

The question is:

"That the time appointed for the presentation of the Report of the Joint Committee of the Houses on the Bill to amend and codify the law relating to marriage' and divorce among Hindus be further extended up to the last day of the first week of the next session."

The motion was adopted.

# **AMENDMENTS TO RULES MADE UNDER THE ALL-INDIA SERVICES ACT, 1951**

## **INDIAN ADMINISTRATIVE SERVICE (RECRUITMENT) RULES, 1954.**

SHRI H. C. MATHUR (Rajasthan): Mr. Deputy Chairman, these rules govern the All-India Services. Sir, I will move these amendments one by one.

MR. DEPUTY CHAIRMAN: I will put them separately but let us have one discussion.

SHRI H. C. MATHUR: Sir, I will have to speak on each amendment separately.

MR. DEPUTY CHAIRMAN: No, no.

SHRI H. C. MATHUR: You mean you want me to speak on all the amendments together at one time, at one stretch?

MR. DEPUTY CHAIRMAN: The idea is that we can have one discussion, otherwise.....

THE DEPUTY MINISTER FOR HOME AFFAIRS (SHRI B. N. DATAR) : Would it not be better if they are taken up separately?

MR. DEPUTY CHAIRMAN: But I think it will take more time.

SHRI B. N. DATAR: They deal with different points.

SHRI H. C. MATHUR: Sir, in respect of (i).....

SHRI B. N. DATAR: May I point out I that (i), (v), (vi) and (viii) may be taken together?

SHRI H. C. MATHUR: Yes; Nos: (v) (vi), (vii) and (viii) are consequential to No. (i).

MR. DEPUTY CHAIRMAN: Yes; while putting the amendments to the House, I will put them separately.

SHRI H. C. MATHUR: But there will have to be different speeches, Sir. As has been pointed out by the Home Minister it would be much better if we took the amendments separately.

MR. DEPUTY CHAIRMAN: There are four sets of Rules here—one relating to recruitment, the other to probation, the third is cadre rules and the fourth is conduct rules.

SHRI H. C. MATHUR: They are all separate.

MR. DEPUTY CHAIRMAN: But these various amendments that you have suggested to the Recruitment Rules can be taken up together.

SHRI H. C. MATHUR: Even in the Recruitment Rules there are two or three different amendments.

MR. DEPUTY CHAIRMAN: You \*peak on them and I will put them .separately.

SHRI H. C. MATHUR: They cannot be mixed up. There will have to be different speeches. This is just like clause by clause consideration. We never take all the amendments together.

MR. DEPUTY CHAIRMAN: What does the hon. Minister wish?

SHRI B. N. DATAR: I have no objection. We might take the Recruitment Rules first.

MR. DEPUTY CHAIRMAN: Yes, Mr. Mathur. You make your observations on the Recruitment Rules.

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

"That the following modifications be made in the Indian Administrative Service (Recruitment) Rules, 1954, namely: —

(i) In Rule 4, clause (c) of sub-rule (i) be deleted.

(ii) In Rule 5, sub-rule (3) be deleted.

(iii) In Rule 7, at the end of sub-rule (2), the following words be added, namely: —

'and approved by Parliament'.

(iv) In Rule 7, at the end of sub-rule (3) the following words be added, namely: —

'for the period specified in the Constitution'.

(v) In Rule 8, sub-rule (2) be deleted.

(vi) In Rule 8, in clause (a) of sub-rule (3) the words 'or, as the case may be, by selection of any other officer serving in connection with the affairs of any such State' be deleted.

(vii) In Rule 8, in clause (b) of sub-rule (3) the words 'or as the case may be, by selection of any other officer serving in connection with the affairs of any such State' be deleted.

(viii) in Rule 9, the proviso to sub-rule (V) be deleted."

Sir, you are fully aware that these Rules governing the All-India Services, the Indian Administrative Service, the Indian Police Service, etc., have been under the consideration of the Government for a very long time. You will remember, Sir, that it was in the Report submitted to this House in 1951-52 that the hon. the Home Minister promised to place these Rules before Parliament in a few months' time and now after taking all these years what comes before

us is not entirely satisfactory, I am for the present confining my remarks to the Indian Administrative Service (Recruitment) Rules and my first amendment is in respect of Rule 4. I wish clause (c) of sub-rule (1) of Rule 4 to be deleted.

My reason for the deletion of this clause is obvious. This is a clause which provides for a back-door entry into the Indian Administrative Service. I deprecate it. There is an open competition for the Indian Administrative Service and those people who are competent and fit enough to go through that all-India service examination can find an entry into the Indian Administrative Service. Even apart from that there is another provision that people from the State civil services can be promoted to the All-India Service. The quota is fixed at about 25 per cent.

Now, for even those people who cannot find a place in the State civil service and those who cannot find a place for themselves through the examination, here is a provision which makes possible the entry of a third category. I cannot conceive of any person who should be permitted this back-door entry into the All-India Service. I have not been able to think of any such person whose case could be justified for being included, in this Service. I do not know what is working behind the mind of the hon. the Home Minister. Until and unless he explains the special circumstances which have prompted him to incorporate this rule, it is not possible for us at least to visualise any such case where we should make an exception. We quite clearly, we quite freely and quite openly by competition—competition at the all-India level, competition at the States' level—provide very squarely for both. I see absolutely no reason why we should open these back-door methods. I think this is, again, a heritage from the past. There could have been reasons for the alien rulers to permit people to enter the services through the back-door method. They would have wanted

some people to be favoured, they would have wanted to appoint some people who could not justify their selection on the basis of merit, but who were useful in another way. I think we must give an impression to the country that the whole climate has changed, that we look upon this thing with a fresh mental outlook and everything is open and above board. I feel the only possible argument which could be advanced in this matter is that the Home Minister might feel that 'we better give an opening to a certain class of people who are not in the Civil Service'. But I think that there could be no justification even for such a proposition. If the hon. the Home Minister were to examine the situation as it stands, there is a lot of opening for all other kinds of services. It would be absolutely unjustifiable to say that for the Indian Education Service or the Indian Engineering Service we want to keep an opening to enter the Indian Administrative Service through the backdoor. I cannot, as a matter of fact, conceive of or visualise any justification for this back-door entry.

I then pass on to the next amendment, namely, "In Rule 5, sub-rule (3) be deleted". This is very important. I will read this clause.

MR. DEPUTY CHAIRMAN: It relates to married woman.

SHRI H. C. MATHUR: Clause 5(3) reads: "No married woman shall be entitled as of right to be appointed to the Service, and where a woman appointed to the Service subsequently marries, the Central Government may, if the maintenance of the efficiency of the Service so requires, call upon her to resign."

MR. DEPUTY CHAIRMAN: I think you will get full support from Mrs. Savitry Nigam.

SHRI H. C. MATHUR: I do not think she will support my case. My arguments are very different. We very seldom go together. As I just mention-

ed in passing, I would like to emphasise that in moving this amendment and in asking for the deletion of this clause, it is not my enthusiasm for getting women into the Indian Administrative Service that has prompted me to bring forward this amendment. What I feel is that this clause, as it stands, stinks. It cannot be justified on any ground. I also think that even the provision in the Constitution will not permit it. Article 16 says: "No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them; be ineligible for, or discriminated against in respect of, any employment or office under the State." I think that the present Rule 5, sub-rule (3) is in clear violation in every respect of this particular article of the Constitution. I feel that the hon. the Home Minister must have considered this aspect.

THE MINISTER FOR HOME AFFAIRS AND STATES (DR. K. N. KATJU): We have very carefully considered it.

SHRI H. C. MATHUR: I am sure he must have considered this aspect, because obviously when he framed this clause, this must have been very much in his mind. I do not know w" at has enabled the sturdily constitutional pundits to go against the fair sex.

DR. K. N. KATJU: How you describe me as a constitutional pundit!

