

RAJYA SABHA

Saturday, 11th December 1954

The House met at eleven of the clock. MR. CHAIRMAN in the Chair.

THE INDIAN RAILWAYS (THIRD AMENDMENT) BILL, 1954

THE DEPUTY MINISTER FOR RAILWAYS AND TRANSPORT (SHRI O. V. ALAGESAN): Sir, I beg to move for leave to introduce a Bill further to amend the Indian Railways Act, 1890.

MR. CHAIRMAN: The question is:

"That leave be granted to introduce a Bill further to amend the Indian Railways Act, 1890."

The motion was adopted.

SHRI O. V. ALAGESAN: Sir, I introduce the Bill.

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

SHRI H. D. RAJAH (Madras): Sir, this Bill which is before our House after the Select Committee has presented its report, requires very careful consideration by this House. I am now referring to the multitudinous minutes of dissent which are presented in this House and also the support given by various sections of this House. Let me get into the fundamentals. Sir, what is marriage? Is it a biological need, a social obligation, a sacrament, a contractual liability or a service to the State or is it all these five put together? If marriage is a biological need, there are various forms of marriage in this country. Some orthodox Hindus will conduct their marriages in the *Sapta-padi* style. The sacred fire must be there and the marriage is not considered to be solemnized or completed till the bride and the bridegroom complete their seven steps round the *Agni*. Now there are certain sections of people who perform marriage

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denying these fundamentals of Hinduism. Sir, in my part of the country a section of the masses disown the *Purohit*, they disown the *Agni*, they simply call round certain friends and exchange their ring or garlands and call it a marriage. Shri C. Rajagopalachari's Ministry found it very difficult after the High Court of Madras passed a judgment making these marriages illegal. The State brought in a legislation unhelpful so far as these marriages were concerned but in the eyes of the State, helpful to those couples, to get them registered under the new law even after so many years have elapsed since the marriage took place. I am pointing out one aspect of the Hindu society which has disowned the *Purohit* and other forms of rituals but still call themselves Hindus and conduct marriages without the old form. How are you going to deal with that problem by this Bill? This Bill is not specific with regard to any marriage. The second aspect of it is that the marriage is a sacrament. If a marriage is conducted on the basis of the sacrament according to the Hindu religion, you are out of court because *Dharma Shashtra* is the basis of their marriage and since time immemorial that marriage has taken place and nobody has challenged it. When I was going round, some Western people thought that our marriage is a curious thing. They asked me "How is it that you get your girls and boys married? Is it true?" I said 'Yes' and then they asked "How does it work?" I said: "The very fact that I am standing before you has demonstrated that it has worked very well and 400 million people in India are today alive on the basis of such marriages that have taken place for centuries and it has worked very well". Sir, the concept between the West and the East in respect of marriage is fundamentally different. In the West they start with wooing and cooing, kissing and hugging, culminating in the final summation of the marriage before the marriage itself is consummated. In India I want to know from you, Sir, how many of our people

MR. (JHAIKMAJM): You should not generalise.

SHRI H. D. RAJAH: I should not generalise? Should I take particular instances? Sir, in India the particular issue with regard to this marriage is fundamentally different. How many of our Legislators, I ask today, will allow their women or their children—either boys or girls—to start that kind of wooing and then give them in marriage? It is considered to be the sacred responsibility of the parents, when a boy or a girl comes of mature age, to select a decent bride or a bridegroom and get that marriage consummated according to his own concept, his cultural affinity, his blood which is thick with tradition as to how to conduct the marriage. Then, when I said that we are fundamentally different from the West in the concept of marriage, I come to the provision of divorce. Every aspect of life so far as that Western civilisation is concerned, is based upon 100 per cent, complete freedom of the boy or girl. They are given an opportunity to meet and then start wooing but here YOU will not worry till your girl has reached 18 years of age and then the parent seriously thinks as to where the girl should be married, as to where the bridegroom is to be found. The man starts on a pilgrimage in search of bridegroom. He goes round to various places, gets their horoscopes, gets them scrutinised and says this is good, that is bad etc. Then the bridegroom comes to the bride's house and sees the bride and then when he says 'O.K.' and when all the other preliminaries are finished, you think of settling down with that marriage. Then, Sir, it is associated with dowries. You don't pass off your daughter without giving all the necessary things to her for the new home which she is going to establish. In Chettinad, you will be amazed to find that in marriage, including the bed and the broomstick, everything is given in order to take her to the new home which she is going to establish with her husband. If anything happens to that marriage, if the man dies the entire articles should be returned.

SHRI S. MAHANTY (Orissa): How is that broomstick used?

SHRI H. D. RAJAH: You cannot live in your house without a broomstick. So in every house, the first principle is that all these articles are given in the form of dowry and the marriage is consummated and then the most noble sentiment of the whole lot is that when the bride and bridegroom start settling down, they do under the care and protection of the parents. Then they get to know each other and they start loving each other and the consummation of the marriage is the production of children. This, Sir, is the very antithesis *off* what obtains on the other side. There you will find that divorce is quite normal but it has now become repugnant and the question of divorce has been looming large in the eyes of hundreds of people in the West, including very decent writers who are concerning themselves with the pathological, the biological and other aspects of human life. Indeed, one of the questions which is engaging the careful attention of people in Britain is this divorce question. I will simply read the headline of this article in this book—

"DIVORCE THAT SHOULD NOT HAPPEN

by *Howard Whitman*

Last year in Britain 32,746 divorce decrees were made absolute—an average of nearly 90 divorce" every day of the year. What lies behind the tragedy of divorce? What can be done to repair unhappy marriages?"

Sir, you see it is 90 divorces every day. They were made absolute in a country where the population roughly is about 100 million. I think that is on the liberal side. Now, in our country, assuming that we have De-come so sophisticated and civilized that we want our children to get themselves divorced from each other when they get married, in a country

like ours with 400 million inhabitants, what would be the average daily rate of divorces when that becomes a permanent aspect of our life?

Sir, the other important point with regard to divorce is that my friend who belongs to another faith can have his divorce in a second. All that he has to do is to say to his wife: "Talaq, Talaq, Talaq." That is all and there is an end of it and that divorce is absolute.

SHRI S. N. DWIVEDI (Orissa): Tilak or Talaq?

SHRI H. D. RAJAH: Whatever it is, the thing becomes absolute and within such a short period the question of divorce is settled; and what is more, the court recognises it. But, Sir, in this Hindu Marriage and Divorce Law, if I have to get a divorce, I must run after a "vakil", a lawyer, and then present my case and have it taken before a judge and undergo all the doubtful problems which will beset me especially if I go to a lawyer and the lawyer will certainly make the matter as complicated as he can so that he could pinch a larger amount of money from both the parties. And so this is a costly show with regard to my seeking relief by divorce compared to a very normal show of my colleague who is also a citizen like me, a fellow-citizen in this country, and that surely does not amount to equality of status, or equal protection of the law. Therefore, I say this law, if passed, will fundamentally offend the provisions of the Constitution. Article 14 of our Constitution is very clear on this point and equality before the law and equal protection of the law are guaranteed to every citizen in our country.

Let it not, however, be understood by this statement of mine that I am opposed to divorce. On the other hand, I want all our women to have divorces if they so desire. That does not matter. Let it not be felt by them that here is an old orthodox Hindu crank who is up against our desire to have one husband lawfully at a time. That is permissible by this law and I

j will certainly permit all the ladies of our country who want only one hus-

-band at a time lawfully, to have that husband. But all, all must be treated uniformly with regard to other aspects of life. You directly come into conflict with your property rights, with your other rights, with your domestic rights or your "kudumbam" rights—"kudumbam" means family. And if you want to create dissolution, disharmony and turmoil, the only thing to be done will be to allow this particular kind of thing to happen. I would humbly request the hon. Minister who is piloting this Bill in this House to take into consideration all these matters before he pushes it.

After all, Sir, this is a very simple matter and in one short Bill the hon. Minister can have all that he desires effected in this country for the sake of the country and for the sake of the nation. He can withdraw this Bill and bring in a two-clauses Bill in which he will say: "Any Indian citizen can have any marriage with anybody he likes". And the other clause will be: "Any Indian citizen can have a divorce whenever he likes." When both these provisions are made into law, then a man or a woman can marry a "sagotra" woman or man. He or she can marry out of caste. He or she can marry a person who does not belong to the Hindu religion even. And the matter is simple, so far as the State is concerned. But if the State wants to interfere only with one particular religion then it becomes out of court. It stands self-condemned. You are actually going against your accepted canons of secularism. In a secular State either you treat religion as something which is a personal matter and in which the State will not interfere, or you will have all interference in every religion according to your desire. You either respect the human being or you respect a religious maniac. I cannot understand this dual policy of this Government which has no mind of its own. It must respect the individual and his rights or it must infringe on the liberty and the respect of all individuals. In this respect every citi-

[Shri H. D. Rajah.]
zen should stand on the same footing as any other citizen. You should not create two classes of citizens in this country. When I was in France

MR. CHAIRMAN: It is time, please conclude.

SHRI H. D. RAJAH: Yes, Sir. In France, I found, there is the citizen and a slave. In this country you are by this Bill producing two kinds of citizens, one on whom a benefit is conferred and you are denying to another the same right and the same privilege. That is monstrous. I say the Hindu sister who is going to

MR. CHAIRMAN: Please address the Chair.

