

KAZI AHMAD HUSSAIN (Bihar):

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

SHRI LAL BAHADUR: Sir, I beg to move:

"That the Bill be returned."

SHRI B. RATH: Sir, there are two minutes more. Just one question I want to ask. What are the new lines that are to be opened in the ex-States' areas of the Orissa State? Is there under contemplation any new lines there? Is there any proposal to connect Talcher to the main Bombay-Calcutta line?

SHRI LAL BAHADUR: There are two or three lines under consideration and perhaps one is a connection between Talcher and Rourkela and the other Sambalpur and Titlagarh. There are one or two more.....

SHRI M. VALIULLA: Any new lines in the South?

SHRI LAL BAHADUR: There are perhaps one or two more small lines also. These are under examination and the Railways will be able to take some decision in the matter soon.

SHRI H. D. RAJAH: You have abolished the first class and introduced the air-conditioned coach. Similarly are you thinking of abolishing the second class and introducing a second class air-conditioned coach? I would like to have an answer.

MR. DEPUTY CHAIRMAN: The question is:

"That the Bill be returned." The motion

was adopted.

THE HINDU MARRIAGE AND  
DIVORCE BILL, 1952.—confirmed

MS. DEPUTY CHAIRMAN: Now the Hindu Marriage and Divorce Bill.

قاضی احمد حسین (بہار) : اس

سلسلہ میں میں نے جو کچھ پہلے کہا تھا اس کے بعد بھی کچھ باتیں ایسی ہیں جن کی طرف میں آپ کی توجہ دلانا چاہتا ہوں۔ پہلی چیز یہ ہے کہ ہندو اور غیر ہندو کے حق میں یکسانیت ہونی چاہیئے۔ ایسا نہیں ہونا چاہیئے کہ ہندوؤں کو ترجیح دی جائے۔ جیسا کہ سیکشن ۲ کے پرودیزن (provision) بی (b) میں ہے۔

اور اس طرح سے کلاز (۱۴) میں ہے کہ شادی فریقین میں سے کسی کی درخواست پر منسوخ ہو سکتی ہے بشرطیکہ درخواست کنندہ میں سے کوئی ہندو ہو۔ اس میں بھی ایک فریق کو دوسرے پر پریفرنس (preference) دیا گیا ہے۔ حالانکہ مناسب یہ ہے کہ دونوں میں سے کسی کو جسکو تعزیف پہنچتی ہو جو بھی درخواست دے اسے حق ماننا چاہیئے۔

سب سے بڑی بات جیسا کہ میں

پہلے بھی کہہ چکا ہوں وہ سیکشن (۲)

SHRI O. SOBHANI (Hyderabad): Can't hear him.

Dn. W. S. BARLINGAY (Madhya Pradesh): Sir, we cannot hear him.

SHRI V. K. DHAGE (Hyderabad):

श्री वी० के० धगे: (हैद्राबाद) मालाना साहब सामने आ जाइये. कुछ सुनाई नहीं देता।

KAZI AHMAD HUSSAIN:

قاضی احمد حسین: اس پروویژن کے بارے میں سلیکٹ کمیٹی (Select Committee) کو سوچنا چاہیئے اور فور کرنا چاہیئے۔ اس بل سے یہ معلوم ہوتا ہے کہ ہندوستان میں جو مسلمان، عیسائی، یہودی، پارسی اور عیسائی ہیں ان پر یہ لاگو نہیں ہوگا لیکن اس کے بعد انفا اور ہے کہ اگر رسم و رواج کی بنا پر کوئی شخص جو ہندو رسم و رواج کا پابند ہو تو اس پر یہ لاگو ہوگا۔ یہ چیز میں نہیں سمجھ سکا ہوں۔ کیونکہ مسلمانوں میں بھی بہت سی جماعتیں ایسی ہیں جن میں کہیں کہیں ہندوؤں کے رسم و رواج پائے جاتے ہیں۔ یہ رسم و رواج ایسے ہیں جو انکے مذہب سے تکرارتے نہیں ہیں اور بعض تکرارتے ہیں۔ لیکن یہ خود بیکوڈ دیولپ (develop) ہو گئے ہیں میرے کہنے کا مطلب یہ ہے کہ اس طرح کے لوگوں کو اس قانون کے تحت میں لے آنے کے بعد انکو بڑی دقت پیدا ہو جائیگی۔ آپ کو مسلمانوں، عیسائیوں، پارسیوں اور یہودیوں کو ان ہی کے قانون کی رو سے اور انکے اصولوں سے انکو ریفرم (reform) کرنا چاہیئے۔ میرے ایک ہندو دوست نے مجھے کل یہ کہا تھا کہ شاید مقصد یہ تھا کہ کچھ لوگ اس ملک میں ایسے بھی