SHRI H. C. MATHUR: I do not know how you have managed to get out of this constitutional difficulty. I am just waiting to listen to you and then I may have my observations to make. So far as I can see, I have said it is discrimination. In this particular article of the Constitution a clear mention has been made that there shall be no discrimination in respect of employment. I say there is a clear discrimination between the two sexes. There is a clear distinction between a married woman and an unmarried woman. So, I feel it is a discrimination\*

[Shri H. C. Mathur.] May be, as I told you, the Home Minister had considered it and they may find some constitutional way out, but at least I have no manner of doubt that it cannot be, at least, in accordance with the spirit of the provisions of the Constitution. They may wangle out somehow. Again, I do not understand how they justify this clause on the ground which they make out here. They say that they would ask a married woman to quit or to leave the Service, if the maintenance of the efficiency of the Service so requires. May I ask the hon. the Home Minister one question? What is he going to do if the maintenance of the efficiency of the Service so requires, in the case of a man or any other person? If the maintenance of efficiency of the service requires that a particular person in the Indian Administrative Service should not stay there—it is not a married woman, but a man or an unmarried woman—what are you going to do about it? Why don't you apply the same condition? You are not certainly going to tolerate a person when you find that the maintenance of efficiency of the Service requires that he should not continue in his post. If you find that because of inefficiency a particular individual who is not a married woman should resign, what action are you going to take? I would like to know that and if you have got any way of dealing with that person, why don't you apply the same to the married woman? I cannot understand the logic of it all. If there had been any other ground, if there had been any other reason, then I could have understood it. Certainly, you are not going to tolerate people other than a married woman if their stay in the Service is against the interests of efficient running of the department. If the Government can take action against those persons under any other provision, why can't they take action under the same provision against a married woman? Why this discrimination is there, I simply cannot understand. So I strongly advocate that this clause as I have submitted, is wholly incon-

sistent not only with the spirit of the Constitution but also with the letter of the Constitution, and even apart from the Constitution it has no logic, it has no sense and it is unfair and must be deleted.

SHRI B. K. MUKERJEE (Uttar Pradesh): May I, Sir, draw the attention of the hon. Member who was just speaking to sub-rule (2) of the same rule? It says: "No person who has more than one wife living shall be eligible for appointment to the Service, provided that the Central Government may, if satisfied that there are special grounds for doing so, exempt any person from the operation of this sub-rule." Does he consider this to be a discrimination or not?

SHRI H. C. MATHUR: That is an entirely different matter. This has nothing to do with the amendments and modifications which I have asked for, and further my hon. friend may understand that this Parliament is adopting a legislation where they are forbidding this bigamy.

Then, Sir, I have moved that in rule 7, at the end of sub-rule (2), the following words be added, namely:—

"and approved by Parliament."

Well, Sir, it may appear that I am going a little out of my way in asking that these regulations should be placed before Parliament. When I ask for the approval of Parliament, my intention only is that these rules should also be laid on the Table of the House, as these Rules have been laid down, and if any modification is necessary, we should be permitted to suggest it. Why I ask for this is because it has been my experience all these years to find that the Home Ministry particularly is working absolutely on hackneyed lines. There is no fresh outlook. And I do feel that the pattern of our examination, particularly for recruitment to the I.A.S., must be changed very radically, and it is only to emphasise

that factor that I have asked for this modification, though I am quite conscious, as I told you, of the fact that it is rather going too far in asking the regulations to be placed before Parliament and adopted only after they have been accepted.

MR. DEPUTY CHAIRMAN: They are before Parliament. That is what we are doing now.

SHRI H. C. MATHUR: I am explaining the position. I am explaining as to why this modification is necessary.

Then, Sir, I moved that in Rule 7, at the end of sub-rule (3) the following words be added, namely: —

"for the period specified in the Constitution."

Well, Sir, here I would ask for a little modification myself. I have said "for the period specified in the Constitution." The period should be specified only for seats in the legislatures. Now, to have in the Rules this unspecified period for a weightage to the Scheduled Castes would not be proper. What I understood from the discussion on this point both from the hon. the Home Minister while speaking on the Backward Classes Commission, as well as from all the members of the Scheduled Castes, was that they wanted that these classes should be merged with others and that more educational facilities should be provided for them, and not that they should be treated as separate for all times to come. And that was a very healthy mental attitude both on the part of the Scheduled Castes as well as on the part of the hon. the Home Minister. So, Sir, my submission is that this special treatment to be accorded to the Scheduled Castes and this reservation of seats for the Scheduled Castes should be for a specified period, and should not be on a permanent basis, as has been done here. It should be, say, for a period of ten years; maybe, for a period of 15 years, or whatever it is. I think, in ten years' time we should see that the Scheduled Castes and these backward classes merge with the other

people. They have got the same facilities. The boys go to examinations and they are forthcoming. My friend, who was speaking—from the Scheduled Castes—here, very much emphasised that all that they needed was a little more of facilities. So I strongly urge, Sir, that this should be amended accordingly.

As I submitted, Sir, the remaining amendments are only consequential to amendment No. (i). So I have hardly anything to add, so far as these amendments are concerned.

MR. DEPUTY CHAIRMAN: Yes, the amendments relating to the Indian Administrative Service (Recruitment) Rules are open for discussion.

SHRIMATI MONA HENSMAN (Madras): Sir, I only want to speak on clause 5 (2) and (3).

Mr. Deputy Chairman, I just wish to bring to the notice of this House certain things that the House has stood for, that the Constitution has stood for, and that we are probably here to uphold. Marriage, Sir, as has been discussed before this day in this House, is an honourable state. It can even be called a profession, and many married women have combined the profession of marriage with other professions. It is for the history to tell us whether this has been done successfully or not. Sir, here in this rule, I would wish to remark that there may be a little change made in the rather didactic statement that "No married woman shall be entitled as of right

....". It is the phrase "as of right" with the negative that I question, because it means that there is some other authority who will decide whether it is right or whether it is wrong for an unmarried woman to accept marriage in addition to the I.A.S. qualifications and conditions of service. I must make it plain first Mr. Deputy Chairman, that up to now there has not been any personal or particular difficulty that has been brought to my notice about this matter. A lady who was married

[Shrimati Mona Hensman.] already, and who got into the Indian Administrative Service, was graciously permitted, not by right, but by permission, to be admitted to the Administrative Service. And other ladies—one or two of them—who had already got into service, but were then unmarried, have been, not by right, but by permission, permitted to marry. Even, Sir, in the stronghold of the Indian Foreign Service there have been one or two cases where permission could have been granted, would have been granted and has been granted for marriage to a woman administrator. So, Sir, I am not taking this up as a matter of feminism, nor as a case of man against woman, because the Constitution of the Republic of India has given us—women—the right to enter the Services of the nation on an equal footing with men. Why is it not said then that "No married man shall be entitled as of right ....."? We understand that the married man is a wage-earner; he is a person who produces a livelihood; he is a person who is going to uphold the State; he is a person who will probably have more to give to the nation, if he has a happy home, if he has children, if he has security and safety. Then, Sir, why is this right denied to women? Why cannot we have the same right? Does the power, the Government Authority that is going to decide this right, imagine that it is also going to have the choice of husband? Then, in that case, it should be said that in India women in the I.A.S, marrying out of Government departments may be permitted to marry. If the Government servant marries a businessman, if she marries somebody who is not brought under the Government rules, she should be able to marry freely. Is that the wish of those who have framed this code? But then anomalies could arise. A Chief Secretary, Sir, may be married to a lady who may, later in her life, herself become a Chief Secretary. A Chief Secretary in the next 25 years or so may be a woman, in a State. And her husband may be anything

but the Chief Secretary under her in the same State from an executive and administrative point of view. These are some of the points that I wanted to raise. The woman must be allowed to marry as of right. That is why I would urge that this clause be omitted. Women in the I.A.S, are few. We press this because such cases will be extraordinary cases and will arise only once in ten thousand cases. And moreover women do not choose office career readily. They prefer teaching or medicine, and there are various ways of serving. After all, Government has the power to appoint a person as a Government servant, and to grant or deny him or her rights and amenities. And so why put in the words "as of right" into this code at all?

