Par. 8.2.1.1.52
880

Tuesday,
8th May, 1956

# PARLIAMENTARY DEBATES

## HOUSE OF THE PEOPLE

### OFFICIAL REPORT

PARLIAMENT SECRETARIAT
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GIPN—S4—122 Lok Sabha—26-3-57—840

LOK SABHA

*Tuesday, 8th May, 7956*

*The Lok Sabha met at Half Past Ten of the Clock.*

[MR. SPEAKER *in the Chair*]

ORAL ANSWERS TO QUESTIONS

**वायु शक्ति**

*२००४. **श्री भक्त दर्शन** : क्या **प्राकृतिक संसाधन और वैज्ञानिक गवेषणा मंत्री** २८ नवम्बर, १९५५ को पूछे गये तारांकित प्रश्न संख्या २५७ के उत्तर के सम्बन्ध में यह बताने की कृपा करेंगे कि :

(क) वायु शक्ति का विकास और उपयोग करने के बारे में जो योजना विचाराधीन थी, क्या उसके बारे में अन्तिम निर्णय कर लिया गया है; और

(ख) यदि हां, तो क्या उस अनुमोदित योजना की एक प्रतिलिप सभा के पटल पर रखी जायेगी ?

**प्राकृतिक संसाधन मंत्री (श्री के० डी० मालवीय)**: (क) तथा (ख). आवश्यक जानकारियों से युक्त एक विवरण पत्र सभा पटल पर प्रस्तुत किया जाता है। [देखिये परिशिष्ट १२, अनुबन्ध सं०१०]

**श्री भक्त दर्शन** : इस विवरण से ज्ञात होता है कि योजना आयोग से एक बड़ी रकम मांगी गई थी और उसके बदले में उन्होंने कुल ४० लाख रुपये योजना के अन्तर्गत स्वीकार किये हैं। मैं जानना चाहता हूं कि कितनी रकम पहले मांगी गई थी और यह कार्य, जैसा एक डाइरेक्टोरेट के बारे में विचार किया जा रहा था, उसके द्वारा किया जायेगा या इसके लिये कोई समिति नियुक्त की जा रही है। इसका सारे देश में किस तरह से संचालन किया जायेगा ?



**श्री के० डी० मालवीय** : हमारे मंत्रालय मे वायु शक्ति के इस्तेमाल के लिये एक योजना कुछ समय पूर्व बनाई गई थी। हम इसको बहुत अहमियत देते हैं। इसके लिये प्लैनिग कमिशन से लगभग एक करोड़ रुपये की मांग हमारी तरफ से की गई थी, पर उतनी रकम हमको नहीं मिली। केवल चालिस लाख रुपया पांच वर्षों के अन्दर वायु शक्ति (विड पावर) को इस्तेमाल करने में खर्च करने के लिये रखी गई है। यह काम कौंसिल आफ साईंटिफिक एंड इंडस्ट्रियल रिसर्च के मातहत होगा। और इस समय एक उपसमिति बना कर इस काम को तेजी से बढ़ाने का प्रस्ताव हमारे सामने है।

**श्री भक्त दर्शन** : क्या इस बात का भी पता लगाने का प्रयत्न किया गया है कि हमारे देश में कौन-कौन से स्थान ऐसे हैं जहां कि बहुत तेजी से पहले से हवा चल रही है और जिसका बड़ी सफलता के साथ उपयोग किया जा सकता है ? क्या इसके कोई आंकड़े जमा किये गये हैं।

**श्री के० डी० मालवीय** : जी हां, इस सम्बन्ध में काफी काम तो हो चुका है और कुछ हो भी रहा है। देश के कई क्षेत्रों के, जहां हवा काफी तेज रहती है, आंकड़े हमारे पास मौजूद हैं।

**श्री बी० डी० पांडे** : क्या मैं पूछ सकता हूं कि पर्वतों में किस जगह पर यह काम होगा। नैनीताल ऐसी जगह में जहां कि हवा काफी तेज चलती है, अगर इस का प्रयोग हो सके तो सब लोगों को इस की बात मालूम हो सकेगी।

**श्री के०डी० मालवीय** : महीने पंद्रह दिन ही हवा की तेजी रहना जरूरी नहीं है, बल्कि हवा की तेजी बराबर रहना जरूरी है। सम्भव है कि नैनीताल इस सम्बन्ध में उपयुक्त साबित न हो। लेकिन फिर भी हम उत्तर प्रदेश के हिमालय के क्षेत्रों में जहां कहीं भी हवा का रुख ठीक होगा, इसका प्रयोग करेंगे।

**Shri D. C. Sharma:** The United Nations agency for social and economic co-operation has set up a unit to discover new sources of energy from the

sun, water and wind. May I know if our Ministry will take steps in that direction and devise ways to co-operate with that agency?

**Shri K. D. Malaviya:** I think we are ahead of the programme which are now being put forward by the United Nations authorities.

**श्री भक्त दर्शन** : क्या गवर्नमेंट के ध्यान में यह बात आई है, जैसा कि अभी मंत्री जी ने कहा कि उत्तर प्रदेश में भी इस बारे में सर्वेक्षण किया जायेगा, कि लैंसडौन के पास बहुत से गढ़वाली जिलों में साल में १२ महीने यानी ३६५ दिन कम-से-कम २० या २५ मील की रफ्तार से हवा चलती है । क्या इस सम्बन्ध में कोई सवक्षण दल हिमालय में भेजने का प्रयत्न किया जायेगा ?

**श्री के० डी० मालवीय** : जरूर किया जायेगा ।

### वायु शोधक द्रव्य

*२००७. **डा० राम सुभग सिंह** : क्या **प्राकृतिक संसाधन और वैज्ञानिक गवेषणा** मंत्री यह बताने की कृपा करेंगे कि :

(क) क्या यह सच है कि भारत में एक ऐसे द्रव्य का विकास किया गया है जो कृत्रिम रूप से सांस लेने में बहुत सहायक होगा;

(ख) यदि हां, तो इस सम्बन्ध में गवेषणा कहां की गई थी; और

(ग) क्या उसे बड़े पैमाने पर तैयार किया जा सकता है ?

**प्राकृतिक संसाधन मंत्री (श्री के० डी० मालवीय)** : (क) जी नहीं ।

(ख) तथा (ग). प्रश्न ही नहीं उठता ।

**डा० राम सुभग सिंह** : इस समय इन वायु-शोधक द्रव्यों की देश में कितनी खपत है और उन्हें बनाने के लिये यहां कोई सुविधा है या नहीं ?

**श्री के० डी० मालवीय** : माननीय सदस्य को इस सम्बन्ध में कुछ गलत फहमी है । कार्बन डाइ-आक्साइड से हवा को शुद्ध करने की योजना तो हमारे सामने है और हमारा फुएल रिसर्च इन्स्टिट्यूट ने एक ऐसा पदार्थ बना भी लिया है जिसके कि कार्बन डाइआक्साइड को निकाल कर हवा को शुद्ध भी किया जाता है, लेकिन वह कृत्रिम रूप से सांस लेने के सम्बन्ध में कोई ज्यादा उपयोगी नहीं है ।

**Mr. Speaker:** The hon. Minister may give the English version also.

**श्री चट्टोपाध्याय** : बात यह है कि इस तरफ के बहुत से लोग आपकी बात से नावाकिफ हैं ।

**Shri K. D. Malaviya:** Presumably the hon. Member refers to the absorbent for removing carbon-dioxide and to that extent the purification of air. The process for removal of impurities for artificial respiration has not been worked. The Fuel Research Institute has discovered an absorbent to remove carbon-dioxide from air and make it worth breathing again.

**Dr. Ram Subhag Singh:** Is it a fact that the supply of this air-refining material from the United Kingdom is generally delayed?

**Shri K. D. Malaviya:** I have no information about that. But, we are importing some material from outside for removing carbon-dioxide from air.

**श्री बी० डी० पांडे** : क्या मैं पूछ सकता हूं कि यह जो एअर रिफाइनिंग सब्स्टेन्स है यह क्या धप की तरह का कोई सुगन्धित पदार्थ होगा, या क्या होगा, जो वायु को सुगन्धित और शुद्ध कर देता है ?

**श्री के० डी० मालवीय** : यह एअर रिफाइनिंग का शब्द गलत प्रयोग किया जा रहा है । हवा से केवल कार्बन डाइआक्साइड निकालने का प्रबन्ध है और वह ऐसा है जो कार्बन डाइआक्साइड को हवा से सोख लेता है ।

### Regional School of Printing Delhi

***2009. Shri Ram Krishan:** Will the Minister of **Education** be pleased to state the present position of the proposal for establishment of a Regional School of Printing in Delhi?

**The Deputy Minister of Education (Dr. M. M. Das):** The details of the Scheme are being prepared. It is, however, proposed to establish the School as a part of the Delhi Polytechnic, during the Second Plan period.

**श्री राम कृष्ण** : इस स्कूल में सालाना कितने स्टूडेन्ट्स को ट्रेनिंग दी जाती है ?

**Dr. M. M. Das:** Only the proposal is there; the details have to be worked out.

**श्री एम० एल० द्विवेदी** : छपाई में लिथो प्रिंटिंग होती है, मोनो प्रिंटिंग होती है, लाइनो प्रिंटिंग होती है और लेटर प्रिंटिंग होती है, मैं जानना चाहता हूं कि इसमें किस किस्म की शिक्षा दी जाती है ?

**Dr. M. M. Das:** These are matters of detail, which are yet to be worked out.

**श्री भक्त दर्शन** : इस तरह के जो स्कूल हैं वह दिल्ली में ही स्थापित किये जा रहे हैं, या सारे देश में और स्थानों पर भी इनको स्थापित करने की कोई योजना है, या वहां स्थापित किय जा चुके हैं ?

**Dr. M. M. Das:** In addition to this school, four other regional printing schools are going to be established. One or two have already been established. For example, in the school at Madras, they have admitted students this year. The Calcutta School is going to function very soon.

### राष्ट्रीय प्रतिरक्षा अकादमी

*२०१२. **श्री अमर सिंह डामर** : क्या **प्रतिरक्षा** मंत्री यह बताने की कृपा करेंगे कि राष्ट्रीय प्रतिरक्षा अकादमी को देहरादून से खड़कवासला ले जाने में कुल कितना खर्च हुआ ?

**प्रतिरक्षा संगठन मंत्री (श्री त्यागी)** : संभवतः माननीय सदस्य यह जानना चाहते हैं कि देहरादून से खड़कवासला तक राष्ट्रीय प्रतिरक्षा अकादमी के लोगों और सामान को ले जाने में कुल कितना खर्च हुआ। अकादमी के लोगों और सामान को देहरादून से खड़कवासला तक ले जाने के लिए छः स्पेशल रेल गाड़ियों का प्रबन्ध किया गया था। इन गाड़ियों को ले जाने में लगभग ९०,५१० रुपये व्यय हुए।

**श्री अमर सिंह डामर** : क्या मैं जान सकता हूं कि इस अकादमी को देहरादून से खड़कवासला ले जाने का कारण क्या था ?

**श्री त्यागी** : कारण यह था कि देहरादून की बनिस्बत खड़कवासला में जगह ज्यादा मिल गई थी, जहां कि तमाम बिल्डिंग वगैरह बन चुकी थीं और अब सिर्फ यही बात रह गई थी कि इसको यहां से वहां भेज दिया जाय।

**श्री भक्त दर्शन** : क्या यह बताने की कृपा की जायेगी कि खड़कवासला पहुंचने के बाद इस अकादमी का खर्चा पहले से कितना बढ़ गया है ?

**श्री त्यागी** : इसके लिये मुझे अलग से नोटिस की जरूरत होगी।

**श्री बी० डी० पांडे** : क्या मैं पूछ सकता हूं कि इसकी जो दो ब्रांचेज हैं, एक देहरादून में और दूसरी खड़कवासला में, एक विभाग यहां है और दूसरा विभाग वहां है, यह कैसा भेदभाव है ?

**श्री त्यागी** : भेदभाव यह है कि तीनों सर्विसेज के आदमी, यानी आर्मी, एअर और नेवी के केडेट्स एक साथ पढ़ते हैं। और उसके बाद अपने अपने महकमे के मुताबिक अलग ट्रेनिंग लेने के लिये चले जाते हैं। एअर फोर्स के केडेट्स अलग चले जाते हैं, आर्मी के अलग चले जाते हैं और नेवी के अलग चले जाते हैं। तो आर्मी के देहरादून आते हैं।

### UNESCO Seminar

*2013. **Shri Shivananjappa:** Will the Minister of **Education** be pleased to state:

(a) whether a U.N.E.S.C.O. Seminar on the "Role of Traditional Culture in the Development of the Community" was held in Delhi recently;

(b) if so, how many persons participated in the Seminar; and

(c) whether the expenses for holding the Seminar were financed by U.N.E.S.C.O.?

**The Deputy Minister of Education (Dr. M. M. Das):** (a) Yes, Sir;

(b) Sixty;

(c) Yes, Sir.

**Shri Shivananjappa:** May I know which were the countries that participated in this seminar?

**Dr. M. M. Das:** This type of seminars is being held in the South-Eastern Asian countries. So far as this particular seminar is concerned, the Indian representatives participated.

**Shri Shivananjappa:** What are the nain recommendations of this seminar?

**Dr. M. M. Das:** This seminar was organised at the request of the U.N.E.S.C.O. by the University. The Government has no connection with the seminar. But, for the satisfaction of the hon. Member, I may tell him that the main recommendation of the seminar was that an institute for the study of and researches in traditional Indian culture in its various aspects should be established in the Delhi University.

**Shri Madiah Gowda:** May I know whether all the States in India were represented at this seminar?

**Dr. M. M. Das:** There was no necessity for representation from all the States. Because, seminars were held also in the Calcutta University, Madras University, Rajputana University and the Andhra University in addition to Delhi University.

**Shri Chattopadhyaya:** May I know what exactly is meant by traditional culture? Does it include, for instance, Bharata Natyam? Do you call that culture or art?

**Dr. M. M. Das:** I have said before that so far as the Central Government is concerned, it does not take any part in it. At the request of the U.N.E.S.C.O., the University organised it. This question should, I think, be put to the U.N.E.S.C.O.

**Shri Raghavaiah:** In view of the recommendation made by the seminar, may I know whether the Government propose to set up an institute or mechanism for the implementation of the recommendation of the seminar?

**Dr. M. M. Das.** A copy of the recommendation was not sent to us. It will be submitted by the seminar to the U.N.E.S.C.O. The U.N.E.S.C.O. will do whatever they like.

INDIAN AIR FORCE

*2014. **Shri Raghunath Singh:** Will the Minister of **Defence** be pleased to state:

(a) whether it is a fact that prior to the signing of the agreement to equip the Indian Air Force with Canberra Jet Bombers the news was disclosed by Air Marshal Mukerjee; and

(b) if so, whether the papers in England have expressed surprise over this?

**The Minister of Defence Organisation (Shri Tyagi):** (a) and (b). Yes, there have been such newspaper reports but the Chief of the Air Staff merely mentioned in his broadcast on the Air Force Day that the Government had finally decided on the new type of replacement aircraft for the bomber force. He did not refer to any particular aircraft.

**श्री रघुनाथ सिंह** : इग्लैंड के अखबारों में यह जो खबर शाया हुई है कि एग्रीमेंट हो जाने के पहले ही एयर-मार्शल ने इसकी प्राविजंस को लीक आउट किया, यह बात कहां तक ठीक है ?

**श्री त्यागी** : यह तो मैं ने कहा दिया है कि यह ठीक नहीं है । अभी तक कोई फैसला नहीं हुआ है कि कौन सा हवाई जहाज लिया जायगा । हां, कैनबरा को देखने के लिए एक टीम यहां से गई हुई है जिसमें कि हमारे एक्सपर्ट हैं और जो इस बात को देखेगें कि उसके अन्दर जो खास इक्विपमेंट है वह कहां तक ठीक है और क्या कैनबरा हिन्दुस्तान की जरूरतों के मुताबिक ठीक बैठता है या नहीं । इस टीम की रिपोर्ट आने के बाद ही कोई बातचीत चलेगी ।

**श्री रघुनाथ सिंह** : यह जो खबरें इग्लैंड के अखबारों में तथा हिन्दुस्तान के अखबारों में छपी हैं और जिनमें कि एयर-मार्शल पर आक्षेप किया गया है क्या इनको कांट्रेडिक्ट किया गया है और कहा गया है कि यह खबरें गलत हैं ।

**श्री त्यागी** : मेरे खयाल में आक्षेप की कोई बात नहीं है । यह तो जाहिर ही है कि हम इस किस्म का एयरोप्लेन तलाश कर रहे हैं और जो भी मुनासिब समझा जायेगा उसको खरीदने के लिए बातचीत की जायेगी । यह कोई ऐसी बात नहीं है जिसमें कोई सीक्रेट जाहिर हो गया हो और जिसमें कोई एक्शन लेने की जरूरत महसूस हुई हो ।

**Shri G. S. Singh:** Am I to understand from the reply of the hon. Minister that no decision has yet been taken with regard to the purchase of Canberra bombers?

**Shri Tyagi:** The decision to buy Canberra bombers is still conditional in that the Canberras will be accepted only if on actual trials with certain

special equipment to be fitted to the Canberras, they are found to be satisfactory and if it is established that the Canberras fitted with this equipment will meet the operational requirements of the Indian Air Force.

**Shri G. S. Singh:** May I further enquire, has this decision been reconsidered by the Government in view of the fact that the Ministry of Supply in the U.K. has decided to release the Blue Study Radar Bomb Sight to the Indian Government?

**Shri Tyagi:** That is exactly what the team has gone to look into. If these are suitable, we shall consider the possibility of buying them.

**Shri Joachim Alva:** Is it not true that the White Paper on Defence issued by the British Government in February 1955 openly mentioned about the performance of Canberra bombers and is it not also true that that is a kind of open invitation to the Commonwealth countries to buy them?

**Shri Tyagi:** I could not follow the import of the question.

**Shri Joachim Alva:** I will explain. The British Government issued a special White Paper on Defence last year. In that statement everything was mentioned about Canberra jet bombers. Was not this proclamation about that bomber true and was it not also a kind of intimation to the Commonwealth countries to buy them?

**Shri Tyagi:** Of course, they are out to sell their Canberras. But, it is for the buyer to see, to test and examine whether the plane suits or not. Our team has gone to examine the suitability of these planes for India.

**Shri B. K. Das:** May I have an idea whether the Government has ascertained how these compare with the planes supplied to Pakistan?

**Shri Tyagi:** I am afraid I am not in a position to give a definite reply to this question just now. If my hon. friend is so itnerested, he might meet me and I will give him all the information he needs.

## "Bhagvan Buddha"

***2015. Shri D. C. Sharma:** Will the Minister of **Education** be pleased to state:

(a) whether it has been decided to publish translations of "Bhagwan Buddha", a Marathi classic, into all the major languages of India; and

(b) if so, the estimated cost of it?

**The Deputy Minister of Education (Dr. M. M. Das):** (a) The Sahitya Akademi has decided to publish the translation of the Marathi classic 'Bhagwan Buddha' in all the major Indian languages.

(b) The estimated cost of the publication cannot be worked out until arrangements for publication are finalised in the different languages.

**Shri D. C. Sharma:** May I know if the Sahitya Akademi which undertakes such ventures has finalised its programme for 1956-57 or whether it goes on taking *ad hoc* decisions? If it has been finalised, may I know what are the items?

**Dr. M. M. Das:** The original question is about the translation of this book "Bhagwan Budha". The supplementary question asked by the hon. Member is a very wide one. I beg to have notice.

**Shri D. C. Sharma:** May I know if the Ministry of Education which is responsible for the celebration of the Buddha Parinirvana Jayanthi, has formulated any programme of publications in connection with the Mahaparinirvana of the Buddha?

**Dr. M. M. Das:** Yes, they have formulated a programme. In addition to the book in question, we have a programme for the publication of other six books.

**सेठ गोविंद दास :** [अभी माननीय मंत्री जी ने कहा कि वह इस पुस्तक के अतिरिक्त ६ अन्य पुस्तकें भी बुद्ध जयन्ती पर प्रकाशित होनेवाली हैं। क्या मैं जान सकता हूं कि वे किन-किन भाषाओं से ली गई हैं और उनकी पृष्ठ-संख्या लगभग कितनी होगी ?

**Dr. M. M. Das:** 1. The 2500th year of Buddhism by the Ministry of Information and Broadcasting. I do not know; I think it is in English.

2. Buddhism in Pictures—by the same Ministry of Information and Broadcasting.

3. A Popular book on the Edicts of Asoka—by the same Ministry. I think it is also in English.

4. Album of Ajanta Murals.

5. Publication of Devanagari version of the Sanskrit Mahayana texts. That is Devanagari version.

6. Publication of the Devanagari version of the three volumes of the Pali Tripatika—Nalanda University. It is Devanagari version.

**Shri T. B. Vittal Rao:** May I know if it is a fact that the Government is proposing to publish an Eight Act Play on Gautama Buddha by Shri Harindra Nath Chattopadhyaya?

**Dr. M. M. Das:** I have no information at present.

**श्री एम० एल० द्विवेदी :** सरकार इस प्रकार का साहित्य प्रकाशित करने का पहला प्रयास कर रही है । क्या इसका यह अर्थ है कि वह बुद्ध धर्म को हिन्दुस्तान में फिर से प्रचालित करना चाहती है ?

**Dr. M. M. Das:** We have got no connection with Buddhist religion. Everything is being done on a cultural basis.

**Mr. Speaker:** Is it the suggestion that the author himself will play the hero? Shri Chattopadhyaya.

**Shri Chattopadhyaya:** May I know whether these translations that are going to be done from Marathi will be done directly from the original or will it be done through the medium of some other language, for instance, English?

**Dr. M. M. Das:** We are in search of translators who will translate this book from the original. Up-till now we have found translators and they have been selected in the following languages: Bengali, Gujarati, Hindi, Canarese, Malayalam, Tamil and Telugu. If suitable translators who can translate directly from the original Marathi cannot be secured in the remaining languages, then the translations in these languages will be made from the Hindi edition.

**Shri C. D. Pande:** Is Government aware that the standard book on Buddhism or the life of Buddha is the book by Shri Ashva Ghosh, known as *Buddha Charitra*? Will the Government translate that book into various languages?

**Dr. M. M. Das:** It is a suggestion for action.

**Dr. Rama Rao:** Who is in charge of translating this book into Telugu?

**Dr. M. M. Das:** Shri P. Narayanacharya.

**Shri V. P. Nayar:** May I know whether these translations are being done in various languages by one individual or by a team of scholars who know the language?

**Dr. M. M. Das:** I think by individuals.

## Grants to Orissa for Capital Construction

***2016. Shri Sanganna:** Will the Minister of **Finance** be pleased to state the amount of grants and loans so far given by the Government of India to the Government of Orissa towards the construction of Bhubaneswar, the new Capital of Orissa?

**The Deputy Minister of Finance (Shri B. R. Bhagat):** A sum of Rs. 132 lakhs was given as grant during the years 1948-49 to 1952-53 and a sum of Rs. 50 lakhs has been given as loan during each of the years 1954-55 and 1955-56.

**Shri Sanganna:** What is the amount that the Government of India is prepared to give for the construction of the capital?

**Shri B. R. Bhagat:** These are the amounts for the capital construction that I have mentioned.

**Shri Sanganna:** May I know the extent to which the Government of India is prepared to give for the construction and completion of this capital?

**Mr. Speaker:** The total amount.

**Shri B. R. Bhagat:** The Government of India gave Rs. 132 lakhs as grants. In 1954-55 the State Government asked for a loan and Rs. 50 lakhs was given. In 1955-56 the State Government asked for a loan of Rs. 93·5 lakhs, but it was possible to sanction Rs. 50 lakhs only. So, Rs. 50 lakhs was given.

**Shri Sarangadhar Das:** What was the original estimate and how much more is required after all these loans and grants to complete the capital?

**Shri B. R. Bhagat:** I am not aware of that. It depends upon what is the scheme, how much construction there is. That depends upon the State Government themselves.

**Mr. Speaker:** Does the hon. Deputy Minister mean that before giving grants from the Centre they had no idea as to what it would cost? Is there no original estimate here and how much of the estimate has been completed, what amount has been paid and what more is required? How then could any assistance have been given?

**Shri B. R. Bhagat:** I can only say the State Government asked for a loan of Rs. 93 lakhs this year.

**Mr. Speaker:** That is for this year, but on the whole what is the original estimate?

**Shri B. R. Bhagat:** I am sorry, Sir, I do not have that figure just now.

**Mr. Speaker:** Very well.

**Shri Raghavaiah:** May I know whether the Government of India examined the reasons for the construction of this new capital before allowing any grants to be drawn from the Centre? May I also know what is the percentage of interest that the State Government proposes to pay on the amounts that it has received from the Centre as Loan?

**Shri B. R. Bhagat:** I want notice of the question.

## Recruitment in Ministry of Finance

*2018. **Shri Punnoose:** Will the Minister of **Finance** be pleased to state:

(a) whether it is a fact that persons rejected by the Union Public Service Commission for appointment in the Planning Commission have since been appointed to higher posts in the Ministry of Finance; and

(b) if so, the number and designations of such persons and the reasons for such appointments?

**The Minister of Revenue and Civil Expenditure (Shri M. C. Shah):** (a) No, Sir.

(b) Does not arise.

**Shri Punnoose:** Will the Minister be pleased to look into the old files again and see whether a married lady who was sponsored by the Planning Commission to appear before the Public Service Commission for appointment in the Economic Wing of the Planning Commission was rejected by the U.P.S.C. but was later on appointed by the Finance Ministry?

**Shri M. C. Shah:** So far as the Finance Ministry is concerned, four posts of research officers were to be filled in. Applications were invited by the U.P.S.C., and one of the candidates that is referred to was appointed by the Union Public Service Commission. So, the Finance Ministry has not appointed one who was rejected by the U.P.S.C.

**Shri V. P. Nayar:** Do I take it that all appointments made by the Finance Ministry or the Planning Commission are through the U.P.S.C., and no direct appointments are made?

**Shri M. C. Shah:** So far as the planning Commission is concerned, it is for the Planning Ministry to reply. So far as the Finance Ministry is concerned, the Finance Ministry appoints after the nomination or selection by the U.P.S.C., where necessary.

**Shri V. P. Nayar:** May I know whether all appointments under the Company law Administration.....

**Mr. Speaker:** We are going from one thing to another.

**Shri V. P. Nayar:** No, no. It is under the Finance Ministry.

**Mr. Speaker:** The hon. Member will kindly see this relates only to such cases where applications were rejected by the U.P.S.C., but still the appointment was made by the Finance Ministry.

**Shri V. P. Nayar:** That is precisely the question I wanted to ask.

**Mr. Speaker:** This is not company law.

**Shri V. P. Nayar:** I want to know whether in the matter of appointments to the Company Law Administration.

**Mr. Speaker:** It does not form part of the Planning Commission.

**Shri V. P. Nayar:** It is under the Ministry of Finance.

**Mr. Speaker:** We are not going generally into everything. The hon. Member will kindly look into the question.

**Shri V. P. Nayar:** I have read it twice.

**Mr. Speaker:** If he has read it twice, I differ from him.

**Shri Punnoose:** Will the Minister be pleased to state whether in this particular case the person appeared for the post of an Assistant Research Officer and failed, but later on was absorbed in the Finance Ministry as a senior Research Officer?

**Shri M. C. Shah:** It is not correct. As I have already explained, applications were invited by the U.P.S.C. and the Commission selected certain persons and those persons were appointed in the Economic Wing of the Finance Ministry.

## Migration of Muslims into Kashmir

***2019. Shri Gidwani:** Will the Minister of **Home Affairs** be pleased to state:

(a) whether it is a fact that a number of Muslims have been crossing into Kashmir every month from across the cease-fire line; and

(b) if so, whether they have been allowed to settle there?

**The Minister in the Ministry of Home Affairs (Shri Datar):** (a) Yes.

(b) Some of these persons have been allowed to settle by the Jammu and Kashmir Government on humanitarian grounds.

**Shri Gidwani:** What is the number of such migrants, and has any enquiry been made from them as to why they have crossed the border and come over to India leaving the so-called Azad Kashmir which is their home?

**Shri Datar:** So far as the first part of the question is concerned, in 1955 about 646 persons were allowed to resettle in Jammu and Kashmir. So far as the latter question is concerned, it is likely that the living conditions on our side are very much better than in Pakistan-occupied Jammu and Kashmir, and secondly some of these persons have close relatives. Therefore, on humanitarian grounds, some of these persons were allowed to resettle.

**Shri Gidwani:** Are Government thoroughly satisfied regarding the *bona fides* of these migrants, particularly in the context of the present situation and in view of the fact that certain Pakistani nationals who have returned to India have resorted to anti-national activities, for example in Bhopal and other places?

**Shri Datar:** May I point out to the hon. Member that this work of supervision and permission is done by the Jammu and Kashmir Government, and they are fully alive to all the considerations that have to be taken into account including the ones mentioned by the hon. Member?

**Dr. Ram Subhag Singh:** May I know whether the former Custodian of Evacuee Property of Jammu who had migrated to Pakistan and who was not allowed to come to Jammu and Kashmir has now been allowed to come and settle here?

**Shri Datar:** I cannot answer this question off-hand with regard to a particular person.

**Shri Kasliwal:** Is it a fact that owing to economic distress in Pakistan-held Kashmir, a large number of Muslims want to come to India but they are not allowed to come by the Pakistan Government and hundreds of them have been shot down?

**Shri Datar:** The hon. Member is possibly asking regarding the going from India to Pakistan.

**Shri Kasliwal:** No; I am asking regarding coming from Pakistan to India.

**Shri Datar:** So far as that is concerned, my answer is very clear. The Jammu and Kashmir Government have allowed 646 persons, after fully considering all the circumstances, and lastly, on humanitarian grounds.

**Shri Kasliwal:** The Minister has not followed my question. My question was whether they are being prevented by the Pakistan Government from coming from Pakistan-held Kashmir into India, and many of them have been shot down in their attempt to come to India.

**Shri Datar:** I am not aware of this. I should like to have notice.

**Shri Syamnandan Sahaya:** How can the Minister be expected to answer for what is happening in Pakistan-held Kashmir?

### प्राथमिक शिक्षा के लिये राज्यों को अनुदान

*२०२१. **श्री के० सी० सोधिया :** क्या शिक्षा मंत्री यह बताने की कृपा करेंगे कि :

(क) क्या केन्द्रीय सरकार ने १९५६-५७ के आयव्ययक में राज्य सरकारों को प्राथमिक शिक्षा के विस्तार के लिये अनुदान देने की व्यवस्था की है; और

(ख) यदि हां, तो कुल कितनी राशि की व्यवस्था की है और उसका राज्य-वार ब्योरा क्या है ?

**शिक्षा उपमंत्री डा० के० एल० श्रीमाली :** (क) तथा (ख)-एक विवरण सभा-पटल पर रख दिया गया है । (**देखिये परिशिष्ट १२, अनुबन्ध सं० ११**)

**सेठ गोविंद दास :** क्या मंत्री महोदय को इस बात का स्मरण है कि हमारे संविधान में निर्देशात्मक अध्याय है, उसमें स्पष्ट कहा गया है कि जहां तक प्राथमिक शिक्षा का सम्बन्ध है, सारे देश में प्राथमिक शिक्षा को इतने इतने समय के भीतर फैलाने का प्रयत्न किया जायगा और क्या इस सम्बन्ध में सरकार कोई ऐसी विशद योजना बना रही है जिससे कि यह निश्चय हो सके कि इतने इतने समय के भीतर हमारे देश की सारी जनसंख्या प्राथमिक शिक्षा प्राप्त कर सकेगी ?

**डा० के० एल० श्रीमाली :** सरकार को इस विषय में पूरी चिन्ता है और वह इस बात का पूरा प्रयत्न कर रही है कि यथासम्भव जितनी जल्दी हो सके कांस्टीट्यूशन में जो डाइरेक्टिव दिया है वह पूरा हो जाय ।

**Shri A. M. Thomas:** May I know whether the Central Government have in view any scheme for giving aid to the State Governments for improving the service conditions of primary school teachers, and if so, the scope of that scheme and the extent to which aid is intended to be given?

**Dr. K. L. Shrimali:** We have written to the State Governments that the Government of India will contribute 50 per cent of the additional expenditure which would be incurred by the State Governments in increasing the minimum basic salaries of the primary school teachers.

**डा० राम सुभग सिंह :** इस प्रश्न से मालूम होता है कि केन्द्रीय सरकार ने कई एक राज्य सरकारों को प्राथमिक शिक्षा के विकास के लिए सहायता दी है और क्या यही सही है कि उन सभी राज्यों में प्राथमिक शिक्षा का स्तर प्रतिदिन नीचे गिरता जा रहा है और यदि गिरता जा रहा है तो उसको उठाने के लिए क्या सरकार के पास कोई योजना है ?

**डा० के० एल० श्रीमाली** : मैं यही मानता हूं कि शिक्षा का स्तर निरंतर गिरता जा रहा है। यह सही है कि पहले से वह गिरा हुआ है और उसको ऊपर उठाने का सरकार प्रयत्न कर रही है ?

**श्री विभूति मिश्र** : क्या मंत्री महोदय को पता है कि अक्सर प्राइमरी टीचरों को तनख्वाहें ४, ४ और ६, ६ महीने तक नहीं मिलती हैं और अभी जैसा कि डा० राम सुभग सिंह ने बतलाया कि प्राथमिक शिक्षा का स्तर प्रतिदिन गिरता जा रहा है तो क्या इसका एक कारण यह नहीं है कि चूंकि टीचरों को वक्त पर तनख्वाह नहीं मिलती इसलिए वे अपने कर्तव्यपालन में ढिलाई बर्तते हैं ?

**डा० के० एल० श्रीमाली** : यह प्रश्न स्टेट्स गवर्नमेंट्स का है लेकिन अगर माननीय सदस्य इस बारे में मुझे कोई उदाहरण देकर बतलायें तो मैं देखूंगा कि हम उसमें क्या कर सकते हैं।

**Shri A. M. Thomas:** May I know the basic salary that has been laid down?

**Dr. K. L. Shrimali:** Speaking from memory, I think it is Rs. 40 for the untrained teachers and Rs. 50 for the trained matriculate teachers.

**Shri Syamnandan Sahaya:** May I know whether this contribution of 50 per cent of the increased cost will be a permanent contribution by the Centre to the States, or only a temporary one?

**Dr. K. L. Shrimali:** It is a temporary measure.

**Shri Syamnandan Sahaya:** For how many years?

**Dr. K. L. Shrimali :** I think till the appointment of the next Finance Commission.

**Shri Raghavaiah:** May I know the amount of grant made this year by the Centre to the Andhra Government, and how it compares with that given during last year?

**Dr. K. L. Shrimali:** I require notice to answer that question.

**Shri N. B. Chowdhury:** May I know whether in the case of States which are already paying the basic minimum of Rs. 40 and Rs. 50, the Government of India's contribution of 50 per cent. will be made available to them for further incerasing the salaries of primary school teachers?

**Dr. K. L. Shrimali:** No, that is not the purpose.

**Shri Kasliwal:** Are Government aware that some really very bad conditions are prevalent in a large number of primary schools, such as absence of urinals, absence of places to sit, absence of stools, and so on, which are causing acute discomfort to the students, and which are adversely affecting the expansion of primary education?

**Dr. K. L. Shrimali:** Government are fully aware of it, but this is primarily the responsibility of the State Governments, and the Government of India are doing everything that is possible to improve the conditions of the schools.

**Shri Madiah Gowda:** May I know whether these grants are given to the State Governments for the expansion of the traditional types of primary schools or the basic types of primary schools?

**Dr. K. L. Shrimali:** The Government of India have various schemes under which grants are given. If the hon. Member is interested, I can read out the whole thing. But it is a long list. Grants are given for the setting up of urban basic schools, the conversion of existing elementary schools into basic schools, the introduction of crafts in non-basic schools, the conversion of training institutions into basic institutions, additional teachers' training facilities, post-graduate basic training schools, hostels for basic teachers' training institutions.

**Mr. Speaker:** We have heard enough instances.

EXCISE DUTY ON MOTOR SPIRIT

sed to state :

***2022. Shrimati Tarkeshwari Sinha:** Will the Minister of **Finance** be plea-

(a) whether it is a fact that both the import duty and excise duty on motor spirit would be 15 annas and nine pies per Imperial gallon;

(b) if so, whether the excise duty on motor spirit, *i.e.*, gasoline, produced in the refineries of the Burmah-Shell and the Standard Vaccum in Bombay, will be collected at annas 15 and nine pies per imperial gallon; and

(c) if not, the correct position in regard to the actual amount to be collected as excise duty on motor spirit or gasoline from refineries in view of the assurances of protection given to them by the Government of India?

**The Minister of Revenue and Defence Expenditure (Shri A. C. Guha):** (a) Yes.

(b) No.

(c) With effect from the dates of commencement of full scale refinery operations, *viz.* 15-12-54 and 10-9-55 respectively motor spirit produced by the Standard Vacuum Refining Co. of India Limited and Burmah-Shell Refineries Limited, Bombay, is being assessed at a concessional rate of 0-13-9 per Imperial gallon, by virtue of special orders passed by the Central Board of Revenue, in implementation of the assurance given by the Government of India to the Oil Refineries.

**Shrimati Tarkeshwari Sinha:** May I know why this preferential treatment is given to the Burmah-Shell and the Standard Vacuum Oil Company? Is it because Government have assured protection to them or because of any other reason?

**Shri A. C. Guha:** Government have assured protection not only to these two, but also to the Caltex, which will be coming into operation next year.

**Shrimati Tarkeshwari Sinha:** May I know whether there is any identity between import duties and excise duties charged to Burmah-Shell and the Standard Vacuum Oil Company, and if so, the reason for this identity?

**Shri A. C. Guha:** I do not know what the hon. Member means by 'identity'. The import duty and the excise duty are equal. But for the Burmah-Shell and the Standard Vacuum Oil Company and also for the Caltex, whose refinery will be going into production next year, there is a guarantee that at least two annas' protection will be given. But we are not giving the same concession to the other refineries, as far instance, the Assam Oil Company.

**Shri Sadhan Gupta:** May I know whether in consideration of this special concession, the refineries have agreed to reduction of price of the oil produced by them?

**Shri A. C. Guha:** This protection has been given to them on the estimate arrived at between the refineries and Government that products of these refineries will require some protection not in perpetuity but for ten years, or till 1965, whichever may be earlier. So, no question of reduction of price comes in here.

**Shri C. R. Chowdary:** What is the estimated loss to Government on account of this concession to these two refineries?

**Shri A. C. Guha:** I would require notice.

**Shri Sadhan Gupta:** May I know how this protection has become necessary, and whether the cost in India is greater than the cost of refining oil elsewhere plus transport to India for the purpose of sale, which they were effecting for so long?

**Shri A. C. Guha:** The assumption is that for the first few years the cost of production will be more. Presumably, because the quantity of oil that would be produced will also be small. That is why this protection has been guaranteed for ten years.

**Shrimati Tarkeshwari Sinha:** In view of the concession and protection given to them for ten years, have they assured the Government that in the long run they will reduce the price of petrol or gasoline, considering our heavy transport plan during the Second Five Year Plan period?

**Shri A. C. Guha:** As already stated, there is no question of reducing the price, because it has been calculated that the cost for the first few years will be higher. That is why protection has been given to them.

**Shri Joachim Alva:** Is it not true that Government have already given heavy concessions in favour of these companies in the shape of the length of the agreement which runs for about 30 years, whereas the agreement does not give any relief to the poor consumer in the shape of reduction of price?

**Shri A. C. Guha:** Everything had been taken into consideration when these assurances were given to these companies.

**Shri C. D. Pande:** What are the reasons why petrol is sold in this country at almost four times the price prevalent in England or USA?

**Shri A. C. Guha:** That can hardly come within the purview of this question.

**Shri Sarangadhar Das:** May I know if the price of petrol is based on the Gulf price of crude oil or it is less than that?

**Shri A. C. Guha:** I have nothing to do with the fixation of price of petrol. That question may be directed to the concerned Ministry.

## ARMY OFFICERS

*2024. **Shri Kamath:** Will the Minister of **Defence** be pleased to state:

(a) the action taken or proposed to be taken to re-employ or to rehabilitate Army Officers who will be released in the near future as a result of lowering the age of compulsory retirement; and

(b) whether it is a fact that Emergency Commissioned Officers will be given gratuity of Rs. 750 per completed year of service on retirement?

**The Minister of Defence Organisation (Shri Tyagi):** (a) and (b). A statement is laid on the Table of the House. [*See* Appendix XII, annexure No. 12].

**Shri Kamath:** According to the statement laid on the Table of the House, para 1 thereof, the enforcement of the prescribed age limits for the compulsory retirement of these army officers will be done by stages and not all at once. Is the Minister in a position to give the House an idea about the phases or stages of this staggering scheme, that is to say, how many officers will be retired at the end of this year, how many at the end of the next and how many at the end of 1958? I would like to have the figures for every year for the next three years.

**Shri Tyagi:** According to the age limits laid down by rules, as I said on the last occasion when the hon. Member put questions to me, about 815 officers were due to retire on 1-1-56. Their retirement had been phased so as to allow them a few more years.

**Shri Kamath:** How many?

**Shri Tyagi:** The approximate number of army officers who are likely to be released by 31-12-57 during each six-monthly period is as under:

| | |
|---|---|
| Between 1-1-56 and 30-6-56 : | 1 regular officer and 7 non-regular officers; |
| Between 1-7-56 and 31-12-56 : | 11 regular officers and 43 non-regular officers; |
| Between 1-1-57 and 30-6-57 : | 26 regulars and 92 non-regulars; and |
| Between 1-7-57 and 31-12-57 : | 53 regulars and 116 non-regulars. |

**Shri Kamath:** Is it a fact that at a meeting of the Defence Committee of the Cabinet held on the 19th January of this year, when the size and composition of the Army were under consideration, the Prime Minister suggested that the services of these army officers who had to retire prematurely under the retiring age scheme should be utilised to the best advantage of the State? If so, what concrete schemes are under consideration for such utilisation of their services?

**Shri Tyagi:** I am glad to acknowledge that my hon. friend keeps himself so well posted with details in the Defence Ministry.

**Shri Kamath:** Yes, Yes. We were together in the same Committee some years ago.

**Shri Tyagi:** In view of the training and experience of these officers and their premature retirement, it has been agreed with the Planning Commission that in any schemes which they have in hand, they will take in some of these young retired officers in various civilian jobs. For that purpose, one liaison officer has been appointed on behalf of the Defence Ministry to deal with various Ministries.

**Shri Kamath:** In part (b) of the statement laid on the Table of the House, it is said that there is one category of Emergency Commissioned Officers who will be given only a terminal gratuity of Rs. 750 per year of completed service, that is to say, it works out to an amazing sum of Rs. 60 per month of a completed year of service, and no pension. Why is this discrimination enforced against this category, when it is said that in the case of others other terms shall apply?

**Shri Tyagi:** This category of officers generally had been volunteers, who were employed on some civilian jobs outside the army, who joined the army mostly during the war. So they had come in an advanced age; they have hardly put in 11, 12 or 13 years. Hence, they are given a lump-sum gratuity, on the basis of a temporary commission, at Rs. 750 per year.....

**Shri Kamath:** No pension.

**Shri Tyagi:** .....after they have served for more than ten years.

**Shri Kamath:** Considering that this category of Emergency Commissioned Officers are being treated in this manner, rather shabbily, I think.....

**Mr. Speaker:** Let us avoid comments.

**Shri Chattopadhyaya:** That is an aside.

**Shri Kamath:** I said—I think, rather shabbily.

**Shri Chattopadhyaya:** The Minister is not supposed to hear it.

**Shri Kamath:** Do Government propose to consider their case for re-employment in civilian jobs or elsewhere more sympathetically than in the case of other officers, provided other things are equal—their qualifications are equal?

**Shri Tyagi:** According to the original terms of the agreement, their gratuity was decided and assessed at Rs. 300 per year. When I took over and the case was put up to me, I had been able to raise it to Rs. 750 per year. These officers had come while they were in an advanced age; they did not come at the young age in which the other regular officers came. Therefore, gratuity was the only method of giving them retirement benefits. Hence, this gratuity has been allowed.

As regards re-employment, I have already said in the statement that attempts are being made to re-employ them as soon as they retire.