SHRI H. D. RAJAH: Yes, Sir. My Hindu sister is going to get a benefit out of this provision and you should not deny the same right to her fellow Muslim sister. What is the pathetic condition in which that Muslim sister is placed? If the Hindu sister sees her husband bringing in another woman when she is the "house-lady" running her home, she can say, "No, *%4*ei»monogamy is the rule of the day. You cannot bring in another woman when I am the landlady of this house." I respect her. I honour her. She has got the right and the privilege of equality just like her husband to run her show as she likes in her house. But in this Hindu Marriage and Divorce Bill, you deny that fundamental right to my Muslim sister and therefore I feel that it is repugnant not only because you violate the Constitution but also because you are creating a second-rate class of citizens in this country and that is monstrous.

MR. CHAIRMAN: That will do.

SHRI H. D. RAJAH: Two minutes more and I am done. I have to raise another point in this connection.

MR. CHAIRMAN: One minute?

SHRI H. D. RAJAH: But, Sir, this question is agitating the country so much and if you restrict the right to express the various viewpoints, then there is no meaning in conducting this legislation or in carrying it through. My difficulty is

MR. CHAIRMAN: But as a responsible legislator you should have been . present all these days.

SHRI H. D. RAJAH: That is right, Sir, and I apologise to this House for-not coming earlier. But the point is on such a vital matter which concerns the social life of a big community in , this country, this kind of restrictions on speeches would be really very bad. That is all I can say. In two minutes -I will finish, Sir.

MR. CHAIRMAN: One minute.

SHRI H. D. RAJAH: Now I will, come to another phase of it and show how incongruous this legislation is. You have recognised certain methods . of marriage. You have recognised certain usages and certain customs also. And you have also recognised certain marriages which you are going to -prohibit under this law. This is incongruous. Why not make it permissive? All that I ask is, make this , legislation a permissive one. Let it be applicable to those who want to take shelter under this law. But do not make it compulsory. Either you have a clear-cut method by which you see that a rational legislation with regard to marital happiness and marital relationship between man and woman is established, or you make it . permissive and say that the legislation is made permissive, whether it be a Hindu or a Muslim, a Christian or a Jew or anyone who professes any faith or even if he be a rationalist.

Therefore, Sir, I would earnestly request my friend the mover of this Bill to reconsider these matters because the objections are too many and voluminous. You profess yourself to be a secular man and you stand condemned if you move these on a religious aspect which vitally offend the provisions of the Constitution.

DR. P. SUBBARAYAN (Madras): Sir, I thank you for having given me this opportunity. Though I have destroyed all my notes and I am in the position of a person not possessing any material, still, in deference to your wishes, I hope to say a few words. Now, this Hindu Law Reform har.

been before the public for many years and the Rau Committee went into the matter fully and have reported on it. This measure is largely based on the Rau Committee's Report. I think I might give my special meed of tribute to Dr. Ambedkar who is not here but who laboured hard to push through the Hindu Code before the last Parliament but circumstances did not permit of this measure going through. Therefore, Government decided—and rightly so—to get through this Hindu Code by piecemeal legislation and this is the first part of that legislation. I would like to tell my hon. friends who represent the orthodox view here that no law in the world whether of the Greeks or of the Romans has been static; law has grown as society has grown and even the Hindu Law in spite of the imposition by the rulers of the day, the British Government, had grown in its own way. Now, to give an example, the rule against perpetuity is a special provision of the real property law of England but has now found a place in the law of this country also because in the administration of law, they found that some such restrictions are to be imposed on the way a property is disposed of. That is my answer to friends who think that law should be static. I think if it were not for Queen Victoria's Proclamation of neutrality in the matter of religion, Hindu law would have grown and would have adapted itself to the circumstances that obtained in this country. I hope that my hon. friend Mr. Rajah recognises that what was right in the 16th or the 17th century does not hold good today because society has grown and the world has become narrower now. When I first went to England, it took me exactly 18 days going across the Continent but today you can get to London in almost 24 hours' time. Therefore, the world has become narrow and I think the people of this country should attune themselves to what is obtaining in the world. I think this piece of legislation is a thing which leads to this attunement. I would like to point out that even orthodox people

who were quoted the other day by my friend Mr. Bhupesh Gupta, like Mr. V. V. Srinivasa Iyengar, a leading jurist of Madras, have said that law would have grown and even pundits and the lawyers have made a mistake in not going on with the circumstances that obtain in the country. Therefore, what is being done by the Government is something that the people as a whole want. People ask, "why don't you have a complete civil code for all the people of this country irrespective of religion" but my answer is that if we adopt it ourselves being the majority community, that will be an indication to the other members of the body politic to come under the same code of law and we may eventually work towards a single code of law for all the citizens of this country. My hon. friend Mr. Mukerjee from Uttar Pradesh waxed eloquent on this matter but what I say to him is this: Why think of others? If you can reform yourself, why not reform yourself? In spite of the petitions that have been presented on the floor of this House, I am convinced that the majority of the people of this country" would welcome this measure.

DR. P. C. MITRA (Bihar): Certainly not.

DR. P. SUBBARAYAN: My friend says, "certainly not" but I have a different opinion. That is a different matter.

DR. P. C. MITRA: Everybody is against it. (*Interruption.*) Even in this House there is no majority.

DR. P. SUBBARAYAN: In spite of all that is said by the older and the orthodox members of our community, I am sure the future generation would welcome this step that has been taken by this Government. We owe it greatly to our Prime Minister for this measure being pushed through. He is the one man who has stood guard over progress and who has been always wanting to progress. I am sure that the House is adopting a measure which will be next to his heart. I hope Mr. Karmarkar would have no difficulty in pushing this measure through this House.

[Dr. P. Subbarayan.]

Thank you, Sir.

SHRI H. C. MATHUR (Rajasthan): Mr. Chairman, I am most grateful to you for giving me this opportunity to speak though I find myself exactly in the same position as my hon. friend who has preceded me. I wish to submit that I have not been able to reconcile myself with the tone, temper and content of most of the speeches made on this Bill in this House. Many of my esteemed sisters have spoken with feeling, fervour and indignation and many amongst us here have championed the cause of women, the down-trodden women who have been treated like chattel in this country. While I listened to all these speeches I wondered if this was the story of India, a land about whose culture and human values we all feel so proud. Sir, it is not about scientific advance that we are so proud of, but our pride has been in respect of the high moral standards, in respect of our own culture and in respect of human relationship and I wondered how the society which has treated women like chattel and in such an inhuman and cruel manner has sustained all this time. The orthodox Hindus have been condemned by some speakers as reactionary, unprogressive brutes who treat their womenfolk in a most inhuman way, yet, Sir, I stand here to call myself an orthodox Hindu. I am not ashamed of it; rather, I feel proud to call myself an orthodox Hindu. I am proud of my culture and I am proud of my religion and I am proud of my family ties. I would not hesitate to repeat that I feel proud of this culture, of this value of human life, of this value of human relationship, and of the orthodoxy of the Hindu religion but our culture teaches us to have respect, affection and love for the womenfolk. I would not hesitate even for a moment to give any right which goes to make the life of womenfolk in this country happier. That is not because of any other reason but only because that is the concept of Hindu religion and Hindu mode of life. We all believe that it is only in those houses where women live in I

happiness that the Gods dwell. That concept of life will urge me, Sir, to grant any rights and any privileges without any hesitation to make the women happier and when I say, "to make the women happier", it is only to make the family life happier. While I concede all these rights, when I am prepared to agree to any proposal, I am afraid, Sir, I cannot reconcile myself and I cannot understand the attitude taken by most speakers. Sir, the spirit in which these rights have been demanded, the spirit in which this Bill has been brought in this House, that is a spirit which I have not been able to understand. The demand for rights, the demand for equality, these, I am afraid, Sir, are the result of the impact of Western education and ideas.

SHRI H. N. KUNZRU (Uttar Pradesh): Why afraid?

SHRI H. D. RAJAH: That is so.

SHRI H. C. MATHUR: I am very grateful to my friend who thinks likewise and I feel very much encouraged and I say, Sir, that this is the result, of the impact of alien culture, of Western culture, Western ideas, Western education, and it is only this attitude and approach which have vitiated and contaminated the provisions of this Bill. My mental approach to this Bill is very different, Sir. The Bill has obviously been drafted in a spirit of business like transactions between two rival and grudging parties' and I have nothing but condemnation for that spirit and its expression in the provisions of this Bill, entirely alien to our culture and our moral conception. To our mind, Sir, the logical consequence of monogamy is not divorce. Many speakers who have spoken on this Bill have spoken with great force and they maintained that provision for divorce was an absolute consequence of monogamy. But my conception, I submit to you, Sir, is that monogamy does not call for divorce. Our cult is not the cult of divorce but that of devotion, of service, of self-denial and it reaches its climax in the institution of