One word more about this, Sir. Perhaps the Government is afraid of such complications as maternity leave in the case of women. After all, every officer gets his leave or her leave only if the exigencies of the service permit, and it may be said that it would be very difficult to apply this at the time of necessity in the case of a woman. Government may be seriously inconvenienced thereby. But are not the women in the Health Services and in the Medical Services getting the privilege of maternity leave? Moreover, Sir, I do not think we should interfere with the right to maternity leave wherever and whenever necessary because after all most women would require this only in the earlier years of their career and certainly not in the later years of their career when they would be in the service and more respectable posts.

May I take this opportunity to speak on a connected subject arising out of the fact of women playing their part in the Services and in public life. When we have this idea of invitations sent out for Government functions, I should like to touch on the smallest of the points so that you will know that there are bigger things depending upon it. If women, when they are in

one of the Services, or when they are Members of Parliament, or when they are in any other form of appointment or are Members of the Legislatures in the States, get invitations, does Government address these invitations so as to include their husbands also? Husbands may come or may not come to the function. That is not the point. Very often they will not choose to come because they have their own pride. They have their own ideas and they may refuse to accompany their wives as 'appendages'. When invitations are issued to men I find that Government addresses the invitations to 'Mr. and Mrs.' or 'Shri and Shrimati'. The same principle should surely be applied in the case of married women and invitations should be addressed to 'Shrimati and Shri' so that women have an equal status with the men with whom they work.

May I then, also, with your permission refer to sub-rule (2) of rule 5, which says, "No person who has more than one wife living shall be eligible for appointment to the Service." But, Sir, a woman may also have more than one husband living. There are certain parts of the country where we have been told, as for example in the debate on the Special Marriage Bill and where we have allowed the right of divorce, that some women in certain parts of the country may have more than one husband. Here it is said that 'No person who has more than one wife living shall be eligible for appointment.....' I suppose this was introduced because there are pension fund's, provident funds, etc., and if two people claimed them it would be very difficult for Government to decide between the claimants. Therefore Government has made sub-rule (2) of rule 5.

MR. DEPUTY CHAIRMAN: We are not concerned with that clause here.

SHRIMATI MONA HENSMAN: But this may also affect women. And as

regards women, if a woman is married or is allowed to marry, the same rules should apply to her as to men. The possibility will have to be considered, if not in actual life but at least on paper, of a woman having more than one husband living, just as—5 (2) provides for men.

Finally, Sir, we are well aware that when these examinations are conducted nobody knows until the interview and the *viva* as to which number is a woman. But when the courses are being run, and the training and probation are carried on, then the appointments are made to individuals as men or women. So I suggest that some all-embracing clause be introduced by which men and women could be put on a basis of equality. This clause 5 (2) should be omitted, Sir, and the interests of the State be served thereby, and the Constitution be implemented in spirit as well as in letter.

श्रीमती सावित्री निगम (उत्तर प्रदेश):  
उपसभापति महोदय, मैं भी पाँचवें क्लॉज के तीसरे सेशन पर कुछ नम्र निवेदन करना चाहती हूँ। सबसे पहले मैं यह बात साफ़ कर देना चाहती हूँ जैसा कि मेरे पूर्ववर्ती स्पीकर महोदय ने कहा कि विवाह एक प्रोफेशन है, मैं वैसा हरगिज नहीं समझती। श्रीमन् मेरे विचार से ही नहीं बल्कि हिन्दू फ़िलासफ़ी के अनुसार विवाह दो आत्माओं का मधुर मिलन और दो नर-नारी का वह पवित्र बन्धन है जिससे सृष्टि की अक्षुण्ण धारा प्रवाहित की जा सकती है।

श्रीमन्, हमारे कंस्टीट्यूशन ने नारी को इतने अधिकार दिये हैं कि सारी दुनिया की औरतें हमसे ईर्ष्या करती हैं, हमारे कंस्टीट्यूशन को देखकर हमारे भाग्य की सराहना करती हैं। लेकिन वास्तविकता क्या है, कितना समानता का

**[श्रीमती सावित्री निगम]**

व्यवहार हमारे साथ होता है, यह आपको साफ़ तौर से पांचवें क्लाज के तीसरे सैंक्शन से जाहिर हो गया होगा। इसलिए यह जो एमैंडमेंट है, जिसके द्वारा स्त्री और पुरुष में भेद बरता जा रहा है अनुचित है। मैं माननीय गृह मंत्री जी से प्रार्थना करती हूँ कि वह इस बात पर गम्भीरता पूर्वक विचार करें भले ही वह बात किसी क्वार्टर से क्यों न आई हो। यदि वह बात उचित है तो उसको स्वीकार किया जाना चाहिये और उसको मान्यता दी जानी चाहिये।

श्रीमन्, मैं यह जानना चाहती हूँ कि हमारे गृह मंत्री जी आखिर विवाहित औरतों से क्यों नाराज हैं वे औरतों के लिए इतना डिसक्रिमिनेशन क्यों करना चाहते हैं।

**डाक्टर के० एन० काटजू :** बड़ी भारी कृपा है।

**डाक्टर पी० सी० मित्रा (बिहार):** फेमिली वे में होगी तो क्या करेंगी।

**श्रीमती सावित्री निगम :** श्रीमन्, मैं आप से प्रार्थना करूंगी कि जो बात डाक्टर मित्रा ने कही, वह एक सम्य समानता में कही जाने योग्य नहीं है, उसे रोका जाना चाहिये।

**डाक्टर पी० सी० मित्रा :** कोर्ट में डेलीवरी कर देंगे।

**श्रीमती सावित्री निगम :** मैं उन्हें यह याद दिलाना चाहती हूँ कि यह बीसवीं सदी है। आज की नारी केवल पुरुष की धेरी ही नहीं, अनुचर ही नहीं बल्कि वह उसकी वर्षों तक सुख दुख की संगिनी

और सहयोगिनी है, उसके कंधे से कंधा मिलाकर चलने वाली है और उन समस्त नागरिक अधिकारों की स्वामिनी है जो आजाद भारत के हर एक नागरिक को प्राप्त हैं।

श्रीमन्, मैं आप से यह भी निवेदन करती हूँ कि इस प्रकार का डिसक्रिमिनेशन लाकर, इस प्रकार का एमैंडमेंट लाकर, स्त्री जाति के पीछे धकेलने वाली या पीछे की ओर घसीटने वाली कोशिश में कभी भी सफलता नहीं मिल सकती है। अगर दस, बीस सैंक्शन भी इस तरह के कानून में जोड़ दें तब भी स्त्री जाति की प्रगति अब रुकने वाली नहीं है। इसलिए श्रीमन् मैं निवेदन करूंगी कि भविष्य में नर और नारी के बीच किसी तरह का भेदभाव किसी रूप में भी नहीं बरता जाना चाहिये और न कोई कानून ही इस तरह का बनाया जाना चाहिये। अगर हम इस प्रकार का कोई कानून लाते हैं तो हमारे संविधान में जो धारा समानता की है, उसका हम विरोध करते हैं। इसके साथ ही साथ हम दूसरे मुद्दों के सामने एक बड़ा गलत उदाहरण पेश करते हैं कि हमारे देश में स्त्री और पुरुष में भेद बरता जाता है।

श्रीमन्, जहाँ तक एफिशेंसी का सवाल है स्त्री और पुरुष दोनों उसमें बराबरी के दर्जे में पहुँच सकते हैं। इसलिए एफिशेंसी की जो बात लाई गई है उसमें स्त्री और पुरुष दोनों की ही बातें लाई जानी चाहियें।

**डाक्टर पी० सी० मित्रा :** नहीं, नहीं, रात में अकेले चांदनी चौक जा सकते हैं?

**श्रीमती सावित्री निगम :** श्रीमन्, मेरी आप से यह प्रार्थना है कि आप डाक्टर

मित्रा से कहें कि वे लिमिट के अन्दर रहें, और सदन में उन्होंने इस तरह की जो भी बातें कहीं हैं, उन्हें एक्सपंज कर दिया जाना चाहिये। मैं कह रही थी कि

