

Clauses 2 and 3 and the schedule were added to the Bill.

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

SHRI O. V. ALAGESAN: Sir, I beg to move:

"That the Bill be returned." MR.

CHAIRMAN: The question is:

"That the Bill be returned." The

motion was adopted.

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# THE HINDU MARRIAGE AND DIVORCE BILL, 1952

THE , MINISTER FOR LAW AND  
MINORITY AFFAIRS (SHRI C. C. BISWAS):  
Sir, I beg to move:

"That the Bill to amend and codify the law relating to marriage • and divorce among Hindus be referred to a Joint Committee of the Houses, consisting " of forty-five Members, fifteen Members from this Council, namely: —

1. Dr. P. V. Kane,
2. Shrimati Rukmini Arundale,
3. Dr. Raghu Vira,
4. Shri Indra Vidyavachaspati,
5. Diwan Chaman Lall,
6. Shrimati Maya Devi Chettry,
7. Shrimati Chandravati Lakhanpal,
8. Shri Govinda Reddy,
9. Shri T. S. Pattabiraman,
10. Shri P. T. Leuva,
11. Shri S. Mahanty,
12. Shri K. Suryanarayana,
13. Shri Amolakh Chand,
14. Shri S. N. Mazumdar, and
15. The Mover,

and thirty Members from the House of the People;

that in order to constitute a sitting of the Joint Committee, the quorum shall be one-third of the total number of Members of the Joint Committee;

that in other respects, the Rules of Procedure of this Council relating to Select Committees will apply with such variations and modifications as the Chairman may make;

that this Council recommends to the House of the People that the House do join in the said Joint Committee and communicate to this Council the names of Members to be appointed by the House to the Joint Committee; and

that the Committee shall make a report to this Council on or before the last day of the second week of the next session."

SHRI R. P. N. SINHA (Bihar): What about Dr. Shrimati Seeta Parma-nand? Her name is not on the list.

MR. CHAIRMAN: Her name is not on the list.

SHRI C. C. BISWAS: I may mention, Sir, that the names which were on the Select Committee on the Special Marriage Bill have been omitted excepting .....

SHRI R. P. N. SINHA: May I suggest a name now?

MR. CHAIRMAN: Wait, he is giving an explanation.

SHRI C. C. BISWAS: .....those of Mr. Amolakh Chand and the Mover.

PROF. G. RANGA (Andhra): Where is the need for the Law Minister as well as for the Deputy Chief Whip to be on it?

SHRI C. C. BISWAS: I have given the names and it is for the House to accept them or alter them.

MR. CHAIRMAN: You can do it at a later stage. He has not moved the motion yet.

PROF. G. RANGA: The Bill will not go to pieces without him.

SHRI C. C. BISWAS: Can I proceed, Sir?

MR. CHAIRMAN: Yes, yes.

SHRI C. C. BISWAS: The Bill is the first instalment of the lapsed Hindu Code Bill to which a reference was made by the President in his opening Address to both Houses of Parliament on the 16th May 1952. Hon. Members are also aware of the history of the lapsed Hindu Code Bill and of the various stages through which that Bill had passed without, however, any definite result having been achieved. It was in the year 1939 that the Government of India promised to appoint a committee to examine the Hindu Law generally, when a Private Member's Bill, intended to provide for a share to daughters in the property of their deceased parents, was being discussed in the Central Legislative Assembly. A committee was accordingly appointed in 1941. In its report, the committee expressed itself in favour of the codification of Hindu Law in gradual stages beginning with the law of succession and marriage. Government accepted the recommendation and in pursuance thereof the committee prepared two draft Bills one on the Law of Intestate Succession and the other on the Law of Marriage in 1942. Thereafter the committee ceased to function. The two Bills were introduced in the Central Assembly and the Intestate Succession Bill was referred to a Joint Select Committee in the year 1943. The Joint Select Committee recommended that steps should be taken to resuscitate the Hindu Law Committee and to encourage the formulation of the remaining parts of the projected Code.

It was then early in the year 1944 that the Government of India revived the Hindu Law Committee, popularly known as the Rau Committee,

for the purpose of formulating a **Code** of Hindu Law which should be complete as far as possible. The Committee first circulated the tentative draft dealing with all subjects of Hindu law over which the Centre could then legislate, with a view to focus public attention on the subject. The Committee toured round all the then Provinces of India, heard several witnesses, received written memoranda, and after nearly three years of deliberation submitted a report with a final draft of the Hindu Code. The Hindu Code Bill—the precise terms of the Rau Committee's draft—was introduced in the Central Legislative Assembly in 1947, and was thereafter circulated by executive order, for eliciting public opinion thereon in the then Provinces of India. The Bill was continued in the Constituent Assembly of India (Legislative) which referred it to a Select Committee in 1948. After seven sittings, the Select Committee presented its report on the 12th August 1948. Hindi and Urdu translations of the Bill as reported by the Select Committee were published by the Central Government, and some of the then Provincial Governments also published translations of the Bill in their regional languages. Prolonged and inconclusive debates took place in that House for a number of days on the motion for taking the Bill as reported by the Select Committee into consideration. Before the motion was finally adopted, Government assured the House that public opinion on all the controversial topics of the Bill will be informally consulted before taking up detailed consideration.

An informal conference, to which persons representing different shades of opinion on the Bill (including some Members of Parliament who were on the Select Committee, some Members who were not members of the Select Committee, and some members from the public) were invited, took place in 1950, over which the then Law Minister, Dr. Ambedkar, presided. All the topics of controversy in the Hindu Code including

those relating to marriage and divorce were placed<sup>1</sup> before the conference for discussion. The views expressed in the conference received the due consideration of Government. A special conference was also held in Trivandrum over which the Law Minister presided to consider as to how far persons governed by the special systems of law in Malabar (Marumak-kattayam and Aliyasanthana laws) could be brought within the scope of the Code. Certain unanimous proposals were made by a sub-committee appointed by the conference for bringing those persons also within the scope of the Code with suitable safeguards. As a result of the discussions in these conferences, and the decisions taken on the opinions expressed therein, Government gave notice of exhaustive amendments to the several clauses in the Code with a view to consolidate and unify the personal laws of all Hindus in India under a single Code.

The Provisional Parliament then took up the detailed consideration of the Code in February, 1951. In view of the short time available and the state of business before the House, an attempt was made to separate Parts I & II of the Bill relating to marriage and divorce and enact that portion alone separately. However, during the course of nearly ten sittings the House was able to dispose of only four clauses in the Bill, and with the dissolution of that Parliament the Bill lapsed.

In the light of the above experience, it was becoming increasingly clear that a considerable time would be required for the passage and enactment of an exhaustive Code on Hindu Law. It was, therefore, decided to divide the Bill into certain parts and place each part separately before Parliament so as to facilitate discussion and smooth passage. This Bill dealing with marriage and divorce among Hindus is the first instalment of the lapsed Hindu Code Bill. It will also be seen that this question has been before the public

and the legislators for a considerably long time, and opinions have been<sup>1</sup> expressed by different interests on a number of occasions both inside and outside Parliament.

In my speech on the 20th December, 1952, while moving that this Bill be circulated for eliciting opinion thereon, I explained the salient features of the Bill as introduced, and also the departures which have been made from the provisions in the Hindu Code Bill. In the Hindu Code Bill provisions had been made for what were called dharmic marriages and also for civil marriages. In view of the introduction of the Special Marriage Bill, all references to civil marriages between any two Hindus have been deleted from the present Bill. This Bill deals exclusively with Hindu marriages. Another feature of the Bill is that it refers also to marriages which may be contracted by Hindus outside India. It also lays down that the Act will apply to Hindus by religion and Hindus by birth, not that a person must be both. Another important change is that full recognition is now being given to customs, and usages where they differ from the orthodox law. In the previous Bill it was attempted to leave out references to *sa-pinda* relationship and prohibited relationship, and give instead lists specifying the persons between whom marriages will not be allowed on those grounds.

DR. SHRIMATI SEETA PARMANAND (Madhya Pradesh): That was . good.

SHRI C. C. BISWAS: The present Bill seeks the same expedient through definitions.

The present Bill was circulated for eliciting public opinion thereon by a motion adopted by this House on the 20th December, 1952. The opinions from all the States have since been received. There appears to be a large measure of public opinion in favour of the provisions of the Bill generally. Of the 27 State Governments which were consulted, 15, viz., Bombay,

[Shri C. C. Biswas.] Madras, Orissa, Punjab, West Bengal, Rajasthan, Hyderabad, Saurashtra, Mysore, Travancore-Cochin, Himachal Pradesh, Vindhya Pradesh, Coorg, Tri-pura and the Andaman and Nicobar Islands are generally in favour of the measure. Eight State Governments, *viz.*, Madhya Pradesh, Madhya Bharat, PEPSU, Delhi, Kutch, Bhopal, Bilas-pur and Manipur have not expressed any opinion either way. Two, *viz.*, the Governments of Bihar and Uttar Pradesh are for the prevention of polygamy, but do not favour the introduction of divorce. Only two Governments, *viz.*, Assam and Ajmer, are of the opinion that the time is not yet ripe for undertaking this legislation. In view of the general support the Bill merits consideration.

Let me now come to the topics of controversy in this Bill. The main topics are three, *viz.*, (1) abolition of castes as a necessary requirement for a valid marriage, (2) enforcement of monogamy, and (3) permission of divorce. I will take the first point of controversy, namely, abolition of caste restrictions. In this respect I may say that if any member of the Hindu community wants to follow the orthodox system which requires that a marriage shall not be valid unless the bride and the bridegroom belong to the same *varna*, same caste or same sub-caste, there is nothing in the Bill which can prevent him from giving effect to his wishes or to what he regards as his *dharma*. In the same way if one Hindu who does not believe in caste or sub-caste, or chooses to marry outside his *varna* or caste or sub-caste, the law regards his marriage also as valid. [The Hindu Marriages Validity Act, 1949 (XXI of 1949).]

As far as marriage law is concerned, there is no kind of imposition at all. The provisions are of a permissive or enabling nature and impose no sort of compulsion or obligation whatever on the orthodox. Their only effect is to give a growing body of Hindus, men and women, the liberty

to live the lives which they wish to lead without, in any way, infringing the similar liberty of those who prefer to adhere to the orthodox ways.

Coming to the other two topics of controversy, *viz.*, monogamy and divorce, except for the extreme orthodox view, which is opposed to any change in the existing Hindu law and could not be persuaded by any arguments based on adjusting Hindu law to present social and economic life of the Hindus, there is general support to the view that all Hindu marriages should be monogamous as also to the fact that divorce should be recognised by statute as a necessary corollary to monogamous marriages. Polygamy was never encouraged in Hindu society and the present Bill boldly seeks to recognise the fact that polygamy is not permissible under Hindu Law. While giving evidence before the Rau Committee, the late Rt. Hon'ble V. S. Srinivasa Sastri, a prominent individual, dealt with this point eloquently in the following words: "I thought that the pride of Hinduism was that although polygamy was permitted in theory, it was monogamy which was actually practised. It is, therefore, surprising that when monogamy is sought to be enacted as a rule of law, hands should be raised in horror."

Coming to the question of divorce, again I should like to submit to the House that this is no new innovation. Everybody in this House knows that there are several communities among Hindus who have customary divorce. This system exists and is recognised. It cannot also be denied that it has been felt among a large section of the public that a provision for divorce should be made in suitable cases where it is impossible for the husband and wife to live together. Apostasy, infidelity, insanity, leprosy, failure to comply with a decree for restitution of conjugal rights etc. are some of the grounds on which dissolution of marriage is sought to be obtained, and it is obvious that no objection can exist as to the necessity for the provision of suitable relief by way of separation

of spouses **in such circumstances**. Conversely, express provisions are included in the Bill for restitution of conjugal rights. It is also a significant factor to be noted in this connection that the Governments of the States of Madras, Bombay and Saurashtra have enacted laws of their own whereby monogamy among Hindus is enforced on pain of punishment, and provision for divorce made in suitable cases. Monogamy is recognised as the most salutary principle so far as marital relations are concerned, and the experience of the working of the Marriage and Divorce Acts in the three States of Bombay, Madras and Saurashtra during the past few years does not lend any support to the cry of "Religion in Danger" raised by certain extremists.

As I have already told the House the present Bill has come back after eliciting opinions in the various States. Apart from the several minor drafting changes and alterations suggested, the more important suggestions on the Bill, are as follows:—

(1) that the list of sapinda relationship should be extended to five degrees on the maternal side and seven degrees on the paternal side instead of three and five as envisaged in the Bill; [clause 3(f) (i)];

(2) that terms like "impotency", "idiot", "lunatic" should be clearly defined; [clause 12(1) and 2(a)];

(3) that the age of the bridegroom and the bride suggested in clause 5 (hi) should be raised further. There are several suggestions on **this point**

SHRI B. RATH (Orissa): **What** is yours?

SHRI C. C. BICWAS: ..... (4) that where the bride has not completed the age of 18, the consent of guardian in marriage should be obtained for the marriage [clause 5 (vi)];

(5) **that the** maternal grandfather and maternal uncle should have prece-

dence over paternal uncle in the list of guardians in marriage (clause 6);

(6) that registration of Hindu marriages should not be made compulsory and that there should be no penal provisions for non-compliance;

(7) that the provisions relating to judicial separation are unnecessary;

(8) that a person should be allowed to take a second wife if the first is barren, for the sake of perpetuation of the family, with the consent of the first wife, if necessary, and that a second wife married for the purpose of procreating a son should not be given a right of termination of marriage on the ground that a spouse is already living;

(9) that facility for obtaining decree of nullity should be provided where parties become impotent, idiot or lunatic during the marriage;

(10) that impotency before or after the marriage, either party marrying a second time, either party renouncing the world, desertion, cruelty, venereal disease of communicable nature not contracted from the other party, mutual consent etc. should be made grounds for dissolution of marriage and grant of a decree of divorce;

(11) that the period of three years which should elapse for presenting a petition for divorce after the marriage appears to be too long;

(12) that decrees of dissolution of marriages should be subject to confirmation by a bench of three judges of the appropriate High Court;

(13) that the period of one year which should elapse for parties to remarry after obtaining a decree of divorce appears to be too long;

DR. SHRIMATI SEETA PARMANAND: Whose suggestions are these?

MR. CHAIRMAN: They are all suggestions.

SHRI C. C. BISWAS: I am giving a summary of the opinions. I am placing them before the House for the convenience of Members.

(14) that permanent alimony should be granted only when the husband seeks divorce and that liberal provisions should be made for maintenance of wife and minor children and also children born deaf or dumb or invalid.

In addition to the above, the Government of Madras have suggested that the persons governed by the special systems of law in Malabar (Maru-makkattayam and Aliyasanthana laws) should be brought within the scope of the present Bill by including suitable safeguards for their customs. The Indian Association of Lep-rologists have also represented • that leprosy should not be made a ground for dissolution of Hindu marriages.

These and other suggestions incidental thereto will, of course, receive the consideration of the Joint Select Committee to which I am moving that the Bill may be referred. Sir, I have already moved the motion.

DR. SHRIMATI SEETA PARMANAND: We should like to know the names of the members of the Select Committee.

MR. CHAIRMAN: I am giving you. Just wait.

Motion moved:

"That the Bill to amend and codify the law relating to marriage and divorce among Hindus be referred to a Joint Committee of the Houses, consisting of forty-five Members, fifteen Members from this Council, namely: —

1. Dr. P. V. Kane,
2. Shrimati Rukmini Arundale,
3. Dr. Raghu Vira,
4. Shri Indra Vidyavachaspati,
5. Diwan Chaman Lall,
- > 6. Shrimati Maya Devi Chettry,

7. Shrimati Chandravati Lakhanpal,

8. Shri Govinda Reddy,

9. Shri T. S. Pattabiraman,

10. Shri P. T. Leuva,

11. Shri S. Mahanty,

12. Shri K. Suryanarayana,

13. Shri Amolakh Chand,

14. Shri S. N. Mazumdar, and

15. Shri C. C. Biswas (*the Mover*);

and thirty Members from the-House of the People;

that in order to constitute a sitting of the Joint Committee, the quorum shall be one-third of the total number of Members of the: Joint Committee; , - v

that in other respects, the Rules of Procedure of this Council relating to Select Committees will apply with such variations and modifications as the Chairman may make;,,

that this Council recommends to^ the House of the People that the House do join in the said Joint Committee and communicate to this Council the names of Members to be appointed by the House to the Joint Committee; and

that the Committee shall make a report to this Council on or before the last day of the second week of the next session."

SHRI R. P. N. SINHA: Can I propose a name to the list of Members?

MR. CHAIRMAN: Yes; by way of amendments, etc., later on.

[MR. DEPUTY CHAIRMAN in the Chair.]

DR. SHRIMATI SEETA PARMANAND: May I ask one question? Which is the last day of the second week of the next session?

SHRI C. C. BISWAS: We do not know when the next session will be called. How can I specify that now?"

MR. DEPUTY CHAIRMAN: Not the Budget Session.

SHRI B. GUPTA (West Bengal): Mr. Deputy Chairman, I need not say that we generally welcome the introduction of this measure. Which should have come much earlier along with other matters connected with this question of the codification of the Hindu Law. As a matter of fact, we desire the codification of the entire system of personal law embracing the whole population of India regardless of religion, caste and community. All the progressive sections in India have been very keenly watching the developments with regard to such a Bill and they are demanding the codification of the Hindu Law. They are demanding a comprehensive code laying down the whole system of law in precise and clear language. We have left long behind the days of the unwritten laws which arose in the context of an entirely different situation in ancient times. That background does not exist today. However much one may prize the learning and wisdom of our ancient teachers, it will be admitted on all hands and by everyone that we are not living in times of Manu or Yajnavalkya. We are living in entirely different times. We must, therefore, adapt ourselves to the changed times and to the realities of our social existence. That is why a dynamic codification of the Hindu Law and, indeed, of all other uncoded laws has become an important task today. But the present Government has been, unfortunately, hesitating all these years so much so that the Hindu Code Bill which had been sponsored about ten years ago comes before us today in this truncated form. I do not know why the Code has been shelved. It is for the Government to explain and the explanation that has been offered in this House just now by the hon. the mover of this Bill is neither convincing nor satisfactory.

SHRI B. K. P. SINHA (Bihar): Why?

SHRI B. GUPTA: It has been said that it would be better perhaps to 145 CSD

legislate piecemeal in this case; **but** what we feel is that piecemeal legislation in a matter like this creates difficulties and indeed often goes to defeat the very purpose of the legislation itself. That is something which we have been experiencing; otherwise there would not have been so much delay even in this Parliament for the hon. the Law Minister to produce this Bill in the present form. There has been inordinate delay on the part of the Government as there has been a very unbecoming vacillation, too. I am aware of the opposition to this Bill. It is not my case that there is no opposition to it. That opposition undoubtedly is a strong opposition, coming, as it does, from certain very powerful quarters. I find to my great amazement that among those who oppose this Bill is the Government of the land of birth of the Prime Minister of India, Shri Jawaharlal Nehru. I only wish the Prime Minister had addressed his eloquent words to that quarter to make them converted to the changed thoughts. But, how is the opposition to be fought and faced? We respect all sentiments of the people including their religious sentiments. Therefore, it is necessary for us to evolve such an approach as would enable us to convince those who are not seeing eye to eye with us. That would not be possible if that approach is half-hearted, halting or fragmentary. What is necessary in a measure like this, where we are confronted with a position like this, is to develop the zeal of the reformer and go with courage to convert others to your attitude by persevering explanation. That, unfortunately, the Government have not done. It is vacillating from one point to another. It is going on seeking public opinion when public opinion has been very clearly expressed. The whole thing the Government should have placed before us— the entire system, the entire proposal, a draft for the Hindu Code and, for the matter of that, of all personal laws. Such a draft should have reflected not only the progressive yearnings of our people but also the definite promptings of a changed situa-

[Shri B. Gupta.] tion and a changed time. Instead of doing this, the Government sends this Bill to the State Governments for seeking public opinion when we know for certain that the public opinion, especially the women of our country, are definitely and positively for the passage of this Bill.