service. You will see the unmistakable evidence of it, Sir, if you just come with me to my home town Jodhpur where only a couple of months back the wife of my personal and esteemed friend Brig. Zaber committed the great crime of sati and you will find thousands of people stream everyday to that place to pay their homage, and I understand, Sir, that there are reports that even during these two or three months the photos of that *sati* have been sold to such an extent that they have yielded about Rs. three lakhs on photos alone. That is the cult and culture of this country. I submit, Sir, that is conclusive proof and unmistakable proof of how the Indian masses feel about it. Out of 1,000 houses I definitely say that there will be 999 who believe in this cult and culture. Without meaning any offence to my sisters here, without meaning any offence to anybody here in this House or outside I beg to submit, Sir, that the women-folk of India have a hundred times greater respect and adoration for this cult and for the *sati* than for any educated woman preaching and championing the cause of women-folk for divorce and for equal rights. While I say all this with all the great emphasis and force I do not for one moment wish to forget the realities of life. There are quite a few families where the womenfolk live in misery, in trouble, and it definitely is the duty of the legislators, it definitely is the duty of leaders in this country to find a way for giving relief to these women who are living a miserable life. But, Sir, what I wish to stress is that our mental approach should be to give relief to such women who are suffering under duress. Our approach should be in perfect conformity with our culture and our moral standard of living. If we had gone, in drafting the provisions of this Bill, with that mental approach, the provisions of this Bill would have been entirely different. That mental approach would never conceive of a husband asking for maintenance and alimony from a wife. But that provision is here because it is only the Western concept and the Western approach

that have gone into the drafting of the provisions of this Bill. It is a business transaction, a right for equality, a demand for equality, and in that context it is perfectly reasonable and perfectly just to allow a husband the same maintenance and the same alimony which the wife demands from the husband. But, as I submitted, Sir, our mental approach should be entirely different and if we go with that approach you will find almost all the provisions of this Bill to be very obnoxious and they will have to be amended radically. I am not one who is frightened that by giving this right of divorce to the woman, anything is going to happen in this country tomorrow. No families would be broken. There are rigid traditions and our conception of life, our mode of life is such that nothing very much is going to happen but that will create a very unhealthy effect in the centuries to come. In this connection, Sir, I shall read out two or three passages quoted by my esteemed friend, Mr. Mahanty, in his Note of Dissent, and I wish to draw the particular attention of this House to what not only we people but the foreigners have felt about our institution of marriage. And I submit, Sir, anybody who has gone with his eyes open in any of these foreign and Western countries, will find that those people are coming round to have greater and greater respect for the conception of life which we have entertained and which we have maintained through the ages. He has quoted Roman Rolland who says: "The solution India has given to the problem of women, the family, love and of marriage is indeed grand." Again, Sir, he has quoted Frederic Pincot who says: "Everything tending to the peace and well-being has been long since reduced by the Hindus to well-ordered rules. We have very little to teach them in matters of social philosophy. Any introduction among them of our crude ideas"—and it is these crude ideas which we are to-day importing and enacting—"can only result in mischief and tend to bring the Hindus to the same chaotic scramble of antagonistic interests

[Shri H. C. Mathur.] which is the characteristic of our own disgraceful muddle. All parties are unanimous in opinion that Hindu married life is an exceptionally happy state and that is the clearest proof of the excellence of the system and the severest condemnation of those who are seeking to unsettle it." Another writer says: "The whole social system of the Hindus postulates exceptional integrity." My submission is that through a superficial study let us not be carried away by the miseries of a few women here and there. We want to provide for their relief. We want to effect radical changes in our society to see that these women are relieved of the distress. But let us not change the values of life which we have adored and which all other countries have adored. After all, what has India got to contribute? India's richness and India's glory lies only in these standards of human values and her moral standards and if we are going to abandon this approach in this Bill, I am sure we are doing the greatest disservice to our country and to our culture. We will feel the effect of this after 100 years or after 200 years. What will happen is that the generation of children to come in future will be brought up in absolutely different traditions with different standards of life and it should be our duty and it is all the more our duty now when the world is shortening to see that our ideas and our conceptions are accepted by other parts of the world rather than ourselves being engulfed by these cheap ideas which provide for cheap and immediate remedies. That is one part of it. That should be the basic approach to this.

There are many other matters. There is the constitutional point. Then there are the different provisions. But if I go into the provisions of this Bill and if I were to give all my views, it will take me roundabout an hour's time.

MR CHAIRMAN: As the provisions come up for discussion, you may speak on them.

SHRI H. C. MATHUR: I wish to be as accommodating as I could and I would end my speech by giving this basic approach and this background will guide my future observations on the provisions of this Bill. At this moment I am not touching on any of the provisions and I am not touching even the constitutional point. I will deal with them as the clauses are discussed.

SHRIMATI PUSHPALATA DAS (Assam): Sir, I did not intend to speak on this Bill but today

HON. MEMBERS: We do not hear. Please speak into the mike.

SHRIMATI PUSHPALATA DAS: I am really sorry that my voice could not reach everywhere.

Now, Sir, this Bill which is being debated and discussed here for the last three or four days has been before the public for the last 14 years. I am very glad from the tone of the debate which has taken place in this House to know that public opinion is in favour of this Bill though a few of our friends have objected to the passing of this measure on the ground of its being derogatory to the prestige of the Hindu society or that it is a challenge to Hinduism. Out of the speeches delivered against this Bill mainly I took the one delivered by Dr. R. K. Mookerji, the eminent historian, very seriously. He being a historian, I just wonder how he could say that this Bill is a challenge to Hindu culture and Hinduism. Sir, I bow my head in respect to his age but at the same time I raise my head in protest against the arguments which he put forward the day before yesterday. He said that this Bill is not wanted by the public and that it is being forced on the Hindu society. But is our religion so static? Is it not a dynamic religion which has stood the onslaught of time all these centuries? Hinduism has survived and has stood on a solid rock only because of its dynamic nature and its strong foundation. Hinduism has assimilated many ! faiths and it is a product of their

culture. Sir, in the Aryan civilization, in the Mongolian civilisation and in the Dravidian civilisation, you will see that women were held in esteem. In the State from which I come, - Assam, there are many tribal people— 'Garos and Khasis and others—and they have given equal rights to women. Nothing has happened to them. They marry by mutual consent but there have been very few cases of divorce. Well, Sir, Mr. Mathur was quoting a case of *sati*. I too respect her; I adore her as he has been adoring, our religion which sanctioned various types of marriages, even Asura and Gandharva form of marriages. Even in the Gandharva type of marriages we have many cases of *sati*. What is the case of Aniruddha-TJsha, Rukmini-Krishna, Dushyanta-Sakuntala or Nala-Damayanthi? All these were *satis* though their marriages took place secretly. Hindu civilization, allows any type of marriage. All that is wanted is one must be true to oneself. The husband must be true to the wife and the wife must be true to the husband. Husband and wife must have respect for each other's personality. They must be true in the truest sense. Before you judge a man to be an honest man or a thief, you must give him freedom. A thief cannot steal anything so long his hands and feet are tied. You give him full freedom and then you judge him whether he is a thief or an honest man. So also let the husband and the wife be given full freedom and if there is true love between them, any kind of divorce laws that are passed will not affect them. Now, the Hindu Widow Remarriage Act has been there for some time but how many widow remarriages have taken place? Only those marriages have taken place which would have taken place irrespective of whether there was an Act or not. The Special Marriage Act is also coming into force from 1st January 1955 and we will see how many cases would come under that? People won't run to the court for everything just for the fun of it. Only when the situation becomes intolerable, they will take advantage of this measure.

So I do not think there is anything to be afraid of.

Sir, day before yesterday, I think it was Mr. Kishen Chand from the Opposition Bench, who was telling that women.....

MR. CHAIRMAN: There is no Opposition Bench on this matter. It is all one.

SHRIMATI PUSHPALATA DAS: I say that because he opposed that clause of the Bill relating to alimony. He was saying that women want the right of property and -he asked whether daughters would share the burden with the sons if the parents are in debt. I think it is a challenge to womanhood. Why not? We will take the burden if our parents are in debt. In fact, even now in many cases if the sons prove ungrateful, the daughters have stood by their parents. And now if the right of property is given to the daughters, I am sure they will realise their responsibilities and they will be as honest as the sons. If we are to make the wife liable for payment of alimony, I think it is better that property right should first be given and then only this clause given effect to. Even according to the dictionary meaning, alimony is an allowance for support to a wife when legally separated from her husband. It is so everywhere except in U.S.A. where the woman pays after divorcing the husband if he is really incapable of earning, either because he is invalid or there is something wrong with his brain. And there have been only few such cases there. Even in India, if there are a few rich women of that type who can afford to pay, they will be only too glad to pay if the husband does not feel that it is derogatory to his self-respect to accept money from his wife who deserted him. In fact, I feel that even women must refuse to accept alimony in cases where she feels that she could not be a happy partner of her husband, if she can earn her own livelihood. It is better for her in such cases to refuse to take anything from the husband. It is.

[Shrimati Pushpalata Das.] beneath their self-respect for both men and women to accept any alimony in case they are capable of earning on their own.

Sir, my hon. friend Mr. Mathur was saying that it is only for women that these privileges are being given. I think, he is mistaken. No; it is, for men also, for those downtrodden men who are oppressed by women. They also can take advantage of this.

MR. CHAIRMAN: Are women capable of oppressing men?