**I2 NOON** जैसा कि अमेंडमेंट में है कि स्त्रियों की ही एफिशियसी नापने के लिये एक मापदंड रखा गया है वह अनुचित और बिल्कुल ग़लत है। एफिशियसी जितनी भी स्त्री या पुरुष में हो, उन दोनों को एक समान बन्धन में बांधना उचित था जैसा कि हमारे मित्र डाक्टर मित्रा साहब को संशय और शक है, शिक्षा विभाग में अगरचे स्त्रियां अधिक संख्या में काम कर रही हैं और उनको बराबर विद्यालयों में हाजरी देनी पड़ती है, लेकिन अस्वस्थ होने पर वे एक सर्टेन लिमिटेड पीरियड की छुट्टी ले लेती हैं और उसके बाद फिर ज्वाइन कर लेती हैं। इसी प्रकार गवर्नमेंट सर्विसेज में जो पुरुष वर्ग है उसको बाकायदा छुट्टियां मिलती हैं। ऐसे नियम बने हुये हैं कि पुरुषों को तीन तीन चार चार महीने की छुट्टी एक साथ मिल जाती है। इसी प्रकार स्त्रियां तीन चार महीने की छुट्टी ले सकती हैं।

**पंडित एस० एस० एन० तनखा (उत्तर प्रदेश) :** साल भर में तीन चार महीने की छुट्टी।

**श्रीमती सावित्री निगम :** साल भर में नहीं। मेरे कहने का तात्पर्य यह है कि साल भर में नहीं बल्कि चार छः वर्ष में जब कभी आवश्यकता पड़े तो अस्वस्थ होने पर तीन चार महीने की छुट्टी मिल सकती है। ऐसी दशा में जैसी शंका मित्रा साहब के मन में अक्सर उठा करती है, वह नहीं होनी चाहिये।

होम मिनिस्टर महोदय ने पोलिगैमी के रोकने का जो प्रयत्न किया है कि

वह आदमी जो दुबारा शादी करेगा उसको गवर्नमेंट सर्विस में नहीं रखा जायगा, उसके लिये मैं उनको हार्दिक धन्यवाद देती हूं। हमारे यहां बहु-विवाह की प्रथा बढ़ती जा रही है और उससे समाज में और विशेषकर स्त्री वर्ग में एक आतंक छाया हुआ है। आज भी दिल्ली में अनेक ऐसे गवर्नमेंट आफिसर्स हैं जिन्होंने इस प्रकार का अनुचित काम करके बेचारी निरीह स्त्रियों के साथ बड़ा निर्दयतापूर्ण व्यवहार किया है। हां, इसके बारे में श्रीमन्, अगर यह भी हो जाता तो मुझे कोई एतराज नहीं था कि कोई स्त्री या पुरुष यदि पोलिगैमी का दोषी पाया जायगा तो वह तुरन्त हटा दिया जायगा। सचरित्रता के जो बन्धन हैं वे दोनों के लिये समानरूप से कसे हुये होने चाहियें और गवर्नमेंट सर्विस में रहने के लिये दोनों को सचरित्रता का आदर्श कायम रखना चाहिये। धन्यवाद।

**SHRI B. GUPTA (West Bengal):** Sir, I have never come across such a set 'of reactionary rules as these. We have not given notice of any amendments. It is because the whole set of rules has to be rewritten. If we had the opportunity, we could have presented an alternative set of rules. You can understand the reactionary nature of these rules from the provision that has been made in sub-rule (3) of rule 5 which is under discussion at the moment with regard to married women. We are passing Bills, we are told, for giving rights to women. Here we are told that married women are being disqualified for jobs under the Government which they can easily undertake.

**DR. P. C. MITRA:** Only for Administrative Service.

**SHRI B. GUPTA:** You are an old man and you are at the fag end of

[Shri B. Gupta.] your life. Your understanding about women has ceased.

*(Interruptions from Dr. Mitra.)*

I don't know why he is having such a lack of faith in women. There must be some reason, I am sure.

SHRI H. C. MATHUR: There are already six women.

SHRI B. GUPTA: These rules have been rightly challenged by the hon. lady Member just now. She was being disturbed by certain hon. Members on that side but without any argument or justification. In the democratic countries, we find that women are given more and more responsibilities and they can discharge almost all the responsibilities that men have hitherto shouldered. They can be engineers, they can be in the civil services, they can be technicians, they can be good scientists, they can be artistes, they can be in the administrative service and in other non-official jobs. In all walks of life we see that that is finding recognition and here in this Congress democracy which is supposed to swear by women more especially when it comes to catching the women's votes, a set of rules are formulated which debar women from the right to Government service. What does it mean? It means half of the population is being practically ruled out. Half of the population is being put outside the pale of these administrative services. This is not only contrary to all democratic principles and good conscience, but this goes against public morality and militates against elementary human considerations. Sir, this is what I want to say.

Now, if women can be Ministers, can be Deputy Ministers, can do so many other things, why on earth cannot they be entrusted with jobs in the Government services and in the Secretariat? I would like the hon. the Home Minister to make out a case for this rule. I know he will not be able to make out anything except that he will give his usual harangue and

will smile and crack jokes. Having sat in the Cabinet with a woman as his colleague, he should realise that women are quite as capable as men are. If that is true of the Cabinet, that is equally true of other services. That is why I say this is a retrograde measure—this is a measure which does not fit in with the other social reforms that we are supposed to pass by way of adopting the Hindu Code Bill or the revised version of the Hindu Code Bill. Secondly, we know that society cannot progress if women are not placed in all walks of life and given their due share in the social life and the administrative field is no exception. We have seen in countries like the Soviet Union as well as in the People's Democratic Republic of China what great part women are playing in the remoulding of the destinies of those countries, in the reconstruction of those countries, in changing the face of the earth in that part of the world. If it is true of those countries, why on earth should not our women be given such responsibilities? Is it that our women are inferior to women in those countries? Not at all. Given the opportunities, they can fulfil their part. Let us not quibble about words. We know there are certain difficulties, but they are minor matters. Therefore it would be a mistake if the hon. Minister wants to make capital out of them. These rules are an insult to women. If I were in the Congress Party and a woman, I would have resigned<sup>^</sup> from the Congress Party straightway.

DR. P. C. MITRA: Why not change your sex?

SHRI B. GUPTA: If I were a woman, I would never have consorted with a woman-hater like you. This subclause says:

"No married woman shall be entitled as of right to be appointed to the Service, and where a woman appointed to the Service subsequently marries, the Central Government

may, it the maintenance of the efficiency of the Service so requires, call upon her to resign."

Mark these words, the spirit in which they have been formulated, the mentality behind such phraseology, the want of confidence in women, the feeling that if they got married they would lose their efficiency. That is merely an excuse here, that is to say, they want to get rid of them, that is all. The whole attitude is a filthy and foul attitude, that is all I would say on this matter. I do not have words enough to condemn such a measure. Therefore, even at this hour, I think the Home Minister would do well to take back this rule at least.

With regard to the other provisions of this Bill, I do not know when they will come up for discussion, for I do not know whether we are going to take them up item by item, but I hope to get another opportunity to speak. There is, for instance, the question of the services and recruitment and promotion and that sort of thing.

SHRI B. C. GHOSE (West Bengal): Recruitment comes in here.

SHRI B. GUPTA: To recruitment I may refer here in a few words. We have been handed down a hide-bound bureaucracy by the British—what used to be called at that time the steel frame or iron frame. Recruitment at that time was on the basis of competition, by competitive examinations. And promotion of members of the civil service was effected by a kind of selection. These are not democratic methods. Of course, the need for competitive examination may be there. Such competitive examinations may be necessary. These examinations may have their place. But this is not the only method of picking out the men. There are different methods which have proved to be the democratic methods of recruitment. Sir, in the past, as you know, our boys went out to England and sat for the I.C.S.

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examination. I see the Secretary getting up.