**Shri G. S. Singh:** May I know whether the hon. Minister is at all concerned about the fact that he has been receiving inordinate numbers of resignations because of this lowering of the retirement age, from regular officers who are serving, for civilian jobs in firms and in the Government of India?

**Shri Tyagi:** May I inform my hon. friend that he is wrongly informed? There is not so much of a crop of such applications. It is hardly one or two. Sometimes when they find some lucrative job, they apply to take the permission of the Army Headquarters to take up such employment. It is not the rule.

**Shri Velayudhan:** Out of these Emergency Commissioned officers, how many will be absorbed in the permanent Regular Commission? Is there any scheme for expanding the permanent Regular Commission?

**Shri Tyagi:** Of late, we were considering the question of adding to the number of permanent Commission holders, because at present there are quite a large number of officers who do not hold permanent Regular Commission. Therefore, the Ministry is considering the widening of the scope

of the permanent Commission. So there is a possibility of these irregular Commission holders being considered for permanent Commission.

**Shri Kamath:** Non-regular.

**Shri Jaipal Singh:** Is it or is it not a fact that when the NEFA cadre was laid open to the Armed forces, as many as 2000 officers applied for it?

**Shri Tyagi:** External Affairs Ministry had advertised for some civilian political jobs. My hon. friend is right when he says that quite a large number had applied, and it was a matter of some concern to the Defence Ministry.

**Sardar Iqbal Singh:** In view of the present tense situation, may I know the reason which has compelled the Government of India to release these officers?

**Shri Tyagi:** Hardly a few jobs were advertised—seven or eight. The jobs were not many and we released them at the request of the Ministry of External Affairs.

I may inform my hon. friend again that it is not on account of any discontent or dissatisfaction in the Army but because officers have been kept away from their families for long periods; and, we have not been able to provide them full facilities which they deserved.

**Shri Kamath:** In the last para of the statement that is laid on the Table, it is said that in the case of other categories other terms will apply. What are the details of the other categories and other terms?

**Shri Tyagi:** The categories being many, it will be difficult.

**Shri Kamath:** The other terms?

**Shri Tyagi:** The terms also vary.

**Shri Kamath :** Do they all get gratuity plus pension?

**Shri Tyagi:** They do not get pensions. Emergency Commissioned Officers do not get pensions; gratuities they do get.

**Shri Kamath:** What is the rate?

**Shri Tyagi:** I would request my hon. friend to put an independent question to enable me to get the figures.

**Shri Kamath:** Very well.

## RUPEE COMPANY

***2028. Shri Debendra Nath Sarma:** Will the Minister of **Natural Resources and Scientific Research** be pleased to state whether any compensation has been asked by the Assam Oil Company for prospecting, drilling and other allied works done in connection with the formation of the Rupee Company?

**The Minister of Natural Resources (Shri K. D. Malaviya):** I regret it will not be in public interest to disclose this information as the negotiations are still in progress.

**Shri N. M. Lingam:** May I know whether the statement that appeared in the Press that the negotiations have reached a deadlock is true; if not, what is the basis of these talks? Is it the desire of the Government to increase Government's participation in the company or is it on any other ground? May I also know the programme of the proposed company?

**Shri K. D. Malaviya:** Too many questions have been put.

**Mr. Speaker:** The Minister may answer any one he likes.

**Shri K. D. Malaviya:** The basis obviously is as is known to the House, the formation of the Indian rupee company on as favourable terms for us as is possible and consistent with the national interests of the country. It is a fact that negotiations have been suspended for the time being. I would not like to say more about it at this stage.

**Shri Debendra Nath Sarma:** May I know whether the licence for the refinery has also been given to the company along with the licence for the exploration or prospecting?

**Mr. Speaker:** Did the Minister hear the question?

**Shri K. D. Malaviya:** No, Sir.

**Mr. Speaker:** Nor did I.

**Shri Debendra Nath Sarma:** May I ask, after the acceptance of the new Industrial Policy resolution, would it be wise on the part of Government to accord licence to a private company in an industry like oil?

**Shri K. D. Malaviya:** The Industrial Policy Resolution has only recently been announced. The Assam Oil Company has been carrying on exploration and prospecting for some time. The rules applying to them are the Petroleum Concession Rules, and, as they have been carrying on exploration work for some time, we cannot now consider them as a new party. Therefore, this policy will not apply to them to that extent.

DEFENCE SCIENCE ORGANISATION

***2030. Sardar Iqbal Singh:** Will the Minister of **Defence** be pleased to state:

(a) the amount spent since 1st August, 1955 on the Psychological Research Wing of the Defence Science Organisation;

(b) the projects taken up by the organisation since then and their results; and

(c) whether all the officers of the organisation are Indians?

**The Minister of Defence Organisation (Shri Tyagi):** (a) Approximately Rs. 1,87,400 up to 30-4-1956.

(b) Projects undertaken were :—

(i) Construction and standardisation of tests. One test has been completed and construction of six is in progress.

(ii) Training of personnel employed in selectiton duties. This has resulted in 8 courses being run in which 40 officers and 49 JCOs (or equivalent rank) were trained.

(iii) Research. Eight Research Papers have been written.

(c) Yes.

**Sardar Iqbal Singh:** May I know whether this Psychological Research Wing has recommended some tests for the selection of candidates for regular Commission; if that is so, whether these tests are applied when the recruits are selected?

**Shri Tyagi:** Generally, when every new recruit is examined, he is tested psychologically also.

**Sardar Iqbal Singh:** May I know whether these tests that have been recommended are applied rigidly or whether any relaxation is allowed in these tests?

**Shri Tyagi:** I am afraid I have no detailed information about the manner in which the tests are applied.

**Shri D. C. Sharma:** May I know if this Defence Science Organisation or its Psychological Research Wing concerns itself with the study of the technique and methods of psychological warfare and of the methods of counteracting it?

**Shri Tyagi:** I am afraid, perhaps, this Wing is not yet looking into psychological warfare.

ADMINISTRATOR, TRAVANCORE-COCHIN STATE

***2031. Shri V. P. Nayar:** Will the Minister of **Home Affairs** be pleased to state:

(a) whether it is fact that the Administrator of Travancore-Cochin State had come at Delhi in the last week;

(b) whether he had any discussion with the Embassy of U.S.A. in New Delhi; and

(c) if so, whether such discussion was held under instruction from or with the knowledge of Government?

**The Minister in the Ministry of Home Affairs (Shri Datar):** (a) Yes; the Adviser to His Highness the Rajpramukh of Travancore-Cochin, visited Delhi during April 1956.

(b) No.

(c) Does not arise.

**Shri V. P. Nayar:** May I know whether during the visit of the Adviser to His Highness the Rajpramukh of Travancore-Cochin, he was moving about in Delhi flying the State flag in his car?

**Shri Datar:** When he was here, he must have been moving about; he has to move to government offices and other places.

**Shri V. P. Nayar:** I was asking whether the Adviser was moving about in Delhi in a car flying the State flag which is allowed only to the Heads of States. May I also know.....

**Mr. Speaker:** What is this question about? Is it such a big question to be asked?

**Shri V. P. Nayar:** You will be pleased to see....

**Mr. Speaker:** What is the public interest in this matter?

**Shri V. P. Nayar:** The Adviser is only an Adviser and not the Head of a State and he is not authorised to fly the flag.

**Mr. Speaker:** All such matters need not be brought forward here. If the hon. Member feels that there is anything irregular or improper, he may intimate the Minister-in-charge and it is not such a matter of public importance. I do not allow that.

**Shri V. P. Nayar:** Are Government aware that while talking to Pressmen, the Adviser told the local Pressmen that one of his engagements was in the American Embassy here where he had been for some discussion in respect of certain problems?

**Shri Datar:** I may tell the hon. Member that I am not aware of any such Press interview at all.

NON-MUSLIMS IN KASHMIR

*2032. **Shri Gidwani:** Will the Minister of **Home Affairs** be pleased to state:

(a) whether the attention of Government has been drawn to a statement made by the Prime Minister of Pakistan in the Pakistan National Assembly that India was planning to settle more non-muslims in Kashmir and to drive out the Muslim population in order to reduce it into an ineffective minority in the State; and

(b) if so, the facts about the matter?

**The Minister in the Ministry of Home Affairs (Shri Datar):** (a) Yes.

(b) The allegation is enitrely incorrect and baseless.

**Shri Gidwani:** Has the attention of the Government been drawn to a recent statement made by the Prime Minister of Pakistan in Dacca last week published in the Pakistan Press that Indian occupied Kashmir people were being suppressed and their liberties crushed and that those who were in favour of plebiscite were being beaten and locked in jails and that Pakistan had received information that there were plans to convert the Muslims majority into a minority and that it was a threat to peace?

**Shri Datar:** Government are aware of both these statements, one dated 6th April, 1956 and the other at Dacca on the 1st May, 1956. The hon. Member will note that Bakshi Ghulam Mohammad, the Prime Minister of Jammu and Kashmir, who was here, addressed a Press Conference on the 3rd May, 1956 and he characterised this statement as baseless, irresponsible and without foundation.

FOREIGN CURRENCY NOTES AND COINS

*2034. **Sardar Iqbal Singh:** Will the Minister of **Finance** be pleased to state:

(a) the number of orders received by Government during 1955-56 from foreign countries for printing their currency notes and minting their coins; and

(b) the income likely to accrue on the completion of these orders?

**The Minister of Revenue and Defence Expenditure (Shri A. C. Guha):** (a) Four orders for minting coins and one order for printing Currency Notes were received during 1955-56.

(b) Such orders are executed occasionally at the request of foreign Governments mainly as a measure of assistance and not for making a profit. No detailed cost accounts are maintained and it is difficult to say whether any profit is left after covering overheads but margin, if any, is likely to be very small.

**Sardar Iqbal Singh:** May I know the names of the countries from which these orders have been received?

**Shri A. C. Guha:** There are four countries—all Asian and neighbouring countries. I do not know whether you would like their names to be mentioned here. I fear those countries may not like their names to be divulged.

## WRITTEN ANSWERS TO QUESTIONS

### INTERNATIONAL HOSTELS FOR FOREIGN STUDENTS

***2005. Shri S. C. Samanta:** Will the Minister of **Education** be pleased to state:

(a) whether Government propose to build international hostels for Government sponsored cultural scholars of foreign countries; and

(b) the number of such scholars living in Calcutta at present?

**The Deputy Minister of Education (Dr. M. M. Das):** (a) For the present Government propose to build an International Students' House in Delhi where students from abroad as well as some Indian students and foreign visitors interested in educational and cultural work could be accommodated.

(b) 44.

### GRANTS TO TRAVANCORE UNIVERSITY

***2006. Shri Velayudhan:** Will the Minister of **Education** be pleased to state:

(a) the amount of the grants given to the Travancore University in the year 1955-56; and

(b) the purpose thereof?

**The Deputy Minister of Education (Dr. M. M. Das):** (a) and (b). A statement giving the requisite information is laid on the Table of the Lok Sabha. [*See* Appendix XII, annexure No. 13].

### UNESCO

***2008. Shrimati Ila Palchoudhury:** Will the Minister of **Education** be pleased to state the arrangements that have been made so far for holding the UNESCO session in India?

**The Deputy Minister of Education (Dr. M. M. Das):** A statement is placed on the Table of the House. [*See* Appendix XII, annexure No. 14].

### बुनियादी शिक्षा सम्बन्धी गवेषणा की राष्ट्रीय संस्था

**२०१०. श्री श्री नारायणदास :**
**श्री झूलन सिंह :**

क्या शिक्षा मंत्री यह बताने की कृपा करेंगे कि:

(क) बनियादी शिक्षा सम्बन्धी गवेषणा की राष्ट्रीय संस्था के संगठन, कार्यक्रम और कार्य पद्धति की रूप रेखा क्या है;

(ख) उसके कर्मचारी वर्ग को चुने और नियुक्त करने की विधि क्या है; और

(ग) इस योजना की कार्यन्विति के लिये प्रथम पांच वर्षों में अनुमानत: कितना खर्चा होगा ?

**शिक्षा उपमंत्री (डा० एम० एम० दास):** (क) तथा (ग). एक विवरण सभा पटल पर रख दिया गया है । [देखिये परिशिष्ट १२, अनबन्ध सं० १५]

### PURCHASING OF ARMS

***2011. Shri G. L. Choudhury:**
**Shri Brajeshwar Prasad:**

Will the Minister of **Defence** be pleased to state:

(a) whether it is a fact that the Government of India are trying to secure arms from other countries in order to make our Army well equipped; and

(b) if so, the countries which have agreed to supply arms?

**The Minister of Defence Organisation (Shri Tyagi):** (a) and (b). The need of keeping our Army well equipped is constantly kept in view by Government. Efforts are made to purchase

from abroad whatever equipment is considered necessary but cannot be manufactured within the country. It would not be in the public interest to disclose the sources of supply of the equipment required by us, but Government takes into consideration all possible sources of supply before placing a demand.

FOLLAND GNAT-FIGHTER AIRCRAFTS

***2017. Shri Krishnacharya Joshi:** Will the Minister of **Defence** be pleased to state:

(a) whether it is a fact that a Mission is expected to visit the United Kingdom to sign agreements with a British concern to undertake the manufacture of Folland Gnat Aircrafts in India; and

(b) if so, when?

**The Minister of Defence Organisation (Shri Tyagi):** (a) and (b). The matter is under consideration but it is possible that one or two officers may have to be sent to U.K. to finalise the agreements.

POSTS AND TELEGRAPHS EMPLOYEES

***2020. Shri H. N. Mukerjee:** Will the Minister of **Home Affairs** be pleased to state whether any decision has been taken in regard to the *de facto* reversal of option of displaced Posts and Telegraphs Employees of Class III and Class IV cadres who had opted for Pakistan but migrated to India after February, 1950 and were provided with temporary appointments?

**The Minister in the Ministry of Home Affairs (Shri Datar):** No, Sir. However, the general question of giving recognition to the *de facto* reversal of final option of Central Government employees of all Departments is under active consideration.

INDIAN TAX REFORM

***2023. Shri S. V. Ramaswamy:** Will the Minister of **Finance** be pleased to state:

(a) whether Professor Nicholas Kaldar, an eminent English Economist has submitted a report on the Indian Tax Reform; and

(b) if so, whether a copy of the same will be laid on the Table?

**The Deputy Minister of Finance (Shri B. R. Bhagat):** (a) Yes, Sir.

(b) Arrangements are being made to publish the Report and copies of the Report, when published, will be placed in the Lok Sabha Library.

ADMINISTRATIVE UNIT IN ASSAM

***2025. Shri Radha Raman :** Will the Minister of **Home Affairs** be pleased to state:

(a) whether it is a fact that the Assam Government has submitted a plan to the Central Government to develop the entire region north-east of East Pakistan into a self-sufficient economic zone under a homogeneous administrative unit; and

(b) if so, the steps Government have taken in regard to this plan?

**The Minister in the Ministry of Home Affairs (Shri Datar):** (a) No, Sir.

(b) Does not arise.

AUDIT AND ACCOUNTING OF AUTONOMOUS BODIES

***2026. Shri C. R. Narasimhan:** Will the Minister of **Finance** be pleased to state:

(a) whether Government consult the Comptroller and Auditor-General and take his advice before providing for the audit and accounting of autonomous corporations that are being created under special status; and

(b) whether any such consultation has taken place in the case of the Bill nationalising insurance?

**The Minister of Revenue and Civil Expenditure (Shri M. C. Shah):** (a) The Comptroller and Auditor General is usually consulted but where legislation maintains more or less the existing arrangements which Government consider to be satisfactory he is not consulted.

(b) No, Sir. The Comptroller and Auditor General was not consulted because Government decided that the

existing arrangements for commercial audit of Insurance companies should be more or less maintained for the Corporation.

FOREIGN NATIONALS

*2027. **Shri Ibrahim:** Will the Minister of **Home Affairs** be pleased to state:

(a) whether any foreign nationals were granted exemption from taking out residential permits under the existing Foreigners Order during 1955; and

(b) if so, the number of such cases and the names of the countries to which these nationals belong?

**The Minister in the Ministry of Home Affairs (Shri Datar):** (a) The following categories of foreigners are not required to take out residential permits—

(i) Diplomatic and Consular officers and officials coming on duty and their wives and children;

(ii) Officials of the United Nations and its Specialized Agencies; experts working for these organizations and their spouses; and

(iii) Important foreign invitees treated as 'State Guests'.

(b) The information is not available as no statistics are being maintained.

PROHIBITION IN ANDAMANS

*2029. **Shri Bhagwat Jha Azad:** Will the Minister of **Home Affairs** be pleased to state:

(a) whether Government have any plan to introduce either gradual or full prohibition in Andamans islands; and

(b) whether any fresh licence has been given to open a bar at Port Blair?

**The Minister in the Ministry of Home Affairs (Shri Datar):** (a) There is at present partial prohibition in Andamans under which three days are observed as dry days. The question of complete prohibition for these Islands has yet to be taken up.

(b) Yes.

COMPTROLLER AND AUDITOR GENERAL

*2033. **Shri Shree Narayan Das:** Will the Minister of **Finance** be pleased to state:

(a) whether it is a fact that the Comptroller and Auditor General of India is not always consulted in regard to audit provisions in legislation presented to Parliament;

(b) if so, the reasons therefor; and

(c) the subjects of such cases in which he was not consulted since January, 1955?

**The Minister of Revenue and Civil Expenditure (Shri M. C. Shah):** (a) and (b). The Comptroller and Auditor General is generally consulted but where legislation maintains more or less the existing arrangements which Government consider to be satisfactory he is not consulted.

(c) The Comptroller and Auditor General was not consulted in the case of the recent State Bank of India Act, 1955, and the Life Insurance Corporation Bill, 1956, now before Parliament. In both these cases Government came to the conclusion that the existing arrangements for audit as applied to commercial concerns should be maintained in view of the specialised nature of the business of these two concerns.

MILITARY TRAINING

*2035. **Shri Gidwani:** Will the Minister of **Defence** be pleased to state:

(a) whether it is a fact that civilians in urban areas are to be given Military Training; and

(b) if so, the period of training and nature thereof?

**The Minister of Defence Organisation (Shri Tyagi):** (a) and (b). The Lok Sahayak Sena scheme imparts elementary military training in a camp for 30 consecutive days. A proportion of these camps are organised in urban areas. As there would be persons in urban areas who would not find it possible to join such camps, a separate scheme for giving Military Training during week ends to such persons has

been sanctioned as an experimental measure for a period of one year at Ambala, Lucknow and Madras. Training is given for 4 hours in the afternoon on Saturdays or Sundays until the trainee is sufficiently proficient. It is of an elementary nature and comprises such subjects as drill without arms, physical training, digging and musketry.

ALL INDIA SERVICES

*2036. { **Sardar Iqbal Singh:** **Sardar Akarpuri:**

Will the Minister of **Home Affairs** be pleased to state:

(a) the total number of candidates who appeared for the I.A.S., I.P.S. and I.F.S. examination at the London Centre during the last two years; and

(b) the number of those who qualified from this Centre?

**The Minister in the Ministry of Home Affairs (Shri Datar):** (a) and (b). A Statement giving the required information is laid on the Table of the House. [*See* Appendix XII, annexure No. 16].

ACTION AGAINST POLICE PERSONNEL

**1852. Chaudhuri Muhammed Shaffee:** Will the Minister of **Home Affairs** be pleased to lay on the Table a statement showing:

(a) the number of the police personnel of the Government of India, who have been suspended, degraded, discharged or dismissed as a result of decisions of the courts of law from 1st January, 1955 to 31st March, 1956;

(b) the number of appeals filed against such decisions and the result thereof; and

(c) the number of persons who have been re-instated?

**The Minister in the Ministry of Home Affairs (Shri Datar):** A statement is laid on the Table of the House. [*See* Appendix XII, annexure No. 17].

AWARDS AND DECORATIONS

**1853. Chaudhuri Muhammed Shaffee:** Will the Minister of **Home Affairs** be pleased to state:

(a) the number of the Government servants who have been awarded decorations for meritorious services by the Government of India from 1st April, 1955 to 1st April, 1956, Statewise;

(b) the nature of the services rendered by them; and

(c) the total amount spent?

**The Minister in the Ministry of Home Affairs (Shri Datar):** (a) to (c) A statement is placed on the Table of the House. [*See* Appendix XII, annexure No. 18].

ANDAMAN ISLANDS

**1854. Shri Ram Krishan:** Will the Minister of **Home Affairs** be pleased to state the main features of the scheme for training local inhabitants of Andaman and Nicobar Islands in maternity welfare during Second Five Year Plan?

**The Minister in the Ministry of Home Affairs (Shri Datar):** There are at present no maternity centres in the Andaman and Nicobar Islands nor are there professional Dais. Maternity relief is provided only at Government Hospitals mainly at Port Blair Hospital. Rural areas are so scattered that much inconvenience is caused to the expectant mothers even in normal delivery cases. It is,therefore, proposed to train 25 Dais for this purpose. The training will be given free of charge at Government Hospital at Port Blair and the period of training will be one year. Every year five women from rural areas will be selected for training and will be given an allowance of Rs. 50 p.m. during the training period. After completion of training, they will be appointed in rural areas near about their homes and will be required to attend to normal maternity cases. Necessary equipment and medicines will be provided to them from the Medical Department.

GLOSSARY OF CASTE NAMES

**1855. Shri Ram Krishan:** Will the Minister of **Home Affairs** be pleased to state:

(a) the names of the States for which Glossary of Caste Names has not been prepared so far; and

(b) the reasons thereof?

**The Minister in the Ministry of Home Affairs (Shri Datar):** (a) and (b). Glossary of caste names has not been prepared so far for the following States:

(1) Hyderabad, (2) Punjab, (3) Pepsu, (4) Himachal Pradesh, (5) Delhi, (6) Ajmer, (7) Coorg, (8) Vindhya Pradesh, (9) Bihar, (10) Orissa, (11) Assam, (12) Manipur, (13) Tripura, (14) Madhya Bharat, (15) Bhopal, (16) Mysore and (17) Travancore-Cochin. The glossary for Hyderabad is under preparation. Preparation of glossary for Punjab, Pepsu, and Himachal Pradesh will be taken up shortly. No glossary for Coorg or Ajmer is proposed to be prepared as the caste pattern of these State is similar to the neighbouring States of Madras and Rajasthan respectively for which glossaries have been prepared. No glossary could be prepared for Vindhya Pradesh as the census slips of the State have been destroyed. No glossary could be prepared for the remaining States because of the limited enumeration of caste in the States at the last census.

SCHEDULED CASTE AND BACKWARD CLASSES

**1856. Shri Biren Dutt:** Will the Minister of **Home Affairs** be pleased to state:

(a) the special facilities offered to Scheduled Caste and Backward Class people in Tripura in respect of education and social uplift;

(b) whether it is a fact that a great number of Matric and non-Matric Scheduled Castes are unemployed in Tripura; and

(c) the steps Government propose to take to give employment to them?

**The Minister in the Ministry of Home Affairs (Shri Datar):** (a) Students belonging to Scheduled Castes and other Backward Classes are given free tuition at all stages of education in Government Educational Institutions in Tripura. Sufficient steps are also being taken for the social uplift of these classes generally. Grants-in-aid, stipends and book-grants are being given to students belonging to Scheduled Castes and other Backward Classes.

(b) and (c). All Scheduled Caste candidates possessing the requisite minimum qualifications are employed.

**विशेष कार्य पदाधिकारी**

**२८५७. श्री आर० एन० सिंह :** क्या गृह कार्य मंत्री २८ सितम्बर, १९५५ के तारांकित प्रश्न संख्या १२५० के उत्तर में लोक-सभा पटल पर रखे गये विवरण के सम्बन्ध में यह बताने की कृपा करेंगे कि :

(क) विशेष कार्य पदाधिकारियों तथा परामर्शदाताओं की नियुक्ति के समय क्या अर्हतायें और आयु निश्चित हैं;

(ख) विशेष कार्य पदाधिकारी अथवा परामर्शदाता किन-किन राज्यों के हैं; और

(ग) ये पदाधिकारी कब नियुक्त किये गये थे ?

**गृह कार्य मंत्रालय में मंत्री (श्री दातार) :** (क) यह सूचना कहे गये अतारांकित प्रश्न संख्या १२५० के उत्तर में सभा-पटल पर रखे गये विवरण के कालम ४ तथा ५ में दी हुई है।

(ख) सूचना एकत्रित की जा रही है और प्राप्त होते ही सभा-पटल पर रख दी जायेगी।

(ग) उस विवरण में दिये हुए पदाधिकारियों की नियुक्ति की तारीखें क्रमशः निम्नलिखित हैं:—

16-8-54; 17-11-55; 12-5-54; 16-9-54; 15-4-54; 25-8-54; 11-2-54; 1-4-54; 17-1-55; 15-9-54; 1-11-54; 1-11-54; 11-9-54; 24-2-54; 4-8-54; 21-7-54; 23-3-54; 14-11-54; 12-4-54; 3-1-55; 12-1-55; 30-6-54; 9-11-54; (पून : 18-7-55 को)

7-11-54; 17-1-55; 19-10-54; 25-2-55; 29-1-55; 27-12-54; 9-2-55; 1-12-54; 1-6-54; 31-7-54; 21-3-55; 5-4-54; 27-9-54; 21-3-55; 10-7-54; 7-3-55; 18-6-54; 2-6-54; 7-2-55; 8-9-54; 25-6-54; 1-9-54; 25-2-55; 8-11-54; 17-2-55; 18-10-54; 24-12-54; 29-10-54; 18-12-54; 1-10-54, 26-4-54; 1-6-54; (पूर्व : 24-8-54 को) 14-7-54; 29-10-54; 4-8-54; 15-1-55; 1-2-55; 24-6-54; 7-7-54.

INDIAN ADMINISTRATIVE SERVICE

**1858. Shri H. N. Mukerjee:** Will the Minister of **Home Affairs** be pleased to state:

(a) whether a number of persons were selected for the I.A.S. by the Special Recruitment Board in or about 1951;

(b) whether it is a fact that in spite of an assurance in an official press note, the final list of those selected was not published;

(c) whether a number of those who were so selected were offered posts in the Indian Police Service in 1951 and later;

(d) whether Government are aware that many of them would prefer being in the cadre of the I.A.S.; and

(e) whether such persons in the Indian Police Service would be offered a chance of being absorbed in the I.A.S., if they so desire?

**The Minister in the Ministry of Home Affairs (Shri Datar):** (a) Yes.

(b) As contemplated in the Press Note of the 21st September, 1949, some more appointments were made piecemeal later on as and when clear vacancies were known in each State and Union of States. These appointments were duly notified in the Gazette of India.

(c) No, only such of them as were also selected for the I.P.S. were appointed to the Service.

(d) The question of their personal preference does not arise.

(e) Those of them who are eligible under the Special Recruitment Scheme, may compete for the I.A.S., if they can be spared.

INDUSTRIAL FINANCE CORPORATION

**1859. Shri Ram Krishan:** Will the Minister of **Finance** be pleased to state:

(a) the number of applications received from the Pepsu State for aid from the Industrial Finance Corporation during 1955;

(b) the amounts sanctioned against the accepted applications; and

(c) the amounts paid so far?

**The Minister of Revenue and Defence Expenditure (Shri A. C. Guha):** (a) Nil.

(b) and (c). Do not arise.

PROPAGATION OF HINDI

**1860. { Shri Krishnacharya Joshi: Shri D. C. Sharma:**

Will the Minister of **Education** be pleased to state the amount of the grants sanctioned, State-wise, by the Central Government for the propagation of Hindi in non-Hindi speaking areas during 1955-56?

**The Deputy Minister of Education (Dr. M. M. Das):** A statement is laid on the Table of the House. [*See* Appendix XII, annexure No. 19].

GRANTS TO SOCIAL WELFARE ORGANISATIONS

**1861. Shri Krishnacharya Joshi:** Will the Minister of **Education** be pleased to state:

(a) the total amount of grants made to the various Social Welfare Organisations through the Central Social Board during 1955-56; and

(b) the total number of institutions which received these grants?

**The Deputy Minister of Education (Dr. M. M. Das):** (a) Rs. 43,77,451.

(b) 1,777.

I.A.S. AND I.P.S. OFFICIALS

**1862. Chaudhuri Muhammed Shaffee:** Will the Minister of **Home Affairs** be pleased to state:

(a) the number of written complaints received by the Central Government against I.A.S. and I.P.S. officials in India from 31st March, 1955 to 31st March, 1956, Statewise; and

(b) the action taken in this connection?

**The Minister in the Ministry of Home Affairs (Shri Datar):** (a)

| | |
|---|---|
| Bombay .. | 1 |
| Hyderabad .. | 1 |
| Punjab .. | 1 |
| TOTAL .. | 3 |

(b) Since the complaints were against officers serving in the States they were brought to the notice of the State Governments concerned for necessary action.

NATIONAL THEATRE

1863. **Shri D. C. Sharma:**
**Sardar Iqbal Singh:**
**Shri Shree Narayan Das:**

Will the Minister of **Education** be pleased to state the progress made so far with regard to the construction of the proposed National Theatre at Delhi?

**The Deputy Minister of Education (Dr. M. M. Das):** In reply to Unstarred Question No. 323 asked on 6-12-1955, I had already stated that as a preliminary step, two architects were sent abroad to study the construction of the most important Theatres and Opera Houses in Western countries with a view to making recommendations on the scope and requirements of the National Theatre. The report of the architects has been received and is being considered by the Government of India.

*Vigyan Mandir*

**1864. Shrimati Ila Palchoudhuri:** Will the Minister of **Natural Resources and Scientific Research** be pleased to state:

(a) whether any *Vigyan Mandir* has been established in West Bengal;

(b) if so, where; and

(c) the total expenditure incurred thereby?

**The Minister of Natural Resources (Shri K. D. Malaviya):** (a) Not yet.

(b) and (c). Do not arise.

JOINT POLICE COMMAND IN MADHYA BHARAT

**1865. Shri Sivamurthi Swami:** Will the Minister of **Home Affairs** be pleased to refer to the reply given to Starred Question No. 1672, on the 12th September, 1955, and state:

(a) whether the joint police command, which was set up to co-ordinate operations against the gang of Man Singh in Madhya Bharat has been disbanded; and

(b) if so, the reason for this action?

**The Minister in the Ministry of Home Affairs (Shri Datar):** (a) Yes.

(b) The Joint Command was set up mainly with the object of liquidating the Man Singh gang. As Man Singh, several of his lieutenants including his brother and son, and a number of other notorious dacoits operating in the area having been accounted for, the continuance of the joint command was not considered necessary.

BASIC EDUCATION

**1866. Shri Ram Krishan:** Will the Minister of **Education** be pleased to state:

(a) the total amount of grant or aid given to the State of Pepsu during 1954-55 and 1955-56 for the expansion of Basic education;

(b) whether the whole amount has been utilised;

(c) if so, the total number of new Basic Colleges, Schools and other such institutions opened during this period with Central aid;

(d) the total number of existing training institutions converted into basic schools during this period with such aid; and

(e) the total amount of grant or aid to be given to the State of Pepsu during the next year for the expansion of basic education?

**The Deputy Minister of Education (Dr. M. M. Das):** (a) The following grants were sanctioned to the State Government for this purpose:—

(i) 1954-55—Rs. 14,400

(ii) 1955-56—Rs. 20,260.

(b) No, Sir.

(c) A part of the amounts sanctioned has been utilised by the State Government for opening:—

Basic Schools—33.
Basic Training Institutions—2.

(d) 1 Institution.

(e) This will depend on the scheme of the State Government, as well as on the share of expenditure that may be borne by the Government of India.

INCOME TAX DEPARTMENT, CUTTACK

**1867. Dr. Natabar Pandey:** Will the Minister of **Finance** be pleased to state:

(a) whether there is a proposal for constructing a building at Cuttack for housing the staff of the Income-tax Department;

(b) whether it is a fact that a building site has been selected out of two offers made in this regard;

(c) if so, the terms of each offer; and

(d) the basis of selection of the site?

**The Minister of Revenue and Civil Expenditure (Shri M. C. Shah):** (a) Yes, Sir. There is a proposal for constructing residential quarters for the staff of the Income-tax Department at Cuttack.

(b) A site has been selected out of two offers made in this regard.

(c) Plot No. 1 was offered at the rate of Rs. 1500 per guntha, originally. The offer was later revised to Rs. 900 per guntha, which was the price fixed by the local Revenue authorities.

Plot No. 2 was offered at the rate of Rs. 1000 per guntha originally, which was later revised to Rs. 850 per guntha, long after the purchase of plot No. 1 at Rs. 900 had been sanctioned.

(d) Plot No. 1 was selected as it was found more suitable for the construction of residential buildings for the non-gazetted staff of the Income-tax Department, being situated in a well-inhabited locality, in close proximity to the city and the market, and was also preferred by the staff for whom the quarters are intended.

WOMEN AND CHILDREN WELFARE CENTRE IN MADRAS

**1868. Shri Balakrishnan:** Will the Minister of **Education** be pleased to state:

(a) the number of Women and Children Welfare Centres started in Madras State with Central aid during the First Five Year Plan period; and

(b) the number of Centres so proposed to be started in the current year?

**The Deputy Minister of Education (Dr. M. M. Das):** (a) and (b). The information is being collected and will be laid on the Table of the Lok Sabha as soon as possible.

**प्रतिरक्षा मंत्रालय में ठेके**

१८६९. **श्री अमर सिंह डामर** : क्या **प्रतिरक्षा** मंत्री यह बताने की कृपा करेंगे कि भिन्न-भिन्न सामानों के संभरण के लिये प्रतिरक्षा मंत्रालय १ जनवरी, १९५३ से किस किस प्रकार के ठेके प्रचलित हैं ?

**प्रतिरक्षा संगठन मंत्री (श्री त्यागी)** : अधिकतर भण्डार, जिनकी आवश्यकता सशस्त्र सेनाओं तथा प्रतिरक्षा मंत्रालय को होती है, डाइरेक्टर जनरल आफ सप्लाईज एंड डिसपोजल, खाद्य और कृषि मंत्रालय के चीफ डाइरेक्टर आफ परचेज, डाइरेक्टर जनरल, इण्डिया स्टोर डिपार्टमेंट, लन्दन और इण्डिया सप्लाई मिशन, वाशिंगटन द्वारा प्राप्त किये जाते हैं, और प्रतिरक्षा मंत्रालय का वास्तविक ठेके से कोई सम्बन्ध नहीं है। सशस्त्र सेनाओं के स्थानीय अधिकारियों द्वारा केवल निर्माण कार्यों सम्बन्धी ठेके तथा रसद व सेवाओं सम्बन्धी कुछ ठोके ठेके किये जाते हैं, उदाहरणत: सब्जियों, फलों, मछली, मांस इत्यादि की रसद ।

FORGED CURRENCY NOTES

**1870. { Sardar Iqbal Singh: Sardar Akarpuri:**

Will the Minister of **Finance** be pleased to state:

(a) the total number of cases filed and the number of persons convicted for forgery of currency notes;

(b) the number of places raided by the police in this connection and the number of machines for forgery of currency notes seized; and

(c) the reasons for the increase in the forgery of currency notes in 1955-56 as compared to 1954-55?

**The Minister of Revenue and Defence Expenditure (Shri A. C. Guha):** (a) and (b). A statement is placed on the Table of the House giving the available information [*See* Appendix XII, annexure No. 20]. Information is still awaited from a few State Governments and a further statement will be laid on the Table of the House in due course.

(c) The available information does not show that there has been, on the whole, an increase in the forgery of currency notes in 1955-56.

ENGINEERING COLLEGE AT ROURKELA

**1871. Shri Sanganna :** Will the Minister of **Education** be pleased to state :

(a) whether the proposal to set up a second Engineering College at Rourkela in the State of Orissa is under the consideration of the Government of India; and

(b) if so, what is the result?

**The Deputy Minister of Education (Dr. M. M. Das):** (a) There is no such proposal.

(b) Does not arise.

SUCCESSION TO MAHARAJA OF MANIPUR

**1872. Shri Rishang Keishing:** Will the Minister of **Home Affairs** be pleased to state:

(a) whether it is a fact that the Government of India have appointed the minor son, aged three and half years, born of the second Rani, as successor to the late Maharaja, Budha Chandra Singh of Manipur; and

(b) how the selection of the successor has been made?

**The Minister in the Ministry of Home Affairs (Shri Datar):** (a) Yes.

(b) Shri Okendrajit Singh was recognised by the President as the Ruler of Manipur having regard to the law and custom relating to succession to the Gadi of Manipur as ascertained by the Government of India. In view, however, of the representations received in the matter, it has been decided that the matter should be investigated by a judicial officer.

*Vigyan Mandirs*

**1873. Shri Shivananjappa:** Will the Minister of **Natural Resources and Scientific Research** be pleased to state:

(a) the number of *Vigyan Mandirs* proposed to be set up in the Kannada-speaking areas during the Second Five Year Plan; and

(b) their estimated cost?

**The Minister of Natural Resources (Shri K. D. Malaviya):** (a) The allocation of *Vigyan Mandirs* as between various States has not yet been decided.

(b) The non-recurring expenditure on each *Vigyan Mandir* is estimated to be Rs. 16,500 approximately and the annual recurring expenditure to be about Rs. 12,000.

DEVELOPMENT COMMITTEE FOR TECHNICAL EDUCATION

**1874. Shri Shivananjappa:** Will the Minister of **Education** be pleased to state :

(a) whether it is a fact that the post-graduate Development Committee for Technical Education met recently at Madras; and

(b) if so, what are the important recommendations made by the Committee about Post-graduate courses?

**The Deputy Minister of Education (Dr. M. M. Das) :** (a) and (b). A statement giving the required information is laid on the Table of the House. [*See* Appendix XII, annexure No. 21].

REHABILITATION OF *Ex*-SOLDIERS

**1875. Shri Biren Dutt:** Will the Minister of **Defence** be pleased to state:

(a) whether any scheme has been taken up by Government to rehabilitate the *ex*-soldiers of Tripura Rifle;

(b) the number of *ex*-soldiers going to be benefited by it; and

(c) the actual work to be done under the scheme?

**The Minister of Defence (Dr. Katju):** (a) No schemes have been taken up by Government of India exclusively for the rehabilitation of the *ex*-soldiers of Tripura Rifles. The facilities for resettlement, such as preference in the matter of employment under Government or private bodies, settlement in land colonies, assistance in the formation of Transport Co-operatives, vocational/technical training, etc., which are available to the *ex*-servicemen in general are available to the *ex*-soldiers of Tripura Rifles also.

(b) and (c). Do not arise.

BURGLARIES IN AGARTALA (TRIPURA)

**1876. Shri Biren Dutt:** Will the Minister of **Home Affairs** be pleased to state:

(a) the number of cases of burglary registered at Agartala Police Station during 1955-56 and from January, 1956 to March, 1956;

(b) the number of cases that have been detected; and

(c) the number of criminals punished?

**The Minister in the Ministry of Home Affairs (Shri Datar):** (a) 111 cases during 1955-56 and 21 cases from January 1956 to March 1956.

(b) 35.

(c) 8.

BOARDING HOUSES FOR TRIBAL STUDENTS

**1877. Shri Dasaratha Deb:** Will the Minister of **Education** be pleased to state:

(a) whether it is a fact that Government have been constructing new boarding houses for Tribal students in Tripura;

(b) if so, the number of boarding houses that are under construction; and

(c) the location of such boarding houses?

**The Deputy Minister of Education (Dr. M. M. Das):** (a) Yes, Sir.

(b) Five.

(c) They are attached to the following Schools:—

(i) Jampaijala Primary School, Sadar.

(ii) Birendranagar Primary School, Sadar.

(iii) Kakraban Senior Basic School, Udaipur.

(iv) Damcherra Primary School, Dharmanagar.

(v) Manil Bhandar M. E. School, Kamalpur.

TRIBAL STUDENTS

**1878. Shri Dasaratha Deb:** Will the Minister of **Education** be pleased to state whether it is a fact that Government propose to provide tuition fees to those tribal students who study in the Non-Government schools in Tripura?

**The Deputy Minister of Education (Dr. M. M. Das):** The information is being collected and will be laid on the Table of the House in due course.

CONSTITUTION FOR KASHMIR

**1879. Shri Krishnacharya Joshi:** Will the Minister of **Home Affairs** be pleased to state whether the Constituent Assembly of Kashmir has finalised a Constitution for the State of Jammu and Kashmir?

**The Minister in the Ministry of Home Affairs (Shri Datar):** I understand from the Jammu and Kashmir Government that the Constitution of the State is likely to be finalised in a few months time.

INDUSTRIAL FINANCE CORPORATION

**1880. Shri Gadilingana Gowd:** Will the Minister of **Finance** be pleased to state:

(a) the number of applications received during the period from the 1st April, 1952 to the 31st March, 1955 from Andhra State for aid from the Industrial Finance Corporation;

(b) the amounts sanctioned on each accepted application; and

(c) the amounts paid so far?

**The Minister of Revenue and Defence Expenditure (Shri A. C. Guha):**

(a) One.

(b) Rs. 35 lakhs.

(c) Rs. 12 lakhs; the balance was declined by the company.

LOANS FROM WORLD BANK

**1881. Sardar Iqbal Singh:** Will the Minister of **Finance** be pleased to state:

(a) the number of applications made to the World Bank during the last five years for the grant of loans;

(b) the number of loans granted and the nature of such loans;

(c) the number of applications rejected by the World Bank; and

(d) the reasons therefor?

**The Minister of Revenue and Civil Expenditure (Shri M. C. Shah):** (a) Four.

(b) The following four loans have been granted during the last five years:—

| *Name of the Loan* | *Date of Loan Agreement* | *Amount ($Million)* |
|---|---|---|
| (i) Indian Iron & Steel Co., Ltd. | 18-12-52 | 31·5 |
| (ii) H. D. V. C. | 23-1-53 | 10·5 |
| (iii) Trombay Project. | 19-11-54 | 16·2 |
| (iv) Industrial Credit and Investment Corporation of Ind a. | 14-3-55 | 10·0 |

(c) Nil.

(d) Does not arise.

**मालिनी नदी के निकट खुदाई**

**१८८२. श्री भक्त दर्शन :** क्या शिक्षा मंत्री यह बताने की कृपा करेंगे कि :

(क) क्या यह सच है कि उत्तर प्रदेश के गढ़वाल जिले में मालिनी नदी के किनारे पर महर्षि कण्व के आश्रम के पास खुदाई करते समय ७०० ईसवी की एक मूर्ति पाई गई है; और

(ख) यदि हां, तो उसका पूर्ण विवरण क्या है ?

**शिक्षा उपमंत्री (डा० एम० एम० दास) :** (क) तथा (ख). आवश्यक जानकारी इकट्ठी की जा रही है और यथा समय सभा पटल पर रख दी जायेगी ।

OLYMPIC GAMES

**1883. Shri C. Bhatt:** Will the Minister of **Education** be pleased to state:

(a) whether Government have all the records of marks, official as well as non-official, of the Indian Agencies that took part in the individual events of the World Olympic Games competitions at different places;

(b) if so, the records for the last five Olympic Games; and

(c) if not, the reasons therefor?

**The Deputy Minister of Education (Dr. M. M. Das):** (a) No, Sir.

(b) Does not arise.

(c) Government are not expected to maintain these records.

ASSISTANTS IN CENTRAL SECRETARIAT

**1884. Shri K. P. Tripathi:** Will the Minister of **Home Affairs** be pleased to state:

(a) whether serving Assistants in the Central Secretariat and its attached offices who were appointed not on the recommendations of the Union Public Service Commission were allowed to appear in two qualifying tests held by the Union Public Service Commission under the Central Secretariat Service (Re-organisation and reinforcement) scheme so that they

might continue in their posts before they are finally confirmed in Grade IV of the Central Secretariat Service;

(b) when the results of the last of the two tests were declared by the Union Public Service Commission;

(c) whether many serving Assistants who failed to qualify in any of these two tests continued long after the results were declared and some continued even to the end of 1954;

(d) whether some of these were not even permanent clerks;

(e) whether there was any occasion either for any Ministry or for any attached office of the Central Secretariat to refuse to allow an Assistant who rendered himself liable for retention as Assistant by qualifying in the test held by the Union Public Service Commission to continue in the post he was holding though no charges of inefficiency or other charges were brought against him; and

(f) if so, how many such occasions arose in the Ministry of Home Affairs and their attached offices and what are the reasons?