SHRIMATI PUSHPALATA DAS: Yes, Sir, there are such women also. I do not say that all women are angels. Sometimes women are also very terrible; they are very cruel; they can outbeat men. So this Bill is going to protect both men and women, and we need not be afraid of that. As I said, ours is such a dynamic culture that it has embraced the faith of all religions and it has assimilated all of them. So our religion and our culture is not going to be at stake because of this measure. There will be no harm done to society. We have seen so many legislations that have been passed and unless one feels an urge for it no one takes advantage of it; and that will also be taken only in extreme cases—no one will rush to the courts just for fun. ~~Now, i—~~
~~come to come ef—the~~

Now, I come to some of the clauses in this Bill. In clause 14 it is stated that no petition should be entertained for dissolution of a marriage by a decree of divorce unless three years have elapsed since the date of the marriage. If we really want to redress the grievance of the afflicted parties I think, three years is a long period. Again, let us refer to sub-clause (1) (b) of clause 10, at page 6. It is stated that if either party has treated the petitioner with such cruelty as to cause a reasonable apprehension in the mind of the petitioner that it will be harmful or injurious for the petitioner to live with the other party, he or she can apply for judicial separation. Now, what is "cruelty as to

cause a reasonable apprehension in the mind of the petitioner"? The word "cruelty" must be defined properly. Is it mental cruelty or physical cruelty? I know a case which came to my notice before I came to Delhi. The woman is the mother of six children and her husband is a drunkard and a man of notorious character. Because of the way in which he used to treat her, the sons advised her to go away. One day the husband came home fully drunk and he began to beat her. She had a six months' old child in her arms. The child fell down. There was a fracture. The child died afterwards. The elder sons advised the mother to run away from the house in order to take shelter with some relatives. She fled and took shelter in a Khasi woman's house. Now, she is earning some money selling woollen things and handloom articles, such as towels bed-sheets, etc. Fortunately handloom is there to protect self-respect and honour of Assamese women. So, in this context of cruelty, how can she wait for three years? It is very difficult for her to wait even one year, or even six months. Naturally the word "cruelty" must be defined properly. It is rather vague now. In that case the period of three years is a very long time. If you want to redress the grievance of the party, the time-limit should be shortened. Otherwise, there will be practical difficulty.

Now, coming to the care of the child, who will be the guardian? It is a natural thing that the mother is the real guardian, unless she is of unsound mind *i.e.* insane and something is wrong with her brain. Sometimes, I think it is better to consult the children, when the children are grown up, up to twelve years. I think, they should be consulted as to whether they would like to stay with the father or mother. I have seen some cases where, though the children as a natural course are with the mother, the father is very miserable because he is deprived of the company of his children. He does not marry another woman in the hope of getting back his children and he always feels that

the children are not with him and the children also crave for the company of the father. I do not want to put it in a selfish way. That always the mother should be the natural guardian. Sometimes, I feel, the children prefer the father's company also. After twelve years, I think it is better to consult the children also as to what is their opinion. The gulf may be abridged with the help of children.

Now, there are many amendments on every clause. Time also is very short and I must finish within a few minutes. I put before you only these two or three clauses about which I had a little doubt in my mind. Again, I feel as a Hindu woman that I do not think that our religion will be at stake if we pass this legislation. For the past fourteen years we have been pondering over this and that is enough. I am glad that only a few Members objected and even those who objected did so on sentimental grounds, on the grounds of religion. I think our religion is so liberal, so broad-minded and so all-embracing that no one could endanger it. It has withstood all the foreign invasions, all sorts of onslaughts. We are all proud of it and we are proud of the age-old civilization of India and China. Mr. Mathur said that he is proud to be a Hindu, proud to be an Indian. We are also equally proud and the framers of the Bill also feel equally glorified of our civilization.

SHRI B. K. MUKERJEE (Uttar Pradesh): Question.

SHRIMATI PUSHPALATA DAS: With these few words I conclude my speech. I think the Bill, though belated, will no doubt go through quickly and will be supported by the Members of the House, and it will be an Act which will redress the grievances of those who are suffering, men and women equally.

SHRI K. B. LALL (Bihar): Sir, at the very outset I want to be clear about my attitude towards this Bill. I support the principles of monogamous marriage and divorce in this

Bill and I support a good many kinds of relief that are sought to be given here. What I object to is the way in which it is being enacted. I have given expression to my views about such a measure on previous occasions and I want to speak this time also. What I think is there is too much of a storm in the tea cup so far as this quarrel about this Bill is concerned. I do not understand why the lady Members in this House should feel so much jubilant over this Bill and about thinking that there is so much right being given to them. Looking from one point of view, I say that they are doing some disservice to their own kind. I may say that they admit that the present stage of the society is such that womenfolk are not able to take care of themselves. It is right. We also admit that. They also admit in their heart of hearts. Then, only for a few of them who can realise the value of divorce, they feel so much jubilant. They do not understand what will be the fate of so many mute, illiterate womenfolk in the villages where they have got no position. The absence of divorce law is brought in today, it will prove to be a halter round the neck of the men and they would not venture to do anything like divorce. They can not get rid of their wives and they cannot have the pleasure of this life* of lipstick, lust and lewdness, that is so much prevalent in the town. So, those people in the villages will now feel that the halter is now removed and they will at any moment, without even the knowledge of the wife, get their divorce.....

(*Interruption by Shrimati Savitry Nigam.*)

I hope I am so very clear that it requires little interruption. They have already spoken to their hearts content. Whatever they wanted to speak in favour of the Bill they have done. They should not interrupt me. Let them reject what I say, or throw it out or spit at it. This is my submission to my friends here. Why not hear patiently what I am saying?

[Shri K. B. Lall.]

What I was saying is that it will do more harm than good. The society is not prepared for that. In other words, it can be said that this Act will remain a dead letter, because after all law is only a mirror in which you can see the face of the society. Up till now you have seen the face of your society. Where is the Sarda Act which was so much trumpeted? What about the Child Marriage Restraint Act? Go and see in the villages as to how many marriages are performed of little children. In the very year of enactment of the law even babies in the womb were married. So, this is the response of the people. The same will be the response if you enact this Bill. As a matter of fact, I know some twenty ladies came to my residence here in Delhi with some prayer signed by so many womenfolk that they do not want this Act. They said this is a horrible thing, this codification of law. I quite understand their feeling, in what society they live and what benefit you are going to confer upon them. Therefore, you should not take too much pride of conferring benefits upon the womenfolk. Of course, you will have a higher life in this House or in Delhi or in some educated society. You have got some education, you have got some better ideas and you want to enjoy life on all sides. You may have that pleasure, but when you think of the whole country, think dispassionately what effect it will have upon the people at large. I think that the whole atmosphere is surcharged with this spirit of doing this benevolent act and I know it for certain that my words are falling on deaf ears. There is no doubt about that, but let me tell you that you are too much in advance of the times and you are going to bestow some benefit to the society which perhaps you have seen in America or England or elsewhere. You are not taking into account your own country. I am not against this. I know the difficulties of some people, but those difficulties will remain even if you enact hundreds and thousands of such laws in

1 this country. That difficulty would not go; that difficulty would 12 NOON arise more and more in course of time. So you would not be able to give relief to one and all. There must be some persons who would not get any relief. You may enact laws and give relief to some people. But some people may still suffer; some ladies may suffer. You have to see on the whole as to what you are going to confer upon the society as a whole. From that point of view, I find that you have not been very careful. You are led away too much by the heat of the moment. You have seen something abroad, and you want to confer it upon our society here. That is the only thing I warn you against. Otherwise, I am not against this provision about divorce. It should come. And in cases of hardship relief should be given. But then I was of the opinion that if you had left the society to go on, as it was going on, without any codified law, that would have been far better. But if you take up codification, you must see what actually you are going to do.

I come to my second point now. If 1 you codify the law, you must not be so air-tight, and you must not be so much conservative. In your exuberance to do some good to the society, to the womenfolk, or to the so-called Hindu community, you are bringing forward such legislation which may do some more national harm than what the uncoded law in the country was doing. I might point out here that the uncoded law was bringing you nearer and nearer; it was building up one solid nation. It was in 1937 that a Congress gentleman in the AssemDly brought forward a Bill that the Mohamadan community should be governed by the Shariyat law, irrespective of any existing law prevailing among that community. Even Mr. Jinnah was governed by the Hindu law of inheritance. It was open to our Mohamadan community. And, the time may come when people may come together with the help of the uncoded law. But today, by this clear provision in law you are asking

the Muslims to think of the Arabic law of inheritance, you are asking the people to think about Hindus, to think about Jains, Sikhs and all that. I have seen today hundreds and thousands of Sanatanis and Sikhs living together, all of them equally proud of being Hindus. But by your constant repetition and emphasis upon this separateness of Hindus and Sikhs—Hindu law and Sikh law—you are making them separate; thus there will be a separate Sikh nation. In course of time, the mentality which obsessed Mr. Jinnah will obsess Master Tara Singh also, and you will have very shortly a Sikh nation in this country, just as you had a Mohamadan nation. So, you do not know in what silent and unconscious way you are creating a feeling of separateness and of separate nationhood among the people. That is what I object to. Do not touch all these things, if you cannot touch them like politicians and statesmen. That is the mischief. All womenfolk are suffering in misery; they are dying and they are leading a miserable life. It is said that heavens will fall upon them unless they come to their rescue. They say: "Why should we wait for the Muslims to come in, for the Christians to come in? Let us all rush in now, because heavens are falling upon the heads of the womenfolk." I cannot understand, Sir, what heavens are falling upon the womenfolk. Of course, I agree that there may be some cases of victimisation, as the lady speaker, Shrimati Pushpalata Das, has just said. And there may even be oppression by the womenfolk upon men. We are seeing all these things happening in our society. It is not such a thing that we should be off our feet and jump at once and say, "Oh, we have to serve the womenfolk, and we have to champion their cause." I cannot understand how we shall be able to serve them by having such codification and legislation as we are going to have. I think, if you had left this uncoded law as it was going on, you would have done a better service to the country and to the nation. And by this kind of codification you will,

of course, show to the world that you have come to the rescue of the women folk, but I must say that you are doing that at a very great cost, the cost of creating a little bit of consciousness of separateness. This little thing may become a very wide thing, just as it became with Mr. Jinnah, and it is becoming with Master Tara Singh. And thus you will be creating so many nationhoods, separate nations. And this is more dangerous, so far as the society is concerned. And it was for this reason, Sir, that I wanted you to take time by the forelock.....