SHRI B. K. MUKERJEE (Uttar Pradesh): On a point of information, Sir. Is it a fact that whenever the opinion of the Communist Party is expressed, it is thought that it constituted the opinion of the country?

MR. DEPUTY CHAIRMAN: There is no point of information here.

SHRI B. GUPTA: Has not the hon. Member been able to see the difference between the Communist Party and the country? I was talking about that progressive section which has already pronounced its opinion. I do not know whether the hon. Member comes from U.P.; but I know that there are some Governments, the U.P. and Bihar, which are going to strike a discordant note; then he will find his supporters there. Sir, a comprehensive code would have come as a dynamic challenge to these points of view. We know that the cause is so strong, so superior that it is possible by a bold and courageous approach to get on; and that is something which the Government is not doing. On the contrary, by coming forward in this piecemeal manner, it is giving a handle to those people who, unfortunately, do not see yet the need for a change and, unhappily, obstruct the way of progress.

We felt that a different approach was made by the Government. It will be our constant endeavour to help the passage of this Bill and we are making it no party issue, because, the question involved here is the emancipation of the vast half of humanity without whose emancipation—social, political and economical—there cannot be any advance or progress towards better life and towards a happier future. Therefore, we shall be there to work together with anybody who comes along for social reform.

But, I would like to ask why the Congress Party is keeping silent. We heard in this House the Prime Minister of India who happens to be the leader of the Congress Party, making a very eloquent and reasonable speech in respect of such a measure and yet we find the Congress is not in the least moving in order to win over the people to the points of view expressed by its leader. We find, at the same time, circular after circular being issued by the All India Congress Committee Office trying to put a ban on the Congressmen so that they do not participate in the organised peace movement. (*Interruption.*)

Yet, not a directive has been issued calling upon the Congressmen to campaign for such measure,

MR. DEPUTY CHAIRMAN: Mr. Gupta, please speak on the Bill. You may choose some other platform for all that.....

SHRI B. C. GHOSE (West Bengal): That was not unfair, Sir. Is it unfair to ask, when the Congress President has issued some directive in another matter, that he should issue a directive in this matter also?

SHRI B. GUPTA: The Congress is the ruling party. Certainly we can expect that the sponsors of this Bill here will go out to the country to convert public opinion to their point of view. (*Interruption.*) There, the division will arise in the unity, and the monolithicism of the Congress will perhaps disappear before the rancous voices of certain reactionary elements.

AN HON. MEMBER: Oh, oracle !

SHRI B. GUPTA: Sir, I shall come to the Bill itself as you are keen to hear from me something about it.

Our support to this Bill emanates from our very ardent desire to see our womenfolk, half of our vast humanity, liberated from social, economic and political bondage. We know that the state of a civilisation-is judged by the status of the women



in it. Therefore, we are keenly interested in seeing that the women are liberated from all kinds of tyranny they are suffering from today.

This is not a complete measure, and I shall presently point out that there are certain very serious drawbacks in the Bill itself. (*Interruption.*) I do not know, why my friend Shri Mukerjee is annoyed when I speak on this subject. Is he suffering from any problems of that kind? Anyway, this Bill is not a full measure in the sense in which we would like it to be. Still we consider that it should be supported by all because whatever strikes a blow at the fetters of social disabilities of the women of this country deserves our unstinted and ungrudging support.

For the benefit of hon. Members I would like to give certain arguments because I have tried to carefully read the public opinions given in these papers that have been supplied to us. I take a serious note of the fact that some eminent people and some very eminent organisations have expressed these opinions. Unfortunately, they suffer from certain misgivings. They feel that Hindu law should not be changed, and cannot be changed. Whatever may be their personal views, it is a fact that Hindu law has been undergoing changes for a number of years from indeed the very commencement of it. Otherwise, why should we have for Hindus belonging to the same religious faith two main sets of law? I have in mind Daya-bhaga and Mitakshara laws. And then there are customs dividing the Hindu system of law. It would be a mistake, therefore, to imagine that the Hindu system of law is absolutely uniform and is something which is absolutely undivided. There are divisions there, and these divisions and differences we inherited from the ancient teachers themselves. Then, we find that even in this country there have been certain changes by enactment, and I can cite a number of enactments, Acts of Legislature, which are affecting various aspects of Hindu

law. With regard to the marriage law itself, we have the Sarda Act which was passed a long time ago, the Widow Remarriage Act, the Civil Marriage Act, the Malabar Marriage Act, the Anand Marriage Act and the Madras Hindu (Bigamy Prevention and Divorce) Act. Then we have got the Hindu Marriages Validity Act, which has just been referred to. Besides these, there are also the enactments of Parliament and of Legislatures relating to other branches of Hindu law. Therefore, we are not embarking in this Parliament upon a course which has been unknown to us. Many Members in this House may have been participants in those Legislatures when some of these measures were passed. Therefore, it is nothing new. The only thing is that we must give it a quicker pace and we must cover the whole field, because the genius of our nation—of our people—lies not in how rigidly we cling to the past, but it lies in how quickly we adapt ourselves to the changing circumstances and how we carry the best traditions of our past to the broad vista of the future. And in that light, the whole question has to be approached. I know that sentiments may be offended, feelings may be offended and prejudices may be roused, but if you have in mind the question of the women, and of their rights and liberties, and of their social status, you will no doubt see the importance and urgency of a measure like this.

About the Bill itself, we find that certain very serious drawbacks exist in it. First of all, let me tell you that it is a very good thing that Hindu marriage has been validated and the disabilities of a *pratilom* marriage do not exist under this Bill. It is only natural that when we are living in a time like this, there should not be any such barriers offered by the *pratilom* marriage. If somebody marries a bride belonging to a higher caste, that marriage is considered to be a *pratilom* marriage, and it is repugnant to the Hindu marriage and therefore it is declared void.

[Shri B. Gupta.]

Then, there is the question of prohibited degrees. Sir, the hon. the Law Minister has said that what was sought to be done by specifying the cases where marriage should be prohibited amongst the relatives is sought to be done here by re-defining the *sapinda* relationship. For a change, I am now talking about law. I know that it is a very difficult subject, but still I will try to speak as a lawyer, as far as this aspect of the question is concerned. It is unnecessary to define *sapinda* relationship here. I think it should be stated clearly as to which relatives should not intermarry. The prohibited degrees should not be presented in the way they have been presented in the Bill. In the present situation, for putting a certain prohibition on marriages where the parties are within the prohibited degrees, especially those degrees where you have the blood relationship, it should be clearly stated as to which cases should be prohibited rather than leaving it to a new definition of "*sapinda* relationship".

Then about monogamy, I would like to say that I would of course welcome this measure. But it seems that some gentlemen here, although they are in favour of monogamy, would say that they do not like to have legislation for it. I do not understand this thing. If you are in favour of monogamy, then what is it that frightens you away from having this measure passed as a law? Let this be recognised in law. Let it not be left to the mercies of certain individuals or certain communities or certain parties to a marriage. Let it be codified in the form of a law so that the right accrues to a wife. That is the main point. It seems to me by reading what they have said that they do not like these things because they want to leave the scope for polygamy open. I do not know if there is any polygamist in our House; I hope, Sir, there is none. If there is none, then at least on this point we shall secure a full measure of agreement, an agreement which

would be given effect to in the **form** of an enactment. I should like to mention here for the benefit of those who still may have certain doubts that even *smritikars* did not favour polygamy. They supported monogamy; they spoke and wrote for monogamy. But at the same time, they did not, in their wisdom, find it necessary at that time to prohibit polygamy. Polygamy was something that was discouraged by them. It was left to the choice of the individual concerned. We have left behind that stage, and I think that the time has come today for us to give monogamy the force of law in our land, and monogamy should go on the Statute Book of our country.

Then, there are certain proposals in the Bill regarding termination of marriage and all the rest of it. These again are not very happy, and there is much that is yet to be desired.

I would like now to cut short my speech here by drawing your attention to a very interesting and instructive pamphlet issued by the National Co-ordination Committee of Women, which, I understand, is an organisation of women of all faiths and political beliefs; and in this body are represented women from various States also. Therefore, I think that the contentions and the proposals of this organisation should be given due attention when the matter comes up before the Select Committee. It has been suggested, and with a certain amount of logical force, that the consent of the guardian for marriage in the case of a bride being 15 years old should not be there, because very often it becomes difficult to find **out** as to who the guardian is, and especially when there are a number of people competing for such guardianship. Therefore, the provision with regard to the consent of the guardian should be dispensed with. But if the Government insists on it, it seems to suggest that 16 years should be the marriageable age, when no such consent would be required.

4 P.M.

Another thing is this. When the Bill provides for the termination of

marriage, it does not say quite clearly as to what should be the status of the children when such a dissolution or termination of marriage takes place. That is a point which calls for very serious attention in the hands of the Select Committee and of the House, because it is the question of the children and their future which is involved in it.

Then, if you come to the question of judicial separation, you will find that it has been suggested that to secure judicial separation one must show that a spouse has been a lunatic since the time of the marriage. This is not a healthy provision. Why do I say this? Because" at the time of the marriage it may not be known that the spouse in question is a lunatic. Very often it is concealed, and often enough it is found out only at a later stage. Therefore, it stands to reason that, if you are making lunacy a ground for judicial separation, you should not restrict it by saying that the lunacy should date from the time of the marriage. On the contrary, the provision should be that once the fact of a spouse being a lunatic is established, it should be a ground for judicial separation, no matter when it is found out or from what date it has been there. Then again, there is the provision that a divorce could be obtained only after two years from the date of judicial separation. This is neither fair nor desirable. The same applies to other grounds for dissolution like leprosy or venereal disease. Here too, the clause should be so changed as to provide that, as soon as either party is found to be suffering from leprosy or venereal disease, that as a ground for divorce or judicial separation—as the case may be—should come into operation immediately. The need of proving that these existed, at the time of the marriage should not be insisted upon.

Then, there are other aspects with regard to divorce. We are of the opinion—it may sound a little too radical but still I would like the

House to consider it—that, if both the parties, i.e., the husband and the wife, feel that the marriage should come to an end, there should be divorce, and there should not be any impediment in their way. If both of them have decided that their marriage should terminate, there should not be any obstacle whatsoever. This, should be the progressive approach. In cases where one party asks for divorce and the other does not, the position is certainly different, and there one must look for socially tenable grounds. Certain grounds have been mentioned, but it seems to me that adultery, when it is made a ground for divorce, should not be put in such a manner as if it can be used as a ground for divorce without any other social consideration. It seems to me that in other countries of the East and of the West, it has been found wise to make the leading of an adulterous life a valid ground for divorce. I need not dilate upon this point. I hope the House will understand and appreciate my point. Again, one has to remember that it may be very easy for a husband to say that his wife has committed adultery. Now, in a country like ours, where women are suffering from all kinds of difficulties and disabilities, it may be very difficult for the wife to disprove it, to refute such a charge. Therefore, this is a matter which calls for very close and thoughtful examination.

In the case of alimony, again, it should be made unconditional. Here certain conditions have been attached to alimony being granted. In our view, in the interests of the children, the question of alimony should be left unconditional. There should not be any condition whatsoever to the granting of alimony.

Then, there is the provision setting a time limit of three years for obtaining divorce. Now, this is not fair. If you accept judicial separation and if you accept divorce, then you should not make another provision that a spouse will have to wait for three years for getting a divorce. There

[Shri B. Gupta.] should not be any time limit like that. Here in the Bill it is proposed that except in certain cases one cannot file a divorce petition within three years of marriage. I think that this does not conform to progressive ideas with regard to this matter; nor would this serve any useful purpose. If there is a legitimate ground for divorce—grounds which are considered to be socially tenable—why wait for three years? That is something which is not justified at all.

Again, in the interests of social ethics, we feel that no divorce should be allowed against pregnant women. At the same time, we feel that pregnant women should be allowed to seek divorce, if she so desires. Why I say this will be very clear if you remember the question of the children.

Then, the period for remarriage after divorce should be six months. The time limit should not be left at the level where it has been left in the Bill.

Then, there are some queer provisions in this Bill. After this Bill becomes law, if anybody has two wives, the first wife cannot seek divorce; the second wife can. This is not fair. If you are to stop polygamy, then, of course, both the wives should be put on the same status with regard to this matter and it is not merely the second wife who should be given the right to divorce. Indeed, it is the first wife who should) above all be given this right all the more because she happens to be the really aggrieved party. Therefore, in the case of such marriages, the first wife should also be given the right to divorce, and not merely the second wife.

AN HON. MEMBER: Why not decide it by lottery?

SHRI B. GUPTA: These are the main points which I have touched in the course of my speech. There are many other minor matters which, I believe, would be gone into by the Select Committee. In conclusion, I would only say a few words. I fear that

pressure will be brought to bear upon the Government to see that, in the first instance, no amendments for the improvement of this Bill are accepted. Secondly there will be.....(*Interruption*).

I can feel from here the voice that is already expressing in this House. The second technique would be to delay its passage. The hon. the Law Minister who is sitting here—and I am very glad that he has made a very well-considered speech today—who is of a retiring age, may have lost the vigour that a reformer should possess. I am not blaming him. Therefore, I say that he should take courage in both hands and seek the co-operation of the people who sincerely believe in the importance and urgency of this measure and see that this measure is expeditiously passed. After all he referred to it a year ago and now after 12 months he has come and we are shown the Select Committee. I do not know what sort of hibernations will take place in the Select Committee itself. I don't say anything about it, but all that I say is that the time has come to expedite this matter specially because there has been too much delay in dealing with this important measure. As far as the opposition to this Bill is concerned which is getting agitated even in this House—and it seems to be a singular opposition—I can tell you that we need not be afraid of it. We can face them, we can go to them and talk to them. If in this Parliament we show courage and determination to pass this measure and, at the same time, we show our readiness to pass a comprehensive code for codifying all personal laws, the country will rise to our support and we shall be successful in our effort. That is all that I wish to say and I wish the Minister all luck subject to only one qualification and it is this that he should accept the amendments for the improvement of the Bill and he should delete from this Bill those clauses that take away its effect, that still weigh heavily against the social rights of women. After all, let his name, for a change, be associated, if he will care to have

it, with a progressive measure. These Ministers will never be remembered, but if for instance he—no matter which party he belongs to—takes courage in both hands and sees that the Hindu Code Bill passes, sees that our personal laws are codified for the "benefit of the entire society, his name will be remembered and even the darkness of the Congress regime will not be able to completely eclipse it.

SHRIMATI SAVITRY NIGAM  
(Uttar Pradesh):

**श्रीमती सावित्री निगम (उत्तर प्रदेश) :** उपसभापति महोदय, आखिर चिर प्रतीक्षा के पश्चात् मैरिज (Marriage) और डाइवोर्स (Divorce) विधेयक सदन के सामने आ ही गया। मैं ही नहीं, वे समस्त व्यक्ति जोकि मानवता, न्याय और सत्यता के समर्थक हैं, जोकि नारी को राष्ट्र का अर्धांग, राष्ट्र की शक्ति और सृष्टि में अक्षुण्ण धारा प्रवाहित करने वाली जननी मानते हैं, इस विधेयक का हार्दिक समर्थन करेंगे। कुछ भी हो—चाहे कितनी ही थोड़ी दलीलें क्यों न दी जायें चाहे कितनी ही धार्मिक अन्वेषिताओं और भारतीय संस्कृति की दुहाई क्यों न दी जाये—लेकिन आज किसी में वह शक्ति नहीं रह गई है कि उस क्रांतिकारी विगारी को बुझा सके, जिसे कि चिरकालीन दासत्व के शोषण और संघर्ष की रगड़ ने उत्पन्न किया है। मैं जानती हूँ कि अभी बहुत से वक्ता अपने भाषणों के बीच में अनेक दलीलें देंगे और कहेंगे कि ऐसे विधेयकों के द्वारा भारतीय नारी का सतीत्व, भारतीय संस्कृति और हिन्दू धर्म खतरे में पड़ जायेगा। किन्तु मेरा उन से एक प्रश्न है कि क्या उन की ये सब चीजें उस समय खतरे में पड़ती हुई प्रतीत नहीं होतीं, जबकि कुल-लज्जतयों कोठों को आबाद करती हैं, जबकि पुरुष जीवित पत्नी को छोड़ कर एक नहीं बल्कि अनेकों विवाह कर लेते हैं और अनेकों सुहागिन विधवाओं

को जीवन भर रोने, तड़पने और दुःख उठाने के लिये छोड़ देते हैं ?

SHRI V. K. DHAGE (Hyderabad)  
SHRIMATI SAVITRY NIGAM:

**श्रीमती सावित्री निगम :** सुहागिन विधवाओं के बारे में कौन नहीं जानता। सुहागिन विधवायें वे हैं जोकि पति के रहते हुए भी विधवाओं से भी निकृष्ट और बद-तर जीवन बिताती हैं; जिन के पति अनेक पत्नियां रख कर उन का जीवन नरक से भी अधिक भारमय बना देते हैं। जो लोग कहते हैं कि तलाक से हिन्दू धर्म रसातल में चला जायेगा या अनाचार फैलेगा उन से मैं पूछती हूँ कि जब तलाक का कोई नाम तक नहीं जानता था उस समय भी मूलगंज, चौक और किनारी बाजार वगैरह कैसे बने ? जिस समाज में पहले से ही इतनी कमजोरियां हों वहां तलाक के आ जाने से किस प्रकार समाज का नैतिक पतन हो सकेगा, यह मैं नहीं समझ सकी। पुरुषों को बहु-विवाह, बाल-विवाह, तथा वृद्ध-विवाह के लिये समाज की ओर से पूर्ण स्वतंत्रता प्राप्त है तो यदि तलाक प्रथा के द्वारा उन असहाय सुहागिनों को, जो सम्मान-पूर्वक विवाह कर के जीवन यापन करना चाहती हैं, कुछ सुविधा मिल जाय, फिर भला समाज और धर्म का कैसे नैतिक पतन हो जायेगा, यह समझने, सोचने और विचारने की बात है।

जोकि हिन्दू धर्म में श्रद्धा रखते हैं, जोकि भारतीय संस्कृति की रक्षा चाहते हैं, उन से मेरी प्रार्थना है कि यदि वे सचमुच चाहते हैं कि उन का धर्म सुरक्षित रहे, उनका समाज सुसंगठित बने, समाज का नैतिक उत्थान हो तो वे इस हिन्दू विवाह और तलाक बिल (Bill) का जो वर्तमान

[Shrimati Savitry Nigam.]