**The Minister in the Ministry of Home Affairs (Shri Datar):** (a) No Sir. Two competitive examinations limited to departmental candidates (and not qualifying tests) were held by the Union Public Service Commission, one in June 1950 and the other in December 1951, for selection of existing temporary Assistants for confirmation in Grade IV of the Central Secretariat Service at the initial Constitution.

(b) on the 22nd May 1952.

(c) The examinations as stated above were for making a selection of temporary Assistants for confirmation and not for assessing their suitability for continuance as temporary Assistants. Assistants who appeared at these examinations but failed to qualify for confirmation would have continued as temporary Assistants.

(d) Yes.

(e) No such case has been brought to the notice of the Home Ministry.

(f) Does not arise.

## Electoral Rolls

**1885. Dr. Satyawadi:** Will the Minister of **Law** be pleased to state:

(a) whether the electoral rolls prepared in 1952 have totally been revised throughout the country; and

(b) if so, the latest position of the total electors in each State as compared to the total electors in 1952?

**The Minister of Legal Affairs (Shri Pataskar):** (a) and (b). The electoral rolls are revised every year. Such revision is done intensively by means of house-to-house enquiries in one-fifth of the area of each State, and non-intensively by reference to the death registers etc. and claims or objections which may be filed in the remaining four-fifths. The intention is that by the end of each five-year period *i.e.* before the general elections are normally due, the electoral rolls for the entire area of each State will have been intensively revised at least once. This position would be reached in respect of the rolls first prepared before the last general elections when the revision for 1956 which is still proceeding, has been completed. For the purposes of comparison, the figures for the rolls on the basis of which the general elections took place in 1952 may be compared with the figures for 1955.

A statement showing the number of voters on the rolls in 1951 and 1955 is laid on the Table of the House. [*See* Appendix XII, annexure No. 22].

## All India Council for Technical Education

**1887. Shri Hem Raj:** Will the Minister of **Education** be pleased to state:

(a) (i) the names of the members of Northern Regional Committee of the All India Council of Technical Education, (ii) their term of office, and (iii) the names of States covered by it; and

(b) (i) the number of meetings of the Committee held in the years 1954 and 1955, (ii) the details of schemes formulated by it for the advancement of technical education in the Northern zone?

**The Deputy Minister of Education (Dr. M. M. Das):** (a) and (b). A statement giving the required information is laid on the Table of the House. [*See* Appendix XII, annexure No. 23].

CENTRAL SECRETARIAT

**1888. Shri Rishang Keishing:** Will the Minister of **Home Affairs** be pleased to state:

(a) the number of temporary clerks who were promoted to the Assistant's grade from the 16th August, 1947 till the 30th May, 1952 when the orders were issued for the treatment of quasi-permanent employees at par with permanent employees;

(b) the number of displaced permanent Central Government clerks who were not promoted during this period; and

(c) the steps Government are taking to rectify the discrepancies arising out of the non-application of Government policy indicated in reply to Unstarred Question No. 695 on 16th December, 1952?

**The Minister in the Ministry of Home Affairs (Shri Datar):** (a) and (b). No information is available as these promotions were made by the various Ministries without consulting this Ministry. Between 15th August 1947 and 14th April 1952, even temporary clerks were eligible for appointment to the grade of Assistant provided they were graduates. After 14th April 1952, and until it was decided to constitute grade I of the Central Secretariat Clerical Service, the eligibility for promotion was extended to non-graduate temporary clerks also provided they had been declared quasi-permanent.

(c) The Government policy regarding promotion of permanent displaced Central Government servants indicated in the answer to part (b) of Question No. 695 on 16th December 1952 has been consistently followed. Permanent Central Displaced Government servants in the clerical grade were also eligible along with permanent and quasi-permanent clerks for promotion to the Assistant's grade.

NATIONAL AGRICULTURAL CREDIT FUND

**1889. Shri Shree Narayan Das:** Will the Minister of **Finance** be pleased to state:

(a) the various categories of institutions to which the Reserve Bank of India gave medium-term loans out of the National Agricultural Credit (Long Term Operations) Fund during 1955-56; and

(b) whether any individual limit on such borrowing institutions was set?

**The Minister of Revenue and Defence Expenditure (Shri A. C. Guha):** (a) The Hon'ble Member is referred to Section 46A of the Reserve Bank of India Act, and he will find that besides long-term credit to State Governments, medium-term loans out of the National Agricultural Credit (Long-Term Operations) Fund can be made to State Co-operative Banks only.

(b) There is no statutory limit set individually on the borrowing institutions. The extent of such medium-term loans depends upon the extent to which the concerned State Government stands guarantee and also on its ability to utilise the funds for the purposes in view.

INDIAN CIVIL SERVICE

**1890. Shri Raghubir Sahai:** Will the Minister of **Home Affairs** be pleased to refer to the reply given to Starred Question No. 1721 on the 25th April, 1956 and place on the Table a statement of the break up of the entire strength of Indian Civil Service cadre State-wise, showing also their length of service?

**The Minister in the Ministry of Home Affairs (Shri Datar):** A Statement is laid on the Table of the House. [*See* Appendix XII, annexure No. 24].

ADULT EDUCATION

**1891. Shri Madiah Gowda:** Will the Minister of **Education** be pleased to state:

(a) whether it is a fact that the Government of U.S.S.R. have invited

the Central Government to depute specialists in the field of adult education to study the adult education methods followed there; and

(b) if so, the action that has been taken in that respect?

**The Deputy Minister of Education (Dr. M. M. Das):** (a) and (b). The Ministry of Education of the Russian Soviet Federative Socialist Republic have invited the Government of India to send to the Soviet Union a delegation of 15 Indian educationists for the purpose of acquanting themselves with the U.S.S.R. system of education for a period of 3 weeks.

It is proposed to accept the invitation and to consider the proposal in a modified form by sending a study team of 10 Indian educationists representing different stages of education, to see and report on educational facilities in the U.S.S.R. The proposal is being examined.

GRANTS TO SOCIAL WELFARE INSTITUTIONS IN BIHAR

**1892. Shri Deogam:** Will the Minister of **Education** be pleased to state the amount of grant-in-aid given so far by the Central Social Welfare Board to each Social Welfare Institution in Bihar during 1955-56?

**The Deputy Minister of Education (Dr. M. M. Das):** A statement giving the requisite information is attached [*See* Appendix XII, annexure No. 25].

CANTONMENT BOARDS

**1893. { Sardar Iqbal Singh: Sardar Akarpuri:**

Will the Minister of **Defence** be pleased to state the development programmes chalked out by the Ferozepore, Jullundur, Amritsar and Ambala Cantonment Boards for 1955-56?

**The Minister of Defence Organisation (Shri Tyagi):** A statement showing the amounts asked for by the four Cantonment Boards in connection with development programmes during 1955-56 is laid on the Table of the House. [*See* Appendix XII, annexure No. 26].

# DAILY DIGEST

[*Tuesday, 8th May*, 1956]

WRITTEN ANSWERS TO QUESTIONS—*contd.*



GIPN—III Sec.—114 Lok Sabha—27-11-56.

Tuesday,
8th May, 1956

# LOK SABHA DEBATES

**(Part II—Proceedings other than Questions and Answers)**


LOK SABHA SECRETARIA
NEW DELHI

SIX ANNAS (INLAND) TWO SHILLINGS (FOREIGN)

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LOK SABHA DEBATES

(Part II—Proceedings other than Questions and Answers)



LOK SABHA

*Tuesday, 8th May, 1956.*

*The Lok Sabha met at Half Past Ten of the Clock.*

[MR. SPEAKER *in the Chair*]

QUESTIONS AND ANSWERS

(*See* Part I)

11.31 A.M.

RELEASE OF A MEMBER

**Mr. Speaker:** I have to inform the House that I have received the following letter dated the 5th May, 1956 from the Chief Presidency Magistrate, Calcutta :

"I have the honour to state that Shri Tushar Chatterjea, Member of the Lok Sabha, has, this day (on the 5th May, 1956), been discharged from the case. Orders have been issued by this Court directing the Superintendent of the Presidency Jail to release him at once."

ARREST OF MEMBERS

**Mr. Speaker:** I have to inform the House that I have received the following telegram dated the 7th May, 1956, from the Deputy Commissioner of Police, Central District, Calcutta:

"I have the honour to inform you that Shri Bhajahari Mahata and Shri Chaitan Majhi, Members, Lok Sabha, have been arrested today, the 7th May, 1956, at 15-15 hours in Calcutta in connection with Hare Street Police Station Case No. 458 under sections 143/145/186 Indian Penal Code and section 11, West Bengal Security Act. They were produced before the Presidency Magistrate and remanded to jail custody."





HINDU SUCCESSION BILL—*contd.*

**Clause 25.**—(*Special provision respecting dwelling houses*)

**Mr. Speaker:** The House will now take up further clause by clause consideration of the Bill to amend and codify the law relating to intestate succession among Hindus, as passed by Rajya Sabha.

For clauses 24 to 26, time allowed is 2 hours, time taken is 27 minutes and the balance left is 1 hour 33 minutes. For clauses 27 to 33, time allowed is 1 hour 30 minutes, and for the third reading, 2 hours.

Shri Sadhan Gupta will now continue his speech.

**Shri Sadhan Gupta** (Calcutta South-East) : I was explaining my amendment No. 219 by which I was seeking to make a slight amendment of clause 25. The material part of clause 25 reads thus :

"Where a Hindu intestate has left surviving him or her both male and female heirs specified in class I of the Schedule and his or her property includes a dwelling house wholly occupied by members of his or her family, then, notwithstanding anything contained in this Act, the right of any such female heir to claim partition of the dwelling-house shall not arise until the male heirs choose to divide their respective shares therein;"

The female heir's right to claim partition has been restricted or has been taken away if the dwelling-house left by the intestate is wholly occupied by the members of the intestate's family. When the right of partition is conferred, then the only condition is that it will arise when the male heirs choose to divide their respective shares therein. Suppose the male heirs do not choose to divide their respective shares but they cease to occupy the dwelling-house wholly and they let out a part of it for rent, then under these circumstances,

[Shri Sadhan Gupta]

the female heir, who has a right in the house, is entitled to claim a share in the house, a share of the rent and all that. She might have great inconvenience if she is not allowed to partition her share, because naturally the people in possession may appropriate the whole rent and it may not be possible for her to realise that rent without a very costly litigation. Therefore, it would be better to enable her to claim partition not only when the male heirs themselves claim partition, but also when the male heirs or rather the members of the intestate's family cease to occupy the dwelling-house wholly. I think that is really the intention of this clause, but it has not been properly expressed, because if you defer the right to claim partition, when the members of the intestate's family are wholly occupying the dwelling-house it is but logical that you will allow the female heir to claim partition when they cease to occupy the dwelling-house wholly. Therefore, what I seek to do here is that after the words "notwithstanding anything contained in this Act, the right of any such female heir to claim partition of the dwelling-house shall not arise", I want to put in the words "until the members of the intestate's family cease wholly to occupy it or", that is to say, it shall not arise until the members of the intestate's family cease wholly to occupy it or until the male heirs choose to divide their respective shares therein.

I would request the Minister to consider this amendment because it is really by way of supplying a lacuna and it does not introduce any new principle into the clause. It only makes the clause logical and cures it of the defect which, I think, has unwittingly crept into it.

**Shri V. G. Deshpande** (Guna): The clause, as it is, is not well drafted, and with your permission, Sir, I would request the hon. Minister for Legal Affairs—as he is not here, somebody may convey my request to him—

**The Minister of Revenue and Civil Expenditure (Shri M. C. Shah):** I am here and I will convey, whatever you say, to him.

**Shri V. G. Deshpande:** As proposed, this clause reads :

> "Where a Hindu intestate has left surviving him or her both male and female heirs specified in class I of the Schedule and his or her property includes a dwelling-house wholly occupied by members of his or her family, then, notwithstanding anything contained in this Act, the right of any such female heir to claim partition of the dwelling-house shall not arise until the male heirs choose to divide their respective shares therein. . . . "

This provision is made in order that foreigners may not come and occupy the dwelling-house.

**An Hon. Member:** Strangers.

**Shri V. G. Deshpande:** Yes, strangers. After changing our law, all of us would be foreigners, having left the Hindu law of succession. What I mean is that strangers may not come and occupy the house. This is the object of the clause. Of course, in hurry, this Bill has been drafted. Our object in codifying the law was in view of the fact that there were many lacunae in the old law, there were many rulings and all that, and we wanted that a very simple law should be provided. But in actual practice we have seen that in haste we have not carefully drafted the Bill because it is not only the female heirs who would be bringing in strangers in the family house but male heirs also. If you read the first part of the Schedule, you will see that in addition to the daughter and others, there are some male relatives also who would be strangers to the family, for example, the predeceased daughter's son; he is a male, but if he comes to reside in the house, he would be a stranger in the House. You say that a married daughter can not come and stay in the house, but the son of your married daughter, who is dead, can come and stay with the members of his family in the same dwelling house. This defect can be remedied by a simple process which we have already adopted in clause 6, because a similar defect had crept in there. If you add after the words "female heir" the words "or a male heir claiming inheritance through a female heir", then even the male relatives who are strangers to the house can be stopped from occupying a dwelling-house which is wholly occupied by the family. We are trying to respect the sentiments of the people but we are afraid that the daughter's relatives should come and stay in the house. That is why we say that she shall be entitled to a right of residence in the dwelling-house only if she is unmarried or has been deserted by her husband is a widow whose husband has left no dwelling-house.

**Dr. Lanka Sundaram** (Visakhapatnam) : Under the Estate Duty Act, the dwelling-house of the joint family is not protected at all. It is valued and the duty is collected.

**Shri V. G. Deshpande :** Here actually the framers of the Bill have accepted that a stranger should not come and occupy the house. We have not provided for it properly in the Bill. At every stage we are compromising and therefore, anomalies have crept in. There was a sculptor who wanted to have an image of Ganesh. In compromising, he said that instead of a trunk, let us have a tail. But then instead of Ganesh he actually got a monkey.

**Shri C. C. Shah** (Gohilwad-Sorath): May I correct the hon. Member. The right of residence is given only to the female heir and not to any male heir claiming through the female heir.

**Shri V. G. Deshpande :** I am proposing the amendment. Now, a daughter's son can demand a partition.

**Shri C. C. Shah:** He cannot claim a right of residence, though he has a right to claim partition. (*Interruptions.*)

**Mr. Speaker :** I have allowed all Members to speak. Let us finish now.

**Shri V. G. Deshpande:** I want that in a dwelling-house which is wholly occupied by members of a family, a similar right should be denied to the daughter's son because such strangers should not have a right to partition the house when it is wholly occupied by the family. That is consistent with the object of this clause.

**Shri Syamnandan Sahaya** (Muzaffarpur Central) : The point which has been raised just now deserves very careful consideration. The framers of the Bill must have similar objectives in view while laying down here that the female heir cannot claim partition of the dwelling-house. The mere fact of admitting that the female heir should have no right of partition of a dwelling-house indicates the objective which the framers of the law have in view. The idea is that a female heir generally gets married and goes to another family. If she wants partition, it will mean great inconvenience to the other members of the estate who dwell in that house. If this point is conceded, it arises consequentially that any one claiming through the female heir should not have this right. It is not a matter on which we should have a great deal of discussion. This clause refers to the dwelling-house alone and to no other property where the female heirs have got the right to partition. Only in the case of the dwelling-house this exception has been made. If this exception has been made in the case of female heirs, it stands to reason that it should be extended to the descendants or those claiming through the female heirs also. This is a Bill which revolutionises the present method of inheritance and therefore, in framing it there should be no point of *zid*. The suggestion which has been made is only consequential. Either allow the female heir the right to partition if you think it to be fair; or, in case you do not allow the right of partition to the female heir, then all those claiming through that female heir should not have the right. I think the whole purpose and the objective of this particular clause would be served only if the descendants or heirs claiming through the female heirs also do not have the right to partition in the dwelling-house. In the other property, they will have the right of partition but they will not have that right in the dwelling-house. Since the Bill already accepts that principle, I think it is desirable to extend the principle for the convenience of the other members of the family living in that house.

**Mr. Speaker :** Is there any specific amendment to that effect ?

**Shri V. G. Deshpande :** I have just now given an amendment. I beg to move :

Page 10, Line 24,—

*after* "female heir" *insert* "or a male heir claiming inheritance through a female heir".

**Shri U. M. Trivedi** (Chittor) : I wanted to offer my comments on this.

**Mr. Speaker:** We shall come to that Shri Despande's amendment reads as follows :

Page 10, Line 24,—

*after* "female heir" *insert* "or a male heir claiming inheritance through the female heir".

It may be like this: "female heir or their heirs". They shall be prevented so long as partition does not take place. There is a family dwelling-house. If you introduce strangers, then there may be conflict. That seems to be

[Mr. Speaker]

the principle. If the female heir is in existence at the time of the owners death, then she is prevented. Soon after she dies, her children may claim partition and they ought to be prevented. That seems to be the principle.

**Shri V. G. Deshpande:** There are male heirs.

**Mr. Speaker:** Male or female heirs of a female heir. It may read like that to avoid any difficulty.

**Shri Dabhi** (Kaira North): My first amendment is No. 3. In order to explain this amendment, I will read out the relevant portion of clause 25. It reads :

> "Where a Hindu intestate has left surviving him or her both male and female heirs specified in class I of the Schedule and his or her property includes a dwelling-house wholly occupied by members of his or her family, then notwithstanding anything contained in this Act, the right of any such female heir to claim partition of the dwelling-house shall not arise until the male heirs choose to divide their respective shares therein, . . . ."

I will explain by an illustration. Supposing a Hindu intestate dies leaving a widow, a son and two unmarried daughters. In such a case, if there is one dwelling-house in which all the members of the family were living, then, no female heir is entitled to claim partition of that house. That is the meaning of the clause as it stands. It is stated here : "the right of any such female heir to claim partition of the dwelling-house shall not arise until the male heirs choose to divide their respective shares therein". Therefore, there is no provision here, if there is only one male heir. Under this clause, if there are two male heirs and they do not choose to divide, then the female heir is not entitled to claim partition. But what will happen if there is only one male heir ?

The hon. Minister for Legal Affairs, while speaking on this Bill in the beginning, stated :

> "A dwelling-house of the family is a matter of great sentiment in our country. Besides, in the rural conditions obtaining in our country, it is the prime family necessity. A daughter generally passes by marriage into another family and has to stay normally in her husband's family house. She is also likely to act under the influence of her husband."

If these sentiments are really to be applicable, then it should also be applicable in cases where there is only one male heir. Under this clause, the female heir is not entitled to claim partition when there are two or more male heirs. What I say is that the same should be the case even when there is only one male heir. If all of them are living together, the female heir should not be allowed to claim partition even if there is only one male heir.

**Mr. Speaker:** That is to say, perpetually there is no partition. If there is a possibility of the other male heirs partitioning, then the female heir should also be a party to that partition.

**Shri Dabhi:** If there is only one male heir, there is no question of any partition.

**Mr. Speaker:** Can't she take half the property from her brother ? If that is not allowed, then she is perpetually denied of her right. Why not the hon. Member says so ? So long as the male members want to live together, the unmarried daughter and also the married daughter can claim to live in that house. But let them not claim partition until the brothers go for it. When they go for partition the female heirs will also get their share.

**Shri Dabhi:** I was under the impression that, because there is reference here to only more than one male heir, there should be a provision when there is only one male heir.

**Mr. Speaker:** This clause will apply only if there is more than one male heir. If there is only one male heir, immediately the female heir can apply for partition.

**Shri Dabhi:** I want that she should not be allowed to claim partition of a dwelling-house if there is only one male member.

**Mr. Speaker:** Then how long is she to live together?

**Shri Dabhi:** My point is, when the widow, the son, the daughter and all of them would be living together. . . .

**Mr. Speaker:** So, what the hon. Member suggests is that a widow should not remarry, and an unmarried daughter should not get married only on account of the dwelling-house.

**Shri Dabhi:** I want that the dwelling-house should be allowed to remain intact, unless there is an occasion for partition.

**Mr. Speaker:** I am only anxious to see that the hon. Member reads and interprets the clause correctly. The clause, as it stands, puts a restriction only when there is more than one male heir and there is a partition. If there is only one male heir, the female heir can immediately claim partition. The suggestion made by the hon. Member will deny for ever the right of partition to the female heir. Therefore, she will not have the benefit of a dwelling-house.

**Shri S. S. More** (Sholapur): Is not such an amendment beyond the scope of the Bill, Sir?

**Mr. Speaker:** Yes. As Shri More says, it is wrong also. We are denying to the female heir the right to have a share in the dwelling-house. If such a suggestion is accepted, the right which is given with one hand is taken away with the other hand. Therefore, Shri Dabhi's amendment will cut at the root of the matter and deny the women a share in the dwelling-house.

**Shri Dabhi:** There is one other point and that is with regard to my amendment No. 181. This is an amendment to amendment No. 19 proposed by Shri Rane. Shri Rane wants that even if a male Hindu dies intestate leaving agricultural lands less than 51 acres and two houses, then also there should not be any right to the female heir to claim partition unless the brothers go for it. I do not want that so much should be included therein. I am of the opinion that, as in the case of one dwelling-house, if you make an exception in the case of agricultural lands to the extent of five acres, then it would, to some extent, satisfy the villager. In the villages there are people who are owning only small pieces of land. It would not be proper to ask them to divide even five acres of land. There are very many people who own only one acre, two acres and so on. In such cases it would be unjust to ask them to divide.

**Mr. Speaker:** I have understood the point. He accepts the principle that some portion of land should be excluded, but he does not agree with Shri Rane, who wants that even 51 acres of land should be excluded, and says that it should be reduced to 5 acres.

**Shri Dabhi:** Yes, Sir. That is all what I want.

**Shri Krishna Chandra** (Mathura Distt.—West): This clause, as has been pointed out, discriminates very unfairly against women. Female heirs are prohibited under this clause from claiming partition of the dwelling-house, unless the male heirs choose to do so. That is to say, a female heir is left entirely at the mercy of the male heirs. I can understand this sort of a provision in the case of a daughter, because of the fear of a stranger coming into the house and creating discord. But I cannot understand this restriction in the case of widows, who are members of the family and in connection with whom there is absolutely no fear of any stranger coming into the house. I will give an example. Supposing a father has left two sons and a widow of another son. As you know very well, Sir, there is always quarrel between the wives of brothers. Therefore, if you deny this right to the widow of one brother who is dead....

**Shri Kamath** (Hoshangabad): Sir, may I point out that there is not a single Minister on the Treasury Benches?

**Shri Krishna Chandra:** ....then it will be very unfair.

**Mr. Speaker:** Shri C. C. Shah will take notes.

**Shri Kamath:** He is not a Minister; he may be a prospective one.

**Mr. Speaker:** If he is not able to answer, the House will vote against it.

**Shri M. C. Shah:** I am here, Sir.

**Shri Krishna Chandra:** If the son, whose widow she is, was in foreign service or somewhere else and the widow was not living in the family dwelling-house after the death of her husband, she will naturally like to go to the house of her father-in-law and claim her right to reside there. If no room is allowed to her, because she was not living in that house, then the only course for her will be to claim partition of the dwelling-house and have her share of the house for herself. Under this clause she is denied that right. Due to this distrust for daughters and their husbands, this reasonable right has been denied even to the widow. Therefore, I have given my amendment number 225 saying that instead of "female heir" you

[Shri Krishna Chandra]

only put "daughter". I would only be too glad if this restriction is entirely removed, but if it is the intention not to remove it in the case of a daughter, as has been made clear in the speech of the hon. Minister which Shri Dabhi read out just now, on account of the fear of a stranger coming in, then at least in the case of widows I want that the restriction should be removed and the words "female heir" should be substituted by the word "daughter".

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Then, Sir, there is a proviso attached to this clause. It deals with the right of residence. Shri C. C. Shah has just said that the male heir claiming through the female heir, has no right of residence. I do not accept that. In this clause, the right of male heirs either through the female heir or through the male heir itself has not been denied at all. The right of residence has been defined in the case of female heirs and in the case of a daughter that right of residence has been very much restricted. She has been allowed the right of residence only in very restricted conditions. One such condition is that she will be entitled to a right of residence only if she is unmarried. When there is an unmarried daughter and when that unmarried daughter has been living in the house all along, there is no question of giving a right to an unmarried daughter who resides in the house in which she has been living all along. She is a member of the family and she will live there as long as she is not married.

Then, the right has been allowed to the daughter only when she has been deserted by her husband. If her husband deserts her and turns her out of the house, then only she can come to her father's dwelling-house and reside there. But in case she is ill-treated by her husband and her husband's family and she does not find it pleasant to live in that family and she wants to come to her father's house to live there, she is denied that right. Under the Special Marriage Act she has got the right to claim separation. She can separate from her husband when her husband ill-treats her. So, in case she separates from her husband and she does not like to live with her husband, even in that case. Sir, I plead, the right should be allowed to the daughter to live in the father's house. So, my amendment is :

*after* "has been deserted by" *insert* "or has separated from".

In case she has been deserted by her husband or she has herself separated from here husband, she should be allowed the right.

**Mr. Speaker:** Is it judicial separation ?

**Shri Krishna Chandra:** Yes; you might put it like that. I have no objection. My meaning is clear.

Then, in the case of a widow, Sir, she has got the right of residence only when her husband has left no dwelling-house. Supposing the daughter is widowed. and after she is widowed, naturally she likes to come to her father's place and live there. At present also, young widows come to their father's places and many of them are living there. They are members of the family. They are loved. Now under the present clause you are denying the right to that daughter to come to the father's place and to reside there unless the husband has left no dwelling-house. If the husband had left a dwelling-house, then, under this clause, she is compelled to live in the husband's place. She is compelled to live in her husband's house although she might not feel it pleasant to live there. She might feel it very irksome to live there. There might be circumstances which might compel her to go out of that family, but she is denied the right to come to her father and to live in the dwelling-house of the father.

**Pandit K. C. Sharma** (Meerut Distt.—South) : As a wife it is her duty to make the house pleasant.

**Shri Krishna Chandra :** Well, it may be so, but you cannot compel the daughter by a provision of the law to do so. So, my amendment is, after the word "widow", delete the words "whose husband has left no dwelling-house". Thus, every widow, after she has become a widow, should have the option to come to her father's place and to live there. These are very reasonble amendments of mine, and they are very necessary in the case of a daughter. As has been so often asserted by the hon. Minister of Legal Affairs, this Bill is intended to give the right of equality to women. So, in order that this purpose might be served, there should be no provision in this Bill which might make the conditions for the women more harassing than they are at present. I would, therefore, urge upon the House to accept my amendments.

**Pandit K. C. Sharma:** I want to oppose the clause as a whole.

**Mr. Speaker:** I shall give him an opportunity.

**Shri R. C. Sharma** (Morena-Bhind): I have moved amendment No. 207 and I want to speak on it.

**Mr. Speaker:** I shall call him afterwards.

**Shri Mulchand Dube** (Farrukhabad Distt.—North): I have sent in an amendment and I hope you will waive the notice.

**Mr. Speaker:** When I called upon the hon. Members who wish to speak, the hon. Member did not rise in his seat. Now he informs me that he has sent in an amendment.

**Shri Mulchand Dube:** I was not then here perhaps.

**Mr. Speaker:** After Shri K. P. Gounder speaks, I shall call the hon. Member.

**Shri K. P. Gounder** (Erode): My amendment No. 253 seeks to amend the proviso to clause 25. It seeks to add "grand-daughter or great grand-daughter" after the word daughter, in line 28 of the clause. The proviso would then read:

> "Provided that where such female heir is a daughter, grand-daughter or great grand-daughter," etc.

If you turn to the list of heirs, you will see that you have got there, the daughter, son's daughter, daughter's daughter and son's son's daughter. We place a restriction upon the daughter to reside under certain circumstances, but we have left out daughter's daughter. If there is to be a restriction upon the right of residence of the daughter, surely it must apply to the daughter's daughter also and also to son's daughter and son's son's daughter.

**Mr. Speaker:** There is an amendment by Shri V. G. Deshpande saying that the word "female heir" earlier in the clause must cover "such female heir and her heirs". Would it not cover this?

**Shri K. P. Gounder:** I am confining merely to daughters. If there be a restriction upon a daughter, it must equally be applied to daughter's daughter and son's daughter and son's son's daughter. I think this is practically a lacuna which does not exactly require an amendment. However, I have proposed this amendment for the acceptance of the House.

**Mr. Speaker:** What he says is, if the daughter is prevented from living in the house, unless she is a widow or is an unmarried girl or is deserted by her husband, it must also apply to cases where the daughter's daughter inherits the property.

**Shri S. S. More:** Shri V. G. Deshpande's amendment is different from this one.

**Mr. Speaker:** Yes.

**श्री आर० सी० शर्मा :** मैंने अपना संशोधन इस धारा २५ में इस उद्देश्य से प्रस्तुत किया है कि जहाँ पर आपने ड्वैलिंग हाउस को, रहने के मकान को, विभाजन से मुक्त रखने की विशेष व्यवस्था की है, वहां पर एक किसान का वह मकान भी जिस में कि अपने पशुओं को बांधता है, जिसमें कि वह अपने पशुओं के वास्ते घास तथा चारा इत्यादि रखता है चूंकि वह भी उसके लिए अत्यन्त आवश्यक होता है, इस वास्ते उसे भी विभाजन से मुक्त रखने की विशेष व्यवस्था इस क्लाज में कर दी जाए। हमारे देश में ७० प्रतिशत लोग किसान हैं और हर किसान के लिए यह आवश्यक होता है कि वह अपने लिए एक मकान रखने के साथ साथ अपने पशुओं के लिए भी एक मकान अलग से रखे। इस लिए मैंने यह बहुत साधारण सा—किन्तु बहुत आवश्यक-संशोधन प्रस्तुत किया है। मैं आशा करता हूं कि यह सदन इस को स्वीकार करेगा।

मेरा दूसरा संशोधन भी इसी से सम्बन्धित है और वह मैं ने इस देश के आर्थिक संतुलन को कायम रखने की दृष्टि से प्रस्तुत किया है। उस का तात्पर्य यह है कि बीस एकड़ तक की भूमि का विभाजन न हो। इस विधेयक के सम्बन्ध में जो विशिष्ट समिति बनाई गई थी, उस की एक माननीय सदस्या श्रीमती सीता परमानन्द ने जिन को इस विधेयक में बड़ी दिलचस्पी रही है, अपने असहमति के नोट में यह अंकित किया है कि:

"With regard to the partition of agricultural land no provision has been made in the Bill to provide against uneconomic fragmentation of small holdings which happen to be the bare means of the family's sustenance as it was thought that the State Laws in connection with fragmentation of agricultural land will itself provide for this contingency. However, as every State may

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not enact this anti-fragmentation legislation, it would be desirable to provide that a joint family holding of agricultural land should not be liable to partition on the demand of a daughter or a son wanting a share unless and until a majority of the co-sharers desire that a partition be effected."

मैं उन के विचारों से सहमत होते हुए यह आवश्यक समझता हूं कि इस धारा के अन्तर्गत यह भी रखा जाय कि बीस एकड़ तक की भूमि का बटवारा न हो सके । मैं ने ये जो दोनों संशोधन प्रस्तुत किए हैं उन से किसी के स्वत्व पर आघात नहीं पहुंचता है । केवल एक व्यवस्था का प्रश्न है कि कितनी सीमा तक भूमि या कितनी सीमा तक मकान का बटवारा न हो । ऐसी दशा में सामाजिक आवश्यकता की दृष्टि से, समाज में आर्थिक विषमता न बढने पाये, इकनामिक होल्डिग्ज कायम रहें और लोगों की आवश्यकता की चीजों का अकारण बटवारा न हो इस निमित्त ये संशोधन हैं । मैं पुनः यह आशा करता हूं कि इन को स्वीकार किया जायगा ।

**Shrimati Renu Chakravartty** (Basirhat): I would oppose this proviso....

**Pandit K. C. Sharma:** Only the proviso? Oppose the whole of it.

**Shrimati Renu Chakravartty:** My point is this. The female heir is not being given the right of partition nor is she being given any portion of the rent by way of making up for the loss she would incur by not being able to live in the house. Of course, there is a certain amount of prejudice in the minds of the people that the son-in-law should not come and live with the daughter. Although I do not agree to that, at least this amount of compromise should be there, namely, even if no legal partition is allowed till the brothers agree to it, in respect of the portion which would have fallen to her share in the course of partition, the rent must be paid to her by the brothers or some sort of remuneration should be paid to her in lieu of that. That much at least should be there, because there are a large number of people who do not leave anything by way of land or cash. Particularly in our provinces, we know that the middle-class people generally try to build a house of their own and that is all the property they leave. Therefore, if the daughter is not allowed the right of residence or to claim partition in the case of that very house, then she is really denied any portion of the patrimony left to her.

My other objection is about the proviso. This proviso was not there when the Joint Committee submitted their report. We did not put that proviso. We pointed out that the daughter should inherit whether she was a widow, or unmarried or deserted by her husband; all categories should be covered by it. But, the Rajya Sabha thought it fit to put this proviso, which has reduced still further the right of residence given to the daughter. Therefore, I feel that not only this proviso should go, but some sort of amendment should be brought in to the effect that even if actual partition is not allowed, at least some remuneration should be given to her to make up for the fact that she is not allowed either to dwell in that house or to have anything else.

**Mr. Speaker:** So, Mrs. Renu Chakravartty wants me to put the clause and the proviso separately, because she wants that the proviso should go. Any female heir will be entitled to live in that house and there ought not to be any restriction on that.

**Shri S. S. More:** I very strongly oppose this particular clause. You must have seen, Sir, that as we are going ahead with the different clauses, we are yielding ground to a certain section which is not willing to give the daughters or other female heirs their dues. Clause 25 is an example.

Clause 25 puts restrictions on the important rights of female heirs. If we have allowed her to inherit property on equality with the son, subject to the restrictions imposed by clause 6 which we have passed, the right of inheritance necessarily implies the right to partition, unless there is some other disability. What is the disability that you impose? It is that she belongs to a particular sex. In the very same clause, it has been made very clear that the male heir may claim partition, but a female heir cannot claim partition, unless her brothers agree to it. My submission is that such a discriminatory provision will be against the Constitution. Here the female heir is discriminated on the ground of sex. To that extent, that particular limitation will be discriminatory. Not only the main body of the clause, but even the proviso..

**Mr. Speaker:** Practical difficulties weigh with the Parliament much more.

Of course, there are some discriminations.

**Shri S. S. More:** If we look into the Constitution, there is an article which says that there shall be no discrimination on grounds of religion, etc., and along with the other things, 'sex' also is mentioned. Here, a male heir is given the right of partition and separation of his share, while the female heir is denied that right; simply because she is a female, she is discriminated against and she is prevented from suing for partition. That is my submission. In the main body of the clause, the right of partition is restricted in a discriminatory manner and, the proviso also restricts her right of residence. When two heirs get one dwelling-house, both of them have the right to reside there, because residence is one of the ways of enjoying property inherited. If she is prevented from enjoying that property by living in that house, it is a serious limitation on the right of inheritance, because residence is a necessary part of the right of inheritance.

What are the grounds on which discrimination is made? According to the proviso, unless the lady undergoes some calamity, she has not got the right of residence. The calamity is that she must be unmarried.

**An Hon. Member:** It is no calamity.

**Shri S. S. More:** Beyond a certain age to remain unmarried is a calamity which my friend Shri Deshpande, does not realise. It is physically impossible for him to realise the rigour of that calamity.

**Pandit Thakur Das Bhargava** (Gurgaon): How can you realise physically?

**Shri S. S. More:** I can enter into the spirits, having abundant sympathy for them. Or, she must incur the calamity of being deserted by her husband. To that extent, I do support the amendment moved by my hon. friend, Shri Krishna Chandra. Supposing a lady judicially seperates from her husband...

**Pandit Thakur Das Bhargava:** Or voluntary separation otherwise.

**Shri S. S. More:** It may be a voluntary separation also. If somehow they do not like each other, why should a lady be prevented from living in her father's house? It is said, "or has been deserted by her husband or is a widow whose husband has left no dwelling-house". All these calamities, the lady has to undergo in order to get a right which Shri Pataskar is bestowing on her of residing in her father's house. This is a strange piece of legislation and therefore, I oppose it. My submission is that we have already put in clause 6 certain restrictions on her quantum of share to which she would otherwise be entitled if treated on a footing of unqualified equality with the son. In addition to that, we are again making a gesture of the tyranny of the male section of our population. You are putting certain undesirable restrictions on the right of claiming partition and the right of residence in the house. It is an unfair piece of legislation. It is not only against the Constitution, but against the spirit of equality which is supposed to be the basis of this Bill, and the new democracy. I resist with all my soul this particular provision.

**Pandit K. C. Sharma:** Mr. Speaker, I am very sorry to find that even the communist Lady Member of the House should consider what has been done an inferior status for women. I fail to understand, when a daughter is having been given a share in the House, what logic is there, what decency is there in preventing her from living in the House. A man can marry a stranger and the man can take her into his family, but the daughter cannot bring her husband into his family.

**Mr. Speaker:** That is exactly what the hon. Lady Member said. She wants the omission of the proviso. She agrees that when in a dwelling-house the members of the family are all living, she cannot claim partition. It is not a case where they are not living in which case anybody is entitled to partition. She accepts the disability of partition. That is all.

**Pandit K. C. Sharma:** I object. This provision in the Bill with regard to partition is a restriction on the right of property, which is not in accordance with the general scheme of the Bill. She must have as much right of claiming partition or use of the House in any way as any member of the house. My respectful submission is that such a provision by implication smacks of an unworthy fear of the female member of the family. It is rather, I am sorry to say, an uncivilised conduct to take the daughter too near the ground. To say that the daughter cannot claim partition

[Pandit K. C. Sharma]

and that the son can do it means that there is something unworthy, indecent in regard to a daughter. If the daughter can create trouble, the son can also create trouble. What is there of an inferior type of moral conduct attached to the daughter as against the son, I fail to understand. If a daughter and her partner in life can create trouble, why not the son and his partner in life? Is the daughter's partner in life made of a different clay than the son's partner in life? I do not understand any logic, any decency, any propriety in this sort of legislation. It is just a simple proposition. You invite a gentleman to dinner. You ask him to sit down on floor and you take your food on the table. Either you do not invite a gentleman or if you invite, give him due respect. This sort of a thing is not decent. It looks ridiculous. I do not mind if you do not give the daughter a share. Once you give her a share, I do not understand this sort of restriction. It is rather taking the daughter too near the ground. It is on the face of it very indecent.

**Shri K. K. Basu** (Diamond Harbour): That is unfortunate. It is all due to the indecency of the Congress party.

**Pandit K. C. Sharma:** It is not a question of Congress Party or non-Congress Party. It is a question of a human being. Does a man, simply because he is in the Communist Party, cease to be a decent human being? What are you talking? My humble submission is, I oppose this proviso which has been opposed by the hon. Lady Member. I oppose this simply because it is an outrage on human decency and social conduct in so far as that daughter is not allowed to live with the members of her family. Cannot she live with her brother, with her uncle, with her mother? Where is the logic in it? Not only do I oppose this clause 25 *in toto* but I regard that decency requires that this clause should be taken away from the Bill.

**Shri C. C. Shah:** Mr. Speaker, this clause has a very limited purpose. Like every clause which we have put is either as a concession to sentiment or as a compromise, it has its shortcomings and failing which my hon. friend Pandit K. C. Sharma can logically point out. I can understand the logical argument that if a heir has a right to a share in a property, to deny the right to claim partition is logically wrong. To that argument, logically speaking, there is no answer.

**Pandit K. C. Sharma:** I say humanly wrong; not logically.

**Shri C. C. Shah:** There is nothing inhuman or indecent about it. I have no doubt about that. Nor is it an outrage on decency or anything of the kind. The question is what is practically possible.

You will remember that when this Bill was before the House, before it was referred to the Joint Committee, several Members pointed out that a dwelling-house is something which is almost sacred and that the dwelling-house at least must be preserved in the family. If, for example, there are four sons and one daughter,—let us understand the purpose of this clause before we oppose it—and the four sons are willing to live together jointly and happily, and if the daughter claims the right to partition, is it fair or proper that the four sons who are willing to live in the house in which they have lived for generations, should be compelled to divide it? The house may be the only property of the family and there is no cash to give her share. Is it fair that the four sons should be compelled to sell the property and give her share? That is the limited purpose.

**Pandit Thakur Das Bhargava:** I am very glad that you realise this.

**Shri C. C. Shah:** It says, "dwelling-house wholly occupied by the members of the family". Even if a part of it is let out and occupied by others, this clause does not apply. Let us appreciate the sentiment behind this clause.

**Pandit Thakur Das Bhargava:** I wished you realise the sentiment about land also.

**Shri Sinhasan Singh** (Gorakhpur Distt.—South): What about clause 24 where provision is made for the transfer of her share?

**Shri C. C. Shah:** That is one of the points I am going to answer. If she cannot claim partition, she is entitled to transfer her share. When she transfers it, the other preferential sharers will be compelled to purchase it or make a partition. That is undoubtedly there. To that extent, this clause is not so bad as it is made out to be.

[SHRI BARMAN *in the Chair*]

Secondly, this clause applies to all the female heirs mentioned in class I. Class I mentions two kinds of females heirs: widows and daughters. I entirely endorse the remarks of Shri Krishna Chandra in so far as they apply to widows. A widow, if she has sons and the sons are living with her, the other male coparceners will all live together. If there is only the widow of a deceased male coparcener, that widow may find it difficult to live with the other male coparceners. It may not only be difficult, but also impossible. Yet, under this clause, she is compelled either to live with them or she has no right to claim partition. The same would apply to the mother, now that we have also extended it to the mother. To that extent we feel that so far as this clause applies to the widow and the mother, it works as a great hardship upon them. All that I can say is that that is one of the many more illogicalities which we have introduced in this Bill.

Coming to the amendment of Shri Sadhan Gupta, I submit that that amendment is unnecessary, because the very condition of this clause is that the dwelling-house is wholly occupied by the male heirs or by the members of the family. The moment it ceases to be wholly occupied by them, the right to partition arises, and therefore to add those words, namely, "until the members of the intestate's family cease wholly to occupy it or" are unnecessary in my opinion.

The widow is undoubtedly entitled to reside, and the restrictions which are mentioned in the proviso do not apply to the widow. Those restrictions are intended to apply only to the daughter, because it proceeds on the assumption that a married daughter—because it applies only to a married daughter—naturally has her own dwelling-house or she lives with her husband, but in order that she may not be totally deprived of that right, in certain circumstances, where she is deserted by her husband or is a widow, it is given. Whether the word should be "deserted" or "separated" is a different proposition. Probably "separated" is, better than "deserted". My respectful submission is we have made too many amendments in the Bill as it is. One word here or there may be better or worse. Let us at least keep it there as it is rather than make a change. That was the reason why I said.....

**Pandit Thakur Das Bhargava:** Then, why did you bring this Bill before this House at all? Why did you put the word "mother" there? It is no argument.

**Shri C. C. Shah:** Then I come to the argument of Shrimati Renu Chakravartty that the female heir must get rent or part of the rent. The whole basis is that there is no rent or income. The dwelling-house is wholly occupied by the male members of the family, and it does not yield any income. Therefore, there is no question of sharing any income or rent. I can understand the argument, notionally fix the rent and compel the male members to pay it. That is carrying matters too far. So, there is no necessity.....

**Shrimati Uma Nehru** (Sitapur Distt. *cum* Kheri Distt.—West): Supposing the house is sold, will the daughter get a share?

**Shri C. C. Shah:** Undoubtedly. If the house is sold, she will get a share, there is no doubt about it. Either when it is divided or sold, she will get a share.

Therefore, my respectful submission is that in spite of all the blemishes this clause contains, it is partly a concession to sentiment to preserve the dwelling-house if it can be preserved. Of course, the argument of clause 24 remains, and that is obvious.

Only one last argument. In the proviso, after the daughter, there is the amendment of Shri K. P. Gounder, which is a logical one, because, if the daughter has a right of residence only under certain restrictions, the same restrictions should naturally apply to the grand-daughter or the great-grand-daughter. I submit that is the only amendment to which we should apply our mind. All the others, whether they are good or bad, may be rejected.

**Pandit K. C. Sharma:** Will the hon. Member enlighten us on one point? Temples which for thousands of years have been closed to the untouchables, have now been opened to them. Is the dwelling-house more sacred as against the daughter than the temples were against the untouchables? Why should it be closed to her?

