

Obaidullah, Shri.
 Pattabiraman, Shri T. S.
 Pawar, Shri D. Y.
 Pheruman, Sardar D. S.
 Pillai, Shri C. N.
 Podar, Shri R. A.
 Prasad, Shri Bheron.
 Pushpalata Das, Shrimati.
 Pustake, Shri T. D.
 Raghubir Sinh, Dr.
 Rajagopalan, Shri G.
 Rao, Shri Rama.
 Reddy, Shri Govinda.
 Saksena, Shri H. P.
 Sarwate, Shri V. S.
 Savitry Nigam, Shrimati.
 Seeta Parmanand, Dr. Shrimati.
 Shah, Shri M. C.
 Sharda Bhargava, Shrimati.
 Sharma, Shri B. B.
 Shetty, Shri Basappa.
 Sholia Bala Das, Shrimati.
 Shrimali, Dr. K. L.
 Singh, Capt. A. P.
 Singh, Shri Kameshwara.
 Singh, Shri Kartar.
 Singh, Shri R. K.
 Sinha, Shri B. K. P.
 Sinha, Shri R. B.
 Sinha, Shri R P. N.
 Srivastava, Dr. J. P.
 Surendra Ram, Shri V. M.
 Swaran Singh, Sardar.
 Tajamul Husain, Shri.
 Tamta. Shri R. P.
 Tankha, Pandit S. S. N.

Tayyebulla, Maulana M.
 Thanhkira, Shri R.
 Vaidya, Shri Kanhaiyalal D.
 Valiulla, Shri M.
 Venkataraman, Shri S.
 Vijaya Raje, KunwaranL
 Vyas, Shri K.

NOES—20

Abdul Razak, Shri.
 Angre, Col. C. S. R.
 Basavapunnaiah, Shri M.
 Deshmukh, Shri N. B.
 Dhage, Shri V. K.
 Dube, Shri B. N.
 Ghosh, Principal Devaprasad.
 Gour, Dr. R. B.
 Gupta, Shri B.
 Kishen Chand, Shri.
 Kunzru, Shri H. N.
 Manjuran. Shri M.
 Mann, Lt.-Col. J. S.
 Mathur, Shri H. C.
 Misra, Shri C. G.
 Naidu, Shri Rajagopal.
 Narayana, Shri P. V.
 Ranawat, Shri M. S.
 Rath, Shri B.
 Reddy, Shri C. G. K.
 The motion was adopted.

THE SPECIAL MARRIAGE BILL, 1952

THE MINISTER FOR LAW AND
 MINORITY AFFAIRS (SHRI C. C. BISWAS) :
 Mr. Deputy Chairman, it is a matter of great
 regret to me that the

TShri C. C. Biswas.] two Bills which are on the Order Paper of the day come before the House at the very fag end of the session. I wish very much it was possible to bring them before you much earlier. There can be no question that require very careful consideration from all sections of the House. Unfortunately the time at our disposal today is not merely inadequate but wholly inadequate and outrageously inadequate.

SHRI B. RATH (Orissa): That is why we expect you to be brief.

SHRI C. C. BISWAS: I should have been very happy if the whole of this subject were taken up next session.....

SHRI B GUPTA (West Bengal): Why next session?

SHRI C. C. BISWAS:seeing that it was not possible to bring it up earlier. Piecemeal discussion, part of it for only half an hour today and for six hours next session would practically be useless waste of time.

SHRI C. G. K. REDDY (Mysore): Quite right

SHRI H. N. KUNZRU (Uttar Pradesh): Quite right.

SHRI C. C. BISWAS: I should like hon. Members to take an objective view of the whole matter after listening to the discussions that take place on the floor of this House from day to day and from hour to hour.

SHRI B. RATH: The motion has not been moved but the speech is going on. We must have the motion first.

SHRI C. C. BISWAS: My hon. friend Will kindly excuse me. I should like to ask the House whether they want me to make the formal motion now. They will see that there are two Bills I cannot move the two Bills at the

same time. I can formally move the first Bill, have a discussion on it and then move the second Bill. My original idea was that the two Bills should be taken up one after the other, and that in the course of my speech on the first, I should indicate certain points relating to the second Bill, and then there might be a general discussion which will practically cover both the Bills and therefore there need not be a separate discussion, at any rate a long separate discussion, on the second Bill. That was my idea.

SHRI H. N. KUNZRU: Quite right.

SHRI C. C. BISWAS: That is why I was suggesting to the House to consider whether it would not be better to take up these Bills next session. I see there is an apprehension in certain quarters that if these Bills were not taken up formally today, they would be lost sight of completely.