SHRI GULSHER AHMED (Vindhya Pradesh): Are you afraid that the ladies will demand a separate State.

SHRI K. B. LALL: It is not a question of ladies demanding a separate State. But the question is about making such legislation in the name of the Hindu community, and creating a community for them, so far as this legislation is concerned. I have, of course, got my amendment, and I will clarify the position fully when that time comes, or when I am given the opportunity to speak on my amendment. But for the present, I will only lay stress upon this fact that we are not going to do any good. And I would appeal to my hon. womenfolk to give up that attitude of way-ward-ness. I will just quote here an example of a woman drowning herself. Sir, there was a poor Brahmin whose wife had a wayward habit, and she would always do anything which her husband would prohibit. Once she said that she would go to bathe in the river. Her husband said, "Don't go to bathe in the river, because the river is in spate. Don't go there." But she said, "I must go, because you ask me not to go." She came to the bank of the river to bathe. The husband had followed her and chased her up to the bank of the river. He told her, "You have, of course, come to bathe here. But do not go further: you know the water is deep." But she replied by saying, "You are asking me not to go further still, and I must go; it is my privilege." In this way, she went

[Shri K. B. Lall.] further and further in the deep waters of the river, defying her husband, and ultimately drowned herself. So, Sir, this attitude of theirs—demanding their rights—would ultimately drown them. Therefore, I say, Sir, keep the society intact. I very much appreciated the speech of Shrimati Pushpa-lata Das, and I think, if all our lady Members agree with her ideas, they will be doing more good to the society. Of course, wherever it is necessary to legislate in order to remove some difficulties, if there are any, we should do it, and it would be quite proper to do so. But it seems to me that a regular crusade is going on in this House, men on the one side and womenfolk on the other. I say that this habit of crusade is spoiling the atmosphere in the family, in the House. If you remember our own culture, you will be able to do more and more good to our society and you will be bringing in reforms which the people need but if you bring in such reforms, it will go against all concerned. With these words, I support the Bill.

SHRI K. MADHAVA MENON (Madras) : Sir, I am grateful to you for the opportunity which you have given me to speak on this Bill, though I feel that there cannot be anything new—which I can say on this Bill now, but the speech of my friend, Mr. H. D. Rajah, was something novel to me. I had read a book written by him some thirty years ago entitled "Why Marriage?"

SHRI S. N. MAZUMDAR (West Bengal): That was thirty years ago?

SHRI K. MADHA VA MENON: I find that the hon. Member's views.....

DR. P. C. MITRA: What is the age of Mr. Rajah now?

SHRI K. MADHAV A MENON: I have no idea. He is the author of a book called "Why Marriage?". The theme of the whole book is that the whole institution of marriage is absolute nonsense.....

SHRI H. D. RAJAH: I still adhere to that view.

SHRI K. MADHA VA MENON:..... that to talk of the animal instinct is a scandal on the animal, that the animal instinct is the right thing and that man should live in promiscuity. Whether Mr. Rajah holds the same view today or not, it is amusing that he opposed this Bill and held that the Hindu marriage as it was before was better. He has perhaps learnt much as a result of his experiences afterwards. I wholeheartedly support this Bill.....

[MR. DEPUTY CHAIRMAN in the Chair]

DR. P. C. MITRA: How many children have you got?

SHRI K. MADHA VA MENON: I have got four. If the hon. Member wants to know something about my personal affairs, I do not think I can make this the forum for giving him my history, but I can certainly give him all the information that he wants if he can come to me outside this House. As I said, I wholeheartedly support this Bill. I congratulate the Government and I congratulate ourselves that this Bill has come to this stage before this House, and I pray that it should be passed into law very soon. I entirely agree with the view expressed here that this Bill should have succeeded a law on inheritance and right to property. Otherwise, the consequences upon woman may prove rather hard, if we have this legislation without any legislation as to property. Sir, I say this because of my experience of my own law of marriage, which is prevalent in that part of the country. I belong to Malabar, to the West Coast, Kerala. We are having the Marumakattayam form of inheritance. Our law had been codified in 1926 by an Act. It only codified the law existing according to custom. I may say that men and women have equal rights both to property as well as to marriage and divorce. In our law, the process of divorce is very easy. We need not go through all this gamut of allegations of cruelty

or living an adulterous life and things like that. The husband has only to say that he does not want the woman as his wife, or the wife has only to say that she does not want this man as her husband, and put in a petition to that effect in the court. Then the court gives them six months' time as *locus paenitentiae* to get reconciled, and if at the end of the six months, they are not reconciled to each other, on the motion of the party who had put in the petition, the court will order divorce. This very easy law was passed in 1926 about thirty years ago, and yet there have not so far been even a dozen cases of divorce. The cases have been so few in spite of the fact that divorce has been made easy, for two reasons. Obviously we marry not for divorce. The fear has been expressed that, if divorce is made easy, then the wife will go to the court to disrupt the marriage or that the husband will go there and get a divorce from his wife. There is no foundation for this fear. Whatever the miseries, we will adjust ourselves to the extent that is possible. Only where it becomes almost impossible to live together that we think of divorce. So, even though divorce has been made easy, we have not had even dozen cases during the last thirty years. One of the reasons is, as I said, that we are not marrying for divorce. Secondly, it is because neither the man nor the wife is dependent upon each other for their existence or for their property. When this is so, there is no necessity for one to discard the other out of any sense of possession or property. There is no gain saying the fact that man's sense of possession and man's sense of property is acute and selfish. That is why we object to this question of divorce, the question of equal rights and the question of property. So, as I said, if the law regarding the right to property and inheritance does not come simultaneously or as soon as possible, it will be rather hard on women.

I can appreciate, sympathise with and understand the objections to

this from conscientious grounds on grounds of religion. It is not right for us to scoff at those people. It is wrong for us to think that we are the only people who are revolutionaries, who want social reforms and the rest are all orthodox conservatives. It is not easy to get over faiths and beliefs. We have followed them for generations, and therefore it is not easy to get over our feelings, which we have followed for years and even centuries. Let us not therefore scoff at those persons but let us pray that wisdom should dawn upon them and they should soon come along in support of this Bill.

But I cannot understand and appreciate the objections raised here on the ground of discrimination. Sir, I have heard protests here, "Why don't you dare apply this legislation to Muslims and all other communities? Why don't you have a universal law of marriage and divorce? If you bring in a legislation like that, I shall support you wholeheartedly. It is because you don't bring it forward and make a discrimination, I oppose it." I cannot understand this at all. The real question is whether the principles contained in this Bill—after all there are only three main clauses in this Bill, clause 5, clause 6 and clause 7; in fact only clause 5 relates to marriage; clause 6 relates to guardianship and clause 7 relates to ceremonies and the rest deal with judicial separation or divorce—are good for society or bad for society. If they are good for society, how does the Bill become bad simply because it does not apply to certain people? If certain people are unfortunately unable to take advantage of this Bill, let us sympathise with them. A time will come when the other communities will demand such reforms. Anyhow, I am not going into speculations now; if the principles contained in this Bill are good, let us sympathise with them that they are not able to take advantage of it. If the principles are bad, they are bad, whether they apply to one section of the community only or to the entire community. To say that

[Shri K. Madhava Menon.] the Bill is bad because it does not apply to others is wrong in logic, is wrong in everything. Sir, this legislation is really for the protection of women from the capricious and overbearing nature and will of man. It was said here that man is the oppressed party and man requires protection. Sir, it may be said in fun. In fun you can say all that. It may be said that Adam was good but Eve tempted Adam and goaded him to disobedience to get the apple and all misery came but who tempted Eve? The Devil was not a woman and however much we may try to say that man is oppressed, if most of us search our own hearts, I am sure that most of us will realize honestly that we don't deserve our wives including myself. They are so good but we are so over-bearing in our nature. The sense of possession and of property in man is such that the sufferer really is the woman and the Bill is really to protect woman from the different standards of morality that are really oppressive to every thinking person. If a woman goes astray, she is secondhand, she is useless, she is immoral but the man can do anything with impunity and the man will not have the consequences of his bad action. It is the woman that will suffer the consequences of that bad action although perhaps he also may be a party. When a boy or a man deceives a girl or a woman and seduces her, the man escapes scot-free, the boy escapes scot-free and not only that. There are Casanovas going about priding about their achievements of having spoilt a girl or a woman and he goes scot-free. He has no consequences but the woman stands condemned for ever. Why is this double standard of morality? This double standard of morality, it is that that is really burning and when you have that, the only saving way is to have an opportunity to get themselves separated if living becomes impossible. Sir, man is not prepared to give the same right to woman and man demands obedience from his spouse

and dependence is ordained on women by all Shruthis and Smritis. Men will quote Manu and say:

“पिता रक्षति कौमारे
भर्ता रक्षति यौवने ।
पुत्रो रक्षति वार्द्धके
न स्त्री स्वातंत्र्यमर्हति ॥”

We will conveniently quote Manu/, where it is convenient to say that women are not entitled to Swatantr-yam or for rights. It is only fair and right that this double standard or morality should go. It is because men do not concede it that the necessity for marriage laws and divorce law arises. But for these, the necessity for these laws would not have arisen-; at all and let us not grudge women the right and the opportunity to escape from conditions where life is made impossible for them.

