Wednesday
19th May, 1954

PARLIAMENTARY DEBATES

HOUSE OF THE PEOPLE

OFFICIAL REPORT

(Part I- Questions and Answers)

VOLUME I, 1954

Sixth Session

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PARLIAMENT SECRETARIAT
NEW DELHI

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CONTENTS

Volume III—From 28th April, 1954 to 21st May, 1954

LOK SABHA

Wednesday, 19th May, 1954.

The Lok Sabha met at a Quarter Past Eight of the Clock.

[MR. DEPUTY-SPEAKER *in the Chair*]

MEMBERS SWORN

Shri Asoka Mehta (Bhandara).

Shri Borkar (Bhandara—Reserved—Sch. Castes).

ORAL ANSWERS TO QUESTIONS

Short Notice Question and Answer

EMPLOYMENT OFFICE FOR INDIAN SEAMEN

S.N.Q. No. 14. Shri S. N. Das: Will the Minister of **Transport** be pleased to state:

(a) whether the scheme of Government to establish a seamen's employment office has come into force and recruitment started;

(b) whether it is a fact that a bipartite body has been recently formed consisting of some shipowners' and seamen's organisations in order to deal with the question of recruitment of sailors in Bombay port; and

(c) whether this has affected Government's scheme and if so, in what way?

The Deputy Minister of Railways and Transport (Shri Alagesan): (a) Statutory rules relating to the Seamen's Employment Office, Bombay, have already been notified in the official gazette and will come into force from the 7th June 1954.

Preliminary work for the establishment of a similar office at Calcutta has also been taken in hand.

(b) Not to Government's knowledge.

(c) Does not arise.

Shri S. N. Das: May I know the reasons for delay in view of the fact that has been stated in the report that this office was to start from the 1st of April 1954?

Shri Alagesan: The draft rules were prepared and they were circulated for the information of the organisation concerned and after their comments were received, these rules were finalised. This office will now come into working order from the 7th of June as I said in my reply.

Shri S. N. Das: May I know whether at any time during the last year, the representatives of the Seamen's Union and Shipowners' Associations agreed to the scheme of the Government when the Government announced their scheme?

Shri Alagesan: I should say that they have not very heartily welcomed it. What we hope is that once the scheme gets going, we will have their full co-operation and we are also going to constitute a tripartite advisory board with equal representation for Government, seamen and shipowners. They will be associated in the actual working of the scheme and also in the procedure.

Shri S. N. Das: May I know whether there is any material difference between the viewpoints of Indian shipowners and foreign shipowners, and if so, what is the point of difference?

Shri Alagesan: Generally, I might inform the hon. Member, the foreign shipowners have not taken kindly to the scheme, but as I said, once it gets going, we hope they will all co-operate.

Shri S. N. Das: May I know whether the Government will lay a copy of the scheme on the Table of the House?

Shri Alagesan: If the hon. Member means the draft rules, they have already been gazetted.

Shri P. C. Bose: May I know if certain labour representatives and certain shipowners objected to this scheme, and, if so, what was the real cause behind their objection?

Shri Alagesan: We were not very clearly made to understand the causes. Perhaps they felt that some of the privileges that they enjoy at present may not be available to them if the scheme comes into operation. I am not going into the causes; I am simply guessing.

Shri Joachim Alva: Has Government noted the activities of some serangs who were playing a notorious role between the British shipowners and the helpless and unorganised seamen?

Shri Alagesan: These serangs have, in fact, been exploiting the seamen in their recruitment. Naturally, they felt that this will be a hindrance to their trade.

Shri M. D. Joshi: May I know whether it has come to the notice of the Government that there is any considerable volume of opinion against this scheme of the Government on the part of the seamen and shipowners?

Shri Alagesan: I think I answered the point.

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Wednesday, 19th May, 1954—

LOK SABHA

Wednesday, 19th May, 1954.

The Lok Sabha met at a Quarter Past Eight of the Clock.

[MR. DEPUTY-SPEAKER *in the Chair.*]

QUESTIONS AND ANSWERS

(*See Part I*)

8-20 A.M.

PAPERS LAID ON THE TABLE

AUDIT REPORT (CIVIL) 1952—(PART I.)

The Deputy Minister of Finance (Shri M. C. Shah): I beg to lay on the Table a copy of the Audit Report (Civil) 1952 (Part I), under article 151 (1) of the Constitution [*Placed in Library. See* No. S-178/54]

APPROPRIATION ACCOUNTS OF RAILWAYS IN INDIA FOR 1951-52, PARTS I AND II ETC.

The Deputy Minister of Finance (Shri M. C. Shah): I beg to lay on the Table a copy of each of the following documents under article 151 (1) of the Constitution:

(1) Appropriation Accounts of Railways in India for 1951-52, Part I—Review. [*Placed in Library. See* No. S-179/54]

(2) Appropriation Accounts of Railways in India for 1951-52, Part II—Detailed Appropriation Accounts. [*Placed in Library. See* No. S.-180/54]

(3) The Block Accounts (Including Capital Statements comprising the Loan Accounts), Balance Sheets and Profit and Loss Accounts of Indian Government Railways for 1951-52. [*Placed in Library. See* No. S-181/54]

(4) Balance Sheets of Railway Collieries and Statements of all-in-cost of Coal etc., for 1951-52. [*Placed in Library. See No.* S-182/54]

(5) Audit Report, Railways, 1953. [*Placed in Library. See No.* S-183/54]

EVALUATION REPORT ON COMMUNITY PROJECTS

The Minister of Planning and Irrigation and Power (Shri Nanda): I beg to lay on the Table a copy of the Evaluation Report on First Year's working of Community Projects. [*Placed in Library. See* No. S-184/54]

FILM ENQUIRY COMMITTEE RECOMMENDATIONS

The Minister of Commerce and Industry (Shri T. T. Krishnamachari): I beg to lay on the Table a copy of the statement of the action taken and conclusions reached in respect of recommendations of the Film Enquiry Committee. [*Placed in Library. See* No. S-185/54]

REPLIES TO MEMORANDA ON DEMANDS FOR GRANTS (RAILWAYS)

The Deputy Minister of Railways and Transport (Shri Alagesan): I beg to lay on the Table a copy each of certain further statements containing

[Shri Alagesan]

replies to certain memoranda received from Members in connection with Demands for Grants (Railways) for 1954-55. [*Placed in Library. See* No. 186/54]

PETITIONS *RE*: GRIEVANCES OF DISPLACED PERSONS

Secretary: Under Rule 178 of the Rules of Procedure and Conduct of Business in the House of the People, I have to report that four petitions, as per statement laid on the Table, have been received relating to the grievances of displaced persons.

STATEMENT

Petitions relating to grievances of displaced persons

Number of signatories	District or town	State	Number of petitions
(i) 1	Agra	U.P.	26
(ii) 1	Bhavnagar	Saurashtra	27
(iii) 90	Jullunder	Punjab	28
(iv) 1	Bharatpur	Rajasthan	29

CALLING ATTENTION TO MATTER OF URGENT PUBLIC IMPORTANCE

SURPLUS STOCK OF RICE IN ORISSA

Sardar A. S. Saigal (Bilaspur): Under Rule 215, I beg to call the attention of the Minister of Food and Agriculture to the following matter of urgent public importance and I request that he may make a statement thereon:

"(1) Orissa has declared a surplus of 1½ lakhs tons of rice. As the State Government has a storage capacity for 45,000 tons only, the bulk of this rice is lying in the open.

(2) This accumulation of stock in excess of storage capacity has been caused by shortage of wagons and refusal of the Government of West Bengal to lift rice owing to surplus stock with that Government.

(3) Orissa Government has stressed the urgency of clearing the surplus as early as possible to save it from spoilage.

(4) The Union Minister of Food and Agriculture is understood to have assured the Government of Orissa that necessary arrangements would be made shortly for removing rice from the State, but nothing has been done so far and there is a real risk that stocks of rice may perish."

The Deputy Minister of Food and Agriculture (Shri M. V. Krishnappa): Sir, on behalf of Shri Kidwai, the hon. Minister of Food and Agriculture, I beg to make the statement.

The Orissa Government have so far declared a surplus of about 260,000 tons of rice for 1954 and this entire quantity has since been allotted partly to Central reserve and partly to deficit States. Out of this, about 123,000 tons have already moved leaving a balance of about 137,000 tons.

It is true that the West Bengal Government suddenly surrendered a part of their quota and this has delayed to some extent the clearance of rice from Orissa. The present accumulation of stock in Orissa is, however, also due to heavy increase in production and rapid procurement of rice during the earlier part of the year. During the period from 1st January to 18th March, 1954, Orissa procured about 180,000 tons of rice as against 138,000 tons in 1953 and a mere 68,000 tons in 1952.

Owing to record procurement of rice during the first three months of the year, the rice mills in the State have not been able to cope with the heavy arrivals of paddy with the result that paddy forms a considerable proportion of stocks of rice now lying in Orissa. In order to meet the situation, we have agreed to take over substantial quantities of paddy for Central reserve.

Movement to Madras and Travancore-Cochin is also taking place against their existing quotas and railways are supplying wagons according to the demand placed on them by the Orissa Government.

Rice is going into the Central reserve depots in Calcutta and Hyderabad through simultaneous movement in the directions, and to Calcutta both by rail and sea from Chandbali port. The movement has started and will be in full swing within a week.

Shri Barman (North Bengal-Reserved-Sch. Castes) *rose*—

Mr. Deputy-Speaker: No questions can be asked now.

COFFEE MARKET EXPANSION (AMENDMENT) BILL

Mr. Deputy-Speaker: The House will now proceed with the motion that the Bill further to amend the Coffee Market Expansion Act, 1942 be referred to Select Committee.

Shri Punnoose (Alleppey): Sir, before we proceed, I would like to mention that yesterday it was said that the Special Marriage Bill will be taken up first that being an important Bill, whereas in to-day's order paper, priority has been given to Coffee Market Expansion (Amendment) Bill. Why not we have the Special Marriage Bill first? It is always good to proceed to coffee after marriage.

Mr. Deputy-Speaker: I leave it to the hon. Members to consider this matter. If the House wants to have the Coffee Market Expansion (Amendment) Bill afterwards, I have no objection. The time allotted for the Special Marriage Bill is 8 hours and therefore, if we have Coffee Market Expansion (Amendment) Bill first, the Special Marriage Bill will go for the rest of the Session.

Shri Punnoose: We can take up all the time and keep two hours in reserve for the Coffee Market Expansion (Amendment) Bill.

Mr. Deputy-Speaker: That means not all the Session. I leave it to the House to decide. It appears the Chairman had asked to inform the House, but nobody seems to have informed. It is only a reference to the Select Committee. I agree that the hon. Members are always ready with the Special Marriage Bill. But, when do they want the Coffee Bill?

Shri Punnoose: After the Special Marriage Bill.

Mr. Deputy-Speaker: Then, shall we be interrupted in the Marriage Bill with this Coffee Bill?

An Hon. Member: Yes.

Mr. Deputy-Speaker: Therefore, I will give an opportunity for Members to study. They have come prepared with another Bill and it is no good thrusting upon them this Bill today. Shall we have it as the first thing tomorrow? It is only a general discussion on the Special Marriage Bill and we may deal with it for the rest of the Session.

Shri M. S. Gurupadaswamy (Mysore): Sir, some of the Members after going through the Order paper thought that the Coffee Bill will be taken up now, whereas you are agreeing to take up Special Marriage Bill now. It is better to take coffee first.

Shri Barrow (Nominated-Anglo-Indians): Moreover, the hon. Law Minister is not present and therefore we will have to wait till he comes.

Shri Venkataraman (Tanjore): Sir, may I say a word? The Special Marriage Bill cannot be disposed of within the time allotted, namely, two days. On the other hand, if we take and dispose of this Coffee Bill, we can continue discussions clause by clause as soon as the House meets after this Session. Therefore, it will be more advantageous to the House to take up the Coffee Market Expansion (Amendment) Bill first and the Special Marriage Bill later.

Mr. Deputy-Speaker: The hon. Minister may start. The other hon. Minister is not here and therefore, we will

[Mr. Deputy Speaker]

have to adjourn for one hour. Therefore, let us take up the Coffee Market Expansion (Amendment) Bill. While the hon. Minister goes on making his preliminary speech, the other hon. Members may get ready. After all, it is only a motion for reference to the Select Committee.

Shri Veeraswamy (Mayuram-Reserved-Sch. Castes): What about the Special Marriage Bill? We must take it up for discussion in this Session itself.

Mr. Deputy-Speaker: The time allotted for the Coffee Market Expansion (Amendment) Bill is only two hours. There will still be time left today itself.

The Minister of Commerce and Industry (Shri T. T. Krishnamachari): I beg to move:

> "That the Bill further to amend the Coffee Market Expansion Act, 1942, be referred to Select Committee consisting of Shri R. Venkatraman, Shri C. R. Narasimhan, Shri Birendranath Katham, Shri Laisram Jogeswar Singh, Shri Vyankatrao Pirajirao Pawar, Shri Chandra Shankar Bhatt, Shri Amar Singh Sabji Damar, Shri Goswamiraja Sahdeo Bharati, Shri Wasudeo Shridhar Kirolikar, Shri Raghavendrarao Srinivasrao, Shri H. Siddananjappa, Shri N. Rachiah, Shri K. Sakthivadivel Gounder, Shri George Thomas Kottukapally, Shri N. Somana, Shri Hem Raj, Shri P. C. Bose, Shri Nayan Tara Das, Shri Bhagwat Jha Azad, Dr. Satyanarain Sinha, Shri Gajendra Prasad Sinha, Shri Baij Nath Kureel, Shri Vishwanath Prasad, Shrimati Ganga Devi, Seth Achal Singh, Shri Har Prasad Singh, Shri Badshah Gupta, Shri K. G. Wodeyar, Shri R. N. Singh, Shri K. A. Damodara Menon, Shri K. Ananda Nambiar, Shri M. D. Ramasami, Dr. D. Ramchander, Shri Y. Gadilingana Gowd, Dr. Indubhai B. Amin, Shri D. P. Karmarkar, and Shri T. T. Krishnamachari, with instructions to report not later than the last day of the first week of the next Session."

Sir, the Bill has been before the House in one form or another for nearly 18 months and I would like to take the House through the various changes that the Bill seems to make in the Act that it seems to amend. The changes broadly are, reconstitution of the Board so as to give representation to consumers along with producers, labour and trade; the appointment of a Chairman by Government—and it is the intention that the Chairman should be a full-time officer; to make provision to increase the cess or duty that is now levied for the purpose of the Board from one rupee to six rupees—the idea is to give power for raising the duty up to six rupees so that the Board could undertake development of the coffee industry—; to provide for salaries etc., for the officers, and also certain changes necessitated by the Constitution, namely, declaration that this industry is of national importance. We have also added a clause to validate the action that has been taken since the promulgation of the new Constitution by reason of the fact that this declaration has not been enacted by Parliament. Those, broadly, Sir, are the changes that we envisage.

I would also like to mention now the reasons why we found it necessary to change the contour of the Act and for this purpose I have to take the House through the history of this measure.

In 1940, when the export markets were more or less banned by reason of lack of shipping, the position of the coffee industry was on a parlous stage. Then the Government had to enact an Ordinance so as to bring all the producers under one Coffee Board. Subsequently, in 1942 a regular Act was enacted, more or less continuing the arrangements that were contemplated by the Ordinance. Again, in 1946, when the period of the existence of

the Board came to an end because of the provisions of the 1942 Act, an amendment was made providing for the continuance of the existence of the Board. It must be remembered that the Board was brought into existence and all the powers vested in the Board essential to help the Board to market coffee in the country, to increase the market, so as to keep the industry on a stable basis, because the war-time measures indicated very clearly that a dependence on the export markets would make the position of the industry very unstable. I would like to add that subsequently when exports were made possible, the prices ruling in the world were so low that the consumer in India had to subsidise the export by about Rs. 15 a cwt. That is to say, the consumer price in India was loaded by Rs. 15 a cwt. to make up for the shortfall in the realisations of export, so that the grower can get the price that has been assured to him.

The prices have been fixed by the Board as a result of cost accounting done by a government officer on three occasions. Two of them happened to be before my time, and the last one was last year. But the variations in price that has to be paid for the grower were made by the Board themselves, and I am mentioning an instance. Sometime before 1948, I think, the price to be paid to the grower in regard to Plantation "A" was somewhere about Rs. 90 a cwt. From Rs. 90 it went up to Rs. 120; from Rs. 120 it went up to Rs. 135, and from Rs. 135 it went up to Rs. 180—all within a period of about four years from 1948 to 1952. These variations were done not by reason of any cost accounting, but because of the decision of the Board. I am mentioning this just to point out that a Board where the producers are fourteen in number and where the consumer was not represented were in a position to raise the prices for the consumer without any reference to him, subject only, I suppose, to the veto that could be exercised by Government. I will come back to that aspect of the question a little later.

The contour of the industry is one which is not particularly a strong one from the point of view of the smaller estates. The total registered acreage for coffee plantation is 281,250. The actual acreage is 235,374. Of these, 590 estates consist of an acreage of over one hundred acres and cover 157,000 acres, leaving about 85,000 for the smaller estates. Actually, the average does not mean anything, but the average has to be worked out as between these estates which have an acreage of more than hundred acres; the average works out to about 268. That means that there must be estates which probably run into several hundreds of acres.

So far as the smaller estates are concerned, there are 27,800 establishments with less than ten acres and the total acreage covered by these small estates is 49,000 acres. So much so, the average comes down to less than two acres. It therefore goes to show that there are coffee estates having an acreage of a little over an acre and rising up to ten acres. All of them are 27,800 in number. So, this must reveal to the House that even in regard to considering producer interests, the interests vary. The interest in regard to the gross estates which cover more than hundred acres—and there are about 590—is the predominant interest which determines the shape of the working of the Coffee Board. The small producer for whom oftentimes many hon. Members speak in this House has a very small acreage and produces very little. Actually, in the matter of production also there are estates which produce as much as 1½ cwt. per acre, whereas there are estates which produce more than 8 cwt. per acre, and some of them even more than that. So, it is an industry which has several tiers, and the weaker tiers have to be protected. One of the reasons why I am proposing to the House that we should increase the levy of the cess from Re. 1 to a higher figure—it does not mean that Rs. 6 should be levied straightaway—is to help the smaller estates. Even now we have on hand a scheme for investigation into the development

[Shri T. T. Krishnamachari]

of the smaller estates and we have requisitioned the services of a competent person to go into this matter. That, I think, in one sense indicates that there is a case for greater interest to be shown by Government and for greater powers for the Board and an insistence on greater concentration in regard to the wellbeing of the smaller estates.

The production of coffee is not one that has been even. It has been varying. It has been varying, say from 1941-42 till this year, from about 15,000 tons to 27,000 tons. I am told that statisticians find a cycle, a cycle of six years in which the variations go on and it comes back again to the original figure. I am also told that the second cycle of six years shows a definite increase in the total production. The lowest touched was in 1946-47 at 15,350 tons. Thereafter there has been a steady rise and we have had a bumper crop this year of 27,000 tons as against 23,500 tons which was the provisional estimate for 1952-53. There has been a big increase this year and curiously enough the increase has been in respect of the richer varieties of coffee. Usually, we used to have a substantial quantity of anything betwen two-fifth to one-third of the total production in the shape of what is called Robusta which is the cheapest variety, but this year the Robusta crop was poor and the production was largely of the better varieties, and in one sense it is a bumper year. But, as against these variations in production, our consumption has been more or less steady, excepting for last year. The quantities released for internal consumption have been in the region of seventeen to eighteen thousand tons. In 1948 it was 16,708 tons; in 1949—17,556 tons; in 1950—17,258 tons; in 1951—18,383 tons; in 1952 it came down again to 17,919; and in 1953, the consumption was 15,067. I would like the House to mark this fact while from 1948 to 1951 the consumption in the country has been steadily increasing—I have, no doubt, as a result of the work of the Board by reason of the coffee houses that they have opened and the propaganda that they have been doing—consumption dropped in 1952 and dropped more abruptly in 1953. That brings me more or less to the central theme of my speech today. The reason why consumption dropped was because of a steep increase in prices in the middle of 1952. To take Plantation A, I said that the price fixed by the Board was Rs. 180 per cwt. I would ask the House to remember that the price fixed by the Board is only a floor price and not a ceiling price. The price is a protection for the grower, undoubtedly, because that is the price at which the goods are offered in auction. If there are no bidders at that price, namely Rs. 180 plus the cess and the Central excises, plus the cost of working of the Board, all of which comes to about Rs. 32, or in other words, if the price offered is below Rs. 212 per cwt. for Plantation A, the stock was withdrawn. But if higher prices were realised, it went into the pool, and the money was distributed to the producer. I shall take Plantation A as an illustration, and say what the producer got on that basis, during all these years.

Year	Minimum guaranteed for the grower	Actual amount received by the grower
	Rs.	Rs.
1947-48	120 per cwt.	154-6-0 per cwt.
1948-49	135 „	150-0-0 „
1949-50	135 „	184-0-0 „
1950-51	155 „	180-13-4 „
1951-52	180 „	220-0-0 „

So, there is a difference of about Rs. 35 to Rs. 49. The House will please realise that the fixation was in respect of a safeguard provision for the grower, but it did not determine the amount of money that he got. Oftentimes, when hon. Members tell us that the cost of production is so and so, and you have fixed it at a price which is below the cost of production, they do not remember that what the grower receives is not what

is supposed to be the cost of production plus his profit plus his depreciation plus his interest on loans and so on, but something more, and he has been getting it all these years, the amount varying from as much as Rs. 50—and above the price fixed to about Rs. 35 or Rs. 30. That being the case, any increase in price to the consumer acts as a direct benefit to the producer, and in a producers' Board, dominated by the producers, it stands to reason that they would welcome the increase in price.