MR. DEPUTY CHAIRMAN: What is the clause on which you are speaking, Mr. Gupta?

SHRI B. C. GHOSE: He is on rule t(l)(c), Sir.

SHRI AKBAR ALI KHAN (Hyderabad): He is having a general discussion.

SHRI B. GUPTA: I am on 4(l)(u) and I do hope, Sir, that you will be a little flexible in this matter. Rule 4(1)(c) speaks of:

"by selection, in special cases, from among persons, other than members of a State Civil Service, serving in connection with the affairs of a State."

The amendment proposed by the hon. Member to this rule gives me the opportunity to speak. I am speaking on recruitment.

As I was saying, recruitment used to be made the basis of a certain competitive examination held by bureaucrats in high places. Our boys went to England and sat for competitive examinations and they were there miseducated. Whatever little patriotic education they had got from India they lost there and they became totally unfit for the Indian conditions, but they became very fit for running the British bureaucratic machinery, though totally unfit for serving the people or for serving a democratic system. Now, the same methods have been retained. Today we find the same bureaucratic methods adopted here. We would not advocate our methods here, the method of election, because I know it will not find favour here. It is possible to get administrators by the method of election by the people. It is possible, but I do not think this Government will at all consider such a thing, for according to them that would be very, very revolutionary, though according to us

[Shri B. Gupta.] it would be only a sensible thing to do.

Now, here also it is to be a selection by high officials and there patronage comes in. There is to be selection by high officials from existing cadres. Sir, we know service records are examined. We know also how they are examined. In the old days such people who had been very successful administrators, not by bringing relief to the people, not in serving the people but in suppressing them and suppressing the freedom movement, in sending men like Dr Katju to jail, in beating the mother of Shri Jawaharlal Nehru in the street of Allahabad, in shooting down people. Such officers were given promotion and elevated to high places. You know how many people, who had carried on repression against the freedom movement, had been elevated to high positions, because some people in Delhi had thought that they were the people to be given promotion, that they were the most suitable to be given promotion. The minor officials, the lower officials are not consulted in this matter. Public opinion, of course, goes completely unheeded. We know all these things. But even now, we find the same policy remains, the same method remains. In Calcutta, for instance, Sir, such people who had been successful in suppressing the .....

MR. DEPUTY CHAIRMAN: Mr. Gupta, this is a very limited discussion and so you need not go to Calcutta. Bengal and such places. Let us be brief. You have already taken more than ten minutes.

SHRI B. GUPTA: I will finish just now, Sir. This method of recruitment is one which is unacceptable to the people and repugnant even to the elementary notion of democracy and this method has to be given the go-by if, the Congress is to stand by the past pledges that they gave. But after the Mountbatten Deal then spoken word and the various Con-

gress Resolutions were given the go-by. But, as a matter of fact, they are in duty bound, in honour bound to the country to do away with the steel frame, without leaving its least vestige. These rules are anti-people and anti-democratic and atrocious and outrageous.

MR. DEPUTY CHAIRMAN: The Home Minister.

SHRIMATI LILAVATI MUNSHI (Bombay): May I have a few minutes?

MR. DEPUTY CHAIRMAN: There are other amendments on which you may speak later.

SHRIMATI LILAVATI MUNSHI: But, Sir, this is an important amendment affecting women on which .....

MR. DEPUTY CHAIRMAN: But I find another lady standing up there and if I give you a chance, I will have to give her also an opportunity.

SEVERAL HON. MEMBERS: Sir, we must hear the lady member.

MR. DEPUTY CHAIRMAN: All right, please take only five minutes.

SHRI T. PANDE (Uttar Pradesh): Let there be ladies' rule.

SHRI H. C. MATHUR: Yes, it was Shrimati Lilavati Munshi who wanted an all-women cabinet.

SHRIMATI LILAVATI MUNSHI: Thank you very much, Sir, for giving me five minutes. Much heat has been introduced in speaking on this amendment; but I am not going to be very much excited about it and I shall only place before the House my point of view.

Sir, I think this is a very old question, because I remember that even in the Bombay Municipality so many years ago this question came up and a lady doctor was asked to resign because she got married. I

remember that case because I had to fight for the lady and it was many many years ago. Again there was once a question raised that in the municipal medical college the number of women candidates should be restricted, though actually they got in not because of any reservation, but by sheer merit. Therefore, what I say is, this is an old question found among all bodies where men predominate and we find it now brought

- up by tie Government.

SHRI V. K. DHAGE (Hyderabad): 'Old men?'

SHRIMATI LILAVATI MUNSHI: I can quite understand the question

- of efficiency and the anxiety of the hon. the Home Minister to introduce efficiency in the Government Departments. But I think that can be done by proper control on the male employees. Efficiency goes down now; because—what shall I say? I won't say because men misbehave, but—because men do not do their duty properly where there is a mixed department. I would also say, that if men set an example, if they behaved in a dignified way, if each of them did his work properly I do not think there would be any complaint 'Oi inefficiency.

One argument that was put forward here was that women are afraid, that they are afraid of going out at twelve o'clock at night in the "Chandni Chowk. But may I ask, who is responsible for that? It is just because of men that they are afraid. Women will not be afraid of going out anywhere if men set an example of good conduct. I am not talking of any particular person, but if all men behaved properly, then women would not be afraid of going out and.....

DR. P. C. MITRA: Men are not afraid.

SHRIMATI LILAVATI MUNSHI: That is because *men* can bully, so

they need not be afraid. Well, the hon. Member is a kind of a jack-in-the-box and .....

DR. P. C. MITRA: But the .....

MR. DEPUTY CHAIRMAN: Order, order. Please do not disturb, Dr. Mitra.

SHRIMATI LILAVATI MUNSHI: Women's handicap is that of child-bearing which is a special function of women.

When we are admiring so many other countries for so many things, we should keep their example before us. For instance, we have not provided creches. I think the people in the Administrative Service will be well off and they may be able to look after their children but if they are unable to make such arrangements, Government could provide creches for those children. As was pointed out by the hon. Mr. Gupta, in foreign countries, especially in Russia and China, it is women who made those countries strong, it is their help which was valuable in liberating those countries and made them progress very rapidly. If you think that by barring half the section of our population the country can make very rapid progress, I doubt it very much. I read somewhere that in some countries women are being sent back to *purdah* after they came out of it. The next move will be to say, women are not good for this or that and so let them sit at home. It will be said because women compete with men, and take out the bread from the men.

DR. P. C. MITRA: Let them go to the kitchen.

SHRIMATI LILAVATI MUNSHI: In these days of hardship it has become necessary for women to earn and I do not think we should put a ban of this type for women. Maybe in practice, in some particular case, there might be difficulties for women to perform their duties; if it is so, it is for the department to think of that

[Shrimati Lilavati Munshi.] particular case. Instead of that, if you make a general rule like this, it will result in a great hardship to women. I do not want to exceed the time limit but I would submit that this rule requires reconsideration and I hope the hon. Minister will be able to drop it.

SHRIMATI PARVATHI KRISHNAN (Madras): Mr. Deputy Chairman, I rise to support the amendments that have been tabled to the I. A. S. Recruitment Rules. I am not here to fight, Sir; I am here to put forward the view not only of all women but of all progressive and right thinking people in this country. It is not as a feminist that I stand up, Sir, but as the representative of all people who believe in universal equality in our country, who have supported the Constitution under which such equality is guaranteed to all people of all sections, of all communities and of all castes. I see the hon. the Law Minister smiling in his usual way.

SHRI H. C. MATHUR: He is the Home Minister, not the Law Minister.

DR. K. N. KATJU: What am I to do, Sir?