Sir, as I said, though the Bill is called Marriage and Divorce Bill, there is only one clause—clause 5—relating to marriage. All the rest are mostly concerned about judicial separation or divorce. The main objection is about divorce and I have already dealt with that, that there is not much fear if you really grant the right of divorce. We need not be afraid of the many cases that we read in the American papers and in Europe. After all, it is only the divorces that are heard, not the happy marriages. Out of thousand cases, one or two may be bad and you might hear of a divorce and that is the only thing that is reported in the papers but not the thousands of happy marriages. They are not reported in the papers and so, let us not be afraid of this divorce law.

Coming to certain details of the Bill, there are various amendments coming and I generally support the amendments given notice of by Diwan Chaman Lall.

Regarding restitution of conjugal rights, I think it is again really barbarous. There again it comes to

might is right, that if a man or woman does not want to stay with the other that one should go to the civil court and get the restitution. But it becomes necessary in certain cases. I have some experience as a lawyer having conducted cases of restitution of conjugal rights. I have found that in comparatively young people, one case I know—of course one case cannot make a law—there is necessity for it. In that case the girl was kept away from the husband. The girl liked the husband but was kept away from the husband by the parents and by various other forces. It was a case of blackmail. I was appearing for the girl but I had to conduct their case and at a stage in the case I found that it was not a case that the wife did not want to live with the husband but that the parents of the girl did not want her to live with the husband. I told the judge, "Sir, after all every cup-board has a skeleton, why not you call the parties to your Chambers and speak to them and try to give a peaceful home?" My attempt succeeded and a happy family is running now. But that would never have happened but for the provision for restitution. Though barbarous, it may be necessary but I wish, as Dr. Parmanand said, it will be more a case of conciliation than a sort of force used for conjugal rights.

SHRI J. S. BISHT (Uttar Pradesh): That right of restitution is available to the wife also.

SHRI K. MADHAVA MENON: I am against certain provisions, particularly one provision regarding voidable marriages. Diwan Chaman Lall has already given notice of the necessary amendment in this respect. In a case where a marriage has been performed, say, within the prohibited degrees of relationship, or suppose the girl is below 14 years of age or the boy is below 18, why should that marriage be made voidable? You may punish the parties, you may make it punishable. But why should the marriage itself be made voidable? I don't see any point in that. You may, I think,

leave the party alone and after all, after the particular period, if they do not want to get on, there are the provisions for divorce and other things. Why should you make it voidable if the parties are willing to continue? So I think it would suffice if you make it punishable.

Now I come to the question of alimony. This suggestion of the Select Committee that the woman must pay alimony to the man, is almost revolting. My horn friend Shri Mahanty referred to cases of cinema stars who have large sums of money; but after all, as I said in another connection, a solitary swallow does not make a summer. There may be a few cinema stars who have made a lot of money. But the general case is, as I said before, one of oppression on the part of the man and so why put every possible difficulty in the way of people getting relief from oppression? This clause on alimony suggested by the Select Committee is one such obstacle or difficulty. Let us try to make it easy to ease misery. Let us not try to put more difficulties in the way of relieving the wretched conditions that prevail in cases where relief is sought. It is indeed a relief to me to learn that the Government side is also against the provision of alimony by the woman.

Sir, I do not want to take up any more time because the other points could be taken up at the time the amendments come up for consideration. Thank you, Sir, for giving me this opportunity to speak.

श्रीमती शारदा भार्गव (राजस्थान) : उपाध्यक्ष महोदय, गणतंत्र के युग में समाज का प्रत्येक व्यक्ति अपनी उन्नति चाहता है और उन्नति करने का उसको पूरा मौका भी दिया जाता है। परन्तु मैंने यह देखा है कि हमारे यहां जहां कहीं स्त्री जाति की उन्नति का सवाल आता है तो पुरुष घबरा उठते हैं और उसमें हर प्रकार से रोड़ा अटकाने का प्रयत्न करते हैं। जो लोग रोड़ा अटकाते हैं वे जरा सोचने की कोशिश करें कि वे इतना क्यों घबराते हैं।

[श्रीमती शारदा भार्गव]
यद्यपि मैं स्वयं अपने मुँह से स्त्रियों के गुणों की प्रशंसा करना नहीं चाहती पर मैं अनुभव करती हूँ कि कुछ लोग यहां पर सोचते हैं कि स्त्रियों में अधिक विनम्रता और न्यायीप्रवृत्ता होती है। किन्तु वे लोग शायद यह भी सोचते होंगे कि यदि स्त्रियों को आगे बढ़ने दिया जायगा तो कहीं ऐसा न हो जाय कि वे अपने गुणों के बल पर हमसे आगे बढ़ जाय। यही डर उनको हो सकता है नहीं तो वे स्त्रियों की उन्नति के हर काम में क्यों रूढ़ अटकाते हैं जब कि स्त्रियां पुरुषों की उन्नति में कभी बाधक नहीं होतीं? तो फिर इसके माने यह हुए कि अगर किसी वर्ग में गुण हैं, मगर अधिकार न मिलने के कारण वे दबे हुए हैं तो उन अधिकारों को देने में पुरुष डरते और घबराते हैं। हम लोग कमजोर और दबी हुई जाति हैं, और जब हम अपने गुणों से ऊंचा उठना चाहते हैं तो पुरुष समाज क्यों बाधक होता है, यह बात मेरी समझ में नहीं आती।

जब मैंने प्रवर समिति की रिपोर्ट देखी तो सब से बड़ी हंसी मुझे एलिमनी के प्रश्न पर आई। मुझे याद आता है और जहां तक मुझे मालूम पड़ता है, जब कि हमारी प्रांतीय नल पार्लियामेंट में हिन्दू कोड बिल के अन्तर्गत उत्तराधिकार का विषय आया था तो उस समय पुरुषों ने अधिकतर उसका विरोध किया था। जब उत्तराधिकार के सम्बन्ध में स्त्री और पुरुष को बराबर के सम्पत्ति-अधिकार देने की बात आती है तब मैं देखती हूँ कि अधिकतर लोग इसका विरोध करते हैं और कहते हैं कि स्त्रियों को सम्पत्ति रखने की आवश्यकता नहीं है और वे इस योग्य नहीं हैं। परन्तु संपर्शन या डाइवांस होने पर कहा गया है कि स्त्री भी पुरुष को एलिमनी दे और स्त्री पुरुष के बराबर अधिकार होने चाहिये। इस विधेयक में हर्फीनिशन के अन्तर्गत सर्पिड रिलेशनीशिप की जो बात आई है उस पर मुझे मनुस्मृति का एक श्लोक याद आता है :

"सर्पिडतात् पुरुषे सप्तमे विनिवर्तते"

इसके मानी यह है कि सर्पिडता सातवीं पीढ़ी के पुरुष में समाप्त होती है, अर्थात् पुरुष से ही सातवीं पीढ़ी तक सर्पिड माना जाता है, माता की तरफ से नहीं माना जाता है। इस विधेयक में एक अजीब चीज यह लिखी है कि :

"with reference to any person extends as far as the third generation (inclusive) in the line of ascent through the mother."

प्रथम तो सर्पिड की परिभाषा में मंदर की तरफ की पीढ़ियां आती ही नहीं हैं। दूसरे इसमें जो माता की ओर की तीन पीढ़ियां दी गई हैं उनकी यहां पर देने की आवश्यकता ही नहीं है क्योंकि यह तीन पीढ़ियों के सब सम्बन्ध इस धारा के बाद ही प्रोहिबिटेड रिलेशनीशिप वाली धारा में आ गये हैं।

"if the two are brother and sister, uncle and niece, aunt and nephew, or children of brother and sister or of two brothers or of two sisters."

जिसके माने यह है कि किसी भी व्यक्ति का विवाह उसके नाना से पैदा हुए बच्चों से नहीं हो सकता, चाहे वे नाना या नानी के दाहिने दाहिनी, पाँच पाँची या पुत्र पुत्री हों। नाना का जो बेटा या बेंटी होगी वह अंकल या आंट हो जायेगा, जो नाना के लड़कों और लड़कियों के बच्चे होंगे वे "चिल्ड्रन आफ द बुदर्स एन्ड सिस्टर्स" हुए। इस तरह से सर्पिड की परिभाषा गलत करने से सिवाय रिपीटीशन के कोई लाभ नहीं होगा अर्थात् सर्पिड के अन्दर माता की ओर की पीढ़ियां देने की कोई आवश्यकता नहीं है।

वैसे तो डिटल में इस बिल के सम्बन्ध में बहुत कुछ कहना चाहती थी, किन्तु समयभाव से मैं दो एक बातें ही कहूँगी और जब अमेंडमेंट्स पर बहस होगी उस वक्त उन पर बोलूँगी और अपने संशोधनों पर विस्तार से कहूँगी। "गार्डियनशिप इन मॉरिज" का जो आइटम दिया गया है, मैं समझती हूँ कि माता और पिता शब्द गार्डियनशिप के लिए सब से उपयुक्त हैं। क्लॉज ६ में "गार्डियनशिप इन मॉरिज" में पेटर्नल तो अंकल तथा अंकल भी बाई हाफ ब्लड तक दे दिया है। परन्तु