I would like to take the House, though I know I am wearying it, through what happened roundabout the middle of 1952. In 1952, while the price fixed was Rs. 180 cwt. the prices of Plantation A on an average were as follows:

Month	*Average price per cwt.*
March	Rs. 196-7-0
April	Rs. 207
May	Rs. 238-11-0
June	Rs. 252
July	Rs. 269-6-0
August	Rs. 299-12-0
September	Rs. 316-11-0

Hon. Members would please note that the spiral started some time in May. I would ignore even the April figure of Rs. 207, which is not an abnormal figure. In May, it has reached a peak of more or less Rs. 238; and then it went to Rs. 252, which was a figure never reached before; then, it went to Rs. 269, Rs. 299 and finally to about Rs. 316. So, the peak prices that obtained were in September 1952.

If the House will pardon my using a personal *proneur*, it was some time in May, that the new Ministry came into being, and the responsibility of looking after coffee interests as well as other interests devolved on me. It was some time from about July that representations came pouring into the Ministry from consumers, that the prices were shooting up, and that nothing was being done. Of course, Government machinery moves very slowly, and it is not also very efficient in putting down any abuse of this nature, that occurs. I would also like the House, especially the Members who do not know South India, to know that in South India, where coffee is almost a national drink, it is a beverage which is consumed not by the richer classes. The richer classes go in for milk, ovaltine and various other things. If you go to a rich man's house, he first asks you, will you have something solid to eat, and then very probably, he will offer you ovaltine, because he thinks that offering coffee is not something which is particularly an act of respect. But if one goes to the house of a lower middle-class person, to the house of a petty clerk, a school teacher or even a policeman, the lady of the house will say, will you have coffee—the coffee may not be very good, it may be an apology, but nevertheless, she offers coffee, though she could hardly afford to give that coffee to a visitor. But that is, more or less, a national beverage, so far as the lower middle classes are concerned. It is the cry of the lower middle-classes—the constituency from which I come predominantly represents the lower middle-classes in an urban area.

Shri M. S. Gurupadaswamy: Are they all coffee-drinkers?

Shri T. T. Krishnamachari: Competency does not always rest with hon. Members there.....

Shri Venkataraman: He asks whether they are all coffee-drinkers

Shri T. T. Krishnamachari: I said that the lower middle-class in my part of the country are all coffee-drinkers, without any exception. It may be that their coffee is not the coffee that the hon. Members are accustomed to get outside the House; it may be even an apology for coffee, but it is coffee, nevertheless. It is the cry of these people that made me sit up. But I am afraid I must confess that I did not act with alacrity in the matter, in which I should have acted promptly. All

[Shri T. T. Krishnamachari]

that I could do was to send for the Chief Marketing Officer to meet me at Bangalore, when I was passing through Bangalore on 31st December, I think, and to tell him—of course, we have been writing before—that unless something was done, Government would have to take drastic action. The Chief Marketing Officer told me, well, I have no powers, I only deal with marketing, the policy is controlled by the Board, the Chairman of the Board went away some time in early summer to England, and is due to return only in December, and he will try his best to see if he could get the Marketing Committee do something about it. Even these threats held out by Government had some effect, and slowly the auction prices came down. In November it was Rs. 257-14-0, and in December, it was Rs. 245-14-0, while earlier the average price was Rs. 316-11-0, though actually, in some cases, the price went up to Rs. 327 or Rs. 328.

I will go back to the history again. The Chairman of the Board came back, I think, on 7th December, 1952. But I had a letter from him that the whole thing was due to the fact that in former years, Government had allowed exports to go. Anyhow, I said, let us meet. I went to Bangalore on 31st December 1952, and I had a meeting with the Board. By that time, I had decided that the Act had to be changed, and that we should have a permanent Chairman, because the whole position of the Board was this. The Chairman was the executive of the Board; he was a non-official elected Chairman; he was not there available all the time. The Chief Marketing Officer deals with the marketing side only. The research side is dealt with by a Research Officer, but the co-ordinating factor was the Chairman. The prices were determined by the Marketing Committee, in which, though the Chief Marketing Officer was the Chairman, he did not have the dominant voice. So, it is a very curious set-up, a set-up which is quite good when you want prices to rise, and when you want to pump in a little more money into the hands of the bigger producers, because, if for a cwt. the prices were raised from Rs. 180 to Rs. 220 for the grower, the small man who produces only 1 cwt. or 1½ cwt. got Rs. 60, but for the man who produces 8 or 9 cwts. per acre on 500 acres that is something very substantial. I would ask hon. Members to remember that in any Board composed of what you call the producers, it is the bigger producer who dominates and it is the bigger producer who gets the benefit of any increase in price. The small man gets practically little. That is the composition of the Board. I had to meet the Board, as I said, on the 31st December 1952 and discuss this matter with them. I went to Bangalore for nothing else but only for that purpose and spent a whole morning with them. I must say in all fairness that I was rather taken in by the Chairman of the Board. I shall not say anything disparaging of a person who is not here. I was rather taken in by him because he was extremely competent and there is hardly anything about coffee worth knowing which he did not know. He was all sweet reasonableness. In fact, he told me that he was going away and that he felt himself at the time that it was better for the Chairman to be a full time man who could give more attention to the Board, and he practically seemed to agree with everything that I said. I told the Board—please do not interfere with our present selling arrangements. There is a price guaranteed. If there is a little extra that you can give, by all means you can give him. But the idea of making a guarantee of lower prices and allowing the ceiling to go up without limit was unfair. They might try some other method instead of auctions because auctions meant rigging up of prices. The consumer never comes to these auctions. They said: Give

us sometime. Let us think about it. Give us about three months and we will bring the prices down. As soon as I came back, I got a communication from the Board that they felt that most of the suggestions made by Government were wrong and that the present system should go on and they did not think they could bring down the prices. That is roughly the history of all that happened behind this matter.

The two cardinal factors that we have to remember is this, that prices shot up and the determination of those prices was entirely in the hands of the Board. The price that they fixed was a floor price, not a ceiling price. Secondly, in this development of coffee, the development has not been even. There are 27,000 and odd tons and they roughly average about two or three acres with only 1½ or 2 cwts. per acre. That position has not bettered. That, Sir, in my view—only in my view—is a clear case for reconstitution of the Board and putting it on a more stable footing.

I would also like to mention that the consumption figures have also dropped. I mentioned about the total off-take. Hon. Members will remember that the lowest consumption figure that was touched was in 1953 and it came down to 15,000 tons. It may be that there was a contributory factor because there was no auction for one month. But even so in the subsequent month the slack was not taken up. It is a direct result of high prices. A period of high prices did bring down consumption, and coffee consumption is not certainly inelastic, though it is a matter of luxury which we ought to allow to the lower middle-class; there is hardly any other luxury in their life. But it reacts to prices and this is a matter which I would like the House to note.

9 A.M.

I would also like to mention that during the last four months—January, February, March and April—after the prices were pegged at Rs. 2-4-0 for the grower—Rs. 2-1-0 as the floor price—we felt that since the grower is guaranteed his cost, we could not afford to peg down the upset price of auction a little lower. That is, instead of Rs. 180, we put it down by 8-1/3 per cent. After doing that, prices came down. The result of that is that during the last four months auctions averaged roughly 2000 tons a month. The total quantity taken up between January and April was 8044 tons. If you divide it up, you would get 2000 tons per month. This is in spite of the fact that owing to the short-sightedness of the excise officials, who normally stop all sales of excisable articles ten days before the Budget, the excise officials walked into the Coffee Board office and said: 'No. You should not release goods. You should not have any auction'. We did not have the foggiest idea of raising the excise duty on coffee. Nevertheless, the excise officials have got a rule-of-thumb method; they went and stopped auctions. Nonetheless, the total off-take has been 8044 tons. Hon. Members will remember that this is a direct result of lowering of prices, not an abnormal lowering of prices, not the prices that ruled in 1946, but a little lower price of about 25 to 30 per cent. over what obtained in 1952. As a result, there is an increase in internal consumption. Some hon. Members who are interested in the coffee industry might say: 'Well, what is wrong? Why should you increase internal consumption? Why do you not export because if you export today, you will get fantastic prices?' Actually, in spite of a little export duty that we have, the price realised after deduction of export duty, after deduction of the various cesses and all that at the plantation end is somewhere about Rs. 460 to Rs. 480 per cwt. as against Rs. 167 which is the upset price. We do get fantastic prices because the world market for coffee is very high. At the same time, if you think that the growers ought to profit by the world market forgetting the internal consumer, you are forgetting what the

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internal consumer did for you during the years 1943, 1944, 1945 and 1946 when he maintained this industry by consumption, when export markets were lost. Hon. Members who know about the world market for coffee would remember that in 1946 hundreds of thousands of tons of coffee were dumped into the Caribbean Sea because Brazil had such a bumper crop, and the prices were so low. At that time, it was the internal consumer who gave you Rs. 15 per cwt. so that you could maintain your industry and export...

Shri Matthen (Thiruvellah): What was the quantity exported in 1946 and 1947 and 1948?

Shri T. T. Krishnamachari: The hon. Member will get the information later on when I reply. Of course, I have got the figures here, but it will take some time for me to find them

Shri Matthen: Appreciate the sacrifices they made.

Shri T. T. Krishnamachari: The sacrifice that has been made, I maintain, has been made by the consumer every time. I do not think the hon. Member is interested in the coffee producer because his area has only a thousand acres under coffee production.

Shri Matthen: I am a consumer. I am not a producer at all.

Shri T. T. Krishnamachari: The position, as I said, is that the industry has to depend vitally on its home market and this home market has responded, so far as this industry is concerned, in the past, and I think there is no reason for its neglect. This year we have a surplus. Last year we had a surplus because of contraction of consumption. As a result out of 18,000 tons, I allowed 3000 tons to be exported. This year we have 27,000 ton crop and so far we have allowed 5,000 tons to go out. The increased prices that have been realised will go into the pool and I am sure that the growers will get not Rs. 2-4-0 per point, not Rs. 180 per cwt. which we have guaranteed, but something much more. It might be 4 annas or 5 annas or 7 annas per point more. I am not going to deprive them of it. They are going to get it.

Shri Matthen: Not the whole.

Shri T. T. Krishnamachari: The whole of it. But if the House or the Select Committee say that the whole of it should not be given and that some portion should be given to some party or to somebody else or that some portion should be set apart for rehabilitation, I am in their hands. As it at present stands, even with this amended Act, it would mean that the whole of it would be paid to them. Any advantage that we get by export would go to the grower; I do not want to stop it so long as the consumer gets it at a reasonable price...

Shri C. R. Iyyunni (Trichur): May I ask.....

Shri T. T. Krishnamachari: I will answer the hon. Member later.

I do not stop it so long as the consumer gets it at a reasonable price —and I will say in all conscience that it is not a reasonable price from the point of view of the coffee consumer to pay. I have supplied to the hon. Members a chart in regard to the cost of living and also the prices of coffee. Hon. Members will please see how in spite of the fact of the sins and omissions and commissions on the part of the Government, the cost of living having gone up, the coffee prices have shot up; they have just gone up, in spirals sky-high. In spite of all that, I think the producer will get his money. I think most of the hon. Members in the House will agree with me, in this: what has the Government or a member of Government got against any producer excepting that he wants more or less average price between the consumer and the producer, with the advantages or disadvantages? Where is the ques-

tion of anybody being against any particular person? It may be that a particular producer or a group of producers is against a particular Minister because a momentary advantage is denied to them. I agree. I have striven, during the last one and a half years, to see that the prices come down, and they have come down. I do admit that in doing so, I have injured the interests of some of the powerful producers, and I realise that propaganda has been carried on, *agents provocateurs* have been sent to various places, newspapers have been briefed, columns have been purchased. But what does it matter? After all, when a man undertakes his responsibility, he does expose his head for these missiles to be hurled at him. I do not propose to retaliate. I do not propose even to answer.

Mr. Deputy-Speaker: They have not reached the head.

Shri T. T. Krishnamachari: It has hurt. I may very humbly submit that all this hurts to some extent, the more so because most of them do not happen to be the truth. It is falsehood that hurts, not the truth. A man can take the truth and he might agree that the truth is thrust on him, but when he recovers he knows he has been attacked by falsehood and not by truth. Some portions of the mud sticks. But I do not complain. I do not propose to name the person; I do not propose to name the groups or interests that have been doing it. It is all in the game. I do not mind if some people are employed to go round and brief the persons, or brief other interests and newspapers. It is all in the game. If people do not employ advertising agents, people would not live. Whenever somebody goes and says, this Minister is against coffee interests, well, he probably follows that way of life. I have nothing to grumble. He does not happen to be a Minister but he has got to live. I do not grumble. These things, I can say, do not hurt me in the least, but I do maintain that we have striven to reduce the prices for the consumer to some extent and have succeeded to an extent. One solitary proof of the success that we have achieved is that, in spite of the fact of relatively high prices, consumption has gone up, and the internal consumer is taking his due share. This will strengthen the industry. People can go in for more acreage of coffee. I do believe that so far as the scheme that we have before us is concerned, we are thinking in terms of extending the acreage by a hundred thousand acres, and we are also thinking in terms of raising the production to at least an average of 2½ cwt., all of which would certainly mean that more coffee will be produced. It may not be, as a former Chairman of the Board has said, that India may earn Rs. 50 crores by way of foreign exchange, because this is a question of earning foreign exchange by raising the acreage, and somebody selling at a high price in a foreign market does not stay put. We are aware that Northern India is also taking up coffee drinking, as some hon. Members have done, and thus we may have some more coffee in this country, all of which will ultimately benefit the industry. That is the intention of this Bill. The intention of this Bill to revise the Act is to make the Board a little more effective and also to help the small grower and keep the consumers' interests all the time in the forefront.

I do not think I need take any more time of the House. Of course, hon. Members were asking questions. I shall certainly answer them if I have an opportunity to reply to the extent that is possible. I may finally mention that this Bill has been before the public, except for the variations that I have made. But I withdrew it and reintroduced it taking more power for levying a high rate of cess. So far as these provisions are concerned, we have received representations from various bodies; the Coffee Board itself has considered this and have sub-

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mitted to us a printed memorandum. On one or two matters, they do not agree, for instance, on the manner of representation. They do not want the consumer quantum to be represented in a large degree. They want each organization directly to elect a representative to the Coffee Board. But in regard to this question of the Chairman, even the Coffee Board has agreed. As I said, the former Chairman told me that it is better for the Chairman to be a full-time man. They have agreed to have a full-time Chairman. All these matters can be discussed by the Select Committee. I shall place all these facts before them and I shall probably try to give them all the information that I have and accept their findings finally and bring them back to the House. This is all I have to say now.

Mr. Deputy-Speaker: Motion moved:

"That the Bill further to amend the Coffee Market Expansion Act, 1942, be referred to a Select Committee consisting of Shri R. Venkataraman, Shri C. R. Narasimhan, Shri Birendranath Katham, Shri Laisram Jogeswar Singh, Shri Vyankatrao Pirajirao Pawar, Shri Chandra Shankar Bhatt, Shri Amar Singh Sabji Damar, Shri Goswamiraja Sahdeo Bharati, Shri Wasudeo Shridhar Kirolikar, Shri Raghavendrarao Srinivasarao, Shri H. Siddananjappa, Shri N. Rachiah, Shri K. Sakthivadivel Gounder, Shri George Thomas Kottukapally, Shri N. Somana, Shri Hem Raj, Shri P. C. Bose, Shri Nayan Tara Das, Shri Bhagwat Jha Azad, Dr. Satyanarain Sinha, Shri Gajendra Prasad Sinha, Shri Baij Nath Kureel, Shri Vishwanath Prasad, Shrimati Ganga Devi, Seth Achal Singh, Shri Har Prasad Singh, Shri Badshah Gupta, Shri K. G. Wodeyar, Shri R. N. Singh, Shri K. A. Damodara Menon, Shri K. Ananda Nambiar, Shri M. D. Ramasami, Dr. D. Ramchander, Shri Y. Gadilingana Gowd, Dr. Indubhai B. Amin, Shri D. P. Karmarkar, and Shri T. T. Krishnamachari, with instruction to report by the last day of the first week of the next Session."

I learn that the date about the report has been put in a different form. It should be: "By the last day of the first week of the next session."

Shri N. Somana (Coorg): I have tabled an amendment that the Bill be circulated for the purpose of eliciting opinion.

Mr. Deputy-Speaker: He may move his amendment. He is in the Select Committee. So, he must give up one or the other.

Shri N. Somana: There was a precedent in the House. Shri Vallatharas moved an amendment and he made a speech.

Mr. Deputy-Speaker: I will certainly go by the precedent. I did not allow him, and I am not going to allow you.

Shri Punnoose: In the Bill moved by the hon. Minister, there is a similarity with the Bills that he has moved on other plantations, the Rubber Bill, the Tea Board Bill, etc. He has increased the power of the Government, the hold of the Government, in constituting a Board as well as its methods of functioning. If you go through the Bill, you will find that all those powers, all those stipulations in the original Bill making it necessary to consult the Board, have been scrapped. In spite of the fact that he made a very enlightening speech, he could not explain why he wants these amendments to take place. I can understand when he says that it is necessary to have a whole-time Chairman. I can understand when he says that there should be representation for the consumers on the Board. But, I cannot understand why he wants to assume dictatorial powers over this Board. I am not one of those who stand for pure democracy without looking into the conditions. In the case of a certain

industry where there is foreign capital, where we leave the whole prospects of that industry to alien management, to the whims and fancies of the foreign element, then it may be necessary to bring about a certain amount of control. There we will have to accept some sort of qualified democracy. But, in the case of coffee, where there are a large number of small-scale producers,—something like 89,000 acres are owned by people owning less than 2 acres,—where the Indian industrial element is strong, why is it that the Government wants the powers of the Board to be circumscribed and nomination is resorted to? Look at this clause.

> "A Chairman to be appointed by the Central Government; one person to represent the State of Coorg, to be nominated by the Chief Commissioner of that State, one person to represent the Government of Mysore, to be nominated by that Government; one person to represent the Government of Madras, to be nominated by that Government, four persons to represent coffee trade interests, to be nominated by the Central Government; three persons to represent labour, to be nominated by the Central Government...".

All nominations by the Central Government and the State Governments. There is no provision to give representation either to the growers or to the consumers or to labour thereon on their own. They are all going to be nominated under this Bill. The hon. Minister has not explained why he wants such a change. Time and again, criticisms have been levelled in this House against Government dominating these Boards. They have all become the showboys of the Government. I do not know how it will help the industry. In a sense, it will only be handing over the whole industry to bureaucratic control, which I view with suspicion and a great amount of apprehension.

The question of the coffee industry is one which concerns the production aspect to a large extent. The report of the Coffee Board will show that production has increased by 17 per cent. But, the hon. Minister did not say that there was almost a 33 per cent. increase in acreage. As against 33 per cent. increase in the acreage, the increase in production is only 17 per cent. If you look into the report, you will see that the Board has not been able to help the growers in combating the various diseases, pests etc. that go to ruin this industry. Sufficient care has also not been taken to increase the acreage itself as it can be. There are prospects even now, because, with some amount of attention, coffee can be cultivated in several parts of India; but that attention has not been paid. The Board, with such exclusive powers, and with the Government dominating the whole show and the increase of the cess from one rupee to six rupees, not only the acreage but also the yield must increase. In doing so, we have to take into consideration the interests of the small-scale producer also. What are his interests? The method of pooling, the fixation of prices as also the other conveniences given are practically restricted. Take my own area where we do not have large coffee plantations at all. In our area, we have got coffee estates 50 cents or 2 acres at the most. They have certain special problems. There must be some kind of mechanism by which that small producer can be helped.

One of the biggest problems is cheap credit. At the time the crop is taken, he has to collect it and sell it at the lowest price available. There was a regular black-marketing in coffee going on in our part of the country. The result was that the black-marketeer was there to take away the crop at the lowest price possible from the small producer. He has not got the capital or the money to invest. There must be some organisation, some co-operative organisation through which he can get

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cheap credit so that he may get a sufficiently reasonable price for his produce. I think that should be one of the definite objects of the Board.

Then, I come to the consumer. As the hon. Minister stated, even the ordinary worker and peasent in our parts is a consumer of coffee. At times we have found that the price has been very prohibitive and the average people have found it very difficult to have their coffee. Some mechanism should be evolved by which the Indian consumer gets coffee at reasonable prices. At the same time, our export market should not be affected unnecessarily. That is, a certain quantity should be set apart for the Indian consumer and only the balance should be given over. There must be a definite proposal by which the Indian consumer gets his coffee at reasonable prices. The market for coffee in India can be definitely increased. In the U.S.A. the *per capita* consumption of coffee is about 17 lbs. per year. But, in India, a person takes only 1/7th of a pound a year. This can be increased. Ultimately it is a matter of the purchasing power of the Indian people. But, nevertheless, even under the conditions at present obtaining, it can be increased. So, steps should be taken by the Board to see that the consumption of coffee in India is increased and the consumer gets the commodity at a reasonable price.