SHRI B. GUPTA: Very reasonable apprehensions.

DR. SHRIMATI SEETA PARMANAND (Madhya Pradesh): They will be postponed if they are not taken up. It is better to take them up today though we would have liked more time to be given to them.

SOME HON. MEMBERS: We have no time.

SHRI C. C. BISWAS: If that is the desire of the House, I formally move the first Bill.

DIWAN CHAMAN LALL (Punjab): May I ask my hon. friend, since he is going to move formally the motion before this House whether it would not be more convenient and more advantageous that instead of these Bills being referred to one Select Committee, that they should be referred to two separate Select Committees?

SOME HON. MEMBERS: Yes.

SHRI B. K. P. SINHA (Bihar): I suggest we should not take up these Bills

in this session and in the next session these should come up first in the order of priority.

SOME HON. MEMBERS: Yes.

SHRI B. GUPTA: May I submit that these two Bills have been delayed for a long time and we have every reason to suspect why they have been deliberately delayed. We want these two Bills to be moved now and the hon. Minister in charge can make a very brief speech stating in a few words the object of the Bills and let us also speak on them so that this side of the House could be heard. As far as that side is concerned, they can hold their Party meeting and ventilate their points of view. We will not be there to know what happens. These have been long delayed and there is no justification, not an iota of justification for trying to dodge the issue and withhold this motion. The country wants this measure to be expeditiously passed and the whole country is demanding it.

SOME HON. MEMBERS: No.

SHRI B. K. MUKERJEE (Uttar Pradesh): May I know whether he represents the entire country?

SHRI B. RATH: The Congress is opposed to this.

DIWAN CHAMAN LALL: May I throw a little oil on the troubled waters? It is quite unnecessary for my young friend to impute motives to Government

MR. DEPUTY CHAIRMAN: He is not so young as you think.

OIWAN CHAMAN LALL:...I have asked a question from my hon. friend and it is this. Is my hon. friend willing to accept my proposal, in view of the opinions expressed by this House when I made the proposal, that the two measures should go to two separate Select Committees?

MR. DEPUTY CHAIRMAN: It is a different matter.

SHRI C. C. BISWAS: When I moved for circulation of the Special Marriage

Bill, there was strong opinion expressed by many sections of the House ♦ hat instead of introducing such a measure, we should try to attempt to bring before Parliament a complete uniform code of personal law for the whole country.

SHRI B. GUPTA: Half a cake is better than nothing.

SHRI C. C. BISWAS: I then said that in my opinion, I may be wrong, the time is not yet ripe for such a complete code of personal law.

SOME HON. MEMBERS: Yes.

SHRI B. GUPTA: It is very ripe.

SHRI C. C. BISWAS: As a matter of fact I said that I shall bring another measure shortly after I had introduced the Special Marriage Bill which will deal with marriage and divorce among Hindus only and Government's intention was to refer both these Bills to the same Joint Committee of both Houses. The object was this. The members of the Joint Select Committee would realise and would try to judge for themselves whether it was possible now to get uniform code of civil law for all communities and all sections. That was my object. But I appreciate that the subject-matter of the two Bills is not quite the same. As a matter of fact, for a proper consideration, possibly it would be better to refer each Bill to a separate Committee. There may be common Members but I was just explaining why Government had adopted that attitude. The intention was expressed more than once by me on the floor of this House. It was declared by the hon. Prime Minister himself but all that was done from the point of view that I ventured to put before you. If it is the desire of the House that these Bills should go to two separate Committees, I have no objection whatsoever to that.

MR. DEPUTY CHAIRMAN: The ' Bills have already been placed on the agenda. I suggest you make a formal motion.

SHRI C. C. BISWAS: As the motions stand, the Bills need not go to separate Committees.

MR. DEPUTY CHAIRMAN: I don't mean that. You may make a formal motion.

SHRI K. S. HEGDE (Madras): The question of Select Committee does not arise today.

SHRI B. GUPTA: Let the formal motion be made.

MR. DEPUTY CHAIRMAN: Yes and you may continue the speech later.

SHRI C. C. BISWAS: Both Bills?

SHRI M. S. RANAWAT (Rajasthan): How can you? One at a time.

DR. SHRIMATI SEETA PARNAND: I have been standing for a long time.....

MR. DEPUTY CHAIRMAN: You need not have any fears, Madam. He is moving the motion,

SHRI C. G. K. REDDY: You can move both.

MR. DEPUTY CHAIRMAN: One after another. It is for the hon. Minister to bring whatever motion he likes.