रूप है, उस का हृदय से समर्थन करें और इसे स्वीकार करें। यह तो केवल उस असहाय दुखिया नारी का अन्तिम साधन मात्र हो कर रहेगा जोकि आज नाना प्रकार के कष्ट उठाती है और उस से छुटकारा पाने के लिये उत्सुक है, लेकिन छुटकारा पाने का कोई मार्ग नहीं है, कोई रास्ता नहीं है, कोई चारा नहीं है। यह आवश्यक नहीं है कि वह इस का उपयोग करे ही—इस का सहारा ले ही।

यह आशंका भी निर्मूल है कि विवाह तलाक बिल का उपयोग उसी प्रकार होने लगेगा जिस प्रकार कि विदेशों में होता है। क्योंकि हमारी संस्कृति, हमारा धर्म, हमारी परम्परायें अपने आप ही हर व्यक्ति पर स्वयं इतना कंट्रोल (control) रखती हैं कि उस में इस की कोई गुंजाइश नहीं है कि ऐसी उच्छृंखलता फैल जाय जैसी कि और देशों में फैली हुई है। यह कहना समस्त नारी जाति का अपमान करना है, सीता के त्याग और सावित्री की पवित्रता का भी अपमान करना है कि तलाक के आने से ही स्त्रियां तलाक देने लग जायेंगी। ऐसा प्रतीत होता है कि जो भाई ऐसा कहते हैं और इस प्रकार की दलीलें देते हैं जैसी कि हमारे कई भाईयों ने स्पेशल मैरिज एण्ड डाइवोर्स बिल (Special Marriage and Divorce Bill) के सम्बन्ध में दी थीं। उन्होंने संभवतः भारतीय नारी के सतीत्व की शक्ति का कोई अनुमान नहीं लगाया है। यह उन का दुर्भाग्य कहूं या उन सतियों का दुर्भाग्य कहूं जिन्होंने सतीत्व व्रत का पालन इसलिये नहीं किया क्योंकि उन्हें कानून के अभाव ने किसी प्रकार मजबूर किया था, या उन पर कोई विवशता लादी गई थी, कि उन्होंने अपने जीवन का दृढते-हंसते बलिदान दिया और आज भी देती हैं। क्योंकि उन के हृदय में बलिदान की

भावना है, त्याग की भावना है और पवित्रता की भावना के लिये विश्वास है, श्रद्धा है और प्रेम है। इसलिये मैं ऐसे अविश्वासी भाईयों को क्या कहूं जो स्त्रियों के हजारों वर्षों के निरन्तर त्याग, बलिदान और तप के बाद ; और सैकड़ों वर्षों की परीक्षाओं के बाद भी, उन को इतना तुच्छ समझते हैं कि तलाक बिल के पास होते ही वे तलाक देना शुरू कर देंगी और चारों ओर उसी तरह तलाक होने लगेगा जिस तरह कि विदेशों में कुत्तों और बिल्लियों की बातों पर—जरा-जरा सी बात पर—तलाक दिया जाता है। यह संभावना करना कि भारतीय स्त्रियां भी इस तरह से तलाक देने लगेंगी उन के साथ घोर अन्याय है और सतियों का अपमान है। जब वे ऐसी संभावनायें करते हैं तो मुझे उन की बुद्धि पर खेद होता है और मैं इस सम्बन्ध में सिवाय इतना कहने के और कोई दूसरे प्रकार की आलोचना नहीं करना चाहती। यह कितना घोर अन्याय है, यह कितना अनुचित है कि इस प्रकार भारतीय नारी को उच्छृंखल समझा जाय और तलाक बिल से भयभीत हो कर यह कहा जाय कि तलाक बिल पास होते ही वे उच्छृंखल हो जायेंगी। मैं दावे के साथ कहती हूं कि एक नहीं चाहे हजारों तलाक विधेयक पास हो जायें लेकिन फिर भी भारतीय नारी अपने पतिव्रत को, अपने सतीत्व को कदापि नहीं छोड़ेंगी।

जो हिन्दू धर्म और भारतीय संस्कृति पर श्रद्धा रखते हैं उन से मैं एक बार फिर कहना चाहती हूं, उन से अपील (appeal) करना चाहती हूं, कि यदि वे सचमुच अपने समाज और अपने धर्म की रक्षा चाहते हैं तो वह उसे एकदम दम घोटने वाली कालकोठरी न बना दें, क्योंकि उस में बन्द होने के कारण ही, मजबूर, असहाय, विवश और लाचार हो कर हमारी बहनें अपना ही गला घोटने

को तैयार नहीं हो जाती बल्कि कभी-कभी मजबूर होने पर अपने पति और अपने अनि-भावकों का भी गला घोट देती हैं। इतना ही नहीं समाज और काल को मर्यादा को त्याग कर ऐसी विद्रोहिनी हो जाती हैं कि फिर उन का पतन निरन्तर होता ही चला जाता है। इसलिये समाज के बन्धन को जरा ढीला करना चाहिये ताकि वे अत्याचारी पति से छुटकारा पाने के लिये, अपने धर्म, अपने सतीत्व की रक्षा करने के लिये तलाक विधेयक का आश्रय ले कर स्वतंत्र हो सकें और एक अच्छी स्त्री की तरह जीवन यापन कर सकें।

बहुत से लोग बड़ी अजीब-अजीब दलीलें देंगे और देते रहे हैं कि तलाक के द्वारा उन तमाम मान्यताओं को और उन तमाम परम्पराओं को चोट लगेगी जिन के द्वारा स्त्रियां इतने कठोर तप का आदर्श-युक्त जीवन बिताती हैं। किन्तु मैं कहती हूँ कि यदि ऐसा कोई कानून बना दिया जाय, यदि यह विवाह और तलाक विल जोकि सदन के सम्मुख हैं पास कर दिया जाय तो उस का असर बिल्कुल उल्टा होगा क्योंकि उन बहनों के लिये जोकि चारों तरफ से मजबूर कर दी गई हैं, एक रास्ता निकल आयेगा जोकि अभी तक नहीं है। मेरी आंखों के सामने ही कई घटनाएँ हुई हैं, मैं अनेकों घटनाएँ आप को बता सकती हूँ। मैं आप को एक घटना सुनाती हूँ जोकि आज भी मेरे हृदय में लिखी हुई सी है कि किस प्रकार स्त्री को प्रयत्न करने पर भी जब कोई उपाय नहीं दीखता तो वह कैसे-कैसे विध्वंसकारी, कैसे-कैसे घातक उपायों का अवलम्बन लेती हैं, जिन की कि कल्पना भी नहीं की जा सकती। मैं एक ऐसी ही घटना सुनाती हूँ। मैं एक प्रौढ़ विद्यालय महिलाओं के लिये चलाती थी। वहाँ चमेली नाम की एक लड़की सन् ४५ में पढ़ने के लिये आई। उस की आयु १७

या १८ साल की थी। वह जाति की ब्राह्मण थी और वह पढ़ने में बड़ी कुशाग्र बुद्धि थी। वह बहुत सुशील थी और बड़ी तोत्र बुद्धि थी। पढ़ने में इतनी तेज थी कि दो ही साल में उस ने कई परीक्षाएँ पास कीं और कई इनाम पाये। उस को अच्छे कसीदे और कढ़ाई के लिये कई इनाम मिले। चूँकि उस के पति का तबादला हो गया इसलिए वह दूसरे शहर में चली गई। उस के दो वर्ष के बाद अचानक एक रात को मुझे एक पत्र मिला जिस में उस ने लिखा था कि अगर आप मेरी रक्षा करना चाहती हैं तो मुझे बचाइये, मेरा पति हत्यारा है, मुझे बचा लीजिये नहीं तो मार डालेगा। मैं तुरन्त दो तीन और बहनों को ले कर वहाँ पहुँची तो मैं ने देखा कि चमेली चारपाई पर लेटी हुई थी और उस का सारा शरीर सूजा हुआ था। उस के पति ने उसे इतना मारा था कि वह उठ भी नहीं सकती थी, उस को इतनी चोट लगी थी कि वह होंठ भी नहीं खोल सकती थी, उस ने होंठ हिलाया लेकिन बोल न सकी। इस पर मैं ने उस की पड़ोसिन से पूछा कि आखिर उस का पति उस को इतना क्यों मारता है तो उस ने कहा कि उस के पिता ने उस को दहेज कम दिया था। मैं ने यह भी कहा कि वह अपने पिता के घर क्यों नहीं चली जाती तो उस पर जबाब मिला कि वह वहाँ से भी घसीट लाता है। आप को यह सुन कर आश्चर्य होगा कि जब मैं ने पुलिस को फोन (phone) किया और यह सब बातें बताई तो वहाँ चौकी के जो इंचार्ज (incharge) थे उन्होंने जबाब दिया कि पति पत्नी को मार सकता है। इस की कानून कोई मनाही नहीं करता है। अगर उस की जान को जोखिम होगा तो हम लोग देखेंगे।

SHRI H. C. MATHUR (Rajasthan):

श्री एच० सी० माथुर (राजस्थान) :  
क्या पत्नी नहीं मार सकती ?

## SHRIMATI SAVITRY NIGAM:

श्रीमती सावित्री निगम : जोकि इतनी दबी हुई है, सदियों से जिस पर इतना अत्याचार किया गया है वह भला क्या मारेगी। पुरुष स्त्रियों से कहीं शक्तिशाली हैं, भला कोई स्त्री किसी पुरुष के पशूबल का मुकाबला कर सकती है। उस के सामने पुरुष से मुकाबला करने का केवल एक ही मार्ग है, आत्मदमन, त्याग और बलिदान।

आप को यह जान कर आश्चर्य होगा कि मेरी ही उपस्थिति में उस राक्षस ने उस को दोबारा मारा, पीटा और हाथ पकड़ कर, चारपाई पर से घसीट कर, बाहर ले गया और लात-धूसे, थप्पड़ बराबर मारता रहा और उस को निर्बन्ध कर दिया। हम लोग चले आये और दुबारा फोन करने पर एक पुलिस का सिपाही आ कर टहल कर चला गया।

आप को आश्चर्य होगा कि जब दूसरे दिन प्रातः काल मैं आफिस (office) जाने के लिये उधर से निकली तो मैं ने देखा कि तमाम पुलिस उस स्थान पर खड़ी थी। मेरे मन में अकारण यह भावना पैदा हुई कि चमेली के पति ने उस का वध कर दिया होगा, लेकिन जब मैं उस स्थान पर गई तो मैं ने वहां पर उल्टा हाल देखा, चमेली ने अपने पति का वध किया था। वह बैठी-बैठी हंस रही थी और कह रही थी कि मुझे दो बार फांसी पर चढ़ाया गया और इस बार मुझे गिरफ्तार करो, मैं ने वध किया है।

हिन्दू नारी के सामने छुटकारा पाने के लिये दो चीजें हैं—या तो इस प्रकार की हत्या पसन्द करे या तलाक विधेयक द्वारा इस तरह के अत्याचारी पतियों से छुटकारा पाये। इस युग में जब धार्मिक कट्टरता का स्थान मानवीय कृपा ने ले लिया है, हमारे

लिये यह आवश्यक हो जाता है कि मानवता की प्रतिष्ठा और रक्षा के लिये हम हर वस्तु का विश्लेषण ह्यूमेनिटेरियन पॉइंट ऑफ़ वि्यू (humanitarian point of view) से करें।

इस विधेयक में क्लॉज (clause) नम्बर १ में, यह बड़ी खूबी है कि यह उन तमाम लोगों पर लागू होता है जो हिन्दू हैं, भले ही वे कानून के शिकंजों से बचने के लिये इस देश से बाहर चले जायें, लेकिन फिर भी उन सब को इस कानून के अन्तर्गत आना ही पड़ेगा।

इसी प्रकार क्लॉज नम्बर २ में सब से बड़ी विशेषता यह है कि इस के द्वारा इल्लेजिटिमेट (illegitimate) बच्चों का भाग्य सुरक्षित रखने की कोशिश की गई है। बिल के इस क्लॉज द्वारा सचमुच एक बहुत बड़े अन्याय को रोका गया है और उन तमाम बच्चों को इल्लिजिटिमेसी (illegitimacy) के कलंक से बचाने का प्रयत्न किया गया है जो निर्दोष होते भी धृषित और तिरस्कृत किये जाते थे।

इसी प्रकार क्लॉज नम्बर ५ के द्वारा उन तमाम सुहागिनों को खतरे से बचाने और उच्छृंखल पतियों की बुरी आदतों पर रोक लगाने का प्रयत्न किया गया है। ऐसा प्रतीत होता है कि सुहागिन विधवाओं की कृष्ण पुकार सुन कर सरकार उन के दुखों का अन्त करने के लिये बहु-विवाह पर रोक लगाई है।

इसी प्रकार क्लॉज नम्बर ६ में, पिता के बाद मां को दूसरा सब से बड़ा गार्डियनशिप (guardianship) का हक दिया गया है, यह सचमुच सराहनीय है। यहां पर मैं श्री भूपेश गुप्ता जी के इस कथन का समर्थन करती हूँ कि जिस आदमी के दो विवाह हों,



उस की दोनों पत्नियों को तलाक का अधिकार समान रूप से होना चाहिये ।

इसी प्रकार क्लॉज नम्बर ७ का सभी लोग स्वागत करेंगे क्योंकि वेद शास्त्रों सभी के द्वारा निर्देशित सप्तपदी को भी पूरी मान्यता दी गई है ।

क्लॉज नम्बर ९ में कोई विशेष बात नहीं है । यह क्लॉज कंजुगल राइट्स (conjugal rights) के बारे में है, जो मौजूदा कानून में भी हैं । पर क्लॉज नम्बर १०, बहुत ही महत्वपूर्ण है । इस के द्वारा जूडिशल सेपेरेशन (judicial separation) मिल जायेगा जिस से शान्तिपूर्वक पति पत्नी को अपना भविष्य निश्चित करने का अवसर मिल सकेगा और इस के लिये दो वर्ष रखे गये हैं ताकि वे फिर से अपने सम्बन्ध अच्छे कर लें । हिन्दू परिवार को अधिक सुखमय बनाने के लिए इस क्लॉज द्वारा बहुत सहायता मिलेगी । इसलिए, हम लोग भी यह चाहते हैं कि जूडिशल सेपेरेशन की जो अवधि दो वर्ष की रखी गई है वही रहनी चाहिये । इस के द्वारा पति पत्नी जो अकारण गुस्से और तेजी में आ कर पारिवारिक बन्धन तोड़ देते हैं, उन को फिर से अपने पारिवारिक जीवन को सुखद बनाने के लिए, समझौता करने का उचित अवसर मिल जायेगा ।

इसी प्रकार क्लॉज नम्बर ११ और १२ भी बहुत सोच समझ कर बनाये गये हैं । इस से यह नहीं कि बहु-पत्नियों की हालत सुधर जायेगी और उन्हें इस डर से कि कहीं वे तलाक न मांगने लगे, पहिले से कहीं अधिक सम्मान, आदर मिलने लगेगा । साथ ही साथ उन को अच्छे व्यवहार होने पर पति के तथा दूसरी पत्नी के साथ रहने की भी छूट दी गई है । आज बहुत से बहु-पत्नी वाले परिवारों में यह देखा जाता है कि वे बड़े शान्तिपूर्वक और प्रेमभाव से रहते हैं

और उन की अवस्था में कोई अन्तर नहीं पड़ने पाता ।

क्लॉज नम्बर १३ में भी उन तमाम कारणों का विश्लेषण किया गया है जिन के द्वारा तलाक मांगा जा सकता है । वे तमाम कारण लगभग बहुत ही उचित और अनुकूल हैं । इसी प्रकार क्लॉज नम्बर १४ भी अत्यन्त विचारपूर्ण है । इस के द्वारा यह मान्यता दी गई है कि जब शादी वैधानिक ढंग से हो जाये तो पति-पत्नी के अतिरिक्त किसी तीसरे को हक न होगा कि विवाह की वैलिडिटी (validity) को क्वेश्चन (question) कर सके और नल एन्ड वाइड (null and void) कर सके । क्योंकि अक्सर ऐसा होता है कि बहुत से स्वार्थी लोग, बहुत से एक्सप्लॉइट (exploit) करने वाले लोग, ऐसे क्वेश्चन कर देते हैं, ऐसे सवालात पेश करते हैं जिस से पति-पत्नी को बहुत परेशानी का सामना करना पड़ता है । इस के द्वारा पति-पत्नी को एक्सप्लॉइटेशन (exploitation) के तमाम खतरों से सुरक्षित किया गया है ।

क्लॉज नम्बर १७ के द्वारा उन सब तमाम बच्चों को इल्लेजिटिमेसी के कलंक से बचाने का प्रयत्न किया गया है जोकि ऐसे विवाहों से उत्पन्न हो जो बाद में नल एन्ड वाइड करार द दिया जाय । इस का भी हर समझदार व्यक्ति समर्थन करेगा । किन्तु परमेनेन्ट एलिमॉनी (permanent alimony) के बारे में भी मुझे यह कहना है कि अक्सर शत प्रतिशत केसेस (cases) में यह होता है कि कोर्ट (court) के फैसला कर देने के बाद बेचारी स्त्रियों को कुछ नहीं मिल पाता । अक्सर यह देखने में आया है कि कोर्ट यह फैसला कर देता है कि स्त्री को इतना मेन्टेनेन्स एलाउन्स (maintenance allowance) मिलना चाहिये मगर एक दो महीने के बाद पति

[Shrimati Savitry Nit.am.J

महाशय वह एलाउन्स देना बन्द कर देते हैं। इन कारणों से स्त्री को कुछ नहीं मिल पाता और न उस में इस तरह की शक्ति ही होती है कि वह बार बार कोर्ट में जाय और अपील करे। अपील करने के लिये उस के पास पर्याप्त धन नहीं होता है, उस को तरह-तरह के आर्थिक अभावों का सामना करना होता है, नाता प्रकार के कष्ट सहने पड़ते हैं। इसलिये परमेनेन्स एलिमोनी के सम्बन्ध में यह आवश्यक हो जाता है कि सरकार की ओर से कोई व्यवस्था की जाय कि वह उच्छृंखल और अत्याचारी पति से अपना मेन्टेनेन्स एलाउन्स वसूल कर सके। मेरा तो मुझाव यह है कि जिन के पास काफी धन है उन को एक साथ ही मेन्टेनेन्स एलाउन्स दे देना चाहिये। कम से कम १० वर्ष के लिये तो मेन्टेनेन्स एलाउन्स देने की व्यवस्था हो जानी चाहिये। अगर सरकार की ओर से इस तरह की व्यवस्था की गई तो इस तरह की स्त्रियों को जो नाता प्रकार के कष्ट अपने अत्याचारी पतियों द्वारा सहने करने पड़ते हैं, वे दूर हो जायेंगे।

क्योंकि आप यह देखें कि तलाक बिल के पास हो जाने से भी तलाक का फायदा शायद एक प्रति शत स्त्रियां भी नहीं उठावेंगी। लेकिन अगर यह मेन्टेनेन्स का फायदा रख दिया जाय तो इस से बहुत बड़ी तादाद में बहनें लाभ उठावेंगी, क्योंकि आप जानते ही हैं कि भारतीय नारियां कितनी त्यागमयी होती हैं। वे यह नहीं चाहेंगी कि तलाक दे कर पुनर्विवाह कर लें, बल्कि वे त्याग के द्वारा अपने सतीत्व और सम्मान की रक्षा करेंगी। भरण-पोषण का प्रश्न स्त्रियों के लिए बहुत ही उलझा हुआ होता है, और अगर उस को मुलझाने का प्रयत्न सरकार ने नहीं किया तो इस बिल से मिलने वाले आधे लाभों से बहनें वंचित रह जायेंगी।

एक बात अन्त में मुझे जो कहनी है वह यह है कि ऐसी बहनों के लिये जो कुछ रोग से पीड़ित हैं, या ऐसे ही किसी असाध्य रोग से पीड़ित हैं, उन को यदि तलाक मिल जायगा तब उन के भाग्य का क्या होगा। इस बारे में भी और अधिक स्पष्टीकरण होने की आवश्यकता है। मैं समझती हूं उन्हें भी उस कैटेगरी (category) में रख देना चाहिये कि जिस पति से एक बार विवाह होता है उस से तलाक के बाद मेन्टेनेन्स दिलाया जावे।

मैं एक और मुझाव पेश करती हूं। कुछ भाईयों और बहनों को यह शंका है कि पुरुष वर्ग इस से नाजायज फायदा उठाने लगेंगे। परन्तु पुरुषों को तो अभी भी हर तरह से स्वच्छन्दता है, खुली छूट है, और इस बिल के पास हो जाने से उन के लिये कोई विशेष अन्तर पड़ने वाला नहीं है। यदि पुरुषों की उच्छृंखलता बढ़ जाने के बारे में सभी लोग चिन्तित हैं तो उस के लिए एक बहुत उम्दा और आसान तरीका यह है कि उन के लिये यह निश्चित कर दिया जाय कि जब वे तलाक डिमांड (demand) करेंगे तो उस के लिये भारी कोर्ट फीस (court fee) रख दी जाय, और उस इकट्ठा की हुई रकम से उन तमाम बहनों को मेन्टेनेन्स दिलाया जाय जिन के पति अशक्त हैं, कुछ काम नहीं कर सकते या बेकार हैं। इस तरह से कोर्ट फीस के जरिये काफी रुपया इकट्ठा हो जायेगा और इस से यह होगा कि जो लोग डिवोर्स डिमांड करेंगे उन से जो फीस जमा होगी वह नाना प्रकार के उपयोग में लाई जा सकती है और शुभ कार्यों में उसे व्यय किया जा सकता है। श्रीमन्, मैं इस बिल का फिर से हार्दिक समर्थन करती हूं।

[for English translation, see Appendix VII, Annexure No. 128.]

