWAN CHAMAN LALL In my amendment No 9, instead of "applies' the word is "extends"

MR. DEPUTY CHAIRMAN Do you accept that?

DIWAN CHAMAN LALL Yes, Sir

SHRI D P KARMARKAR I have accepted that, Sir

MR. DEPUTY CHAIRMAN: The question is:

8. "That at page 1, line 13, after the word 'Sikh' the words 'or Christian or Parsi or Jew' be inserted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: I shall now put the amended amendment of Diwan Chaman Lall.

The question is:

9. "That at page 1, line 15, for the word 'India' the words 'the territories to which this Act extends' be substituted."

The motion was adopted.

*Amendments Nos. 10 and 14 were, by leave of the House, withdrawn.

MR. DEPUTY CHAIRMAN: The question is:

11. "That at pages 1 and 2, for lines 15 to 24 and 1 to 6 respectively, the following be substituted, namely:

'(c) to any other person domiciled in India who is not a Muslim'."

The motion was negatived.

*Amendment No. 13 was, by leave of the House, withdrawn.

MR. DEPUTY CHAIRMAN: The question is:

16. "That at page 2, after line 6, the following be added, namely:

'(1A) Notwithstanding anything contained in sub-section (1), nothing contained in this Act shall apply to the members of any Scheduled Tribe within the meaning of clause (25) of article 366 of the Constitution unless the Central Government, by notification in the Official Gazette, otherwise directs'."

The motion was adopted.

MR. DEPUTY CHAIRMAN: Amendment No. 17 is out of order and No. 18, being consequential, goes.

MR. DEPUTY CHAIRMAN: The question is:

19. "That at page 2, line 10, for the word and figure 'Sub-section (1)' the words 'this Section' be substituted."

The motion was adopted.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 2, as amended, stand part of the Bill."

The motion was adopted.

Clause 2, as amended, was added to the Bill.

MR. DEPUTY CHAIRMAN: Motion moved:

"That clause 3 stand part of the Bill."

There are a number of amendments. Amendment No. 20 is out of order.

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

22. "That at page 2, lines 17-18, the words 'or opposed to public policy' be deleted."

SHRI KISHEN CHAND: Sir, I beg to move:

23. "That at page 2, lines 23-24, after the words 'civil court' the words 'or Panchayat Sabha' be inserted."

SHRI K. B. LALL: Sir, I beg to move:

*For text of amendments, *see* cols. 1565 and 1566 *supra*.

[Shri K B Lall]

24 "That at page 2, after line 31, the following be inserted, namely

'(cc) the expression "Hindu" in this Act shall be construed to mean any person residing in India irrespective of his or her following any religion' "

MR. DEPUTY CHAIRMAN You have already made the speech, you will not make any more speech now

SHRI J S BISHT Sir I beg to move

25 "That at page 2, line 34, for the word 'includes' the word 'means be substituted"

SHRIMATI SHARDA BHARGAVA Sir, I beg to move·

26 "That at page 2, for lines 38-43, the following be substituted —

(f) (i) *sapinda relationship* with reference to any person extends as far as the seventh generation (inclusive) in the line of ascent through the father, the line being traced upwards from the person concerned, who is to be counted as the first generation'

DR. SHRIMATI SEETA PARMANAND Sir, I beg to move

30 "That at page 3, lines 14 to 16 be deleted "

SHRIMATI SHARDA BHARGAVA I beg to move

'1 "That at page 3, after line 16, the following be inserted, namely —

'(v) if the two are second or third cousins or if one is the father's or the mother's first or second cousin of the other' "

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

SHRI KISHEN CHAND Sir, in the earlier discussion, several hon Members pointed out that 80 per cent of our population lives in the rural areas and it will be a very difficult matter for them to come to the courts I have, therefore, added something suitable to the definition of a civil court and I want to add "or Panchayat Sabha" after the words "civil court" The Panchayats are going to perform the functions of civil courts as far as the villages are concerned If my amendment is accepted, it will be very definite Clause 3(b) reads as follows "district court" means, in any area for which there is a city civil court that court and in any other area the principal city civil court of original jurisdiction, and includes any other civil court which may be specified by the State Government, by notification in the Official Gazette My amendment is only aimed at further elucidation of the words 'civil courts' and I think the hon Minister will gladly accept it It will be of real help to 80 per cent of our population

SHRI J S BISHT Sir the reason for this amendment is this In the original clause it is said, "custom' and "usage" signify any rule which, having been continuously and uniformly observed for a long time, has obtained the force of law among Hindus in any local area tribe, community group or family provided that the rule is certain and not unreasonable or opposed to public policy As far as I know, in the Hindu law, there is no custom or usage which has not already been put forward in the courts and either accepted or rejected by the courts There, is a complete codification so far as the customs and usages are concerned Now, by bringing in these words "opposed to public policy" I want to know whether or not those accepted customs and usages will be challenged now on the ground that they are opposed to public policy? Why allow this sort of a loophole so that tomorrow things which have been crystallised things which have been settled by the various rulings of the High courts may again be challenged on the ground

that they are opposed to public policy?