SHRIMATI PARVATHI KRISHNAN: I am indeed glad, Sir, he is smiling instead of jumping *iip* and down, raising his eyebrows in an attempt to silence the Opposition Sir, the Congress movement, on the shoulders of which the present Ministry has come into power, provided a platform on which the cause of the emancipation of women in our country was taken up and it was realised by all right thinking nationalists that until and unless the women of our country are emancipated, unless and until women are given equality in all walks of life, the country cannot progress and freedom itself could not be achieved. As a result of that, sections of the womenfolk of our country took part in the national movement, sacrificed their lives, their brothers, their fathers and their children for the cause of freedom and it is indeed amazing, Sir, that the Congress Ministry should

be responsible for rules which bring in this discrimination. I would ask the hon. the Home Minister whether it is his desire that there should be, in our country, this discrimination on-the one side. Or is it that he is allowing himself to be a party to permitting a new section to grow in this country. By bringing in these regulations, he is going to put those women who come into the Administrative Service in the awkward position of choosing between serving their people and their country and their own personal happiness. If by any chance there should be those few who do make that supreme sacrifice and choose to serve the people, then we will have still another section for the Home Minister to have to provide for, a section of eccentric spinsters which I am sure he does, not wish us to see in this country. It is amazing, Sir, that in this country from which women Ambassadors have been sent out, the country from which a woman has been elected as the first woman President of the United Nations, with this Ministry in power we should have a provision like this before us for discussion on the floor of the House today. I would appeal to the Home Minister—knowing, however, how accustomed he is to keeping up his reputation of being the man who hears nothing, who sees nothing but who speaks all—this time to see everything, to hear everything, to be reasonable and to agree to accepting this amendment because no right thinking person in our country can be party to a rule of this type. I would suggest to the Home Minister that if he is really large minded enough, if he really believes what he one day told me in a moment of weakness, that he considered all women to be goddesses, he should also allow the women in our country to be on an equal footing with those to whom he belongs, the very privileged class of gods; otherwise, I would warn him that these goddesses will be up in arms and there will come a day when they will throw the tin gods away from the *gaddi*. The cause of women will be

upheld and the progress of this country will be ensured when women are given complete equality in all spheres.

Thank you.

SHRI K. B. LALL (Bihar): May I put one question to the Home Minister? Is the proposed disqualification on women on account of the apprehension that there will be wastage of public money on account of maternity or other benefits to be provided or is it on account of the fear that efficiency of work expected from them would suffer?

MR. DEPUTY CHAIRMAN: Please wait; he will tell you.

DR. K. N. KATJU: Mr. Deputy Chairman, the question raised is a serious one and it is important and I suggest that we should consider it in a serious manner. I have listened to the very persuasive appeal of the hon. Member who spoke just before me and I wish I could have obliged all my sisters here. But what they have said is quite, really and utterly, impossible to do. I wish them to consider the question in an objective manner. I shall come to the legal point in a minute.

These Rules relate to the Indian Administrative Service and do not relate to Ambassadors, Doctors or Teachers. What is this Service? This is the main executive service of the State. You may have a head of the district, a Commissioner, who may be called upon to go on a motor car, on foot or maybe on horseback, in an emergency anywhere and keep law and order. Secondly, it is not a question of sex. No one seems to have considered the adjective. Here it is the adjective which is a matter of great importance. There is no compulsion about it. Here is a case of discretion left with the Central Government. If a woman marries—it is not the question of sex: that is ruled out—certain consequences may ensue if the Central Government so desires. May I give one illustration

because it is a relevant illustration and it has got something to do with the efficiency of a Service. Of course, today, by God's grace, our ancient system of *purdah* is abolished; women do not observe it. But supposing there was a rule here that a woman, if she observes *purdah*, may be asked to quit the Service. Now, the removal from service is not because she is a woman but because she observes a particular custom and the custom is that she does not want to be seen by men and that she wears a burqa.

SHRI B. GUPTA: Marriage is not a custom.

DR. K. N. KATJU: She might say, 'I will come to office in a burqa and shall sit in a *burqa*'. The answer to that will be that this will not be in keeping with the efficient discharge of her duties. It is desirable that all senior officers should be able to meet each other and talk with each other. No objection can be taken that this would be exercising discrimination. Similarly here there is no question of any discrimination on the ground of sex; sex stands. But it is a discrimination on the ground of marriage, that is, if something supervenes it makes it the duty of the Government to see whether public interest will suffer or not. My hon. friend said over and over again that it was absolutely impossible to understand whether this can possibly be constitutional.

SHRI H. C. DASAPPA (Mysore): They say that the discrimination is between married man and married woman; that is the discrimination.

DR. K. N. KATJU: Now I may tell the House that this question arose not today but immediately after the passing of the Constitution, in the time of Sardar Patel, and I am reading four lines. They contain the whole argument which I am trying to put before the House in a nutshell and it has the great authority of Sardar Patel behind it. Now this is what he said: "There are incidents of married life which do affect the capacity

[Dr. K. N. Katju.] of the persons concerned who serve in executive posts, particularly posts which call for frequent and prolonged outings either in the normal course or in emergencies, and obviously these cannot wait until those incidents are over." I am very glad to read this.

SHRI H. C. MATHUR: May I know from what text? Will this be laid on the Table?

DR. K. N. KATJU: It is not a question of laying on the Table. I am reading on my own four lines.

AN HON. MEMBER: You have no such right.

SHRI H. C. MATHUR: The hon. Minister has quoted and read from a certain document and he must place that document on the Table of the House.

MR. DEPUTY CHAIRMAN: It is a part of the speech.

SHRI H. C. MATHUR: He has referred to a certain document. I definitely want your ruling on this point whether the document from which Dr. Katju has read out should be laid on the Table. I wish that document to be laid on the Table and I think I am entitled to it.

DR. K. N. KATJU: Mr. Deputy Chairman, I have read four lines which I propose to adopt as my argument and I submit that there is no such rule according to which my friend can claim it. I am not reading any quotation; I did not.

SHRI B. GUPTA: I make a submission. Before reading out these lines he said that he was reading out certain lines which had the authority of a certain person, namely, Sardar Patel. Now we would like to see as to what the whole text is. Isolated words may not convey the sense to this House. His intention has been to influence this House by quoting from somebody whom he considers to be an authority. Therefore we are

entitled to know as to what is the full text and as to what Sardar Patel said and in what connection he said that, though I do not personally believe that he is much of an authority.

MR. DEPUTY CHAIRMAN: See Rule 211, Mr. Gupta. It says:

"If a Minister quotes in the Council a despatch or other State Paper which has not been presented to the Council, he shall lay the relevant paper on the Table:

Provided that this rule shall not apply to any documents which are stated by the Minister to be of such a nature that their production would be, inconsistent with public interest:

Provided further that where a Minister gives in his own words a summary or gist of such despatch or State Paper it shall not be necessary to lay the relevant papers on the Table."

It is not necessary to lay it on the Table. He adopts them as his own, the four lines.

SHRI H. C. MATHUR: Quoted from Sardar Patel.

SHRI B. GUPTA: He has not said that he was summarising.

SHRI B. C. GHOSE: The second proviso is not applicable here because he has not given in his own words a summary or gist. Now he can take shelter under the first proviso if he wants to.

DR. K. N. KATJU: Really, I tell you, this is awful.

MR. DEPUTY CHAIRMAN: The Rule makes an exception in the case of Ministers.

SHRI H. C. MATHUR: Under which proviso?

MR. DEPUTY CHAIRMAN: Both first and second. "Provided further that where a Minister gives in his own words a summary or gist" etc.

SHRI B. C. GHOSE: The reporters may be asked as to what the hon. Minister said, namely, if he had not said that he was quoting from a certain document written by Sardar Patel. But he cannot take any shelter under the second proviso; he can under the first proviso, but he has not asked for it.

SHRI H. C. MATHUR: Instead of giving all the arguments he has read out four lines, the four lines from Sardar Patel, and he said that these four lines will make up for all the arguments and after having said that.....

MR. DEPUTY CHAIRMAN: He has adopted them as his own.

SHRI H. C. MATHUR: How can he?

SHRI B. GUPTA: How can he? "Provided further that where a Minister gives in his own words", etc. He did not say that he was saying something in his own words; in that case he would not have referred to Sardar Patel at all. ".....a summary or gist". He did not say that it was a summary or gist of what Sardarji said. He said: "I am reading it." How can you invoke this particular proviso with regard to the special reference that had been made? Therefore he has to take back everything that he has said or he has to say that he cannot lay it on the Table in the public interest in which case he will be thoroughly exposed.