SHRI KISHEN CHAND (Hyderabad): Mr. Deputy Chairman, we are entering into a piece of social legislation and when that is going to be referred to the Select Committee, we have got to be very careful and clear in our minds as to what the implications of this Bill are and how it is going to affect our society. Mere citing of one or two examples from personal experiences of any lady, whether happy or unhappy, should not affect the emotions of this House and should not be taken as the only basis for changing our social laws. If it were only a question of examples^ any number of examples can be cited, from the other side, of bad behaviour by married women towards their husbands, of bitter experiences felt by them. That is not the way of considering a social legislation of this type.

At the very outset, *i* may say that we have declared ourselves to be a secular State and in a secular State, ■as far as possible, we should have ■one set of laws applicable to all people. We should not begin with this type of legislation confined to one community only. Because if we begin with this type of legislation, -we will have to, very soon, bring forward a legislation applicable to the marriages of Muslims, a legislation applicable to the marriages of Parsis, another one applicable to the marriages of Christians and in this country we shall have at least half a dozen laws of marriage and divorce. Is it in the interests of our country that we should have six sets of laws for marriage and divorce in our country? I may point out' that we have a legislation called the Special Marriage Bill which is being considered at present by a Joint Select Committee. Most Members of this House have welcomed that Bill on special marriage. I have also given my fullest support to that Bill. In the presence of that Special Marriage Bill we have to consider whether there is any need for this Bill, whether we want one pattern of society or whether we are going to allow various •view-points and certain variations in

marriage laws. As I have said, I am for one law, and I think the Special Marriage Bill which is going to be passed, after the report is received from the Select Committee, should cover all cases of marriage and divorce applicable to all people in this country irrespective of caste, creed or religion. When you have that law in which there is fullest provision for marriage and divorce, when you have that law in which there is a provision that all marriages performed before the operation of that law can also be registered under that law even by one party—when there is such a provision—X do not see the reason for this Bill at all. In any sacramental marriage which is at present existing, any spouse can approach and get the marriage registered under the Special Marriage Bill and havf> all the privileges of divorce, alimony, and judicial separation or nullity, etc., under that law. When you have that, wny do you bring in this Bill? It seems somehow or other that the motive behind this Bill is not to bring uniformity in our country but to only single out a section of the people and somehow or other disturb their social life. This marriage is a social contract, but among other sections of people it is a sacrament also. In so far as it is a social contract, we have got a Special Marriage Bill, but we should allow some sort of liberty to people who want to go in for a sacramental marriage also. I will give you the example of Europe. In Europe, there is only one marriage law, but among the Roman Catholics there is no divorce at all. The Roman Catholics will not permit any sort of divorce in their society. A divorced woman among the Roman Catholics is absolutely debarred from marrying again. She will lose her social status if she is divorced.

DR. SHRIMATI SEETA PARMANAND:  
Question.

SHRI KISHEN CHAND: Well, the hon. lady who is questioning this statement, has got only to go to Southern Europe—to Italy and other places—and she will find thousands

[Shri Kishen Chand.] of cases like that. I am afraid she has not gone.

SHRI RAMA RAO (Andhra): What about the Protestants?

SHRI KISHEN CHAND: Of course, Protestants do allow divorce. I am simply telling you that in certain sections of society certain restrictions are laid. The Special Marriage Bill is there for those who want to take advantage of it and naturally we must leave out those who do not want to take advantage of it. If there is compulsion there should be compulsion for all. But when you are making exceptions in the case of Muslims, Christian, Parsis, etc., why do you not make a similar exception in the case of some Hindus who may like a sacramental marriage? I am not saying that I am in favour of it. I am all for the Special Marriage Bill. But when our laws provide for certain people of other religions some concessions, why don't we give a similar concession to these people? As an example I was saying that in Europe, which was supposed to be so advanced, for the Protestants it was quite all right to welcome and abide by the one marriage law, but in spite of that marriage law, by social custom, among the Roman Catholics there were all sorts of inhibitions and restrictions against divorce. This is a matter of fact and I have placed it before the House for what it is worth. You may not copy it. You may not like it. You may differ from it entirely.

In this matter we have got to consider the economic condition. In Europe, where divorce is followed more liberally, the girls before marriage are generally in employment. They are earning their own livelihood. From the age of 18 upwards they begin to earn their livelihood. Out of their own free choice they select young men and they marry without burdening their parents either for dowry or for marriage expenses or for maintenance or for anything else. Supposing after some years of married life it turns out to be an un-

happy marriage and there is a divorce, the woman will never think of going to the home of her father; would never think of living with her parents. She will set up her own home, earn her livelihood and somehow meet the expenses of bringing up the children who are born to her. In the U.S.A. there is a further move that there may be companionate marriage before actual marriage as they want to find out about the suitability of temperament. They are evolving a social order best suited to their needs, suited to their environments and to their economic condition. Do you want to borrow it wholesale from that country without considering the economic conditions prevailing in our country? What is the situation which is prevailing in our country? Does the girl select her husband? I would like the girl to select her husband, but that is not the prevailing law or the prevailing custom. Here the marriages are arranged by the parents, both of the boy and of the girl. This is one fact which must be remembered namely, that the marriage is not a love marriage between the boy and the girl, but it is the marriage arranged by the parents of the two parties. The parents incur expenditure. The whole marriage and dowry take away a lot of money from the parents of the girl. If there is a divorce or a judicial separation, what will happen to the girl? She will naturally go to her father, probably carrying three or four children with herself. And supposing, that home happens to be a joint family home, her father will be living with her grown up brothers, her sisters-in-law and their children and it may be a very big family. Suppose this divorced woman with her children comes to that family, what is going to happen there? Will it be a happy home, or will it lead to\* bickering and misery and suffering for this woman? I know, with all the efforts in Europe to arrive at happy marriages by long courtship, it has been found that mistakes occur. The rate of divorce in Europe shows that at least 10 per cent, of the marriages are not happy marriages. We have been following a different system.

in our country. Is the rate of unhappy marriages in our country more than 19 per cent.? Is it more than what it is in Europe? Are we going to, by this system, completely eradicate all unhappiness in married life? Is there a guarantee that after the passing of this Bill we are going to do away with the hardships that mostly are suffered by the woman and sometimes suffered by the man also?

The object is certainly laudable. If this Bill would remove the hardships, I suppose nobody in his senses will oppose it. I do not oppose it. I only say that this Bill is not going to improve matters and that we have another Bill, the Special Marriage Bill, which gives the fullest latitude for women to take advantage of any sort *pi* wrong alliances in marriage by seeking divorce under that Bill.

I do not think it is a part of this Bill and I need not say anything about the laws of succession. When that Bill comes we will have to examine very carefully what will be the effect of this law on succession to property. I would have liked very much if laws of succession were a part of this Bill because they are inter-related. In European society the question does not arise. There a marriage between two persons has nothing to do with the property of the parents. The property of the parents is given away entirely by a will and in intestate cases there is a certain law. In our country, we do not have so much property; in the case of agricultural population their small property consists of that land which if divided between the sons will amount to a nominal area and will not be an economic holding. We find that 28 crores of people are living in rural areas. What will be the effect of this Bill on those people in that surrounding? Let us not look at this question from the point of view of urban population—from the point of view of a few educated *men* and women who lead an unhappy life due to some fault in their adjustment. We have got to look at it from the point of view of nearly six crores of families

who live in the rural areas, who live in that rural atmosphere. What is the effect which a Bill of this type is going to have on them?

DR. SHRIMATI SEETA PARMANAND: They already have divorce even without this Bill.

SHRI KISHEN CHAND: I am afraid the hon. Member has got only some experience with lower classes who have got divorce, but in any family in the villages in Eastern or Western U.P., if she thinks there is divorce she is quite mistaken. Before the very idea of divorce is proposed, probably the head of the woman will be cut off.

SHRIMATI SAVITRY NIGAM: We are also from U.P. and we do not oppose it.

SHRI KISHEN CHAND: I am pointing out the cases where there is no divorce. We have got to be very careful. They are joint families and there the economic dependence of the woman is absolute. In such cases such laws are going to be very bad.

Now, I come to the few clauses of this Bill. Here there are four things—judicial separation, nullity of marriage, invalidity of marriage and divorce. We have to examine very carefully the effect of these four things on our social structure. As I said, judicial separation was all right when both the parties were earning members. Now possibly what may happen is that this Bill may be abused by the women members in order to secure judicial separation and yet claim maintenance. Judicial separation should have meant entire economic independence of both parties. You cannot ask for judicial separation and yet claim maintenance. That means we are arguing in a circle. We base our claims on economic equality and yet when the question of economic equality comes up, we ask for dependence, we ask for maintenance. In unhappy cases it is all right that there should be judicial separation, but with judicial separation there-

[Shri Kishen Chand.] should be no question of maintenance. Each should provide its own funds. When there is mutual agreement that there is incompatibility of temperament and when they want to separate, it is very good that they should separate, but you should not take advantage of the law and ask for maintenance after judicial separation. "That a woman should ask for judicial separation and also claim some money from her husband for maintenance is ■ a contradiction in terms.

I have nothing to say about nullity of marriage and invalidity of marriage except to say that it will give rise to a large number of complicated cases. The hon. lady Member who preceded me told the House that this country of Sita and Savitri was not going to rush in immediately the law was passed to claim divorce. I agree with her that in the background in which they have built up this country they are not going to be misled by the passing of this law but it is possible that in the heat of the moment when there are differences between the husband and the wife which may be adjusted after some time, those differences may lead to some sort of separation and subsequently the matter may get so strained that it may lead to divorce and consequent breaking up of the family. That way this Bill may help to some extent in breaking up a few more families than at present. I think that the rules for nullification and invalidation of marriage and for judicial separation should be made much more strict and they should be made so strict that even if there is a small possibility of reconciliation, that opportunity should be available to the people concerned to reconcile themselves.

With regard to the decree of divorce, I entirely agree that if you have monogamous marriages there should be divorce also, but when we consent to divorce we have got to be very careful that the women who think that they are the oppressed

party in all marriages may not be really the losers because of the passing of this Bill. It is a common thing that whenever any objection of this type is raised they always say that it is man-made law and it is a defective law. Now that women are going to have a woman-made law, everything will be all right and O.K. in this country. I submit that it is absolutely a mistaken notion. What I fear is, one single act of adultery may lead to judicial separation and two years after judicial separation a decree of divorce can be claimed. It is going to be very prejudicial to the interests of the women of our country. Without economic independence any latitude given under this law is going to affect detrimentally their interests. With economic equality there would have been no difficulty. An hon. Member who preceded me pointed out that instead of the word 'adultery' the word 'adulterous life' should be there. That means not one act but a continuous series of acts only should lead to judicial separation. It is said here that the marriage can be dissolved by a decree of divorce if "the husband is keeping a concubine or the wife has become the concubine of any other man or leads the life of a prostitute." The underlying idea of this clause 13 (i) is that it should be a continuous and habitual thing; then only it can be a cause for divorce. While in the case of judicial separation, it says, if "the other party has committed adultery during the marriage". It is used in the singular. That means one single act of adultery will lead to judicial separation and then after two years it can lead to divorce. I submit that it is too easy a way and it is possible that due to differences of opinion some of our young men may put unnecessarily some blame under this clause 10 (e) and get judicial separation and then later on take advantage of this judicial separation and

5 PM get a divorce. As stated here, it will be considered to be the fault of the wife, she will not be entitled to any compensation and any maintenance, and she will suffer heavily on account of it.

I humbly submit that we should not assume that there are only saints and angels living in our country. There are people who may take unfair advantage of our laws, which will adversely affect the interest of either the woman or the man who is entering into a marriage contract. Therefore, I would like that the time for the decree of divorce—there is a clause like that, "two years after judicial separation"—should be extended to four years, so that one single act might not really lead to eventual divorce. I want the law to be made harder, in such a way that there are fewer divorces and fewer chances of men to harm the interests of women.

I will conclude by making an appeal. Let it not be said that the women of our country who have really so far built up the tradition of the Hindu religion are, themselves, going to be the cause of the breakdown- of Hindu society and lead to the loss of that grand heritage which has been built up during the course of centuries.

SHRI B. M. GUPTE (Bombay): Sir, this Bill is generally on progressive lines, but it introduces certain features—certain peculiar features— which make it an odd mixture of desirable and undesirable provisions. I shall cite certain examples of the latter kind so that the Select Committee might consider them.

First of all, I should like to say that there is one ground which is considered valid for divorce, namely, "that either party has failed to comply with a decree for restitution of conjugal rights for a period of two years or ■upwards after the passing of the decree". I submit that this is putting a premium on the defiance of a decree ■of a competent court because by defying the decree the party will secure what he could not get in that suit itself. In the suit the defence would be only on the grounds for judicial separation or divorce. After having urged those grounds and after having failed to convince the court about them

I he can get the same relief by simply j putting off the execution. It is practically putting the wrong party in the right position and thereby giving him the benefit of his failure to convince the court in the suit itself. In my opinion, that is objectionable. So also the provision about "two years of judicial separation". My hon. friend there has already pointed out that that would automatically lead to divorce. But he made a statement that one single act of adultery should not be considered sufficient for divorce. I do not see why it should not be. It has all along been considered that faithlessness in marital relations is the most heinous of all. I do not therefore understand why one such act of faithlessness cannot be considered a sufficient ground for divorce. This has been recognised as a valid ground for judicial separation and indirectly after two years for divorce also but not directly. The difference is not justified. Adultery has been widely recognised for example in English law and in Divorce Act, as one of the grounds for demanding divorce. It should be provided here also: Of course, the draftsman of this Bill must have seen the provisions of the Bombay Act. X do not see why certain departures are made here. The provision about venereal diseases or leprosy is there, but the proviso that the other party shall not contract the disease from the plaintiff is dropped. If the plaintiff himself is responsible for the disease he cannot ask for relief. I wish that that proviso is restored; otherwise, that party would be taken advantage

of of his own wrong. It might be argued that clause 14, which states: "Provided further that no party shall be entitled to take advantage of his or her own wrong or disability for the purpose of relief" prevents this. But I submit, that this clause would not affect judicial separation; it relates only to termination of marriage. At least, so far as judicial separation is concerned, the plaintiff may go to the court after having been responsible for these venereal diseases or leprosy and yet claim judicial separation. I submit that this is not fair. Generally, I dQ

[B. M. Gupte.] not see why there should be difference in this matter between the provincial and the Central laws. What is valid in the Bombay State should be valid in other States also; or, conversely, what is valid in other States should be made valid in Bombay also. Why should there be difference at all in this matter, I cannot understand. Our Constitution provides that there should be a uniform Civil Code; I do not, therefore, see why these provincial Acts should be allowed to remain there. At least in this matter when we are providing for new ideas like judicial separation and divorce, there should be uniformity. But, if we compare the Bombay Act with this present Bill, there is a lot of difference between the two. I wish that the Select Committee should go in detail, find out which is the better provision and then apply it uniformly. I, therefore, hope that the Select Committee will carefully look into this very complicated measure and an improved Bill will be sent back to UB.

DR. D. H. VARIAVA (Saurashtra): Mr. Deputy Chairman. I want to make certain observations with regard to venereal disease referred to in clause 10 (1) (c). Nowadays, venereal diseases are curable. Even certain venereal diseases can be cured with only one injection. Syphilis, for instance, can be cured completely with the aid of the modern drugs that are available. It should also be noted that venereal diseases are not continually infectious. Suppose a man has contracted this at a young age; after treatment, certain symptoms of this disease may come out in later life. With the help of modern therapeutic treatment it is easy to eradicate and cure it completely, either for the reproduction of children or for the prevention of the disease being transmitted to the children that come or to the wife. My only submission is that when the Select Committee discusses and considers this matter, I think venereal disease should be omitted from this clause 10(1), because it is not now so dangerous as it used to be

in olden times. This clause might have found a place in some earlier Bills or legislation, but with the advance of modern therapy, this disease is not so dangerous.

I am sure that venereal diseases are not a valid cause for divorce. I am quite in favour of all the other clauses, but as a medical man I might advise the Select Committee to seriously consider this clause on venereal diseases which should be completely omitted, because I think there is no venereal disease which cannot be cured in the present times. And neither party should be penalised for this. With this observation I would like to recommend that this point should be considered by the Select Committee when it considers the Bill.

SHRIMATI SHARDA BHARGAVA  
(Rajasthan):

श्रीमती शारदा भार्गव (राजस्थान) :  
उपाध्यक्ष महोदय, मेरे विचार में, यह जो विवाह तथा विवाह-विच्छेद विधेयक आया है बहुत ही साधारण सा विधेयक है और इसमें कोई चीज ऐसी नहीं दिखाई देती जिसके लिये आपस में किसी प्रकार की कंट्रोवर्सी (controversy) हो। फिर भी कुछ माननीय सदस्यों ने इसके विरोध में बातें कही हैं।

इस विधेयक में एक भाग विवाह के बारे में है। इस में अमेंडमेंट (amendment) के रूप में सिलेक्ट कमेटी (Select Committee) को मैं कुछ सुझाव देना चाहती हूँ। वे इस प्रकार हैं।

क्लाज (clause) ३, डफिनिशन्स (Definitions) के अन्तर्गत खंड (एफ) (f) में दिया हुआ है :

"(i) 'sapinda relationship' with reference to any person extends as far as the third generation (inclusive) in the line of ascent through the mother, and the fifth (inclusive)



in the line of ascent through the father, the line being traced upwards in each case from the person concerned, who is to be counted as the first generation."