**Shri C. C. Shah:** I am sorry he should have brought in such an analogy.

**Pandit K. C. Sharma:** Is it more sacred?

**Shri C. C. Shah :** The daughter is not regarded as an untouchable. This is only for a married daughter who, it is presumed, has already a dwelling-house of her own.

**Pandit Thakur Das Bhargava :** I regard this clause as a sort of concession to those people who are afraid that by giving a share to a married daughter, the family will be disrupted and many people will be put to trouble. I think that is the background of this clause. All the same, I regard this concession as absolutely unjustified, and of such a nature that those who oppose the succession of married daughters will not regard it as a concession.

In the first place, when a certain property falls to the share of a daughter and she becomes the proprietor of that dwelling-house, whether a portion or whole, I for one fail to see how you can deny her the right of partition. A daughter is, according to your Austinian definition, a full proprietor. Now, we are granting her absolute right, and it passes my comprehension how the right of partition can be taken away from her. Is she not entitled to sell ? Cannot she sell her whole share ? She is entitled to her whole share and she can sell it to a stranger. Suppose there is a house in some mohalla of Delhi. There is a house in a mohalla which is occupied by Mohammedans. There is a Hindu house some portion of which has fallen to the share of the daughter. Can she not sell her portion to a Mohammedan gentleman or a Christian gentleman ? She can. This does not impose any sort of restriction on her right to sell. If you do not allow her the right of partition, you are forcing her to sell. After all, she has been given a portion. She is entitled to enjoy it, and she has a right to sell it. Instead of getting into the house in this way, she sells it to a stranger, becomes a tenant and takes it on rent. What is the difficulty. This thing can be circumvented and in a very easy manner. What is the use of putting restrictions which can be circumvented in this manner ?

I can understand if you made a provision like this that in a dwelling-house when the married daughter gets a share, and when the male members are already occupying it she wants to enter with her husband and full paraphernalia of her husband's parents, sister and brother you may go to court which may fix the price and force the daughter to part with her right on payment of the price fixed by the court or as demanded by her. In a partition suit what happens ? The court is authorised to give money compensation for the share of one of the partners. Under Act I of 1893 this is possible. When you allow the daughter or any co-sharer or heir to be fully invested with all the rights of ownership, it is useless to ask that heir not to exercise the smaller right of partition. I feel that those who are responsible for this clause do feel, as I have been arguing, that in the case of a married daughter in a family, as soon as she comes near the other co-heirs, the family will be disrupted. In a manner this proviso shows that not the entry of any other relation, but the entry of a daughter is so detestable to those who framed it that it appears they really believe realistically in all the reasons and conclusions which have been advanced on this side of the House. It appears that as a matter of fact they want this embargo against the daughter alone.

Let us take an example. Supposing the mother is living in the house by virtue of the fact that she is a heir. She succeeds as a widow. She is living in that house and the married daughter wants to come in. Would that daughter be allowed to come and reside or not ? The daughter wants to live with her mother. She will not be allowed to reside as a matter of fact. She cannot ask for a partition. As a matter of right she cannot come in. She cannot utilise the right of residence. At the same time, when we use the words "right of residence" we use them in a loose manner. I know there was the right of residence for the mother and daughter and many heirs in a dwelling-house which was possessed by a Hindu joint family, and at the time of partition if these ladies did not possess the right of proprietorship, they could be given the right of residence. Now, when they are given full rights of proprietorship what is the meaning of right of residence ? This is a very minor right. Now there is no question of right of residence at all. Full proprietory rights should be granted to all those heirs. There will be no right of residence. Right of residence is a misnomer so far as this property is concerned.

So far as the entire clause is concerned, I fail to see how it will be implemented and what is the use of it. I

can agree that those who have framed it had a laudable motive. When there are two armies fighting, many men are wounded. Then there is the Red Cross and people are taken to hospital and treated with remedies etc. It is a case of that nature. You have disrupted the entire family. You want that the entire family may go to ruin, and yet you want that the dwelling-house may be kept. It is useless. It is a smoke-screen. It is a device to deceive people that their rights and feelings have not been crushed. It is not a right thing to do. On the contrary, if you keep this along with clause 24—even clause 24 may not come into existence —if you keep clause 25 as an independent provision, it is more than useless. For, in all the cases, when you deny a right to a person, that person becomes desperate. If you do not allow so near a relation as the daughter to come into her house, she would think that she is being deprived of her right, and she will certainly sell it. In fact, you are forcing her to sell it.

**Mr. Chairman:** How can she sell?

**Pandit Thakur Das Bhargava:** She can certainly sell it. You may kindly ask the Minister whether she can sell it. If she cannot sell it, then I could understand the meaning of this clause. But she has the right to sell. Where is the embargo? May I humbly ask you whether there is any embargo on the right to sell?

**Mr. Chairman:** She is being debarred from claiming partition.

**Pandit Thakur Das Bhargava:** But not from selling.

**The Minister of Legal Affairs (Shri Pataskar):** Who will purchase that right?

**Pandit Thakur Das Bhargava:** Any stranger. It may not be a dwelling-house containing only one or two rooms only. It may be a dwelling-house containing about twenty rooms, as for instance, in Calcutta or Bombay. After all, you are legislating for the whole of India, and not only for dwelling-houses in villages only. And that dwelling-house may be sold, and there may be a thousand purchasers.....

**Shri Pataskar:** Will the purchaser get any right better than the one which was possessed by the seller herself?

**Pandit Thakur Das Bhargava:** That means that the Minister says that she can sell, and the purchaser may not get a better right. It is not my case at all that the purchaser will get a better right, but he will get the absolute rights in property which belong to the daughter and then seek partition. There is no embargo against the transferee or purchaser.

**Shri Pataskar.:** No purchaser will get any rights better than those possessed by the person from whom he purchases.

**Pandit Thakur Das Bhargava:** Let us examine this position. The position has now become worse. A lady who wants to sell is a full proprietor, according to my hon. friend, for according to clause 16, she has an absolute right. What is meant by absolute right? If she can sell, then the purchaser will get that absolute right. He will get the right to partition.

**Shri Pataskar:** Kindly look to the rights given under this clause and then construe them.

**Pandit Thakur Das Bhargava:** Excuse me. What is the right given? Clause 25 reads:

> "Where a Hindu intestate has left surviving him or her both male and female heirs specified in class I of the Schedule and his or her property includes a dwelling-house wholly occupied by members of his or her family, then, notwithstanding anything contained in this Act, the right of any such female heir to claim partition of the dwelling-house shall not arise until the male heirs choose to divide their respective shares therein;...."

That is the only restriction placed. The only restriction is that the claim to partition of that house will not arise, until such and such a person chooses to divide his share.

**Shri Sinhasan Singh:** He will get the right, unless you bar him.

**Pandit Thakur Das Bhargava:** According to this, a transferee is not barred. Only her right to partition does not arise.

**Shri Pataskar:** I am sorry that is not correct, according to me.

**Pandit Thakur Das Bhargava:** It may be so according to you. But according to me, it is not so. I do not want to say that my hon. friend's telling something which is not in his

[Pandit Thakur Das Bhargava]
mind. So far as his mind is concerned, it is perfectly correct. But so far as the words go....

**Shri Pataskar:** It is quite clear in my mind also.

**Pandit Thakur Das Bhargava:** I am not suggesting that my hon. friend's mind is not clear. It is absolutely clear, so far as he is concerned. But so far as I am concerned, it appears to me that his interpretation is perfectly wrong.

**Shri Sinhasan Singh:** That will be for the lawyers to see.

**Shri Sadhan Gupta:** Let us earn a living by this.

**Mr. Chairman:** The hon. Member may go on with his point.

Let there be no more interruptions.

**Pandit Thakur Das Bhargava:** As I remarked in the beginning of my speech, the motive of the Minister is quite laudable. But if he wants to pursue that motive, and he wants that it may be effective, he should say clearly on the transfer of proprietary rights of any such female heir no restriction to partition will be effectual. If he could assure guarantee of such restriction then I could understand the meaning of this clause. Otherwise, so far as the wording goes, it means that every woman shall have a right to sell, but not the right to partition. If that is not so, then, may I humbly ask what is the meaning of clause 24 which says that she can propose and transfer all her rights in any property? Clause 24 will in that case come in conflict with clause 25, though I do not stand even by clause 24. Even under clause 24, no heir is bound to ask for negotiation for acquisition or purchase or sale of any property. He or she has the right to sell, and can sell it forthright. He or she need not go to any person and propose to him, saying, 'I wish to transfer my property'. Without making any such proposal, he or she is at perfect liberty to dispose of the property as he or she chooses. Therefore, according to me clause 25, though it has been framed with a laudable motive, will not actually effect the purpose in view, because it can be very easily circumvented. It will be circumvented in all cases. At the same time, you are putting an embargo on the daughter.

After all, what is the basis of this entire Bill? the entire basis is that instead of propinquity and *pindas* etc. you go on the basis of affection and love. Am I to understand that a daughter is not lovable, that a daughter is not affectionate, and that all affection and love are gone as soon as she seeks partition of property? I think the Minister is now coming back to the reasoning of those who reasoned otherwise. It means that on the basis of love and affection also, a daughter is not to be allowed to come near. My hon. friend Pandit K. C. Sharma asked: 'What is the difference between a son and a daughter?' We are more afraid of the son-in-law and his father and his brother and everybody else, and we do not want that they may enter the house. If they enter, then the entire argument against this Bill fructifies, and it has force, which means that in small properties including land etc., there will be trouble. But I would say that my hon. friend is not logical, he does not want to pursue that. If this is true of a dwelling-house, then it is much more true of the two or four *bighas* of land from which a person draws his sustenance. If it is true there, it is true here also, but unfortunately, it is not true according to the present provision.

Taking all these points of view into consideration, I should think that this clause 25, though not misconceived, should not be passed because it will not effect the purpose which the Minister has in view.

**Shri K. K. Basu:** I have not so far participated in the discussion on this Bill, but I feel that this is such an unreasonable and illogical provision that I should in my own humble way try to put forward my point of view before the House on this particular matter.

If the intention of the law-makers in the Joint Committee and in the other House had been that so far as a dwelling-house is concerned, the daughter should not be given a share, then they should have honestly come forward with a specific amendment for that purpose. If they had done that, I would have appreciated it, though I would not be inclined to appreciate their point of view, but at least I would have felt that they were honest in their intention. But here, on the one hand, you are saying that a daughter can have a share in the dwelling-house, but you are restricting it to the right of residence.

We have been told that outsiders should not be brought in. As far as a dwelling-house is concerned, it may not always be a small hamlet with just one or two rooms. My hon. friend Pandit Thakur Das Bhargava has given examples to show that in many important cities, not to speak of Calcutta, Bombay or Madras, a dwelling-house may actually be a palatial building, and it may have some real economic value.

Again, take the case of rural areas. For instance, a family may be having a small house in Delhi, but it may have a big ancestral dwelling-house in Meerut, with hundreds of acres of farmland. The gentleman of the family may claim that in Delhi he is having only his business-house, whereas his real dwelling-house is in Meerut, where he may have about a hundred acres of agricultural land, or an orchard and so on, which, today, according to any computation, may be worth several lakhs of rupees. There are many important places like that in Punjab and other States, where there are dwelling-houses with big orchards and farms, which give a lot of money as returns. That dwelling-house inside the farm may be an ancestral property, and the family may go and live there once in a year or twice in a year, and nobody else may go and live there. So, that house can be said to be a dwelling-house, and it could be argued that it cannot be partitioned.

**Mr. Chairman :** But it must be fully occupied.

**Shri K. K. Basu :** That does not mean that I have to occupy the major part of it, or that I should occupy for all the 365 days in a year. That is a house which may be belonging to my family for generations, and I may go and live there during the recess or during the holidays and take the return. In that case, that house also can be interpreted to be a dwelling-house.

**Mr. Chairman :** But the phrase here is 'wholly occupied by members of his or her family'.

**Shri K. K. Basu :** The dwelling-house may be occupied only by me and the members of my family; no outsiders may come and live there. But that does not necessarily mean that I have got to occupy the house for a major part of the year. It may be a house where only I and my family may go and live even for five days in a year, and nobody else may be living there. That house may be interpreted to be a dwelling-house.

You will recall that even at the time when the Estate Duty Bill was being discussed here, there was a lot of discussion as to what 'dwelling-house' should mean. And there was a proposal that a dwelling-house should be exempted even if it be that a family goes and lives there only for ten days in a whole year. Take, for instance, the case of Birla. He will have a dwelling-house in almost every important city, and only his family people may be living there.

**Shri B. D. Pande** (Almora Distt.—North—East): But how many Birlas are there?

**Shri K. K. Basu :** There are a good many of them. You know them very well, and you will know them also in 1957.

Suppose there is a family consisting of only one son and one daughter. There is no question of partition there. Since only one son is there, there is no other person who can claim partition, and so far as the daughter is concerned, she will have only the right to residence, and she cannot ask for partition so long as the other male heir, in this case, her only brother, does not ask for it.

Therefore, I feel that if you want to give the daughter a share in the dwelling-house, you should say so. It may be that the dwelling-house is the only property left. That may be very valuable. But if you feel that so far as the dwelling-house is concerned, the daughter will have no interest, then you should come forward with an amendment to that effect. Though I will fully oppose it, at least I will appreciate the honesty of those who want to put that provision.

Then I come to the proviso which is much worse. It says that a widow who is daughter can live there only if her husband had left no dwelling-house. Suppose 'X' dies leaving a widowed daughter whose husband by chance left just a hut in a village. Suppose the daughter inherits a portion of a palatial building in the city. She has no right of residence. She cannot sell that hut in the village which her husband had left for her maintenance and come back

[Shri K. K. Basu]

to reside in the dwelling-house of her father. Nor can she ask for partition. This merely results in a negation of all the rights that the daughter has been given under clause 25.

So I would urge upon this House to kindly consider what is the intention of this particular legislation. We have already passed clause 24 which gives the right of pre-emption. As you know, there are provisions under the law of partition. Even a dwelling-house property cannot be partitioned by metes and bounds. Any shareholder can purchase the entire house. The law is already there. We can provide for the extension of that here. We can say that any male member can, instead of allowing partition, just pay off the female heir, and she can live in some other place. That I can understand. But once you give her the right and this procedure is followed, apart from the legal difficulties pointed out by Pandit Thakur Das Bhargava, there may be differences of opinion which may result in a big litigation and paradise for the lawyers, the case going from the court of a Sub-Judge to the Supreme Court. In that way, the whole property will be frittered away. I know of one instance where a case went on in connection with a property worth Rs. 1 lakh. The cost of litigation came to nearly 85 per cent. and only 15 per cent. remained for distribution among the shareholders.

**Shri N. C. Chatterjee** (Hooghly): Calcutta property.

**Shri K. K. Basu:** It was stated by no less a person than an ex-Judge of the Calcutta High Court, Shri Manmatha Nath Mookerjee.

**Shri N. C. Chatterjee:** Mostly it had gone to the attorneys.

**Shri K. K. Basu:** I do not know who has got the lion's share. But this should not be made a paradise for lawyers. Whatever we are giving to the daughter, we must give it without restrictions. There is no point in putting any restrictions. That may only result in a complete negation of her rights. The proviso is unthinkable. I do not understand why this proviso has been put in here. I am told that it has been incorporated by the Rajya Sabha. With due respect to our friends of the other House, I do not know what is the point in providing this proviso. Suppose the widow has got a dwelling-house where she cannot live. Suppose she inherits along with others a dwelling-house from her father. She cannot claim partition of the father's dwelling house so long as her brothers or other male heirs do not want it. Neither can she go and live there; nor can she sell her husband's dwelling-house and live on the money received as value for that. The brothers may come and say 'You have already got a dwelling-house. You cannot sell it'. This is how the provision of law can be circumvented.

Therefore, I earnestly request and entreat my hon. frineds to see that at least justice is done to the daughter. If the intention is to give the daughter an interest so far as her father's dwelling-house is concerned, it is better to put it clearly in the law. It is better to delete the proviso and also delete the provision which restricts the right of partition. If the male heirs want to buy off the interest of the daughter, they can do so. Clause 24 is there for that purpose.

So I request that the provision may be framed in such a way that it will not lead to more litigation. It should not be framed in a way which will result in a negation of whatever fractional right is given to the daughter. It is better that you either deny them the right altogether—I can appreciate the honesty behind it, though I would oppose it—or you give them right without restrictions. Fragmentation of the property can be prevented by the exercise of the right of pre-emption. Therefore, let us be clear in our intention. We should consider this from the point of view of giving the daughter her share without these restrictions.

**Shri Pataskar :** Clause 25 has been attacked from both sides, and both on the ground of what ought to have been done logically. But I might only say that if we really look at the basis of this clause, it will be found that what is being tried to be done is a sort of realisation of the existing state of things correlated with sentiments and logic, on which both the opponents and the supporters of some portion of this clause depend.

For instance, what is the idea underlying this ? It started this way. When the Bill went to the Joint Committee, the proviso was not there. There it was argued that there were dwelling-houses, may be small, may be large. But it was stated that in a majority of cases, the small dwelling-houses were owned

by lakhs and lakhs of people. Then it was found that it was very difficult to make a distinction between dwelling-house and dwelling-house as it had to be ascertained as to what should be the price of it, what should be the size of it, the dimensions of it, the rooms etc. Ultimately, after considering all these things, the Joint Committee thought that it was better that at least on account of somebody who had gone out of the family, there should not be any disturbance of the arrangement. That was why this provision had been drafted as it has been drafted. It is not a question of making a distinction between sex and sex or male and female. It was on that basis that it was thought that normally the property should not be allowed to be separated due to this reason. At the same time, there was a desire that if at all there was a partition of the house, there was no justification why the female heir should not get a share. This is how it started.

It does not apply to all dwelling-houses because it is possible that there may be a dwelling-house which may be let out. Naturally, there should be no restriction with respect to that property. The sentiment or whatever argument there was was only with respect to a dwelling-house which was wholly occupied by the family.

**Pandit K. C. Sharma:** What will happen if the daughter thinks that she should live in that house along with her husband ?

**Shri Pataskar:** If he is not satisfied with what I say, he may put a question at the end.

It says :

> "Where a Hindu intestate has left surviving him or her both male and female heirs specified in class I of the Schedule and his or her property includes a dwelling-house wholly occupied by the members of his or her family. . . ."

So it has to be remembered that it must be a house which is wholly occupied. Then :

> "nothwithstanding anything contained in this Act, the right of any such female heir to claim partition of the dwelling-house shall not arise until the male heirs choose to divide their respective shares therein. . . ."



It is not that the right to partition is taken away absolutely, but that right to partition is postponed till such time, naturally, as the male heirs choose to effect a partition.

**Shri K. K. Basu :** What happens if there is one son and one daughter ?

**Shri Pataskar :** According to the clause, the female shall have the right of residence. It was thought while postponing this right to claim partition, that her right to reside there ought not to be disturbed.

**Shrimati Subhadra Joshi** (Karnal): May I put a question ? If there is only one male heir and one female heir, does this mean that she will never have the right to partition.

**Shri S. S. More :** She will get it immediately.

**Mr. Chairman :** May I appeal to Members to allow the hon. Member to proceed ? While replying to the whole debate, it is not convenient that any and every question should be put by any and very Member, because his reasoning has to be followed by all the Members collectively. After he has concluded, I shall certainly allow any Member to put any specific questions.

1 P.M.

**Pandit K. C. Sharma :** Mr. Chairman, the trouble is he is supporting the insupportable !

**Mr. Chairman :** Not so many questions.

**Shri Pataskar:** That is how clause 25, without the proviso, was passed by the Joint Committee after due consideration.

Then, one section of opinion says "If you are going to give it or restrict it in the case of dwelling-house, why not in the case of land, etc. ?" The idea behind asking me to proceed more logically is to take me further and not to remain here at the basis of the house, but also to go to the land. I can understand, logic is there. On the other side there is the logic : if the daughter is given a share, why restrict it ? As between the two logical extremes it was thought in reference to actual facts that dwelling houses are mostly small —leve aside the big things—, and if they are wholly occupied by the family. it was thought, it may not be allowed to be partitioned at the instance of the female heir. That was what it originally meant. When it went to the

[Shri Pataskar]

Rajya Sabha there was a further restriction and they inserted the proviso, "Provided that where such female heir is a daughter etc." Because, the female heir may be a daughter, widow or daughter-in-law. Nobody seems to be much bothered about the widow, daughter-in-law or the grand daughter-in-law. I also believe, because there are widows in the family and people are still of the opinion that they are not likely to create much trouble. But the fear is about the daughter. It is not only about the daughter; the fear is that the daughter might come in with her children and son-in-law and with all the paraphernalia, and the small house not already enough which is occupied by the members of the family might come into trouble. Therefore, this provision was made, "Provided that where such female heir is a daughter, she shall be entitled to a right of residence in the dwelling-house only if she is unmarried....". If she is unmarried, there is no question, because there is no trouble; she must live in that house—"or has been deserted by her husband....". They took that case. Suppose there is a daughter who has been deserted by her husband. I was asked: Why 'deserted by her husband'? Why not also put 'who has deserted her husband'? I think those women who desert their husbands are not likely to be needy women for whom provision has to be made.

**Shri S. S. More:** Why?

**Shri Pataskar:** Normally that is what I expect.

**Shri S. S. More:** What is normal?

**Shri Pataskar:** Suppose a woman thinks of deserting her husband. I am sure she must have thought of depending upon herself. But I am very glad to hear this. I am not one of those who think that way, and I do not know whether we should provide for a woman who deserts her husband, because she might desert him for the purpose of marrying another, or she has other means of maintaining herself. However, I think my learned friend need not stretch it too far!

Then the proviso continues "or is a widow whose husband has left no dwelling-house". Because, there might be cases where there is a daughter who has been married, her husband has died and he has left no dwelling-house. She has an interest in this house, so she must have a right to dwell there. These are the three hard cases that have been provided. Such a daughter, even if she has a number of children, must be enabled to go and reside in the father's house in which she has an interest, apart from the fact that it might disturb them—because she has a share and interest in it. That is the proviso which has been agreed to in the Rajya Sabha.

Of course there is one anomaly there when we have put the restriction, "Provided that where such female heir is a daughter, she shall be entitled to a right of residence". If we are treating the daughter in that manner, the same thing should apply to the grand daughter or the great grand daughter. But the result will be that while we are trying to prevent the daughter from residing unless she is a widow, etc., the grand daughter, the great granddaughter and her children will be allowed. That might be a little inconsistent with what is being done here. But that is a different matter. I think the clause, as it is, is all right.

**Shri V. G. Deshpande:** May I ask one question? I had given an amendment on this. In the first portion also where they say that when there is a female heir to claim partition etc., on the principle that a stranger should not come in, any male relative claiming inheritance through a female heir, the son of a predeceased daughter, should not be included among the persons who can demand partition. That is consistent. Because, otherwise the grandson can come and demand partition.

**Shri Pataskar:** The daughter's son is the grandson. According to our *shastras* the grandson is as good as the son himself. I ask, how many grandfathers will be there who will not allow him to come in. He will come in, and he will be as good as a son.

**Shri S. S. More:** I can understand such a restriction as yielding to the situation in the case of a male intestate dying and certain restrictions being placed on the female heir. But when the deceased whose inheritance is open is a female, when even the female heirs are put under a restriction, can the males get an overriding advantage?

**Shri Sadhan Gupta:** What is going to happen to a widow whose husband has left a dwelling-house, but subsequently her husband's relations turn her out of the house? Is she compelled to

remain in her husband's dwelling-house in the company of hostile relations ?

**Shri Pataskar :** She has a right to reside there.

**Shri Sadhan Gupta :** Where is it ?

**Mr. Chairman :** Any other question ?

**Shri K. K. Basu:** I want to ask one clarification as regard the term "wholly occupied". I find Mr. C. C. Shah is also there and he can also consider this. We know in big families there might be one house for the joint family, and the person might be living in one floor and the other three floors are being used only for *gaddi*. It has nothing to do with dwelling purpose.

**Mr. Chairman:** Then it is not wholly occupied.

**Shri K. K. Basu:** Wholly occupied means even for carrying on family business. That was explained. I do not want that there should be any loophole left for lawyers to thrive. If you want to give any power, give it clearly and specifically. Or if it is a denial, let it be a specific denial.

**Shri Pataskar:** My intentions are obvious. But at the same time it is very difficult to prevent lawyers from coming in. As I have said previously, so long as laws are made and can be put into effect only in words, and have different meaning in different contexts, we have not found any solution up till now for preventing the institution of lawyers and those who may rightly or wrongly interpret them from coming in.

**Shri K. K. Basu:** You say "wholly occupied".

**Dr. Rama Rao** (Kakinada): Shrimati Subhadra Joshi asked a question: Suppose there is only one male and one female heir, has she to wait ....

**Shri Pataskar:** Then there is no trouble. I do not see any difficulty in that case.

**Shri S. S. More:** She will get immediate partition.

**Mr. Chairman:** I shall now proceed to put the clause. So far as the amendments are concerned, I shall take up the amendments to the main clause first, and then to the proviso. First of all, I would like to ask the hon. Minister whether he proposes to accept any of the amendments.

**Shri Pataskar:** I would like, as I said, that along with 'daughter' we might have granddaughter or great granddaughter because it is anomalous. But there will be very few cases really.

**Shri K. K. Basu:** If you have a surrendering attitude, then lose your Bombay !

**Mr. Chairman:** What is the number of that amendment ? Is it 253 ?

**Shri C. C. Shah:** Yes.

**Mr. Chairman:** Does it relate to the main clause ?

**Shri C. C. Shah:** To the proviso.

**Mr. Chairman:** So far as the main clause is concerned, there are amendments regarding inclusion of other properties, agriculture, etc. Does any one press his amendments? No Any other amendments ?

**Shri V. G. Deshpande:** There is my amendment.

**Mr. Chairman:** What is the number ?

**Shri V. G. Deshpande:** I do not know the number. The Speaker has admitted it, and no number was given to it.

**Shri K. K. Basu:** You may kindly read it, Sir.

**Mr. Chairman :** I have got it here. I will not put Shri Deshpande's amendment.

The question is :

Page 10, line 24,—

*after* "female heir" *insert* "or a male heir claiming inheritance through a female heir".

*The motion was negatived.*

**Shri Krishna Chandra:** Sir, I want my amendment No. 225 to be put.

**Mr. Chairman:** The question is:

Page 10,—

(i) line 24, *for* "female heir" *substitute* "daughter heir";

(ii) line 26, *for* "the female heir" *substitute* "she"; and

(iii) line 28, *omit* "where such female heir is a daughter".

*The motion was negatived.*

**Mr. Chairman:** Now, I will put the other amendments to vote.

**Shrimati Renu Chakravartty:** There were some other amendments moved by that hon. Member.

**Shri Krishna Chandra:** They are amendments Nos. 226 and 220.

**Mr. Chairman:** Shall I put them to gether ?

**Some Hon. Members:** No. 220 may be put separately.

**Mr. Chairman:** The question is:

Page 10, lines 30 and 31,—

*omit* "whose husband has left no dwelling house".

**Some Hon. Members:** Aye.

**Some Hon. Members:** No.

**Some Hon. Members:** The Ayes have it.

**Some Hon. Members:** The Ayes have it, Sir.

**Mr. Chairman:** I will put it again to the vote.

The question is :

Page 10, lines 30 and 31,—

*omit* "whose husband has left no dwelling-house" .

Those who are for it, please say 'Aye'.

**Some Hon. Members:** Aye.

**Mr. Chairman:** Those who are against it, will say 'No'.

**Some Hon. Members :** No.

**Mr. Chairman:** I think the 'Noes' have it.

**Some Hon. Members:** No, Sir; the Ayes have it.

**Mr. Chairman:** Should there be a division ?

**Some Hon. Members:** Yes.

**Shri S. S. More:** Sir, in the meantime, let the Minister concerned apply his mind to it. He is still in the process of applying his mind.

**Shri V. G. Deshpande:** What is the ruling of the Chair, Sir ?

**Mr. Chairman:** If the House wants a division, certainly I will consider. I will put it again.

**Shri S. S. More:** You may be pleased to put it directly to the Minister concerned.

**Shri Patakar:** I quite realise what the amendment is. The idea is that while the husband has left a dwelling-house why should she not occupy it. Already there are three categories. If she is unmarried, then she can reside ; there is no difficulty. If she is deserted by her husband, then she can come and live. But, if she is a widow whose husband has left a dwelling house, she cannot come and reside. But, if the husband has not left a dwelling-house she can come and occupy.

**Pandit K. C. Sharma:** When the husband is dead why not the poor woman come and live with the father's family ?

**Shri S. S. More:** Supposing the daughter becomes a widow and the husband has left some dwelling-house and there are some brothers also. She may be living in uncomfortable surroundings. You rule that out. Can she not have the option of living with the father's family? (*Interruption.*) It is quite possible that the relations of the husband are unsympathetic.

**Shri V. G. Deshpande:** Why a discussion now ? We may take the amendment afterwards.

**Shri Pataskar:** The whole position is clear to my mind. We have provided the right of residence to three categories of persons. We have provided that right to a daughter who is unmarried, who is married but has been deserted by the husband and a widowed daughter whose husband has not left a dwelling house.

**Shri S. S. More:** If the widow has some children, she might have developed some attachment towards the husband's family. She will not, for the sake of asserting her right, come and live in the father's family house.

**Mr. Chairman:** Anyhow, I put the amendment again for the third time.

The question is :

Page 10, lines 30 and 31,—

*omit* "whose husband has left no dwelling house".

Those who are for it will please say 'Aye'.

**Some Hon. Members:** Aye.

**Mr. Chairman :** Those who are against it will please say 'No.'

**Some Hon. Members:** No.

**Mr. Chairman:** I think the 'Noes' have it.

**Some Hon. Members:** The Ayes have it.

**Mr. Chairman:** Do hon. Members want a division?

**Some Hon. Members:** Yes, Sir.

**Shrimati Renu Chakravartty:** Yes, Sir.

**Shri S. S. More:** We cannot take the votes now.

**Mr. Chairman:** Then it will be held over till 2-30.

We may now take up amendment No. 226.

The question is :

Page 10, line 30,—

*after* "has been deserted by" *insert* "or has separated from".

Those who are for it will please say 'Aye'.

**Some Hon. Members:** Aye.

**Mr. Chairman:** Those who are against it will please say 'No'.

**Some Hon. Members:** No.

**Mr. Chairman:** I think the Noes have it.

**Some Hon. Members:** The Ayes have it, Sir.

**Shri K. K. Basu:** You cannot always think that the voting will be alike. You will have to go by the physical voice.

**Mr. Chairman:** Then, this will also be held over till 2-30.

**Shri S. S. More:** The result will be that till the amendments are disposed of, the clause will also have to be held over.

**Mr. Chairman:** Yes. But, I would like to dispose of the other amendments. Does any hon. Member want to have any amendment put separately?

**Shri Sadhan Gupta:** I want my amendment No. 219 to be put, Sir.

**Mr. Chairman:** The question is:

.Page 10, line 25,—

*after* "shall not arise" *insert* "until the members of the intestate's family cease wholly to occupy it or".

*The motion was negatived.*

**Mr. Chairman:** Can I now put all the other amendments?

**Shri Pataskar:** Shri Gounder's amendment No. 253 may be put separately.

**Mr. Chairman:** The question is:

Page 10, line 27,—

*after* "daughter" *insert* "or granddaughter or great granddaughter".

Those in favour will please say 'Aye'.

**Some Hon. Members:** Aye.

**Mr. Chairman:** Those against will please say 'No'.

**Some Hon. Members:** No.

**Mr. Chairman:** I think 'Ayes' have it.

**Some Hon. Members:** The 'Noes' have it.

**Mr. Chairman:** This also will be held over till 2-30 p.m.

**Shri V. G. Deshpande:** This was accepted by the Minister of Legal Affairs.

**Mr. Chairman:** The question is:

Page 10—

(i) line 22,—

*after* "includes" *insert :*

"agricultural lands less than fifty-one acres and two houses used for agricultural purposes and";

(ii) line 25,—

*for* "dwelling-house" *substitute* "above-said property"; and

(iii) line 27,—

*for* "therein" *substitute* "in the dwelling-house".

*The motion was negatived.*

**Mr. Chairman:** The question is:

Page 10, line 24,—

*after* "in this Act," *insert :*

"if there is only one such male heir no female heir shall have a right to claim partition of the dwelling-house and if there is more than one of such male heirs".

*The motion was negatived.*

**Mr. Chairman:** The question is:

That in the amendment proposed by Shri S. R. Rane, printed as No. 19 in

[Mr. Chairman]

List No. 3 of Amendments—

In part (i)—

*for* "less than fifty-one acres and two houses used for agricultural purposes and" *substitute* "not more than five acres and".

*The motion was negatived.*

**Mr. Chairman :** The question is :

Page 10,—

(i) line 22, *after* "includes" *insert* "agricultural land up to twenty acres, a house used for agricultural purposes and";

(ii) line 25, *for* "dwelling house" *substitute* "the above-mentioned property"; and

(iii) line 27, *for* "therein" *substitute* "in the dwelling house".

*The motion was negatived.*

[MR. SPEAKER *in the Chair*]

**Mr. Speaker:** Voting on the remaining three amendments will be held over till 2-30 p.m.

Let us now take up clause 26. What are the amendments ?

**Shri Pataskar:** There are no amendments.

**Mr. Speaker:** The question is:

"That clause 26 stand part of the Bill".

*The motion was adopted.*

*Clause 26 was added to the Bill.*

**Clause 27.**—(*Murderer disqualified*)

**Mr. Speaker:** We will now take up the whole group of clauses 27 to 33. Are there any amendments to clause 27 ? Hon. Members may indicate one after the other.

**Shrimati Jayashri:** Regarding clause 32 . . . .

**Mr. Speaker:** I shall come to that later. Now I should like to know whether there are any amendments to clause 27.

**Pandit Thakur Das Bhargava :** May I know if clause 27 is under discussion ?

**Mr. Speaker:** We are now taking up the group of clauses 27 to 33, for which the time allotted is 1½ hours. I want to know from hon. Members if there are any amendments to clause 27.

**Shri Dabhi:** Mine is amendment No. 4 for a new clause 27A.

**Mr. Speaker:** I see only two amendments No. 42 and 87 to this clause. Do the hon. Members want to move them ?

**Shri K. P. Gounder:** I do not wish to move my amendment No. 87.

**Mr. Speaker:** Then there is no amendment to this clause.

**Pandit Thakur Das Bhargava:** Clause 27 may be placed under observation. If you will kindly look at clause 27, the wording says :

> "A person who commits murder or abets the commission of murder shall be disqualified from inheriting the property of the person murdered, or any other property in furtherance of the succession to which he or she committed or abetted the commission of the murder."

You are well aware that in civil law, the judgment of the criminal courts is sometimes relevant and sometimes absolutely irrelevant. If a criminal court holds that a person is guilty of murder, that judgment will be of no use in a civil court. It may be relevant for certain purposes and at the same time it may be quite irrelevant otherwise. Therefore, my submission is that in every case this shall have to be proved in a civil court whether the person has committed murder or abetted the commission of murder. What happens in criminal courts is this. When the Criminal Procedure Code was here . . . .

**Mr. Speaker:** What is it that the hon. Member is driving at ? Does he want an independent enquiry in a civil court for disqualification ?

**Pandit Thakur Das Bhargava:** It is absolutely necessary under the present law. That is my contention. If the hon. Minister would use the words "A person convicted of murder", that would be much better. But if you have the words as they are at present, that is, "commits murder", then we are embarking on an unchartered sea and we do not know where we go.

The hon. Minister of Home Affairs stated that in 87 per cent of murder cases, the people are acquitted. This is the case in criminal law; in civil law it will be worse. I can submit that in many cases which go to the Supreme Court and the High Courts, the convictions are upheld, but if they come to

the civil court, it would be impossible to say, even in the other 13 per cent of the cases, that murder had been committed, except in those cases where there is a direct evidence. It will be most difficult in a civil court to prove cases of murder. That means that clause 27 will be a dead letter if you keep it as it is. I would, therefore, request the hon. Minister kindly to consider if he would be pleased to change the wording into "A person convicted of murder....

**Mr. Speaker:** Or abetment of murder.

**Pandit Thakur Das Bhargava:** Yes, Sir. In that case, it will be reasonably certain that in a large number of cases where one court has come to a decision that a person was guilty of murder or abetment of murder, that person shall at least not be able to qualify himself for heirship. Therefore, we must be certain of the result. Otherwise, my difficulty is this : Who will prove all this ? This will be a case between certain heirs and it will be most difficult for an heir of any private property to prove that murder has been committed, or that it comes within the meaning of clause 27. I submit, therefore, that it would be much better for us to accept the judgement of the criminal courts as binding. In that case, we will be sure of our ground, and we will be to succeed at least partially in our desire to see that such a person is disqualified. Otherwise, we will not be able to prove murder. Even in cases where the criminal courts have proved the guilt of a man, it will be most difficult to prove it in civil courts.

**Shri N. C. Chatterjee:** I person who is convicted of murder, say, in a court of session or a High Court, of course stands disqualified. I think you should make the law clear. I would suggest, and I hope Pandit Thakur Das Bhargava will agree, that the clause should read as follows—I would request the hon. Minister to kindly look into this—"A person who commits murder or abets the commission of murder, who has been convicted of murder or abetment thereof should be disqualified..". All I want is the addition of the words "who has been convicted of murder or abetment thereof". You should generally declare that any body who has committed murder, that is, guilty of murder, should be disqualified and anybody who has been convicted of abetment thereof should also be disqualified. I quite appreciate the anxiety of Pandit Thakur Das Bhargava that if a person is convicted of murder in a competent criminal court, there should be no question of trying the same issue in a civil court for the purpose of getting a disqualification. It ought to be automatic disqualification. At the same time, if a man somehow has escaped being convicted, even then the first part of the clause is there to disqualify him.

**Shri Tek Chand** (Ambala-Simla): While I am in agreement with what has been stated previously, I wish to make one suggestion. You are confining the disqualification to a person who has committed murder or who has abetted the commission of murder. We are forgetting perhaps that we are exempting persons who are guilty of culpable nomicide but not amounting to murder. A persons convicted under section 302 of the I.P.C. is a person who is being disqualified, but a person who has been found guilty and sentenced to transportation for life or imprisonment for ten years escapes the consequences, which I submit he ought not to. The equivalent expression in the English law for this is man-slaughter. The man who is guilty of man-slaughter does not come within the mischief of clause 27, whereas the man who is guilty of murder or abetment of murder does.

**Mr. Speaker:** Is he disqualified ? Is a person convicted of the offence of culpable homicide not amounting to murder disqualified from succeeding to the person, whose death he was responsible for under the existing law ?

**Shri Tek Chand:** I am sorry I have not got your point.

**Mr. Speaker:** Only murder seems to be the disqualification. Murderer alone seems to be disqualified and not others.

**Shri Tek Chand:** My submission is this. You are putting two classes of people who are to be disqualified. Leaving the murderer apart, the second class is that of the abettor. Abetment is not perhaps, in its heinousness, as bad as being guilty of culpable homicide not amounting to murder. If clause 27 is going to be passed, anybody who instigates, aids or assists in the commission of murder even remotely but within the mischief of the section, is going to be disqualified but the actual killer, because the offence turns out to be manslaughter, is still going to succeed. I submit in fairness and logic that the

[Shri Tek Chand]

actual killer who commits the offence of man-slaughter coming under section 304 of the I.P.C., should not escape the consequence and he too should be disqualified from inheritance.

**Shri N. C. Chatterjee:** On the question of principle, I shal read out from the Privy Council Judgment in 51, *Indian Appeals, page* 368.

> "A murderer, even if not disqualified under the Hindu law from succeeding to the estate of the person murdered is so disqualified upon the principles of justice, equity and good conscience. Further, no title to the estate of the person murdered can be claimed through the murderer. He should be treated as non-existent when the succession opens on the death of his victim. He cannot be regarded as a fresh stock of descent."

This has been laid down in the Privy Council judgment in *Kenchava v. Girimalappa.*

**Mr. Speaker:** Strictly, under the Hindu law, there is no such disqualification. That is based on natural justice. Are we to extend it to man-slaughter also? It has not been so, so far.

**Shri N. C. Chatterjee:** Let us restrict it to the case of murder and not extend it.

**Mr. Speaker:** What about the son?

**Shri N. C. Chatterjee:** If you kindly look at the third paragraph, you will see it is mentioned here:—

> "A murderer cannot be regarded as a fresh stock of descent. He must be regarded as not existing when the succession opens on the death of his victim. The result is that not only is the murderer excluded from inheritance, but also his son, or his sister, or any other person claiming heirship through him. In Bombay, the wife of a murderer is not disentitled from succeeding to the estate of the murdered man. The reason is that she does not derive title through her husband but succeeds in her own rights...."

**Mr. Speaker:** So, that will apply to the son unless special provision is made. There it is carried away by technical considerations. One does not inherit through the other so far as inheritance is concerned. It would not be right to accept one or the other. The hon. Members have tabled amendments Nos. 42 and 87. There is no meaning. A murderer very often murders with a view to get property. Not that he may carry it into heaven but to leave it to his own children. Now, they get the benefit. He dies and it does not matter. Therefore, he must not be allowed to leave it to the children.

**Shri K. K. Basu:** That is too much of an investment.

**Pandit Thakur Das Bhargava:** In the case of man-slaughter, the language is quite different. Supposing two persons fight and one is murdered, the other man exercised his right of self-defence. In that case it is not murder. It comes under a different section. In such cases it may be that the person in exercising the right of self-defence—rightly in defence—happens to commit this offence. My humble opinion is that only murder should be kept in and not culpable homicide.

**Shri Pataskar:** I would like to say this to the hon. Members, Pandit Bhargava and Shri Chatterjee, who have raised this issue. So far as the basis is concerned, it tries to follow the Privy Council's ruling referred to the latter. It has been summarised here on page 104. A murderer is disqualified from succeeding to the estate of the person murdered upon the principles of justice, equity and good conscience. It must be regarded as the paramount rule and public policy that the murderer should be treated as non-existent when the succession opens on the death of his victim. So, the other persons who claim heirship through him lose their descent and are excluded from inheritance. In the Rau Committee's report, they framed the Hindu Code in exactly the same words:

> "A person who commits murder or abets the commission of murder shall be disqualified from inheriting the property of the person murdered or any other property in furtherance of the succession to which he or she committed or abetted the commission of the murder."

There has been a suggestion that I may add or substitute the words "convicted of murder". So far as the substitution is concerned, it will mean that

it is only in cases where the man has been convicted of murder. It does not matter if he has committed murder. He will naturally be entitled to succession. It must first of all be borne in mind that we are laying down the rule in respect of succession in a civil court. The considerations and the principles on which convictions are based in a criminal court are entirely different. Normally, I believe that if there is a judgment of a criminal court where it is mentioned that a man has been convicted of murder, it is not liable to be misinterpreted. Here is a man who has been convicted of murder. That judgment may not be conclusive. It is of course relevant.

**Mr. Speaker:** How?

**Shri Pataskar:** The fact is that this man was convicted before a criminal court for murder and this fact along with other things is there.

**Pandit Thakur Das Bhargava:** What happens in the case of malicious prosecution. When a civil case is brought for damages all those circumstances which lead to that judgment in that court inspite of judgment of Criminal Court may lead the civil court to come to quite a different conclusion.

**Shri Pataskar:** The fact remains. The judgment may not be conclusive, as I have said.

**Mr. Speaker:** The hon. Minister will kindly bear this in mind. In the case of malicious prosecution the judgment is relevant. He was prosecuted only for the purpose of showing that there was a prosecution. Nothing more. It is open to the civil court to say that this judgment is wrong. With respect to a murder of this kind, even the judgment will be held to be irrelevant. That is to prejudice the mind of the judge who has to come to an independent conclusion. (*Interruptions.*) Order, order. Let us hear the hon. Minister.

**Shri Pataskar:** I would not argue it as in a court. The judgment may not be relevant but the fact that a person was convicted of murder is a fact which can be taken into account. Further, I will say this. It will be dangerous to say in this rule: ".... if he is convicted....". There may be case in which it may he held that one man killed another man on the basis of certain provocation or due to so many other things. Inspite of the fact that he has killed him, he may not be convicted of murder. Therefore, we need not import that sort of thing into a law in which we are going to lay down general principles. This is a well-established principle and it is put in here almost in the same words as those in the judgment of the Privy Council. We are now establishing and introducing unnecessary complications. Even if the present wording continues, normally, if there is a judgment and the man has been convicted of murder, he will have very little chance of leading in any other circumstances or evidence which will make the court say that he has not committed the murder. I do not know in how many cases that attempt will be made. After all, murder trials are held by Session Court Judges and High Court Judges. Any court before which such a matter arises is not likely to give a contrary decision. I think, when we are laying down a rule of civil law....