ہیں جو رسم و رواج کے لحاظ سے ہندو ہیں مگر وہ اپنے کو ہندو نہیں کہتے۔ اگر اس پروویژن (proviso) کا مطلب یہی ہے۔ تب بھی میں سمجھتا ہوں کہ اسکو بدلنا نہایت ضروری ہے۔ بہر کیف میرا کہنا یہی ہے۔ کہ اس قانون کو صرف ہندوؤں ہی تک محدود رکھنا چاہیئے اور اس میں جو شکوک کی باتیں ہیں جیسا میں نے ظاہر کر دی ہیں انہیں لازماً بدل دینا چاہیئے۔ تاکہ قانون کا اثر کسی دوسرے فرقہ پر نہ پڑے۔

[For English translation, see Appendix VII, Annexure No. 159.]

SHRI H. D. RAJAH (Madras): Sir, this Bill which is in our House deserves close scrutiny and consideration. If I analyse the history of this Bill

MR. DEPUTY CHAIRMAN: That analysis has been done sufficiently. You may come to your new points.

SHRI H. D. RAJAH: Very good, Sir, but you cannot always have originality in everything. There must be something different talked about.

Now, when Queen Victoria's Proclamation was enforced

MR. DEPUTY CHAIRMAN: Mr. Rajah, you should mention only new, important and original points.

SHRI H. D. RAJAH: You will have to see; it cannot be that in two minutes new things could be developed and sprung.

Therefore, on the basis of Queen Victoria's Proclamation, namely, that there will be no interference with any religious sects, the Britishers were running the administration of this country. Meanwhile finding that

there were difficulties with regard to Hindu marriage and divorce and other codes governing the Hindus as such, one civilian under the British decided to codify the laws pertaining to the Hindus, and that started the whole trouble in this country. Now, Sir, in between, various important changes have taken place. The ruling British have left India. We have got into power and our people have produced a Constitution which is today governing our country and our future.

Now, Sir, I am not a purist or a pedantic old type of man who wants to perpetuate everything holy whether it is good or bad. Change is essential and we have to change. I believe the relationship between the man and the woman is based upon pure sublime love and love originates and love binds the people, the two human beings, one man and the other woman. Beyond that I have no distinction, neither of caste nor of community nor of religion nor anything; but now what is sought to be done by this Bill is to affect a particular class of people in this country called Hindus and I challenge the Minister for Law to produce evidence to show who is a Hindu. I want him to go into the origin of Hinduism and let us know as to who is a Hindu. Sir, with all humility, if I say that, I am not a Hindu and I am prepared to prove to this House that none of the old stupid precepts of Hinduism are governing my conduct and my life. (*Interruption.*) What will be the position? Now, Sir, I wish to be heard so that they will be enlightened in this matter. Sir, I want to tell you that if I straightaway declare myself to be a Hindu, then immediately the law of religion comes in and I am asked whether I am a Brahmin or a Kshatriya or a Vaisya or a Sudra. Then the precept which is written by somebody comes in and it says that you will have to say that you belong to one of these four *Varnas*. Bhagwan Sri Krishna is supposed to have said in Gita:

*Chatur Varnayam Maya Srishtam Guna  
Karma Vibhajashah*

So in the name of *Gunas* four *Varnas* are created. I am certain today Mr. Sundarayya or, as a matter of fact, anybody who professes to be a progressive man will disclaim that he belongs to one of these four *Varnas*. Secondly, Sir, what is the faith of Mr. Sundarayya? I have got Mr. Sundarayya by my side whose religion is Communism and not Hinduism. Mr. Sundarayya has got his friends, Mr. K. C. George, a Christian by nomenclature, and Mr. Imbichibava, a Muham-madan by nomenclature. But if you ask those three friends, they will swear by Communism and not by their religion. To them religion is out of court so far as any matter is concerned. Now, Sir, religion is a matter for people personally to observe. There is nothing to prevent me from praying to my creator and that is my personal matter. Let me be condemned to eternity or let me go to the Gates of Heaven. It is my business. But when it comes to the question of public morals, when it is a matter which governs the life and happiness and prosperity of 400 million people of this country, you will have to produce a law on the basis of secularism.

Now, Sir, I will just take you to the various provisions of our Constitution. I will first of all take up article 14. It says, "The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India." Therefore, Sir, any law that the Government is bound to make must protect the equality of rights of every citizen of this country. A citizen according to me and the Constitution, Sir, is a person who is born in this country, India, that is, Bharat otherwise called U.P. In this territory.....

MR. DEPUTY CHAIRMAN: Otherwise called India.

SHRI H. D. RAJAH:.....he must be born and registered as a citizen, and the laws pertaining to this country I apply to that citizen. A citizen may

[Shri H. D. Rajah.] be a male or a female; may be a neutral also but so long as he is a citizen he is governed by the laws of this country, and the State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India. This law if passed goes counter to this very fundamental of this Constitution. This law if passed will only affect a particular section of the people who are still undefined, who cannot be called anything except what is stated in the law and to that extent it is repugnant to the Constitution. This article 14 goes counter to the law and the law goes counter to the article. Either I am upholding the prestige, the power and the majesty of this Constitution or I have to treat the Bill with the contempt it deserves. This Bill if passed into law cannot apply so long as this article is in force and so long as this Constitution is guiding you and me.

Then, Sir, I come to article 15. What does it say? "The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them." It shall be my endeavour to prove that if this law is passed, it goes fundamentally counter to the provisions of article 15(1) of the Constitution. The State shall not discriminate against any citizen on grounds only of religion; I am not talking of other matters. The State shall not discriminate against any citizen only on grounds of religion. It shall be my endeavour to go through the Bill tomorrow—because there is no time **now**—and I will prove to you that one clause which has been provided in this Bill says that if a Hindu is dissatisfied by having only one wife, he can have many wives by changing his faith. If he wants four wives, he shall embrace Islam. That is what is provided in this Bill.

SHRI P. SUNDARAYYA (Andhra): May I know whether you are opposing the Bill or supporting it?

SHRI H. D. RAJAH: That you will know later. I am now coming to that

point, namely, where a man has been given the power to divorce his wife and if he wants, for argument's sake, four wives, he shall not do so as long as he remains a Hindu. Then what is it that you have provided in your Bill? Unless he embraces Islam he is governed by this law. I ask you in all seriousness, are you touts and agents for Islam in this country? Are you trying to prove that by enforcing a law of this nature which applies only to particular sections of our community called Indian citizens, you are trying to propagate the other faith? I understood that we were secular. And what does secularism mean? In the dictionary it is said that secularism means free from monastical rules. Now, either you accept the contention that this country is governed by a Constitution which is secular and therefore the laws of personal relationship must be laws based upon a secular concept of life or you do not touch them with a pair of tongs. I want monogamy in this country whether by law or by love. Love is the transcendental thing that keeps a man alive for all his time but if you want to govern the conduct of individuals based upon law then the law must be uniformly applied. And I will say that monogamy is a very important part of the institution and it must be uniformly applied to everybody. Now, Sir, what will happen?

MR. DEPUTY CHAIRMAN: Mr. Rajah, would you take some time to finish your speech?

SHRI H. D. RAJAH: Yes, of course; it is such an important measure **and** I would take some more time, Sir.

MR. DEPUTY CHAIRMAN: All right, you may continue tomorrow.

#### MESSAGE FROM THE HOUSE OF THE PEOPLE

CONTROL OF SHIPPING (AMENDMENT) BILL,  
1954

SECRETARY: Sir, I have to report to the Council the following message re-