5 P.M.

As far as "custom" and 'usage" are concerned, a full definition has been given here It has been continuously in use uniformly observed from time immemorial, has the force of law, it is certain, it is not unreasonable What more do you want? Why is this thing added now 'or opposed to public policy' Therefore I submit Sir, that it will serve no useful purpose It will only add to the lot of litigation in this country if we have this sort of wording which may be given any meaning and there may be different rulings on this point in its different meanings The ruling on one point by a court may not be accepted and the matter may be taken up to the Supreme Court and the Supreme Court will give its ruling on that point Then another point will arise and another ruling may be given which may be challenged in the Supreme Court In this manner cases on this account will cover the whole of India So I say that "or opposed to public policy" be deleted in the interests of simplifying the law and not giving any loophole for further litigation

SHRI GULSHER AHMED It is time, Sir Are we to take it that we are going to sit up to six o'clock?

MR DEPUTY CHAIRMAN I announced even day before yesterday that today the House will sit up to six

SHRI KANHAIYALAL D VAIDYA (Madhya Bharat) We have so many other engagements

MR. DEPUTY CHAIRMAN But if the House co-operates with me on Monday and Tuesday and finishes the Bill by the time schedule I have no objection to the House rising now, but at the same time I do not want anybody to raise objections that the time for speaking is restricted

SHRI KISHEN CHAND: We should be given a good deal of time.

MR. DEPUTY CHAIRMAN All right, we will sit then till six o'clock

SHRI J S BISHT May I just make a point? I just found out from an hon Member of the Lok Sabha that the practice that has been developed now is this that after the Business Advisory Committee has fixed the timing on every item it is placed before the full House and a resolution is passed accepting it or modifying it so that it becomes the order of the House At present we are not observing that practice That is why this difficulty is arising So I submit that when the Business Advisory Committee has fixed a certain timing with regard to the

MR. DEPUTY CHAIRMAN Here we have been automatically accepting whatever the Business Advisory Committee decides That is why it has not been put before the House, I mean that will be placing too rigorous an interpretation

SHRI J S BISHT What I am submitting is this that this is not like the ordinary Bills, the Tea Bill or the Coffee Bill This is the Hindu Code which is going to govern thirty crores of people for all time to come So in this there should be no curtailment of time It does not matter whether it is one day more or one day less in respect of ordinary Bills If necessary even other business should be postponed

MR. DEPUTY CHAIRMAN We have already extended the time by three hours I do not think any further extension is possible

SHRI B K MUKERJEE I am at one with whatever my hon friend has mentioned There is a specific provision in the Rules—that is probably 28(a') or something like that—whereby one Member of the Business Advisory Committee will make a motion before this House and if the House does not amend that—the House has got the right to amend that also—and agrees with the motion, it then becomes obligatory on the House to abide by that committee's advice.

What is being done now is not in accordance with that Rule.

MR. DEPUTY CHAIRMAN: I am sorry I cannot accept your interpretation, Mr. Mukerjee.

We will go on then with the debate.

SHRI H. N. KUNZRU: How long do you propose to sit?

MR. DEPUTY CHAIRMAN: Till six.

SHRI D. P. KARMARKAR: In view of the assurance given by hon. Members.....

MR. DEPUTY CHAIRMAN: Some of the Members say that they are not prepared to give that assurance.

SHRI D. P. KARMARKAR: Let us take the consensus of opinion.

SHRI H. N. KUNZRU: If longer sitting is required, well, we can sit up to six only on Monday.

MR. DEPUTY CHAIRMAN: What I told the House the day before yesterday was that we will have to sit till six o'clock on Saturday, that is today, Monday and Tuesday also.

DR. SHRIMATI SEETA PARMANAND: You can scrap the recess also on Monday.

MR. DEPUTY CHAIRMAN: I have announced in the afternoon that if need be there should be no recess at all on Monday and Tuesday and we should sit even beyond six. If all of you agree we can do so. Now coming to the point if the House agrees to co-operate with me and finish the bill within the scheduled time, I have no objection to adjourn the House now.

SHRI D. P. KARMARKAR: When a time schedule is fixed we run a risk also. Supposing we debate an important clause, say for example clause 4, for a very long time, without taking into consideration what time would be required for other equally important clauses, at a late stage the position may be such that some clauses and their amendments will remain yet to be discussed and the Chair at that time will have no other alternative but to apply the guillotine and put the clauses to the vote.

MR. DEPUTY CHAIRMAN: Is it the opinion of the House that we adjourn now?

SEVERAL HON. MEMBERS: Yes.

MR. DEPUTY CHAIRMAN: All right. The House stands adjourned till 11 A.M. on Monday.

The House then adjourned at five minutes past five of the clock till eleven of the clock on Monday, the 13th December 1954.