SHRI C. C. BISWAS: Sir I move:

"That the Bill to provide a special form of marriage in certain cases, and for the registration of such and certain other marriages be referred to a Joint Committee of the Houses consisting of 45 Members; 15 Members from this Council (names may be furnished later) and 30 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 Committee 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;

that the Committee shall make a report to this Council by the end of August, 1953."

SOME HON. MEMBERS: September.

SHRI M. S. RANAWAT: The Committee will not be able to meet before the next Session.

SHRI B. RATH: Make it September 1953.

SHRI C. C. BISWAS: Make it the end of September 1953.

MR. DEPUTY CHAIRMAN: The motion will not be complete unless the names are also given.

SHRI C. C. BISWAS: The difficulty is the names I have got here are for a common Joint Select Committee, but if these Bills have now got to be referred to two separate Committees, then the names will have to be reconsidered.

SHRI B. RATH: On a point of order. I wish to know whether such a motion can be moved without giving names on the day the motion is moved. I believe no motion can be moved without giving names on the same day when the motion is made.

SHRI C. C. BISWAS: In that case, I shall ask that the moving of this motion be also adjourned to the next session.

SOME HON. MEMBERS: Yes.

MR. DEPUTY CHAIRMAN: Nothing will be lost if you give the names as you can amend them later.

SHRI C. C. BISWAS: If you think that would be correct, I will do so

SHRI B. K. MUKERJEE: How can he submit 45 names here?

MR. DEPUTY CHAIRMAN: He is submitting only 15 names.

SHRI B. K. MUKERJEE: In that case the Select Committee will not be complete unless we get the 30 names from the other House.

MR. DEPUTY CHAIRMAN: The motion itself will not be complete.

SHRI C. C. BISWAS: It will not be possible to constitute the Select Committee until the other House has made its nominations. So the Select Committee cannot function, say before the end of the first week of August, if not later. That we must realise.

SHRI B. RATH: What is behind the scene movement?

MR. DEPUTY CHAIRMAN: Let there be no disturbance. Please resume your seat.

The hon. Minister will give the names.

SHRI C. C. BISWAS: Give me one minute, Sir.

DR. SHRIMATI SEETA PARMA-NAND: In the meantime can I say something?

MR. DEPUTY CHAIRMAN: Well, Dr. Parmanand, please resume your seat.

KHWAJA IN AIT ULLAH: May I ask one information from you? When we are doing nothing before the last week of August until we receive the names from that House—and we are not sitting from tomorrow—what is the use of giving fifteen names today if, after two months we can change these names? Circumstances Can change.

It might only mean that we can show to the public that we have taken up this Bill.

SHRI B. GUPTA: Sir, it is very important that these Bills be formally moved.

(Several hon. Members stood up.)

MR. DEPUTY CHAIRMAN: One at a time.

(Shri B. K. Mukerjee stood up.)

MR. DEPUTY CHAIRMAN: Please resume your seat; one at a time.

DR. SHRIMATI SEETA PARMANAND: There have been lots of interruptions. I have been standing up three or four times.

MR. DEPUTY CHAIRMAN: You are now on quite firm feet Madam.

DR. SHRIMATI SEETA PARMANAND: The main advantage in taking this Bill into consideration is this: in the next session due to some urgent business, like the Andhra Province and some other legislative measures, this will be shelved. Moreover, if we are to appoint our Select Committee now, I am making a suggestion; let me not be interrupted.

SHRI B. K. MUKERJEE: May I know on what motion she is speaking?

MR. DEPUTY CHAIRMAN: I have called her to speak and she is speaking.

DR. SHRIMATI SEETA PARMA NAND: We can take this up in the three days before the session starts, the three days before it, when we come and it will be possible for us

(Interruptions by several hon. Members.)

.....so I suggest that we appoint the Select Committee now. The next point is that there should not be two separate Committees for the simple reason that

MR. DEPUTY CHAIRMAN: Order, order. You can urge those points when the motion is being discussed.

DR. SHRIMATI SEETA PARMANAND: Separate committees should not be appointed.

SHRI B. GUPTA: Motion has been moved; names have not been given.

SHRI B. K. P. SINHA: The hon. Minister may give an undertaking that these items will be taken up as items number (1) and (2) in the coming session.

SHRI B. GUPTA: No, Sir. We are not concerned with anything. The motion has been moved. Let him proceed.

(Interruptions by several hon. Members.)

MR. DEPUTY CHAIRMAN: Order, order

SHRI C. C. BISWAS: Sir, these are the names; some of the Opposition Members have not been consulted, but there is no help. I must give them and my proposals are.....