माता की और से गून्डमदर और गून्डफादर का भी कोई स्थान नहीं रखा है। मुझे मालूम है कि बहुत बार जब किसी बच्चे के मां बाप मर जाते हैं तो अक्सर चाचा चाची उसे अपने पास नहीं रखते, और उनकी परवाह नहीं करते। पर नाना नानी उसे रख लेते हैं। इसलिए नाना नानी को गार्डियनशिप में न रखना मेरी समझ में बहुत गलत है। नाना और नानी, चाचा और चाची से अच्छी तरह बच्चों के हित में सोच सकते हैं, इसलिए इसमें नाना और नानी को अवश्य रखना चाहिए।

धारा ११ में वॉइड मैरिज के बारे में बिल में कहा गया है कि "आइन्स पार्टी द्यरट्" अर्थात् किसी ने अगर गलत तरीके से विवाह कर लिया है अथवा उपधारा बी के अनुसार प्रॉहिबिटर्ड रिलेशनशिप के अन्दर विवाह कर लिया है, तो वह शादी तभी वॉइड डिक्लेयर हो सकती है यदि पति अथवा पत्नी में से कोई भी इसकी शिकायत करे। यह अजीब सी बात है क्योंकि जब दो आदमी आपस में विवाह करेंगे तो पहले से सब सोच कर करेंगे। एक बार विवाह कर लेने के बाद पति अथवा पत्नी में से कोई शिकायत करने जायेंगे कि हमारा विवाह प्रॉहिबिटर्ड रिलेशन में हुआ है और वॉइड कर दिया जाय। यह विचित्र सी बात है। यह कभी नहीं होगा जब तक कि उनके आपसी सम्बन्ध खराब न हो जायें और जब सम्बन्ध बहुत बुरा हो जायेंगे तो फिर डाइवोर्स ही क्यों न करा लेंगे। और जब यह कहने जायेंगे कि हमारी शादी प्रॉहिबिटर्ड रिलेशन में हो गई है इसलिए उसे वॉइड कर दिया जाय। इसलिए ऐसे मामलों में पत्नी और पति के अतिरिक्त अगर किसी अन्य व्यक्ति को पता हो कि यह विवाह प्रॉहिबिटर्ड रिलेशन में हो गया है तो वॉइड कराने की इजाजत होनी चाहिए। अथवा इस क्लॉज के कोई अर्थ नहीं है। इसलिए शुरू में ही यह कह दिया जाय कि कोई भी व्यक्ति जिसको यह मालूम हो कि प्रॉहिबिटर्ड रिलेशनशिप में वह शादी से पहले उसको जाहिर करके उसे वॉइड कराने का प्रयत्न करे तभी उसको

डर होगा अन्यथा इस बिल में जो प्रॉहिबिटर्ड रिलेशनशिप में विवाह करने का प्रतिबन्ध लगाया गया है वह व्यर्थ ही है।

प्रॉहिबिटर्ड रिलेशन में विवाह वॉइड करने को कहा गया है, लेकिन जो सर्पिड विवाह होते हैं उनके बारे में कुछ नहीं कहा गया है कि किन हालातों में वे वॉइड करार दिये जायेंगे। अर्थात् सर्पिड में जो विवाह होंगे वे वॉइड होंगे या नहीं?

एलमनी के प्रश्न पर २५ वें क्लॉज के सब क्लॉज ३ में यह कहा गया है कि "शी वाज नंवर चंस्ट"। यह एक बड़ी अजीब सी चीज है। हम जानते हैं कि पुरुष हमेशा स्त्री को जितना भी चाहे दबा सकता है और जितना परेशान करना चाहे उतना कर सकता है। साधारणतया दखने में यही आता है कि पुरुष स्त्री को आसानी से डाइवोर्स करता है, स्त्री तो बहुत ही विवश हो कर और कठिन अवस्था में यह चाहेगी कि डाइवोर्स हो, जब वह परेशान हो जायगी और किसी प्रकार रक्षा का मार्ग नहीं देखेगी तब ही वह ऐसा करेगी। डाइवोर्स के बाद फिर एलमनी का प्रश्न उठेगा। तो एलमनी के लिए पुरुष को जो भी दना होगा उसके लिए वह कोई न कोई बहाना सोचेंगा कि उसे रुपया न दना पड़े। जब डाइवोर्स होने का प्रश्न हो गया या डाइवोर्स हो गया तो इसके माने यह है कि दोनों के सम्बन्ध बहुत खराब हो गये हैं और पुरुष स्त्री को एलमनी दना कभी नहीं चाहेगा। ऐसी दशा में स्त्री के लिये अनचंस्ट कहना पुरुष के लिये एक साधारण सी बात हो जायगी। वह ऐसा बचाने के लिये या स्त्री को परेशान करने के लिये कह देगा कि वह कभी चंस्ट नहीं थी, इसलिये मैं एलमनी नहीं दूंगा। अतः मेरा निबंदन है कि यह 'चंस्ट' शब्द निकाल दिया जाय। जब डाइवोर्स हो जाता है और स्त्री कमाती नहीं है तो उसको एलमनी दना पुरुष का कर्तव्य हो जाता है।

इसके अतिरिक्त, एक बन्धु, श्री माथुर ने कहा कि वे सती प्रथा को बड़ा महत्व देते हैं और

[श्रीमती शारदा भार्गव]

उनको इस बात का गर्व है कि वे आर्थोडाक्स हिन्दू हैं। अगर उनको आर्थोडाक्स हिन्दू होने का बड़ा गर्व है तो इस सम्बन्ध में मुझे कुछ नहीं कहना है। लेकिन अगर सती प्रथा को वे उचित समझते हैं तो उन्हें इस प्रथा को रिन्यू करने के लिये एक बिल ले आना चाहिये। इस प्रथा में स्त्रियों को ही मारा जाता है, पुरुषों का कुछ नहीं होता है। अच्छा है जबरदस्ती या राजी से किसी प्रकार स्त्रियों की चीस्टटी रहनी चाहिये। सती प्रथा के कारणों को अगर देखा जाय तो यही ज्ञात होगा कि स्त्रियों को कोई आर्थिक स्वतंत्रता नहीं थी और विधवा के साथ हमारा समाज में बहुत बुरा व्यवहार होता था, इसलिये इन दोनों बातों से स्त्री यही चाहती थी कि वह अपने पति के साथ चिता में जल जाय। मैं यह नहीं मानती कि जो स्त्रियां अपने पति के साथ जल जाती थीं वही चैस्ट होती थीं और जो नहीं जलती थीं और अपने बच्चों का पालन पोषण करने के लिये जिन्दा रहती थीं वे कम चैस्ट होती थीं या कम चैस्ट होती हैं। जब उन्होंने बच्चों को पैदा किया है तो उनका पालन करना उनका कर्तव्य है। आरम्भ में भले ही स्त्रियां अपनी इच्छा से अपने पति के साथ सती हो जाती हैं, लेकिन बाद में ऐसी प्रथा हो गई थी कि जो स्त्रियां नहीं जलना चाहती थीं उनको भी जबरदस्ती जला दिया जाता था। मेरे भी सामने ऐसे एक आध दृष्टांत आये हैं कि स्त्री को जबरदस्ती सती होने के लिये उसके पति की चिता के पास ले जाया गया। बाद में जब पुलिस को पता लगा तो उसके जान पर यह मालूम हुआ कि स्त्री स्वयं नहीं जलना चाहती थी। जनता में एक प्रकार की भावना पैदा करने के लिये कह दिया गया था कि वह सती होना चाहती है ताकि उसको जलाने में कोई बाधा न हो। इसलिये मैं समझती हूँ कि माधुर साहब इस सम्बन्ध में बहुत गलत विचार रखते हैं।

डा० पी० सी० मित्रा : फॉर्मली प्लानिंग हो जायगा।

श्रीमती शारदा भार्गव : दूसरी माननीय सदस्य कौलाश बिहारी लाल जी के सम्बन्ध में मुझे विशेष नहीं कहना है। जैसा कि पीडित जी ने एक पार्टी मीटिंग में कहा था कि कुछ व्यक्ति ऐसे होते हैं कि जहां स्त्री का नाम आया, वे लाइट मूड में आ जाते हैं, इसलिये उनके शब्दों को दोहराना मैं अपने को छोटा करना मानती हूँ।

श्री एच० सी० माधुर : आप बहुत बड़ी हैं और सब छोटे हैं।

श्री एच० पी० सक्सेना (उत्तर प्रदेश) : आप बहुत बड़ी वैसे ही हैं और सब छोटे हैं।

MR. DEPUTY CHAIRMAN: Order, order.

श्री एच० सी० माधुर : आप को छोटा कौन करना चाहता है।

श्रीमती शारदा भार्गव : छोटा बड़ा करने की बात नहीं है।

श्री एच० सी० माधुर : आपने कहा तो यही है कि अपने को छोटा कर लूंगी।

MR. DEPUTY CHAIRMAN: Order, order.

श्रीमती शारदा भार्गव : जो बलंगर शब्द कह सकते हैं, उनके लिये मैं यह नहीं समझती कि उनका बड़ा अच्छा विचार है।

श्री एच० सी० माधुर : आप जरा समझने की कोशिश कीजिये। यह मैंने कब कहा कि मैं सती प्रथा को चाहता हूँ। अगर आप कृपा करके ध्यान से सुनतीं तो आप को मालूम हाता।

MR. DEPUTY CHAIRMAN: Order, order.