Then, I come to another point. In all these Bills, with regard to the statutory Boards, one element that is being overlooked is the worker. Time and again, questions have been raised on the floor of this House with regard to the coffee workers, both the plantation workers and the coffee house workers. Every time the Minister has said that they are not under the control of the Government and they cannot do anything. Now, I say, here is the time to have some arrangement about this. With regard to the officers, it is definitely stated that they will be appointed by the Government and will be governed by the rules made by the Government. Complaints have been made to the hon. Minister as well as to the Minister for Labour from the coffee workers. In the coffee trade, there is the Indian Coffee Labour Union. It has, as members, almost 95 per cent. of the workers in the trade. I may correct it; it is 99 per cent. of the workers that are its members. Nevertheless, this Board has refused to recognise it, but the Government would not do anything except desiring that the Board might do so. Not only that, but you will find that I have got a bundle of papers here containing copies of representations given to the Minister, copies of resolutions passed at public meetings and in general body meetings; where all sorts of strange things have been done. The Assistant Secretary of the trade union, Mr. Singh, issued a statement some time back stating that the price of coffee was rather too high for the Indian consumer and also that the reduction from 8 oz. to 6 oz. in the quantity served in the coffee houses has been unjustified. For issuing such a statement, he was hauled up and dismissed from service. A union official issues a statement, but how can that be construed as an offence and how can that be a ground for disciplinary action and expulsion, I do not understand. Notices have been served on others also saying that they had issued statements and reports have been published in papers regarding general body meetings. Government servants are allowed to have their own unions with certain restrictions, but this Coffee Board, which is a statutory board, and on which representation has been given to various elements, is denied the usual trade union rights. Therefore, in this Bill, it is very necessary to make certain stipulations. In the first place, I can understand the anxiety of the hon. Minister in not giving direct representation to foreign elements on the Board, but why should there be

nomination from the workers, I cannot understand. It is just to patronise certain unions, which may not be unions of the workers but unions of the planters. I do not refer to any particular all-India union or trade union organisation. I can say that when there is no direct representation given to the workers and when they are not allowed to elect their own representatives to serve on the Board, there is room for all sorts of corruption and there is room for the large-scale producer as well as the Government to hoodwink the workers. The workers have got all-India unions and there is no difficulty at all. Time and again Government say that there are various unions and it is difficult, therefore, to give representation to workers. We have got an all-India central organisation which can represent properly the interests of the workers. In the second place, not only plantation workers but also the workers serving under this Board should be given representation; they should be given representation and their union should be asked to elect their representative on the Board. Thirdly, the conditions which govern the service of the workers should be stipulated here and should not be left to the mercy of the Board, about whom the Minister knows more than I know. He is fully aware of what the Board and the vested interests have been doing. Therefore, the workers should not be left to the tender mercies of the Board, and their conditions of service should be stipulated and their terms and rights should be guaranteed, and they must be given all reasonable terms of service. If we do so, if these things can be looked into by the Select Committee, and if the Select Committee functions with the objective of increasing the production of coffee and also of an expanded market in India itself, it will be to the advantage of this country.

Shri Asoka Mehta (Bhandara): The two principal objects behind this Bill are to foster the development of industry rather than to restrict attention to marketing of coffee, and to establish better co-ordination between the Board and the Government. Unfortunately, the speech, that the Mover made, made no reference whatsoever to these two objectives. I do not know in what way he proposes to foster the development of the industry. In the Bill suggestion has been made in that direction. One concrete suggestion is to raise the rate of duty from Re. 1 to Rs. 6. Apart from that suggestion, there is no proposal whatsoever for the development of the industry. Far from establishing better co-ordination between the Board on the one hand and the Government on the other, what we find is that an effort is sought to be made to subordinate the Board to the Government. This Board is sought to be emasculated. The Board will have no elected representative either of the growers or of the workers. Neither the growers' associations nor the labour unions will have any direct say or decisive say whatsoever in the composition of the Board. In the past, I believe, the growers had their representatives and the workers' representatives were appointed in consultation with the labour unions, maybe labour unions associated to the Indian National Trade Union Congress, but all the same labour unions were consulted and their advice was accepted and acted upon.

From the speech that the Mover made, it seems that in future he merely wants a board of his choice, because his contention is that in the past the Board has functioned in a manner that has left him completely dissatisfied. The Board, will have an appointed Chairman and the powers given to make bye-laws have been taken away; all the rules will be framed by the Government. The Board, which is supposed to be autonomous, will have hardly any powers to develop its activities. All officials of the Board will be appointed by the Government. All officials of the Board will be not only appointed, but their salaries and conditions of service will also be determined by the Government. I do

[Shri Asoka Mehta]

not know why a board is needed at all. Surely, the Minister can do these things departmentally. Why have such a big board? Why have a cumbrous machinery like this? Why incur this incidental expenditure of setting up a board when he can do these things departmentally? Even under the present Act, the Minister has all the powers he needs. The Minister, after consulting the Board, can fix whatever price he wants to fix for any particular variety of crop. There is the marketing officer and the marketing officer's duties and responsibilities are decided upon or determined by the Government. I believe that the Chief Marketing Officer is appointed by the Government. How have these powers been used? We are told that in the past the price of coffee has gone up very much and the consumers have suffered. Probably, the consumers' interests have not been properly looked after, but who is responsible for it? Surely the Government, with all their overriding powers, is responsible. I cannot understand how Government or a member of Government can come and deny it and say that the Board is responsible for what happened. The Board has to function under the overriding supervision and control of the Government; the marketing officer is there; the representatives of the Government are there on the Board. In spite of the fact that various State Governments and the Central Government have been represented on the Board, if the Board has misbehaved, I do not know how we would be justified in giving further powers to the Government and converting this Board into almost a rubber stamp organisation.

This Board was set up for a specific purpose. The idea was to develop co-operative marketing of coffee. I believe in coffee and coffee alone are the growers called upon to surrender their entire produce to the Board. The marketing has to be organised by the Board wholly and entirely, but what do we find? If it had been for developing and fostering these co-operative processes, if it had been for developing co-operative marketing and introducing co-operative methods and co-operative processes for the cultivation of coffee, I could have understood such a Bill and I would have welcomed it. Instead of such a Bill, even the co-operative element in the marketing is to be taken away and marketing is sought to be bureaucratised. For the purpose of finding out ways and means of developing this industry and for giving a fair price to the growers, and to the consumers only recently a committee or a commission was appointed. Before it had an opportunity to study the problem, before the competent committee has submitted its report, we are being called upon to grab the power which certain non-official elements enjoy and substitute that power by a body which will consist wholly of the nominees of the Government. From what the hon. Mover has been telling us, it seems that the persons he will nominate will not enjoy the confidence of the various interests concerned. He told us that it was the big owners and the big growers who were able to take advantage of these powers and the rise in prices at the expense of smaller growers. Why should that be so? The overwhelming majority of the growers happen to be small growers. Why have they not been brought together? Why have not co-operatives been set up? What has the Government been doing? Surely, it is within the powers of the Government to create conditions to provide facilites, and to offer incentives whereby the small growers can come together and form themselves into co-operatives. They would out-number the large growers probably by a majority of 80 or 90 per cent. Instead of bringing together the small growers and developing and fostering the co-operative forces among them, what is sought to be done is to bring the entire industry under the control of the Government not merely under its direct control and supervision, but the entire

executive will be in the hands of the Board, picked by the Minister, by the Government. There are many of us who believe that the future of India lies in developing co-operative activities. The overwhelming majority of this House has drawn its inspiration from a philosophy that wants to restrict the *Raja Sakthi* and wants to foster the *Jana Sakthi*. This Bill is an effort wholly and completely to hand over the coffee industry to *Raja Sakthi*. We are anxious that the Board should become more and more autonomous, more and more representative. Real representative capacity will come to the Board only when the smaller growers, labourers and smaller traders are able to find adequate representation according to their number and position in the industry. For that, what is needed is development of organisational consolidation at the bottom, development and fostering of co-operative activities at the bottom and not increasing bureaucratisation.

The hon. Mover has quoted a number of figures which may or may not be relevant but what I am concerned with is the basic outlook. The prices might have gone up or gone down; that can be discussed separately. In order to bring it down surely, the autonomous body should not be converted into a rubber stamp organisation. Therefore, I believe that no case whatsoever has been made out. The only thing that he has suggested—and that merits our consideration and deserves our support —is that the rate of duty should be raised from Re. 1/- per cwt. to Rs. 6/- per cwt. Beyond that all the suggestions made and all the amendments suggested are of a retrograde character and I think it would be unnecessary on our part even to refer this Bill to the Select Committee.

Shri M. S. Gurupadaswamy: Just now, Mr. Asoka Mehta focussed the attention of the House on the very important problem of encouraging co-operatives in the coffee industry. I do not want to refer to that problem because he has very well put it and has explained it in lucid terms. I want to refer to one or two other important points relevant to this matter.

When a resolution on coffee was brought forward by the Minister sometime back, the question of cost of production of coffee was raised on the floor of the House by many hon. Members. It was urged by all sections of the House that the procedure adopted by the Government in appointing a Cost Accountant Officer was not at all proper and also it was said that what this officer did at that time was not in any way satisfactory and the report he submitted to the Government was not a report based upon correct observation and real facts. Though there was unanimous demand by all sections of the House that this matter can be fairly tackled by the Tariff Commission and that this should be referred to it and its decision should be awaited, the hon. Minister thought it fit not to refer the matter to the Tariff Commission. He did not give any reason why the matter should not be referred to the Tariff Commission. The complaint against the Cost Accountant was that he was a government officer and that he did not correctly appreciate the conditions on coffee plantations. So, we urged upon the Government that nothing wi'l be lost in referring this matter to the Tariff Commission. On that occasion, I suggested that the Tariff Commission was there to make enquiries of such a nature regarding the various industries in the land. The hon. Minister said that if the matter is referred to it, it would take a very long time; there will be a lot of delay and so they thought that the Cost Accountant would finish the work soon. I fail to understand this reason because this is not a very good reason. When the Tariff Commission is there for the purpose of conducting such enquiries, I fail to understand why the hon. Minister did not agree for referring this matter to the Tariff Commission. Even now, it is not late.

[Shri M. S. Gurupadaswamy]

This matter may well be referred to the Tariff Commission and their decision may be awaited in this matter.

Next, Sir, I come to some of the provisions of the Bill. Shri Asoka Mehta very well said that there has been progressive bureaucratisation of these Boards. I made that point when I was speaking of Rubber Board last time and I repeat that this tendency on the part of Government to create puppet organisations will not in any way help to solve the problems of industries. Gradually all the commodity Boards so far created have been completely brought under the thumb of Government. This should not be in any way tolerated because we see that these Boards if they are completed under the thumb and power of Government, they will be nothing but puppets in the hands of the department. Instead of having such useless Boards, I would prefer to have none. If Boards are to be appointed we expect that there should be a certain amount of autonomy in their working. We also expect that all the interests are properly represented. The nomination principal is very bad, it takes away all the independence of the Board and the function of the Board will be jeopardised.

My next point is that the Board should be consulted. According to the present Act, prior to taking any decision in the matter the Government should consult the Board. The hon. Minister wants to do away with this provision. He wants to delete the word 'consultation'. He wants to make the Board completely subservient; completely subordinate to the Ministry. There I object. I want to know what is the reason for this? What is the harm in consulting the Board before taking any action? Will it harm industry? Will it in any way come in the way of the policy of the Government? Even now Government has sufficient power to override the decision and authority of the Board, and whether there is consultation or not, Government is empowered to follow its own policy in this matter. But, where is the harm in consulting the Board? Even after consultation the Government can amend the decision of the Board; change the decision of the Board and even override the decision of the Board. Therefore, this is a retrograde step. I strongly protest and say that this amendment ought not have been brought forward by the Government. The Mover of the Bill did not give any reason in his speech why this amendment was thought fit and why he felt the necessity of bringing forward this amendment. So, Sir, I appeal that this is a very retrograde and undemocratic step and the Bill shall not be in any way allowed to be amended on this point.

Then, Sir, I want to say about the policy of Government regarding the development of the industry. The hon. Minister talked big again of the development of the industry, but unfortunately it was only a talk and we hear such talk off and on. He seems to sponsor the interests of the consumers which means the public. But, what has he done for the public so far? What has he done for the development of the industry? He said that the big interests should not be allowed to reap the harvest. I agree with him. But, so far, what has he done to uplift the small grower? What has he done to bring down the cost of living of the consumers? Further, I want to know whether an amendment of this Act will in any way improve the matter. Already Government had vast powers under the present Act and inspite of that, the Government failed to bring about any change in the industry. The Government has failed to bring about any improvement in the development of the industry and so far the policy of the Government has not in any way satisfied either the consumer or the producer, or anybody.

Mr. Deputy-Speaker: That seems to be the reason for the amending Bill.

Shri M. S. Gurupadaswamy: No, Sir. The present Act itself gives ample powers to Government; ample powers and control over the Board and its policy. So far, the Government has failed to have any policy and failed to have any scheme for the development of the industry. Vast areas of land are available for cultivation. There are small groups of coffee plantation outnumbering. They have not been consolidated and new areas of land have not been brought under cultivation. Therefore, the Government has not in any way helped the growth of the industry. That is my complaint.

Then, Sir, there is one more point and that is this. The Minister when he was speaking did not give any reason as to how far the present Act has worked adversely and how far it created difficulties in his way. I want to know how giving more powers to Government would help either the producers or the consumers or any other class of people and also the industrial labour who are involved in this industry. He has not made any point that by giving more control over this industry he would in any way improve the situation.

Mr. Deputy-Speaker: There are some others also who want to speak on this subject.

Shri M. S. Gurupadaswamy: I will finish in one minute, Sir. The Coffee Board is different from all other commodity Boards. This Board completely takes all coffee into its possession. There is a pool and all coffee comes to this. Unlike other commodity Boards, coffee has got greater control and greater scope of operation and I want to know why this exception has been made in the case of coffee. Why the same thing has not been repeated in the case of tea? What are the reasons therefor? If a certain thing is applicable to coffee the same thing can be applicable to tea. Why has this exception been made in the case of coffee? I would suggest that there should be some sort of uniform policy with regard to all Boards.

I want to say about one more point. The expenses involved should be met entirely from the cess collected. The hon. Minister seems to be thinking that the expenses of the Board and the expenses involved in research and propaganda should be met from the general funds received from the proceeds of the sale of coffee. That is rather exceptional and extra-ordinary. We have not seen such type of thing in the Tea Board and it is only in the Coffee Board that we see that the expenses for research, and administration expenses are met by the proceeds received out of the sale of the coffee. Therefore, I want to know the reason why the hon. Minister wants to adopt a different policy here and quite a different policy in the case of tea and other commodities.

Finally I would say that the policy adopted by Government is not satisfactory and is not conducive to the growth and development of the industry. Moreover, it has not in any way brought down the cost of living of consumers. Although the hon. Minister is making a huge claim on behalf of the consumers that the consumers' interest and the public interest should be protected, so far it has not been protected and no interest involved in this industry is satisfied with his policy.

Some Hon. Members *rose*—

Mr. Deputy-Speaker: I have been calling Members from this side. I must call one from that side also. Mr. Matthen.

Shri Matthen: When I asked the hon. Minister the quantity of export of coffee during the years 1944 to 1947 I was sorry that the hon. Minister was a bit annoyed, but my sole object was to find out the extent of the sacrifice made by the consumer to protect the producers' interests as

[Shri Matthen]

alleged by the hon. Minister. I am not a producer, nor do I represent any producer. I am a consumer. I have been a consumer of coffee.

Shri Velayudhan (Quilon *cum* Mavelikkara—Reserved—Sch Castes): Habitual consumer.

Shri Matthen: Yes, habitual consumer, I agree with you, and doing it very liberally also. Any attempt to bring down the price of coffee to the consumer in India will be appreciated by me and I am in very good company there. Therefore, I shall certainly support the endeavours of the hon. Minister, of the new Board or of Parliament, to bring down the price of coffee in India. But, at the same time, I feel the observations made by the hon. Minister about the Board were not very charitable.

I know the condition of the coffee industry in the thirties in India. Estate after estate was abandoned in Mysore and other places. It was the Coffee Board and the coffee houses that gave a fillip to the coffee consumption in India and the quantity consumed in India today is far more than double that of the quantity consumed before the introduction of the coffee houses. I personally feel that the Coffee Board has done a good job.

It is true they were interested in getting a better price for their coffee, but what is wrong with it? What I believe the hon. Minister has not taken into consideration is the development of coffee. This is one plantation industry where there is tremendous scope for development. In these days when we are troubled by unemployment, especially in South India, this is the one line where we can develop with advantage, and the greatest advantage is that we are today producing much more than we can consume. With all the efforts of the Board and the Ministry, what we are selling abroad is getting a price more than three times what we are getting in India, and if thereby our producer gets the benefit of it, why should he grudge it? It is, after all, the Indian producer mostly.

I was really glad when the hon. Minister observed that there are a large number of small producers whose yield per acre is only 1½ cwt. while the better-class organised estates are producing up to eight or even nine cwt. per acre. The production of 9 cwt. per acre is an inspiration to the smaller producer. In fact, the object of everybody must be to raise the production of the small producer from 1½ to nine or eight cwt. either by the application of chemical manure or by any scientific methods. The importance of the large producer, as I see it, lies in the methods he is using in larger production and the inspiration he gives to the smaller producer for increasing his yield. The smaller producer must produce more. Otherwise, it is a sheer waste. I do not know the number of labourers engaged, but I think the number is about double of what it was some years ago, and the consumption of coffee has been steadily increasing.

10 A.M.

I do not know what exactly the Minister meant by saying that in 1953 there was lower consumption in India. It may be due to delay in sale or some other causes, because since then you find 2,000 tons a month have been sold. That will make 24,000 tons a year if you work on that basis. Therefore, there is something wrong with the calculation. There has not been a reduction in consumption. That is what I think. It has been steadily growing for the last thirteen to fourteen years.

I have no objection to a full-time Chairman being appointed, but certainly I object to nominations by the Department. Coffee, rubber and tea are organised industries. They have

been organised from a very long time and they have been doing honest and efficient work also. I do not think there are many more organised organisations in India like the plantation industry of South India. They have got a good record. And, after all, according to the Act, the Minister has got complete over-all power for everything. Why not a few of them be allowed to elect their own representatives? The United Planters' Association of Southern India, the Coorg Planters' Association and the Travancore Planters' Association are really old and doing efficient work. Why not give them power to elect their representatives? They will not be in a majority. Even if they are in a majority, the Minister has got full power, over-all power to do away with all that they decide if necessary. This is an observation I wanted to make even when the Rubber Bill came up.

The provision for consultation with the Board which has been removed from the new Bill is also a matter for consideration, as Mr. Gurupadaswamy has pointed out. I believe the Select Committee will go into that because without consultation, with all the efficiency of the Ministry I can assure you they cannot get that efficiency and knowledge of the industry as Ivor Bull had, as an organised first-class planter has. Why not have the benefit of consultation? I think that the consultation provision should be retained, and I believe the Select Committee will look into it. With this, I support the Bill.

Shri Bansal (Jhajjar-Rewari) : I generally support the changes adumbrated in this Bill, and therefore commend the motion of the hon. Minister of Commerce and Industry to refer this Bill to the Select Committee.

I have only one complaint to make on the composition of the Board. I agree with my friend Mr. Matthen that this amendment will lead to further bureaucratisation of the Board and remove whatever element of democracy there has been in the Indian Coffee Board so far. There has been an increasing tendency in the Government of India to substitute these Boards by hand-picked individuals. There are some individuals who become the blue-eyed boys of the Minister concerned at particular times and those individuals are nominated on these Boards. It happens that by the good fortune of the country at times there is a very honourable Minister in charge who also knows all the ins and outs of the industry, but we have also seen that oft-times the Minister is not so capable, and therefore, it will be dangerous to vest in him all the powers of nominating the representatives of trade and industry and of labour on the Board. After all, what is the fear that this representative character is removed from this Board? Most of these associations—I have personal knowledge of some of them —are run on real democratic principles. The fear that they are nominated by the richer or more powerful sections is absolutely unjustified. Every grower and every planter has a right to become a member of these individual associations, and these individuals, who are members of the associations, have a right to cast their vote, whenever there is a nomination, and an election for that purpose takes place. Therefore, for Government to say that the composition of these Boards, by virtue of nominations being made through the accredited associations of planters has led to the domination of bigger vested interests is, in my opinion, absolutely unfounded. I want to ask you, what will be the position under the amendment contemplated in clause 6 of the Bill. The proposed sub-section 2 (vii) of section 4 reads:

> "four persons to represent the coffee growing industry in Mysore, to be nominated by the Government of Mysore".

[Shri Bansal]

I want to know how the Government of Mysore will pick out these four representatives to represent the coffee growing interests. Either they will have to go to the associations of these coffee growers, in which case, instead of the nominations being asked for by the Central Government directly, the Mysore Government will ask for them; in other words, whosoever is the Government at that particular time will nominate the representatives, which means that the Minister in charge will nominate persons of his choice. Now, I think this is a very dangerous principle, which is not going to help anybody.

I have been associated with the working of the Export and Import Advisory Councils, and I know that, there too, the principle of nomination by certain Chambers of Commerce have been removed. I also know that even as it is, these Councils are working all right, but that is solely on account of the fact that our present Minister of Commerce and Industry who is well-acquainted with the commercial set-up of the country knows which persons to pick up, and from which particular section or from which particular trading centre. But the Minister concerned should not look at legislation from his own particular point of view. He should remember that he is not going to be a permanent feature. The permanent feature is Government, and not the Minister. Therefore, these enactments must be passed from the long-term point of view. After all, in this democratic age, why should we be afraid of democracy even in these sections? If a Chamber of Commerce is run on purely democratic principles, or a labour union or a central labour organisation is run on democratic principles, why should we be afraid of going to these unions or associations to nominate their representatives on these Boards which are set up by the Government of India? I would, therefore, earnestly appeal to the hon. Minister, to accept the suggestion made by my hon. friends Shri Asoka Mehta and Shri Matthen, that these Boards should no longer be bureaucratised further. After all, there is a nominated element on the existing Board also, and Government themselves have a lot of power to do or undo the recommendations of the Board. In order to keep in touch with the industry, instead of having men of their own choice, who will always say, yes, to what the nominating Minister wants him to say, let Government have on this Board, people who really have the interests of the industry, or the labour which they represent, at heart. After all, a person who is elected through a democratic process by a particular association or labour union—it may be an all-India labour union or a State labour union —will always have to bear in mind the interests of the majority of those whom he represents. As my hon. friend Shri Asoka Mehta said, in the coffee industry, the majority consists of small growers. It is a fact that the majority is of small growers, and therefore, we should not be afraid of giving this power to local trade or industrial associations or labour unions.