MR. DEPUTY CHAIRMAN: Dr. Katju, are you prepared to lay it on the Table of the House?

DR. K. N. KATJU: No, nothing of the kind. I should be allowed a little chance to speak. Mr. Deputy Chairman, I have not read any lines from any formal State despatch or State document. This is something which was written by Sardar Patel in a private letter. The ordinary rule is that, unless you raise a point of order in which case the speaker will give way, the Member who is actually

speaking should be allowed to continue unless he yields to an interruption and gives you place. My hon. friends, few in numbers, always rise up, five or ten at a time, and begin to shout; they always speak together. Nobody can hear what they are saying. Now I respectfully submit that it is a private letter. I only read four lines because I thought what he said is much better put than I could have put it. Therefore if my hon. friends say all this I would cut out the reference to Sardar Patel from it.

MR. DEPUTY CHAIRMAN: If you refer to any private letter or any document, I have held on a previous occasion that it should be laid on the Table unless you say that it is not in the public interest to lay it on the Table.....

DR. K. N. KATJU: It is a private letter; I do not know whether it exists or not.

SHRI B. C. GHOSE: I rise to a point of order. The point of order is that on this matter the hon. the Home Minister has stated that it is a private letter from which he is quoting. So the invoking of the two provisos does not arise and if he has quoted from a private letter, under the rules he is required to lay it on the Table of the House and he cannot take any shelter on the ground that it is a State document which cannot be laid on the Table of the House or on the ground of public interest.

SHRI B. GUPTA: I would like to add this. He said that he was reading and we should have that document from which he was reading it out. He did not say that he was speaking from memory subject to correction. It would be understandable if he had said so. So, Sir, please ask him to place it. The whole file must be placed before you.

MR. DEPUTY CHAIRMAN: I hold that the first proviso to rule 211 applies and it need not be placed on the Table.

SHRI B. C. GHOSE: Even though , it is a private letter?

MR. DEPUTY CHAIRMAN: It is ! not a private letter. He was his pre- | decessor in office.

DR. K. N. KATJU: Mr. Deputy Chairman, I respectfully suggest that we ought to be a little more serious about this matter. It is a private letter and if you so require I can say that it will not be in the public in- j terest to lay any private letter on the Table.

SHRI B. GUPTA: It is not a love letter. It is.....

MR. DEPUTY CHAIRMAN: Order, order.

SHRI B. GUPTA: It is a letter dealing with a matter of public interest.

MR. DEPUTY CHAIRMAN: That is why it is not in public interest to lay it on the Table.

SHRI B. GUPTA: Does the hon. Minister say that?

SHRI B. C. GHOSE: Sir, I am constrained to say that the Rules do not provide that.....

SHRI H. C. DASAPPA: When the hon. Minister says that it is not in the public interest.....

MR. DEPUTY CHAIRMAN: I have already given my ruling.

SHRI B. GUPTA: The hon. Minister stands exposed before the whole world.

MR. DEPUTY CHAIRMAN: Order, order.

DR. K. N. KATJU: Mr. Deputy Chairman, a question was raised about the construction and the ambit of the constitutional provision. On this point the Attorney-General was consulted and he gave a definite opinion that a provision like this was not unconstitutional and he said the

same thing as I have been saying here. He said when you consider the adjective which is "married" women, what the Constitution hits is the elimination of this female sex altogether. That cannot be done but if you say that men and women are all completely alike, but if a particular woman undergoes a certain transformation by undergoing marriage, then you do not hit the female sex at all; you hit only a particular woman who undergoes a certain transformation and if my hon. friends.....

SHRIMATI SHARDA BHARGAVA (Rajasthan): On a point of explanation, Sir.....

DR. K. N. KATJU: Let me continue. If my hon. friends.....

MR. DEPUTY CHAIRMAN: He is not yielding, Madam.

SHRIMATI SHARDA BHARGAVA: I am just on a point of explanation, Sir.

DR. K. N. KATJU: There is no point of explanation, mine or yours.

SHRIMATI SHARDA BHARGAVA: But you have not mentioned that if a man marries, he is also just like that. (*Interruptions.*)

DR. K. N. KATJU: Mr. Deputy Chairman, I wanted to carry on a very serious discussion but my sister over there is compelling me into a lighter mood. Some people say that after a certain age—24 or 25—after the period of *brahmacharya*, if a man does not marry, he becomes inefficient. If a man marries he adds to his efficiency. (*Interruptions and laughter.*) We all know that. All of us have undergone that experience. It is an education. Just as you become an M. A., you pass the I. C. S., or you pass a medical course. Here you build a house, enter the *grihasthashram*. The idea is to marry, and having married, you blossom forth and you become a great officer, a great legislator. And so far as the woman is concerned, she also blossoms forth; she brings forth child-

ren. She has to maintain them and look after them.

Just consider this. There is a woman District Magistrate. Imagine there is a sudden emergency—*tazias*—all sorts of things. She has got a little baby. Is she going to carry the baby there? There are four lady Members here—no, five of them. They all speak in a theoretical manner that we discriminate against their sex and *lose* the point completely. I say in the first place, I may be very old-fashioned, but I feel that the first duty of a woman, if she is a mother, is to look after the baby. But they say: "No, make us District Magistrates so that we may be able to go about ordering firing, ordering this and that." Sir, this is a very serious matter. This is not a compulsory rule. The rule does not say that she will have to go. It all depends; the Central Government may consider the matter and may say, 'well, in this particular case she can remain' and in another particular case it may be that she goes. And it applies to only one Service—the Indian Administrative Service. It does not apply to other Services like Education, Medical, etc.

SHRIMATI SHARD A BHARGAVA: What is the difference between the Administrative Service and the other Services so far as the first duty of a woman to look after the baby is concerned?

DR. K. N. KATJU: Is that a point of order or point of explanation?

SHRI H. C. MATHUR: I do not understand why, when a woman can be kept on in other Services, she could not remain in the Administrative Service. Why cannot you permit them to join the Secretariat?

DR. K. N. KATJU: I do not want to be impertinent. I think it is a relevant quotation from a book which I can place on the Table of the House. (*Laughter*) That book is Boswell's *Life of Johnson*. I am tempted to quote from that because Mr. Mathur says repeatedly, 'I do not

understand, I do not understand'. So also this lady was saying. Johnson was carrying on a discussion and when he was put this same question I do not understand this or that' Mr. Johnson replied: "I can give you reason but I cannot give you an understanding." So how can I give you understanding? It really requires a very serious operation somewhere to get Mr. Mathur understand that. He won't read the Constitution; he won't study the Report. He says, 'I cannot understand'. If he wants, I can give him the Attorney-General's opinion. In America this point had arisen. Women there are not permitted to function as jurors. This question was raised and the Constitution was quoted and it went up to the Supreme Court which held that it had nothing to do with that. The question is not against any sex but whether the members of a sex can discharge their duties efficiently. If the Government comes to the conclusion or if Parliament comes to the conclusion that women cannot function as efficient jurors, then the Government can say so; Parliament can say so.

To sum up, Mr. Deputy Chairman, I want to assure my hon. friends that no one can be more eager, more anxious because of their professions, their beliefs, than myself, Members of Government, Members of the Congress Party, each member of the House to see that the guarantees that have been given should be faithfully respected. We are all proud of our womenfolk here. They have done wonderfully well in every field of life and we are fully convinced that India herself cannot make any advance, we cannot prosper, we cannot promote our social welfare, unless and until we march together. As has been said, man and woman—not only in India but everywhere—are like the two wheels of a chariot. If one wheel remained behind, you cannot make any progress at all. So it is not a question of theory or sentiment. You will have to take into consideration the requirements of a particular case and if you begin to denounce any rule that is made by

[Dr. K. N. Katju.]  
the Government in the wider interest of the public at large and appeal to sentimental considerations and theories, it is not a desirable thing to do. That is all that I have to say on this question of sex. Then I had better finish in two minutes. One other point raised by Mr. Mathur was although he has none himself.....