**Mr. Speaker:** What about the addition?

**Shri Pataskar:** As I said, as far as possible, we are laying down a law that a person who commits a murder or who has been convicted....

**Pandit Thakur Das Bhargava:** That is all right.

**Shri Pataskar:** When we are only laying down a principle that a murderer shall not inherit, whether he is convicted or whether is not convicted are all matters which should better be left out. This is not something new which we are trying to do by this clause. This is a well-known rule which has been in operation. As I said, I found this in the Hindu Code Committee's report.

**Mr. Speaker:** Assuming it is relevant, a lawyer can argue in a Court of law that he is not bound by the judgment which has been given wherein the person was convicted of murder and then independent evidence can be given and the probabilities on which conviction was held may be taken in a different view. Does the hon. Minister want to give.... (*Interruption.*)

**Shri Pataskar:** I suggest that we should have nothing to do with what happens in a criminal court with respect to murder offences.

**Shri N. C. Chatterjee:** There is absolutely no difference in our points of

[Shri N. C. Chatterjee]

view. My suggestion is, let it be made clear. Let the hon. Minister's phraseology remain. "A person who commits murder or abets the commission of murder or who has been convicted of murder of abetment thereof" should be the wording.

**Mr. Speaker:** Why should a man who has been convicted of murder escape?

**Shri Pataskar:** I do not know why we should bring in the judgments of criminal courts.

**Mr. Speaker:** We are trying to make the law absolutely fool-proof in this House, so far as this matter is concerned.

**Shri Seshagiri Rao** (Nandyal): May I submit one thing?

**Mr. Speaker:** Let the hon. Minister answer to the other point about the children.

**Shri Pataskar:** The clause says:

> "A person who commits murder or abets the commission of murder shall be disqualified from inheriting the property of the person murdered, or any other property in furtherance of the sucession to which he or she committed or abetted the commission of the murder."

**Mr. Speaker:** Is he of opinion that the murderer's sons may inherit?

**Shri C. C. Shah:** They will, because of clause 29.

**Shri Pataskar:** That is a different thing altogether. Let us look to the clause here.

**Mr. Speaker:** It is not a matter of drafting, but one of substance. Clause 29 is no doubt there. Supposing one man is guilty of murder and he leaves property to the benefit of his children; though he may not enjoy the property, is it the desire of the House or the hon. Mover of this Bill, that his sons should also be disqualified, or is it not the desire as is set out in clause 29 so that his sons may take the benefit? Though the murderer himself is not allowed to benefit by the murder, his sons may benefit by it. So, this is a simple point and if there is agreement or disagreement on it, the language can be found as the case may be.

**Shri C. C. Shah:** The principle is that the murderer should not benefit by the murder. But the sons should not be disqualified merely because their father has committed a murder. That is what is provided for under clause 29.

**Mr. Speaker:** If the father had been there, can the sons get it?

**Shri Pataskar:** I will take a simple case. Suppose there is a father, there is a son and the son also has got a son. The son commits murder of his father; let us suppose like that. The father has left behind a son. Whether, under the scheme of the Bill, that son's son will succeed to the property or not, is the question. I am in agreement, because the son who committed the murder has been disqualified, that the grandson should succeed to the property. He has nothing to do with the murder. Clause 29 says:

> "If any person is disqualified from inheriting any property under this Act, it shall devolve as if such person had died before the intestate."

Therefore, the children are not disqualified.

**Mr. Speaker:** That seems to be the scheme under the Bill. I will now put the clause to vote. There are no amendments. Hon. Members Pandit Thakur Das Bhargava and Shri N. C. Chatterjee have both made suggestions and the hon. Minister does not accept them.

The question is:

> "That clause 27 stand part of the Bill."

*The motion was adopted.*

*Clause 27 was added to the Bill.*

**Clause 28.**—(*Converts' descendants disqualified*)

**Mr. Speaker:** Are there any amendments to clause 28?

**Shri Dabhi:** My amendment number 4 seeks to introduce a new clause 27A.

**Mr. Speaker:** Let us dispose of disqualifications first. After this clause 28 is disposed of, I will take that up and if accepted it can be incorporated as 28A.

**Shri K. K. Basu:** I think we take up this new clause also and discuss them together as that also deals with disqualifications.

**Mr. Speaker:** Clause 28 relates to conversion and Shri Dabhi's amendment relates to desertion. Hon. Members must have their copies of amendments with them. Shri Dabhi's amendment, as I said, deals with desertion and therefore that can come up later.

**Shri Shivamurthi Swami** (Khustagi): I beg to move :

Page 11, line 1—

*after* "this Act" *insert :*

"a person who has taken the oath of Sanyas Ashram or accepted to lead a life of Sanyasi, detaching himself from family life, shall be disqualified from inheriting the property of his family and".

**Shri Sinhasan Singh:** I beg to move:

(i) Page 11, line 3—

*after* "religion" *insert:*

"he or she and"

(ii) Page 11, lines 5 and 6—

*omit* "unless such children or descendants are Hindus at the time when the succession opens".

(iii) Page 11, line 6—

*add* at the end:

"and remain so thereafter".

**Mr. Speaker:** These amendments are before the House.

**Shri Sinhasan Singh:** What I want to say is that a convert should not reconvert himself just to get the property and after getting the property he should leave Hinduism. What the clause says is :

"Where, before or after the commencement of this Act, a Hindu has ceased or ceases to be a Hindu by conversion to another religion, children born to him or her after such conversion and their descendants shall be disqualified from inheriting the property of any of their Hindu relatives, unless such children or descendants are Hindus at the time when succession opens."

Therefore, if the man had reconverted himself to Hinduism, his children will inherit the property and after inheriting the property they can go back to their old religion. What I want to say by my amendment is that they should continue to remain in Hinduism.

**Mr. Speaker:** For how long?

**Shri Radha Raman** (Delhi City): For life.

**Shri Sinhasan Singh:** If the children are born to Christians, Mohammadans or parents belonging to other religions, they will not inherit according to this clause. Therefore, in order to avoid that the father may reconvert himself to Hinduism. The children in that case will inherit. But after inheriting the property they may again go back to Christianity or other religions and thus take away the property.

**Mr. Speaker:** Therefore, the father must have reconverted himself in anticipation of the death.

**Shri Sinhasan Singh:** If the father had reconverted himself to Hinduism before his death, the children may inherit and after inheriting the property they may leave of Hinduism because a property once vested cannot be divested. That is why I have given the amendment saying that the words "and remains so thereafter" should be added, so that once they inherit the property they will remain in Hinduism and not take away the property to other religions.

**श्री शिवमूर्ति स्वामी:** This is my amendment:

This is my amendment :

Page 11, line 1, *after* "this Act" *insert:*

"a person who has taken the oath of Sanyas Ashram or accepted to lead a life of Sanyasi, detaching himself from family life, shall be disqualified from inheriting the property of his family and".

आज ऐसे बहुत से खान्दान है जिन में से लोग सन्यास ले लेते हैं । उन लोगों का खास मकसद तपस्या होता है और इसी के लिये वह घर छोड़ कर जाते है । उन के लिये कोई प्रबन्ध सम्पत्ति हासिल करने के लिये हो तो उन की सम्पत्ति का इस्तेमाल सामाजिक कामों के लिये करने का कोई इन्तजाम नहीं होता । मेरी नजर में दक्षिण भारत के ऐसे बहुत से खान्दान हैं जहां पर पुत्र वर्ग और सन्यास वर्ग दोनों रहते हैं । सन्यास आश्रम में यह होता है कि उन की सारी सम्पत्ति समाज की बन जाती है । लेकिन अंग्रेजों के जमानेसे जो कानून चला आ रहा है उसमें ऐसा होता है कि जो समाज की सम्पत्ति या आस्ती इस

[श्री शिवमूर्ति स्वामी]

प्रकार की होती हैं उस म भी भाई के बच्चों या बहन क बच्चों को हिस्सा दे दिया जाता है । इस तकसीम का रिवाज आज भी उसी तरह से चला आ रहा है, खुसूसन वीर शैव आदि जो पन्थ हैं उन में हालांकि यह नियम चला आता है कि गुरू खान्दान की जो सम्पत्ति सन्यासी के पास होती है वह समाज के लिये रिजर्व रक्खी जाय लेकिन उन में ऐसा होता बहुत कम है । जो मठों आदि की सामाजिक सम्पत्ति होती है उस को भी अपने अपने बेटों, रिश्तेदारों और भाइयों में तकसीम करने का रिवाज है । इस सम्बन्ध में कोर्ट्स के फैसले भी हो चुके हैं कि जो सम्पत्ति सन्यास आश्रम ग्रहण करने वालों की होती है, वह समाज की समझी जानी चाहिये, समाज का उस से गुजारा हो और उस प्रापर्टी पर समाज का ही अधिकार हो सकता है, किसी रिश्तेदार का हक उस पर नहीं होना चाहिये । लिहाजा मैं इस, ऐमेन्डमेंट की ताईद में ज्यादा न कहता हुआ सिर्फ यही कहूंगा कि सन्यास आश्रम दो किस्म के होते हैं । एक तो वह लोग होते हैं जो पहाड़ों में जा कर तपस्या वगैरह करते हैं, दूसरे सन्यास आश्रम वाले वह होते हैं जो अपने धर्म के परिवार को बढ़ाने और धर्म का प्रचार कर के हिन्दू समाज की मोरेलीटी को बढ़ाने के लिये सन्यास आश्रम लेते हैं, जिन को पटाध्यक्ष भी कहा जाता है । ऐसे सन्यासियों को भी अपने लड़कों को अपनी सम्पत्ति देने का अधिकार नहीं होना चाहिये । उन की सम्पत्ति उन के चेलों के लिये महफूज रहनी चाहिये न कि और दूसरे लोगों में तकसीम होनी चाहिये ।

**Shri U. M. Trivedi:** I want to make a few observations on clause 28. If the hon. Minister of Legal Affairs lends me his ears, it would be better. But I find he is going away.

**Mr. Speaker:** The Minister of Revenue and Civil Expenditure will take notes.

**Shri M. C. Shah:** I shall take notes.

**Shri U. M. Trivedi:** The present provision is this :

> "....children born to him or her after such conversion and their descendants shall be disqualified from inheriting the property of any of their Hindu relatives, unless such children or descendants are Hindu at the time when the succession opens".

That is to say, if children are born to a man who has been converted from Hinduism to any other religion automatically they will be born in the religion of their parents and if they are born in the religion of their parents naturally they will lose their right to inherit the property of a Hindu. Now, if they are born before the father gets converted or the mother gets converted, certainly they are Hindus. There would be no objection to their inheriting as such. Therefore, to add this further rider, namely, "unless such children or descendants are Hindus at the time when the succession opens" will lead to a mockery of the Hindu religion. Just for the sake of taking the property, persons who are born even as non-Hindus will try to convert themselves as Hindus when they find that they would be getting some property when succession opens up or when they find that their grandfather has suddenly become rich and has won a Derby lottery. When they find such things, immediately they will try to convert themselves as Hindus, notwithstanding the fact that they had been born to a father who was a non-Hindu, and then succeed to the property if this provision also is there. Therefore, in my opinion, these words, namely, "unless such children or descedants are Hindus at the time when the succession opens", are redundant, especially in view of the fact that there is already a provision that those who are born already before the father gets converted will inherit the property. There is no doubt about it. If they are born after their father is converted, they are certainly born in a religion which does not belong to the religion of their parents or ancestors. Therefore, they are not entitled to the property. If this is the position, then, to add the words—"unless such children or descendants are Hindus at the time when the succession opens"—is merely throwing out some temptation to somebody, saying, "At least for the sake of money, you convert yourself". Bringing about conversion through money matters or by mere money is a highly derogatory thing, affecting the morals of the people. Under these circumstances, I would say that lines 5 and 6,, commencing with the word "unless" must not be there. I shall be glad if the Minister of Legal Affairs can look into it. I have not moved any amendment to this effect. I am sorry I have not done it, but still, I ask the Minister to give his thought to this item.

**Shri V. G. Deshpande:** Of course, the Minister of Legal Affairs is not here,

and I will ask the Minister of Revenue and Civil Expenditure to convey my views to him. After reading and re-reading this clause I find that the convert's descendants are disqualified from inheriting property. I may not have correctly understood it, but I feel that the convert by himself would not disqualify. Supposing a son embraces Christianity and when his father is living, then, he can inherit the father's property but the poor sons who are born to him would not inherit anything. I think there is something fundamentally wrong here, as with the other clauses. It is not properly drafted. I would like to have some enlightenment from the Minister.

**Shri Sinhasan Singh:** My amendment No. 254 also has an effect on this clause.

**Mr. Speaker:** They wanted to allow freedom of religion, that is, change of religion, from one to the other. They wanted to ease the situation and say that even if one joins another religion, still, one's right to property will not disappear. But when laying down a law of succession for the Hindus, the idea of property comes in. According to the Hindu law, the property of a deceased person, a person who dies intestate as a Hindu, goes in succession to all his relations even though they are far removed. But the principle is, an exception is created in favour of one. It is not as if for purposes of logic you can even remove that exception. But then custom stands in the way. You can call it not as Hindu succession but as general succession.

**Shri Tek Chand:** Clause 28 may be examined from two points of view. There is amendment No. 254 which has got a very important bearing upon the first part of this clause. This disqualification attaches not to the convert but it attaches to his children. I hope the hon. Minister of Revenue and Civil Expenditure may be pleased to appreciate the point, because he is also a lawyer.

**Shri M. C. Shah:** I have forgotten law since the past few years.

**Shri Tek Chand:** Suppose there is the father. He has got a son and some grandsons. Now, on the death of the father, if his son has embraced Christianity, Islam, Judaism or any other non-Hindu religion, the result will be that that man, who is a renegade to his religion, is not going to be deprived.

It is not the convert who is going to be deprived, but the children of the convert.

2 P.M.

**Mr. Speaker:** There is no dispute about it; what does the hon. Member want?

**Shri Tek Chand:** I pray that the punishment should be awarded to the convert. That is to say, if during the lifetime of my father, I today embrace Christianity, then I should be deprived.

**Mr. Speaker:** So, the hon. Member's point is this. If at the time of succession, the person to whom succession opens is not a Hindu, why should get the property?

**Shri Tek Chand:** Quite right.

**Mr. Speaker:** If the hon. Member's point of view is that the Caste Disabilities Removal Act and the Conversion Act do not put any obstacle in the way of inheritance, even though he may not be a Hindu, it is open to the hon. Member to say, "There were some other persons in charge of it at that time, but now we can go by our own". Has he tabled any amendment?

**Shri Tek Chand:** Amendment No. 254 is there in List No. 32.

**Mr. Speaker:** Amendment No. 254 is before the House already.

**Shri Tek Chand:** The amendment seeks to insert the words "he or she and" after the word "religion" in line 3 of page 11. The whole purpose is served by this amendment. With this amendment, the provision will read as under:

> "Where, before or after the commencement of this Act, a Hindu has ceased or ceases to be a Hindu by conversion to another religion, he or she and the children born to him or her...." etc.

To punish the children of the convert and not the convert is a negation of logic, to my mind. If I embrace Christianity today when the inheritance opens, I am not debarred, I am not disentitled, but my childen are.

There is another important omission. It may be that a person who embraces a different religion may be already married, having Hindu children. I wish to give an instance and I would be grateful if the hon. Minister will be in a position to follow me and appreciate

[Shri Tek Chand]

what I am about to say. Take, for instance, the case of a man who has already Hindu children today and who embraces Christianity tomorrow. His children continue to remain Hindus. In this case, you cannot say that the children are going to be deprived. He embraces Christianity and after that marries a Christian lady and begets children from her who are brought up as Christians. Suppose at the time of his death—what is known in Muslim Law as *marzul maut* temporarily and conveniently, the children embrace Hinduism till succession opens and then go back to Christianity or Islam, as the case may be, simply for the purpose of inheritance. Such temporary and convenient reconversion should not facilitate them to succeed to property. That is a very weighty and important consideration. In the case of such a person who temporarily embraces Hinduism or comes back to it as a reconvert for the purpose of getting property, such a temporary reconversion should be barred, as contemplated in amendment No. 255.

Therefore, the defect in clause 28 is two-fold. Firstly, the convert is not going to be deprived; secondly his children who embrace Hinduism temporarily for the purpose of convenience are being deprived. It is a curious state of Hindu Law that if a Hindu becomes a *sanyasin* he is supposed to be civilly dead and therefore not entitled to inheritance. But if that very Hindu, instead of becoming a *sanyasin* were to embrace Islam or Christianity and become a renegade from Hinduism, he is entitled to succeed.

The hon. Minister of Legal Affairs, I am glad, has come and if you will permit me, may I for his sake and for the sake of the rest of us amplify the matter?

If I gather from the wave of his hand....

**Shri Pataskar:** No, it is not about you. I have not followed you.

**Shri Tek Chand:** I request the hon. Minister through Mr. Speaker to concentrate on the third line of clause 28. He will notice that he is depriving not the convert, not the renegade, not the apostate, but his children. My submission is that the apostate should be deprived of the right of inheritance. Once the convert inherits the property, he inherits absolutely. Therefore, the apostate's children, whether they happen to be Christians, Mohammedans or Jews, automatically inherit. That is another important point that emerges from a closer examination of clause 28. If on the day the succession opens the convert inherits, he inherits absolutely, under the Hindu Succession Act. Therefore, he becomes the absolute owner; once he becomes the absolute owner, on his intestacy, *i.e.* on the convert's intestacy, his children will automatically inherit, because the propositus becomes the convert and not the convert's predecessor-in-title. That being so, whether you examine it from the point of view of logic or from the point of view of the spirit behind the law. I submit that clause 28 requires complete overhauling so as to include in it, though not the words, at least the spirit underlying amendments Nos. 254 and 255. It seems to be perhaps an omission which has escaped notice. Now that it has been brought to the notice of the hon. Minister, he may be pleased to examine it.

**Shri S. S. More:** I was a member of Joint Committee and we had discussed these matters. As far as inheritance is concerned, the basis is the relationship and not the religion of the man inheriting. If you refer to the definition of "relative" which we have already passed, you will find that "relative" means "related by legitimate kinship". So, in deciding whether A inherits the property or B inherits the property we have to see whether he is related to the deceased dying intestate in a particular way so as to give him priority. In the case of the original convert who happens to be by relationship entitled to inheritance, the question is whether we should also import the notion of religion and other factors of religion so as to decide whether he is qualified to inherit or not.

**Shri V. G. Deshpande:** So also the murderer; he is also related.

**Shri S. S. More:** I think my hon. friend is very close to murderers. I have no such personal knowledge.

**Shri V. G. Deshpande:** You are very close to converts.

**Shri S. S. More:** Yes; I am. Are we going to use this law of inheritance for the purpose of punishing those who out of conviction for any other religion embrace some other religion. Shri Tek Chand's argument was that this law of

inheritance should be used as a rod to punish this particular gentleman.

**Shri Tek Chand:** That is Mohammedan law.

**Shri S. S. More:** A man who is a convert is born in the religion of the person dying intestate. But, as far as the children are concerned, they are born in an entirely different religion and that changes the whole complexion of the law. If A is born in the religion of the man who dies intestate and subsequently he changes religion, the change of religion should not come in his way as far as his inheritance to property is concerned. As far as his children born after the conversion are concerned, they are persons not born in the same religion but born in some other religion and that creates a sort of some cleavage, some gulf between the two. Therefore, elimination of the children of the convert born after the conversion is being practised here and they are eliminated on a very rational basis. Personally speaking, if I were to express my views without any restriction, I would say that religion should not be taken into consideration. We must look to the relationship. Suppose A dies intestate and B his son is a convert and C and D are his sons born after conversion. They still retain the relationship. They are still the grandsons and great grandsons of A because that relationship by blood cannot disappear. Here, relationship by blood ought to be taken into consideration. Personally I would have said that no such consideration of religion ought to come in the way. But, in these days of democracy, we have to go by compromises. Therefore, we may accept this as a gesture or as a part of some compromise. It is a compromise because, personally speaking, I would not take into consideration the fact of religion at all. I would say that only relationship should be taken into consideration. Look at the definition of son. It includes even an adopted son. Though there is no blood relationship, some artificial relationship created by the parties concerned is kept on the same level with blood relationship. To that extent we accept it. Therefore, I would go to the extent of saying that the religion of the man should be kept entirely out of the whole perspective. That would have been the best course. But, I am prepared to accept this as a compromise. The original convert being related to the man, whose succession opens, by blood, he must be entitled, he must be permitted to inherit the property. Shri Tek Chand says that he is an apostate. I will not use that word because I do not feel that a man who embraces another religion has fallen from certain standards. It is out of conviction that a man goes to another religion. To that extent I support this clause 28. I further say that the amendment which has been moved is going beyond the scope of the Bill. Not only that. The whole spirit of the Bill is being flouted by that amendment because the whole Bill is sought to be utilised for the purpose of preventing conversion and punishing persons who are converting themselves.

**Pandit Thakur Das Bhargava:** What about the sons and grandsons?

**Shri C. C. Shah:** Clause 28 has three consequences. First, if a Hindu converts himself or herself, he or she thereby does not deprive himself or herself of the right to succeed to the deceased. The children are not entitled to succeed, not to him, but to any other Hindu relatives of the deceased. They are not entitled to succeed on the basis and on the presumption that they have been brought up in the religion of the convert. The last words are, "unless such children or descendants are Hindus at the time the succession opens". Therefore if the children have been brought up as Hindus, they also will be entitled to succeed to every Hindu relative of the deceased. This clause is not a matter of any hasty conclusion; but it is a matter of deliberate policy.

**Shri S. S. More:** May I ask, if a man has converted himself to Christianity and children are born to him, simply because they are brought up as Hindus though they are born as Christians, will that give them any security of inheritance?

**Shri C. C. Shah:** The last words are, unless such children or descendants are Hindus at the time when succession opens.

**Shri S. S. More:** Not by bringing up, but by regular conversion or reconversion.

**Shri C. C. Shah:** That is a matter of interpretation. I will not go into that. It may be by reconversion also.

**Shri Pataskar:** What is your suggestion?

**Shri C. C. Shah:** I am supporting clause 28. I am opposing the amendments which have been moved. They are supported by Shri Tek Chand. When we passed the Caste Disabilities Removal Act in 1850, we adopted the principle that change of religion by itself will not deprive a man of the right to succession. That has been the Hindu law ever since 1850. That Act is called not only the Caste Disabilities Removal Act, but also the Freedom of Religion Act. That a person has converted himself to any other religion is by itself no ground for depriving him of the right of succession to the deceased if he is his son or daughter or whatever it may be. But, the children, if they are brought up in the religion of the convert, naturally, cannot be expected to succeed to the other Hindu relatives of the deceased. If they have reconverted themselves and are Hindus at the time when the succession opens, then, they will be entitled to succeed. This was a matter which was very carefully considered by the Rau Committee. I cannot add anything to the arguments which they have advanced.

I will only read a short passage :

> "It was urged with considerable force—(as my hon. friend Shri Tek Chand did)—and almost with unanimity that not only the convert's descendants, but the convert himself should be disqualified from inheriting the property of his Hindu relatives. The present position is otherwise and is the result of the Caste Disabilities Removal Act which has been law for over ninety years. The legislature will, no doubt, consider the matter.

Then it is said :

> "At least one of us may here be permitted to express a personal view. Hinduism has been described and rightly, to be not so much a religion as a League of Religions, with toleration for every faith as its ennobling characteristic. To punish a man for choosing to worship God in one way rather than another would be a retrograde step opposed to the true spirit of Hinduism and now that Hindus too admit converts and reconverts to the Hindu faith, a tax on freedom of religion is of dubious value to the Hindu community.

We cannot add to the weight of these words.

As regards the second amendment moved by my hon. friend that the children should be Hindus, not only at the time when the succession opens, but they should remain Hindus, according to his amendment, for life or, probably he would suggest, for some years, this argument has been ably met by the Rau Committee in these words:

> "It was also urged that colourable reconversions merely for the sake of getting the inheritance of a Hindu relative should be prevented, by insisting on a rule to the effect that the reconvert should not only have come back to his original faith, but retained it for a specified number of years. We are not greatly impressed by these fears. Clause 21 lays down that the heir should be a Hindu when the succession opens. Reconversion after the succession opens will not, therefore, be possible. This restriction will, in most cases, remove any danger of abuse of the provision contained in the clause. Where a reconvert claims the inheritance, the genuineness of the conversion will no doubt be considered by the court."

Therefore, if he is a Hindu at the time when the succession opens,—if the reconversion is colourable, the court will go into it—if he is genuinely reconverted to the Hindu faith, to insist that he should remain for life or for a particular period a Hindu is a thing which cannot be added in this provision. I submit, clause 28 has been very carefully considered and drafted. It is the same as the clause in the Rau Committee draft. I support the clause and oppose all the amendments.

**Shri Pataskar:** I think this is a provision which has not only been carefully considered by the Joint Committee but which follows all previous investigations so far as they have been made consistently with the modern trend of events. I have carefully listened to the appeal made by my hon. friend Shri Tek Chand. Supposing there is a joint family consisting of a father and two sons, and one of the sons chooses to change his religion. How can I on that account say he should lose his rights in the property, or lose his right of inheritance ? That would not be a right thing to do at all, because we have said that so

far as the question of faith is concerned, everybody is free to follow any religion he likes. Therefore, because he chooses to cease to be a Hindu, you should not deprive him of whatever right he has already acquired. I think that would be entirely wrong thing, not consistent with the principles which we have decided to follow.

I will not repeat the arguments of my friend, because there is the Caste Disabilities Removal Act, and this matter has been considered from time to time. Therefore, so far as his appeal to me is concerned, namely "why do you want the convert to be allowed to have his right", I ask : is it desirable, is it just that simply because a man in these days chooses to change his faith, he should be deprived of his right in the property itself ?

It has been rightly put in here :

> "Where, before or after the commencement of this Act, a Hindu has ceased or ceases to be a Hindu by conversion to another religion, children born to him or her after such conversion and their descendants shall be disqualified...."

That is again, as I have been saying a concession, because it may happen that a man who chooses to change his religion gets children after his change of religion or by marriage with a woman of a different religion, whatever it may be. Naturally, those children are not Hindus. Therefore, it is thought unless they are Hindus they should not be made sharers or inheritors on the basis of a law which is made applicable only so far as Hindus are concerned. But certainly we give them the right that if they are Hindus at the time succession opens, they shall be entitled. Whether they are so by reconversion or other means is a different matter. Therefore, the clause as it is worded is consistent with the present sentiment, with the principles on which we are proceeding, and I think there is nothing wrong with it. I hope hon. Members who have moved their amendments will withdraw them.

**Shri Tek Chand :** May I ask a clarification ? If the law of succession is based on relationship and not religion, what reason is there to deprive the non-Hindu children of a convert ?

**Shri Pataskar :** Because they are certainly not Hindus and they cannot be governed by the Hindu Succession Act. A very simple answer.

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**Mr. Speaker :** I will put the amendments to the vote of the House. Amendment No. 210 of Shri Sivamurthi Swami.

**Shri Pataskar :** With respect to that, I might point out that this question was considered in the Joint Committee. Supposing there is a person who wants to be a *sanyasi*. There are *sanyasis* who again revert to *grihashastrama*.

**Shri S. S. More :** There are *sanyasis* with wives and children.

**Shri Pataskar :** There are so many kinds. We do not want to enter into all those controversies and deprive a man because he chooses to call himself a *sanyasi*. Because, there are so many *sanyasis* who also carry on *grihastha* life. I do not know what they are called. Supposing a man joins an order, why should we deprive him of the rights he has already acquired ? Let us leave it to the *sanyasis*. They will do whatever they like with the property.

**Mr. Speaker :** The question is :

Page 11, line 1—

*after* "this Act" *insert* :

> "a person who has taken the oath of *Sanyas Ashram* or accepted to lead a life of *sanyasis*, detaching himself from family life, shall be disqualified from inheriting the property of his family and".

*The motion was negatived.*

**Mr. Speaker :** Amendment of Shri Sinhasan Singh, No. 254. He wants that the person who becomes a convert should also be disqualified, or in the alternative, his children by reconversion ought not to be qualified. That is the substance.

The question is :

Page 11, line 3—

*after* "religion" *insert* he or she and".

*The motion was negatived.*

**Mr. Speaker :** Shri Sinhasan Singh. Amendment Nos. 255 and 256. He wants that the reconverted children should remain continuously Hindus.

The question is :

Page 11, lines 5 and 6—

*omit* "unless such children or descendants are Hindus at the time when the succession opens".

*The motion was negatived.*

**Mr. Speaker:** The question is:

Page 11, line 6, *add* at the end :

"and remain so thereafter".

*The motion was negatived.*

**Mr. Speaker:** The question is:

"That clause 28 stand part of the Bill".

*The motion was adopted.*

*Clause* 28 *was added to the Bill.*

**Mr. Speaker:** I shall come to Shri Dabhi's amendment introducing a new clause later on. Let me dispose of clauses 29 and 30. There do not seem to be any amendments to these clauses. They are normal rules under Hindu law.

The question is:

"That clauses 29 and 30 stand part of the Bill."

*The motion was adopted.*

*Clauses* 29 *and* 30 *were added to the Bill.*

**Mr. Speaker:** Shri Dabhi may move his amendment, if he wants to add Clause 27A.

**Shri Dabhi:** I beg to move :

Page 10, *after* line 41, *insert :*

"27A. (1) A husband who has deserted his wife shall be disqualified from inheriting her property.

(2) A widow who had deserted her husband shall be disqualified from inheriting his property."

**Shri Pataskar:** How can a widow desert her husband, because a widow has no husband?

**Shri Dabhi:** I do not understand why a woman who had deserted her husband should inherit his property. In the same way, if a man has deserted his wife, why should he be allowed to inherit her property.

While I was speaking on a similar amendment to one of the clauses, the Minister of Legal Affairs asked how can we prove whether a woman has deserted her husband or the husband has deserted the wife. If that is so, I do not understand how in clause 25 there is a reference to a woman who has been deserted by her husband. How can it be proved there? My point is it can be proved. Those who want that the husband or wife, as the case may be, should be disqualified will go to the court and prove it. Then only this disqualification arises.

At present there are several cases of women being deserted. A woman might have been deserted even though she may be earning, for certain reasons. I do not make any difference between the husband and the wife. The husband or the wife, as the case may be, should not be allowed to inherit in case of desertion.

**Shri K. K. Basu:** How is this desertion to be determined?

**Shrimati Jayashri** (Bombay-Subarban): In such cases of desertion, clause 32 can be acted upon, and the person who has deserted can be deprived of the right.

**Shri Pataskar:** He wanted to know why it is that in clause 25 we have stated that a daughter who has been deserted by her husband shall have a right in the father's property. For obvious reasons it means that she has no house, she is deserted and therefore she can remain in that house. Now, supposing this is passed, what will happen is that in every case whenever a widow comes for inheritence, others will say she has been deserted and it will result only in litigation. I do not know how you can compare this provision with respect to that provision where a woman has been deserted and has no house to live in. Of course, the object may be very good, but the purpose will be defeated by making the whole subject to litigation by those people who want to deprive the widow of her rights.

As regards the widow who has deserted her husband, it does not make any meaning. I know the hon. Member means a widow who has deserted her husband during his life. But at any rate this is not the right way of introducing disqualifications in a measure like this and I hope the hon. Member will withdraw the amendment.

**Mr. Speaker:** Need I put into the vote of the House? I think it is not pressed.

**Clause 25.**—(*Special provision respecting dwelling houses*)

**Mr. Speaker:** It is now 2-30 P.M. There are three amendments to clause 25, Nos. 220, 226 and 253 which have

been held over. The first one is of Shri Krishna Chandra.

The question is :

Page 10, lines 30 and 31—

*omit* "whose husband has left no dwelling house."

Those who are in favour of the amendment will say "Aye".

**Some Hon. Members :** Aye.

**Mr. Speaker :** Those against will say "No".

**Some Hon. Members :** No.

**Mr. Speaker :** The 'Noes' have it.

**Some Hon. Members :** The "Ayes" have it.

**Mr. Speaker :** Will hon. Members who are in favour of the amendment rise up in their seats ?

**Shri S. S. More :** It may not be a full fledged division. But this is an important point and I would request you to ring the bell.

**Mr. Speaker :** The bell is being rung.

**Shri Pataskar :** The amendment means that any widow will be entitled. If that will satisfy hon. Members I am prepared to accept it.

**Pandit Thakur Das Bhargava :** This is a very bad precedent, I may tell the hon. Minister. On merits he may accept an amendment, but not on the basis of vociferousness.

**Shri V. G. Deshpande :** Democracy has been scrapped by the acceptance of this amendment !

**Mr. Speaker :** Order, order, hon. Members will kindly resume their seats. Now I will put the amendment to the vote of the House again.

The question is :

Page 10, lines 30 and 31—

*omit* "whose husband has left no dwelling house."

There are a number of hon. Members who have come just now. It is only a widow whose husband has not left a dwelling house will be entitled to live in the house of the father as provided for in the proviso. The amendment only seeks to say that any widow, or a widowed daughter shall be entitled to live in the house, irrespective of the fact that her husband had left any property or not.

Those who are in favour of the amendment will say 'Aye'.

**Some Hon. Members :** Aye.

**Mr. Speaker :** Those who are against the amendment will say 'No'.

**Some hon. Members :** No.

**Mr. Speaker :** The 'Ayes' have it.

*The motion was adopted.*

**Shri V. G. Deshpande :** The 'Noes' have it.

**Mr. Speaker :** The hon. Member was not loud enough ; the 'Noes' should have been loud enough.

Let us now go to the next amendment.

**Shri V. G. Deshpande:** On a point of order. The volume of voice was there. I may be one man in demanding the division, but that should be demonstrated. Because the Prime Minister stood up and accepted the amendment, it should not guide your decision.

**Mr. Speaker :** No such insinuations need be made. I am here to judge impartially. Simply because a person loses, he ought not to lose his temper.

Shri More wanted the bell to be rung and accordingly I ordered the bell to be rung. I am not expected to take notice of what happened in the House in the interval of two minutes. Afterwards when I put the amendment, I did not find the same enthusiasm to oppose this. Judging from the voices I found there was immense support for the amendment and the opposition was luke-warm. It is clear that the amendment is carried.

**Shri V. G. Deshpande :** There will be no division then ?

**Mr. Speaker :** There will not be any division.

**Shri V. G. Deshpande :** Because a party is weaker, there will be no division.

**Mr. Speaker :** If there had been a serious challenge I would have ordered a division. There was no serious challenge at that time. Later on after I declared the decision, the hon. Member got up and said that he wanted a division. It was too late.

If there had been a serious challenge or demand for division I would have ordered it. It would have taken only five minutes.

**Shri V. G. Deshpande:** Unless you announce the decision, how can we challenge it? Challenging is to be done after you announce the decision. It cannot be done in the middle.

**Mr. Speaker:** I shall now put Shri Gounder's amendment to vote.

The question is:

Page 10, Line 27—

*after* "daughter" *insert* "or grand daughter or great grand daughter".

*The motion was negatived.*

**Mr. Speaker:** I shall now put amendment No. 226.

The question is:

Page 10, line 30—

*after* "has been deserted by" *insert* "or has separated from"

*The motion was adopted.*

**Mr. Speaker:** So, the wording is 'has been deserted by or has separated from'.

**Shri Pataskar:** The wording is only 'deserted'. I do not admit it. In that case, I would ask for a division.

**Pandit Thakur Das Bhargava:** You have been pleased to say that the amendment has been carried. So, the amendment has now been carried.

**Shri S. S. More:** The same law that applies to Shri V. G. Deshpande applies to Shri Pataskar also.

**Mr. Speaker:** Particularly when a division is challenged, and the matter has been put off for a division of this kind, hon. Members must indicate to me by their voices, and they ought not to put me in this kind of difficulty. I felt....

**Shri Raghunath Singh** (Banaras Distt. Central): Votes should be taken, because the thing was not clearly decided.

**Shri K. K. Basu:** The chair has decided. So, they should bow down to that.

**Shri S. S. More:** Now, this amendment becomes really a progressive amendment.

**Mr. Speaker:** There was another thing also. It was suggested that there may not be mere desertion, but there may be a judicial separation or even a divorce. In that case, would this provision mean that a divorced daughter ought not to come back to her father's house, or when there is judicial separation from her husband, she has no right to come and stay in the house? That was what was first asked.

**The Prime Minister and Minister of External Affairs (Shri Jawaharlal Nehru):** That is all right. We accept that position.

**Mr. Speaker:** Now, I shall put the clause to vote.

The question is:

"That clause 25, as amended....

**Shri K. K. Basu:** May I suggest that the proviso may be put separately?

**Mr. Speaker:** All right. I shall put the earlier portion of clause 25, without the proviso as amended, to vote.

The question is:

"That clause 25 (without the proviso as amended) stand part of the Bill".

Those in favour will say 'Aye'.

**Some Hon. Members:** Aye.

**Mr. Speaker:** Those against will say 'No'.

**Some Hon. Members:** No.

**Mr. Speaker,** Evidently, the hon. Members were not attentive. I must ascertain the views of the House definitely and not in a casual manner.

Hon. Memebrs will kindly see that clause 25 consists of two portions, the earlier portion, namely the substantive portion, and the proviso which is added to it. The earlier portion says that a female heir shall be entitled to a right of residence but shall not be entitled to a right of partition, so long as the male members are not partitioning with respect to the dwelling-house. If on the death of an intestate, a dwelling-house is the property which is left, and there are persons who are already in possession of the house and are living in the house, until the male members divide, the female heir shall not be entitled to partition, but she will be entitled to a right of residence therein.

The proviso says that the right of residence is conferred only upon particular classes of daughters or particular classes of female heirs. I shall put the proviso to vote separately.

In the earlier portion, the question was whether only the right of residence should be given to the female heir or

whether the right to partition also should be given.

In view of this, hon. Memebrs may consider and then say 'Aye' or 'No'.

The question is :

"That clause 25 (without the proviso as amended) stand part of the Bill".

*The motion was adopted.*

**Mr. Speaker :** So, the earlier portion of clause 25 is carried. I shall now put the proviso, restricting the right of residence only to particular classes of women, or female heirs.

**Shri C. C. Shah :** As amended.

**Mr. Speaker :** The question is :

"That the proviso to clause 25, as amended, stand part of the Bill".

Those in favour will say 'Aye'.

**Some Hon. Members :** Aye.

**Mr. Speaker :** Those against will say 'No'.

**Some Hon. Members :** No.

**Mr. Speaker :** The 'Ayes' have it. . . .

**Some Hon. Members :** The 'Noes' have it.

**Mr. Speaker :** All right. The house may divide on this issue. Let the division bell be rung.

**Shri Sinhasan Singh :** Their amendment is accepted.

**Mr. Speaker :** But it is for them to decide.

**Dr. Rama Rao :** It is not our amendment. It is their amendment which has been accepted.

**Shri Jawaharlal Nehru :** May I know what the position is ?

**Mr. Speaker :** The position is that notwithstanding the amendment that has been accepted by Government, the Opposition Members want to press for the deletion of the proviso. I have said that I shall order a division and allow hon. Members to come in, and I shall put it to vote again.

**Shri Jawaharlal Nehru :** I say that they have every right to be as inconsistent as possible. They were looking forward to two amendments to be accepted by the House. Now, they want to go back on that. They have every right to go back on that.

**Shri K. K. Basu :** I hope he understands the implications of what he is saying. I hope he understands it properly.

**Mr. Speaker :** Order, order. The time allowed for the division bell to ring is over. I shall now put the proviso to clause 25 as amended to vote.

The question is :

"That the proviso to clause 25, as amended, stand part of the Bill".

Those in favour will say 'Aye'.

**Some Hon. Members :** Aye.

**Mr. Speaker :** Those against will say 'No'.

**Some Hon. Members :** No.

**Mr. Speaker:** The 'Ayes' have it. . . .

**Some Hon. Members :** The 'Noes' have it.

**Mr. Speaker :** There is no purpose in asking for a division.

The 'Ayes' have it, the 'Ayes' have it.

*The motion was adopted.*

**Mr. Speaker :** The question is:

"That clause 25, as amended, stand part of the Bill".

*The motion was adopted.*

*Clause 25 as amended, was added to the Bill.*

**Clause 31**—(*Failure of heirs*)

**Mr. Speaker :** The House will now take up clause 31. I find that there are no amendments to this clause.

**Shri Tek Chand :** With regard to clause 31, I confess I sent a chit a little too late, but the amendments that I suggest are of a verbal character, but they have their own importance.

Clause 31 contemplates the rule of escheat. When it is a well-known institution, I want it *in toto*, but the manner in which it is expressed, I submit with the utmost deference, seems to my mind to be inelegant. And especially, there are two words which need substitution by proper substitutes. For instance, it is stated :

"If an intestate has left no heir qualified to succeed to his or her

[Shri Tek Chand]

property in accordance with the provisions of this Act, such property shall go to the Government...."

'Property going and coming' are not appropriate legal expressions. I submit that instead of the words "shall go", the words should be 'shall escheat to the Government'. In fact, that is the very heading of this clause. Why should we not use the appropriate expression, as you will find it used in numerous English Acts, such as 'escheat to the Government' or 'lapse to the Government'? These are the legal expressions. Properties do not come and go.

Then again, kindly see the next line, namely line 17, which says :

"....and the Government shall take the property....".

'Take' is again an inelegant expression. Instead of the word 'take', it should be 'succeed to'. When Government are the ultimate heirs who 'succeed to the property, we might as well use the correct expression. Instead of 'Government shall take the porperty', it should be, 'Government shall succeed to the property'.

**Shri Jawaharlal Nehru :** I only wish to say that Shri Tek Chand is completely right, and the words should be changed. As to what exactly the words should be, we will find out.

**Shri Tek Chand :** 'Escheat' is an expression well known to many of the English Acts.

**Shri C. C. Shah :** Unfortunately, these are the words used in the Rau Committee draft also (*Interruptions*).

**Shri Tek Chand :** In the well known *Law Lexicon* by Wharlton, there are a number of Acts enumerated where the words 'escheat to the Crown' are used. The only proper substitute to the world 'escheat' is 'lapse to the Crown' or 'lapse to the Government'.

**Shri Pataskar :** The difficulty that was pointed out is that 'escheat' is a general expression with respect to the property which is acquired or which rather devolves upon Government and also which is taken by them. Therefore, we shall appropriately say 'shall go by escheat to the Government'. As regards the second change, we might say, 'shall take by escheat', so that it may be clear.

**Shri Tek Chand :** My submission is, if I may say so with all respect, that these ambulatory verbs 'going' and 'coming' can be avoided with respect to immoveable property.

**Shri Pataskar :** That is the usual phraseology.

**Shri C. C. Shah :** Those are the words used by Sir Dinshaw Mulla.

"Failing all the heirs mentioned above, the Crown takes by escheat."

Then it is said, "where the Crown claims by escheat".

**Mr. Speaker :** Why not say, 'shall devolve on the Government by escheat'?

**Pandit Thakur Das Bhargava :** Yes.

**Shri Pataskar :** That should be the phraseology, 'shall devolve on the Government'. As regards the other, 'shall take the property' may remain.

**Mr. Speaker :** Why not, 'shall succeed to the property'?

**An Hon. Member :** 'Shall hold the property'.

**Shri Tek Chand :** The Government may not hold it, yet succeed to it.

**Mr. Speaker :** Then what is the harm in saying "shall take the property"?

**Shri Pataskar :** That is the expression which has been used in all rules and commentaries.

**Shri C. C. Shah :** The word 'take' is correct.

**Shri Pataskar:** Shall I move a formal amendment to this effect?

**Mr. Speaker :** Yes.

*Amendment made :*

Page 11, line 16—

*for* "go to" *substitute* "devolve on".

—[Shri Pataskar]

**Mr. Speaker:** The question is:

"That clause 31, as amended, stand part of the Bill".

*The motion was adopted.*

*Clause 31, as amended, was added to the Bill.*

**Clause 32—(*Testamentary Succession*)**

**Shri V. G. Deshpande:** I beg to move :

Page 11—

*after* line 29, *add :*

"Provided that in the Mitakshara co-parcenar's property if no inheritance is given to the widow, minor sons or the unmarried daughters, the maintenance of the widow until her death, the maintenance of minor sons until they attain majority and the maintenance of the unmarried daughters until their marriage and the marriage expenses of the unmarried daughters would be a charge on such interest".