I would once again appeal to the hon. Minister to kindly give his consideration to this suggestion, and I hope that at the Select Committee stage, he will try to restore the existing provision under section 4, rather than amend it so drastically.

Shri A. M. Thomas (Ernakulam): I want to make only a few observations on the Bill. The main object of the Bill is the reconstitution of the Board on lines different from those existing under the present Act. Much has been said on the desirability of having a more democratic set-up in the constitution of the Board, and I have also my chance for pleading for a democratic set-up in the constitution of such a Board, by giving representations to the different

organisations of the industry. In the matter of coffee, it is all the more necessary to give representation to the growers' organisations as nominated by them, than in other industries like tea or rubber, because in no other industry, we find the entire produce of the industry being taken by the Board. That is a difference which we have to countenance. When we take the entire stock of the growers, they would naturally expect that they must have a voice in the disposal of the stocks, in the fixation of prices etc. by the Board, and it is not enough if the Central Government nominate somebody from among the growers or somebody from among the consumers or other small producers or labourers, as the case may be. When a statutory body takes control of the entire stock of this industry, the interests affected are justified in claiming a dominant voice in the administration of that Board, as also in the disposal of the stock that is taken over by that Board.

In addition to these put forward for a democratic set-up in constituting commodity boards, I would like to say therefore that there are additional reasons to be urged in the case of the coffee industry. I would urge upon the Select Committee the necessity of having a constitution of the Board, by giving representations to the various organisations engaged in the coffee industry. Even as the Board is constituted at present, we find that the Central Government's or the State Government's nominees are a substantial number in the Board, and I would even say, they have a majority voice in the deliberations of the Board. As such, it is no use saying that for the purpose of having a better control over the industry by the Central Government, it is necessary to fill the Board with the nominees of the Central Government.

As pointed out by my hon. friend Shri Bansal, the power of nomination has also been given to the various State Governments. But this Bill does not provide as to how the State Governments will fill those places, as to whether they will refer the matter to the various organisations concerned, and invite suggestions from them or ask for a panel of names from which they would select; the Bill is silent with regard to those things.

One change that has been brought about in this Bill, with regard to the constitution of the Board, is evidently welcome, and that is the provision under the proposed sub-section 2 (xi) of section 4, to have two persons to represent the interests of consumers, to be nominated by the Central Government. This provision has been absent in the existing Act, so much so that it has been the cry of the vast majority of consumers in this country that their interests are not being safeguarded by the Board. That drawback is now got rid of by giving representation to the consumers also, in the Board. That provision is evidently welcome and I would support that provision.

In the Statement of Objects and Reasons, it has been stated that there are many small-sized coffee estates whose economic position being weak need some help for which additional funds are required. The hon. member, Shri Asoka Mehta said that though the Bill had been brought forward with that object in view, the provisions in the Bill were not calculated to serve the interests of the small-scale producers. I beg to differ from him. Sub-clause (c) of clause 17 of the Bill says:

> "The General Fund shall be applied for making such grants to coffee estates or for meeting the cost of such other assistance to coffee estates as the Board may think necessary for the development of such estates."

That power was absent in the existing Act and to safeguard the large majority of small-scale producers this provision is quite salutary and I do not think Shri Asoka Mehta's

[Shri A. M. Thomas]

attention was drawn to sub-clause (c) of clause 17.

Shri Asoka Mehta said that the Government ought to have resorted to formation of co-operative organisations to help the small-scale producers. Sir, I would submit that this provision is a step in that direction. We know that in the administration of the handloom fund and other funds that have been created for developing other industries, grants are being made not to individuals but to co-operative organisations and these funds are being distributed with the help of co-operative organisations. That has been the case in the administration of the handloom industry, that has been the case in the administration of the coir industry. So that I would submit that the very point that has been emphasised by Shri Asoka Mehta has been thought of when this Bill was being drawn up, and this is a step in the right direction of the formation of co-operative organisations for the safeguarding of the interests of the smaller growers in the coffee industry. As the Act at present stands, the Government or the Board, even if they were minded to protect the small-scale growers, had no power under which they could act. It is for the purpose of taking that power that this provision has been deliberately added to this Bill. So that that provision is something which has to be commended.

I do not want to take more of the time. The two hours time that has been allotted for the discussion of the Bill is already up. I would only draw the attention of the Minister to the fact that even under the existing Act, the Government have got absolute overriding powers to do anything with the decision of the Coffee Board. For example, under section 42 of the Act, all acts of the Board shall be subject to the control of the Central Government which may cancel, suspend or modify as they think fit any action taken by the Board. There are also provisions which will indicate that the Government have powers which, if they exercise, they cannot say that they are powerless, that the Board is acting in this manner, that they are powerless to do anything. The Central Government exercised these powers and we know that the prices of coffee have come down. So that it is no use saying that the constitution of the Board has to be changed for exercise of governmental powers. That argument cannot hold water.

I do not intend to say anything more at this stage. I would only submit that the Select Committee may go into the entire Bill and take note of the criticisms that have been made on the floor of this House.

Shri T. T. Krishnamachari: I am grateful for such constructive suggestions as have come forward in regard to this Bill. I do not know if I am supposed to reply to hon. Members who spoke—two of them are not here. Nonetheless....

Shri Achuthan (Crangannur): The House wants to hear the answers.

Shri T. T. Krishnamachari: Of course. The House also, I think, must have some consideration, the courtesies that are due.

Sir, the main attack was that the present Board was very satisfactory and the manner in which it was constituted was satisfactory. I beg to join issue with that statement and I am also fairly sure in my mind that hon. Members who made that charge, that I am interfering with some organisation which is very satisfactory, have done so without looking into the constitution of the present Board. I will read the names of the planters' representatives on the present Board. There are three representatives of the Mysore coffee growing industry nominated by the Government of Mysore—there is no election here. They are: Shri M. S. Dyave Gowda, Shri T. C. Manjappa Setty

and Mr. A. Middleton. They are all big planters. The United Planters' Association of Southern India has nominated three people, Mr. Humphreys, Mr. Ivor Bull and Mr. Homewood. Mr. Ivor Bull has resigned and has been replaced. The Coorg Planters' Association is represented by W/C J. H. Sprott. The Indian Planters' Association (Coorg) has sent Mr. G. M. Manjanathayya. I am told he is a big planter. The Mysore Planters' Association is represented by Mr. R. Radcliffe, the Indian Planters' Association (Mysore) by Mr. S. N. Ramanna—he has many other interests, he is not a big planter but a medium-size one. The Nilgiri-*cum*-Nilgiri Wynaad Planters' Association is represented by Mr. N. B. Athrey, the Malabar Wynaad Coffee Growers' Association by Mr. M. A. Dharma Raja Iyer—I think he is reasonably big planter—the Shevaroy Planters' Association has sent Mr. Hatton and the Palni-Bodi-Sirumalai Coffee Growers' Association used to be represented by Mr. W. P. A. Soundrapandian—one of the most well-to-do people in that area. That is the present constitution of the Board so far as the planters' representatives are concerned—in all 14 representatives. Now, where is the small planter? Where are the associations who have nominated these planters? I do not know. Hon. Members have the right to speak without even scrutinising facts. It is their right and it is my lot to listen to it and to reply to it.

A point was made by the hon. Member, Mr. Asoka Mehta, in his maiden speech—unfortunately it was very maidenly. I thought when the hon. Member came he would have something new to say. But it was the usual claptrap. He repeated what my hon. friend Shri M. S. Gurupadaswamy said—that it would be a rubber-stamp Board,—and there was not even an originality in devising a nomenclature for this concoction of Government which is going to be an octopus which is ruining the coffee industry. I might tell him that if he is a little more familiar with the working of Government—bad as it may be from his point of view—in the Tea Board, we have made a provision for the various interests to send panels. In the Tea Board there is no nomination except consumer nomination made direct by Government. Panels were sent and out of the panels selection was made, and I made it very clear on the last occasion when I spoke. In clause 21 under (2) reference is made to principles regulating the nomination of members of the Board. It is up to the Select Committee to amplify the principles if they want. But this is the principle that is being followed. I can also say that I am not keeping the power of nomination with me. In the case of the Mysore coffee growing industry, the Mysore Government has nominated three representatives. And we are going to ask the State Government to nominate. We shall certainly give them a direction if the Select Committee puts it, in order to amplify the rule-making power. We shall give them a direction that they should take into account the recommendations of the various associations. My hon. friend, Mr. Asoka Mehta, was not even right when he said that he did not mind if in nominating labour representatives, the INTUC's recommendations were taken into account. Actually, not only is the INTUC's recommendation taken into account in nominating the representatives of labour on the Coffee Board, but it is the proposal to take into account the recommendations of all organised labour unions working in that area. I might submit in all humility that as an oratorical performance his maiden speech might have been impressive, but in its content I do not think it calls for any detailed reply, so far as I am concerned, because the speech was conceived in ignorance of the background and very naturally it went wide of the mark.

Mr. Punnoose made the usual charge against us, but he fastened his main charge in regard to the

[Shri T. T. Krishnamachari]

non-recognition of labour unions in respect of the coffee houses.

Shri Kelappan (Ponnani): And the usual reply to the usual charges!

Shri T. T. Krishnamachari: When one belongs to the usual place, the usual charges are made and the usual replies are given. If my hon. friend who belongs to the same community to which I belong, brought up in the same way, educated in the same absurd manner, will not see something new, I cannot also see something new! If there is lack of originality there, there is lack of originality here. There cannot be something new here!

Mr. Deputy-Speaker: Coffee-drinking is exceptional to him.

Shri T. T. Krishnamachari: If my hon. friend, Shri Kelappan, takes to coffee-drinking, I am sure there will be something original from him in future. So far as the coffee houses are concerned, in relation to the labour unions, I do recognise that wages paid are very poor. I do also recognise that all is not well, but unfortunately, there are certain difficulties so far as I am concerned, because I am not an operating agent here. I have really no powers. My hon. friend, Mr. Thomas, took out section 42 of the Act. If he scrutinises the Act—that particular section —he will find that the powers are not there. It is not that if the Board says something, I can say no. I cannot initiate. It is possible for the Board to say such and such a thing can be done in respect of such and such item. It may or may not be accepted.

Now, I have mentioned at some length the difficulty that Government face in regard to the working of the Board. We must have co-operation. But all that I can say is the negative approach to the problem does not help. Much was made about this co-operative organization of workers. My friend, Mr. Thomas mentioned rightly, we are all in favour of co-operative organization and Mr. Thomas pin-pointed that particular thing that in regard to handloom weavers, I refused to give any aid, to any weaver who does not come within the co-operative organization. I do not think there is any fundamental difference of opinion between the basic organization of the small workers and the small planters towards working in the co-operative way. But, as Mr. Thomas pointed out, they might organize and give co-operation to the Board. I shall be very grateful for any help they can give us in any direction. I am quite prepared to be guided by them and get something new. I am in favour of the creation of a co-operative commonwealth. I do want these small growers, both in Mysore and in Madras, where there are a large number of small and unorganized workers to be brought in as soon as possible so that they could be helped with the cess. I have really no quarrel with Shri Asoka Mehta in regard to what he suggested as the proper method of helping small men. I do maintain that the working through commonwealth—the co-operative method—is good, and I shall be grateful for any help that I can get from the other people.

Reference was made to the Cost Accountants, by Mr. Gurupadaswamy. I read through the three enquiries thus far made: first, the Cooke's enquiry, then another enquiry, and the last one that was initiated by me. Well, I cannot really understand why a particular pattern of enquiry should be changed. What really happened was that the Cost Accountant in question made one human mistake, because he accepted, for the purposes of his enquiry, the figures of the Marketing Committee. He went into the estates which the Marketing Committee took. He did not go into a new set of estates. I did not give any instruction. He was asked to go and consult the Marketing Committee. I find from the actual report that he had gone

only to the same estates, so that the results that were produced were ordinarily the same. I do not think that the Tariff Commission exists for the purpose of the whims and fancies of producers, because the past Chairman thinks that he wants the Tariff Commission could go into these matters. How can I ask an over-worked and over-burdened Tariff Commission to go into this matter, for which there is no cause, and for the kind of work to which they are not accustomed?

The bulk of the criticism was bureaucratisation of machinery, possession of power, and so on. I do maintain that we have made enough provisions for the selection of members by the respective Governments from out of the panel submitted to them, and I am quite prepared to accept any variation on any particular provision which may be suggested by the Select Committee. I have made one important provision. I have completely withdrawn the representation of the Government of India on the Board. Formerly, there were three representatives from the Government of India which had a deciding voice even to ask others to vote. But we do propose to send an officer or two—experts—to the Board, to participate in the discussion, to guide them and tell the Government of India of their views, but not to take part in voting. It is a very embarrassing position for the Government...

Shri Kelappan: But the Governments nominate all the representatives.

Shri T. T. Krishnamachari: The whole trouble is—you have heard the story—that after hearing Ramayana all night, somebody asked what was the relationship of Rama with Sita. I have been telling my friends that we are not nominating the whole Board in the manner in which you think I am nominating. A particular member of Government will be on the panel and he will stick to the panel. If a member is unsuitable, then the fact that he is unsuitable will be recorded, with the reasons. The reasons will be stated, and they are not going beyond the panel at all. That is the clear consideration that I have given to this matter.

In so far as labour is concerned, we will try to choose a representative from the panel sent by the labour organizations. Government obviously cannot come in there, cannot operate.

Shri A. M. Thomas: Can the hon. Minister enlighten me why the growers in Travancore-Cochin are denied representation by this Bill?

Shri T. T. Krishnamachari: The total area that is available is 2,38,000 acres of coffee which is actually planted out of 2,80,000 and odd of acres of coffee estates which have been licensed. Travancore-Cochin has got 1,022 acres. Unless the number of members is increased to 100, I do not think I can provide representation for a group of growers who, in all, grow only 1,000 odd acres of coffee. Wynaad is represented, and if Travancore-Cochin starts planting more coffee and produces more, naturally, we will amend the Act and give them representation.

I have tried to meet the points made on all sides to some extent. All those suggestions—such suggestions as those which were not criticism and were not wide of the mark —will be taken into account and I shall bring them all to the notice of the Select Committee. I do hope that the Bill will emerge from the Select Committee in a manner which will be reasonably satisfactory to most Members of this House, on both sides.

Mr. Deputy-Speaker: I will put the question to the vote of the House.

Shri N. Sreekantan Nair (Quilon-*cum*-Mavelikkara): There was an amendment.

Mr. Deputy-Speaker: I do not allow that amendment. Hon. Members will have to choose between

[Mr. Deputy-Speaker]

being a Member of the Select Committee and moving an amendment, through a motion. He did not make the motion at all.

The question is:

"That the Bill further to amend the Coffee Market Expansion Act, 1942, be referred to a Select Committee consisting of Shri R. Venkatraman, Shri C. R. Narasimhan, Shri Birendranath Katham, Shri Laisram Jogeswar Singh, Shri Vyankatrao Pirajirao Pawar, Shri Chandra Shankar Bhatt, Shri Amar Singh Sabji Damar, Shri Goswamiraja Sahdeo Bharati, Shri Wasudeo Shridhar Kirolikar, Shri Raghavendrarao Srinivasrao, Shri H. Siddanagappa, Shri N. Rachiah, Shri K. Sakthivadivel Gounder, Shri George Thomas Kottukapally, Shri N. Somana, Shri Hem Raj, Shri P. C. Bose, Shri Nayan Tara Das, Shri Bhagwat Jha Azad, Dr. Satyanarain Sinha, Shri Gajendra Prasad Sinha, Shri Baij Nath Kureel, Shri Vishwanath Prasad, Shrimati Ganga Devi, Seth Achal Singh, Shri Har Prasad Singh, Shri Badshah Gupta, Shri K. G. Wodeyar, Shri R. N. Singh, Shri K. A. Damodara Menon, Shri K. Ananda Nambiar, Shri M. D. Ramasami, Dr. D. Ramchander, Shri Y. Gandilingana Gowd, Dr. Indubhai B. Amin, Shri D. P. Karmarkar, and Shri T. T. Krishnamachari with instructions to report by the last day of the first week of the next Session."

The motion was adopted.

SPECIAL MARRIAGE BILL

Mr. Deputy-Speaker: The House will now take up consideration of the Special Marriage Bill brought up by the hon. Minister of Law, Shri Biswas. I have got a list of names of hon. Members who took part in the Hindu Marriage and Divorce Bill and also on this Bill, at the time of making the motion for reference to the Joint Select Committee. As the session is coming to a close, just after the hon. Minister concludes, I will request those hon. Members who have not yet taken any part in the proceedings, from the commencement of this session down to this day,—they may kindly pass on chits—to speak. I shall give them preference over all others in the House.

The Minister of Law and Minority Affairs (Shri Biswas): What about the time allotted to this Bill? The Business Advisory Committee had allotted eight hours. Does that stand?

Shri H. N. Mukerjee (Calcutta—North-East): In the Business Advisory Committee, we decided on eight hours to be allotted to this Bill on certain considerations. After the Special Marriage Bill was discussed in the Council of States, with some very basic alterations having been made, the whole position has changed to such an extent that I do not think it will be possible for us to have anything like an adequate discussion inside of eight hours.

Mr. Deputy-Speaker: How long did it take in the other House?

Shri Biswas: Eight sittings—seven days.

Mr. Deputy-Speaker: How many hours?

Shri Biswas: Eight multiplied by four: 32 hours.

Mr. Deputy-Speaker: Eight hours has been prescribed for all the stages of the Bill, for consideration, for clause by clause discussion and the final reading also. Possibly because it was the originating House, more time was given there and this is only a revising House.

Shri H. N. Mukerjee: Actually, when the Law Minister moved his motion for reference to the Select Committee of the Hindu Marriage and Divorce Bill, he referred to the Special Marriage Bill and said that certain very basic alterations have

been made in the Bill in that House. That being so, since we are meeting till the 21st, there are more than eight hours and we may decide that the rest of the time at our disposal may be devoted to the general discussion of the Bill leaving the other stages to the next session. If there is any divergence of views between this House and the other House, naturally they have to be thrashed out in joint session. That being so, I suggest.....

Shri Gadgil (Poona Central) *rose*—

Mr. Deputy-Speaker: Let me understand Mr. Mukerjee's suggestion so that the House may understand it. Thereafter, I will allow Mr. Gadgil and others to say what they have to say. If we carry on the general discussion on this Bill till the end of the session, there will be 12 hours and 45 minutes.

Shri H. N. Mukerjee: In that period of time we can discuss the general principles and then we can leave the consideration clause by clause to the next session.

Shri Biswas: I have no objection to that course. Having regard to the changes that have been made in the other House, it is just as well that Members of this House should ask for sufficient time to examine this Bill.

Shri Gadgil: When this Bill was referred, at the instance of the other House, to a Joint Select Committee, it was then clearly understood that the scope of the discussion, when this Bill would come to this House after it has been passed by the other House, would be completely wide, and that everything could be discussed and it should not be taken as if it is a report from a Select Committee, where further discussion is limited to whatever is stated. In my humble opinion, all the principles on which this Bill is based and passed by the other House and not merely the four main changes made by that House are open for discussion. I may, therefore, request that so far as the giving of opportunity to speak is concerned, it should not be confined to this Member or that Member, because here it is as if it is a new Bill. Therefore, you must use your discretion in a generous manner so that everybody who has something, by way of contribution, to make, should be allowed an opportunity.

Mr. Deputy-Speaker: The hon. Member has always been an exception in this House. I shall try to do so. Of course, I remember fully now that at that stage when the motion for a Joint Select Committee was made, it was clearly understood—if I am not wrong—that it ought not to be understood that this House accepted the principles of the Bill. Therefore, it is entitled to go into the Bill *de novo*. I am not going to shut out anybody; but I will give an opportunity to all the Members who have not taken any part in any of the two debates so far, as much as possible; other hon. Members will also come in when they have spoken sufficiently on this. My concern is that all should get a chance. The discussion will go on till the rest of the session and the clause by clause discussion will be taken up next session. Thus we have got 12 hours and 45 minutes instead of the 8 hours originally allotted for this Bill. It is now agreed upon that this time may be utilised for the consideration stage alone.

Shri Raghavachari (Penukonda): I thought Mr. Gadgil was speaking not only for himself but for all; and you were pleased to say that he would always be an exception.

Mr. Deputy-Speaker: Not he alone; this hon. Member also.

Shri Biswas: Exceptions prove the rule.

Shri R. K. Chaudhuri (Gauhati): Those who have not had an opportunity to speak on the Special Marriage Bill should have an opportunity to speak on this Bill. We

[Shri R. K. Chaudhuri]

must take some part in some marriage (*Interruptions*).

Mr. Deputy-Speaker: So many hon. Members would like to take part in the debate. Order, order. The hon. Minister may resume his seat. Shall I put a limit on the speeches? The hon. Minister would like to have....

Shri Biswas: Half an hour or forty-five minutes.