MR. DEPUTY CHAIRMAN: It is only a proposal, it is not final.

SHRI C. C. BISWAS: The names I suggest are:

1. Shri Govinda Reddy,
2. Shrimati Pushpalata Das,
3. Dr. Raghu Vira,
4. Shrimati Maya Devi Chetty,
5. Shri T. S. Pattabiraman,
6. Dr. Shrimati Seeta Parmanand,
7. Dr. P. C. Mitra,
8. Shrimati Chandravati Lakhanpal,
9. Shrimati Savitry Devi Nigam, and
10. The Mover.

From the Opposition....

(Interruption.)

.....from those who are in the Opposite Benches:

1. Principal Devaprasad Ghosh,
2. Shri V. K. Dhage,
3. Shri R. P. N. Sinha,
4. Dr. H. N. Kunzru, and
5. Shri Rajagopal Naidu.

These are the 15 names, Sir.

SHRI B. GUPTA: May I request.....

MR. DEPUTY CHAIRMAN: Order, order. He has not finished his speech.

AN HON. MEMBER: It would be more advantageous if the discussion of the motion is adjourned till the next session.

AN HON. MEMBER: No, Sir.

MR. DEPUTY CHAIRMAN: If the House is unanimous I would like to act accordingly. Well, Mr. Biswas, you just begin your speech and let us go on for 15 minutes more.

AN HON. MEMBER: No, no.

SHRI B. GUPTA: It will not be possible for the hon. Minister.....

SHRI C. C. BISWAS: I protest against this interruption.

SHRI B. GUPTA: Attempt will be made by your followers not to make you proceed with these Bills... ..

MR. DEPUTY CHAIRMAN: Order, order, what is this? I expect the hon. Members to maintain the dignity of the House. This is not the way in which we should conduct the affairs of Parliament. The hon. Minister will please resume his speech.

SHRI C. C. BISWAS: I am very sorry to see these disorderly interruptions. I

placed myself entirely in the hands of me House and was quite willing to abide by their decision, and in spite of that there are all these interruptions which are nothing but a waste of time. It is my object to make myself as much useful to the House as I could possibly do. If there are suspicions about hon. Ministers all I can say is that the Ministers have very great control over the proceedings in regard to Bills in their hands, and they can have their way. I regret to have to say this, but that is not my attitude. My attitude is to see that these Bills should become part of the Statute Book. Because of that, Sir, I have been trying to follow the line of least resistance which will facilitate that object. What is our experience in the past? For how many years now have we not been anxious to codify the whole of Hindu Law? But what was the result? When the matter came last before the Provisional Parliament we could not get beyond four clauses in spite of every attempt that had been made by all persons concerned beginning with the Prime Minister. Having regard to the experience gained, the President in his inaugural address to both Houses said that Government had decided to introduce this measure in parts, and if that was done, if this path of least resistance was followed, then it would be much easier and much more probable that we should be able to get the whole thing through in good time. But some of my friends here and other people outside are very impatient, but what has been the result of such impatience? Why do you not orofit by the lessons of past experience? Sir, it is not that I was responsible for the delay in bringing these Bills before the House. Nothing of the kind. One complaint was made against me: When the House had to go into recess for want of business, why did not I bring forward the Special Marriage Bill? I then explained that all the opinions had not then been received as regards one of the Bills, and it was the desire of Government all through to bring up the two Bills together. Well, the opinions on the Hindu Marriage Bill were received only in the course of last week. So I

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said, "Only for the purpose of providing some work for the House, it is not possible and it is not fair either to bring up these measures when the opinions had not been received." Some hon. Members said: "What does it matter? Have not these Bills been die-cussed long enough by the country?" They have been discussed long enough, but Part B and Part C States had never been consulted. Then, in spite of the fact that one of these Bills had been considered for many years, though not exactly in this form Out in somewhat different form, still these are the opinions we have received now, and they are a clear answer to the objections which have been raised. Many new points have been brought to our notice and it is just as well that in enacting a measure of such far-reaching importance we must take into account the views of all sections of the community and not merely of those who are vociferous and call themselves progressive. (Interruptions.)

SHRI B. RATH: That includes the Prime Minister.

SHRI C. C. BISWAS: So when we are dealing with a matter like this relating to the personal law of a large section of the people constituting possibly a majority in the country, it is not right in my opinion, that we should be guided only by the views, expressed—maybe very vehemently— by a section of them. It is just as well that we should keep our minds open. We should have suggestions, views and opinions from all. I am one of those— you may call me an old-fashioned man—who believe that in a multitude of counsellors there is wisdom, and I may tell you that that section alone does not represent the only counsellors. (Interruptions.)