श्रीमती शारदा भार्गव : मैं चेंबर को एंड्रेस कर रही हूँ। आपसे बात नहीं कर रही हूँ।

MR. DEPUTY CHAIRMAN: Please go on, madam. Please wind up.

श्रीमती शारदा भार्गव : इतने इंट्रप्शन्स हुये कि मैं सब भूल गई ।

SHRI S. N. MAZUMDAR: We can correct her.

SHRI H. C. MATHUR: It is a clear misunderstanding. She is creating a clear misunderstanding.

MR. DEPUTY CHAIRMAN: She has got a right to say whatever she likes.

SHRI H. C. MATHUR: But she cannot distort my speech.

श्रीमती शारदा भार्गव : इतने इंट्रप्शन्स के बाद मैं सब भूल गई और चेंबरमैन साहब घंटी भी दूँ रहे हैं । आखिर में मैं यही कह देना चाहती हूँ कि जो कुछ थाई बहुत संशोधन मुझे बताने थे उनको मैंने बता दिया । मैंने इस पूरे बिल से सिद्धांततः सहमत हूँ और चाहती हूँ कि कुछ संशोधनों के बाद जो बिल सिलेक्ट कमेटी से आया है उसको हम सब स्वीकार कर लें ।

SHRI R. P. TAMTA (Uttar Pradesh): Sir, at the outset I have to say that I do not agree with the speech of my hon. friend Mr. K. B. Lall whom I always had regarded as a progressive man. He says that this Bill will create disruption in the Hindu society and that it will foster the idea of separation and weaken it. On the other hand, Sir, I think this piece of legislation will go a long way in making the society strong and would consolidate the nation by uniting its different sections. If we look at the provisions of the Bill, we will find that the definition of a Hindu has been made very liberal and wide and the term Hindu would include a Buddhist, Jaina, or Sikh also. Thus instead of fostering the ideas of separatism and casteism, I think the Bill will banish the casteism and unite different sections of Hindus and would enable them to think and act as a nation. This Bill will directly concern the day to day life of the millions of people of this country and as such is very important.

Most of the Members have spoken about monogamy and divorce which they regard as two main good features of this Bill but, Sir, I regard clause 5 of the Bill as the most important one. This clause says, "A marriage may be solemnized between any two Hindus, if the following conditions are fulfilled." Thus for the first time it has been recognised that Hindus belonging to any different castes can legally marry if they so desire. In a way, this is the first piece of legislation which encourages inter-caste marriages in our country. Previously, there were obstacles in the way of persons of different castes marrying one another in the form of Hindu Law which did not permit marriages between persons of different castes.

SHRI J. S. BISHT: An Act was passed in 1949 to that effect.

SHRI R. P. TAMTA: No, that does not help. A marriage between different communities is not allowed according to strict provisions of Hindu Law and is prohibited.

SHRI J. S. BISHT: According to the amendment of 1949, any two Hindus belonging to any caste may marry.

SHRI R. P. TAMTA: I do not agree with my hon. friend. Under the existing Hindu Law if high caste Hindu marries a person belonging to so-called lower caste, the children of such a union are looked down upon by the Hindu society and are not regarded as legitimate and there is difficulty of ancestral family inheritance; such children do not inherit the property. In the past if a person of different caste wanted to marry a woman of other caste they had to marry under the old Civil Marriage Act and had to declare that they did not profess any religion such as Hinduism, Buddhism, Sikhism etc. Then only could the marriage be solemnized. The effect of such marriage would further be separation from the joint Hindu family. (*Interruption*). My friend does not know; there is a clause in the Civil Marriage Act which says that

[Shri R. P. Tamta.] the parties have to declare that they did not belong to Hindu, Buddhist, Sikh or Jaina religions.

SHRI J. S. BISHT: That was before 1923.

SHRI R. P. TAMTA: Yes that law is still in existence and it provides that the parties have to make such a declaration. In case both the parties are not Hindus. That is the existing Law.

SHRI R. P. TAMTA: Sir, in our country I feel there is great need for inter-caste marriages because it is only inter-caste marriages that can create a feeling of brotherhood and equality among different sections of Hindus. It is the barrier of casteism which has prevented our Hindu society from remaining united and it has been weakened due to both social and legal obstacles to inter-caste marriages. I know, Sir, some social reformers who have been doing great work in this direction of bringing unity and equality among persons of different castes. I know, Sir, some 30 years back a society by the name of Jat Pat Torak Mandal was started by one Shri Sant Ram of Lahore, the aim of which was to bring unity and equality among Hindus by abolishing casteism. Recently I met the secretary of the association and he told me that the inter-caste marriages will bring in unity and equality among Hindus and that obstacle in the way of inter-caste marriages was the Hindu Law which prevented marriages between different castes, and between two sections of the community. So, Sir, I personally feel, when we want to build a new India, a strong Nation in India, we can only build that society when restrictions between persons, and persons of different castes, are eliminated. Our Prime Minister wants to build a casteless and classless society which can only be done if we encourage inter-caste marriages and this is possible when we have got such a permissive measure which permits marriage between two persons of different castes as this present Bill does. Sir,

this is a permissive measure and it does not force those sections of the Hindu community who are orthodox to go out of their way and to marry in a caste other than their own. They can continue to marry in their own way as long as they do not see and realise the need for changing their outlook in this respect.

Sir, coming to the Bill itself now it was suggested by Mrs. Munshi that this Act be extended to Jammu and Kashmir. She cited the example of Untouchability (Offences) Bill which is sought to be extended to Kashmir, but I submit, Sir, I do not think it will be possible and permissible for this Parliament to enact this legislation in a way that it might be extended to Kashmir because that Untouchability (Offences) Bill is being enacted under the Directive Principles of the Constitution, that is article 17 of the Constitution, and as this present Bill is an ordinary legal measure it cannot be extended to Jammu and Kashmir.

Then, Sir, about clause 2 I have to say that it will be better if the members of Scheduled Tribes are excluded from the purview of this Bill because they have got their own separate customs and culture and their system of marriage and divorce are quite different from the rest of the Hindu community. Therefore if they are excluded from the purview of this clause it will be better.

Then, Sir, in clause 3, as regards *sapinda* relationship and prohibited degrees I think it is better if it is left to the existing custom so that people might be governed and might follow their customs as they have been prevailing for a long time. Then in sub-clause (g) (iv) of clause 3 I would submit that according to the provision marriage between children of brother and sister is prohibited but marriage between children of cousins is not prohibited. So I suggest it should also be prohibited.

Then, Sir, as regards clause 9, I personally feel that this clause regarding restitution of conjugal rights is

repugnant and it is the most obnoxious clause in this Bill. It should go.

Then coming to clause 11 I would support that the other day my friend Shri Ram Chandra Gupta said about it. I also think that there should be no provision for declaring marriages as void in the case of those whose marriage was solemnised before the commencement of this Act and the wife and husband have been living for many years together. And if now the law is enacted in such a way that their marriage will be declared void, it will have a very bad effect and it will harm their children and will punish them for no fault of theirs.

In case of voidable marriages clause 12 which are solemnized after the commencement of this Act, I think there should be a provision like this, namely, that if the wife was found to be pregnant at the time of marriage, then the marriage should be voidable at the option of the husband.

I welcome the provision of divorce, but I think the provision in 13(i), "is leading an adulterous life," is not clear. It will be very difficult for a woman to come and prove that the man is leading an adulterous life. Therefore it will be better if the provision of clause 10(e) be incorporated here also. Then, Sir, in clause 13 (ix) it is said: "that the husband has, since the solemnization of the marriage been guilty of rape, sodomy or bestiality." It is better if it is amended and said that if a man is convicted of these offences then the divorce could be had.

Then, Sir, as regards custody of children clause 26 I think, Sir, mother is the natural guardian and she is the best guardian who should be entrusted with the custody of the child at least till the age of twelve. So in no case should discretion be left to the court for deciding that matter.

Then as regards the clause on alimony I am surprised to see the objection by some of the hon. Members

to this clause. When the women are claiming equality with men and are demanding equal rights and if the circumstances permit why should they not pay alimony to their husbands. If the husband has got sufficient resources or money he will never ask for alimony from his wife whom she has divorced. But what if there is a case when the wife has got sufficient money and wants to discard her husband just to take another husband because he is suffering from some disease or has gone insane or something like that and he has no source of income? She has been with him in his good time. Hence it is not right to say that he is not entitled to any alimony when she discards him. So, Sir, I think the clause on alimony, as it stands, should be there. And there should be alimony also in the case of judicial separation. The clause is not clear whether it will be granted in the case of judicial separation. So I submit, Sir, that it should be redrafted.

Then as far as the period for making an application for divorce is concerned, clause 14 I think, Sir, the three-year period is too long, though it has been provided that in suitable cases the court may reduce the period and give permission for applying for divorce earlier, but I think, Sir, it should not be the law. The three-year period is too long and in this regard I support the argument put forward by Shri H. N. Kunzru the other day and suggest that the period for making petition for divorce be reduced.

With these words, Sir, I support this Bill and I feel that this is a very good measure and the first step that we are taking to build a new India, an India where there will be equality among persons and there will be a casteless and classless society.

MR. DEPUTY CHAIRMAN: Mr. Karmarkar will reply after lunch. Before we adjourn I have to remind hon. Members that this Bill should have gone through all the stages by 4-30 P.M. on Tuesday. So if need be

[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, Mn. 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