मैं इसे मानती हूँ कि हम लोगों के विवाह, जहाँ तक हो सकें सम्बन्ध से जितनी दूर हों उसमें करना चाहिये, और इस लिये नजदीक के सम्बन्ध को दूर रखने के लिये इसमें यह संशोधन कर दिया जाय कि क्रमशः "थर्ड जेनेरेशन" ("third generation") के बजाय "फिफ्थ जेनेरेशन" ("fifth generation") और फिफ्थ जेनेरेशन के बजाय "सेवेन्थ जेनेरेशन" ("seventh generation") हो तो यह ज्यादा उपयोगी होगा। शास्त्रोक्त भी यही है कि नजदीकी रिश्तेदारों में विवाह सम्बन्ध होने पर जो संतान उत्पन्न होती है वह उतनी अच्छी नहीं होती है जितनी कि दूर के लोगों से करने पर होती है। इस लिये "सपिण्ड रिलेशनशिप" (*sapinda relationship*) पर मेरा यह संशोधन है।

इसी क्लोज में मेरा दूसरा संशोधन यह है कि "मदर" ("mother") की जगह "फीमेल एन्सेस्टर" ("female-ancestor") और "फादर" ("father") की जगह "मेल एन्सेस्टर" ("male ancestors") कर दिया जाय। इसका कारण यह है कि फादर से सम्बन्धित जेनेरेशन के अन्तर्गत फादर की मदर का फादर भी आ सकता है और फादर का फादर भी क्योंकि दोनों ही फादर के पूर्वज होंगे। इसका मतलब यह होगा कि अपनी मदर के कुल की अपेक्षा फादर की मदर का कुल विवाह के लिये अधिक पीढ़ियों तक वर्जित रहेगा। "ए फीमेल एन्सेस्टर" और "मेल एन्सेस्टर" कहने से यह लाभ होगा कि अपनी माँ का कुल, पिता की माँ का कुल, पितामह की माँ का कुल सब एक श्रेणी में आ जायेंगे तथा

पिता, पितामह, प्रपितामह आदि से जो कुल चलेगा उसी में सात पीढ़ी तक विवाह वर्जित रहेगा।

[THE VICE-CHAIRMAN (SHRIMATI VIOLET ALVA) in the Chair.]

तीसरी बात इसी क्लोज में (जी) (g) खंड में "डिग्रीज आफ प्रोहिबिटेड रिलेशनशिप" ("degrees of prohibited relationship") के सम्बन्ध में मुझे कहनी है। इस पैराग्राफ (paragraph) के अन्त में लिखा है : "brother and sister, uncle and niece, aunt and nephew or the children of two brothers or two sisters" इसमें टू ब्रदर्स (two brothers) और टू सिस्टर (two sisters) के बच्चों में आपस में विवाह नहीं हो सकते। इसके मानी यह हो जाते हैं कि एक भाई और बहिन के बच्चों में विवाह हो सकता है जब कि भाई-भाई और बहिन-बहिन के बच्चों में विवाह नहीं हो सकता। इसलिये इस पैराग्राफ के अन्त में इन शब्दों को जोड़ने की आवश्यकता होगी "अथ ए ब्रदर एंड एसिस्टर"। ("or a brother and a sister")। अगर इस क्लोज को हम इसी रूप में रखते हैं तो इसके मानी यह हो जाते हैं कि भाई और बहिन के बच्चों में विवाह हो सकता है जो बहुत अनुचित है। बाकी सिद्धांतों से मेरा कोई मतभेद नहीं है और मैं उनसे सहमत हूँ।

अब मैं सम्बन्ध-विच्छेद अथवा तलाक के बारे में कुछ कहना चाहती हूँ। बिल में तलाक के बारे में इतनी कठिन स्थितियाँ रखी गई हैं कि यह सन्देह होता है कि लोग इसका सहारा ले सकेंगे। फिर भी तलाक के नाम पर जनता में कुछ लोगों ने हवा सा मचा रखा है—जो चाहेगा तलाक दे देगा, लड़ाई और कलह पैदा होगा, इस तरह के

[Shrimati Sharda Bhargava.]

बहकावे और प्रोपेगन्डा (propaganda) की बातें जरूर की गई हैं। परन्तु बिल (Bill) को देखने से ज्ञात होगा कि इसमें तलाक के लिये इतनी कठिन परिस्थितियाँ दी हुई हैं शायद उससे अधिक कठिन और नहीं हो सकती हैं। हमारे यहां पुराने ग्रंथों में भी स्त्रियों को इस तरह के तलाक देने के अधिकार थे। मैं यहां पर एक श्लोक उद्धृत करती हूँ जिसमें कहा गया है :

“नष्टे मृते परिव्रजिते क्लीबे च पतिते पतौ ।

पञ्चस्वापत्सु नारीणां पतिरन्यो विधीयते ।”

इसके मानी यह है कि स्त्रियाँ पाँच दशाश्रों में दूसरा पति कर सकती हैं। यदि किसी स्त्री का पति मर गया हो, या किसी प्रकार से खो गया हो, या सन्ध्यासी हो गया हो, या नपुंसक हो या वह अधम और नीच काम करने लगा हो—यानी दूसरी स्त्री के पास रहता हो या दूसरी स्त्री कर ली हो—तो इन अवस्थाओं में वह दूसरा पति कर सकती है। आज जब हम कि आधुनिक युग में ऊँचे विचारों पर चल रहे हैं तो विशेष परिस्थितियों में तलाक का विरोध करना एक हास्यजनक बात होगी। स्त्रियों के विषय में यह भी कहा गया है कि यदि उनको तलाक का अधिकार दिया जायेगा तो वे इस अधिकार को जब चाहें काम में लावेंगी। मैं समझती हूँ कि उनके बारे में यह सोचना बड़ा ही निन्दनीय है। मैं कहना चाहती हूँ कि भारतीय स्त्रियों का यह स्वभाव होता है कि पतियों में सचमुच में अदगुण होते भी हैं तो भी वे उन्हें ठीक करने का प्रयत्न करती हैं और उनको निभाने का प्रयत्न करती हैं।

मैं इस सम्बन्ध में एक और बात कहना चाहती हूँ। जब हमारे यहां विधवा-विवाह

के बारे में चर्चा होती है तब भी यह दलील दी जाती है कि अगर विधवा-विवाह की स्वीकृति मिल जायेगी तो स्त्रियाँ अपने पतियों को मार डालेंगी, जहर दे देंगी। मगर मैं आप से कहती हूँ कि यह सब करने की बात तो स्त्रियों से सम्बन्धित करना ही बड़ा निन्दनीय है। इसके अतिरिक्त मैं यह कहना चाहती हूँ कि सच तो यह है कि जो दैवी प्रकोप से विधवा हो जाती हैं वह स्त्रियाँ भी सर्वथा यह समझ लेती हैं कि वे विवाह के बिना नहीं रह सकतीं—क्योंकि हमारी स्त्रियों की आर्थिक दशा ऐसी है कि अर्थ के बिना नहीं रह सकतीं, उसके बिना संसार में रहना मुश्किल है, उन्हें आर्थिक मामलों में स्वाधीनता नहीं है। तब मजबूरी से और आर्थिक परिस्थितियों वश आवश्यकता पड़ने पर ही विधवा-विवाह करती हैं, अन्यथा विधवायें भी साधारणतया विधवा-विवाह को कभी उचित नहीं समझतीं। हमारे माननीय सदस्य, श्री किशन चन्द ने कहा कि यू० पी० (U. P.) में तो कोई तलाक का कायदा नहीं है। मैं यू० पी० के बारे में अच्छी तरह से जानती हूँ, मैं वहाँ बीस वर्ष रही हूँ और वहीं पड़ी और पली हूँ। मुझे मालूम है कि वहाँ पर अब भी और पहले भी तलाक की प्रथा थी, उसे आप लोअर क्लास (lower class) कह दीजिये अथवा अपर क्लास (upper class) इससे कोई फर्क नहीं होने वाला है। वहाँ कुछ जातियों में अक्सर हम सुनते रहते हैं कि फलां स्त्री को फलां मर्द भगा कर ले गया फलां स्त्री फलां मर्द के साथ नाते बैठ गई। नाते के मानी होते हैं कि एक पति को छोड़ दूसरे आदमी के घर में उसकी पत्नी की तरह से रहने लगना। आप इस चीज को कानून से करायें या न करायें वह चोरी-छिपे होता ही है, जिसको तलाक करना होगा वह करेगा ही। तलाक विधेयक स्वीकार होने से छिपी हुई चोरी को गच्चाई का रूप मिल जायगा। कुछ परिस्थितियाँ

ऐसी हैं जिनमें कुछ समझदार लोग ऐसे हैं जो कानून से डरते हैं वे घर के अन्दर रोज कलह करत हैं । अतः अगर उनके घरों की हालत देखें तो वहां सत्यानाश ही दिखाई देता है, घर में क्लेश-कलह मचता ही रहता है और एक दूसरे को मारते-पीटते रहते हैं । उसका क्या प्रभाव पड़ता है उसे हम नहीं सोचते । हम विलायत की निन्दा करते हैं और कहते हैं कि वहां तअक होते हैं परन्तु वहां की स्थिति दूसरी है और हमारे देश की संस्कृति दूसरी । प्रारम्भ से ही हमारी संस्कृति ने हम यह सिखाया है कि स्त्री और पुरुष का विवाह एक नैतिक बंधन है । इसलिये मैं यह समझती हूं कि कठिन परिस्थितियों में सम्बन्ध-विच्छेद का अधिकार मिलना ही चाहिये । मैं इस विधेयक का अनुमोदन और समर्थन करती हूं और चाहती हूं कि इस पर मैंने जो संशोधन रखे हैं उन पर सिलेक्ट कमटी विचार करके बहुत जल्द इसे पास कर देगी, क्योंकि पहले ही इस पर बहुत दिन लग गये हैं । मैं समझती हूं कि अगले सेशन (session) तक यह विधेयक हमारे हाउस (House) से पास हो जायेगा ।

[For English translation, see Appendix VII, Annexure No. 129.]

SHRI T. PANDE (Uttar Pradesh).-

श्री टी० पांडे (उत्तर प्रदेश) : महोदया, यह हिन्दू विवाह और सम्बन्ध-विच्छेद विधेयक जो कि सदन के सम्मुख उपस्थित है उसका मैं कट्टर विरोधी हूं । मुझको ऐसा लगता है कि यह सासन भारतवर्ष की संस्कृति, सभ्यता और उसके कौटुम्बिक जीवन के वैज्ञानिक सिद्धान्तों को समझता नहीं है अन्यथा ऐसा विधेयक इस सदन में उपस्थित करने की कोई आवश्यकता नहीं थी ।

मेरे पहले एक बहन का भाषण हुआ । उन्होंने मनुस्मृति से एक श्लोक का उदाहरण

पेश किया है । मनु ने स्त्री और पुरुषों के अधिकारों को अलग-अलग व्यक्त किया है । स्त्रियों के पक्ष में जो श्लोक बहन को मिला वह तो उदाहरण स्वरूप उन्होंने उपस्थित कर दिया परन्तु स्त्रियों के पुरुष के प्रति जो अधिकार हैं, जो कर्तव्य हैं, उनके सम्बन्ध में जो और वर्णन है उसकी विवेचना उन्होंने नहीं की ।

SHRI RAMA RAO: Who is Manu? SHRI

T. PANDE:

श्री टी० पांडे : मनु महाराज भारतवर्ष के कानूनों के जन्मदाता हैं । इस भूमि के ऊपर वे प्रथम राजा अवतरित हुये ।

SHRI RAMA RAO: Does the gentleman know whether Manu ever lived at all?

SHRI T. PANDE:

श्री टी० पांडे : मैं जानता हूं कि भारतवर्ष में बहुत से लोग अपने सिद्धान्तों को लेकर अवतरित हुये और सदा के लिये चले गये परन्तु मनु और उनके सिद्धान्त अमर हैं और अमर रहेंगे । आपके न जाने से मनु छोटे नहीं हो जायेंगे ।

मेरा निवेदन यह है कि हम ऐसे समय से गुजर रहे हैं जब कि पुराने विचारों का और नये विचारों का एक झगड़ा सा चल रहा है । ऐसे समय में हमको बहुत जल्दी काम करने की आवश्यकता नहीं है । मैं तो बहुत कुछ ध्यान करने के बाद इस नतीजे पर पहुंचा हूं—यद्यपि हमारी कुछ महिलाओं को यह बात पसन्द नहीं होगी और परमात्मा की कृपा से इस समय एक महिला ही अध्यक्ष भी हैं—मेरा यह अनुमान है कि जितने शिक्षक पैदा हुये, जितने वैज्ञानिक पैदा हुये, जितने योद्धा पैदा हुये और मानव समाज का उद्धार करने के निमित्त जितने अवतार हुए उनमें

[Shri T. Pande.]

कोई महिला नहीं थी, सब पुरुष ही थे। मैं तो जानता हूँ कि सदियों से कभी भी स्त्री और पुरुष के अधिकार में समानता हुई नहीं और न कभी हो सकती है। उनके बीच में छोटे और बड़े का सम्बन्ध रहा है और रहेगा।

DR. SHRIMATI SEETA PARMA-NAND : What about Jhansi ki Rani?

SHRI T. PANDE:

श्री टी० पांडे : मेरा निवेदन यह नहीं है कि कोई पैदा नहीं हुआ है। मैं तो यह कह रहा हूँ कि जो १० अवतार इस देश में अवतरित हुये उनमें सब पुरुष हुये, महिला एक भी नहीं हुई। राम पैदा हुये, कृष्ण पैदा हुये, जिनका नाम उच्चारण करके हम स्वर्ग की प्राप्ति करते हैं, ये सब पुरुष ही थे, यही मेरा निवेदन है।

SHRI B. GUPTA: But Kali and Durga are there.

SHRI T. PANDE:

श्री टी० पांडे : मैं तो समझता हूँ कि इन भाइयों को भी समय मिलेगा, इसमें बहुत ज्यादा चिन्ता करने की आवश्यकता नहीं है, उस समय ये बोल लेंगे, मुझे इस समय निवेदन करने दिया जाय।

मेरा निवेदन यह है कि यह विधेयक जो इस समय सदन के सामने उपस्थित है उसमें बहुत सी ऐसी बातें हैं जिनके कारण हमारा समाज बहुत उत्तेजित है, बहुत आतंकित है। मैं नहीं जानता कि आप समाज के सम्बन्ध में कितना ज्ञान रखती हैं लेकिन मैं इतना जरूर कहना चाहता हूँ कि भारतवर्ष के लाखों तर-नारी इस विधेयक से प्रसन्न नहीं हैं और हमारे शासन पर भी इसका बहुत असर पड़ने वाला है। इसलिये मेरा नम्र निवेदन है, खास कर के अपने ला मिनिस्टर (Law Minister) महोदय से, कि वे इस पर

पुनः विचार करें और अच्छा हो कि इसको वापस ले लें।

जब विशेष रूप से इस विधेयक पर विचार होगा तो मैं अपनी बातों को विस्तार से रखूंगा परन्तु इस समय सूक्ष्म रूप से मैं इतना ही कहना चाहता हूँ कि हिन्दू समाज की रचना, उसके विकास, उसके वैवाहिक सम्बन्ध, इन सब बातों की हमारी शास्त्रों में अच्छी तरह से विवेचना की गई है। हमको इस बात की आवश्यकता है कि हम इस पर विचार करें कि उनमें से कौन से ऐसे विचार हैं, कौन से ऐसे संस्कार हैं, कौन सी ऐसी प्रक्रियाएँ हैं जो कि आज के समाज के अनुकूल हैं और कौन सी ऐसी चीजें हैं जिनको कि हम आज छोड़ सकते हैं और नये संस्कार, नई संस्कृति और नई बातों को अपना सकते हैं। मैं इसको ठीक समझता हूँ कि समाज की जो गति है और जो उसकी दशा है उसके अनुसार समाज नई बातों को अपनाये और उनको ग्रहण करे, किन्तु मैं इतना जरूर कहना चाहता हूँ कि प्रत्येक समाज के कुछ सिद्धान्त होते हैं, कुछ अपनी चीजें होती हैं, कुछ अपनत्व होता है, तो यदि हम अपनत्व को छोड़ दें, उसके आधारभूत सिद्धान्तों को छोड़ दें तो वह समाज नहीं रह सकेगा। यह जो विवाह और सम्बन्ध-विच्छेद विधेयक सदन के समक्ष उपस्थित है उसके सम्बन्ध में मुझे ऐसा मालूम होता है कि इस में यूरोपीय संस्कृति, यूरोपीय सम्यता और यूरोपीय संस्कार तथा विचार मूलतः ले लिये गये हैं और जो अपने विचार हैं, अपनी संस्कृति है और अपने नियम हैं उन सब की उपेक्षा की गई है और मैं कुछ यह भी देखता हूँ कि इसमें बड़ी चंचलता है कि यह कानून शीघ्र ही पास हो जाय और यदि ऐसा नहीं हुआ तो ऐसा मालूम होता है कि भारतवर्ष में एक बड़ी भारी उथल-पुथल हो जायेगी। एक महिला मुझ से जब मिलती हैं तो नित्य

ही यह चर्चा करती है कि यह जो कांग्रेस की सरकार है वह इसको जल्दी पास नहीं करना चाहती है और लोगों से कांग्रेस की सरकार डरती है। बात ठीक भी है, जनता से सब को भयभीत होना चाहिये। जिसको जनता से भय नहीं है वह कोई खूबवार जन्तु ही होगा, जनता के मत पर ही यह सरकार अवलम्बित है और इसे जनता की राय की प्रतिष्ठा करनी चाहिये और उसकी चिन्ता करनी चाहिये। इसमें बहुत चंचलता की आवश्यकता नहीं है। बहुत सोच कर, बहुत विचार कर ऐसे कानूनों के ऊपर हमको अपनी राय देनी चाहिये और उनके अनुसार अमल भी करना चाहिये।

मुझे इसमें कोई संदेह नहीं है कि सदन में किन्हीं पुरुषों और किन्हीं महिलाओं को छोड़ कर, बहुसंख्यक व्यक्ति चाहे वे स्त्री हों या पुरुष हों, इस विधेयक के किसी कानून को नहीं मानेंगे और न कभी तलाक ही देंगे और न इस किस्म के विवाह करेंगे, जैसे कि इसमें वर्णित हैं। मैं इस बात को जानता हूँ और इसमें मुझे कोई संदेह नहीं है। इस बात को मैं अच्छी तरह से जानता हूँ। विचार को प्रकट करना और यहां गाल बजाना आसान है लेकिन आचरण करना बहुत कठिन है। महात्मा गांधी और पंडित जवाहरलाल नेहरू देश के बड़े प्रतिष्ठासम्पन्न और मानव-जाति के महान नेता हैं। वे जिन बातों को कहते हैं उन पर आचरण भी करते हैं। महात्मा गांधी ने सदा इस बात की ही शिक्षा दी। परन्तु यहां जितने आदमी कहते हैं कि यह विधेयक पास होना चाहिये, उनमें कितने ऐसे व्यक्ति हैं जो कि स्वयं उस पर आचरण भी करेंगे। कितने ऐसे व्यक्ति हैं जोकि इस विधेयक के पास होने के बाद सर्पिड और सगोत्र विवाह करेंगे। मत भयभीत हो कर या किन्हीं और कारणों से देंगे परन्तु सर्पिड और सगोत्र विवाह नहीं करेंगे,

कर नहीं सकते हैं। मैं उत्तर प्रदेश की बात ही नहीं कहता हूँ, सारे भारतवर्ष की कहता हूँ कि यह बड़ा कठिन कार्य है और बहुत ही कम लोग सर्पिड और सगोत्र विवाह करेंगे, चाहे हम कितने ही कायदे और कानून पास कर दें। मैं धार्मिक आदमी हूँ, संस्कारयुक्त हूँ, माने विद्वानों को मानता हूँ और उन पर अटल रहता हूँ। कुछ लोग कहते हैं कि उचित समय पर मेरे विचार परिवर्तित हो जायेंगे। तो मैं कहता हूँ कि जिस समय मैं इस पर मत दूंगा उस समय अवश्य ही इस किस्म का विवाह करूंगा। इसलिये मैं सदन से निवेदन करूंगा कि हमको भगवान् से प्रार्थना करनी चाहिये कि हमको नैतिक बल मिले। मैं जिस विचार को सदन के सम्मुख उपस्थित कर रहा हूँ उसमें सत्यता है। मैं भी कहीं बाहर नहीं जा रहा हूँ, मैं देखूंगा कि इनमें से कितने व्यक्ति हैं जो कि सगोत्र और सर्पिड विवाह करेंगे। मैं देखूंगा कि कितने व्यक्ति इन में से तलाक देते हैं। स्त्री और पुरुष का जो सम्बन्ध है उसमें कुछ कटुता आ जाती है लेकिन तलाक देते हुये सम्पूर्ण बातों का विचार करना होता है और उनका विचार करते हुये बहुत कम लोग तलाक देंगे। इसका सबसे बड़ा कारण सामाजिक प्रभाव है। इसलिये मेरा निवेदन है कि भय के कारण मत देना अबुद्धि है। हमें बहुत सोच समझ कर इस सम्बन्ध में अपने विचार व्यक्त करना चाहिये।

तीसरी बात जो मैं अंत में आपसे कहना चाहता हूँ, वह यह है कि इस विधेयक से समाज में बड़ा कोहराम मचेगा। जिस समय हम एक स्त्री और एक पुरुष का वैवाहिक सम्बन्ध करते हैं उस समय उसे हम पवित्र सम्बन्ध समझें। मैं नहीं जानता कि और लोगों के क्या विचार हैं लेकिन जो हिन्दू हैं और जो हिन्दू विचार रखते हैं वह यह मानते हैं कि एक जन्म के बाद दूसरा जन्म होता है और वे यह भी

[Shri T. Pande.]