**Shri Kelappan** (Ponnani): I beg to move :

Page 11—

*for* lines 21 to 25, *substitute :*

"32. Any Hindu may dispose of by will or other testamentary disposition only one-third of his property notwithstanding anything contained in the provisions of the Indian Succession Act, 1925, or any other law for the time being in force and applicable to Hindus".

**Shrimati Renu Chakravartty:** I beg to move :

Page 11—

*omit* lines 26 to 29.

**Shri Damodara Menon** (Kozhikode): I beg to move :

Page 11—

*for* lines 26 to 29, *substitute*:

"*Explanation.*—The interest of a male Hindu in a Mitakshara coparcenary property or the interest of a memebr of a *tarward, tavazhi, illom, kutumba* or *kavaru* in the property of the *tarward, tavazhi, illom, kutumba* or *kavaru* shall, notwithstanding anything contained in this Act or in any other law for the time being in force, be deemed to be property capable of being disposed of by him within the meaning of this section".

**Shri Mulchand Dube:** I have my amendment.

**Mr. Speaker:** It is the same as No. 211, moved by Shrimati Renu Chakravartty.

**Shri Mulchand Dube:** It is different.

I beg to move:

Page 11, line 29—

*add* at the end :

"but any such testamentary disposition will not *ipso facto* amount to a separation or disruption of the family".

**Shrimati Jayashri:** I beg to move :

Page 11—

*after* line 25 *add* :

"Provided, it should not be open to a Hindu to bequeath more than half his property to persons other than his wife and children".

**Mr. Speaker:** These amendments are before the House.

**Shri V. G. Deshpande:** My amendment is to add a proviso to clause 32 as under :

"Provided that in the Mitakshara coparcenar's property if no inheritance is given to the widow, minor sons or the unmarried daughters, the maintenance of the widow until her death, the maintenance of minor sons until they attain majority and the maintenance of the unmarried daughters until their marriage and the marriage expenses of the unmarried daughters would be a charge on such interest".

**Shrimati Renu Chakravartty:** Do I understand that this proviso is to be added after the explanation?

**Shri V. G. Deshpande:** Yes. This relates to limitation of the right.

After all is said against the Mitakshara coparcenary, there is no end to the abuses showered on the Mitakshara coparcenary property, which has guaranteed some kind of security to the members of this coparcenary property, particularly to the widow, children and daughters. I think that the position of women was perhaps much better under the Mitakshara scheme than it is now under the new Bill which we are passing. I do not know whether this is as a result of a compromise or anything, but the Mitakshara coparcenar has been given a right to will away the property by any testamentary disposition. After that is done—I have been feeling it very keenly—the position of the widow, minor sons and unmarried daughters

[Shri V. G. Deshpande]

will become impossible, because—take it from me—this law is going to result in a will in every family. In order to deprive the daughter of her share, every person will make a will. I do not wish it to happen, but this is bound to be the result. In villages, printed forms of the will will be distributed. I am not indulging in wishful thinking but in the beginning this will be the result. In their anxiety to deprive their daughters of the property, unmarried daughters also will be deprived of the property, the widows will also be deprived of the property. About them, we have not made any provision. I am told that in the English law, there is a provision that when a will is made, even if the widow is disinherited, she can go to the courts and the courts can grant maintenance to the widow. Here we have made no provision for the maintenance of the widow or the maintenance of minor children or the maintenance and marriage expenses of unmarried daughters.

Our Mitakshara system may be a bad system. But in the name of everything that is great in this country, instead of just breaking up the family property, I appeal to the Minister to accept this amendment, or if my amendment is not acceptable, to draft some other amendment which is acceptable to him to make this provision. This will ensure that the power of the coparcenar to deprive the widow or unmarried daughters or minor sons of their legitimate share in the property is taken away.

**Shrimati Renu Chakravartty:** My amendment, No. 211, is for the deletion of the explanation. As you know, because we have compromised right throughout this Bill about keeping the Mitakshara and at the same time granting the daughter right to succession, we find that so many illogicalities and inconsistencies have come into being. I for one would have been much happier if the Government had accepted and kept the form of the Succession Act envisaged in the Hindu Code Bill. But, since we have not done so, and it is now being sought to give the power to will away that coparcenary property, the property which will fall to the portion of the deceased and which will, by clause 6 which we have passed, be divided amongst the sons and daughters, I want the deletion of this *Explanation*. I seek the deletion of this not because I think that coparcenary property should not be willed away but because I fear, as Shri Deshpande said, that those who have substantial property will so will it away to keep it only for the sons. That portion which might have been reserved because of the bar on testamentary power over the coparcenary property will also be now willed away and testaments executed. That is why I move for the deletion of this *Explanation*.

I am finding myself in the peculiar position of supporting Shri Deshpande's suggestion, if this is not accepted. For once he has put forward a very reasonable amendment that if there is to be a willing away of coparcenary property, if that right is going to be granted, then, at least maintenance should be given. If you accept this position, then, I will urge that Shri Deshpande's amendment should be accepted. Otherwise, I would personally appeal to the Minister that this *Explanation* be deleted and let the daughter have that portion reserved.

**Shri Kelappan:** My amendment is for the main clause, I want to substitute the following:

> "Any Hindu may dispose of by will or other testamentary disposition only one-third of his property notwithstanding anything contained in the provisions of the Indian Succession Act, 1925, or any other law for the time being in force and applicable to Hindus."

The Indian Succession Act, 1925, gives unfettered rights to will away one's private earnings. The *Explanation* here seeks to extend it to ancestral property also. It was unfortunate that our English educated people chose to copy the intense individualism of 19th century England. The result has been the break up of the joint family system. We are completing that process now.

Some of the hon. Members may not agree with me. I maintain that the joint family system was a wholesome institution. In Malabar, it safeguarded the interests of the weaker sex. But, it is no use crying over spilt milk now. That is by the way.

**An Hon. Member:** But, Malabar showed the way.

**Shri Kelappan:** In a civilised society and especially in a Welfare State, restrictions are imposed on the individual freedom of action. The idea of trusteeship is gaining ground everywhere.

We are all trustees of what we possess and they are to be used for the well-being of society. The duty of a parent to protect and maintain his or her children is paramount and it is recognised all over the world. A person cannot be allowed to will away all his property to the detriment of his children. Thus, in England, this right of maintenance is recognised by law.

**Pandit Thakur Das Bhargava:** What about clause 16?

**Shri Kelappan:** The Inheritance Act of 1938 provides that if a person domiciled in England, leaving a wife or a husband or a daughter who has not been married or who by reason of physical or mental inability is not capable of maintaining herself or an infant son or daughter, makes a will without making adequate provision for their maintenance, the court may order provision to be made for the maintenance of such dependants as long as it is necessary.

According to Mohammedan law, one can will away only one-third of his property.

I cannot understand how this Government can afford to be indifferent to a glaring injustice which this clause 32 seeks to perpetuate. There are very many instances where a father neglects his children by a former wife and alienates all his property in favour of the second wife. Old widowers marrying young wives are the worst offenders in this respect. In the interest of justice and the well-being of society, some restrictions have to be imposed on a person's right to will away his property, even if it is self-acquired. I hope the House will accept my amendment.

**Sardar Hukam Singh** (Kapurthala—Bhatinda): Mr. Speaker, Sir, I am also inclined to support the amendment of Shri Deshpande, though it might require a certain amount of modification or alteration. Though it may be the ultimate goal of our State that there should be free education, there should be provision for insurance in some form or other, the fact is that, so far, we have no provision for the aged or the widows as such and contingencies might arise when we might feel that the present system of Mitakshara law afforded good protection and adequate insurance for all those who needed it and that it is being taken away without any substitute for it. Most of those who have been opposing this Bill on the floor of the House—most of them I can say—were not motivated by the idea that they do not want to give a share to the daughter but because they felt that, as there was no alternative or no substitute for the protection of these girls or children or widows, the present was not the time to alter the existing law.

This amendment has been brought by Shri Deshpande for he feels that, when we are giving this right to a Hindu who has the property to will away that property, there should be some guarantee or some provision whereby we can protect the interests of those who need this protection in certain circumstances. It has been argued by our sister, Shrimati Renu Chakravartty that those who have substantial property will will away. It is not only those who have substantial property that will do this but also those who have very small holdings, when they feel that if there is a marriage in the family, the property would be divided and there would be fragmentation. That fear would be always there and they would try to find a way out of the difficulty that would be staring them in the face. In those circumstances, they would also resort to this system of making a will and seeking that sufficient guarantee or protection is afforded against that. They have no desire that the daughter should not get the property.

Even now I do not agree with those who have alleged that the daughters are not being provided for adequately. I do not agree with that. Parents always make adequate provision for the daughters and, in some cases, the daughters get even a greater share. People might will away their property not with the idea of depriving their daughters or other female relatives of their due share, which they might otherwise get, but with the idea of preserving their property and with a view to avoid disputes among the claimants. If the property is willed away, there may be difficulties created for those for whom Shri Deshpande has suggested this protection. I support this amendment and I think the hon. Minister would give serious consideration. It is not a case where it should be brushed aside lightly.

**Shrimati Jayashri:** I have full faith in the natural love of parents and I am sure no parent will debar his children from inheriting his property. The idea of giving a share to married and unmarried daughters is

[Shrimati Jayashri]

quite new to our country. Some such safeguard should be there. Our laws, as you yourself said, Sir, should be foolproof, so that no injustice is done to the wife or children or dependants. I shall quote the words of the Advocate General of Hyderabad :

> "If the provisions of the Indian Succession Act are made applicable without modifications to Hindus, then it will enable a parent if all his property is self-acquired to disinherit all his children and leave them helpless. It is for consideration whether restrictions might not be imposed upon the absolute right of individuals to bequeath the property to whomsoever they please. It is noteworthy that in the continental countries for a very long time restrictions have existed on individual's testamentary powers and a certain portion of a person's wealth has to descend to his wife and children, whatever the personal view of the propositus. Even in England, such restrictions have now been introduced by the Inheritance Family Provisions Act. Even in India, the Mohammadan Law imposes a limit upon the testator's power of disposition. Hence it is suggested that it should not be open to a Hindu whose property is below a certain maximum, say, one lakh of rupees, to bequeath more than half his property to persons other than his wife and children."

In our Hindu Code Bill also, we had a clause *viz.*, 124(2) which says this with regard to testamentary succession :

> "Nothing herein contained shall authorise a Hindu to deprive any person of any right to maintenance to which such person is entitled under the provisions of this Code or any other law for the time being in force ;
>
> (b) to create any property interest or any estate which he or she cannot lawfully create."

Social Reform Associations also have supported this. The Bombay Presidency Social Reform Association suggests that relations entitled to statutory maintenance should not be deprived of it in the exericse of testamentary power conferred by this clause. The Association considers that when the Bill on maintenance is brought forward, some safeguards as envisaged in clause 124 of the Hindu Code Bill, may have to be provided.

Much has been said about the widow's property right. Shri Deshpande also spoke on it and said that widows in Mitakshara law, according to the 1937 Act, had the right, though limited, but now we are depriving them—we are giving women absolute rights—and it is but natural that we would safeguard the rights of widows and married and unmarried women, and also, I should say, safeguard the rights of children. Of course, there may be parents—such things hapen unusually—who deprive their own wives and children from the enjoyment of property. To safeguard their interests, I would request that my amendment which says :

> "Provided it should not be open to a Hindu to bequeath more than half of his property to persons other than his wife and children."

may kindly be accepted.

**Shri Mulchand Dube :** I had given notice of my intention to move amendment No. 211. That, of course, intended that the Explanation to clause 32 may be deleted. I do not want to move that now. Instead, I wish to put in another amendment, of which notice was given only this morning and I hope you, Sir, will waive the notice in this case.

This amendment seeks to add at the end of line 29 on page 11 these words:

> "but any such testamentary disposition will not *ipso facto* amount to a separation or disruption of the family."

In case of a will or bequest of a property, the joint mitakshara family is *ipso facto* separated or disrupted. My submission is that the intention of the Government also seems to be that the mitakshara system should continue. If that is so, it should be made clear by saying that by the mere fact of making a will, a disruption of the family should not be brought about. In that case, the amendment of Shri Deshpande will also become unnecessary, because if the joint family continues, the maintenance of widows and unmarried daughters will be an obligation of the family, and if the maintenance of unmarried daughters and widows remains an obligation of the family, the position of the widows and other female members is also safeguarded so far as the question of the

father or the member concerned to make a will goes.

My submission is that as it is the intention of the Government to maintain the joint Hindu family and not to disrupt it, my amendment should be accepted, whereby by the mere fact that a testamentary disposition has taken place, the family should not be deemed to have been disrupted.

**Shri Damodara Menon :** My amendment also relates to the Explanation. For the Explanation as given in the Bill, I want the following to be substituted :

> "The interest of a male Hindu in a mitakshara coparcenary property or the interest of a member of a *tarwad, tavashi, illom, kutumba* or *kavaru* in the property of the *tarwad, tavashi, illom, kutumba* or *kavaru* shall, notwithstanding anything contained in this Act or in any other law for the time being in force, be deemed to be property capable of being disposed of by him within the meaning of this section".

**Mr. Speaker :** This is only a negative one. Instead of saying that the Explanation be omitted, the hon. Member has said it in this way.

**Shri Damodara Menon :** Let me explain myself clearly. The Explanation contemplates only people who are governed by the mitakshara law. I want the right of disposition of property by will to be extended also to people who follow marumakkattayam and aliyasantana law. That is the purpose of this amendment.

I have full sympathy with the view expressed by Shri Kelappan and Shrimati Jayashri that some kind of a restriction may be placed upon the right of a person to will away the property to the detriment probably of his natural heirs. Whatever may be the restriction you put, I want that the same should be applied to all sections of the Hindu community, to those who follow the mitakshara law of succession as well as those who follow the marumakkattayam and aliyasantana laws. My amendment, therefore, is intended to bring about uniformity and I hope there will be no difficulty in accepting it.

**Shri S. S. More :** As far as clause 32 is concerned, I find that it is beyond the natural scope of the Bill, because the Bill is to amend and codify the law relating to intestate succession among Hindus. If Government wanted any such provisions, the proper course would have been to bring in a separate Hindu Wills Act, by which the necessary amendment could be effected with greater propriety.

There is one more point which I wish to bring out. Supposing a member of a coparcenary family makes a will, you know, Sir, as a lawyer, that the share of a coparcener in an undivided Hindu family is indefinite. It will be difficult for him to mention his property in all the details, by metes and bounds without a partition. That is not the only difficulty. Whenever a member of the joint family expresses the intention to separate, the joint family disappears. When a member of the joint family makes a will under this particular clause, he will be expressing the intention. The result will be that a will made by a Hindu will automatically terminate the so-called joint family to protect which we have inserted clause 6. We are trying to build it up there at one point. We are also unwittingly trying to remove some of the bricks in the joint family wall. Thus, we are engaged in two processes which are opposed to each other trying to support the joint family and at the same time taking steps which will inevitably lead to the disruption of the joint family.

The third point is this. This is extremely unfair to the female heirs to whom you are supposed to have given some rights. In the first part of the Bill, you say that the female heirs are placed in a privileged position if one sees the property she gets. In order to cover up this sort of a generous gesture to the women of our country, you are also placing in the hands of the reactionary fathers or relations another potent weapon by which they can take away whatever you give them by the one hand. To that extent, I would rather restrict the right of willing away the property. There are so many occasions on which wills can be made with certain restrictions. We should not give a blank charter to the man to dispose away all his property without any restriction. I would request the Minister to find out ways and means by which he can put necessary and requisite clauses on the power of the man to will away the property with the wicked intention of depriving female heirs of what is their legitimate due. To that extent, you will excuse me if I venture

[Shri S. S. More]

to agree with Shri V. G. Deshpande because in a temporary fit of reasonableness he has proposed his amendment which I support. Amendment No. 265 is perfectly reasonable though it may surprise us as it has come from Shri Deshpande. A man may will away his property. But with what result? The widows may not get any maintenance. People who have been spendthrifts in a joint family and who could not alienate their property due to the joint family restrictions, will utilise this power now given to them. They may sell away or alienate or will away their property to some unscrupulous person with the result that the widows and unmarried daughters in the family will suffer untold harm. Whatever little prop they can get from the family will be completely taken away. I think the acceptance of this amendment will be to the advantage of the progressive purpose with which this Bill is animated. Hence, I would urge the Law Minister to pause a while and apply his mind and see whether this particular amendment with the necessary modification should be accepted or not.

**Shri K. K. Basu:** Whatever might have been the intention of the House, I am inclined to say that the result of all these amendments, surrenders and compromises will be that women will hardly get anything. I was once thinking of drawing up a formula that half share or a quarter or zero, whichever is less, will go to women. We have come to the fag end of the discussion so far as the clauses are concerned. The short point is whether we should give the right of alienation by will so far as the coparcenary interest is concerned. I do not understand why the coparcenary should be allowed to continue. But when the House is committed to the position that the mitakshara coparcenary system of devolution of property should remain in our country, why should we do all these things? We have to move an amendment and see how far we can modify it to the interest of the daughters and female heirs. You cannot have the best of both words. When you accept coparcenary, you should accept it with the limitations of coparcenary devolution. Normally when the wills are made, the properties had to be described to make things clear. But the tendency of this particular provision will be this. In a coparcenary interest, at any point of time, a person who intends to will away his interest may just say in two lines: "whatever interest I have in such and such coparcenary is given to X or Y or Z". He may be surviving after making the will for thirty years and that provision will come into effect after thirty years. In the meantime, he may deprive the other heirs also. When they have absolute interest in the property, the tendency will be to make wills in the latter years. At the time of dying he may find that he had a bad son. Or he may want to deprive somebody else. He may find that he has not enough property or he may want to give the property to some widow. He can make a will. I feel that you should not allow this provision of willing away the coparcenary interest.

One of the grounds given was fragmentation. Whenever the question of giving a share to the daughter or a widow or a female heir comes in, the question of fragmentation also comes in. There is no statutory birth control in our country. There are persons having eight sons. When they divide, there is no question of fragmentation. When there are four sons and one daughter and the daughter is to be given a share, then fragmentation comes in. For this purpose, other provisions should be made. In the Partition Administration Act, we know there are some provisions. During the partition of a family one son can buy up the share of the other if the house cannot be partitioned. We can improve upon such provisions. We have said that the dwelling-house should not be partitioned in certain circumstances. If one or two sons are willing to buy it, then it is impartible. So, the question of fragmentation should not weigh and it will give dangerous scope to deprive the female heirs. In our Constitution we have provided for equal rights for men and women and we also say that there should not be any distinction between the two because of sex. But social conditions are such that women are not at par with men. The Rau Committee in their detailed report say that they have seen women who tried to fight against certain provisions favourable to them. They fought against the provision of giving property to women. They say categorically that they felt that they were under the influence of the social system. They say that they were under the powerful influence of the male members of the family and they did

not speak out whatever might be in their minds. We have got to legislate under the social conditions prevailing in our country. Whatever may be the limited property or rights that you are giving to the female heirs of the coparcenary, in view of the amendments that have been adopted, I think that the daughters will hardly get anything. Then you allow the persons to will away the property which may be inherited by the daughters. I am strongly opposed to this. When you want to keep the coparcenary as a coparcenary, you should keep it with all its limitations. So far as daughters in the coparcenary Mitakshara Hindu joint family are concerned, they are deliberately barred because we do not want that they should bring some outside member who may be have any interest in the family. Therefore, when you want to preserve the Mitakshara coparcenary system, you cannot allow the male Hindu to will away the coparcenary interest.

In this connection I also support the view expressed by Shrimati Renu Chakravartty and Shri S. S. More. If you do not accept my suggestion and if our intention is to give some share to the female heirs, I think we have to come to the logical conclusion that we will have to accept at least the amendment of Shri V. G. Deshpande. Our Deputy-Speaker, Sardar Hukam Singh has also given support to it. In spite of many things against Shri V. G. Deshpande, at least in this case he has suggested something which would put some restriction or limitation on the power of willing away. On this point I am also being supported by even the Hindu Code which came as a result of great deliberations in the Constituent Assembly. Sir, you are yourself was a party to the Hindu Code Bill of 1948. There, clause 124 on Testamentary Succession says.

> "(2) Nothing herein contained shall authorise a Hindu—
>
> (a) to deprive any person of any right to maintenance to which such person is entitled under the provisions of this Code or any other law for the time being in force;"

**Mr. Speaker:** Why not that clause be taken? Shri V. G. Deshpande's amendment will require some modification.

**Shri K. K. Basu:** Then it goes on to say :

> "to create in property any interest or estate which he or she cannot lawfully create."

That is also relevant. You know, Sir, that nobody can lay down a law of succession which goes against the law of the land or custom. That is a very salutary principle of Hindu Law and also in the Law of Succession as so far interpreted in different courts and in the Privy Council.

I, therefore, feel that some such limitation should be made; otherwise a daughter who may have some interest in the coparcenary property may be deprived of it. A father who does not want to give any share to his daughter, for good reason or bad, may will away his property saying that the property should be given to his sons X, Y and Z.

There is another point also. He might have left some minor sons and some sons might also have predeceased their wives. In such cases, they may not get any share. Unfortunately, nobody can guarantee that at the time of making the will he did not want to give them any property, though in the will he might have only said that the property shall go to X, Y and Z. Therefore if no restriction is put, the daughter, minor children and even the widows might be deprived of maintenance.

I also support Shri Kelappan's amendment. You know, Sir, in the Mohammadan law the similar restriction is there. When we are accepting that the coparcenary interest should continue, the right to will away the property should be as restrictive as possible. Therefore, either we should accept Shri Kelappan's amendment or at least the amendment moved by Shri V. G. Deshpande. Of course, I for myself wish that the whole right is taken away. But when this Bill is merely based on compromise, as a compromise I would suggest that we should make some such provision by which, whatever may be the proportion, the heirs get such portions of the property as the Parliament may desire to give them.

**Shri Pocker Saheb** (Malappuram): I have great pleasure in supporting the amendment proposed by Shri Kelappan which is based on a sound and equitable principle. The right to property

[Shri Pocker Saheb]

involves first of all the right of possession and enjoyment and also the right of disposition. Ordinarily, the right of disposition is only confined to the lifetime of the owner of the property and its extension would be the right to will away the property, which is, in other words, the right of disposing of the property after the death of the owner. Generally, the right to property ends with the death of the person concerned and thereafter the property will devolve according to the law.

This right of disposition by will is given as a special privilege. When that right is given, some reasonable restriction ought to be placed on that. If a man by his right to will away gives all his property to non-heirs absolutely that is not reasonable. Because he was responsible for bringing into existence his children, and it is only reasonable that his property should also go to the maintenance and upkeep of them. Therefore, it is only right, when this right of disposing of the property by the owner after his death is exercised that a reasonable restriction should be placed on that right. I would say that it is very equitable that such a right should be confined to only one-third of his property. I, therefore, support the amendment proposed by Shri Kelappan.

**Some Hon. Members** *rose*—

**Mr. Speaker:** Have we not had enough discussion?

**Shri Tek Chand:** There are some who wish to oppose the amendment, Sir.

**Pandit Thakur Das Bhargava:** Sir, this clause 32 is, as a matter of fact, according to the scheme of the Bill, the soul of this Bill. I understand the hon. Minister's view was that the property of all persons, both females and males, should be absolute. This is the reasoning which I find as the background, so far as clause 32 is concerned. Some speeches have been made and some friends have supported the amendment of Shri V. G. Deshpande. Sardar Hukam Singh and several others have supported that amendment. So far as this amendment goes, except for few words in it I do not think any person in the House will have any dissentient voice. We all want that if a person dies his widow and minor sons as also unmarried daughters should all be provided. Who does not want it? We all want it. If anybody does not want it, it is only those who are supporting clause 16.

This is as much binding upon a coparcener of a male relative as upon a female relative. Nobody in this House wants that if a woman dies, her minor sons and unmarried daughters should not be provided for. If this is good for the males, it is equally good for the females. It is entirely wrong to involve this amendment with the question of sex. Therefore, if you are giving this absolute estate under clause 16, I am afraid this is not consistent with this amendment or with the speeches made here. When the question of estate was here, I submitted it is entirely wrong to give the full estate to the ladies. It was not because I have no confidence in my sisters, or because I wanted to give them less powers. I stated in my amendment that the power given to them should be the same as that given to the males. To that exception was taken. Everybody stood up and said "No", especially Shri More, who is not here just now.

These restrictions which are subject matters of this amendment are certainly very good and command general approval, but, at the same time, my submission is this. Those who want to save our sisters from the operation of this rule, thye must know that so far as sisters and daughters are concerned, they are not included in this amendment. There is no provision that a father will not be able to will away his property and deprive his daughters of their share given under this Bill. The amendment does not countenance that. I am just submitting this for the consideration of the House.

**Srimati Renu Chakravartty:** Will the hon. Member kindly explain how that will happen?

**Pandit Thakur Das Bhargava:** The amendment reads like this:

> "Provided that in the Mitakshara coparcener's property it no inheritance is given to the widow, minor sons or the unmarried daughters, the maintenance of the widow until her death, the maintenance of minor sons until they attain majority, and the maintenance of the unmarried daughters until their marriage and the marriage expenses of the unmarried daughters would be a charge on such interest."

So far as sons, sisters and daughters are concerned, he does not object. He is agreeable that so far as the deprivation of the shares of sisters and daughters and sons are concerned, the father may have an absolute right of giving away the property by will. That is the amendment. So, those who have supported this amendment may know that so far as their case goes, they are not getting anything under it. I should think that if the House generally agrees, we may all request the hon. Minister to make it a rule that in regard to all kinds of property, self-acquired or otherwise, and whether it belongs to females or males, this provision should be applicable. Then, I am agreeable. I want that all unmarried daughters, minor sons and the widow must be provided against, and as a matter of fact, if you will kindly consider the background of the family property and the joint property under the Mitakshara law, you will realise that it was a beautiful institution, perhaps unique of its kind in the whole world. It gives insurance, so to say, to all persons connected with the Mitakshara family. It provided maintenance to all decrepits, to all persons who had lost their limbs, etc., and to all those who were suffering from any defect or disease, etc. It provided for the widowed daughters, the indigent daughters etc., who lost their support. This Hindu joint family was an institution in which everybody could have his due. But my friends are out to destroy the Hindu joint family. They have destroyed the joint Hindu family. I make bold to say that by this act they have destroyed the joint Hindu family except for one link. They have not stated that the sons will not have their rights by birth. Except for this, they have destroyed all the vestiges of the joint Hindu family. Even under clause 6, when read with clause 32, we find that when a son succeeds the father even in respect of ancestral property, he succeeds to it not by virtue of survivorship but by virtue of the Indian Succession Act, when the shares of those widows, daughters, etc., are given they all become separate. Similarly, according to me, by virtue of clause 21 all the sons also become tenants in common and therefore, the last vestiges of the Hindu joint family are destroyed. I am not sorry. As I said yesterday, something is in the offing and I feel its on rush. Ultimately this right by birth is going to be taken away. I am foreseeing it and I am not against it, and it may come after six months or even today. But, at the same time, I cannot be a party to this Act which gives absolute right to ladies, which says that the ladies must spend away everything in their lifetime without caring for the minor sons or their unmarried daughters or other relations. Yet, so far as the male is concerned, he is so circumscribed, that though he gets only a share equal to the daughter, the widow and the minor son and the unmarried daughter, the aged parents,—everybody—are all dependent upon that man. All this burden would be upon that man without the property being with him. How can he get on?

Therefore, I say that this is an unthinkable provision which we have now brought before this House. Either take away clause 16 or amend this clause—cluase 32—I can understand that. Let us become rational beings. I do not like slogans and shibboleths. I want my sisters and daughters to have the same rights in property as my sons and others. I do not want to make any differentiation. I want to give them those rights. But, at the same time, I cannot be a party to this Bill or to this provision that the widow shall have an absolute right and indeed more rights than the sons and other male members. Yet, you are circumscribing the right of the sons and are putting limitations on the males.

If clause 16 is right, then see clause 32. Clause 32 reads as follows :

> "Any Hindu may dispose of by will or other testamentary disposition any property, which is capable of being so disposed of by him, in accordance with the provision of the Indian Succession Act, 1925, or any other law for the time being in force and applicable to Hindus".

Now, may I ask those who have supported this Bill whether in clause 32, my widowed sister, my widowed mother or my daughter will not be able to dispose of by will all the property which they are getting by this Act? In her life-time, the widow is the full owner of the property and she can spend away and do away with all the properties. How I wish I have the language of Shri S. S. More when he described how a coparcenary will be able to will away his property and leave all his dependants absolutely helpless. I was rather moved. Does he not think that his description can apply also to the widow? For hundreds of years in this

[Pandit Thakur Das Bhargava]

country, that description has applied to all of them and they enjoyed only a limited estate. You give them all the rights. I have no objection. But, at the same time, do not bring about a state of things which would be distasteful to the other persons. We want to serve our society. We do not want to give powers to the ladies also so that they may spend away and devastate all the property, and then get all the rights under clause 32. If the property can be spent away by any lady during her lifetime under clause 6, certainly it can be willed away in the same manner under clause 32. There is no doubt about it. What is the basis of clause 32? I understand that the framers of this Bill thought like this. If it is true that fathers are well disposed towards their daughters, and if they want to give their property to their daughters, the rule is obstructing them from doing so. So, let the father be allowed to dispose of his property as he wills so that he will be able to give more to the daughters if he wants to deprive his sons, and if he wants to deprive the daughters let him give more to the sons! This right is being given for this purpose. Otherwise, I may submit that this kind of disposition and more powers to men and women in this country, is not consistent with the conservation of the family and with the moral obligations that we have got to discharge.

I agree with Sardar Hukam Singh who made a feeling appeal that you should provide for the coparcenary property. I am agreeable to that. But so far as the coparcenary property is concerned, all these years the heads of families have been burdened with all those obligations, and there is no reason why they should not be burdened with this provision. I am for it, but, at the same time, I am very much opposed to the idea that clauses 16 and 21 remain and yet we may not pass this provision. If you want all these powers for a male Hindu so that they apply equally to the self-acquired property, may I ask if there is any such rule preventing it from applying to all other property as well? I will go further. When you take all kinds of property, as my friend on my right side said, it is all trusteeship. It is property for all the people living in this land. So, why do you want some persons to have absolute rights and the others to have no rights? I am with him on this point. Even under the Muhammadan law, so far as disposition is concerned, a restriction is placed upon them to the extent that only one-third could be disposed of. They could not deprive the rest of all their rights and obligations. Similarly, I want that in this land of ours in which we all live, under the coparcenary system, I do not want that any person should go away thinking that the whole land and the property is his and that he can deprive all those who are dependent upon him of the property. This is wrong. This is an immoral thing. At the same time, do not keep clause 16. Our sisters and daughters are making the mistake of their lives when they are insisting upon absolute rights. I want them to enjoy the rights but not more rights than men enjoy. If they want more, they will be undermining the very foundations of society. Therefore, there is no alternative for us but to support clause 32.

I will not go to the extent of accepting any sort of amendment to this provision. If the scheme is there, saying that the father is the last judge of all his property, he will will away all the property, and you are making the ladies will away all the property too. Whatever happens to the Mitakshara law, this whole Act fails if we do not oppose clause 32 as it is. Therefore, my submission is change clause 16 and bring it into line with the general law of the land, and the general obligations of those who hold property. I am quite agreeable to it. But if you do not do it, what I have suggested earlier is the only way in which this can be done.

Now, the House is going to pass this Bill. I am not against daughters and sisters. As I said yesterday, if daughters and sisters get property, I am very happy. I know whatever the rules you pass here, we will go on. It is human nature. Every male, every father, will give property to the daughter, whatever the law. The fathers will continue to give the property to their daughters. But if this law is based on such equality and justice that it professes, there will be such a repercussion and such a reaction against this law that what we sometimes feared will come true. As a matter of fact, you are complicating the situation and making it worse for our sisters and daughters. I want our daughters and sisters to be secure by another law. I repeat it. If you had accepted it, and if the authorities were serious enoguh, and if they had agreed

that the son and wife should get a share, all problems would have been solved. So far as married daughters are concerned, it is quite clear that in Punjab, U. P. and Bihar, very many people do not even....

**Mr. Speaker:** We have heard all that.

**Pandit Thakur Das Bhargava:** The result is that they fear that the parents would behave like this. I submit that their fear is well-founded. But, it is not the result of this Act. It is the result of their own agitation, the result of doing something which is not accepted by the society as such and which is ahead of the times and which people do not like. The people only like that their families should be continued by their sons; the sons will receive all the property and they will discharge all the obligations which devolve on them on account of their being the heads of the families. Therefore, they have sown the wind and they must reap the whirlwind.

**Shri Tek Chand:** I rise to oppose the amendment not because I do not feel in harmony with the sentiments underlying it, but because I feel that the amendment will make a much worse hash of law. It is only on grounds of logic that I oppose the amendment.

They have the best features of the coparcenary system; we have succeeded in destroying it, having realised that this is a half-hearted attempt to resuscitate. The amendment is in a way a tribute to the great, but the departed system of Mitakshara. I was a little amazed and agreeably surprised to hear Shrimati Renu Chakravartty and my hon. friend Shri Basu. These distinguished Members pursue the school of Dayabhaga. They had completely forgotten their Dayabhaga, where the father is the exclusive owner and he can cut to a penny the share of his son, his daughter, his wife and everyone. Dayabhaga is an institution which gives no protection of any kind to the nearest and dearest and they have gone full blast against the Mitakshara system. Now, all of a sudden, they have discovered one feature of the Mitakshara system which they have successfully destroyed, and they want it to be resuscitated. What will happen? If this amendment becomes law, the law passed will be self-contradictory. By destroying the Mitakshara system, we have recognised absolute ownership. Having recognised absolute ownership, this is an attempt again to dilute that absolute ownership into restricted ownership. If you have got absolute ownership, its attributes are four a five: One of them is *jus disponendi*—right to dispose of; another is *jus abutendi*—right to destroy; the third is *jus testamenti faciendi*—right to make a will.

**Mr. Speaker:** Are we going into the general discussion now? There are two systems in this country—Dayabhaga and Mitakshara. Now daughters want to have a share. Hitherto they were under the maintenance of the parents, after the death of the parents under the maintenance of the elder brother and so on. Now, on account of changed circumstances, they want a sense of security and they want a share in the property. Just now we have effected a compromise between the two sides. Regarding the ultimate power to will, some fear is raised that the father can will away all the property to the detriment of the children. The only point is whether a charge ought not to be made upon that to the effect that whatever will is made, it must be subject to the maintenance of the widows, daughters and the children. The only question, therefore, is whether there should be any provision here regulating maintenance, guardianship etc. I think there was some provision in the previous Act brought forward by Dr. Ambedkar providing for maintenance. The question is whether that provision should be added here or whether a separate Act can be brought forward regulating the right of will. I do not think we need go into details as to how the joint family was destroyed etc.

**Shri Pataskar:** There is one fact of which probably no notice was taken. It is this. Under the Hindu Law as it now stands, a heir is legally bound to provide out of the estate which comes to him for the maintenance of those persons whom he is legally and morally bound to maintain. Section 92 of the.....

**Shrimati Renu Chakravartty:** We do not understand anything of what the hon. Minister says. He should speak louder.

**Shri Pataskar:** What I am pointing out is this. We have already passed clause 4 which says:

> "(a) any text, rule or interpretation of Hindu law or any custom or usage as part of that law in force immediately before the commencement of this Act

[Shri Pataskar]

shall cease to have effect with respect to any matter for which provision is made in this Act."

So, only the provisions in the Hindu law which deal with the matters for which provision is made in this Act will cease to have any effect. Otherwise, the rest of the Hindu law relating to maintenance etc., will continue and it will not be affected. Therefore, it is not as if there will be no right of maintenance, because no provision is made for maintenance in this Bill. As I said, we are going to bring another Bill dealing with maintenance etc., and there it may be considered. So far as this Bill is concerned, we are not dealing with the question of maintenance at all. Therefore, that right which is at present existing under the Hindu law still continues.

**Mr. Speaker:** The question is that under the existing law, there is no right to will away the joint family property. The right of willing away joint family property is given for the first time under this Act. Naturally, the fear comes in whether the right of maintenance will persist and whether after the death of the individual, whoever takes away the property will be liable to maintain those persons whom this person was liable to maintain. The right to will is given specifically under this Act, but there is no provision regarding the maintenance. The right to will is not made subject to the law of maintenance, which can be invoked.

**Sardar Hukam Singh:** If we pass clause 32, where is the right of maintenance ?

**Shri Pataskar:** At the present moment, a Mitakshara coparcener has got no right to make a will. We have admitted so many heirs like daughter, daughter of a predeceased daughter etc., who have not been heirs till now. What we are now proposing by cluase 32 is that a person who is a member of a coparcenary will have a right to make a will of his property. Does that mean that he is free from the liability regarding maintenance etc., while making a disposition of his property ? There is ample provision for the right of maintenance in the present Hindu law.

**Shri Tek Chand:** May I continue my speech, Sir ?

**Mr. Speaker:** The hon. Member has said enough.

**Shri N. C. Chatterjee:** This is an important matter. May I draw the attention of the hon. Minister to subclause (2) of section 368 of Mulla's Hindu Law ? It says :

> "According to the Mitakshara law, no coparcener, not even a father, can dispose of by will his undivided coparcenary interest even if the other coparceners consent to the disposition." The reason is that "at the moment of death the right of survivorship of the other coparceners is in conflict with the right by devise. Then the title by survivorship, being the prior title, takes precedence to the exclusion of that by devise."

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Therefore, as the law stands now there is absolutely no power of alienation by will. As pointed out, by this Bill we are expressly abrogating that fundamental law, when we say :

> "Notwithstanding anything contained in section 6, the interest of a male Hindu in a Mitakshara coparcenary property shall be deemed to be property capable of being disposed of by him within the meaning of this section."

All the law which was extent from the days of Manu, confirmed by the Privy Council and embodied in our law is being abrogated. If you give them power to make disposition without any restriction, the right of maintenance can also be completely abrogated. All that we are asking by Shri Deshpande's amendment is that that should be preserved and that fundamental right should not in any way be negatived in any way, of course, subject to any consequential amendments which may be necessary.

**Shrimati Renu Chakravartty :** That is why the Hindu Code was drafted like that.

**Pandit Thakur Das Bhargava :** I have now put in an amendment to an amendment. I did not know of the amendment of Shri Deshpande before. I respectfully beg of you to permit me to move my amendment.

**Mr. Speaker :** I take it that Shri Tek Chand has finished.

**Shri Tek Chand :** I was rather in the middle of a sentence, when somebody interrupted and out of deference, I sat down. May I say a few words ?

**Mr. Speaker :** He has said enough.

**Shri Tek Chand:** Taking that hint and condensing what I have to say, I submit, let us have a uniform law of wills in our land applicable to all Hindus whereby the power of making testament is restricted, may be two-thirds or half of the property. That is understandable. But, so far as this particular amendment is concerned, you are virtually saying to the male member, if you wish to make a will, your will is restricted to the rights of others. In the same breath, you say to a Hindu female, you are absolute owner, you can make a will and by that will you can deprive the nearest if you are so minded. You are again telling the owner of self-acquired property who is not a coparcener whether male or female, that he or she can dispose of the property as he or she may like. Again, you are not touching an owner under the Dayabhaga institution and a person has been given absolute power and he can dispossess or disinherit the nearest heirs mentioned in the amendment. Therefore, the appropriate thing would be that we should have a proper Wills Act whereby any body should be permitted to will away property to the exclusion of his nearest ones. Or it should be a restricted right of making a will on the pattern of what we have in the Mohammedan law whereby a will can be made so as to disinherit the heirs to a restricted or limited extent. This piecemeal amendment that we are having now is neither fish nor fowl. There is bound to be no person who is adequately protected; a large number of persons may be deprived of. If you want to impose restrictions, let us have a uniform law for everybody, whether it is will to the extent of 50 per cent or two-thirds, which is understandable. According to this amendment, you are confining the right to make a will *vis-a-vis* the male coparcener only. All other properties which are not coparcenary properties are the subject matter of any type of will.

Then, again, a will is a right of disposal after death. It is not *inter vivos*. There is no safeguard if a person wants to destroy the property or throw it away and thereby deprive the heirs altogether. After all, the only distinction between a gift and a will is that the gift is *inter vivos*, between the parties and a will is *mortis causa* or after death. Therefore, I say that this is an attempt at piecemeal alteration of law which will lead to confusion rather than to security.

**Shrimati Sushama Sen:** Does it not include a woman also? If a woman is an absolute owner, can't she make a will also? It says only, any Hindu.

**Shri Tek Chand:** A Hindu female can never be a Hindu coparcenary.

**Shri Mulchand Dube:** May I know whether devisee of property takes the property subject to the right of maintenance of others or not? I have an impression that he does. Will the hon. Minister clear this position? Then, all this trouble will be over.

**Shri C. C. Shah:** Mr. Speaker, clause 32 is a necessary and inevitable corollary of the scheme of this Act and any amendment of that clause will upset the entire scheme underlying this Act.

This Act is for intestate succession. That presumes that a man has the power of testamentary disposition and in default of testamentary dispositions, the provisions of this Act operate. Therefore, so far as the main part of clause 32 is concerned, it only declares what the law should be namely that any Hindu may dispose of by will his property. Now, the Explanation has become necessary because of section 6. This is an inevitable corollary of section 6. What we have said in section 6? We have said that on the death of a male Hindu coparcener, his property shall devolve by testamentary or intestate succession as the case may be under this Act and not by survivorship. When once we say that disposition of a coparcenary property will not be by survivorship, but by succession, then, the right to make a will of that property is part of that law of succession. Therefore I submit that the amendment of Shri V. G. Deshpande, apart from the sentiments which are attached to it, to which I will presently come, is entirely out of place in the scheme of this Bill altogether.

**Some Hon. Members:** Why?

**Shri C. C. Shah:** My hon. friend Pandit Thakur Das Bhargava has very rightly pointed out that this clause 32 applies to the property of a female as well as to the property of a male. It also applies to self-acquired property of a male as also to his coparcenary share. All that is part of one indivisible scheme. Therefore, to introduce into that section provisions which are entirely alien so to say, is doing violence to the principle of the Bill.

**Shrimati Renu Chakravartty:** Is maintenance alien to the scheme? How is it alien?

**Shri C. C. Shah:** I will point out. So far as the right of testamentary disposition is concerned, why is that given? It is founded on the principle that man is the best judge of his property as to how it should be disposed of.

**Shri V. G. Deshpande:** No socialistic pattern of society.

**Shri Nand Lal Sharma** (Sikar): only self-acquired property.

**Shri C. C. Shah:** Under section 6, his share in coparcenary property no longer remains coparcenary property. On his death it becomes his self-acquired property which goes by testamentary or intestate succession as provided in this Act. The fundamental fallacy underlying the amendment of Shri Deshpande is that the coparcenary share of that man on his death will remain coparcenary property, which it is not. It becomes self-acquired property and the whole of the succession is appropriated to succession to self-acquired property.

We may wish to make several provisions. This is not only for widows and minors, but for unmarried daughters, married daughters, indigent parents, etc. Shrimati Jayashri referred to clause 124 of the Rau Committee Bill. That only said that it will not deprive any person of his right of maintenance under this Code. It was a full code. It also provided for rules of maintenance. Among the persons for whom maintenance was provided were not merely widows and daughters, but the father, mother, his widow, unmarried daughter, married daughter if she is unable to maintain, widowed daughter-in-law, all those persons who have a claim for maintenance. All this can be provided for separately under a separate Bill altogether. Therefore, my submission is that any amendment of this nature in this Bill, howsoever good on sentimental grounds, is entirely out of place and will upset all the principles which we have stated in this Bill.

**Shrimati Renu Chakravartty:** May I just point out.....

**Shri C. C. Shah:** There is only one more point if you do not interrupt me. That is about the amendment of Shri Kelappan, which was partly supported by Shrimati Jayashri, which says that the man must have power of testamentary disposition only over one-third or one-half of the property. No wonder that Shri Pocker supported that amendment because that is Muslim law, and instead of bringing the Muslim law into line with Hindu law, he would certainly wish that the Hindu law is brought in line with Muslim law. I was not surprised at all when Shri Pocker supported an amendment of that character. An amendment of that character restricting the right of a man to dispose of his property only up to one-third or half is fundamentally opposed to the principle of the Bill, that it is the owner of the property who knows how to dispose of it.