Mr. Deputy-Speaker: The hon. Minister will have 45 minutes and the other hon. Members, fifteen minutes each, excepting the spokesmen of groups who will have twenty minutes. I shall distribute this discussion among the hon. Members of this House.

Shri Gadgil: A little more time may be given in deserving and exceptional cases.

Mr. Deputy-Speaker: Up to half an hour in special cases.

Shri C. D. Pande (Naini Tal Distt.-*cum*-Almora Distt.—South West-*cum* Bareilly Distt.—North): Those who differ should be given more time.

Shri Biswas: I beg to move:

> "That the Bill to provide a special form of marriage in certain cases, for the registration of such and certain other marriages and for divorce, as passed by the Council of States, be taken into consideration."

I should like to make it clear at the outset that this is not part of the Hindu Code. There is that misapprehension in certain quarters. It is an attempt to lay down a uniform territorial law of marriage for the whole of India. It will be for you to consider whether the legislation which is before you has achieved that object. If it has not, I shall expect hon. Members to assist the Government in their endeavour to make this Bill a Bill of that character.

Sir, this idea of one territorial law of marriage for the whole of the country is not a new one. It originated—many of us will be surprised to here—so far back as 1868. It was the great Keshab Chandra Sen and leaders like him who felt such a law was necessary. And Keshab Sen took the initiative in this matter. In 1868, he put himself in touch with the then Viceroy and Governor-General, went up to Simla, had discussion with him and induced the Government to accept the principles of such a general legislation for the entire country. That led afterwards to the passing of what is known as the Special Marriage Act, Act III of 1872. It would be a mistake to suppose that that Act was passed only for the benefit of the *Brahmo Samaj*. No doubt, the *Brahmo Samaj*, community was principally concerned in this law, and it has been taken advantage of by members of that community. In order to be able to understand the provisions which were embodied in the original Act of 1872, it is just as well that I referred to a few facts. As you all know, the *Adi Brahmo Samaj* was the original sect of *Brahmos* that was founded by Raja Ram Mohan Roy. Then, about fifty years later, came into existence the progressive sect of *Brahmos* led by Keshab Chander Sen. Now, the marriage law of both the *Adi Brahmo Samaj* and the progressive sect was essentially the Hindu law of marriage, but there was a difference in the ceremony of marriage. The *Adi Samaj* retained portions of the orthodox ceremony, but the progressives omitted it altogether and substituted for it a special form which they devised, consisting principally of an exchange of mutual promises, accompanied by certain prayers. The question arose how far this new form of marriage was valid in law. The authority of custom could not be invoked in its favour, because this was of recent origin. Although the word 'custom' does not and may not bear the same meaning as in English law—for instance, in England, a custom, in order to fulfil the condition of antiquity, must be traceable

to the reign of Richard I—here, in India, I need not go so far back for the validity of custom, and usage for a sufficiently long duration will probably be regarded quite as good as a custom of long standing. As I said, doubts were entertained in many quarters in those days regarding the validity of the form of marriage which the progressive Brahmos adopted, and they themselves referred the matter to the Advocate-General, Mr. Cowie, for legal opinion. I have not got that opinion before me, but the opinion was against the validity of such marriages. Thereupon, the question arose as to what was to be done. In 1868, as I said, Keshab Chander Sen had already conceived the idea, along with some of the leading members of the community in those days, of a general territorial law of marriage. The opinion, which was given by the Advocate-General, gave further momentum to that movement and it then became absolutely essential for the progressive Brahmos to have a legislation which would render marriages celebrated in accordance with their new form valid. They petitioned the legislature for a special Act, and the result was Act III of 1872.

Shri R. K. Chaudhuri: You call that progressive?

Shri Biswas: I am giving you the history of the matter, and it is not for me to say whether this was progressive or regressive or aggressive.

Shri Bogawat (Ahmednagar South): What is the use of interrupting the hon. Minister?

Shri Biswas: The Adi Brahmos refused to believe and let it be believed that they were not Hindus, although they had departed from the orthodox form of marriage in respect of certain matters; in essentials, they accepted it. I need not go into the details of the *vedic* forms and so on and so forth. The Adi Brahmos claimed to be Hindus whereas the progressive Brahmos did not share that view. Therefore, the Special Marriage Act enacted a special form of marriage which would be applicable to persons who were not Hindus. In other words, the scheme of that Act was that communities, who had their own personal laws to govern them, were left to be governed by those laws, and it is only those, who did not belong to any of the recognised communities. .....

Pandit K. C. Sharma (Meerut Distt.—South): Recognised religions.

Shri Biswas: Yes, the communities are referred to by their religions such as followers of the Hindu, Parsi, Sikh, or Muslim religion. It is those who do not belong to these categories who come under this Act, and it was for them that a Special Marriage Act was passed. So far as people professing the religions which I have mentioned are concerned, they were left to be governed by the laws which already applied to them. That Act was passed in 1872, and it does not affect the validity of any mode of contracting marriage. It merely enacts a special form of marriage for certain people who did not claim to be still within the fold of those communities. That is what happened. The Bill was there, and advantage was taken of its provisions in Bengal mostly by members of the Brahmo Samaj, and I do not know what was the case in other parts of the country. You will find that it was laid down in that Act as originally passed that in order to be able to contract a marriage under its provisions, the parties to the marriage would have to sign a declaration that neither of them belonged to any of the religions specified. *i.e.*, any community which had any personal law to govern it. I will just as well read the actual words of that Act.

Shri R. K. Chaudhuri: If the hon. Minister will excuse me, he is handling this legislation as a sort of brief. I would like him to emphasise those points which coincide with his personal view, so that we may be guided by them.

Shri Biswas: If my hon. friend has a little patience, he will have everything from me. Possibly I may ex-

[Shri Biswas]

ceed the time-limit because I want to satisfy all the hon. Members.

Mr. Deputy-Speaker: The hon. Minister may take as much time as he wants.

Shri Biswas: I was just going to read from the Act of 1872.

It says:

> "Marriages may be celebrated under this Act between persons neither of whom, professes, the Christian, or the Jewish, or the Hindu, or the Mohammedan, or the Parsi, or the Buddhist or the Sikh or the Jaina religion."

Then you were required to sign a declaration in the prescribed form stating that you did not belong to these religions. The result was that in a large number of cases, although the parties claimed to be not Hindus on signing such a declaration to get married under this law—well, this was hardly the right thing to do; at any rate that was the opinion held by many people—when the question of succession arose, these parties who had married under this Act were not then prepared to say that they were not Hindus, because they wanted to have the benefits of the Hindu law for the purposes of succession.

Shri Gidwani (Thana): Only for marriage they said they were not Hindus.

Shri Biswas: Only for the purposes of marriage under this Act they gave the declaration that they were not Hindus.

An Hon. Member: Very wise people.

Shri Biswas: Wise or unwise I do not know, but this question arose in many cases and the Privy Council had to give its decision. The Privy Council said that mere departure from orthodox forms would not make a Hindu cease to be a Hindu. Then, there were cases in which it was held that the declaration required by the Act of 1872 was only for the purposes of marriage and would not affect the question of their being Hindus or non-Hindus for other purposes. So, the position was rectified in such cases. But, instead of depending upon the judgments of courts which might—on this last point I do not think there is a Privy Council decision—differ from one another, and the judgment of one court might not be accepted by another; instead of relying on such uncertain factors, many leaders thought that the best course would be to amend the legislation, and the honour of initiating such legislation fell to the late Sir Hari Singh Gour. He said: "what is this; for one purpose you say, I am not a Hindu, and for another purpose you claim to be a Hindu. It does not help anybody to encourage such practices. It is better that the Legislature should intervene, amend the Act and provide for marriages under that Act even between persons who would not be prepared to forswear their religion". Then, this amendment was introduced.

[PANDIT THAKUR DAS BHARGAVA *in the Chair.*]

After the words which I have already read, these words were added:

> "or between persons each of whom professes one or other of the following religions: Hindus, Buddhist, Sikh or Jaina religion, upon the following conditions:"

Shri Algu Rai Shastri (Azamgarh Distt.—East *cum* Ballia Distt.—West): Not Muslims?

11 A.M.

Shri Biswas: Not Muslims. I will explain it; just hold yourself in patience.

Sir, it was provided that if either party to the marriage belonged to one of these religions which are specified here, well, then the marriage could be solemnized under this Act. The religions which are specified in this context are: Hindu, Buddhist, Sikh or Jaina; Christian, Jewish, Mohammedan and Parsi religions are excluded.

Shri R. K. Chaudhuri: If either of the party belongs to Hindu religion, will they be governed by this Act? Supposing a Muslim wanted to marry to Hindu...

Shri Biswas: Under the provisions of the original Act, none of the parties to the marriage could belong to any of the recognised forms of religion mentioned therein. Now, two persons if they belong to the same religion will be allowed to marry, but this privilege is confined only to Hindus, Buddhists, Sikhs and Jains. That is because the main rights which were secured by this Act were monogamy and divorce. The religions which were excluded already provided for monogamy and divorce. The Christian marriage is monogamous and divorce is permitted. Muslims also have the right of divorce, though it is not monogamous.

Shri Punnoose (Alleppey): How do you say that Christians also allow divorce? Christian law does not allow divorce.

Shri Biswas: Except Roman Catholics. Sir Hari Singh Gour did not include these religions on the ground that those who professed them already enjoyed the benefits which it was the object of this law to provide for. That is the explanation. Although among Christians the Roman Catholics have recognised monogamy but not divorce, these exceptions were not taken into account, but it was on the general ground that the exclusion was made.

Then Sir, the question arises in what respect the present Bill which is before you is a departure from the original Act. I was questioned in the other House as to why I had not introduced just a short Bill amending the Special Marriage Act, just as Sir Hari Singh Gour amended the Act in 1923 by the addition of a few words. I was asked why I did not similarly bring in a Bill which will say that marriages will now be permissible under this law even where the parties belonged to different religions; that is to say, people could marry under this law irrespective of any religion—a Hindu could marry a Muslim; a Muslim could marry a Christian; a Christian could marry a Jain and so on. The question was put to me whether in this way it would not have been enough to bring in a short amending Bill making such a provision.

Shri R. K. Chaudhuri: Freedom of marriage.

Acharya Kripalani (Bhagalpur *cum* Purnea): And communists?

Shri Punnoose: Communists marry Praja Socialists.

Shri Biswas: Unfortunately, the stage has not yet been reached when the law will recognise these distinctions, either for political or social purposes.

An Hon. Member: It is all inclusive.

Shri Biswas: Sir, I will ask you to compare the Bill as I introduced it, the Bill as it has emerged from the Select Committee and the Bill as it has been passed by the Council of States. If you make this comparison, that will provide the answer to the question and complete justification for the step I have taken, —a step to bring a consolidated law into existence. If you refer to the Notes on Clauses which were appended to the Bill as I had introduced it, you will find a long list is given there of clauses which corresponded to existing provisions of the Special Marriage Act. I made no change whatsoever. I left those clauses as they were, specifically pointing out what they were. The idea was this. The original Act was enacted, as I have said, in 1872. Much water had flowed down the river since, and I wanted to find out the reactions of the public not merely to the fundamental change regarding the religion of the parties between whom marriages could be celebrated, but also to the other provisions—whether or not in public opinion they had become out of date and what changes

[Shri Biswas]

they suggested in respect of those matters. The opinions we received amply justified my action, because many amendments, many changes, were suggested in respect of some of the original provisions of the Act of 1872 which were retained in the Bill. Then, as I said the Joint Select Committee also got an opportunity because the Bill was not limited to any particular matter. It laid the whole Act open for discussion and amendment, if necessary, and they seized the opportunity of introducing vital changes.

Take for instance, the question of divorce. The original Act merely stated that the provisions of the Indian Divorce Act will apply, but the Divorce Act itself is a very old enactment. It applies to Christians here now. The Christians are not satisfied with its provisions. That Act requires to be amended in accordance with changing conditions. It has got to be brought up to date. In point of fact, I may state that we have under consideration a revision of the Indian Divorce Act for Christians, and the Christian Marriage Act is also under consideration. But, here what the Joint Committee did was to have a set of self-contained provisions for divorce to be applicable to marriages under this Act included.

Then, in regard to other matters also, you will find changes were made. As regards divorce, there were changes made, but the most, what shall I say, revolutionary change was made by the Council of States itself. Of course, if the whole Act was not open before them, if there was only short amending Bill, all this possibly would have had to be ruled out as outside the scope of the Bill. But I was in favour of comprehensive self-contained legislation which would take full note of the changes which have taken place in society since the original Act was passed in 1872.

There can be no doubt that this Bill has aroused considerable interest not merely among Members of Parliament but also outside if I can judge from the telegrams and letters I have been receiving almost every day. One interesting letter I might refer to in passing. One gentleman writes: "I have a daughter to marry, age such and such, complexion like this, qualifications such and such and so on and so forth: I want a bridegroom who should have these qualifications. But I leave it to you to choose the bridegroom for my daughter, and I want that this should be the first marriage to be solemnised under this Act, and it should be solemnised in your presence". I have not yet sent a reply. Possibly I shall do so after I get the reactions of this House. So, I say there can be no question that this Bill has aroused a good deal of interest among all sections of the community.

Shri Gidwani: Has the hon. Minister accepted the proposal? Is he arranging the marriage?

Shri Biswas: Did I not say I have not yet sent the reply and I am waiting for the reactions of this House?

Shri R. K. Chaudhuri: On a point of information, has he sounded the bachelor Members of this House with regard to that proposal?

Acharya Kripalani: Dr. Gidwani is a bachelor.

Shri R. K. Chaudhuri: No, you have not done it.

Mr. Chairman: The hon. Member need not interrupt.

Shri Biswas: Notwithstanding opposition, there has been a large measure of appreciation of the scope and object of this legislation. In fact, in the other House, if I might refer to it, the test that was applied in considering the amendments was whether the particular amendment would or would not encourage and facilitate marriages under this law. If they thought any provision would operate

in the slightest degree as an impediment, they at once said, delete it. What does that show? So great was the anxiety to have marriages solemnized under this uniform code of territorial law of marriage, that all obstacles were sought to be removed. They said, unless you did that, you would not attain the objective which is set out in article 44 of the Constitution.

This is a permissive measure. It is open to any parties to marry under the conditions laid down here if they so choose. It is not suggested that they must marry under this law. Much of the opposition is based on this misapprehension, as if the Hindus were bound to and could marry only under this law.

Then, another question was asked. The Hindu Marriage and Divorce Bill is already before the House. That also provides for monogamy and divorce. It was asked, why then have this separate law for the Hindus? Well, merely because the personal law of one community requires monogamy and permits divorce, it does not follow that there must not be a general law, and the general law must not make any provision for parties who have their own personal laws to govern them. If the Hindus think that the Hindu Marriage and Divorce Bill, when it becomes law, will give them all that they want, they need not come under this. This is purely permissive.

Shri Gidwani: My question is why should a secular State have a special law for it?

Shri Biswas: I shall leave all these questions to be decided by the parties concerned. We need not act as advisers.

Let me now refer specifically to some of the salient features of this Bill. The first is, as I have already pointed out, marriage under this law will not require the parties to forswear their religion or to declare that they do not belong to any religion. Any two persons residing in India will be eligible to marry under the provisions of this law. It is permissive, no doubt, but it is compulsory only to this extent that if they marry under this law, the conditions herein laid down must apply. They must make up their minds as to whether they wish to be subjected to these conditions. If they do not choose to be subjected to these conditions, it is open to them to discard this, and to marry according to the law which now governs them.

The Act of 1872 applies to two categories of persons, firstly to persons who do not profess any of the major religions of the country, and secondly to persons who profess the Hindu, Buddhist, Sikh or Jain religions. The result is that this Act does not permit any inter-religious marriages, unless the parties are prepared to forswear their religions. If they are Hindus, then both of them must be Hindus; if they are Buddhists, both of them must be Buddhists; if they are Sikhs, both of them must be Sikhs, and if they are Jains, both of them must be Jains, in order that they might marry under the Act of 1872, as it stands now. For the first time now, we are going to do away with all distinctions based upon religion. The Bill, if passed, will permit of inter-religious marriages. Religious differences are put out of the way altogether. Government feel that the time has now come when religious difference should not stand in the way of a couple getting together, if they feel that their lives are cast together, and the fact of their marriage should not in any way affect their religious beliefs. That is the main change.

Some Hon. Members: We on this side are not able to hear you.

Shri Biswas: If I turn to your side, the other side will not hear; if I turn to the other side, this side will not hear.

Mr. Chairman: If there is perfact silence in the House, it is likely that the hon. Minister will be audible.

Shri Biswas: Incidentally, I may also point out that the law will also apply to citizens of India, who may be residing abroad, and who want to take the benefit of this measure. So far as India is concerned, any two persons residing here, whether they are citizens or not, may marry under this law, and this will be the territorial law of marriage for India. As regards marriages abroad, it is only citizens of India, who are residing abroad, who will be entitled to marry under this Act.

Shri R. K. Chaudhuri: Can the Hindus residing in Pakistan, but who have not come to India, marry under this law?

Shri Biswas: If they are citizens of India, they will be entitled to marry even in Pakistan. But if they are not citizens of India, they cannot.

Shri Radha Raman (Delhi City): If one is?

Shri Biswas: This question was also raised in the other House. What about those cases in which one of the parties to a marriage abroad is an Indian citizen, while the other is not? That raises the question of marriages between citizens of this country and non-citizens of this country. That is a subject which should form the basis of special legislation on the lines of the U.K. Foreign Marriages Registration Act—I may not be giving the name of that Act correctly—but here, I may state that Government have under consideration such a measure. That will be a separate legislation dealing with cases where one party is a citizen of India residing abroad, and the other is a foreigner.

Shri Gidwani: But here, a citizen can marry a non-citizen.

Shri Biswas: Those cases will form the subject-matter of new legislation which Government have under contemplation.

Shri Radha Raman: Can we not include it in this?

Shri Biswas: It will not be appropriate here. That is a different question, and therefore, it ought to be dealt with on a different basis.

Another special feature of this Bill is in regard to registration of marriages. It is not a provision for registration of marriages solemnised under this Act. That is quite a simple matter. Even under the Hindu law, you may require, if you so choose, that what is called a sacramental marriage or *dharmic* marriage should also be registered for statistical purposes and so on. It is not that kind of registration, which I am speaking of, in connection with this Bill. The provision for registration here is that marriages which might have been solemnised in other forms will also be eligible for registration under this measure. The effect of the registration will be as if the marriage had been solemnised under the provisions of this law. It will attract the benefits which this law seeks to confer.

There are various questions of detail involved in this, which were raised there, and which may have to be solved here as well. I may just indicate one or two of these, for instance. The original idea was this. Suppose this law in its present form was in force at the time the previous marriage took place, the test is whether that marriage could then be solemnised under the Act. If so, it should be possible for the parties to the earlier marriage to get that earlier marriage registered under the provisions of this Act. The consequence will be that the provisions of this Act will apply retrospectively. That was the basic idea. But in working it out, several difficulties had to be faced. What would happen, if that earlier marriage was invalid? Will registration cure invalid marriages? Supposing it was invalid according to the law under which that marriage took place then, would it still be registrable so as to cure that defect? Then, the question of customary variations in certain respects, which would go to the root of the validity of the marriage, was also raised.

In South India, as we know, marriages are contracted between near relations, which would be considered repugnant in many other parts of the country. In Madras, I am told, a person could marry his sister's daughter. But that is considered to be within prohibited degrees of relationship in other parts of the country, and such a marriage would be regarded as an invalid or void marriage. In the present Bill, we have a provision in this regard. Although it is a general obligation that the parties must not be within certain prohibited degrees of relationship, we have not sought to define the degrees of prohibited relationship in terms in which they are defined in the Hindu law, by saying that they must not be *sapinda* relations; they must not be within so many degrees on the father's side, and so many degrees on the mother's side, and so on. What we have done as a result of the Joint Select Committee's advice is to prepare lists of relations who would be regarded as prohibited for purposes of marriage.

These lists were prepared without any reference to customary variations. These lists—one for man and one for woman—were prepared on general grounds of eugenics, that is, relations who would be considered consanguinous, between whom marriages should not be allowed on eugenic grounds. It is only such persons who are sought to be included in these lists. But if you have to admit customary variations, the lists would have to be very much widened or curtailed. We thought that this was a general measure for the whole of India and there ought to be no place in it for variations because of custom. If you want to marry according to your customary law, it is open to you to do so. You need not come under the provisions of this Act. This being an Act for the whole of India, irrespective of caste, community, religion and so on, it will not do to introduce or to find place for customary variations; it must be a general law applicable to all. If you say that we must make provision for the custom which prevails in Madras, then I will also have to provide for the custom that prevails in U.P. and so on. There are so many varieties of customs in such a wide country that cannot be helped. Are you, therefore, going to burden this general law with exceptions derived from or based on these various customs? The line that Government took was to avoid all reference to customs. When the Joint Select Committee was considering this question, they thought that in the case of marriages solemnised previously but proposed to be registered under this law, some allowance ought to be made for customary variations and, therefore, they introduced an amendment to clause 15 in which it was said that the degrees of prohibited relationship which were specified in the two lists should be subject to customary variations. I might just as well read only three or four lines regarding the change that they have made. The clause stood originally like this:

> "the parties are not within the degrees of prohibited relationship".

The Joint Select Committee added after these words some other words reading as follows:

> "...unless the law or any custom or usage having the force of law governing each of them permits of a marriage between the two".