मानते हैं कि एक स्त्री और पुरुष का जो सम्बन्ध इस जन्म में होता है वह दूसरी योनी में भी होता है। जो इस सिद्धान्त को नहीं मानते उनके बारे में मैं कुछ नहीं कहता, अहिन्दुओं के बारे में मैं यह बात नहीं कह रहा हूँ लेकिन जो हिन्दू हैं वे इस पुनर्जन्म के सिद्धान्त को स्वीकार करते हैं। अगर हिन्दू नहीं हैं तो फिर उन से तो इस सम्बन्ध में बात ही नहीं करनी है, क्योंकि उनके लिये तो यह बिल (Bill) होगा नहीं फिर बिना बजह परेशान क्यों होते हैं।

हिन्दू पुनर्जन्म के सिद्धान्त को स्वीकार करते हैं। स्त्री और पुरुष का जो सम्बन्ध है वह अनादिकाल से चला आ रहा है और अनादिकाल तक रहेगा। इस तरह के विधेयक से, मनुष्य के बनाये कानून से, सम्बन्ध-विच्छेद नहीं होता, यह तो भगवान का कानून है। इसलिये मेरा निवेदन है कि आप ऐसा कोई काम न करें जिससे जगत में आपका उपहास हो, संसार में आप की हंसी हो। अगर आप ने इस सदन में इस कानून को पास कर दिया और लोगों ने उसको न माना तो इसके बनाने से क्या लाभ होगा।

मुझे से पहले जिन महिलाओं ने भाषण किये हैं और विधवा-विवाह की जिस प्रकार से चर्चा की गई है, उससे लोग यह समझे हैं कि महिलायें अपने पतियों को मार डालेंगी और नया विवाह करेंगी। परन्तु यह कैसे हो सकता है? यह भारतवर्ष है, यह एक धार्मिक देश है, शंका होती है परन्तु ऐसी शंका सत्य नहीं है।

अन्त में मैं यह निवेदन करना चाहता हूँ कि इस बिल में कुछ अच्छाइयाँ भी हैं। अच्छाइयाँ क्या हैं? मुझे आश्चर्य हुआ कि इस बिल में अच्छाइयाँ कैसे आ गयीं। इस

विधेयक में हिन्दु जाति की जो परिभाषा की गई है वह बहुत ही सुन्दर है, उसे मैं स्वीकार करता हूँ।

मुझे केवल यही निवेदन करना है कि धार्मिक संस्कार और शास्त्रीय आधार पर हिन्दु जाति के विवाह होने चाहियें। पुरातन समय से आज तक विवाह के सम्बन्ध में एक लम्बा इतिहास है। किसी महान् ऋषि ने विवाह की व्यवस्था की थी। उसके बाद विवाह की पद्धति धीरे २ बढ़कर आज इस हालत पर पहुँची है कि तलाक, सम्बन्ध-विच्छेद की चर्चा भी चल पड़ी है। मैं नहीं कह सकता कि यह शुभ लक्षण है या अशुभ लक्षण है। मुझे तो ऐसा लगता है कि जिस तरह हिन्दु जाति की परिभाषा इस बिल में अच्छे ढंग से की गई है, उसी तरह अच्छे ढंग से, शास्त्रीय पद्धति से विवाह करने की स्वीकृति भी यहां दे दी गई है, उस में दो बातें रखी गई हैं। पहली तो यह है कि विवाह सपिण्ड और सगोत्र तरीके से होने चाहियें। मुझ से पूर्व जिन महिलाओं ने भाषण दिया उन्होंने भी यह स्वीकार किया है कि अगर विवाह सम्बन्ध दूर से किया जाय तो सन्तान बलिष्ठ होती है, तेजस्वी होती है। अगर ऐसी बात है तो इस विधेयक के अन्दर इस चीज को लाने में क्या हानि है। मेरा कहना यह है कि एक गोत्र का विवाह उस ही गोत्र में नहीं होना चाहिये, माता और पिता के गोत्र में विवाह नहीं होना चाहिये। सपिण्ड और सगोत्र विवाह की चर्चा पहले धर्म में नहीं थी।

तीसरी बात जो मैं कहना चाहता हूँ वह सम्बन्ध-विच्छेद के विषय में है। सम्बन्ध-विच्छेद अत्यन्त अनुचित है क्योंकि विवाह एक धार्मिक संस्कार है और धार्मिक संस्कार आधारित विवाह को इस विधेयक में स्वीकार किया गया है, इसलिये धार्मिक

संस्कार विच्छेद सम्बन्धी जो विधेयक है, उसका मैं विरोध करता हूँ और सब विचारवान शीलवान्, हिन्दू कहे जाने वाले लोगों से प्रार्थना करता हूँ कि वे इसका विरोध करें।

[For English translation, see Appendix VII, Annexure No. 130.]

7 HE VICE-CHAIRMAN (SHRIMATI VJX>UEX ALVA): Dr. Seeta Parmanand.

1)R. SHRIMATI SEETA PARMANAND: Madam, Chairman, I should like to speak after everybody has spoken. Could you kindly show me that consideration?

THE VICE-CHAIRMAN (SHRIMATI VIOLET ALVA): Shri Rama Rao.

SHRI S. MAHANTY (Orissa): Is he going to speak.....

SHRI RAMA RAO: I will give him the chance. Let Mr. Mahanty speak. I will speak for the Bill and he will speak against the Bill.

SHRI S. MAHANTY: Don't anticipate me.

SHRI RAMA RAO: Madam, Vice-Chairman, it is a very happy accident indeed that this Bill has suddenly found a place on the second Order Paper. If I remember aright, I did not see it on the first Order Paper. Am I to understand that this is an inspiring indication of the increasing tempo of social reform on the part of the Government? If so, I should be very happy.

On this occasion, tribute is due to that eminent jurist, the late Shri B. N. Rau, who worked for this measure, and measures of this nature, with an enthusiasm that was admirable as well as adorable. His death has been a very great loss to this country. By his achievements at home and abroad, he covered her with a reputation and a glory which, I trust, we shall live up to and which, I hope, will endure.

Charges have been made by the opponents of this measure that piecemeal legislation of this kind will do no

good. It is a very strange charge to come from those quarters because it is these very people that have compelled the Government to come out with Hindu Code reforms legislation in instalments. If tomorrow the Government were to produce the Hindu Code Reforms Bill wholesale, they will say, "Oh, this is too much for our digestion". We are, therefore, compelled to regulate the dose according to the digestive capacity of Hindu orthodoxy. It may be that as a result of this piecemeal legislation, there will be, unfortunately, contradictions between one law and another, but here is the Parliament of India—and here is our Law Ministry—to see that such-contradictions do not occur or are reconciled when they are likely to occur. My friend, Shri Bhupesh Gupta—why he wears an earpiece I cannot understand—has remarked that there might be unnecessary delay in bringing out the various measures of the same family. I too have my doubts and fears. I sincerely hope with him that the other Bills will come ere long, will come along in a flood, and before the term of this Parliament is over—I mean to say the first six years—and it will be possible for us to put on the Statute Book all Bills connected with Hindu social reform. I am particularly anxious about the property aspect of the Hindu Code reform. When it is brought before the House, sparks will begin to fly up and the progressives among us will have to fight a real, earnest and strenuous battle for the property rights of women.

My hon. friend Shri Kishen Chand challenged the necessity for this legislation side by side with the Special Marriage Bill, which is already on the anvil. I too wonder why this should happen so: but then we are dealing with that peculiar species known as the Hindu, who wants things to be regulated in a peculiar manner and to a special extent. In any case, redundancy is not always a crime, not even in literature, not even in rhetoric.

SHRI B. GUPTA: In rhetoric it is a qualification.



SHRI RAMA RAO: A friend of mine a few minutes ago, let fall a remark about the "futility" of legislation of this kind. He said that such bills as these were intended only to adore the Statute Book, they would be there rusting and rotting, they would be doing no particular good to the community. I differ from that view, a view so utterly fallacious, and so obviously false, because the Parliament of India would not waste its time upon Bills of this nature if they were not going to do some good to some section of the country.

The Sarda Act is often quoted in this context. But after the passage of that Act, enormous social upheavals have occurred in this country, and if the purpose of that Act was not defeated, as indeed it was not, it was because of these social upheavals. Certain social ideas have been floating about in the air and new economic practices have been coming into our social polity. They have been influencing our conduct. Today even in the house of a *shastry* or a *pandit*, you find girls unmarried, girls aged 18, 20 and even 25. Let society grow up to new standards as best it can, but it is for us, Members of Parliament, to do our best to quicken and to expedite the process, the process of social awakening and social reform.

May I give a small instance from my personal experience, about the advantages of legislation of this kind? When this Bill was first introduced, a young friend of mine and an old colleague in journalism wrote to me a very pathetic letter. He said that his brother had been cheated into marriage—and it does happen very often among us in this country, this cheating of persons into marriage. (Interruptions.) We talk of *dharma*, etc., but we don't hesitate to practise deception where marriage is concerned. "Sukra Niti" tells us that you can tell a lie where a marriage is concerned.

SHRI GOVINDA REDDY (Mysore): A thousand lies.

SHRI RAMA RAO: A million lies. Now, my friend's brother was cheated into a marriage with a girl who was epileptic, incurably epileptic.

SHRI B. K. MUKERJEE: The girl cheated the man?

SHRI RAMA RAO: My hon. friend Mr. Mukerjee should know that people do get cheated, they are cheated into unfortunate marriages. This friend asked me, "What is the remedy? Please, for God's sake, do something about Hindu divorce. After a man has been cheated into a marriage, has he no right to get out of it?"

SHRI GOVINDA REDDY: Man wants to condemn woman. Man is free.

SHRI RAMA RAO: I am coming to that. Women, even educated girls, show much deference these days to the opinion of their parents while marriage is being discussed. The parents may go wrong. Why don't you provide against the calamitous consequences of a marriage? Why don't you make it possible for people to get out of it when a marriage has proved disastrous?

Friends of the orthodox type are fond of quoting the examples of Sita, Rama, Savitri, so on and so forth. When they do so, I laugh and, I laugh heartily, at the extreme ineptitude of such people. These old, old books have no meaning for me. I have no more respect for the Hindu Shastras and Puranas than I have—if my hon. friend, sitting in front of me, will pardon me—for him.

SHRI T. PANDE: Never.

SHRI RAMA RAO: I live in this century and I am subject to the laws passed by the Parliament of India, Manu is not ruling and if he is going to pass now such laws as he did in his time I would tell him to get out. But who can say what Manu actually did? No one knows it. How many interpolations there are in the so-called



Manu law, no one knows. How many bad interpretations there are, no one knows. It is our business to make individual marriage happy and the institution of marriage successful by the laws we pass. Marriages are made in heaven, says the proverb, but in this connection, I am reminded of a famous sentence of Bernard Shaw: "Before you make marriage divine, make it human." That is what this Bill, among other things, is trying to do.

I am satisfied, on a superficial look at this Bill, that the scheme it embodies is satisfactory. I am a layman and I do not understand all the details, but we are appointing a Select Committee to go into it. I have no doubt that that Committee will, with assiduous industry, look into the details and change where certain things are not desirable and introduce new clauses which may be found necessary.

The scheme of checks and balances it contains is gratifying the reasons for divorce, the provision for judicial separation, the definition of prohibited degrees, the abolition of bigamy, the provision with regard to restitution of conjugal rights.

{MR. DEPUTY CHAIRMAN in the Chair.}

Some of our friends look blue in the face when the question of divorce comes up. The plain, simple fact must not be forgotten that 85 per cent, of the Hindus have got the benefit of customary divorce. The high-caste Hindus, suffering from historical diseases and traditional maladies, have denied themselves some of the obvious advantages of human life. It is, therefore, necessary that even the few sections of Hindus that will be benefited by this measure get the advantage of it.

As for the general question of divorce, we should not run away with the sanctimonious, hypocritical, self-flattering impression that everything is right and wonderful with the Hindus and everything is unlovely in the garden of the non-Hindus. Let us be honest to ourselves. Do not condemn

everything that is of the West. The West is not Hollywood alone. Even in America divorce is not so free and easy as some imagine. Friends hear stories and imagine things. As my hon. friend, Shri Kishen Chand, was saying divorce is not looked upon with favour there.

I have read somewhere that it is almost impossible for a divorced person to live in a cathedral city in England. I want to warn the House against the facile assumption that we are a superior race, that we have a wonderful heritage of morals and religion and that, therefore, we must preserve it, as if all this were true.

I would make one suggestion, and that is that every Hindu marriage must be registered; it must not be left to the party's option to register or not. That will eliminate a good deal of litigation. After all, what is a Registrar? What is the swearing before *Agni* among the Hindus—a sort of registration? When Shakuntala found herself betrayed by her husband Dushyanta, what did she do? She could only appeal to the *Pancha Bhootas*, in the absence of human evidence of the *Gandharva Vivaha*. Why should it be so today? A modern boy or a girl should demand that the marriage shall be registered and the marriage certificate should be in her or his pocket.

As I heard some friends in this House, it struck me that they were still living in an age when people did not believe in the equality of the sexes. Our Constitution gives women status of equality and, therefore, any law of the land that comes in the way of that provision must be considered to be repugnant to the Constitution and to that extent invalid. Do not forget that vital fact .....

SHRI J. S. BISHT (Uttar Pradesh): Is it in the case of Hindus only or Muslims also?

SHRI RAMA RAO: It applies to everybody in India.

[Shri Rama Rao.]

Here is another fact. Half the electorate of India is composed of women. What do you say to that? If they want their rights to be recognised, how can you deny them? Which Government can last for a single day on the basis of such an atrocious denial? You are educating your girls today in the same manner as you are educating your boys. An educated girl will not marry hereafter unless she is conceded her privileges and rights at the same time she accepts her duties and responsibilities. She is not going to be tied up as a prisoner for life. It is a hallmark of civilisation that there should be a law of marriage that establishes finally and fundamentally the equality of the sexes.

If I followed aright, some Members in this House who are opposed to this Bill, have, however, welcomed the definition of 'Hindu' in it. I am happy that we have reached a stage in our country's social thought that we are today saying that anyone is a Hindu who calls himself a Hindu. That ought to be the ideal and I trust that it will be a realised ideal soon. For the present, let us get away from the shackles of religion—religion as it governs marriage. Marriage ought to have nothing to do with religion in a secular democracy.

The natural evolution of Hindu society was arrested by certain historical events on account of the invasions and on account of some of the dangerous conservatism that crept into Hindu society as a result of the loss of freedom. Today, we are a free people; we are free to enact laws as we please. I agree with the ideal of one civil code for all Indians, one law of marriage and divorce, and one law of succession. I should be happy if there were one secular society, leaving religion, or what is called religion, to the gods, and, if you please to the devil.

THE PARLIAMENTARY SECRETARY  
TO THE PRIME MINISTER (SHRIMATI  
LAKSHMI MENON): Mr. Deputy Chairman, it  
was not my inten-

tion to speak at this stage of the debate but I had to. There are one or two things that I have to mention before I come to some of the arguments advanced by certain Members in this House. To begin with, I take the reference to the Select Committee. It is well known that some Members in this House have taken a very keen interest in the progress of this Bill and I would like to confide to the House that yesterday when I approached the Law Minister about this Bill.—Mrs. Parmanand was with me—he said, "You ask her. She is the Goddess of the Bill" and it is rather surprising that the Goddess should be omitted from the place of worship. We are having a Committee and I do not know really the opinions and the qualifications of the Committee Mem-bers because I do not think the House was consulted in a general way about it. All the same, my impression was that since this is a Bill which concern\* more with the rights and difficulties of women, more women should be in it, and women who have a certain amount of knowledge of law. It is not enough if you put simply women and I think that we have two women lawyers in this House. Mrs. Alva and Mrs. Parmanand and I am very keen—and I am speaking on behalf of quite a number of people—that persons with some kind of legal knowledge should be there in order to see that the Bill maintains its original aim and purpose which is progressive legislation to change our social system.

Many Members of this House did not know the origin of the Rau Committee or the circumstances which led to its appointment. I would like to take this House back to 1934 when the All India Women's Conference had an All India Day in order to request the Government of that time to appoint a commission to deal with the legal disabilities of women, not only of Hindu women. I do not think that we should ever think in the matter of legislation on a sectarian basis but it so happened that the Government of that time insisted on dealing with us in groups and

sections and, therefore, the Rau Committee was appointed. Since then, what happened to their recommendations and the Bills and the chequered career that the Hindu Code Bill has had, is well known to the Members of this House and I need not deal with those things. It is rather disappointing to hear from Members of this side ■ of the House the statements that have been made by hon. speakers like Mr. Pande, the previous speaker; I think his name is Mr. Pande.

SHRI T. PANDE: Shri Pande, not Mr.

SHRIMATI LAKSHMI MENON: All right, Shri Pande. When our legislators speak of the Hindu society, they are forgetting that there is no such Hindu society today. Where are the characteristics of the Hindu society? Where is the joint family? Where is the caste system? Where is the great amount of protection that women were allowed in those old joint family days? Today we find our girls fighting for their livelihood just like men. We have only to go to the Secretariat and we have only to go to our factories to find that women are no longer the denis, that women are no longer objects which have to be protected in their childhood by their fathers, in their youth by their husbands and in their old age by their sons and, therefore, not deserving of freedom at all. They also forget that in the Constitution we have already guaranteed, in the Directive Principles of State Policy, not the reform of Hindu Law or Muslim Law or any other law but the creation of a national civil code. So today, under the Constitution, we do not even exist as Hindus, Muslims or Christians but only as citizens of India. Tha\* is not why I am going <sup>6 pMr</sup> to speak in favour of this Bill. Considering that it took nearly 13 years for this agitation for reform in the Hindu Law to be brought before this House, it is only natural that the Directive Principles of State Policy will take perhaps decades and decades. Considering also the kind of repre-

sentatives that we have in our legislatures it is only rational to say that it will take at least the next 50 years before we have a national civil code unless in the meantime we have a revolutionary change in our outlook, in our social organisation and perhaps in our political system as well. That is why we, who are supporting this Bill, are supporting it, not because it is an ideal measure or that it goes all the way it should, but just as a palliative.