I will give only one instance of a case I know. A man had one son and one daughter. The son was a spendthrift. He had incurred many debts and there were several decrees passed against him. If the law were as Shri Kelappan wants it, compulsorily two-thirds of the property will go to the heir. That is, it would have gone to the son which means the creditors and decree-holders would have promptly attached it and taken away the property.

**Shri S. S. More:** What harm is there.

**Shri C. C. Shah:** I will tell you presently. What that man did was this. He made a will and gave the whole property to the daughter-in-law and grand-children. If the law were of the nature that Shri Kelappan wants, it would completely deprive the man of safeguarding the property for his daughter-in-law and grand-children.

I will give another instance. Suppose there are two sons and two daughters. Both the sons are well-settled in life and both the daughters are unmarried. The father wants to make full provision for the daughters instead of the sons who are well-settled. If the law were of the nature that Shri Kelappan wants, the sons would compulsorily have a share, even though it is not necessary for them.

Therefore, let the man choose what the disposition of his property will be.

I submit that clause 32 as it stands, except for the amendment of Shri Damodara Menon which brings *Tarwar* and other property into line with

joint property, should stand and we cannot tinker with it any more.

**Shri N. C. Chatterjee:** May I take two minutes of your time?

I thoroughly disagree with my learned friend when he says that it is entirely inappropriate. For the first time in the history of India, coparcenary property is now being made disposable by will. Up till now no coparcener could dispose of his property, because it is an ambulatory document. It ceases the moment he dies. At the moment he dies, his interest has ceased. It has passed by survivorship. Now, for the first time, by this legislation you are conferring this power of testamentary disposition. This clause says :

> "Notwithstanding anything contained in section 6, the interest of a male Hindu in a Mitakshara coparcenary property shall be deemed to be property capable of being disposed of by him within the meaning of this section."

Cannot this Parliament in exercise of its legislative judgment say that for the first time this power is being given, but it shall not be unrestricted, it shall not be unfettered. It shall be power subject to certain conditions. And what is the condition that Shri Deshpande's amendment suggests? It suggests that you can exercise this power, but in the testamentary disposition of coparcenary property if no share has been given to the widow, minor sons and unmarried daughters, then the maintenance of the widow until her death, the maintenance of the minor son until he attains majority and the maintenance of the unmarried daughter untill marriage, and the marriage expenses of the unmarried daughters would be a charge on such interest.

**Shri C. C. Shah:** You cannot have both the law of succession and the law of survivorship.

**Shri N. C. Chatterjee:** I am pointing out that for the first time we are conferring this power deliberately in derogation of the juristic principle embedded in Hindu law. Therefore, what we say is that this power must be treated as a trust. You cannot deprive your daughter or widow of the right of maintenance. This is nothing unheard of, nothing inconsistent, nothing so absurd. Look at clause 124 of Rau's Bill regarding testamentary succession. Sub-clause (1) is exactly like this. Then it adds :

> "Nothing herein contained shall authorise a Hindu to deprive any person of any right to maintenance to which such person is entitled under the provisions of this Code or any other law for the time being in force;".

Therefore, under the testamentary succession chapter the Hindu Code contained a provision like this.

**Shri C. C. Shah:** That applied to self-acquired property, joint property, property of the female etc. That was a general provision.

**Shri N. C. Chatterjee:** I am only pointing out for the consideration of my colleagues here that this is nothing revolting, nothing out of place, this is nothing improper. We are for the first time giving this power and we are only saying although you are giving this power, you cannot exercise this power completely depriving the maintenance of persons who are entitled to it.

Have you got Mulla's *Hindu Law* there? Just look at section 368 : "What property may be bequeathed by will." Page 465. It reads :

> "A Hindu cannot by will bequeath property which he could not have alienated by gift *inter vivos*; nor can he by will so dispose of his property as to defeat the legal right of his wife or any other person to maintenance."

For the first time, we are giving him power not merely to bequeath separate property or self-acquired property, but also coparcenary property, and we are saying that when we are giving this power, the second part of the salutary principle should still operate. That is, you cannot by will dispose of your coparcenary property or your interest in that coparcenary property so as to defeat the legal rights of maintenance of your wife or unmarried daughters. This is nothing wrong, nothing improper, but quite salutary.

**Shri Pataskar:** There are two or three points which have been raised in this connection. The first is whether the power to make a will which has been given a coparcener even in Mitakshara property should be confined to any particular share thereof. That is,

[Shri Pataskar]

I think, the suggestion of some of the lady Members and Shri Kelappan.

**Shri U. M. Trivedi:** Why do you give such importance to lady members?

**Mr. Speaker:** Order, order. Let us hear.

**Shri Pataskar:** We have first made the provision that the share of the coparcener is liable to be inherited by the females along with the males. Having also provided that whatever property they inherit will only be joint property, as it was rightly pointed out, under the very scheme of things the power we have given will be exercised by the next heir. Supposing the interest of a father in a joint Hindu family property goes to his daughter, then she can make a will of the property absolutely. Having made a breach in the original Mitakshara law for the purpose of enabling the daughter to get a share, it is not logical now to turn back and say we will amend the law so that that share may be held as joint tenants. That property should go absolutely to those heirs to whom the inheritance goes. The man should have the power which normally every owner of property possesses, namely to dispose of the property.

**Shri N. C. Chatterjee:** We have not said that.

**Pandit Thakur Das Bhargava:** Clause 16 says.

**Shri Pataskar:** I shall come to that aspect of Shri Deshpande's amendment a little later. So far as this point is concerned, the whole basis of this Bill is that we give the man also the power to dispose of the property which is the power which is normally possessed by all people. You say: "No, for certain purposes, we shall deprive you of your absolute property. We shall put this restriction and not give the power to make a will". That certainly should not be the attitude.

The only question that will be left is what is its effect so far as the maintenance is concerned. I have already said so many times why the power to make a will is being given to the man. There was a kind of discussion whether a married daughter should get the right to inherit, whether the unmarried daughter should get the right to inherit etc. We thought that it is much better that instead of deciding that, because the married daughter may also be in need and the unmarried daughter may not be in need, the person himself should decide to whom his property should go and to what extent. It is from that point of view that we decided like this, and we also gave him this power to make a will with respect to adjustment. Now, how has this trouble started? This trouble has started because there is a section of Members in this House who think that as soon as this power to make a will is given, all fathers will start depriving their daughters of the legitimate interest, which is being given to them.

**Shri Nand Lal Sharma:** All may not do that, but some may do.

**Shri Pataskar:** I do not want any interruptions. There is an apprehension in the minds of some that as soon as this power is given, the father will start depriving his daughters. I, for one, as I have already said on previous occasions, feel that a father has got the same feelings of affection towards his daughter as towards his son, and normally, I expect that the father will act as a normal man and not as an abnormal man.

There is another point which has been raised in the amendment proposed by Shri V. G. Deshpande. The argument is advanced that under the law as it stands, there is a right of maintenance. That is true. Suppose there is a daughter, and she is an unmarried one; and suppose the father disinherits her. Then, her sight to maintenance should be protected, and there should be some provision for her marriage, and if there are minor sons, for the education of those sons. The question is whether that right will in any way be affected by the power that we are giving to him to make a will. So far as I can find, the present Hindu law as it stands does provide that a heir is legally bound to provide out of the estate which descends to him maintenance for those persons whom the late proprietor was legally or morally bound to maintain. I do not think that this Bill will repeal any of those provisions which are already there forming part of the Hindu law. Those provisions are not going to be affected by this Bill at all. That is perfectly made clear in clause 4, which says that this Bill will affect it only with respect to matters for which provision is made. So long as we have not made

any provision for maintenance in this Bill, naturally the maintenance law is kept outside the purview of this Bill, and whatever rights of maintenance such heirs have will not be affected. But I am trying to find out a *via media*. There was a similar trouble with respect to land legislation also.

**Shri U. M. Trivedi:** Does the Minister contend that the right to maintenance will remain?

**Shri Pataskar:** With respect to clause 4, we have provided in sub-clause (2) that:

> "For the removal of doubts it is hereby declared that nothing contained in this Act shall be deemed to affect the provisions of any law for the time being in force.....".

There also, a similar apprehension was entertained that this Bill may affect any law relating to the devolution of tenancy or other rights, or any law relating to fixation of ceilings etc. But we made it clear that this Bill shall not affect those laws.

According to me, it is clear that this Bill does not affect the right to maintenance. But if there is any doubt, I am prepared to make it clear. For instance, take the case of those heirs who are there, and the case pointed out, by the hon. Member, of a daughter disinherited by the father, as a result of this power. So far as I am concerned, I am perfectly clear that under the provisions of this Bill her right to maintenance will not be lost. I am prepared to make it clear by the addition of words similar to those which appear in clause 4(2). Since I do not want to affect any of the rights of these people, I would like to provide:

> "For the removal of doubts, it is hereby declared that nothing contained in sub-section (1) shall affect the right to maintenance of any heir specified in class I of the Schedule, by reason only of the fact that under a will or other testamentary disposition made by the deceased, the heir has been deprived of a share in the property to which he or she would have been entitled under this Act, if the deceased had died intestate.".

So, while not trying to enlarge the scope of this Bill, because that is the view which we hold and I think my hon. friends also hold with all their anxiety which we also share with them....

**Shri Nand Lal Sharma:** Is this amendment proposed now?

**Shri Pataskar:** Just as we have made a provision in clause 4(2), likewise, I am prepared to make a provision in this case also for the removal of doubts. I shall examine this amendment, and I shall take the help also of my hon. friend Shri N. C. Chatterjee because we commonly intend that the right to maintenance which is enjoyed should not be allowed to be deprived by the making of the will. On that point, there is no difference. It is one thing to say that it should be done by a provision like this. It is quite another to say that here and now we should enact something else; that is a different matter altogether.

So, it is not as if the matter is not capable of solution. Just as we have tried to settle this question by introducing a sub-clause (2) in clause 4, likewise, we might have a suitable provision here too to make our intention clear that we do not want to affect the right to maintenance. I am clear in my mind that that right is not affected by this Bill, but in order to make it clear, I am prepared to make this provision.

With respect to Shri Damodara Menon's amendment, I am accepting it with this difference that in the last but one line of the amendment, the words 'or her' should be added after the words 'by him'. This is with respect to including the *Marumakkattayam* and other families where the female is also a limited owner. So, we have to add the words 'or her' in this amendment.

**Mr. Speaker:** The Minister wants that the wording should be 'disposed of by him or her'.

The words 'or her' must be added.

First, let me dispose of the other amendment.

**Shri V. G. Deshpande:** We have not seen Shri Pataskar's amendment. It is a long amendment. If we could be given time for at least five minutes to see that, it would be better.

**Mr. Speaker:** I shall read it out. Before I come to that, I shall dispose of Shri Damodara Menon's amendment making it applicable not only to Mitakshara law, but also to the

[Mr. Speaker]

Marumakkattayam law which is also treated under this Bill, by the addition of the words 'or her' after the words 'by him'.

So, the Explanation as amended will read as follows :

"Notwithstanding anything contained in section 6 . . . .".

**Shri Pataskar :** Those words are omitted, namely 'Notwithstanding anything contained in section 6' because this Explanation relates only to both clauses 6 and 7. Therefore, those words are omitted. They are not necessary.

**Mr. Speaker:** So, the Explanation will read as the amendment now puts it.

**Shri Damodara Menon:** My amendment is amendment No. 259.

**Mr. Speaker :** Is the Minister of Legal Affairs agreeable to that amendment ?

**Shri Pataskar :** Yes. But those words are unnecessary.

**Mr. Speaker :** So, Shri Damodara Menon's amendment is the right one ?

**Shri Pataskar:** Yes.

**Mr. Speaker:** So, Shri Damodara Menon's amendment will be there in place of this Explanation.

I shall put that amendment first to vote.

The question is :

Page 11, *for* lines 26 to 29 *substitute:*

"*Explanation :* The interest of a male Hindu in a Mitakshara coparcenary property or the interest a member of a *tarwad, tavazhi, illom, kutumba* or *kavaru* in the property of the *tarwad, tavazhi, illom, kutumba,* or *kavaru* shall, notwithstanding anything contained in this Act or in any other law for the time being in force, be deemed to be property capable of being disposed of by him or her within the meaning of this section."

*The motion was adopted.*

**Mr. Speaker :** So, this amendment is carried, and this is to be substituted for the Explanation.

Regarding Shri V. G. Deshpande's amendment, here and now, he wants that some provision must be made that the will that is enacted is subject to the rights of maintenance of an individual, under the impression that the general law of maintenance will be abrogated by conferring this power to make a will. The same purpose is sought to be achieved in another form by the amendment just now tabled by the Minister of Legal Affairs, which reads as follows :

"Renumber clause 32 as sub-clause (1), and after sub-clause (1) insert the following as sub-clause (2), namely :

"For the removal of doubts, it is hereby declared that nothing contained in sub-section (1) shall affect the right to maintenance of any heir specified in class 1 of the Schedule by reason only of the fact that under a will or other testamentary disposition made by the deceased, the heir has been deprived of a share in the property to which he or she would have been entitled under this Act, if the deceased had died intestate."

**Shri S. S. More :** Why restrict it only to class I ? There are certain persons in class II. We cannot anticipate regarding this.

**Mr. Speaker :** That is, the father also.

**Shri Pataskar :** Yes.

**Mr. Speaker :** Under Dr. Ambedkar's Bill, the father was also entitled to maintenance.

I shall put it in the revised form.

The question is :

*Renumber* clause 32 as sub-clause (1) and after sub-clause (1) *insert:*

"(2) For the removal of doubts it is hereby declared that nothing contained in sub-section (1) shall affect the right to maintenance of any heir specified in the Schedule by reason only of the fact that under a will or other testamentary disposition made by the deceased the heir has been deprived of a share in the property to which he or she would have been entitled under this Act if the deceased had died intestate".

*The motion was adopted.*

**Shri V. G. Deshpande :** I press my amendment. There was no discussion. It is very unfair. Marriage expense of the daughters is something different from maintenance. Some people seem

to be unanimous that no consideration should be given and this should be passed in a hurry. My amendment should have been put to vote. I had moved it with a certain purpose. It should at least be put to vote. There is no point in shutting out opinion and doing everything as they want.

**Shri Nand Lal Sharma:** There may be many heirs who are not dependant.

**Pandit Thakur Das Bhargava:** The amendment to the amendment should also be put to the vote of the House.

**Mr. Speaker:** Whatever Shri V. G. Deshpande may say, his amendment seems to be barred by the amendment that we have just carried. He wants a separate provision that this will not interfere with the existing rights. Under the circumstances, I am afraid this is barred.

**Shri V. G. Deshpande:** But my amendment should have been put first. His amendment was not discussed. It was not circulated. It was just thrown on us suddenly and we were forced to....

**Mr. Speaker:** The same thing can be said of Shri V. G. Deshpande's amendment. There was no circulation.

**Shri V. G. Deshpande:** Two hours notice was there.

**Mr. Speaker:** Now all the other amendments are barred.

**Shri Mulchand Dube:** There is one amendment of mine, No. 264.

**Mr. Speaker:** I will put it to the vote of the House.

**Shri Mulchand Dube:** If the Minister accepts it.

**Shri Pataskar:** I do not accept it.

**Mr. Speaker:** Even if he accepts it, I have to put it to the vote of the House. Shri Mulchand Dube's amendment is :

Page 11, line 29—

*add* at the end:

"but any such testamentary disposition will not *ipso facto* amount to a separation or disruption of the family".

**Shri N. C. Chatterjee:** It is already disrupted.

**Mr. Speaker:** I do not think this amendment is necessary. However, if he wants to press it, I shall put it.

**Shri Mulchand Dube:** I do not press it and beg leave to withdraw it.

*The amendment was, by leave, withdrawn.*

**Mr. Speaker:** The question is:

"That clause 32, as amended, stand part of the Bill".

*The motion was adopted.*

*Clause* 32, *as amended, was added to the Bill.*

**Clause 33.—** (*Repeals*)

**Pandit Thakur Das Bhargava:** I gave notice of an amendment to clause 33, No. 186. It has already been discussed. Unfortunately, the Minister did not accept it.

**Mr. Speaker:** Does he want to press the amendment ?

**Shri Pataskar:** I have already said that I cannot accept it.

**Pandit Thakur Das Bhargava:** As he is not accepting it, it need not be put.

**Mr. Speaker:** The question is :

"That clause 33 stand part of the Bill".

*The motion was adopted.*

*Clause* 33 *was added to the Bill.*

**Clause 1.—** (*Short title and extent*)

*Amendment made :*

Page 1, line 5—

*for* "1955", *substitute* "1956".

—[*Shri Pataskar*]

**Shri V. G. Deshpande:** I beg to move :

Page 1, lines 6 and 7—

*omit* "except the State of Jammu and Kashmir".

This must be made applicable to the State of Jammu and Kashmir also.

**Shri Pataskar:** I do not accept it.

**Shri Sinhasan Singh:** This amendment is out of order.

**Mr. Speaker:** Let the House decide.

The question is :

Page 1, lines 6 and 7—

*omit* "except the State of Jammu and Kashmir".

*The motion was negatived.*

**Mr. Speaker:** There are no other amendments.

**Shri U. M. Trivedi:** I beg to move:

Page 1—

*after* line 7, *add:*

"(3) It shall come into force on such date as may be appointed by a resolution to be passed by the Lok Sabha to be elected on the dissolution of the present Sabha, and not earlier than the 1st April 1962".

We know that we have gone at a very great speed to destroy the Hindu conception of life. Now, perhaps all the faces here—some of them reasonable persons—have started feeling that we have been in a hurry and we have not done very well about it. The Hindu society had evolved to such a great extent that in this whole world this evolution was of the highest type. Communal proprietorship of property was to be found only in this society. On the one hand, we are talking of a socialist pattern of society. On the other hand, we are destroying communal proprietorship which was obtaining in our country and trying to bring about individual proprietorship. In other words, from a big process of evolution to which we had raised ourselves, we have now, with those queer ideas which we call progressive ideas, brought about an involution in our society. Let this involution not be a revolution.

With this idea, I have moved this amendment. Even after passing this law, let us pause and consider whether this law would be a good law. I have, therefore, not specified any particular date on which this will come into force. The Government also have thought it fit to omit the provision about the date of its coming into force. They will fall back upon the provisions of the General Clauses Act that it would come into force from such date as it receives the assent of the President. My submission is, let this be a dead letter. Let this be a dead letter; let this lie in the archives of the Government of India to be used when necessary. Let society run in the same manner in which it has been running so far. Let them find out for some time at least whether the socialist pattern of society which they are trying to achieve will be compatible with the ideas which are being expressed in this. Let us wait for another 5 or 10 years, till all these Plan periods get themselves exhausted and we come to normal life. It is only when we come to normal life that we may have this law; we may study it again and, with a Resolution of the two Houses, we can come to the conclusion whether this law which we have made is a good law and that we should follow it or not. Today this law is being made in such a great hurry. Reference was made on the floor of this House to the fact that this Bill which emerged from the Joint Committee is not the same as was referred to it, Under those circumstances, this House was handicapped in having a proper consideration of the whole Bill.

No doubt, some hon. Ministers—and particularly our hon. Minister of Legal Affairs—might not feel happy that this baby of his will turn out to be a monster for the Hindu community. It is true that he would not like to have it lying dormant. But I would beseech him—although I know and I have a feeling that all this is falling on deaf ears and he does not want to listen nor even care to listen....

**Shri Pataskar:** I am listening.

**Shri M. C. Shah:** He has already established his name.

**Shri U. M. Trivedi:** I am glad that my words have brought forth some reply from the hon. Minister. Let this be made an issue before the Hindu community when the next elections are coming. Let us see whether this particular Bill is liked or not. We have destroyed the very fabric of the Hindu community by enacting this Bill. We have never applied our minds properly; we have never studied scientifically and no investigations have been carried out. We have not seen what social security and social insurance obtained in this country without foreign ideas but based on original Hindu idea. You have destroyed all that with one stroke. Let us pause and consider; let it remain dormant for some time.

**Shri Pataskar:** The point is very simple. The amendment moved by my hon. friend is that the Bill or Act shall come into force on such date as may be appointed by a resolution to be passed by the Lok Sabha to be elected on the dissolution of the present Sabha and not earlier than the 1st April, 1962. This is a Bill which deals with succession to property. The hon. Member desires that it shall not come into force during the lifetime of this Parliament and that it

shall come into force only after its dissolution and, in any case, not earlier than 1962. I do not think I need take the time of the House in replying to this. I know his feeling; he does not want this law at all. He apprehends that it may produce undesirable effects. It may be necessary in some cases to stipulate a date for the commencement of any legislation taking effect. But, when once the House agrees to pass a law, it would not like to keep it in abeyance. After having waited for so many years for a Bill of this type I do not think the House is in a mood to accept this amendment.

**Pandit K. C. Sharma:** He does not mean it either.

**Mr. Speaker:** The question is:

Page 1—

*after* line 7, *add:*

"(3) It shall come into force on such date as may be appointed by a resolution to be passed by the Lok Sabha to be elected on the dissolution of the present Sabha, and not earlier than the 1st April, 1962."

*The motion was negatived.*

**Mr. Speaker:** The question is:

"That Clause 1, as amended, stand part of the Bill."

*The motion was adopted.*

*Clause* 1, *as amended, was added to the Bill.*

**Enacting Formula**

*Amendment made:*

Page 1, line 1—

*for* "Sixth Year" *substitute* "Seventh Year".

—[*Shri Pataskar*]

**Shri U. M. Trivedi:** Sir, in the Enacting Formula, there is some mistake. We have already added clause 32, which is testamentary succession. Therefore, the word 'intestate' should go out and it should be 'relating to succession among Hindus'.

**Mr. Speaker:** He wants that the word 'intestate' should be omitted. What has the hon. Minister to say?

**Shri Pataskar:** If we deal with the whole question of inestate succession in this Bill, then, it will be all right. But, it is not so. Therefore, let it remain as it is.

**Shri N. C. Chatterjee:** Nothing will be accepted.

**Mr. Speaker:** It does not relate mainly to testamentary succession, it relates to other things also. It does not deal with the entire law of succession.

The question is:

"The Enacting Formula, as amended, and the Title stand part of the Bill."

*The motion was adopted.*

*The Enacting Formula, as amended, and the Title were added to the Bill.*

**Shri Pataskar:** Sir, before I move that the Bill, as amended, be passed, I would like to move certain consequential amendments. They are to clauses 3 and 7 respectively. I beg to move:

Page 3, line 24—

*add* at the end:

"with respect to the matters for which provision is made in this Act."

There are the *nambudri* laws and other laws to which this clause relates. These Acts referred to therein refer to several other matters than those covered in this Bill. Therefore, I have put 'with respect to the matters for which provision is made in this Act'.

The other amendment I want to move is:

In sub-clause (2) of clause 7, as amended by amendment No. 224—

*omit* "(whether a *santhathi kavaru* or a *nissanthathi kavaru)*".

These are not necessary because we have said that it will include both. Therefore, we might omit these words.

**Mr. Speaker:** I will put these amendments to the vote and then the third reading may be taken up.

The question is:

Page 3, line 24—

*add* at the end:

"with respect to the matters for which provision is made in this Act".

*The motion was adopted.*

**Mr. Speaker:** The question is:

In sub-clause (2) of clause 7, as amended by amendment No. 224—

*omit* "(whether a *santhathi kavaru* or a *nissanthathi kavaru)*".

*The motion was adopted.*

**Shri Pataskar:** I beg to move:

"That the Bill, as amended, be passed."

**Mr. Speaker:** Motion moved:

"That the Bill, as amended, be passed."

The House will sit till six o'clock and dispose of the Bill.

**Several Hon. Members:** No, Sir.

**Mr. Speaker:** Why not we sit till 6 o'clock? Originally 35 hours were allotted for this Bill. We have spent 38 hours 47 minutes, nearly 39 hours over the Bill. Originally, it was desired that the Speaker may have the discretion to allow five more hours, and we are reaching the five hours if we sit till about 6 o'clock.

**Shri N. C. Chatterjee:** We have finished the Bill and let us have our final say on the Succession Bill.

**Shri U. M. Trivedi:** I would suggest that we rise at 5 p.m. today because we have done a whole day's work. It must have pleased the Minister of Parliamentary Affairs very much that we have achieved all this today.

**The Minister of Parliamentary Affairs (Shri Satya Narayan Sinha):** It will completely upset our schedule and entirely upset our programme. I strongly protest and I would suggest that the House should sit as long as it wants and finish the Bill today. I would insist that the schedule must be adhered to.

**Mr. Speaker:** Tomorrow we have the Constitution Amendment Bill, which has to be referred to a Joint Committee. A whole day of six hours has been allotted for it. If we postpone this Bill till tomorrow, the Constitution Amendment Bill will go on till the next day after that. I think enough of discussion has been allowed on the various clauses and no hon. Member can have a feeling that he has been hustled. I must congratulate the House on the very smooth and orderly manner in which very contentious subjects have been dealt with by all hon. Members. They have put their views very forcefully and without rancour and they have been taken very nicely. An amount of goodwill is now prevailing. Let us not lose the benefit of this goodwill; let us finish this Bill today by sitting for some more time. All hon. Members who feel tired may go and refresh themselves and then come back.

**Shri V. G. Deshpande:** Let us sit up till 7 o'clock then.

**Mr. Speaker:** I shall try to sit here until all hon. Members have had their say. I have no objection to sit not merely till 6 o'clock but up to such time as hon. Members want to sit. If any hon. Member wants to say something, let him say and I am prepared to sit. Let us finish this Bill today in the good spirit which we have been getting through all along.

**Shri Bansal** (Jhajjar-Rewari): Will there be any time-limit on our speeches now?

**Mr. Speaker:** The only time-limit is our exhaustion.

**Shri D. C. Sharma** (Hoshiarpur): We have been exhausted already.

**Mr. Speaker:** Some hon. Members have said enough. Let Shri Trivedi begin.

**Shri U. M. Trivedi:** This Bill is the last parting kick that is being given to the Hindu community.

**Shri S. S. More:** Who is parting, we do not know.

**Shri U. M. Trivedi:** In our hurry, as I said before and I reiterate it again, we have not studied the foundation on which the Hindu society was built. No scientific investigation was carried out as to why this particular pattern of society grew up only in the Hindu society and not anywhere else. Those of us who have read something of the Roman law know *patria potestas* but the tyranny of *patria potestas* was not ours. We are not happy over the passage of this Bill. The real, socialistic, democratic pattern that could be found in a small society was in existence only in the Hindu society. It is the principal and most efficacious institution for socialisation of individuals, and in this respect I should say that the want of the individual was always curbed by the desire of having to live in the joint Hindu family. The modern Hindu, shifting from the villages and rushing to urban areas, has developed individualistic ideas either through the Western education that he has received or through the social contact with different types of people that he comes across. It is these contacts and the education that he has received that are tending to make him individualistic and the result is this.

Unfortunately, in our country, we have a vast population of the Hindus, who are villagers, who have absolutely no idea of what we, seated here, city-dwellers with Western education, with particular types of made-up ideas, are doing for them. One generation, two generations, three generations or even four generations of Hindus in villages live together, carry on all their efforts together, put all their earnings without any distinction into a common pool, with the idea that everyone of that family should be served. Such a self-sacrificing society is not to be found in any part of the world. It is with that idea that people used to find themselves very happy and used to go back in times of difficulty to the place from where they came. It is the attraction of the Hindu society which made a man feel for the home. "Sweet home" had a real meaning to the Hindu. To us who are living in rented houses, the attraction of home is being destroyed.

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

This new law, which is being enacted, is really striking at the very root, at the very foundation of the fabric on which the Hindu society was built up. Nobody wants to deny this right to a woman of his family, to a female member of his family, that she should remain as happy as possible in the Hindu family. Go into the Hindu families individually; do not put on the role of gutter inspectors; you will find that in all Hindu families, the Hindu women, the Hindu wives enjoy the best of status and do what they like with the family fortunes. In the Bombay Presidency, the Hindu women's rights were already accepted; the daughter's right was already accepted under the customary law; under the Hindu Women's Rights to Property Act we have already gone a step further. In the fabric of the Hindu society, that common proprietary right was in existence and we were quite happy over it. It is very unfortunate that the word "progressive" always means to do something which is against what others have been doing before us. Some queer notions do exist and some people may start thinking that we have been walking too long on our feets for ages and ages we have been walking on our feet, and we should now start walking on our head. That will be "progressive" according to them, but I say "No". Please halt, pause and consider, many a time before you try to undo a thing which is old. I do not believe thing that is old is not good. Do not say so. Do not try to destroy simply because it is old, simply because we have lived in the Western world and have imbibed Western ideas. Do not give up that which is good in our society.

As I said before, I had the misfortune of living in small villages and small parishes of England and I found that the old-age pensioners who inhabited particular areas in the parish were looked upon as some sort of zoological animals. People used to pity them—old ladies, old gentlemen, with sticks in their hands, not capable of moving about, looked after by nurses, living in small holes, so to say, going up, propping up, going here and there, without any society about them.

5 P.M.

The Hindu society provided against it. In the same house, the old and young and the children were living and playing. The married daughters were enjoying, the married sisters-in-law were happy, the married daughters-in-law were there. All made a big and happy family. We are trying to destroy that by this law. That is what we call involution by misfortune. Our ideas may have developed. When I use the word 'developed', I only mean to suggest that we have formed particular ideas inconsistent with the old ideas that we have got. That is the only meaning that can be given to this. We started long ago and we made fetish of it. Long ago there was *jat pat torak mandal*. Then we started widow remarriages. Then we had the Special Marriage Act. Then we came out with the Hindu Marriage Act. What were the circumstances behind these? About us there were different civilisations which were coming into daily conflict with our ideas—the Muslim civilisation, the Christian civilisation and the western civilisation. They had an impact upon us. Instead of giving what is good among us to them, whatever we thought was good among them, we borrowed and destroyed what was good among us. On a previous occasion, I drew very pertinent attention to this. I appeal to the lady Members and the feminists who believe in it. If you feel so great a compunction for the Hindu ladies, for the Hindu women who do not get anything, why were your hearts not moved when according to the law the widow of a predeceased son of a Muslim is left to

[Shri U. M. Trivedi]

care for herself? She does not get a pie out of the whole wealth that a man may possess. What prevents us from making a civil law of succession of that nature so that the Muslim girl may get something.

**Mr. Deputy-Speaker:** The hon. Member knows. There are certain limitations.

**Shri U. M. Trivedi:** I will finish in a short time.

**Mr. Deputy-Speaker:** I was not pointing to the limitation of time alone. There are other limitations as well.

**Shri U. M. Trivedi:** We get frightened of somehow or other displeasing the Muslim community. A Hindu, if he marries twice, is sent to jail. But a Muslim may marry once, twice, thrice or four times. Now, devices are to be found out. The lawyers run for devices to get a man married again. He asks his client to change his religion by filing an affidavit and say: "I have become a Muhammedan." The girl who wants to be given in marriage files a similar affidavit. Then, they marry. Then, they get themselves reconverted and become Hindus. What a farce of religion! What has this great Hindu community done to be run down to a mockery in such a manner? The law which is now made has created a great confusion. It will be a great playground for the lawyers who will appear in these cases. Nothwithstanding what the Minister has said today for clearing the doubts about maintenance rights, the law will remain as it is and it is not going to be of much help. Nobody is going to be benefited unless the law is made properly.

The right of dwelling has been given in clause 25. In the same breath, in clause 26, it is provided that if a widow remarries again, she does not remain a heir. But it does not say here that the widow who remarries will not have the right to dwell in the dwelling house. She will still say that she is a widow and that she can come there. The right to dwell is not provided for heirs but is given to a particular type of persons.

There are not one or two defects in this law. In my humble opinion, it will create enormous difficulties for the Hindu community and it would be well worth to let this law lie dormant for some time by which time the Hindu society may also grow. The villagers also will become educated and will realise what we are doing here and they will be able to put proper persons in our place who may be able to mould the law according to the desires of the villagers.

**Shri N. C. Chatterjee:** Although some of us are opposed to some of the main provisions of this Bill, I must pay a tribute to the perseverance and patience with which my hon. friend Shri Pataskar has piloted this Bill and he deserves to be congratulated for that.

**Shri V. G. Deshpande:** For impatience and intolerance also.

**Shri N. C. Chatterjee:** I do not think it will be right or fair to say so.

**An Hon. Member:** He has a right to think wrongly.

**Shri N. C. Chatterjee:** So far as I know, he has done his best. But he has his limitations. Every hon. Minister has limitations especially in dealing with this kind of social reform legislation.

I am reminded of the great jurist, John D. Mayne. He is still a great author and in his monumental work, Hindu law, he wrote years back:

> "I hardly expect to see a code of Hindu law which shall satisfy the trader and the agriculturist, the Punjabi and the Bengali and the Pandits of Banares and the Pandits of Rameshwaram, the Pandits of Amritsar and of Poona."

Sir, you come from Punjab and I come from Bengal. It is difficult to satisfy us. I do not think that this code will satisfy not merely the pandits, but vast millions of our people.

I ought to confess frankly that, when I was a student of Hindu law, and I was going through the law of succession, I was amazed at the wonderful diversity of the law, between the Mayuka and the Dayabhaga, between the Mithila school from which the Minister of Parliamentary Affairs comes and the Dravidian school. There was almost a feeling of revulsion. I believe in Akhand Hindustan and as one of those who believe in it, I wanted to have, if possible, one uniform Hindu law catering to all classes and sections of the millions of our people. It would help to consolidate our great Hindu society and would bring about greater cohesion and stimulate forces which work for synthesis and weaken forces against disintegration.

I am disappointed at this Bill and I say so frankly, I had the privilege of not merely appearing as the President of the Bengal Hindu Mahasabha before Sir B. N. Rau. You know, Sir, he was a Judge of my Court. I discussed with him and his colleagues for hours together the provisions of the Hindu Code Bill and the way in which Hindu society and the Hindu legal system should be reformed. Apart from that limited opportunity, I had long discussions with him outside the formal discussions which I had. I am disappointed because I thought that Sir B. N. Rau made a more rational and more human approach. I do not believe in Shri Pataskar assuming the role of a new Manu or a new Yagnavalkya. What is he doing? He is paying lip service to Mitakshara. But he is really destroying the coparcenary system. I do not like it at all. It was far far better if we had the courage, if we were really courageous, if we were really systematic, if we were to have the courage of conviction to come forward and say : let all be of one pattern and brought under one system. Sir B. N. Rau advocated the introduction of Dayabhaga and complete elimination of coparcenary system. I was very happy. I am not speaking as a Bengali or as a follower of Dayabhaga school of Hindu law. But you know, Sir, if you really want to develop trade and commerce, if you really want to build up a new India, if you really want to develop your industries and your business in the private sector, you cannot do it under the antiquated system of law. In the great city of Calcutta they say never touch five kinds of property. If you go to any lawyer, especially any conveyancing counsel or a solicitor, he would advise you never to touch a Mitakshara property, never to touch a Mohammedan property and so on—I do not want to multiply them. You never know where you are. After you have lent money or mortgaged property, you will find that after 10 years there are some 50 coparceners born who will say that the alienation was entirely unnecessary and completely devoid of any legal justification. Therefore, you will never know where you are. Jimutavahan, the great jurist who was thinking much ahead of his time, said that it was entirely wrong to say that Hindu society was petrified, Hindus are mere traditionalists and that we are completely wedded to one system or that we have never moved ahead. That is entirely a slander. It is a calumny to say that we have not progressed. We have progressed according to the spirit of the ages. We have progressed not by completely repudiating the fundamental principles of Indo-Aryan jurisprudence, but by evolving, by developing as the English Common Law has developed, from stage to stage. They struck to the *Magna Carta* or their old laws, and we stuck to the Vedas and the laws of Manu and Yagnavalkya. But we have developed. We have progressed. We have brought our legal system in tune with the siprit of the ages. We accepted the challenge of Islam when it came. We remoulded our society.

As a matter of fact, both the Mitakshara and Dayabhaga system accepted the challenge of other schools and other dominant juristic forces. We fashioned and refashioned our society and our legal system. We put it into shape.

But the real calamity came when the Britishers came and made our law petrified. Our legal system was petrified under the blighting influence of British jurists. I am not blaming them. But if you read Lord Westbury or Lord Hobhouse's judgments you will find that the Hindu law became completely unprogressive. They were thoroughly nervous. They said, 'We must be completely giving effect to the laws of Manu', forgetting that the laws of Manu to a large extent were revolutionised or brought into consonance with new ideals and the new progressive demands of society. Unfortunately, that was not done by the British jurists.

I wish Shri Pataskar had the courage, had the boldness, had the vigour, had the initiative, had the vision to completely wipe out this artificial difference between Mitakshara and Dayabhaga systems and accept the stand of Sir B. N. Rau. What has he done? He has tinkered with the problem. He has tampered with the problem. He has not really revolutionised Hindu law in any way.

The Hindu Code is a specious code which keeps all the bad effects of Mitakshara. It says that there shall be a Mitakshara coparcenary system. But he has done everything to destroy it. My grievance is that he is not straightforward.

Therefore, I am disappointed. I am disappointed because of the degradation of the widow. I charge the Government with this. I charge the Minister

[Shri N. C. Chatterjee]

that he has degraded the widow to a more subordinate position. He has not elevated her. There are people—I won't say feminists—who are sponsors of female emancipation and who want liberal provisions for womanhood. They should realise that if there is any legal system in the world which give absolute property to women, that is the Hindu jurisprudence. Long long before the British, French or German system had given absolute property to women, Hindu law accorded absolute rights to women's property. It is only a misfortune that Colebrooke made a wrong translation of the text and thereby the Privy Council had to accept that which completely gave a wrong turn to the laws of *stridhan*.

I repeat Sir, that I am disappointed. Do not advertise to the world that you have elevated the widow to the highest position. What have you done to the widow? Today under the Hindu law, a widow is in a much better position than what you are making her under this wonderful Hindu Code of yours. There were 11 simultaneous heirs in class I.

**An. Hon. Member :**There are now 12.

**Shri N. C. Chatterjee :** Thanks to the blessings and the intervention of the Prime Minister, it is now 12. Father ought to have been there, but possibly Parliament hates number thirteen and therefore, 'father' has been excluded. But the number is 12. What do you make of it? What is the position of a widow? She gets much less than she otherwise would have got. Sir, when I was a student in London, I remember, the people who assembled in Lincoln's Inn—they are all Chancery lawyers—used to drink a toast to the man who devised the 'will', because Chancery lawyers live on wills. Testamentary dispositions are a 'lawyer's paradise' for Chancery lawyers.

Sir, the other day I was reading Sir Ivor Jenning's lectures on Indian Constitution. He says that in India the constitutional lawyers should drink a toast to the man who put in the word 'reasonable' in article 19 relating to Fundamental Rights. The words 'reasonable restriction' in article 19 would mean a 'lawyer's paradise' in constitutional law.

**Pandit Thakur Das Bhargava :** Without that word, there would have been no effective fundamental right under the Constitution.

**Shri N. C. Chatterjee :** I am not criticising anybody. I am not criticising Sir Ivor Jenning or the Chancery lawyers. But from tomorrow, there will be a toast,—of course only H2O, that is pure water—to Shri Pataskar.

**An Hon. Member :** That is today.

**Shri N. C. Chatterjee :** There will be a toast to Shri Pataskar for this wonderful clause 6 and for saying that they shall take as tenants-in-common. It is a complete—what shall I say—perversion of coparcenary. Actually he does not know what he is doing. But I can assure him that this will be a 'lawyer's paradise' and my profession, which has been very hard hit by zamindari abolition and also other calamitous legislations, would be to some extent rehabilitated by the Hindu Code.

**Shri Satya Narayan Sinha:** Unconsciously he has done a service to his class.

**Shri N. C. Chatterjee :** I accept the amendment of Mithila that he has unconsciously done some service to his own class, to his own fraternity. But that is a great service.

What I am pointing out is that this will not lead us to the El dorado, this will not help the cause of female emancipation. This will not really elevate the position of women. I am obliged to him for having accepted to a large extent the amendment of Shri V. G. Deshpande by suggesting some kind of a proviso. Shri V. G. Deshpande did not realise that he had ultimately won although the Minister did not accept the amendment. But I am saying that to a substantial extent that has done some good. Yet on the whole the cause of womanhood has not improved. On the other hand I am constrained to say that the position of a widow is degraded and her position has been rendered much worse. Her share has been reduced and it will really do very little good to the women folk in India. This kind of putting as many as 12 simultaneous heirs is something dangerous. I am saying this not because I do not want to make any change in the Hindu law. The hon. Prime Minister and other people from the Congress benches daily attack us as traditionalists, communalists and so on. Of course, I also give them back compliments and there is a fair exchange of compliments. But these

pseudo-nationlists should know that we are opposing it on principle, on economic grounds, on sociological grounds and we say that this kind of fragmentation, especially of agrarian holdings, would be disastrous. This will do no good. On the other hand, it will do a lot of harm. This will not be revolutionary. I am not against revolutions. But if the revolution is based on organic urge, for self-realisation and self-fulfilment, I will accept it. But this so-called revolution out of blind adherence to certain non-indigenous notions of reform will do very little good and that is why I am against it.

Let me put one question to Shri Pataskar. What is he going to do about the other sections? I can understand Sir B. N. Rao's code. It was a complete code. But what about minority? What about adoption? What about guardianship? What about family life? Is the hon. Minister going to do something about it or is he leaving it at large? Is he going to integrate this law or do some thing about it? He has himself confessed that according to this Hindu code, there will be large sectors of extant Hindu law which will be operative. I would ask him to consider this seriously. All those things should be integrated, because, otherwise, if there is no proper integration, there will be disaster and there will be more upsurge and more anomalies and more maladies and more misfits in our society which will not do any permanent good to our entire social structure.

**Dr. Rama Rao:** This matter has been before the public for a very long time. Many hopes have been created and the whole thing comes like an anti-climax as far as the great majority of the Hindu community is concerned. As far as the Dayabhaga system and the people belonging to it are concerned, our sisters have my heartiest congratulations. But they are a small minority. The greater section of the Hindu community, the Mitakshara community, if I may say so, has not been properly treated, and those sisters and daughters of ours are terribly disappointed to see that we have done just a fraction of justice to them.

To illustrate my point, under clause 6, taking a family with father, with four sons and a daughter, while each son gets one-fifth of the property, the daughter gets one-fifth of one-fifth, that is 1/25th of the property. That is what this august House has done now. It is only a fraction of justice that has been done. Shri V. G. Deshpande is jubilant, of course.

**Shri V. G. Deshpande:** No, no. I was thinking of what you have achieved.

**Mr. Deputy-Speaker:** Let us hear the hon. Member patiently.

**Dr. Rama Rao:** I must congratulate our friend Shri V. G. Deshpande and his friend and those Congressmen who are thinking alike, with him. They have succeeded and there is no doubt about it. We who have been expecting something out of the Congress Ministry under the distinguished leadership of our Prime Minister are hopelessly disappointed for what has been done for the Mitakshara women. It is injustice. We have been tested, but have been found wanting.

This matter has been before the public for practically 20 years, and like the proverbial saying—mountain in labour bringing forth a mouse—we are bringing after great agitation and great propaganda, a very small fraction of justice to our sisters. I think in the proposed socialist pattern of society which we are going to build up we want to do social justice. Here, we are unable to do justice to our own daughters. We cannot think of treating our daughters as equal to our sons. It is really pathetic to see in this year of 1956 that we are only giving a very small fraction to the daughters, of what the sons would get. You know in the Burmese society, though not as a social reform but as traditional law, every daughter is treated as an absolute equal and on equal terms with the son. But here, owing to our long traditions and for historical and other reasons we cannot think of a daughter being placed on equal terms with the son. Discussions here have shown that in the various clauses we refused to treat the daughter on equal terms with the son. This afternoon, we discussed clause 25 in which we did not want the daughter even to live in the house, let alone claim partition of property. As our friend Shri V. G. Deshpande has said, they did not want foreigners in the house. If she is a widow, or if she is a woman who has been kicked out by her husband.....

**Mr. Deputy-Speaker:** He later corrected himself by saying 'strangers'.

**Dr. Rama Rao:** Yes, but the outlook is the same. That denotes the view of our friends who have passed this Bill. Therefore, the imprint of this Act is a stigma on this House, since we have refused to treat the daughter on equal terms with the son. I only expect our sisters and daughters to wake up, open their eyes and teach a lesson to us.