Not in respect of marriages solemnised for the first time under this Act, but in respect of marriages solemnised previously under some other law is this exception made, that is to say, if that marriage was solemnised in accordance with the custom, then that also should be registrable under the Act. These are the questions which this House will have to decide. What I was just pointing out at this stage was that this new provision for registration of previous marriages is one of the special features of the Bill.

In this connection I might just refer to one other small point of controversy. In stating who are the parties

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who are entitled to register their previous marriages, we have said that one of the conditions to be fulfilled for registration is that so far as the previous marriage is concerned, a ceremony of marriage must have been performed between the parties and the parties must have been since living together as husband and wife. The question was specifically raised: does this cover marriages in regard to which some doubts might be entertained as to whether they were valid or not? Will invalid marriages or marriages of doubtful validity be covered and made valid by the fact of registration? That was one point which was raised and it would have to be considered by this House.

Shri R. K. Chaudhuri: What is the force of custom in this law? Is custom at all recognised?

Shri Biswas: The principal provision is that there is no place for custom. But these changes were sought to be introduced.

Then we come to the provision for divorce. As I have said, the Act of 1872 made the Indian Divorce Act applicable. The Joint Select Committee has now formulated a set of provisions which will cover the whole ground of divorce so far as divorce under this law is concerned. As I said, the Divorce Act is now regarded as out of date and it is under consideration, what changes should be made. In England, for instance, there has been a new Divorce Act passed, I believe, as recently as 1950.

These are the important features. First of all, there is monogamy, to which I have already referred, then divorce, then registration, and then this elimination of all considerations of religion. Then I suppose it would be appropriate if I now drew the attention of the House to four of the more important changes which have been made in the Bill in the Council of States. The first of these relates to the increase of the age-limit for marriage of boys and girls to 21. The provision in the Bill was—you will find that in clause 4—that the parties had completed the age of 18 years and that each party, if he or she had not completed the age of 21 years, had obtained the consent of his or her father or guardian to the marriage. The Joint Select Committee did not accept this proposal and they raised the age-limit for marriages to 21—both for the boy and the girl. Consequential on this, the provision for guardian's consent has gone out. With the age as 21, they will be majors and therefore there is no question of obtaining consent. Consent was required only in cases where the parties were 18 but below 21 years of age. Of course, 18 in the original Bill as I introduced it, was the limit laid down. That is because 18 is the age of majority under the Indian Majority Act for ordinary purposes.

Shri R. K. Chaudhuri: What is the age of majority under the present Act?

Shri Biswas: The age under the present Indian Majority Act is 18. But the Indian Majority Act does not apply for purposes of marriage and some other things. But we took the age limit.....

Shrimati Sushama Sen (Bhagalpur South): The Joint Select Committee, as far as I know, raised the age of the girl to 18, not to 21, and of the boy to 21. I think the Council of States made it 21, not the Joint Select Committee.

Shri Biswas: Whether the Joint Select Committee made the change or the Council of States made it, does not matter. The change has been made. There have been so many changes, so many discussions that I confess that I sometimes get mixed up, and I will ask the House to excuse me if I make such mistakes.

Shri C. D. Pande: You did not make the mistake. You were correct. She did not understand you.

Shri Biswas: The Bill as it is now before you makes 21 the age limit and

therefore all reference to guardian's consent has been eliminated. Of course, arguments can be advanced on either side.

Then the next change is as regards prohibited degrees. That I have already touched. I have read the amendment which was introduced in the Joint Select Committee to clause 15. That was not in the original Bill as introduced. The other House also retained this provision in clause 15. There were numerous amendments on one side or the other, but then ultimately, by a vote—I mean to say, it was a free vote in the other House—it was passed. Acting on my own personal view, I feel that in matters of social legislation, the decision should be left to the House, without a party whip. That is the course I follow.

Shri C. D. Pande: It has been agreed to by the party also.

Shri Biswas: If drastic changes are considered revolutionary, then, some sort of request—I don't say whip—will have to be made to those.....

An Hon. Member: Persuasion.

Shri Biswas: .....who are of that point of view. If anybody has conscientious objection, nobody will force him to go against his conscience. I think the best course would be that hon. Members should meet and discuss among themselves as to what should be the attitude. That might save a lot of time. If, clause by clause discussion goes on, if every clause is sought to be changed by an amendment, then it might require a far greater number of days, and therefore, at least for my sake, I would appeal to hon. Members to come to some agreed decision outside the House so that I may be saved the trouble of answering to every amendment. I am here to serve you, and I shall do my best.

The next question is regarding the legitimacy of children born of marriages which may be declared void. What marriages will be declared void or regarded as void? There should be marriages held in contravention of the basic conditions of validity of marriage, as laid down in the Act. These conditions are to be found in clause 4:

> "(a) neither party has a spouse living;
>
> (b) neither party is an idiot or a lunatic;
>
> (c) the parties have completed the age of twenty-one years;
>
> (d) the parties are not within the degrees of prohibited relationship; and
>
> (e) where the marriage is solemnized outside the territories to which this Act extends, both parties are citizens of India domiciled in the said territories."

These are the main conditions. If you insist on these conditions, then, there must be some sanction for it. Otherwise, if you say that although we are laying down these conditions, these conditions may be violated, with impunity, without attracting any adverse consequences, this becomes nugatory. So, some provision will have to be made in order that these conditions may be followed, as they are intended to be followed. But, at the same time, we have to recognise that we may be thereby vesting the sins of the parents on the children who may be born of an invalid or a void marriage. How are they responsible for their status? They have been brought into existence by parents by means of a union which is considered to be invalid, void, and so on. Therefore, we examined this clause to find out which of these conditions might probably be relaxed. Take, for instance, the condition regarding age. Suppose, the real fact is, that a party to the intended marriage, is 18 years of age. But the girl or the boy, in order that they may be enabled to marry, suppress the real fact, or it may be, they do not know the correct age.

In the declaration, they have got to give the age. They give it as permissible under the Act. Then it

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comes out upon evidence that that is not the correct age. Are you going to scrap that marriage merely because they were not of the requisite age at the date of marriage, although, at the date when the objection is raised, they had been living together, and had now grown up to be of sufficient age ? Would it be right in such a case to declare that marriage illegal and therefore to bastardise the children? That is not right. In England also, although the age is recorded, the age-limit is very low there—15. I believe any marriage which is held against the statutory age-limit is still allowed to stand, if, at the time of the objection, the parties have grown sufficiently old.

The other question is this. We say he or she must not be a lunatic or an idiot. After all, it is difficult to determine who is an idiot or who is a lunatic. The disqualification is that he must not be a lunatic or an idiot at the date of marriage. It is just possible and there have been cases where, although a person is declared a lunatic, a few years later, he becomes sane. One does not know when such a thing will happen. It is very difficult even for doctors—I am not a doctor—to say, to pronounce that a man is incurably of insane mind. He has to keep the man under observation. He may have to be placed before a psychiatrist. My friend, Dr. Jaisoorya will tell you whether it is possible to cure a person, who is supposed to be a lunatic, of his lunacy. Therefore, that is a condition which you may excuse in the interests of the children. So, the original provision we made was that...

Shri S. S. More (Sholapur): Why have this prohibition at all?

Shri Biswas: All these questions will be answered later. Therefore, the povision made by the Joint Select Committee was this: where a marriage is annulled on the ground that either party was an idiot or a lunatic or on the ground that at the time of marriage either party thereto had not completed the age, the children begotten before the decree is made shall be specified in the decree and shall, in all respects, be deemed to be and always to have been, the legitimate children of their parents. An argument was raised in the House.....

Shri S. S. More: What clause are you reading?

Shri Biswas: Clause 24(2). What was urged in the other House was, why should that be so in all cases. Why should you make an exception only in favour of children in the limited cases where the marriage is void on the ground that the party is an idiot or a lunatic or on the ground that the parties have not completed the age required?

Shri S. S. More: Will you please read from the Bill that has been introduced in this House? The clauses are not identical. We are confused.

Shri Biswas: I was going to say that this is what the Select Committee has done, and I am now referring to the changes made in the Council of States. Please wait till the last word is said on the question. I am just now indicating the provisions of the Bill, as it emerged from the Select Committee, and I am now going to tell you what the Council of States has done about it. What the Council of States did was to provide that irrespective of the grounds on which the marriage is declared void, whether it is because of non-compliance with ground No. 4(b) or 4(c), the children should be declared legitimate in all cases. In other words, even where the marriage was solemnized at a time when there was a spouse living, even if the marriage was solemnized between parties who were within prohibited degrees, we should condone these deviations from the rule laid down in rule 4, in the interests of the children.

We shall declare them legitimate even in such cases. The principle on which the Joint Committee took action was that the matter had to be looked at from the point of view of the

children, still within limits. But in the Council of States, they said it was limited in its scope and the scope should be widened. On whatever ground the marriage is avoided, the children should not suffer. Therefore, the Bill as it now stands before you reads like this, in clause 24.

Shri S. S. More: It is clause 26 now.

Shri Biswas: The numbering has changed and it is now clause 26. It reads:

> "Where a decree of nullity is granted in respect of any marriage under section 24 or section 25, any child begotten before the decree is made who would have been the legitimate child of the parties to the marriage if it had been dissolved instead of being declared to be null and void or annulled by a decree of nullity shall be deemed to be their legitimate child notwithstanding the decree of nullity."

The question is whether you will retain this provision in this amended form. That will have to be considered; I am not expressing any opinion. As a matter of fact, it was said that whatever we might do with the parents, whether the marriage was void on the ground of their being within prohibited degrees or not, the children should not be bastardised even in such cases. We appreciate that. But, what about succession? If you say that they remain legitimate, then they would be entitled to succeed in the ordinary way. They will be entitled to succeed not merely to the property of their parents, but also to that of their collaterals. So far as the father and mother are concerned, the children are their issues and therefore you may allow them to succeed to the property of their parents even if they are illegitimate—that might constitute a departure from the Hindu law which does not allow any illegitimate child to succeed—

Shri S. S. More: Under some limitations.

Shri C. D. Pande: Except under custom.

Shri Biswas: But so far as collaterals are concerned, if there is a father's brother, he might say, 'why should my property go to them? Why should it not go exclusively to my children, why should it go to the bastard children of my brother.' That is a legitimate objection. So far as the parents are concerned, they brought forth the children and they must take the responsibility for these children as well as for any other child who may be legitimate, whether by a predeceased wife or by a marriage which may be rendered valid by registration. Therefore, it has been suggested that an amendment should be moved to the effect that where such a child is declared to be legitimate, it should be provided that this will not confer on him any rights of inheritance to property other than the property of the parents, and that will be sufficient protection. That is a matter which the House will have to consider.

Shri R. K. Chaudhuri: Is there any time-limit? Supposing a marriage has been allowed within the prohibited degrees, is there any time-limit for the nullification of that marriage or can it be declared at any time?

Shri Biswas: A decree of nullity is provided for in two different kinds of cases. First, in the case of marriages which are void—void *ab initio*—and secondly in the case of voidable marriages. A void marriage means, in law, the marriage has not taken place at all. There is no marriage. There might have been concubinage but not marriage. Therefore, it relates back to the date on which the supposed marriage has taken place. The position will be as if there has been no marriage at all. But, in the case of a voidable marriage, the marriage remains valid till, on certain grounds, the court finally steps in and says that it is void. That becomes void only from the date of the decree of nullity.

Shri S. S. More: Is there any period of limitation?

Shri Biswas: You will not allow me to finish my reply, and you will come

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out with such questions. I was just going to answer the specific question which my hon. friend Mr. Chaudhuri has put to me. Only to give that answer, I was making these preliminary remarks. So far as a void marriage is concerned, there is no time-limit; it is void and it never existed. You can bring that before any court at any time. So far as a voidable marriage is concerned, there is no time-limit also except that it can be avoided only under the specific conditions laid down in the Act. As a matter of fact, the grounds for avoiding the marriage may be discovered at any time later. But it should be in the interest of the parties themselves that action should be taken to avoid the marriage at the earliest possible moment.

There are conditions specified in the clause itself. Suppose a marriage is sought to be avoided on the ground that fraud or force was practised in order to obtain the consent of one of the parties or the consent of the guardian where the guardian's consent is necessary; then the proceedings must be instituted within one year from the date on which the fraud took place or it was discovered. Subject to the provisions contained in the relevant clauses, there is no specific time-limit, for the purpose of avoiding marriages which are voidable and not void.

The last question is of divorce. The change is in support of divorce with consent. The new provision which they have introduced you will find as sub-clause (k) of clause 27:

> "has lived apart from the petitioner for one year or more or the parties refuse to live together and have mutually consented to dissolve the marriage;"

The mover of this amendment stated after the amendment had been accepted by the House that the word 'or' had been mis-placed. It should have read:

> "has lived apart from the petitioner for one year or more and the parties refuse to live together and have mutually consented to dissolve the marriage;"

In any case it does not express corrrectly what he wanted to propose. What happend was this. He gave notice of the amendment. There was this mistake. He got up; not only did he get up, but many others also got up and said this must be rectified, and that must be rectified, and so on and so forth. In the confusion, what happened, one does not know. When he moved the amendment, he possibly moved it with that mistake and after the clause was passed it was brought to our notice.

Shri D. C. Sharma (Hoshiarpur): May I know where this happened?

Shri Biswas: In the Council of States.

Even if we are to give effect to the wishes of the Council of States in this matter, it will be necessary to amend it for that purpose to give effect to the real wishes.

Shri S. S. More: We become the revising House now. (*Interruptions.*)

Shri Gidwani: Confusion in a confused House.

Shri Biswas: This is a question which will have to be considered, not only to see what verbal change may be necessary to give effect to the wishes of the mover, but also to go into the whole question of divorce by consent. It is a revolutionary measure; it is a departure from anything we know of in the marriage law of any community in India, except possibly in Malabar.

In Malabar, there is a provision for divorce by mutual consent. What I submit is this. Even if you accept this provision, it will be necessary to provide certain safeguards—safeguards, which have only got to be stated to find acceptance everywhere. For instance, you have to make provision for the children; you have got to make some

provision to ensure that the consent of the parties was really genuine and of their own free will, that it was not brought about by a strong husband coercing the weaker party, or even by a domineering wife coercing the poor husband.

Shri R. K. Chaudhuri: That is what is generally the case.

Shri Biswas: The court has got to be satisfied that there has been this consent genuinely given. Another point is also to be taken note of. Will you allow a marriage today and a divorce tomorrow morning? There must be some compulsory time-lag between the marriage date and the date of presentation of the petition for annulment on the ground of consent—one year, two years or whatever it is. If these safeguards are not there, it will be very hard and lead to complications. Even in Russia, where divorce by cosent was allowed.....

Shri Gidwani: No safeguards have been provided?

Shri Biswas: I am taking a little time to find out the exact provision from the book.

Shri Gidwani: It is in the interest...

Mr. Chairman: Let the hon. Minister proceed in his own way without any interruption.

Shri Gidwani: I wish to put him a question.

Mr. Chairman: The question is not to be put at this stage. Let the hon. Minister finish his speech and then it can be put.

Shri R. K. Chaudhuri: The hon. Minister is very helpful.

Shri S. S. More: We are trying to get more light from him.

Shri Biswas: You will please give me some more time to trace it. When I read it, I was very much interested and intrigued, and I must share my knowledge with my hon. friends here.

Shri D. C. Sharma: Very kind of you.

Shri Biswas: My hon. friend here (Shri Venkataraman) will find it out for me. There they have made a rule, if there is to be a divorce by consent, go to the court, state the facts and be done with it. They have provided that some application must be made to the court. There they need not specify any grounds. The court will hold an enquiry into the circumstances which have led the parties to come to such a decision and whether they were justified in calling for a divorce. The whole matter is left to the court, which will find out if there are justifiable causes, and if it is satisfied, it will make adequate provision for the children before granting the divorce. If you are interested in the law on the subject in the People's Republic of China.....

Shri R. K. Chaudhuri: Communist China?

Shri Biswas: The hon. Member may apply the epithet he likes. It says:

> "Divorce shall be granted when husband and wife both desire it. In the event of either the husband or the wife alone insisting upon divorce, it may be granted only when mediation by the district people's government and the judicial organ has failed to bring about a reconciliation."

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Even there, there must be some effort made by some responsible people, not interested directly in the parties, to bring about a reconciliation. After all, you may not call marriage a secrament as they do in Hindu law, but some sanctity must be attached to the matrimonial tie.

An. Hon. Member: Really!

Shri Biswas: Therefore, every effort must be made before you allow the parties to separate after they have brought themselves together of their own choice, and that effort must be made in order that they can continue united for as long as possible.

An Hon. Member: What magnanimity!

Shri Biswas: This is a matter which concerns not merely the parties, although they are vitally interested, but it concerns also their issue, and society itself. One swallow does not make a summer, but one bad example might vitiate the whole society. So, we have got to be very careful even when the parties choose to say that they agree to divorce by mutual consent. There must be some efforts made by intermediaries or by responsible people to see if the differences could not be adjusted. After all, life is a series of adjustments in all matters. I will just finish reading this extract:

> "In cases where divorce is desired by both husband and wife, both parties shall register with the district people's government in order to obtain divorce certificates. The district people's government.....

Shri R. K. Chaudhuri: Why not the Minister pause for some time till the mike is repaired?

Mr. Chairman: If interruptions are made, the hon. Minister will not be audible. Let the hon. Minister proceed.

Shri Biswas: "The district people's government, after establishing that divorce is desired by both parties and that appropriate measures have been taken for the care of childern and property, shall issue the divorce certificates without delay."

When only one party insists on the divorce, the district people's government may try to effect a reconciliation. If such mediation fails, it shall without delay refer the case to the county or municipal people's court for decision. The district people's government shall not attempt to prevent or to obstruct either party from appealing to the county or municipal people's court In dealing with a divorce case, the county or municipal people's court. must, in the first instance, try to bring about a reconciliation between the parties. In case such mediation fails, the court shall render a verdict without delay. That is a very significant provision which I do not find elsewhere.

> "In the case where, after divorce, both husband and wife desire the resumption of marital relations, they shall apply to the district people's government for a registration of re-marriage. The district people's government shall accept such a registration and issue certificates of re-marriage."

I shall now place before you the provision in the Soviet Civil Law:

> "Prior to July 8, 1944, either spouse had complete freedom to discontinue marital life without stating the reason therefor. The divorce was recorded by the Civil Registry Office, not only upon a declaration by both spouses but also upon a unilateral declaration by either spouse of his or her desire to discontinue conjugal life. Neither a statement of reasons for such action nor any judicial proceedings were required. The other party was summoned, but in case he failed to appear, the entry of the divorce in the Civil Registry Record was made, and the respondent had no right to oppose the divorce. In other words, just as Soviet marriage was merely a registration of existing marriage, the Soviet divorce was not a divorce but a registration of the fact that cohabitation was discontinued. The court admitted evidence of the fact if it was not registered and attached all legal consequences to it if proved."

All that was wanted was registration of the fact that they had separated by consent. It further says:

> "But since July 8, 1944, divorce has been granted only by the courts and only for reasons which the court deems justifiable." (This is a very important and significant change). "Such reasons are not specified by statute and are left to the discretion of the courts."

That is a very important change. Unfortunately, there are no statistics to show what are the grounds, or

in how many cases the court had refused a decree for divorce or a certificate of divorce. Only incomplete information is at present available regarding the grounds for which divorce is actually granted under the new law. While I am dealing with this, I might just as well read the conclusions regarding the number of cases in which divorce was allowed:

> "An analysis of 400 cases decided by eighteen various courts appeared in the July issue of the periodical of the Law Institute of the U.S.S.R. Academy of Science. The author of the article warns that the number of cases examined is too small to justify any general conclusions. His findings are reported here for what they are worth" (and I will also place them before the House for what they are worth).
>
> "Two-thirds of the suits examined either were instituted by mutual consent or were not contested by the other defendant, and in all of these cases the divorce was granted. Thus, it seems that mutual consent may become a ground for divorce in the Soviet Union. Divorce was not granted in six per cent of the total number of cases, but, if contested cases alone are considered, the percentage of divorces not granted is as high as twenty-three. Absence of guilt on the part of the defendant is the reason assigned for refusal to grant divorces. In all cases where divorces were not granted, the parties had children." (In other words if the parties had children, they would not get a divorce). "However, the author is not prepared to state to what extent the presence of children may have influenced these decisions. In the contested cases examined, divorce was granted for the following reasons: the defendant was guilty, in particular he had committed adultery or his behaviour in every day life was proved such as to make life together impossible; mutual guilt made life together impossible; continuation of life together became impossible for reasons for which no party was to blame *e.g.*, long absence or chronic disease."

That is the position.

Shri R. K. Chaudhuri: Adultery is an offence in India. Is it a criminal offence in those countries also?

Shri Biswas: I know nothing about the criminal law in Soviet Union and so I would not hazard any reply to the question. I only looked into the law of marriage and divorce and I thought it useful to place before the House what I found therein.

Shri R. K. Chaudhuri: I want to know whether you look at it as a criminal offence or not?

Shri Biswas: That is all I can say. Sir, I beg your pardon. I began at about 10.35 or so and I thought I would take half an hour or at the most 45 minutes. It is now ten minutes past twelve. I thank you, Sir, for giving me this opportunity and I thank the hon. Members for the attention with which they received my speech.

Mr. Chairman: Motion moved:

> "That the Bill to provide a special form of marriage in certain cases, for the registration of such and certain other marriages and for divorce, as passed by the Council of States, be taken into consideration."