Now many statements have been made here which really hurt me because it reminded me of the great speeches that Burke delivered during the time of the French Revolution. When Burke glorified the French royalty, referred to the boundless grace of life under the monarchic regime, I think it was Thomas Paine who said: "He admired the beautiful plumage but forgot the dying bird." Here in the Hindu society, the dying bird is the Hindu woman. Many things had been done to glorify her, and it had been said that they would always remain chaste as so many Savitris and Sitas and, therefore, we should try to recapture all the lost things, the dreams of our writers, the dreams that we find in our ancient literature so that we can have a society in which every woman would be chaste and every man a free agent to do what he likes without putting a stop to all the injustices of society done in the name of religion. That state of mind of those who want to perpetrate injustices on women shows a barbaric tendency which should be eliminated from our society.

We have often been told that the progress of society is measured by the status of women in that society. Thanks to our political movement, thanks also to the spirit of our Constitution, to-day our women are not as backward as they might have been. It is true we have a few women in our Parliament. It is true that we have a few women in our Secretariat, but what about the millions of women

[Shrimati Lakshmi menon.] who are not educated and who are governed by these unjust laws? It is true that we may contract marriages. In fact today the educated women in the educated families marry outside their social groups. They have marriages within prohibited degrees of consanguinity. I know many instances among the so-called social leaders where marriages have taken place within prohibited degrees of consanguinity. But the law provides them with loopholes and they can escape and nobody minds them. And if you have power, if you have influence, if you have money, you can do anything and these laws do not matter at all. The same thing can be said of the very poor people who do not have any property and who, therefore, do not respect any social laws because they are their own masters. We are not thinking of these people. We are thinking of the middle classes, those who have some property, those who are guided by social restraints, those who have to abide by social opinion. It is these people who are tyrannised most. I do not want to narrate to you instances of injustice because many previous speakers have told you how women are deprived of opportunities of redress of their grievances either in a court of law because of the rigidity of divorce laws or because social opinion is always harsh on the weak and the suffering.

I would like to point out to this House, as Mr. Rama Rao has already done, that a law is really something which answers to the changing social needs of the people. It is true that we had Manu. I have no objection to Yajna-valkya or Narada or whoever it is. They are all fossils which do not have fit place in our society. We are not living in the age of Manu; we are not living at a time when people led a pastoral life; we are not living at a time when a person may be blessed to have 101 sons. We are living in 1954. We are living in an age when distances are annihilated by technological progress, when we are thinking in terms of a world society—not even in

terms of an Indian society—but of a world society, when we want the co-<sub>k</sub> operation not only of men but of women as well. We have our Five Year Plan; we have our Constitution; we have got all these things. I would like to ask those Members who were very keen to preserve our Hindu society intact, this question. Surely, Manu did not tell us what we should do when we wanted to have a river-valley project.

SHRI RAMA RAO: He never drank coffee.

SHRIMATI LAKSHMI MENON: Times have changed to such an extent that it will not do well for us to think in-terms of a society which existed thousands of years ago.

It is quite true that there will be a number of divorces; because what has been happening concealed from the public gaze will probably now come up before the public gaze. But we will be living a more honest life. What now happens is, I think, known to everybody and I need not, therefore, tell you what happens just now. With an appearance of holy wedlock even infidelities go unchallenged because people are really afraid to go in the open and seek divorce. And among the Hindus what is the chief method of obtaining divorce? Apostasy. If it is adultery you have to prove and a woman cannot have the facilities to prove adultery. Cruelty also, it is difficult to prove, because the law is always on the side of man and therefore, she goes and changes her religion. Is that the way to maintain the *dharma* of our society, I ask. That is the whole basis of separation. You change your religion and you go back again to your religion just as you like as if religion has nothing to do with *dharma*.

I was very surprised that Mr. Kishen Chand should show so much ignorance of laws in Europe. France is a Catholic country; in France marriages are regulated by the civil code. Whatever may be your religion—you may be a Catholic; you may go to Church every

clay and participate in the mass etc.— you find that under the French Law no marriage is valid unless it is a civil marriage. That is, the Church ceremony takes place only after the marriage has been registered at the *Maire*, and France is a Catholic country. Why did he take only the example of possibly backward countries like Spain and Italy and why did he omit a country like France?

AN HON. MEMBER: Ireland.

•SHRIMATI LAKSHMI MENON: Ireland is still backward. Now England is a Protestant country and yet you will find the divorce laws are very strict. There are as many reactionaries there as we have here and the result is that progress is very very slow indeed.

Another thing I would like to mention here. Many people think that the law aims at harming the life of the happily married people. Certainly not. Whether this law exists or not, whether there is a reactionary measure or a progressive measure, a large number of people will be guided by social considerations and they will rather suffer than go to a court of law but there are millions of other people who have the courage to find some remedy for the troubles and toils of their existence and it is the duty of a Welfare State which thinks in terms of the happiness of the majority of its people to give them a progressive measure which could easily be enforced.

Many many things have been said about our being intimately bound up with the West and having European outlook, especially the women of our country. They will, themselves, have to admit that if only our women had not had this progressive outlook, our country would certainly be worse off than what it is today.

The reason why I support this Bill is this. At present, we do not really have a codified Hindu Law. When we were students in the Law College, we had to learn Mulla. That was not all.

Then we discovered that the Hindu Law was dependent on the decision of the judges. Then again, the decision of the judges varied according to the different courts and according to the outlook of the judges. In the opinions that we have received from the various Bar Associations, you will find that the Bar Associations are against any grant of progressive laws; they are for litigation. If we have laws which clearly state the rights and wrongs of things, my own view is that litigation will be very much less.....

SHRI RAMA RAO: Quite right; lawyers are not progressive!

AN HON. MEMBER: Hear.hear.

SHRIMATI LAKSHMI MENON: Before I conclude, I would like to point out that divorces are not serious. I do believe that when you are married and when you have children, people do not rush to the courts for the redress of their grievances and it is very seldom that it happens. It is a well-known fact that womenfolk are patient and suffering and are rather inclined to put up with most of the ills than rush to courts. If the moral basis of society is undermined by these things it is for men themselves to improve their conduct and follow the *dharma* prescribed. I am sure that the *dharma* was prescribed not only for women but also for men, by our law-givers. When our law aims at the solidarity of our society and wants to prevent men and women from going the way the Western countries do, men should conduct themselves in a manner which will be a source of pride to the entire society.

Before I sit down, I would like to remind the House that it is very wrong to imagine that in the West divorce is too frequent. Divorces become frequent only when there is an undermining of the moral influences of society altogether. It should be clearly understood that it is not the woman that causes the divorce, nor is it the man alone. Both men and women are responsible for unhappy marriages; in

[Shrimati Lakshmi Menon.] some cases it may be the man; in some other cases it may be the woman. If today, I can tell the House, women are given absolute freedom, you will find that all these marriages which are unhappy and where you think it would be better to have judicial separation, nearly fifty per cent, of these marriages will go on the rocks. The reason why they are not doing so is because our law is bad, the law of succession which deprives women of a share of the family or hereditary property is hampering them; they have not enough money even for legal advice or fighting the case in a court. Gradually, the second and third part of the Bill will have to come. The reason why the Law Minister is not anxious to introduce the second part of the Bill, namely, succession, is that there will be, the moment he introduces that, a tremendous amount of opposition—not only from this House but from the whole country outside. This little law is not a law at all. Even if a woman wants to get divorce, there is no money even for the legal expenses. You are giving her certain rights but she has the other handicaps; it is like asking a bird to fly with its wings cut off. But once you introduce such a measure as this, the Government will be compelled to introduce the second and third parts in due course.

Hence this one is a welcome measure. But, I would like to utter a word of warning to the Select Committee. It will be faced with a very very complicated and delicate task; it will have to face different opinions, you say it is a progressive measure. The Committee may contain reactionary elements. I hope the personnel of the Select Committee will be changed or will be increased to have some more progressive elements in that, so that the recommendations of the Select Committee and their final draft which will emerge will be something which will reflect the demand of those sections of the community and the nation, which are to benefit by this measure.

SHRI R. U. AGNIBHOJ (Madhya Pradesh):

श्री आर० यू० अग्निभोज (मध्य प्रदेश) :  
उपाध्यक्ष महोदय, जो बिल (Bill) यहाँ पेश हुआ है और जो सेलेक्ट कमेटी (Select Committee) को भेजा जाने वाला है, उससे मैं सहमत होते हुए भी उसकी जो कमियाँ हैं उनकी ओर आपका ध्यान आकर्षित करूँगा। आखिर इस तलाक की प्रथा के ऊपर जोर क्यों दिया जा रहा है और स्त्रियों के लिये ऐसा कानून बनाने की आवश्यकता क्या पड़ी? यदि आप ध्यानपूर्वक देखें तो आप यह पायेंगे कि हमारे देश में शारदा ऐक्ट (Sharda Act) पास हो जाने के बावजूद भी आज बाल-विवाह हो रहे हैं। शारदा ऐक्ट पास हो जाने के बाद भी आज उस कानून में उतनी ताकत नहीं है, उतनी शक्ति नहीं है, उसमें वह जान नहीं है कि वह बाल-विवाह को रोक सके। यदि इसी तरह से यह कानून पास हो गया और इसमें जान न रही तो यही कहावत होगी कि “मुर्गे की जान की जान गई, खाने वाले को मजा नहीं आया”। सरकार वदनाम भी हो जायेगी और स्त्री समाज को या पुरुष समाज को उससे कोई लाभ होने वाला नहीं है। इसलिये यदि आपको इस तलाक की प्रथा या बहु-विवाह की प्रथा को रोकना है तो पहले हमारा कर्तव्य यह है कि हम बाल-विवाह को रोकें। बाल-विवाह को रोकने के बाद, आपको जो दहेज की प्रथा है उस पर भी कुशरासन करना होगा। आखिर यह जो शादियाँ होती हैं, जिनके बाद तलाक मांगा जाता है, उनमें बहुतों में तो यह राज होता है कि क्योंकि लड़की के पिता ने अच्छा दहेज नहीं दिया इसलिए लड़का दूसरी शादी करना चाहता है। दूसरे, बाल-विवाह होने के समय जो लड़की ५ साल या १० साल की भी नहीं हो पाती

उसकी आगे चल कर शिक्षा क्या होगी, उसका विचार क्या होगा, उसका चलन कैसा होगा, उसका रंग-रूप और सौंदर्य कैसा होगा, इन सब बातों का कोई खयाल नहीं रखा जाता। माता और पिता की इच्छा से—जिस समधी को समधिन पसन्द आ गई और समधिन को समधी पसन्द आ गया—वस शादी हो गई। आपने इस कानून में भी देखा होगा कि एक क्लॉज (clause) लाया गया है कि लड़के की उम्र १८ साल की और लड़की की १५ साल की हो। आखिर क्यों? आप १५ साल की नासमझ लड़की को फिर से एक आदमी के गले में बांध डालना चाहते हैं और उसके बाद डाइवोर्स (divorce) के लिये कहते हैं, यह बिल्कुल अनुचित बात है। आपके डाइवोर्स देने का अधिकार तभी लाया हो सकता है जबकि समाज उसे होश में आने के बाद शादी करने दे। दफा ६ पर जो यह दिया हुआ है.....

SHRI T. PANDE:

**श्री टी० पांडे :** तीन वर्ष होश में आने का समय दिया है, शादी करने के बाद।

SHRI R. U. AGNIBHOJ:

**श्री आर० यू० अग्निभोज :** मैं यह कहता हूँ कि यदि १५ साल की जगह १८ साल भी कर दिया जाय तो भी आपको यह दफा बनाने की कोई जरूरत नहीं होगी। न आपने बाप से पूछा, न मां से, न पैटर्नल ग्रेण्डफादर (paternal grand-father) से, न काका और बाबा से पूछा।

SHRI T. PANDE:

**श्री टी० पांडे :** वह पूर्ण स्वतंत्र है।

SHRI R. U. AGNIBHOJ:

**श्री आर० यू० अग्निभोज :** स्वतंत्र नहीं है। जब वह १८ साल के बाद अपने अधिकार

जानेगी तब वह स्वतंत्र होगी। एक ओर हम जिन लोगों के बल पर चुनाव में खड़े होते हैं उनके लिये १८ साल और २१ साल की उम्र रखते हैं और दूसरी तरफ आप कहते हैं कि लड़की की शादी की उम्र १५ साल हो। इसलिये मैं आपसे प्रार्थना करता हूँ कि लड़की की उम्र १५ साल हटा कर आप १८ साल कर दें।

फिर उसके बाद आगे चल कर जितना भी एक्सप्लेनशन (Explanation) दफा ६ में दिया है उसकी भी कोई जरूरत नहीं रह जायगी। इस तरह से मैं यह समझता हूँ कि १५ साल की उम्र को १८ साल कर देने के बाद आपका यह क्लॉज ६ बिल्कुल बेकार है और उसकी कोई जरूरत नहीं है और वह स्त्री समाज अथवा पुरुष समाज दोनों के लिये घातक है। ऐसा नहीं है कि यह मुसीबत केवल १५ साल की लड़की पर ही आयेंगी, वही मुसीबत १८ साल की लड़की पर भी आ सकती है।

मेरी बहिन, श्रीमती सावित्री देवी ने बहुत बड़े-बड़े सतीत्व के उदाहरण दिये, सत्यवान का उदाहरण दिया, राम और सीता का उदाहरण दिया। यह सब ठीक है। आप एक चीज का निश्चय कर लीजिये कि यदि आपको सतीत्व की बात करनी है तो वह बहुमतित्व पर निर्भर नहीं करता। मेरे कहने का आशय यह है कि आप यदि सतीत्व की रक्षा करना चाहते हैं तो फिर तलाक की बात ही छोड़ दीजिये, या फिर यह कह दीजिये कि यह सतीत्व की बात पुरानी हो गई। हम तो आज के मानव समाज के चलन के आधार पर अपने समाज को बढ़ाना चाहते हैं, समाज को बनाना चाहते हैं। सतीत्व की भावना छोड़ दीजिये क्योंकि जब वह भावना हमारी स्त्रियों में होगी तो जैसा कि मेरी बहिन ने कहा, इस कानून

SHRI R. U. AGNIBHOJ:

के बनने के बाद भी वे कभी दूसरी शादी करने नहीं जायेंगी और न तलाक देंगी। आप क्या भारतवर्ष के वे जाज्वल्य उदाहरण भूल गये कि सतीत्व पर धब्बा लगने की आशंका मात्र से हमारे राजस्थान की हजारों नारियाँ जलती हुई आग में कूद कर प्राण उत्सर्ग कर देती थीं। इसलिये आपको भी घबड़ाना नहीं चाहिये क्योंकि यदि यह कानून पास भी हो जायगा और आपने नारियों को शिक्षा दी तो वे कभी इस तलाक के पीछे नहीं दौड़ेंगी। आप घबराते क्यों हैं ?

SHRI T. PANDE:

श्री टी० पांडे : पढ़ लिख कर तलाक देंगे।

SHRI R. U. AGNIBHOJ:

श्री आर० यू० अग्निभोज : पढ़ने-लिखने से ही कोई तलाक देना नहीं सीखा। लेकिन मैं कह रहा था कि ऐसी ऐसी विद्वान् और विदुषी नारियाँ भारतवर्ष में रही हैं जिन्होंने पुरुषों का मार्ग-प्रदर्शन करके तुलसीदास और कालीदास सरीखे व्यक्ति संसार के सामने रखे। इसलिये यदि स्त्रियों में सतीत्व है, विद्या है, ज्ञान है और उच्च भावनाएं हैं तो इस कानून से उन पंडितों को, धर्म की रक्षा करने वालों और शास्त्र की रक्षा करने वालों को घबड़ाने की कोई जरूरत नहीं। इसलिये मैं आप से यह कह रहा था कि इस बिल को पास करने के पहले शारदा ऐक्ट की दफा को बदल कर उसमें १४ साल के स्थान पर १८ साल की लड़की की शादी की उम्र रख दें और यहां पर भी उसे १८ साल कर दिया जाय। इसके साथ-साथ इस छटवीं धारा को इस बिल से निकाल दिया जाय।

एक जगह स्पष्टीकरण में डिजर्ट (desert) करने की परिभाषा इस प्रकार दी हुई है :

"In this section, the expression 'to desert' with its grammatical variations and cognate expressions means to desert the other party to a marriage without reasonable cause and without the consent or against the wish of such party."

तो डिजर्ट के मानी दिये हुए हैं "टु डिजर्ट" (to desert)। जैसे कोई कहे आदमी की परिभाषा है "आदमी मानी आदमी"। तो आपकी यह जो "डिजर्ट" की परिभाषा है उसको आप एक्सप्लेनेशन के बाद भी ठीक से नहीं समझा सके, यह भेरी समझ में नहीं आता।

DR. SHRIMATI SEETA PARMANAND: The expression "to desert" means "to desert without reasonable cause".

MR. DEPUTY CHAIRMAN: You have to take the whole clause, Mr. Agnibhoj.

SHRI R. U. AGNIBHOJ: Yes, that I understand. "Desert" means "desert". Then there is no necessity of this Explanation at all.

SHRI GOVINDA REDDY: He is a lawyer. How does he define man or woman? These are obvious things.

MR. DEPUTY CHAIRMAN: Please read the whole clause. It says; "to desert" means "to desert the other party to a marriage without reasonable cause and without the consent Of against the wish of such party".

\* That is the meaning of "desert".

SHRI R. U. AGNIBHOJ: All right. I will take it but I would request the Select Committee to just see my humble suggestion.



और उसके बाद डाइवोर्स और बिगैमस रिस्ट्रेंट क्लॉज (bigamous restraint clause) बनाते-बनाते न मालूम क्या ली मिनिस्ट्री (Law Ministry) की समझ में आया कि इस बिल में रेस्टिट्यूशन आफ कंजुगल राइट्स (restitution of conjugal rights) ले आए। यदि आप डाइवोर्स की इजाजत देते हैं तो आप डाइवोर्स यानी तलाक के ऊपर ही कानून बनाइये। बिगैमी अगर आप को नहीं रखनी है, तो ऐसा कहिये कि एक आदमी दो शादियां नहीं कर सकता। १२ बीच में यह रेस्टिट्यूशन आफ कंजुगल राइट्स कहाँ से आ गये। मेरी कुछ समझ में नहीं आता इस कानून में इस क्लॉज की क्या आवश्यकता है ?

SHRI V. K. DHAGE:

श्री वी० के० धगे : अंग्रेजी कानून में ऐसा ही है।

SHRI R. U. AGNIBHOJ:

श्री आर० यू० अग्निभोज : डाइवोर्स ? मुझे मालूम है इंडियन पेनल कोड (Indian Penal Code) में है। इस तरह के जो मैरिज (marriage) के कानून बनते हैं उनमें इस तरह के रेस्टिट्यूशन आफ कंजुगल राइट्स नहीं हैं, ऐसा मेरा खयाल है।

इसके बाद दिया हुआ है कि लेप्रोसी (leprosy) की जांच मैरिज होने के बाद होगी।

MR. DEPUTY CHAIRMAN: It refers to clause 13, sub-clause (vii).

SHRI R. U. AGNIBHOJ: Yes, the reasons for divorce.

MR. DEPUTY CHAIRMAN: That is why it is put there.