AN HON. MEMBER: Why not call a Special Marriage Session?

MR. DEPUTY CHAIRMAN: Order, order. Let there be no disturbance.

SHRI B. GUPTA: Let him speak on the Bill.

SHRI C. C. BISWAS: I am not to be dictated as to what I have to say. (*Interruptions.*)

MR. DEPUTY CHAIRMAN: Order, order.

SHRI K. S. HEGDE: Sir, there is too much interference. Some of the Members of the Opposition think that they alone are the persons who have the monopoly of wisdom. They must behave with decorum in Parliamentary debates.

SHRI B. RATH: Let that side first behave properly and then we will behave.

MR. DEPUTY CHAIRMAN: Order, order.

SHRI C. C. BISWAS: You will find that opinions have been received from quite a large number of States and you will find that generally the Bill has received support from the majority of them. But there are some criticisms from some of the States and opinion is rather divided. This Bill, as you know, Sir, relates to the law of marriage and is on a permissive basis in the sense that it is open for any two persons of India to marry both inside the country and outside the country according to the provisions of this Bill. It is not a compulsory measure and it does not state that any two persons, if they marry, must marry according to this Bill. It is entirely optional whether they marry according to this Bill or according to their personal law or otherwise. In fact, one hon. Member of this House did marry neither according to his personal law, nor according to the personal law of his wife, nor even according to any recognised form of marriage. The contracting parties entered into a regular contract and then in accordance with that contract they solemnised their marriage. But it is a different matter. This Bill provides for marriage between two persons irrespective of their religion, their caste, their community, and they may marry according to any form. There are however certain con-

ditions laid down as to eligibility for marriage. For instance, they cannot marry if they are suffering from certain diseases and so on. All these are provided for in the Bill itself.

If you look at clause 4 of the Bill, you will find the conditions which are necessary for a valid marriage. Neither party must have a spouse living; neither party must be an idiot or a lunatic; the parties must have completed the age of eighteen years, subject to this, that if the boy or the girl has not completed the age of 21 years, either of them must obtain the consent of his or her father or guardian.

SHRI J. R. KAPOOR: Mr. Deputy Chairman, we are anxious to know from which States opinions have been received.

MR DEPUTY CHAIRMAN: They have all been circulated.

SHRI C. C. BISWAS: They have been circulated. There is a summary, but what is the use of referring to the summaries only without referring to the clauses? My object, therefore, was to take it clause by clause and then draw attention to the opinions on that particular clause which have been expressed. Unfortunately the time at my disposal does not allow that, and that is why I made that sensible proposal which has not been accepted by the House.

Then, there are several other conditions. The conditions are that the parties should not be within the degrees of prohibited relationship, and the other condition applies to parties outside India: If the marriage is solemnized outside India, both the parties must be citizens of India.

As regards the degrees of prohibited relationship, in Hindu law it extends up to seven degrees on one side and five on the other, or five on one side and three on the other. What has been done here is to indicate who are the relations who will come within such prohibited degrees. Two parties

are said to be within the degrees of prohibited relationship if one is a lineal ascendant of the other, or is the wife or husband of a lineal ascendant or descendant of the other, or if the two are brother and sister, uncle and niece, aunt and nephew, or the children of two brothers or of two sisters. I may point out that there have been many suggestions received regarding the relations who should be included. For instance, it has been asked if we include children of two brothers or two sisters, why should we not include the children of a brother and a sister? Other questions also have been raised. These have to be considered.

The other provisions relate to the procedure. We have got to give notice. Then the period of notice. These are not vital parts of the Bill.

Then, Sir, there are provisions for registration of these marriages. That question has raised conflicting opinions.

MR. DEPUTY CHAIRMAN: There is too much of murmuring in the House.

SHRIMATI VIOLET ALVA (Bombay): Up to what time do we propose to sit?

MR. DEPUTY CHAIRMAN: Up to 1*15 P.M. There is still one minute more.

SHRI C. C. BISWAS: The other question, which is of great importance, is regarding the consequences of such a marriage, especially as that will affect the question of succession. Should the provision in the Bill apply when they are persons belonging to the same religion? Two Hindus may marry under this Bill. The question in their case is, will the succession be regulated by the Indian Succession Act as herein provided, or will it be according to the personal law of the parties? The same question may arise as regard other communities. Should the personal law of the parties apply in that case? These are the important questions which have been raised.

MR. DEPUTY CHAIRMAN: The hon. Minister may resume his speech in the next session.

The House stands adjourned *sine die*.

The Council then adjourned *sine die*.