Shri C. C. Shah (Gohilwad-Sorath): Sir, I thank you for giving me this early opportunity to participate in the debate on this Bill. This Bill and the oher Bill, namely the Hindu Marriage and Divorce Bill which we have recently sent to the Joint Select Committee, are two very important and also very controversial measures, and if I may respectfully say so, I regret that this Bill which is so important and controversial should have been introduced and discussed first in the Council of States and then brought to this House. I

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think there should be a convention that all important and controversial measures should first be introduced in this House before they are taken to the other House; that will save a lot of time and also a great deal of other complications. But, that is a submission which I am making for the consideration of the Government.

Sir, I was saying that this measure is controversial because it touches a province of life which undoubtedly concerns each one of us, literate or illiterate; man or woman, and it touches us so intimately that each one of us holds views upon the subject, sometimes strongly, and all those views are not necessarily what one may call 'rational' because in my opinion there is very little which is rational about marriage or divorce. It is a province of life in which reason rules the least. Therefore, our opinions are based more upon our own experience, temperament, social upbringing and the conditions of life in which we live, rather than a purely rational or intellectual approach to it. I would not therefore be surprised if each Member here has his own views and some of them very strong.

The measure is also very important for this reason that every marriage law seeks to regulate the relations between man and woman. We regulate by legislation many human relations, industrial and others, but, this is a relationship which has the most intimate relationship between man and woman, and any law which seeks to regulate that relationship is bound to be the most important. It affects society in the most intimate manner, and not only it regulates that relationship but it seeks to regulate in a manner which may be distressful to many and impose restrictions which may not be liked, because marriage after all is an institution and is not a personal affair. But in its consequences it is a social institution and therefore has consequences much wider than the personal happiness of the individual spouse concerned in the marriage. Therefore, society seeks to impose restrictions upon the spouses which do not necessarily take into consideration the personal happiness of those who are concerned. Therefore, such restrictions, as I said, are resented on the ground that they either invade upon the individual liberty of the spouses or their personal happiness; and yet, every society has found it necessary to impose such restrictions. If you look at human history, every society and every climate has envolved various forms of marriage right from monogamy, to polygamy, polyandry, group marriages and almost all things. From promiscuity we have travelled to monogamy. It has evolved various forms of divorce. In some cases it has denied divorce while in others it has permitted that under very restricted conditions, and in some cases it very liberally permitted divorce. In some cases even where divorce is liberally permitted, public union has been so strong that in spite of the permission given by law, the parties have not been able to avail of this permission. Marriage touches various aspects of man's life; religion comes in, morality comes in, the psychological development of the individual himself comes in; economic conditions in the society and particularly inheritance have determined the conditions of the forms of marriage. These are all factors which every society must take into account in determining what shape its marriage law must have, and marriage law must necessarily change according to the changing conditions. These two basic conditions, if I may respectfully say so must be observed, when by marriage a man or woman enters into a union where each of them agrees to live with each other, if possible for life, and it is intended to be or ought to be intended to be for life. That is the first consideration of any valid marriage. Divorce may be permitted under certain circumstances, but it is a consequence which follows

under contingencies which are at times beyond the control of the parties and therefore the intention of every marriage law must be to evolve a law which will make for stability of marriage rather than for its instability.

The condition of a marriage law is that it should try to obtain the personal happiness of the individual spouses as much as possible, consistent with the social demands and the necessity of the children. I submit these are the two basic conditions.

We talk too much of religion and morality in marriage, and my respectful submission is that when we talk of religion and morality, we only talk of the Church and priesthood rather than what I may call absolute morality. So far as the morality of the individual is concerned, when he enters upon a marriage in which he says "You are my wife" or "I am your husband", it is the greatest restraint, it is the greatest self-denial which a man or woman places upon himself or herself, and the marriage is founded on that self-denial and restraint. Therefore, the object of every marriage law must be to strengthen that spirit of restraint and self-denial, and not to permit that restraint to be relaxed asily or lightly.

Hindu law in that respect has been very realistic, and very progressive. It has allowed all forms of marriage. It has recognised all kinds of children—eight kinds of marriages and so on; I do not want to go into the history of it. The approach of Hindu law to the problem of marriage has been extremely realistic, and it has changed with changing conditions until the British, after 1857, for reasons of their own, stated that they would not interfere with the marriage laws and in the religious sentiments of the Hindus. Since that time, the law became static, and the time has come when we should take stock, so to say, of the present situation and consider whether the marriage laws of the Hindus, or, for the matter of that, of all the communities residing in India are enough to meet the demands of the situation.

But, even when the Hindu law, taking a realistic approach, recognised various kinds of marriage and permitted divorce and widow re-marriage, it set before itself the ideal that the marriage shall be for life and indissoluble, and it cultivated public opinion to a degree where even the most illiterate man considered it his duty to be able to follow that ideal rather than lightly give up that ideal. That is what we should also try to see, that in trying to change the marriage law to suit the conditions, we do not relax what should be the ideal of any marriage system in any country or in any climate of the world.

The present condition in India is that we have marriage laws which are personal to each community—to the Muslims, to the Parsis, to the Christians, to the Hindus; and among the Hindus themselves there is a varity of customs from one end to another which does not make, in my opinoin, for progress. The time has come when we should try our best to evolve a uniform system of marriage law for the whole country.

The Constitution has envisaged that—and the Constitution has enjoined upon us—we should try to evolve a uniform code and therefore I welcome this effort which is the first step in trying to evolve a uniform code of marriage and divorce which will apply to all communities in India and, as the Law Minister rightly pointed out, a territorial marriage law; because, today India has achieved a political unity which it never had in its history and today the country is ruled under one Constitution which it never was, and therefore it is necessary that the marriage law which governs the entire society should also be, as far as possible, of a uniform level. But that task is not easy and cannot be easily achieved. Therefore, the present Bill is only a permissive piece of legislation. While the Hindu

[Shri C. C. Shah]

Marriage Act or the Muslim Marriage law is compulsory in the sense that a Muslim who wants to contract a valid marriage must contract it in that form, or a Hindu must contract it in that from, this piece of legislation, to begin with, is permissive, but with an effort to evolve and try to induce people to take advantage more and more of this law in order that the system of marriage and divorce may be uniform.

We have two Bills before us—the Hindu Marriage and Divorce Bill and this Special Marriage Bill. My submission is that the two of them are so interconnected that it will be advantageous—I am making this submission for the hon. Law Minister to consider—to consider both the Bills, if possible, simultaneously. Because the Hindu Marriage and Divorce Bill apply to the large majority of the people of the country. The Special Marriage Bill which is intended to be uniform so as to apply to all, must also take into account what the Hindu marriage law is, what the Muslim marriage law is. For example, take the law of divorce. I can understand there being varieties or special custom in the marriage law, but so far as divorce is concerned, I take the view that the divorce law can and must be immediately made uniform so as to apply to all commuities.

For example, take the Hindu Marriage and Divorce Bill and the Special Marriage Bill, and read the grounds of divorce In the Special Marriage Bill cruelty is made a ground of divorce. In the Hindu Marriage and Divorce Bill it is not a ground of divorce. In the Special Marriage Bill adultery is made a ground of divorce. Under the other Bill, only if you keep a concubine or your wife has become the concubine of somebody else it becomes a ground of divorce; but not casual adultery. I do not know whether for a Hindu marrying under the Special Marriage Bill cruelty becomes a ground of divorce, but in the case of a Hindu marrying under the Hindu Marriage and Divorce Bill, he may be cruel but his wife cannot obtain a divorce. That is a thing I cannot understand. I do not know whether it is the view of the legislators that for a Hindu casual adultery is permissible and need not be a ground of divorce unless he keeps a concubine in the house and descends to that level, or his wife becomes the concubine of somebody else. I submit we are making the grounds of divorce, the divorce law itself, the custody of children, the rules of alimony etc., in one economic society, one social fabric, and therefore my submission to the hon. Law Minister is that both the Bills should be considered together. Though in theory the Special Marriage Bill is of wider application, in practice it is really supplementary to the Hindu Marriage and Divorce Bill, and therefore, being supplementary to it, I would say that we first consider the Hindu Marriage and Divorce Bill and then consider the Special Marriage Bill, so that we know precisely where the majority community stands, what it wants, what its needs are, what its views are.

Shri Biswas: Is it your suggestion that though there may not be one uniform marriage law for the whole of India to day, there may be one uniform law in respect of certain parts of marriage law—for instance, questions of divorce, alimony, judicial separation and things of that kind; that these may be the subject-matter of a common law which will apply to all?

Shri C. C. Shah: That is precisely my suggestion. Now, what are the special features of this Special Marriage Bill? I will leave aside the Hindu Marriage and Divorce Bill.

The first and foremost feature of this Bill is that this Bill declares that religion shall be no bar to marriage. That is a fundmental principle underying this Bill, that religion shall be no bar to a marriage between a man and a woman. It is for us to consider whether we approve of that principle.

The second principle underlying this Bill is that any caste or any *gotra* or any *sapinda* relationship except the prohibited degrees will be no bar to a marriage, and the entire object of this is to make it what we may call a civil marriage. It also prescribes a uniform system of prohibited degrees. These fundamental principles underlying this Bill..

Mr. Chairman: Fifteen minutes have already been taken by the hon. Member.

Shri C. C. Shah: It is not often that I take the time of the House. I may, therefore, be allowed to take a few minutes more.

Shri D. C. Sharma: May I know the time that has been allotted for this Bill?

Some Hon. Members: The hon. Member may go on.

Shri C. C. Shah: So far as the prohibited degrees of marriage are concerned, I will only take clause 4. If you look at these prohibited degrees of marriage, you will find that it will shock some, for it permits certain kinds of marriages which in certain parts of the country are regarded almost as incestuous. The problem before us is this. I submit that in a uniform code of marriage law, we must have uniform phohibited degrees of marriage. To permit customary law to come into it would be to deny the fundamental principle of this Bill. When you have to evolve a uniform system of prohibited degrees, you will be permitting some which are: unacceptable to a few, and you will be prohibiting some which are acceptable to a few. What is the principle on which you will evolve the prohibited degrees of marriage? The hon. Law Minister has rightly said that it will be the eugenic principle. But one does not know what eugenic principle is this. When you go to evolve a uniform system of prohibited degrees, you can only take the minimum and not the maximum. It is a very acceptable principle that you can only take the minimum, and not the maximum. If you take the maximum, you will be depriving many persons from taking advantage of this Bill, which it is your intention that they should. Therefore, my submission is that we should retain a uniform system of prohibited degrees of marriage, and should not permit the customary law to come in, so far as this Bill is concerned. I shall deal with clause 15(c), when I come to it.

The next question is about age. That is, of course, in my opinion, a minor question. I find that the age of twenty-one has been put here. If it offends the susceptibilities of a few, I should say it should be eighteen for girls, and twenty-one for boys. I would not bring in the consent of guardians, for that introduces complications which we could avoid easily. I would not mind even if it remains twenty-one uniformly for both. But this being a tropical country, I am told, girls may mature early, and therefore, even if it be.....

Shri C. D. Pande: Not mentally.

Shri C. C. Shah: ...eighteen, it would not be wrong.

There are many other provisions of this Bill regarding objections, and the manner of dealing with those objections has been dealt with in a very forceful not by my hon. friend Shri Tek Chand—he always writes forcefully. Those objections will be considered at the proper time. But there is one thing where I wholly agree with Shri Tek Chand, and that is in regard to the fact that the objections must be considered by the Marriage Officer, and not by a court of law. I do not want that the marriages should be delayed by the carrying on of a suit, which may take some three years before a decision is pronounced. I, therefore, accept the amendment made by the Select Committee that the objections must be considered by the Marriage Officer, and if any party is aggrieved, then he can go to a court of law.

Now, I come to chapter III of the Bill. I do not want to be misunderstood on this point. I do not object

[Shri C. C. Shan]

to chapter III as such, but my submission will be that chapter III does not serve the purpose for which it is intended, and creates complications which can be easily avoided. Now, what is the intention of chapter III? It permits the registration of marriages which have already taken place; it permits also the registration of marriages which are valid, which may or may not be valid, and which may be of doubtful validity. It permits both, but it does require that a ceremony of marriage must have been gone through. Therefore, it does not permit registration of—if I might call—unions of men and women, in which they never intended to live as husband and wife, but are, for instance, living as paramour and mistress. That is not what is intended to be covered by chapter III. But what is intended to be covered by chapter III is that when a man and a woman have gone through a form of marriage or a ceremony of marriage, but for some reason or another it is doubtful whether that marriagfe is valid,—or even if it is valid,—it should be registered under this Bill. I want to ask, what is the object of doing so.

I shall first take the case of valid marriages. A valid marriage remains a valid marriage. The only objects which you can achieve by registering it under this Act are three, as far as I can see, monogamy, divorce and succession under the Indian Succession Act. So far as marriage and divorce are concerned, the Hindu Marriage and Divorce Bill provides for it. They are already permitted for the Parsis and Christians etc. excepting for Muslims, for whom divorce is permitted, but not monogamy. I shall come to that separately. I ask, how many persons there are who will take advantage of this permissive piece of legislation to register an already valid marriage under this Act, because, so far as marriage and divorce are concerned as I said earlier, the majority community will be governed by the Hindu marriage and Divorce Bill. If a man wants that the succession to his property should be governed by the Indian Succession Act, there is nothing to prevent him from making a will, and then he can give his succession according to his own wishes.

Shri Altekar (North Satara): Under the *mitakshara* law, he cannot make a will. (*Interruptions.*)

Shri Tek Chand (Ambala-Simla): What about succession on intestacy?

Shri C. C. Shah: He can voluntarily separate at any time, and then make a will. There is nothing to prevent him from doing so. As I said, probably one in a thousand, or ten thousand may go out of one's way to take advantage of this.

Shri C. D. Pande: May I point out one thing? This is intended for covering cases of inter-religious marriage, where the parties did not choose to renounce their religions at the time of marriage and yet contracted a marriage. Such marriages are not valid so far, and they will be validated under this Bill.

Shri C. C. Shah: I was considering valid marriages in the first instance. It covers both. That is what I am trying to point out. If you come to marriages which are not valid, we have already passed the Hindu Marriages (Validation) Act. My submission is that to make a law which gives a sort of a blank cheque, that you can enter into any invalid marriage, but that you can at any time come and have it validated under this law, is, I think, passing a piece of legislation which is going too far in my opinion.

Shri Venkataraman (Tanjore): No.

Shri C. C. Shah: You may say, no, of course. There is nothing progressive or regressive about it. You can take it from me. You may consider it more progressive. But opinions differ. But if I am in favour of mono-

gamy, if I am in favour of divorce, and if I am in favour of the view that the woman and the daughter should get inheritance under the Hindu law, there is nothing progressive which you are providing for by this chapter III. That is what I am trying to point out.

I shall now deal with clause 15 (e), wherein the word 'custom' has been added. If your object is to make this piece of legislation as progressive as possible, whatever you may mean by progressive, ...

Shri C. D. Pande: All progress in Civil Marriage and all precaution in normal one.

Shri C. C. Shah: ...undoubtedly, you may retain this provision there, because all that a man has to do is that even though a marriage under this Act is not permitted under clause 4, he can contract that marriage even though it is within the prohibited degrees of marriage, and quietly come under clause 15, to have it registered. If I might use a language which law is known to, it will be a fraud on the law. But if for progress, you want to permit it, it is for others to consider.

Shri Biswas: A marriage to be registered must not be a marriage under this Act, or the Act of 1872. That is provided for in that clause which reads:

> "Any marriage celebrated, whether before or after the commencement of this Act, other than a marriage solemnised under the Special Marriage Act, 1872 (III of 1872), or under this Act, may be registered."

Shri C. C. Shah: Under the personal law also.

I shall deal briefly with clause 18, which is another controversial clause. In my opinion, if we are to retain chapter III, clause 18 as it stands must stand for two reasons. The validation of the marriage after registration under this chapter must be from the date of such entry and cannot have retrospective effect, because it will have undesirable consequences. The second part of this clause relates to children born after the date of the ceremony of marriage, and that is intended to provide for marriages which are invalid, and where the children are not legitimate by reason of that; by means of this provision in clause 18, we want that those children should be deemed to be legitimate children It is intended to cover the cases of valid marriage, where the children themselves are there. As I said, the whole of chapter III, because it provides for two things which are entirely separate, namely, the validation of a doubtful marriage, and the registration of a valid marriage, which are two concepts that are entirely separate, creates a lot of confusion.

Then I come to chapter IV which deals with the consequences of marriage under this Act. As regards compulsory severance from the joint family, strong minutes of dissent have been written, and strangely enough, those strong minutes of dissent come from the lady Members themselves. Shrimati Renu Chakravartty holds views as progressive as any can hold. I am told that section 19 is intended to benefit the women, and yet if woman Members themselves do not want it for reasons which they have explained, it is for Government to consider whether we should insist upon it.

Shri D. C. Sharma: There are women outside this House also.

Shri C. C. Shah: I am not expressing any opinion. All that I was saying...

Shri A. P. Sinha (Muzaffarpur East): There are men also outside this House.

Shri C. C. Shah: As regards section 22, restitution of conjugal rights, I think a stage has come when compulsory restitution of conjugal right is a thing we should give up. It is a decree which has got no machinery to enforce. There is no purpose in compulsorily ordering it.

Shri Biswas: There are some contracts which do not admit of specific performance.

Shri C. C. Shah: If it is specifically mentioned, I will have no objection.

I will now briefly deal with divorce. I have already said that I consider it is too late in the day to say that there should be no divorce. There may be some who think that way. But I think it is too late in the day. I should think that we must consider divorce to be a sort of necessary evil. While the law should make it easy, public opinion should be so strong that people will not lightly or easily take advantage of it. It should be like widow re-marriage. No law in the world, in my opinion, has given rise to so much perjury in courts as divorce. If you read the proceedings of divorce courts in England or in any of the western countries, you will be amazed at the amount of perjury which the witnesses and the parties can indulge in, and the courts, knowing that it is all perjury, are helpless to prevent it.

Shri D. C. Sharma: What is your remedy for it?

Shri C. C. Shah: My remedy is this. If we are to permit the law of divorce, we should not impose impossible or impracticable conditions. We should permit divorce if it becomes necessary. But, it is no use on the one hand saying that I will allow divorce and on the other, saying that I will impose conditions which are impossible or impracticable. There may be no greater happiness than out of a marital union; but there can be no greater misery than the union of people who are compelled to hold together in a cage, so to say, where they intensely dislike each other. Therefore, there is a test which I put that in permitting divorce, we should see that we do not permit it to a degree where the instability of marriage increases. The hon. the Law Minister just now read out to us some passages from the Soviet law. They began at one end and they are going at the other end. Every society, so far as the divorce law is concerned, went from one extreme to another and the pendulam will continue to swing from one end to the other, whatever may be our personal views.

So far as divorce by mutual consent is concerned, I believe it is a step too hasty. Not that I am opposed to it under certain conditions. But considering the instability of the human mind, considering that man likes more to give up restraints than to keep them, considering the society in which we live today where the occasion to coerce either one or the other into consenting to divorce is there, I think it is a step which is hasty. I do not object to it on principle. On principle, a divorce law must permit divorce even when either party wants it, but it is a purely rational view. That is not the view which we shall ever take on this. Therefore, I submit that so far as divorce is concerned, we ought not to make it impossible or impracticable.

Dr. Rama Rao (Kakinada): I support this Bill in spite of its defects. The main step, as has been pointed out by my friends, is that for marriage under this law one need not renounce one's religion, one need not renounce one's caste. It is a permissive law; we have it after nearly 80 years.

The hon. the Law Minister has given the history of the Special Marriage Act of 1872 commonly known as the Brahmo Marriage Act. There one was compelled to say that one did not belong to any other established religion. Here we have gone one step further and said that any person belonging to any religion, subject to other conditions, can marry under this Act. You know the history of marriage is very long and very interesting, and in some

cases, almost shocking. But we have come to this stage where monogamy is essential. We want monogamy by law, though I know some influential persons, including some Members of this House, do not believe in that, and that at least as far as the Hindu society is concerned it should not apply. There is Mr. N. C. Chatterjee's opinion given before the Rau Committee, 'we are opposed to monogamy being made a rule of law'. There is another very interesting opinion by Mr. P. V. Rajamannar, at that time Advocate-General, of Madras, who said: 'I agree to the provision of divorce, but not to the strict enforcement of monogamy. If monogamy is enforced on a man who is polygamous by nature, it would only lead to increased concubinage'. Well, there are others who say that healthy and wealthy people must be allowed to marry again and so on. But it is generally accepted that monogamy should be enforced by law.

Next I come to the question of freedom of choice. After various stages in human history, we generally accept that young men and young women must choose their own spouses. Of course, I know our orthodox friends do not like this. They want to live in feudal and pre-historic times in the 20th century.

Shri Nand Lal Sharma (Sikar): Ram Rajya.

Dr. Rama Rao: Our friends will oppose everything, but they practise everything. (*Interruptions*). I mean is seriously. Hindu law has evolved through so many stages that it contains so many provisions, some mutually contradictory, some very high, some which we have to admit are rather wrong—I would not use a stronger word.

Shri Nand Lal Sharma: Hindu law is there.....

Dr. Rama Rao: Hindu law is not the monopoly of our esteemed friend, Sharmaji, but my point is this.

[SHRIMATI KHONGMEN *in the Chair.*]

Shri D. C. Sharma: On a point of order, Madam. Whenever the name 'Sharma' is mentioned, the initials should also be given because there are so many Sharmas here. We get confused.

Shri Nambiar (Mayuram): It is not Shri D. C. Sharma. That is all we want.

Dr. Rama Rao: Before I proceed further, I would like to mention one thing to our friends who fear that religion is in danger. I submit religion is in danger not by such progressive and permissive legislation, but by tightening up the chains they want to enforce. For instance, take the previous Marriage Act which compelled them to renounce religion and accept some other religion or declare that they did not belong to any other religion. We know several people who joined other religions only for the sake of marriage. If our friends are very anxious about their religion, they should welcome this step. Of course 'religion in danger' is an old cry. Christ was crucified because 'religion was in danger'.