SHRI H. C. MATHUR: No, Sir.

DR. K. N. KATJU: Selections?

SHRI H. C. MATHUR: I just want to say something about this clause which the hon. Minister has just dealt with. I ask for an explanation. He has given me understanding, although he has none himself.....

DR. K. N. KATJU: I have replied. Will you please sit down for a second? I have finished what I had to say. So far as the point is concerned, namely, Rule 5, sub-rule (3), which says "that no married woman shall be entitled as of right to be appointed to the Service and where a woman appointed to the Service subsequently marries, the Central Government may, if the maintenance of the efficiency of the Service so requires, call upon her to resign", women cannot claim as of right to remain in service when they marry or they are married women. On that point I have finished. But I thought my learned friend put forward also his first amendment which said about certain members of the State Service to be admitted into the Indian Administrative Service.

SHRI H. C. MATHUR: My submission regarding this sub-rule (3) in Clause 5 is .....

DR. K. N. KATJU: I have finished that.

MR. DEPUTY CHAIRMAN: You cannot make another speech.

SHRI H. C. MATHUR: I am not making another speech. What I asked was, how is the department going to deal with those people who

are not married and if they find that, it is necessary to discharge them in the interests of efficiency? Why cannot they deal in the same manner in the case of married women? That was my salient point. The hon. Minister has not said a word about it.

MR. DEPUTY CHAIRMAN: You cannot make another speech.

DR. K. N. KATJU: Here I really must rise on a point of order. Can the hon. Member make a second speech for ten minutes in the garb of saying: "I have raised points (a), (h), (c), (d), etc., and the Minister has given answer only to points (a) and (b)" and then go on making a speech?

SHRI H. C. MATHUR: I am not making a speech. Am I to understand that you have no answer?

THE DEPUTY MINISTER FOR HOME AFFAIRS (SHRI B.N.DATAR): Sir, two or three other points have been raised by Mr. Mathur. One relates to the selection of certain members from the State Service, though it is not a Civil Service. Now, according to the practice you will kindly find that there are certain Dots in the State Services which are not technically in the Provincial Civil Service cadre. There are certain posts reserved for the Indian Administrative Service, for example, the Registrar of Co-operative Societies, the Commissioner of Labour, and the Director of Agriculture. So the word "Civil Service" has to be understood in a limited sense. So far as the Civil Service members are concerned, they are entitled to be promoted to the Indian Administrative Service through the promotion quota. So far as other officers are concerned, they are State officers; they are not technically Civil Service officers, but they are carrying on the same kind of work, work especially of an executive nature. Therefore, there ought to be some opening so far as such officers are concerned. That is the reason why a very small percentage, fifteen

per cent, has been laid down. Just ES Indian Administrative Service officers are entitled to be appointed to such offices though they are not executive posts, similarly also those members of the State Services who technically do not belong to the Civil Service should also have an opportunity of being selected to the I.A.S. And, then, the hon. Member will kindly note that in this case, the selection has to be made in consultation with the Union Public Service Commission. In other words, the Public Service Commission's opinion has to be taken. Then, a small opening has to be made so far as the officers of outstanding ability are concerned. This is as far as rule 4 is concerned.

Then, the hon. Member has, in one of his further amendments, raised questions which are not covered by the Constitution at all. For example, in respect of rule 7, he contends that the regulations ought to be approved by Parliament. So far as the rules made under the All-India Services are concerned, the exact position has been pointed out in the footnote to the agenda, which says: "..... all rules made under the said section shall be laid for not less than fourteen days before Parliament.....". So the rules are to be placed on the Table of the House and if any hon. Member or the Parliament desires to amend the rules, then the question of amendment has to be considered. In other words, in the absence of any amendment, the approval of the House has to be taken as being implicit and there can be no question of lack of approval by Parliament.

So far as amendment (iv) is concerned, the hon. Member is aware that under article 16 (4) and article 335 of the Constitution, provision has been made for giving proper representation to the weaker sections of the society and Scheduled Castes and Scheduled Tribes have been mentioned. Regarding Scheduled Castes and Scheduled Tribes we have got a provision in article 334, according to

which they are entitled to certain reservation of seats in the State Legislatures and in Parliament and it has been definitely stated in article 334 that this system of reservation will come to an end after ten years. But so far as giving them representation in the services is concerned, there has been no such time limit under article 16(4) or 335 and it will also be noted that within ten years it may or may not be possible for them to have adequate representation. That 's the reason why the Constitution is silent and the Constitution did not put a limit. Therefore, both these amendments moved by the hon. Member, namely, adding the words "and approved by Parliament" and "for the period specified in the Constitution" do not apply in this particular case, because the Constitution has not laid down any such period so far as representation in the services is concerned. The question of approval also does not arise.

SHRI J. S. BISHT (Uttar Pradesh): Sir, on a point of clarification. Under rule 9 you have laid down that recruitment from the provincial services will be not more than 25 per cent, and in the next sub-para, you have stated that it should not exceed 15 per cent. Does it mean that you can really recruit to the extent of 40 per cent, from the States and only 60 per cent, will be available for open competition?

SHRI B. N. DAT AR: No. The 15 per cent, refers only to the posts reserved for the Indian Administrative Service for State officers, other than those of the State Civil Services. This is out of 25 per cent, quota reserved for promotion. The 15 per cent, rule applies only to those members of the State Services other than Civil Service who are to be selected, and there 15 per cent, means, 15 per cent, of the posts reserved for them out of the 25 per cent, quota of promotion and not 15 per cent, plus 25 per cent.

MR. DEPUTY CHAIRMAN: I am putting the amendments to the House.

SHRI H. C. MATHUR: Sir, has not the mover of amendments a right to reply?

MR. DEPUTY CHAIRMAN: Yes. I am putting the amendments to the vote of the House.

The question is:

"That in Rule 4. clause (c) of sub-rule (i) be deleted."

The motion is negatived.

MR. DEPUTY CHAIRMAN: Amendments Nos. (v), (vi) and (vii) are consequential and they are also barred.

MR. DEPUTY CHAIRMAN: The question is:

"That in Rule 5. sub-rule (3) be deleted."

(Alter a count): Ayes 14; Noes 38.

The motion is negatived.

SHRI H. C. MATHUR: Sir, I would - rather, with the permission of the House, withdraw amendments Nos. (iii) and (iv).

•Amendments Nos. (iii) and (iv) were, by leave, withdrawn.

MR. DEPUTY CHAIRMAN: Amendment No. (viii), viz., "In Rule 9, the proviso to sub-rule (1) be deleted" is also consequential.

So the whole of Amendment No. I is lost. We will take up the other amendments at 2-30 P.M.

\*For text of amendments, vide ' cols. 3255 *supra*.

1 P.M.

# MESSAGE FROM THE LOK SABHA

## THE CONSTITUTION (THIRD AMENDMENT) BILL, 1954

MR. DEPUTY CHAIRMAN: There is a message from the other House.

SECRETARY: Sir, I have to report to the House the following message received from the Lok Sabha, signed by the Secretary of the Lok Sabha:

"In accordance with the provisions of Rule 132 of the Rules of Procedure and Conduct of Business in the Lok Sabha, I am directed to enclose herewith a copy of the Constitution (Third Amendment) Bill, 1954, which has been passed by the Lok Sabha at its sitting held on the 23rd September, 1954 in accordance with the provisions of Article 368 of the Constitution of India."

I lay the Bill on the Table.

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

The House 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.

## AMENDMENTS TO RULES MADE UNDER THE ALL-INDIA SERVICES ACT, 1951—continued

### INDIAN ADMINISTRATIVE SERVICE (PROBATION) RULES, 1954

MR. DEPUTY CHAIRMAN: Before we proceed to the next amendment, I have to inform the House that on the whole we have 33½ hours and 32 hours have been allotted by the Business Advisory Committee to the various Bills. Now, we have already