SHRI R. U. AGNIBHOJ:

श्री आर० यू० अग्निभोज : मेरी समझ में नहीं आता—मुझे क्षमा कीजिय, मैं अश्लील

समझ कर इसको नहीं कहता हूँ—परन्तु चूँकि इसमें रेस्टिट्यूशन और प्रोस्टीट्यूशन (prostitution) वगैरा सभी शब्द आ गये हैं इसलिये मैं यह साफ-साफ हाऊस (house) के सामने कहना चाहता हूँ कि आखिर यदि कोई आदमी इम्पोटेंट (impotent) होगा तो उसकी परीक्षा कौन करेगा ? और जो डाक्टर परीक्षा करेगा वह मेल (male) होगा या फीमेल (female) होगा ? कोई पुरुष है वह इम्पोटेंट है या पोटेंट (potent) है, नपुंसक है या पुंसक है, इसकी परीक्षा कौन डाक्टर कर सकता है ? इसलिये या तो आप इस क्लॉज को बिल्कुल ही निकाल दीजिये अथवा आप कोई ऐसा उपाय बताइये कि जिससे इस चीज का निश्चय हो सके क्योंकि बहुत से डाइवोर्स पुंसत्व और नपुंसत्व की बेसिस (basis) पर निर्भर नहीं होते। डाइवोर्स के कारण कुछ होते हैं और अदालत में कुछ और बताये जाते हैं। इसलिये मेरी यह प्रार्थना है कि इस प्रश्न को आप सिलेक्ट कमेटी पर छोड़ दीजिये। वेनीरियल डिजीज (venereal diseases) के सम्बन्ध में, हमारे एक डाक्टर मित्र ने जो सलाह दी है, उस पर मैं भी यह कहना चाहूंगा कि कुछ क्षणिक बीमारियाँ होती हैं जो—जैसे एग्जिमा (eczema) होती हैं—कभी सूख जाती हैं कभी अच्छी हो जाती हैं। इस तरह के भी वेनीरियल डिजीजेज हो सकते हैं, परन्तु उस वेनीरियल डिजीज का बहाना ले कर कोई आदमी या स्त्री एकदम से तलाक देने के लिये चले जायें इससे तो समाज में गड़-बड़ी पैदा होगी।

इसके बाद मैं एक बात और कह दूँ और वह यह है कि जिस प्रकार से सरकार बुराई को रोकने के लिये कानून बनाती है, चोर बाजारी को रोकने के लिये कानून बनाती है, परन्तु जो व्यापारी ३६ पहले से ही अपना

[Shri R. U. Agnibhoj.]

रास्ता कानून तोड़ने का निकाल लेते हैं उसी प्रकार से इस कानून के तोड़ने वाले लोग अपने लिये पहले से गुंजायश रखते हैं। इसलिये मेरा कहना है कि इसका परिणाम यह न हो कि स्त्री-समाज पर जो अत्याचार हो रहे हैं और जो अन्याय हो रहे हैं उनसे वहनों को छुटकारा दिलाने के लिये जो यह बिल पेश हो रहा है उससे बजाय इसके कि कानून बनने के बाद वे फायदा उठाये उल्टे पुरुष लोग ही उसका फायदा उठा कर स्त्रियों को और भी मुसीबत में डाल दें। मैं भविष्य वक्ता तो नहीं हूँ लेकिन मैं यह भविष्यवाणी करता हूँ कि इस कानून के बनने के बाद यदि स्त्रियाँ इसका फायदा पांच सैकड़ा उठायेगी तो पुरुष सौ सैकड़ा उठायेगे। इस चीज को हमें हमेशा ध्यान में रखना होगा। इसको आप भूल नहीं सकते, क्योंकि स्त्रियों को प्रकृति ने स्वभाव से ही बहुत दयालु बनाया है, कोमल बनाया है, दुर्बल बनाया है, पुरुष से उसमें अधिक शील होता है, अधिक लज्जा होती है, अधिक संकोच होता है, अधिक त्याग होता है और अधिक तपस्या होती है।

तो मैं आपसे कहूंगा कि मातृत्व की रक्षा के लिये, उसके सम्मान के लिये, उस के आदर के लिये, स्त्री जाति के सुख के लिये जो यह कानून आप बनाने जा रहे हैं उसका वहनों लाभ उठा सकती हैं और पुरुषों के अनाचार और अत्याचार से छुटकारा पा सकती हैं यदि यह जो ड्राफ्ट बिल (draft Bill) है उसमें जो खामियाँ हैं उन्हें निकाल दें और इससे अच्छा कानून बनावें। ऐसी सद्‌इच्छा प्रकट करते हुए इस बिल का मैं समर्थन करता हूँ।

[For English translation, see Appendix VII, Annexure No. 131.]

PROF. G. RANGA: Mr. Deputy Chairman, I wish to say that I am in favour

of this Bill and I wish to assure my hon. friends here that a very large section of our people today, nearly a majority among our *kisans* and a bigger majority among our *khet maz-doors*, almost all our tribal peoples, the so-called backward classes, all these people already are enjoying the right to divorce. This applies to both men and women. Divorce has come to be a kind of an anathema only among those sections or classes of people who have accepted what is known as the Brahminical order of practices. I do not know where and when these ideas of monogamy started. But all these ideas of monogamy were applied only for the benefit of the man and not for the benefit of the woman. **But** as has been suggested and as has been incorporated in this Bill, the same law, the same rule ought to apply equally to both the man and the woman; but the Brahminical order of society in this country had never known this, it never accepted that principle. They allowed the man to take more than one wife. They allowed him also to get rid of his wife without paying any compensation as it were, unless of course, the woman and her relatives were so powerful and so angry with this man and also possessed of funds, that they could go to the court and get some maintenance.

Has the woman enjoyed these rights? The man has enjoyed. The man can go to the courts and drag the woman from her parents' home, whether she likes it or not, to come back again to the man. Woman has not been able to enjoy this right.

SHRI P. V. NARAYANA (Andhra): Even if a decree is obtained against a woman, I do not think the relations can be restored. The decree cannot be enforced at all.

PROF. G. RANGA: Therefore, among those sections of our people, not necessarily Brahmins but those who have accepted the Brahminical order of social life, women did not enjoy—and do not enjoy even to-day—equal rights with men. It is an obvious truth. **But**

among other class of people, women enjoys in some cases I should say, even greater privileges than men. At least she enjoys as much privilege as the man. Among Harijans for instance—I may tell you, Sir,—and other agricultural workers, it is the woman who enjoys a superior place in that society because she can cook and a man does not know how to cook. The man is not able to cook and if she gets angry with this man, feels that this man is impossible, she leaves him and goes away, not necessarily to her parents' house, but she goes out and puts up a hut, begins to work and earns her living. This way she looks after herself whereas the poor fellow is a derelict; it is true he works but he does not know how to turn his paddy into rice. He does not know how to cook his food and so in two or three months he is obliged to run after his wife, beg her, prostrate before her and bring her back into his own home.

SHRI RAMA RAO: That is an ideal condition.

PROP. G. RANGA: Therefore, woman enjoys a higher place today among the Harijans where there is not much talk of property but there is the talk of co-operation to perform greater tasks. This Bill, according to me, is not going to confer any new rights on the Harijan women, on the depressed classes women, on the tribal women and on a large number of our own *kisan* women. It may affect these other people who in the past thought that they were very fortunate indeed in accepting this Brahminical order of social values and, therefore, considered themselves to be of a higher social status and raised themselves that way from out of their earlier—whether you call it Dravidian or Proto-Dravidian whatever it is—social orders of the tribes of our country and who today may feel themselves aggrieved that their men will have to accept only a status which would be equal to their women. That is all. Now, why mak<> much noise about people?

Are they in a majority. I very much doubt. Now with this adult franchise those other people who have been enjoying the right to divorce are also to be brought into the ken of our Legislature and, therefore, the customs that they have been having should be given due weight. It is from that point of view that I would like a careful examination to be made of many of the conditions that are stipulated here in this Bill. This morning when some of the suggestions made by various Governments and organisations were being read out, we came across one suggestion which said that some of these local customs ought not to be dismissed in an arbitrary manner but on the other hand as far as it is possible, they should be accommodated in harmony with the spirit of this Bill. I am in favour of that. Why do I say this? Our hon. sister Shrimati Lakshmi Menon was thinking that if this Bill were to be passed, the lawyers are likely not to have so much of business. On the other hand, my fear is that this Bill, when it becomes an Act, is going to .....

SHRI GOVINDA REDDY: Lawyers will make thousands.

PROF. G. RANGA:.....make these ordinary masses, the toiling masses of our country who till now have been able to get on with their customary rights and privileges and duties in regard to social \* behaviour, suffer and oblige them to seek the assistance of this class of people called lawyers. They will be obl.'ged, I am telling you.

SHRI RAMA RAO: Will this Bill come in the way of custom?

PROF. G. RANGA: My friend seems to be rather too impatient. I did not say that I am opposed to the Bill nor do I say that this Bill may go against the customary practices. I am only suggesting that these customary practices should be kept in mind and in the light of the spirit of this Bill such of those customs as may be brought to the notice of your Select Committee

[Prof. G. Ranga, J and also of this Parliament may be allowed to have their way as otherwise it is likely to prove troublesome to many of these people. Registration of the marriage—this itself is a complication. Next to go to the lawyers and seek their assistance in order to establish a case for divorce will be another complication. Now what is the position with our Harijan lady or a tribal lady or any other *kisan* lady?

SHRI V. K. DHAGE: Or a non-Brahmin lady.

PROF. G. RANGA: I do not wish to say 'a non-Brahmin lady'. I would say any other lady, any other non-Brahminical lady. What is her position? All that she is to do is to go to the leader and represent to him: "I cannot get on with this man. He has been treating me shabbily." And then 4 or 5 others also get together and they say to her: "Now look here, do not behave like that. Do not act in such a hasty manner. It is not long. You have been married only two or three years. Better go and try again and see what he does." She tries him for another three months or another six months, whatever it is. Then she comes back to the leader of the village to represent again if need be. He does not demand the presence of a lawyer there. There is no book or anything like that with the aid of which this lawyer has got to help her. As I said she goes to the leader of the village again and says: "I cannot get on with this man." Then he and the four or five others sitting together with him are bound to give her a divorce. They give her a divorce to-day. That is the position, and I do not want this practice to be completely dismissed. There is something bad also about this practice and that is this. When she proves that the man is a bad fellow, has treated her very shabbily and, therefore, she cannot get on with him and they are convinced at this that this man is really the wrong-doer and is a bad man they expect him to pay a punishment and that punishment takes the form sometimes of drink, some-

times of a feast and the killing of a goat or sheep or something like that and it is just there they get into trouble. Because this feast costs Rs. 10, Rs. 20 and Rs. 50, and Rs. 50 is too much for a Harijan or any of our agricultural workers. So he borrows money and gets into the clutches of the money-lender. It is that kind of thing that ought to be prevented and the earlier practice of having these things settled out of court by the local Panchayat ought not to be completely dismissed.

It is these things that I want our Parliament as well as our Select Committee to keep in mind.

Now in regard to these other people, that is those who accept the Brahminical order of things, what does this Bill say? Does it say that every woman should divorce her husband two years after she gets married? It does not say so. It only gives her the freedom. To men it also gives the freedom of action, but he already enjoys that freedom or that licence. Now instead of it being a licence, it becomes freedom. Because it is a regulated one. It flows out of this Bill. This right also flows to the woman. Why should anybody object to this right flowing to the woman? I do not see any reason why it should be so. After all, is it not our experience that in very many cases—not too many cases, but in very many cases—the man behaves not only shabbily but also badly, cruelly, in an inhuman fashion, not merely beating but persistently beating the woman, ill-treating her and wounding not merely her feelings but her body also? Does not this amount to torture in the end? In this case should not the woman have a right to say, 'I cannot get on with this man; I have done my best and, therefore, I must be free by law and I should also be free to get married if I so wish'? I want that right to be given to the woman and that is all that this Bill wants us to agree to. Where is anything wrong in it?

Then I come to the other point. How is the woman going to prove that the man has brought this disease? It is impossible to do so. I would like that to be considered—who brought it first, who got it next, which are the dates, how is one to prove all these things? What can the court do? Where is the lawyer? Just imagine the trouble. It will be terribly difficult. Therefore, it is best to leave it. Then, take this leprosy. If you like, you make it one of the reasons for a divorce but I would only like to urge that throughout our history anyhow in our country our people have laid special stress on this; whether the woman contacts or gets this leprosy or the man gets it, it is the duty of the other to nurse the diseased. This is how our conception of *dharma* as it has come to be practised in this country has been accepted by our people. Therefore, I would like to know whether we would be doing the right thing. I only want you to give consideration to placing this also as one of the reasons for a divorce. But I have a feeling that even if you were to incorporate this, more than 50 per cent, of our men or women may not be so very keen on obtaining a divorce merely because of this reason because our social conscience is strong in this country and I am glad it is strong. But if in spite of it a woman cannot stand the very sight of the man with that disease or the man cannot stand the very sight of the woman with that disease, I have not it in my heart to deny the right to that man or woman to obtain that freedom from that forcible association. Therefore, these things will have to be looked at, according to me, from a human angle. And what is *dharma* if it is divorced from the human side of it? In fact, the very origin of *dharma*, I should say the impelling force behind *dharma* is the human side of it. That is how it came to take shape and it came to be practised in our country and accepted by our people. For, our pwndils—I am sorry, I do not mean it by any caste or anything like if...~.

SHRI H. N. KUNZRU (Uttar Pradesh): Take care.

SHRI B. C. GHOSE: Here is a pwndit.

PROF. G. RANGA: I mean the exponents of our Hindu *dharma*, professional as well as hereditary—it is wrong on their part to take this conception of *dharma* to such heights that it has become inhuman in the interpretation of it and in the application of it and they convert the masses also into automatons. I personally feel that the time has come when we should say that we must once again begin to humanise this conception of *dharma* so that we would not be tied to the apron-strings of these ancient saints who lived here in this country maybe several thousands of years ago but we could take advantage of our present culture, present social homes and urges among the people and give a new interpretation to those things.

Shrimati Lakshmi Menon in her enthusiasm to make out a case for divorce said one thing which rather pained me. She said if there was to be this freedom to divorce she would not be surprised if more than 50 per cent.—I am speaking subject to correction—of our marriages go on the rocks. I do not agree with her.

SHRI H. P. SAKSENA (Uttar Pradesh) : She was always thinking of Delhi and the Delhi society.

PROP. G. RANGA: I do not agree with her. I happen to know the life of the *kisans* very intimately and many of my own people unfortunately came to accept this Brahminical order.....

SHRI RAMA RAO: High class non-Brahmins are much worse than Brahmins.

PROP. G. RANGA: The difficulty is that the priest at least has got the privilege of re-interpreting what is said in the past, but the *kisan* simply accepts it; he has not got the authority

[Shri G. Ranga.] to interpret it with the result that the *kisan* has accepted all of them. He does not know how to get out of this rut and he hangs on to it. There are people who have this right to divorce but how many people are divorcing each other?

Shrimati Lakshmi Menon need not venture into the future and wonder as to what might happen; she need not even try and draw upon her imagination. Here is the case, in our own society; our Harijans and our *kisans* enjoy this right. And, I might tell you that not more than 10 per cent, of the marriages among them go on the rocks today .....

SHRIMATI LAKSHMI MENON: In my statement I had said that the very rich and the very poor are not covered by this law at all. They are already governed by customs and their wealth; only the middle classes are affected by this law.

PROF. G. RANGA: The middle classes are not confined to the educated people of the towns. The middle classes enjoy this right to divorce. The Harijan women are always holding their men to ransom. If you go into the huts of these Harijans or the *k'sans* you can see this; if you visit their homes you will understand these things. It has happened with most of us that very often we have had to help them to get "together and to carry on their own social life. I am sure that the woman is far superior in her ability than man to get together. Yet, in spite of their having this right to divorce, their marriages do not go on the rocks. Every woman has a right to get married for seven times. These men of the Brahminical order are not ashamed to do such things, but the Harijan is ashamed to be looked down upon by his own people; he does not wish to be ridiculed by his own people. Let us not be misguided by these things. Priests and the defects of priesthood have been responsible for many of our social ills; they will make out that by not doing a particular thing some terrible calamity will overtake them. Let

us understand that all the hundred per cent, of our people are not enjoying the right of divorce system but they have not gone to any kind of social degradation. For too long a time we had considered 60 per cent, of our population to be of a lower social order.

We have been saying that in Europe they are enjoying all these rights. May I say that not all these men and women here are enjoying these rights? Where is the need to be frightened that our society may go on the rocks? In the other countries, the women have the right; they marry more than 10 or 15 times; they remain with one for a month and then go after another. Millions of them in every part of India have been enjoying this right and yet our society is held together; our *dharma* is there. Let our people everywhere understand one thing. There is an un-Brahminical *dharma* also in this country.

The time has come when this un-Brahminical *dharma* has got to be accepted by everybody as the real Brahminical *dharma* of this age. If you do not like it, dismiss it. If you like it, you can adopt it.

We have already got the system in our country. We have not gone to pieces.

Our society has been held together, and more than 60 per cent, of our population has been practising it. They are not social derelicts. They have not brought degradation to our society. They have not brought any blight or any bad name on our civilisation in this country. That means we go back again and we recapture our civilisation just as we recaptured our own earlier civilisation. Did we not make such an effort the other day when we became free? What did we do? Did we go from the Union Jack to something else? No. We went two thousand years back to Asoka, a man whose name was thought to have been completely forgotten, thrown into oblivion, by all our scriptures. Search all your scriptures. Did you find Asoka's name in the scriptures? Did you find his name in the

, and the rest of it? Nothing. They had conquered over that Buddhistic civilisation. They destroyed all that was connected with Buddha's

name. And yet history had its vengeance on our society and on all those people who practised that vandalism of destroying the Buddhist monasteries, the Buddhist universities and the Buddhist caves, their preachings, their books and everything. It came again on its own. To have the picture of Buddha was considered to be bringing bad luck. You go to any house today; you go to any civilised house today. So many Buddha's pictures are there. Now similarly I want our society to go back again to those days when our people enjoyed freedom and when our people used to enjoy this right to divorce. When I say this, let it not be understood that I am extolling this right to divorce because I am all in love with it. I do not want it. But I want this freedom. To be friends with each other for a day is an achievement, for a year a bigger achievement, and to have to live together for the whole of their life-time is something which is the biggest possible trial of people's patience. And yet they have exercised it. All glory to those people who manage to live together, and what is even more, to go on hoping that in the next birth—as they believe—they would like to live together again. Now, all glory to all those people. We would like to give them every possible encouragement and assistance, and indeed admiration and approbation. But if supposing by any chance they are not able to do so, then, should we not give them this freedom? And that is how I would look at it, Sir. Now there are some friends who are .....

MR. DEPUTY CHAIRMAN: Are you likely to take more time?

PROF. G RANGA: I would like to take a few minutes more.

MR. DEPUTY CHAIRMAN: Then you can continue tomorrow. Now there are two messages.

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7 P.M.

# MESSAGES FROM THE HOUSE OF THE PEOPLE.

I. THE APPROPRIATION (VOTE ON ACCOUNT) BILL, 1954

II. THE APPROPRIATION (RAILWAYS) No. 2 BILL, 1954

SECRETARY: I have to report to the Council two messages received from the House of the People, signed by the Secretary to the House:

I

"In accordance with the provisions of Rule 132 of the Rules of Procedure and Conduct of Business in the House of the People, I am directed to enclose herewith a copy of the Appropriation (Vote on Account) Bill, 1954, which was passed by the House at its sitting held on the 9th March 1954.

2. The Speaker has certified that this Bill is a Money Bill within the meaning of article 110 of the Constitution of India."

II

"In accordance with the provisions of Rule 132 of the Rules of Procedure and Conduct of Business in the House of the People, I am directed to enclose herewith a copy of the Appropriation (Railways) No. 2 Bill, 1954, which was passed by the House at its sitting on the 9th March 1954.

2. The Speaker has certified that this Bill is a Money Bill within the meaning of article 110 of the Constitution of India."

Sir, I lay the Bills on the Table.

MR. DEPUTY CHAIRMAN: The House stands adjourned till 2 P.M. to\* morrow.

The Council then adjourned till two of the clock on Thursday, the 11th March 1954.