Shri V. G. Deshpande (Guna): Christ was the father of a religion.

Dr. Rama Rao: He was crucified later on. Other Christians came. You know the story of Galileo. Galileo, because he invented the telescope and said that the earth and the planets are going round the sun, was hauled up before the religious court. You know, those days the sentences were very harsh, to put it mildly. This great scientist confirmed by the telescope what had already been enunciated by Copernicus that the planets are revolving round the sun and not the sun and the planets round the earth. Then they shouted: "religion in danger." I leave this there.

At the beginning of the past century, when we were burning our widows on the pyre and Raja Ram

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Mohan Roy and others started the movement against the *sati* and William Bentinck helped them, our friends like N. L. Sharmas and Chatterjees—all those people—shouted "religion in danger." Even in our own life-time, the Sarda Act was brought in to prevent marriage of girls of ten, seven, five or even three years. Then also they said: "religion in danger". There has been a cry by wrongly shouting, "religion in danger". It was a step taken by the conservative mind, by the chains that they wanted to enforce, and not by the permissive and progressive step.

Shri Nand Lal Sharma: Not by breakneck speed.

Dr. Rama Rao: I suggest to Shri Sharma and others to use their powers of oratory and scholarship to ask the conservative, old Hindu society to adopt itself to the changing times, and move with the times, and not to justify every wrong custom that has been the bane of this society.

Shri V. G. Deshpande: Members should not justify every wrong piece of legislation.

Dr. Rama Rao: So, in this connection, this cry of 'religion in danger' is no good. Take, for instance, untouchability. There has been no greater disgrace on Hindu society than this most heinous custom of untouchability. Our friends, Shri N. L. Sharma and others, must ask their leaders and other friends to allow these so-called untouchables to enter the temples, and not obstruct them. By their steps, religion is in danger; not by other steps. So, religion is not in danger.

I was listening to Shri Biswas the other day. His point was mentioned also by Shri Nair—about the ancient texts and criticising them. He said it was highly unpatriotic to criticise our ancient texts. Well, ours is a great, old religion. There are so many texts, and there is so much good in them as also so much horrible things. There are what are called *shastras* which give directions. We appreciate them, and we know that in the whole of the human history, nothing resembles our ancient land where there is so much, and we know we are as good as any other society, but that does not mean we accept rotten custom. Rather, good customs have become rotten and we say this is religion, and to criticise that, is wrong! I am prepared to take a lesson from anybody, but I would not believe that all rotten things in the country must be believed in, must be strengthened, must be supported and appreciated. That is not patriotism.

An Hon. Member: Is it 'rotten' or 'wrong'?

Dr. Rama Rao: You can call it 'wrong.' Take this untouchability. Just because some *shastra* says somewhere that a particular thing should be followed, we follow it! Even in *shastras*, most of the things are contradictory, and most of them are interpolations. Take Manu. It is said there that if a non-brahmin hears the Veda, you must pour melted lead into his ears. If you justify these things....

Shri Nand Lal Sharma: I would like to know wherefrom he quotes.

Dr. Rama Rao: I am not a Vedic scholar like Sharmaji, but I don't say that it is written definitely by Manu. There are so many interpolations. (*Interruptions*).

Mr. Chairman: Let there be no talk in the House. Let Dr. Rama Rao proceed.

Dr. Rama Rao: My only point is, things have changed. Many wrong things have been accumulated. Many have been interpolated. Patriotism does not mean that we can justify anything. Just because something is old, ancient, I do not say that to

follow it is patriotic. I think I have taken up much time that is allotted, and I therefore come to the Bill now.

Divorce in marriages is freedom of choice. People must have environmental circumstances where they can choose their own spouses and restrictions must be few and far between. Of course, human society, human civilization, is a history of adaptations, compromises between individual and society. I shall refer to a few aspects of this Bill. First I will take up that most controversial thing, called by the hon. Law Minister as a revolutionary change—that is, divorce. I am referring to clause 27, sub-clause (k). Here, he has already mentioned that there is some confusion about this word 'or'. It was the intention of the mover that it should be 'and'. We have given amendments to that effect, to substitute 'and' for 'or.' So, I request my friends to read this clause and give their opinions. It is not like asking any two people to go to the court and ask for divorce. It presumes certain things, certain restrictions. They have been married for some time. Probably, they have quarrelled, or they have suffered. There are four conditions which I want the House to remember. The so-called divorce by mutual consent has several apprehensions: first, they have lived apart for one year or more; after they have quarrelled or enjoyed life, they are separated; they thought that life was impossible, that life was hell. They are already living for one or more years separately. Do not forget that aspect. Not only that. They refuse to live together hereafter. They come to a decision that they cannot live together any longer. They want divorce by mutual consent. Therefore, when we consider this divorce by mutual consent, we should remember that these people who have married, who have lived together and who have suffered, have now come to the conclusion, most unfortunately, that they cannot live together and life is a hell, life is a misery. Therefore it is an outlet providing them with permission to separation. They have lived separately already. I want Members who oppose this to remember this point. They have decided that they cannot come together and they now wish to be separated. I ask: why compel them to wash all dirty linen in the courts? They think it is impossible for them to live together. They want divorce by mutual consent. Why should you want them to produce evidence of adultery, evidence of cruelty, evidence of medical certificates and all that? If you view this thing in a reasonable and sympathetic light, you would not find it so very revolutionary, so very objectionable, so very frightening.

Now, I come to the question of age. Our friends have been over-enthusiastic about age. They have made it 21 years. That is, a girl aged 20, even though she may be educated and a graduate, if she wants to marry a particular person she cannot do under the Bill as it is. As our friend Mr. Shah said, it should be 18 years. I do not say that all girls of 18 should marry. They must have the freedom to marry. The problem of girls marrying is increasing day to day. It is a problem which many of us know. A man meets a girl; she is an angel for him; he wants to marry her but Mr. Biswas comes in the way and says they cannot marry and she must wait for one year. By that time—I am not saying it as a joke, it is a practical problem for many of us—she misses the chance. She misses the bus. After 21, it is not possible for her to get a suitable match, a suitable young man. If she loses a chance of proper marriage, then a lot of other complications come in. So, it is absolutely unnecessary to make this compulsion. By 18 years, she is already a major and 19 years or 20 years, she must be allowed to marry.

For boys also, of course, it must be 18. I do not want all of them to marry but there must be the freedom. About this age, we may have

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an amendment. I have already given notice of an amendment as a compromise, to make it 18 in the case of girls and, in the case of boys, if the boy is under 21, the permission of the guardian must be obtained, so much so there is a mild restraint on boys marrying under 21. But there can be absolutely no objection to girls marrying between 18 and 21. I think the House will accept that in course of time.

Now, I come to the controversial subject of customary marriages. Hindu law allows customary marriages—and it particularly applies to the South—between two cousins. If two cousins who can marry under the Hindu law want to marry under this law, why should you come in their way? I think of this marriage not as a special or a rare thing. I think, in course of time, for its simplicity, for its economy and for its rational procedure, more Hindus will go in for these marriages, if not for anything else, at least to save the huge expenses which the Hindu families are undergoing. You know that several middle-class families contract debts for marriages. They celebrate the marriages according to the dignity of the family and it results in families clearing off their debts for a period of 20 or 25 years. Sometimes they are ruined by these marriage expenses. If for nothing else, at least to avoid the marriage expenses, people will go in for this. Why not allow them? By custom so many marriages have taken place in South India, Malabar and other places between cousins. A man has got a claim for the hand of his maternal uncle's daughter.

Shri C. D. Pande: And sister's daughter?

Dr. Rama Rao: It is very rare; it is not common but it is allowed. Why prevent such marriages under this? This is a permissive law, enlarging the scope for marriage.

Then they talk of eugenics. What is the meaning of eugenics. This pseudo-eugenics is a rather dangerous thing. What has it taught us? It has taught us nothing except that some characteristics are inherited. Those characteristics which are for the good, if they are both inherited are accentuated; if they are bad, then also they are accentuated. So, if cousins marry there is fifty-fifty chance. If there are good characteristics, then the accentuation is much better. If, suppose, there is lunacy in the family, and both cousins are from the same family, there will be greater chance for the sons and daughters having lunacy in them. But, if there are good characteristics, they are also accentuated. Except this, all these lectures in eugenics are exaggerated and unjustified.

Mr. Chairman: The hon. Member may finish his speech.

Dr. Rama Rao: One point which is not mentioned. It is not in the Bill but several friends are very enthusiastic about it. It is about medical certificates. They say that they are people with great respect for medical opinion. It is a little embarrassing. What is the medical certificate for?

An Hon. Member: Physical fitness.

Dr. Rama Rao: If any man comes to me and asks for a medical certificate for his marriage, I would ask him if he feels the urge for marriage. If so, he should marry.

Shri Nambiar: Desire for marriage should be the fittest thing.

Dr. Rama Rao: So far as venereal diseases are concerned, it is better we forget them altogther. This is a permissive law and I would appeal to the orthodox friends not to get scared about it but to allow such progressive laws so that society may progress.

I P.M.

श्रीमती कमलेंदुमति शाह (जिला गढ़वाल–पश्चिम व जिला टिहरी गढ़वाल व जिला बिजनौर–उत्तर) : सभानेत्री महोदया, इस विधेयक में जहां तक एक पत्नित्व का प्रश्न है उसका तो मैं स्वागत करती हूं, परन्तु इस बात के विरुद्ध अवश्य हूं कि विवाह जैसे पवित्र बन्धन को केवल एक आपस में के अस्थायी समझौते अथवा ठेकेदारी का रूप दिया जाये ।

मुझे यह भी शंका है कि असवर्ण तथा विभिन्न धर्मावलम्बियों के बीच विवाह होने से हमारी धार्मिक पुरातन संस्कृति की रक्षा तथा हमारी उन्नति कहां तक होगी । आज हम गाय बैल इत्यादि की जाति तथा गुण का विशेष ध्यान रखने लगे हैं जब कि यही बात हम पर भी लागू है ।

यह विधेयक हिन्दू ला, इस्लामिक, जूइश और पारसी धर्म तथा इन समुदायों के वैवाहिक सिद्धान्तों के विरुद्ध है, विभिन्न जातियों पर, जिनके अपने व्यक्तिगत नियम हैं, समान विधान स्थापित करके, इसको उन पर लागू करना सुलभ नहीं है ।

समाज के कल्याण व शान्ति के लिये अति ही आवश्यक विवाह जैसे दृढ़ बन्धन की उपेक्षा करने वाला यह विधेयक, मेरे विचार से, हमें सहायता नहीं पहुंचा पायेगा। सम्भव है, कुछ विवाह विच्छेद के इच्छुक पति और पत्नियों को पृथक करके उन के कष्टों को कुछ काल के लिये यह विधेयक कम कर सके, परन्तु अन्त में स्त्रियों और विशेषकर बच्चों के लिये यह अहितकर ही होगा । इस विधान से विवाह विच्छेद ही बढ़ेंगे जो किसी भी देश के लिये सम्मान की वस्तु नहीं है । इसका प्रभाव पारिवारिक शान्ति पर पड़ेगा, भावी सन्तानों का गृहस्थ जीवन छिन्न भिन्न होकर उनके धार्मिक संस्कारों को दृढ़ होने का अवसर ही नहीं मिलेगा । माता पिता के अस्थायी सम्बन्धों को देख कर, उन बच्चों के चरित्र पर क्या प्रभाव पड़ेगा, और हमारे देश के ये भविष्य कर्णधार कितने बलशाली होंगे यह अनुमान आप लोग स्वयं लगा लें । यह अनाथालय के बालकों से कम न होंगे ।

यह भी सर्व विदित बात है कि हिन्दू कोड बिल को अधिकांश लोगों ने नहीं अपनाया । उसी को अब अन्य रूप में फिर समाज के सामने ला कर रखा जा रहा है । इससे न समाज का हित ही हो सकता है, न यह उसे मान्य ही हो सकता है ।

इस विधेयक से उन युवक युवतियों को प्रोत्साहन मिलेगा, जिनकी बुद्धि कार्य के परिणाम का विचार करने के लिये परिपक्व नहीं हुई है, जिससे शान्तिमय पारिवारिक सुखी जीवन के स्थान में इन युवतियों का जवानी भर दर दर भटक कर, बुढ़ापे का कोई सहारा ही नहीं रह जायेगा, और पवित्र विवाह बन्धन ढीला हो कर सामाजिक पतन हो जायगा, पाश्चात्य देशों का हाल मैं देख चुकी हूं ।

इस विधेयक को मुख्यतया हम स्त्रियां अपने कष्ट निवारण का एक मात्र साधन समझ रही हैं, परन्तु यह हमारी भूल है । मुझे शंका है कि इस विधान से कहां तक हमारे कष्ट दूर होंगे । इन कष्टों का आरम्भ हमारे विदेशी आचरणों से प्रभावित होने के कारण हुआ, जिससे हमारे जीवन के शान्त और सरल वातावरण में असंतोष की एक लहर दौड़ गई, और अब स्वतंत्र होने के बाद भी हमारे देश में पाश्चात्य शिष्टाचार घटने के बदले बढ़ ही रहा है और हम सब यह भूल ही से गये हैं कि हमारे नियम भी किसी उच्च आदर्श की नींव पर खड़े थे, जिन से केवल शारीरिक सुख न मिल कर मानसिक बल और शान्ति भी मिलती थी । इस विधेयक के समर्थकों की आशा निराशा में परिणित हो जायेगी जब वे देखेंगे कि कास्टलेस व क्लासलेस

[श्रीमती कमलेंदुमति शाह]

समाज ऐसे निराधार यत्नों से स्थापित नहीं किये जा सकते। सेकुलरिज्म और डिमाक्रेसी समाज पर बलपूर्वक थोपी नहीं जा सकती। हमारा वर्णाश्रम धर्म विभिन्न वर्णों में कार्य के उचित विभाजन के लिये है। हम अपने पूर्वजों के अनुभव व बुद्धिमानी से परखे हुये परम्परा प्राप्त नियमों में वर्तमान आवश्यकतानुसार कुछ परिवर्तन भले ही करें परन्तु उन्हें सहज में ही त्याग देने से हम न सुखी होंगे न अपने लक्ष्य पर ही पहुंच सकेंगे। हमारी पुरातन संस्कृति समूल नष्ट हो जायेगी। धर्म निरपेक्ष राज्य में धार्मिक विषयों पर हमें सोचकर ही चलना चाहिये। यह विधेयक तो मनुष्य की धार्मिक स्वतंत्रता का अधिकार ही छीने ले रहा है।

हमारी अधिकतर जनता में पुनर्विवाह व विवाह विच्छेद हैं ही उच्च व मध्य वर्ग की आवश्यकतानुसार वर्तमान विधान में ही जिसमें सब बातों के लिये विस्तार है, कुछ संशोधन किये जाने ही पर्याप्त होते। स्त्रियों के कष्टों को कम करने के लिये विवाह विच्छेद के अतिरिक्त और साधन भी हो सकते हैं जो मैं ने अपने मतभेद की व्याख्या में, सुझाव के रूप में दिये हैं।

यदि आज हम में से कई दुखी हैं, तो इस का कारण केवल हमारी अपना कर्तव्य भूल जाने के कारण, मानसिक निर्बलता ही है। जो लोग अज्ञानवश हमें पुरुषों की दासी कहते हैं, वे यदि ज़रा विचार से काम लें तो देखेंगे कि, पुरुष कैसा ही हो, स्नेह व सेवा बल से सौम्य हो कर हमारे ऊपर निर्भर हो जाता है। हमारे अधिकार पुरुषों से कदापि कम नहीं हैं। मेरे विचार में तो अधिक ही हैं।

अन्य देशों के अपनी पसन्द के विवाहों का, जिनका अनुकरण हम लोग करना चाह रहे हैं, क्या परिणाम होता है, इसका मैं आपको एक छोटा सा उदाहरण दूंगी।

A man who committed suicide left this note:

"I married a widow with a grown-up daughter. My father fell in love with my step-daughter and married her thus becoming my son-in-law, and my step-daughter became my mother because she was my father's wife.

My wife gave birth to a son, who was of course my father's brother-in-law, and also my uncle for he was the brother of my step-mother."

Dr. Jaisoorya (Medak): This is an ancient joke, three decades old, that appeared in the papers.

Shrimati Kamlendu Mati Shah: "My father's wife became the mother of a son, who was, of course, my brother, and also my grandchild for he was the son of my daughter.

Accordingly, my wife was my grandmother because she was my mother's mother, I was my wife's husband and grandchild at the same time—and, as the husband of a person's grandmother is his grandfather. I am my own grandfather".

भारत की स्त्रियों के आत्मबल के कारण आज भी इस देश का सिर सगर्व ऊंचा है। हमें उसी आत्मबल को जगाना होगा, परन्तु यह तभी होगा, जब हम दया, क्षमा, सेवा, त्याग, सहनशक्ति इत्यादि, अपने स्वाभाविक गुणों को, जिन से पुरुष तो क्या विश्व भी जीता जा सकता है, न बिसारेंगी। अपने घर की सुव्यवस्था हमारे लिये एक साधारण वस्तु है। देश के वीरों की मातायें होने के नाते, साम्राज्यों का निर्माण व संहार भी हमारे ही हाथ में है। जब हम ही अपना कर्तव्य भूल जायेंगी, तो हमारी संतानें तो केवल अपना बल, उद्जन अस्त्र जैसी वस्तुओं को ही सार समझ कर, विश्व संहार में ही लगा देंगी। इसलिय हमें याद रखना है कि हमें अपनी

मर्यादा का पालन समुद्र की तरह करना होगा, नहीं तो और भी अधिक कष्ट की भागी हम ही होंगी ।

Shri N. Somana (Coorg): I was one of the Members of the Select Committee which went over this Bill for a number of days and considered various provisions. As it has now emerged from the Council of States, I am somewhat surprised to see a few provisions in it, which, according to me, cannot be accepted at all.

The first provision over which we had a lot of discussion was the question of age. As hon. Members have already spoken, the Council of States has increased it from 18 to 21. I feel as some hon. Members have already felt, that the age of 18 should have been there. We had also made a provision in the Bill, as we reported in the Select Committee, for consent of the guardian between the ages of 18 and 21. In doing so, we strictly conformed to the Age of Majority Act, and I should think that it conforms generally to the consensus of opinion in the House. I hope that this hon. House will make the necessary alteration and accept the proposal that we made in the report of the Select Committee.

Mr. Chairman: The House is very much in disorder. Will hon. Members in the House please resume their seats?

Shri N. Somana: Coming to the question of clause 25, I also find that an important provision that had been made by the Select Committee has now been altered by the Council of States, and that refers to the question of one of the persons who after having got registered under this Act, is found to be suffering from venereal disease in a communicable form. I really could not understand why the Council of States should have left it out under the clause relating to viodable marriages. After all, as some persons have put it, if it is really found, after marriage, that one of the parties was suffering from venereal disease in a communicable form and the disease not having been contacted from the petitioner, I think it ought to be a reasonable ground for setting aside that marriage. I should not think that anybody should be compelled to continue the marriage under such circumstances. I hope this matter also may be considered by this House and suitable amendments made in that connection.

The other point I should like to refer to is the new clause that has been put in by the Council of States, that is, clause 26. That also sounds somewhat funny, because clause 26 reads :

> "Where a decree of nullity is granted in respect of any marriage under section 24 or section 25, any child begotten before the decree is made who would have been the legitimate child of the parties to the marriage if it had been dissolved instead of being declared to be null and void or annulled by a decree of nullity shall be deemed to be their legitimate child notwithstanding the decree of nullity."

I think this provision is not salutary and I may quote an instance how it sounds somewhat ridiculous. If you look at clause 24, you find that one of the causes for declaring a marriage null and void is that the respondent was impotent at the time of the marriage and at the time of the institution of the suit. If the respondent was impotent and if the marriage is to be declared null and void by a decree of the court, I fail to understand how a child born or deemed to have been born out of the couple should have been considered as legitimate. It sounds rather funny. I think the hon. Council of States have not applied their minds to this provision at all. On the other hand, if you look at the provision that the Select Committee

[Shri N. Somana]

had provided for in clause 24 of the original Bill, under the heading 'Void marriages', sub-clause (2) reads as follows:

"Where a marriage is annulled on the ground that the respondent was an idiot or a lunatic or on the ground that at the time of the marriage either of the parties thereto had not completed the age of eighteen years, the children begotten before the decree is made shall be specified in the decree, and shall, in all respects, be deemed to be and always to have been, the legitimate children of their parents."

I think that this should have been a very acceptable proposition and I do not see why the Council of States have thought it fit to delete this clause and substitute sub-clause (2), which reads as follows:

"Nothing contained in this section shall apply to any marriage deemed to be solemnized under this Act within the meaning of section 18, but the registration of any such marriage under Chapter III may be declared to be of no effect if the registration was in contravention of any of the conditions specified in clauses (a) to (e) of section 15:

Provided that no such declaration shall be made in any case where an appeal has been preferred under section 17 and the decision of the district court has become final."

So, instead of the original clause 2 which I just now referred to, they have put in this clause 2, and instead of making the children legitimate under this clause they have put in a consolidated section under clause 26 which is a new clause inserted by the Council of States and which, as I said, has absolutely no purpose and sounds to be somewhat odd.

Mr. Chairman: Order, order. The hon. Member may continue tomorrow.

The Lok Sabha then adjourned till a Quarter past Eight of the Clock on Thursday, the 20th May, 1954.