**Shrimati Sushama Sen** (Bhagalpur—South): We are waking up.

**Dr. Rama Rao:** Let us hope our sisters and daughters will open their eyes, wake up and fight with greater vigour and see that justice is done. It should not be the justice which the hon. Member Shrimati Shivrajvati Nehru asked, for namely, half-share. But I am not surprised. There were women who wanted *sati* and rose against the movement of Raja Rammohan Roy who asked for the abolition of *sati*. There were men like Deshpande and others in those days who were opposed to it, the abolition of *sati*. There are thousands of women like that even now.

Perhaps the House would have heard of a great social reformer in Andhra—Veeresalingam Pantulu, who started among other things the marriage of widows. Custom was such that there were thousands and thousands of child widows. In one of the marriages, when he was performing the marriage of a widow, when she was dressed up like a bride, when they were all sitting for the function, the sister of the widow came and tore away the saree, wiped away the *kumkum*, showered curses on her and abused and cursed the family. Therefore, I am not surprised to see women even in 1956 under the Congress banner, under the leadership of our distinguished Prime Minister,—women like Shrimati Shivrajvati Nehru—asking for something less than equality with men. They do not know what they talk. We have to do justice. We have to treat our daughters as our sons. It is a disgrace to treat them as anything else. I hope in the near future our daughters and sisters will compel us to do justice so that we might stop this discrimination against our daughters throughout the land.

**Shrimati Jayashri:** I have great pleasure in congratulating this House for the smooth passage of this long-expected measure. I congratulate also the Government and our leader and the Law Minister for helping in the smooth passage of the Bill. This has removed the disabilities of women under which the women of India were suffering for such a long time. We have shown to the world that we have not got the *koop-mandook dhrishti* but that our Hindu law is vital and we are awake to the changing circumstances.

I am glad that our Members here have been very co-operative in giving the rights which for so long our women were deprived of. This Hindu Code, as it is called, was before the country since the last 15 years. Even before that, in 1937, Dr. Deshmukh had brought the property rights of women in the legisaltive assembly. Then the Rau committee was appointed. Even in the States of Baroda and Mysore, they had passed legisaltion giving full and absolute right to women. Under the 1937 Act, the widows were given rights, but they were not absolute rights; they were limited rights. We are now giving absolute rights to women under this Bill.

Another thing which will gladden the hearts of our women is that we are giving rights to daughters. Tiii now daughters were deprived of their rights. I am glad that the Members had not discriminated between married and unmarried daughters. Married daughters are also going to share the property of their father.

It is not according to the natural law to expect that the married woman will be more welcome in the father-in-law's house by sharing the father-in-law's property. Pandit Thakur Das Bhargava moved an amendment by which the son's wife would have a share with the son. That would have been welcome if together with that, she gets a share in her father's property as daughter. We would not have fought if the daughter had got half the share in the father's property and half the share in the father-in-law's property. Only, our demand was that women should get a right in their father's property as an individual in their individual capacity, and not as wife or widow. I am sorry to say that this right was not given all these years. But, thanks to the Constitution, now we have got the principle by which there cannot be any discrimination on grounds of sex.

Another thing for which we have to congratulate the hon. Minister is the attempt he has made to get a uniform

code for the whole of India. I am glad that the other laws like *Marumakkattayam* and *Aliyasantana* which are prevalent in the South have also fallen in line with our laws. We are trying to evolve a uniform code and I should say that it is a great achievement. There may be difficulties in the beginning, because people are not aware of their rights. I am sorry to say that some of our women themselves are not aware of their rights. It is a strange thing; but, gradually they will understand and they will realise what we are going to give them. We hope that the lady Members will do propaganda in their own constituencies and explain to the women what they have achieved and what benefits they are going to get by this law. I am sure there will be difficulties in the beginning. There will be litigations. Even now, we know that there are litigations. There have been so many piecemeal legislations before. We know the Act of 1937, the Deshmukh's Act. It also created trouble and confusion and there were litigations. To remove this confusion, the Rau Committee was appointed. We are glad that we have been able to evolve this Succession Bill. We hope that the Minister will now be able to get through the other remaining parts of the Hindu Code Bill. We have still to take up the Guardianship Act, the Adoption Act and the Maintenance Act. These are not very controversial. I hope that the House will pass these Acts in order to make a complete Hindu Code of which India will be proud. So far we had some drawbacks. The Parsee laws and the Muslim laws were more progressive in that way. But, now we have come in line with them. We hope that after a few years, we will have one civil code as we have one criminal code. Again, I congratulate the Minister.

**श्री वी० जी० देशपांडे** : आज हमारे विधान मंत्री को वह आनन्द होना चाहिए, जो आनन्द आज से एक हजार वर्ष पूर्व मुहम्मद गजनवी को हुआ था जब उस ने सोमनाथ का मन्दिर तोड़ा था। आज जो कोई ताज महल को तोड़ता है, उस को या अजंता और एलोरा की गुफ़ाएं तोड़ने के बाद जो आनन्द किसी मूर्ति-भंजक को होगा, वही आनन्द आज यह विधेयक स्वीकृत करने वालों को होना चाहिए। मेरे हृदय में वही दुख है, जो किसी कला-प्रेमी को ताज महल टूटते हुए देख कर या किसी धर्म-भक्त को सोमनाथ का मन्दिर टूटते हुए देख कर होता। सवाल यह नहीं है कि पुत्री को कितनी सम्पत्ति मिले और भाई के साथ बहिन पैसा ले या नहीं। हजारों वर्षों से इस देश में दया, प्रेम और सद्भावना का सहानुभूति और साहचर्य का एक आदर्श हम ने निर्माण किया है। किसी भी समाज में व्यक्तिगत सम्पत्ति के विधान केवल पैसे के बटवारे की व्यवस्था नहीं होते। personal laws are the direct expression of ideals which socity hos cultviated.

अपने देश में जिस प्रकार की समाज-व्यवस्था हजारों वर्षों में हम ने निर्माण की थी, जिस समाज-व्यवस्था के कारण अनाथ और अपंग व्यक्तियों के प्रति हम सहानुभूति और दया रखते थे, जिस के कारण भैया-दूज के दिन भाई और बहिन के प्रेम का प्रदर्शन होता था, जिस समाज-व्यवस्था में सिकन्दर ने राखी बंधवाते हुए बहिन के प्रेम का अनुभव इस भारत भूमि में किया था, जिस समाज-व्यवस्था के अन्तर्गत हम ने यहां पर इस प्रकार के प्रेम और इतने महान् सामाजिक आदर्श का विकास किया था, उस के नष्ट होने पर आप सब को दुख होना चाहिए। हो सकता है कि आप परिवर्तन चाहें परन्तु यह तथ्य है कि एक सुन्दर चीज आज टूट गई है, एक ताज महल आज भंग हुआ है, वह कौटुम्बिक व्यवस्था समाप्त हो गई है, जिस में चालीस पचास आदमी एक कुटुम्ब में रहते हैं, किस का सम्पत्ति का कितना भाग है, यह किसी को पता नहीं है, परन्तु सब का पालन-पोषण हो रहा है और एक कर्ता पुरुष सब व्यवस्था कर रहा है। हो सकता है कि परिवर्तित सामाजिक स्थिति में हम इस को चला न सके। इस कारण कोई सदस्य कह सकते हैं कि यह व्यवस्था सुन्दर थी, लेकिन इस में परिवर्तन होना चाहिए। फिर भी एक सुन्दर चीज चली गई है, इस का दुख: हर सहृदय के अन्त:करण में रहेगा। मैं निवेदन करना चाहता हूं कि यह मखौल का विषय नहीं है, यह किसी को चिढ़ाने का विषय नहीं है। आज एक महान संस्था को समाप्त कर दिया गया है, जिस का विकास मनु, याज्ञवल्क्य और विज्ञानेश्वर ने किया। मैं उन का नाम लेने में लज्जा का नहीं, अपितु गौरव का अनुभव करता हूं। इस प्रकार की महान और प्राचीन समाज-व्यवस्था पर आघात होते वक्त मेरा केवल एक ही आक्षेप है और वह यह है कि जितना विचार हम को इस विषय के प्रति देना चाहिए था, उतना विचार हम ने किय

[श्री वी० जी० देशपांडे]

नहीं है । जो बातें आप ने कही थीं, वे बातें भी आपने नहीं कीं । हम दावे के साथ कहते हैं कि हमारे आदर्शों में, हमारी कुटुम्ब व्यवस्था में, हमारी कुल परम्परा में और हमारे विधान में इस प्रकार के परिवर्तन करने का कोई भी कारण नहीं था । हम यह भी मानते हैं कि कहीं कहीं अन्याय होता था, लेकिन न्याय और अन्याय की तुलना करते वक्त हम समझते थे कि इस व्यवस्था में लाभ ज्यादा होता था। यदि आप इसमें स्त्रियों के प्रति अन्याय दूर करने के हेतु कोई योजना ले आते तो हम सहर्ष उसका स्वागत करते परन्तु हम ने देखा कि आपने केवल एक कानून का जंगल भी बना कर हमारे सामने रख दिया है जिसमें मिताक्षरा का भी कानून है, जहां दायभाग भी है और अन्य अन्य कानून भी उसमें आ गये हैं और एक संहिता सी बन गई है । बादरायण की संहिता का कोडिफ़िकेशन करने के लिए हमारे सामने पाटस्कर साहब आ गये और यह कोडिफ़िकेशन लेकर सामने आ गये लेकिन जब हम एक एक धारा को देखते हैं तो हम पाते हैं कि कोडिफ़िकेशन जैसा कि वह करना चाहते थे इसमें कहीं नहीं हो पाया है। जैसे कि श्री शंकराचार्य के तत्वज्ञान के बारे में कहा है कि :

"श्लोकार्थं प्रवक्ष्यामि यदु क्तं ग्रन्थ कोरिथि ।
ब्रह्मं सत्यं जगन्मिथ्या जीवोवहेंवनापर ।।"

इसमें याज्ञवल्क्य, मिताक्षरा, दायभाग इन सब चीजों का जिक्र और नाम तो आगया है और यह बड़े कमाल की बात है परन्तु जब हम एक एक धारा को देखने लगे तो पाया कि छठे क्लाज में यह कहा गया है सरवाइवरशिप (उत्तर्जीविता) से कानून चलेगा । हिन्दू का क़ानून इस विधान में नहीं है और हिन्दू के उत्तराधिकार के बारे में इसमें लिखा हुआ नहीं है।

जो हिन्दू ला (विधि) है वह वैसा का वैसा रक्खा है उसको छुआ तक नहीं है, छुआ नहीं है से मेरा यह तात्पर्य है कि उसको अच्छा करने के लिये नहीं छुआ है, उसमें नुकसान करने के लिए छुआ है और हिन्दू ला (विधि) पर आपने काफी आघात किया है और जिस युनेनिर्फामिटी (समानता) के लिये हम यह मूल्य देने को तैयार थे वह युनिफर्मिटी (समानता) कहीं भी नहीं आई हैं मिताक्षरा अलग हैं और दायभाग अलग हैं और युनिफ़र्मिटी (समानता) आई नहीं ।

जैसे मैंने पहले भी निवेदन किया था कि हमारे किंग आर्थर के नाइट्स लोगों की आंखों से स्त्रियों की खराब अवस्था देख न पाने के कारण आंसू बह रहे थे और मैं इससे इंकार भी नहीं करता कुछ अपवादात्मक परिस्थितियां हिन्दू समाज में ऐसी हो सकती हैं जहां पर कि स्त्रियों पर अन्याय होता हो, मैं इसको भी मानने को तैयार हूं परन्तु मैं पुछना चाहता हूं कि क्या यह विधेयक स्वीकृत होने के पश्चात् स्त्रियों की परिस्थिति सुधर गई है या और बिगड़ गई है ? मैं इस अवसर पर बहुत बड़े बड़े आदर्शों की बात नहीं करना चाहता हूं, वैसे आदर्शों में मेरा विश्वास है। केवल स्त्री के नाम से सुधार होने से, उसकी परिस्थिति सुधरती है, यह मैं मानने वाला नहीं हूं । मैं चाहता हूं कि आप इसको कसौटी पर नाप तौल कर देखें कि इस क़ानून के पास होने से पहले स्त्रियों को कितनी सम्पत्ति मिलती थी. और इस कानून के पास होने के बाद कितनी सम्पत्ति मिलने वाली है और उसके बाद ही किसी को इस क़ानून के लिये आप बधाई दें, कानग्रेचुलेशन (बधाई) देने से पहले यह देख लीजिये कि वाकई में इस हिन्दु उत्तराधिकार विधेयक द्वारा स्त्रियों को पहले से अधिक सम्पत्ति में हिस्सा मिल भी रहा है या नहीं । मेरी समझ में तो मिताक्षरा पद्धति में ज्वांइट फ़ैमिली प्रापरटी (संयुक्त परिवार सम्पत्ति) में स्त्री को पहले से कम हिस्सा मिला है और में तो यहां तक कहूंगा कि लड़के को सम्पत्ति में पहले से ज्यादा हिस्सा मिल रहा है और इस विधेयक के वर्तमान स्वरूप को देखकर तो यही कहना पड़ता है कि एक सज्जन बनाने तो गणेश जी की मुर्ति बैठे, परन्तु कम्प्रोमाइज़ करते वक्त किसी सुंड के बजाय दुम लगा दी जिसका कि नतीजा यह हुआ कि गणेश तो नहीं बन पाये हां बंदर पलबत्ता बन गया । इस प्रकार की बात यहां हुई है कि यह विधेयक तो सम्पत्ति में स्त्रियोंको पुरुषों के समान अधिकार दिलाने के लिए लाया गया लेकिन जब वह बन कर पास हो रहा है तो हम पाते हैं कि वस्तुतः स्त्रियों को जो अधिकार अब तक प्राप्त था, वह भी इसके द्वारा कम किया जा रहा है । उदाहरणार्थ, मैं आपको बतलाऊं कि एक हिंदू पिता जिसक कि चार लडके और दो लडकियां हैं और वह अपने पीछे अपनी विधवा पत्नी को छोड जाता है और आज के प्रचलित कानून के अनुसार उसकी विधवा पत्नी को छोडी गई सम्पत्ति का पंचम भाग मिलता है अर्थात एक लाख रुपये की सम्पत्ति पर उसको २०

हज़ार रुपये मिलते है और अब इस वर्तमान विधेयक के अनुसार २०, २० हज़ार रुपये लड़कों को मिलेंगे वह लड़के ८० हज़ार रुपये तो पहले ही बांट लेंगे और जो बाक़ी २० हज़ार बच रहेगा उसमें वे चारों लड़के, दो लड़कियां और वह विधवा यह सातों जने हिस्सा बटायेंगे जिसका कि अर्थ यह हुआ कि ढाई ढाई हज़ार रुपया लड़कों को और मिलेगा पहले कानून से लड़कों को २० हज़ार मिलता था जब कि इस विधेयक के द्वारा उनको साढ़े बाईस हज़ार रुपये मिलेंगे। एक विधवा को पहले कानून से २० हज़ार रुपये मिलते थे, लेकिन अब उसको केवल ढाई हज़ार ही मिलेंगे...

**श्रीमती शिवराजवती नेहरू** (जिला लखनऊ —मध्य) : पति बिल कर देगा।

**श्री देशपांडे** : मैं पूछता हूं कि उसकी ऐबसैलुट स्टेट हो गई तो क्या बहुत बड़ी बात हो गई? मैं पूछता हूं कि २० हज़ार की लिमिटेड स्टेट और ढ़ाई हज़ार की ऐबसेलुट स्टेट, इसमें कौन सी फायदे की चीज़ है ? मुझे तो यही मालुम पड़ता है कि मिताक्षरा फ़ैमिली में आपने विधवा की परिस्थिति पहले से अधिक बिगाड़ दी है, लड़की को कुछ खास दिया नहीं, विधवा का ही बांट कर थोड़ा बहुत लड़कियों को दे दिया गया है और बाकी लड़कों को चला जायगा।

अपनी बहनों को सम्बोधित करते हुए मैं केवल एक ही प्रार्थना करूंगा कि आप लड़ना तो काफ़ी सीख गई हैं और बड़े ज़ोर से लड़ती हैं और हम लोग आप से डर भी जाते हैं लेकिन लड़ने के साथ ही साथ थोड़ा चीज़ को ठीक ठीक समझना भी सीख लीजियें कि कांग्रेस के आप के बंधु लोग जो अपने को आपका हितकर्ता कहते हैं और जो आपका हित करने और कल्याण करने के नाम पर किस किस प्रकार की बातें करते हैं और क्या क्या चीज़ें करते हैं, उनके बारे में आपको ठीक ठीक पता नहीं लगता और आप यह नहीं समझ पातीं कि उनका आख़िर में आप पर प्रभाव क्या पड़ने वाला है।

श्री एन० सी० चटर्जी ने हमारे विधि मंत्री को जो धन्यवाद दिया है, मैं उस धन्यवाद के खिलाफ़ नहीं हूं और मैं इसको स्वीकार करता हूं कि मंत्री महोदय बड़े ही योग्य पुरुष हैं और मैं उनकी योग्यता को मानता हूं परन्तु मुझे यह कहने पर विवश होना पड़ता है कि दलगत नीति में बंधे होने के कारण जब इस बिल पर सदन में विचार चल रहा था तब हमारे विधि मंत्री महोदय ने कोई भी युक्तिसंगत संशोधन को स्वीकार नहीं किया और उसकी तरफ़ देखा नहीं और उस अवसर पर उठ कर बाहर चले जाते थे, यह प्रवर समिति से लेकर आज तक का मेरा अनुभव है। मिताक्षरा पद्धति को गाली देना प्रगतिशीलता का आज लक्षण बन गया है। हमने कहा था कि मिताक्षरा पद्धति में कोई वसीयतनामा नहीं कर सकता है, कोई अपनी पत्नी और बच्चों को अपने अधिकारों से वंचित नहीं कर सकता है, कम से कम आप उनको यह तो अधिकार दीजिये लेकिन आपने यह बात नहीं मानी केवल एक एनवौलव्ड सा अमेंडमेंट माना है, केवल मेंटेनेन्स ला (प्रबन्ध विधि) बना देने से यह बात बनने वाली है, ऐसी बात मैं नहीं मानता हूं।

ड्राफ्टिंग के विषय में मैंने यहां तक देखा कि जब छठवां क्लाज़ आया तो म ने उनसे पूछा कि २१ वां क्लाज़ आ रहा है, आपने जानबूझकर शब्द रचना की है, सरवाइवर शिप से अधिकार मिल ने वाला है, मिताक्षरा पद्धति क़ायम रहेगी, आप ऐसा कहते हैं लेकिन २१ में जो "टेनेंट्स इन कामन" के शब्द आये हैं तो मैं समझता हूं कि यह मिताक्षरा पद्धति टूट जायगी...

**Shri Radha Raman:** The hon. Member has already exceeded the time-limit.

**श्री बी० जी० देशपांडे** : अरे भाई आप हिन्दू समाज का इस तरह विघटन और सत्यानाश कर रहे हैं तो कम से कम और कुछ नहीं तो दो मिनट रो तो लेने दो।

हां तो मैं आपको बतला रहा था कि जब पाटस्कर साहब को यह बतलाया गया कि २१वें क्लाज़ के वर्तमान स्वरूप के क़ायम रहने से मिताक्षरा पद्धति टट जायगी तो वे खड़े रहे और कहने लगे कि जब २१ वां क्लाज़ सामने आयेगा तब उसको देखुंगा, अभी तो हम छठा क्लाज़ पास कर रहे हैं...

**उपाध्यक्ष महोदय** : अब जब कि हाउस ने उसको स्वीकार कर लिया है तब इस तरह की गिला नहीं करनी चाहिए और उसके लिए आप सारा दोष पाटस्कर साहब पर ही क्यों मढते हैं।

**श्री बी० जी० देशपांडे** : मंत्री महोदय नें खड़े होकर यह कहा था और पेपर में भी यह

[श्री वी० जी० देशपांडे]

आया है कि संयुक्त दर्जा समाप्त नहीं होना चाहिये लेकिन हमने देखा कि उसके ठीक विपरीत उन्होंने किया है । हमने देख लिया है कि क्या क्या जादू और चमत्कार इस विधेयक में हैं और इसका हिसाब और जमा खर्च करने के पश्चात् मैं समझता हूं कि युनिफ़ार्मिटी (समान रूहता) नहीं आ सकी है, कोडिफ़िकेशन (संहिताबद्ध) हो नहीं सका है और स्त्रियों के अधिकार भी पहले से अधिक नहीं बढ़े हैं और विधवा स्त्रियों के अधिकार पहले से कम हो गये हैं । १ बटा १० में ईक्वली शेअर करेंगे । यह तो ईक्वल राइट्स दिये गये हैं पुत्री और माता को । यह पहला महान अधिकार उन को मिलेगा । दूसरा महान अधिकार उन को यह मिला है कि विधवा को अब कवल १ बटा १० का अधिकार होगा । तीसरा फायदा यह हुआ कि वसीयतनामों से ज्वायंट फैमिली प्रापर्टी (संयुक्त परिवार सम्पत्ति) का मनुष्य का अधिकार मिला कि सम्पत्ति पूरी छोड़ दें । और इस महान अधिकार का फल दसरी तरफ यह होगा कि बहन भाई के साथ लड़ेगी । बहन की जिम्मेदारी भाई के ऊपर नहीं रहेगी और सम्पत्ति के लिये झगड़े बढ़ेगें । देहात की अर्थ व्यवस्था टूट जायेगी, कृषि सम्पत्ति एक स्थान पर न रहेगी । देहात का जो ढांचा है उस के टुकड़े टुकड़े हो जायेंगे ।

**श्रीमती शिवराजवती नहरू** : चलिये, आप की कांस्टिटूएन्सी (निर्वाचनक्षे ) बन गई ।

**Mr. Deputy-Speaker:** I would request the hon. lady Member not to interrupt. If really ladies have got something, they should have patience to hear others.

**श्री वी० जी० देशपांडे** : इस तरह का नाश सब तरफ हो रहा है । आज मैं ने स्त्रियों को आखिरी सूचना दी थी । आज यहां एक संशोधन मैं ने रक्खा कि मिताक्षर सम्पत्ति के सम्बन्ध में कम से कम विधवा, अविवाहित लड़की और छोटे नाबालिग बच्चे का प्रबन्ध कीजिये । यहां पूरा कांग्रेस का दल इकट्ठा था हमारे प्रधान मंत्री यहां थे, हमारे विधि मंत्री भी यहां थ और पूरे देश में इस का विरोध होते हुए भी हमारी सरकार ने उस संशोधन को स्वीकार नहीं किया स्त्रियों के प्रति उन में कितना प्रेम है इस का भी प्रदर्शन आज हो गया है । इस का एक ही फायदा होने वाला है, प्राचीन हिन्दू परम्परा नष्ट हो गई, प्राचीन आदर्श समाप्त हो गये हमारी अर्थ व्यवस्था पर आघात हुआ और स्त्रियों को अधिकार अधिक मिला नहीं जो था वह भी कम हो गया । यह भी नहीं माना गया कि स्त्रियों को कम से कम मेन्टेनन्स मिले । केवल एक ही काम हुआ कि ए बैडली डाफटेड ला हम ने बनाया, जिस ला (विधि) की शब्द रचना हम ने अच्छी नहीं बनाई । जो हमारे मित्र उधर बैठे हुए हैं, उन में से एक सदस्य भी नहीं कहता कि यह अच्छा है । श्री सी० सी० शाह जो शायद हमारे प्रतिवित्त मंत्री हैं, उन्होंने भी कहा :

"They have made a mess of it."

जो कानून बनाया गया है वह पूरा मेस बनाय गया है । और इस का फायदा किस को मिला है? लोग कहते हैं कि लड़कियों को सम्पत्ति मिली, अधिकार मिला । My friends, it is not the daughters who have got the inheritance. It is the lawyers who have got the inheritance.

यह उत्तराधिकार लड़कियों को नहीं मिला यह देश के वकीलों को उत्तराधिकार मिला है । और इसी के कारण आखीर में जब आप यह बिल स्वीकार करने वाले हैं, एक चेतावनी देना चाहता हूं कि जो एक सुन्दर चीज थी उस को आज आप ने नष्ट कर दिया है । एक दिन आयेगा जब आप पश्चाताप करेंगे और अगर आप पश्चाताप नहीं करगे तो आप की आगे आने वाली पीढ़ियां इस कुकृत्य के लिये आप को शाप देंगी ।

**श्री राधा रमण** : मुझे बड़ी खुशी है कि बहुत अर्से से जिस विधेयक को इस सदन के सामने रक्खा गया था, वह आखिरकार हमारे सदन...

**उपाध्यक्ष महोदय** : मुझे तो उज् नहीं होगा चाहे जब तक मेम्बर साहबान बैठे । मगर वह इस बात का ख्याल रक्खें कि कब तक वह बैठना चाहते हैं और उसी मियाद के अन्दर वह अपने विचार पेश कर दें । इस वास्ते मैं कह रहा हूं कि वह जितना चाहें वक्त लें, लेकिन बाकी मेम्बरान को भी बोलने का मौका मिलना चाहिये, जो इस पर बोलना चाहते हैं ।

**श्री सिंहासन सिंह**: कितने बजे तक हाउस बैठेगा,

**उपाध्यक्ष महोदय :** जब तक सब मेम्बर बोल नहीं लेते ।

**Shrimati Sushama Sen:** We want to know how long the sitting is going to be there.

**Mr. Deputy-Speaker:** So long as there is a desire to speak.

**Shrimati Sushama Sen:** We cannot sit beyond 6 p.m.

**Shri K. K. Basu:** Those who have spoken should not leave the House after their speeches.

**श्री राधा रमण :** एक बार फिर मैं सदन को और विशेषकर अपने ला मंत्री श्री पाटस्कर को इस बात के लिये बधाई देना चाहता हूं कि बहुत काल से जो विधेयक हमारे देश के सामने रक्खा हुआ था, जिस के जरिये से हम अपने मुल्क में एक बेइन्साफी को खत्म करना चाहते थे वह आखिरकार इस सदन ने कबूल किया ।

जैसा अभी अन्य मित्रों ने बताया कि इस विधेयक की तारीख बहुत पुरानी है और उस पुरानी तारीख के साथ साथ इस विधेयक को सारे मुल्क के लिये रक्खा गया और और सारे ही क्षेत्रों में इस विधेयक के ऊपर चर्चा हुई । हमारी यह ख्वाहिश थी कि हम इस विधेयक को एक नये रूप में, न्याय और समानता की दृष्टि से पूर्ण रूप से मंजूर करते । लेकिन अगर हम पूर्ण रूप से इन्साफ नहीं कर सके तो भी हमें इस बात की खुशी होनी चाहिये कि हम ने इस तरफ एक बहुत मजबत और सीधा कदम उठाया है ।

अभी हमारे मित्र श्री देशपांडे जी कह रहे थे कि इस विधेयक से उन को चोट लगी है, उन को बड़ा अफसोस और रंज हुआ । साथ ही साथ उन्होंने यह भी कहा कि इस विधेयक के अन्दर जो अधिकार लड़कियों और स्त्रियों को पहले थे, उन से भी अब कुछ कम हो गये । उन की यह तुक मेरी समझ में नहीं आई । जब से इस विधेयक का नाम इस सदन में लिया गया, या जब से देश में इस की चर्चा हुई तब से बराबर वह इस का विरोध करते चले आये हैं और उन की ख्वाहिश यह थी कि स्त्रियों को कोई अधिकार न मिले, कोई बराबरी का हक न मिले, कोई सुविधा उन को न दी जाय । लेकिन उन के कहने के अनुसार जब सदन नें, जो उन की इच्छा थी उस के मुताबिक, स्त्रियों के अधिकार को कम करके इस विधेयक को पास किया है तो उन को रंज और गम किस बात का ? यह आंसू किस लिये टपकाये जाते हैं ? हम ने अपने संविधान में इस बात की मंजूरी दी कि हम अपने देश में स्त्रियों के समान अधिकार चाहते हैं, हम ने एक मुख से सारे देश को यह कहते सुना कि स्त्रियों को जो अधिकार आज प्राप्त हैं वह पर्याप्त नहीं हैं, उन की सामाजिक और आर्थिक दोनो दशायें ऐसी हैं जो चिन्ताजनक हैं, जो हमारे संविधान के अनुसार नहीं हैं, जिन को इन्साफ की कसौटी पर नहीं कसा जा सकता । संविधान के अन्दर स्त्रियों को समान अधिकार प्राप्त हों और समाज उन अधिकारों को कानून दे सकें इस की ख्वाहिश रख कर जब इस विधेयक को सदन के सामने लाया गया तब हर तरफ से इस बात की ख्वाहिश जाहिर की गई कि इस में संशोधन किये जायें, और यही कारण था कि इस में इतनी देर लगी, यही कारण था कि यह ज्वायंट कमेटी के सामने गया और सामुहिक रूप से इस पर विचार विनिमय हुआ । इसके परिणाम स्वरूप जो कुछ उन की अक्ल में आ सकता था, इस विधेयक के अन्दर रक्खा गया । राज्य सभा ने इस के पश्चात इस विधेयक की छान बीन की और सब ने मिल कर इसे इस शक्ल में पेश किया । उस के बाद यह लोक सभा के अन्दर आया । लोक सभा ने भी इस में कई संशोधन किये । हम एक हफ्ते से विधेयक पर विचार कर रहे हैं, इस की आलोचना कर रहे हैं । इस में हम ने कुछ संशोधन भी किये हैं । अब वह इस अन्तिम रुप में सदन के सामने है और सब की ख्वाहिश के अनुसार कुछ संशोधन के बाद हम इसे मंजूर कर रहे हैं तो फिर उस के बाद यह रोना पीटना, खास तौर पर हमारे देशपांडे जी का हमारी समझ में नहीं आता । जो कुछ वह चाहते थे अगर वह नहीं हुआ तो भी उन को खुश होना चाहिये क्योंकि जो कुछ हुआ है वे उस के अनुसार भी नहीं है जो हम चाहते थे ।

उपाध्यक्षजी मैं यह अर्ज करना चाहता हूं कि मेरी राय में जितना न्याय इस विधेयक के अनुसार महिलाओं के साथ करना था, वह नहीं हो सका, और उस की सब से बड़ी वजह यह थी कि हमें यह फिक्र थी कि हम सारे लोगों को अपने साथ ले कर चलें । जो जो संशोधन हुए हैं, उन में से बहुत से ऐसे हैं जिन में हम न उन रायों को जो कि खिलाफ थीं, या विधेयक के माफिक नहीं थीं, उन के मुताबिक विधेयक मे काटछाट कर हमने ऐसी कोशिश क

[ श्री राधा रमण ]

हैं जिस से सब विचार के लोग राजी रह । जब इस तरह से उन लोगों की ख्वाहिश के मुताबिक काम किया गया है तो मेरी समझ में नहीं आता कि अगर वह इस विधेयक का विरोध करें तो कहां तक मुनासिब होगा ।

6 P.M.

अगर कोई आदमी यह कहे कि इस विधेयक के पास हो जाने के बाद लड़कियों को जो अधिकार पहले थे उन से कम मिलेंगे, या वे अधिकार उन्हें नहीं मिलेंगे, तो मैं इस को नहीं मानता । और यह कहना कि ऐसे विधेयक को जब सदन के सामने लाया जाता है तो हमें कुछ आश्चर्य होता है, या कि भाई और बहन का प्रेम कम हो जाता है या यह शास्त्रानुकूल नहीं है या कोई ऐसी चीज है कि जो हिन्दुस्तान के लोगों के ऊपर कोई पहाड़ गिराने वाली है, तो मैं इसको भी नहीं मानता हूं । मैं समझता हूं कि यह संकुचित विचारधारा का एक परिणाम है जो हमारे मुल्क में हर वक्त हाजिर रहती है । मैं तो यह कहूंगा कि श्री पाटस्कर जी ने इस बिल को ला कर और इसको पास करवा कर एक ऐतिहासिक काम किया है । जिस तरफ आज हमारे कदम बढ़ रहे हैं उस तरफ हमारे कदम आज से १५–२० बरस पहले बढ़ने चाहिये थे । अगर पाटसकर साहब ने इतनी देर लगा कर इस को मनवाया है तो इसका कारण यह है कि उनकी कोशिश यह थी कि सारा मुल्क इस विधेयक के साथ हो, इस सदन के जितने भी मेम्बर हैं, वे इसका समर्थन करें और ज्यादा से ज्यादा कामन मेजर आफ एग्रीमेंट इसके बारे में प्राप्त हो । मैं यह समझता हूं कि जिस शक्ल में यह विधेयक अब हमारे सामने है उसके बारे में चाहे इधर उधर से कुछ विरोधी आवाजें आयें लेकिन यह बात तो मानी ही जाएगी कि इसको अब इस सदन के अधिक से अधिक माननीय सदस्यों का समर्थन प्राप्त है और अधिक से अधिक सदस्यों को यह पसन्द भी आया है और उन्होंने इसे मंजूर किया है । और सारा संसार और विशेषकर हमारा देश इसे एक प्रगतिशील कदम कहेगा । अब इसके बाद जो भी इसके परिणाम निकलेंगे उनको हम फेस करेंगे और जो भी इसके नताइज होंगे उनका हम मुकाबला करेंगे : अगर कोई सदस्य यह देखता है कि इस विधेयक में कुछ त्रुटियां रह गई है या हमारी बहनों को जो अधिकार मिलने चाहिये थे वे नहीं मिले हैं तो मैं यह चाहता हूं कि ऐसे माननीय सदस्य को इस बात का पूरा अख्तयार है कि वह भविष्य में इसमें संशोधन कराये । देशपांडे जी, जो आज आंसू बहा रहे हैं उनसे मैं कहूंगा कि अगर वह अपने दिल से चाहते हैं कि कोई अधिकार स्त्रियों को और प्राप्त होने चाहियें तो वह इन अधिकारों को उन्हें दिलाने के लिए भविष्य में संशोधन प्रस्तुत करें ।

इस बात को देखकर मुझे आज बड़ी खुशी होती है कि हमारी बहनें जो कि तरह तरह की डिसएबिलिटीज से सफर करती थीं, जो कि कई तरह से डिसएडवांटेजियस पोजीशन में थीं उनको अब हिम्मत और हौसला होगा, उनको कुछ ताकत मिलेगी और उनके कदम अपनी सामाजिक उन्नति की तरफ बढ़ेंगे और जो अन्याय आज तक उनके साथ होता आया है, उसमें भी कुछ थोड़ी बहुत कमी होगी ।

जो संशोधन हमने इसके अन्दर किए हैं उनके बारे में मैं यह कहना चाहता हूं कि मैं उनसे कतई संतुष्ट नहीं हूं । मैं जानता हूं कि हम ने इस बातकी बहुत ज्यादा कोशिश की है कि जो हम से सहमत नहीं हैं, जो हम से मुख्तलिफ राय रखते हैं, उनको भी हम अपने साथ ले कम्प्रोमाईज करें और उनकी उन बातों को हम मंजूर करें जो हमारे गले से नही उतर सकती हैं । लेकिन हमने जो बातें इंसाफ पर नहीं मानी थीं, जिन को हम मुनासिब नहीं समझते थे, उनको हम ने नहीं माना है । विधेयक की जो धारायें महिलाओं का स्तर ऊंचा उठाने में सहायक सिद्ध हो सकती थीं, जो उनको आर्थिक और सामाजिक प्रगति की ओर ले जाने में सहायक गिनी जाती थीं, उनको हम ने मंजूर किया है । मैं यह अवश्य मंजूर करता हूं कि इस बिल के अन्दर जो खराबियां रह गई हैं, उनको भी मिटाने का हम जल्दी से जल्दी प्रयत्न करेंगे ।

मैं इस सदन को और विशेष तौर से अपने ला मिनिस्टर साहब को इस बात के लिए बधाई देना चाहता हूं कि उन्होंने इतनी ज्यादा मेहनत करके इस बिल को पास करवाया है और साथ ही साथ उनसे यह भी प्रार्थना करना चाहता हूं कि उनमें तथा हम में यह शक्ति आनी चाहिए कि महिलाओं को जायदाद में समान अधिकार दिला सकें ।

**Shri Tek Chand:** Sir, I rise to say a few words.

**Shri Sinhasan Singh:** With your permission, I beg to move for closure.

**Mr. Deputy-Speaker:** I have called a Member. I shall take that point after he has finished.

**Shri Tek Chand:** I wish to take a few minutes of the valuable time of this House in memoriam of the late lamented Vignaneshwara. We have succeeded in crippling mitakshara, perhaps, not completely destroyed it. Mitakshara system for the last centuries —no, for thousands of years—has been harbouring us. We were all members of the Hindu society and all of us together sought its protection. That joint family is no more. This ancient society was likened to the ancient Roman society, *Patria potestas*, and *Pater familias*, where family was the unit, where family was an *imperium in imperio*, a State within a State. That family thrived in Rome in the greatest times of the Romans and that was the pride of the Romans. That has been our pride too for centuries and centuries. It was the coparcenary that was our insurance. Those who were dependent were looked after. The living of those who could not make a living was assured. Nobody starved; nobody grabbed, with the result that everybody had a fair share.

[MR. SPEAKER *in the Chair*]

So far as law was concerned, there was a good bit to be grumbled at. But so far as law in action was concerned, they got their fair deal. Of course, it is always for individuals depending upon individual predelications, individual leanings that they had or had not a fair deal from the women in the family. Whether it was a child widow, whether it was an unmarried daughter or whether it was a widowed daughter-in law, they could live within the family fold with honour and with protection.

Ladies have got their independence. I hestitate to offer them my felicitations as their well-wisher. But since they have got their rights, let us hope that they will utilise their rights wisely and not to their own detriment. You have got certain weapons. By all means exercise them for your best advantage but remember their exercise can be suicidal also.

To the hon. Minister, I offer congratulations on the hard work that he has put in. I do not know if in his hard work, there was his heart too. He has taken pains. It has been a controversial measure and he is entitled to felicitations as much as to our sympathies. It was a difficult task and he did it best.

There is one thing I wish to say. Some of us have felt that there were a number of.. (*An Hon Member*: Howlers) I will not say 'howlers'—errors, certain defects. It may be that such counsel as some of us could give did not carry conviction with the hon. Minister. I do hope that in times to come better advice, better correctives and better criticism would be forthcoming from the High Courts and from the Supreme Court of India which would be called upon to interpret some of the anomalous provisions. I do hope that when such an occasion arises, when defects are brought to the lime-light, the Government will, with the greatest avidity, thoroughly revise and review what they have passed and will not be tardy in admitting their errors and rectifying such defects as will be pointed out by the highest courts in this land.

It has been a most difficult thing. No doubt, passions raged and there was emotion all the time about the manoeuvre that was behind the passing of this measure. At times reason was at the back, but reason was no longer the main-stay and it was mere sentiment. However, this law has been enacted. The Hindu Succession Act is the law of the land. It is now time to keep pace with the events that are going to happen and which are going to be the consequences of the Succession Act. It will give the authorities a good time whereby they could compare the past with the future that they predict. Whether it is going to be an el dorado or whether it is going to be a plunge in the dark, time alone will tell. Some of us are pessimists, others are optimists. But it is very necessary that you must zealously guard the progress of this Act. Whether it turns out to be a mischievous measure, whether it is going to disintegrate society or whether it is going to be the Magna Carta of the rights of women remains yet to be seen. Whether it is a triumph or an achievement, or whether it is something dangerous and dreadful that we have produced, time alone will tell.

I congratulate the ladies for their triumph. Ihope it is a real triumph for them and not something ephemeral, not something that is of doubtful utility. They laugh. It is said they laugh best who laugh last. I hope they will be there to laugh last.

**Mr. Speaker:** Shri Nand Lal Sharma.

**Shri Sinhasan Singh:** Sir, I have already moved for closure.

**Shrimati Ammu Swaminadhan** (Dindigul): I now move for closure, Sir.

**Mr. Speaker:** I have already called the hon. Member to speak.

**Sardar Hukam Singh:** When I, from the Chair, called previous Member to speak, Shri Sinhasan Singh moved for closure and at that time I said that I will consider the motion after the Member had finished.

**Pandit Thakur Das Bhargava:** But the Chair need not accept the closure motion.

**Mr. Speaker:** I am not accepting the motion. Having spent all this time in good humour, why should we not spend some more time. Whoever wants to speak may speak, but let the Members be brief.

**Shrimati Ammu Swaminadhan:** May we know how long we are siting this evening?

**Mr. Speaker:** As long as the Members want.

**श्री नंद लाल शर्मा** : करुः हकुलिशैद्विषतां चरणाम्बुजनखर कान्तिभिर्भजताम् । हृदयग्रन्थी न्भिन्दन्।: मनसि नोसह समुल्लसतु:। मन में एक विशेष बोझा और वास्तविक खेद से मैं आज इस विधेयक का विरोध करता हूं। मैं इस सदन के माननीय सदस्यों से यह प्रार्थना करना चाहता हूं कि वे इस विधेयक को हिन्दु जाति का दुर्भाग्य मानें या सौभाग्य, वे इस को कुछ भी माने, किन्तु यह तथ्य है कि उस के भाग्य में यह एक महान परिवर्तन है । ऐसी परिस्थिति में केवल हंसी और ठठौली में इस विषय को देखना उचित न होगा । मैं सब से पहले इस बात का विश्वास दिलाता हूं कि मैं किसी पार्टी-बुद्धि या दल-वृद्धि से न इस का विरोध करता हूं और न स्वागत करता हूं । मैं केवल एक ही बात इस सदन के ध्यान में लाना चाहता हूं । पिछले पंद्रह वर्ष से हर सम्भव उपाय से जिस हिन्दु कोड का विरोध जनता ने करोड़ों की संख्या में किया, जिस के प्रति विरोध प्रकट करने के लिए देश भर में सभाओं और प्रदर्शनों का आयोजन किया गया, कई संस्थाओं और सोसायटियों ने इस सम्बन्ध में मीटिंग्ज बुलाई, उस को जनता के इस विरोध के बावजूद अनिच्छित रूप से उस के ऊपर लाद दिया गया है । मैं निवेदन करना चाहता हूं ।क यह जनता के साथ महान् अन्याय ह और मैं समझता हूं कि यह जानतंत्रिक प्रणाली का वध है ।

जैसा कि मैं ने धारा ४ के ऊपर अपना मन्तव्य प्रकट करते हुए भी निवेदन किया था, स्वतंत्र भारत में सब से बड़ा दुर्भाग्य यह हुआ है कि हिन्दु धर्म-शास्त्रों के साथ हिन्दु जाति का सम्बन्ध तोड़ दिया गया है । चाहे हमारे मित्र श्री राधा रमण हम को संकुचित भाव का कहें अथवा उदार भाव का, किन्तु मैं केवल एक फक्ट यहां पर प्रस्तुत करना चाहता हूं और वह फैक्ट यह है कि आज से आप की सम्पर्ण परम्परा, आप के सब रिवाज और रीतियां और साथ ही वेदादि शास्त्र, जो अनादि काल से चले आ रहे हैं, मनु और याज्ञवल्क्य, सब के सब समाप्त हो गए । हमारे मित्र श्री गांधी ने एक स्थान पर आवाज दी थी कि पटास्कर स्मृति का पटाक्षेप हुआ है । ये शब्द मेरे कान में उस समय पड़े थे , पर मैं उस और ध्यान नहीं दे सका । श्री पाटस्कर मुझे क्षमा करेंगे । व्यक्तिगत रूप से उन के ऊपर आक्षेप करने का मेरा कोई विचार नहीं है । मैं निवेदन करना चाहता हूं कि जब से इन के हाथ में यह बिल और इस का पूर्ववर्ती बिल आया है, इन को इस सम्बन्ध में बहुत परिश्रम करना पड़ा है । जिस समय रामदल में दो राक्षस फंस गए, तो श्री रघुनाथ ने यह कह कर उन को छुड़ा दिया कि (सदीनो राजसेवक) वे तो दीन राजसेवक हैं । इसी प्रकार हमारे मित्र भी राजसेवक हैं और इस लिए उन के साथ हमारा कोई झगड़ा नहीं है । गवर्नमेंट बेंचिज पर बैठने के कारण उन को इस कर्तव्य का पालन करना पड़ा है । परन्तु दुर्भाग्य यह है कि यह कार्य सफल हो गया तो उस में सब का हिस्सा बराबर हो जायगा, लेकिन अगर वह बिगड़ गया, तो जो सामने होगा, वह मारा जायगा ।

.....कार्यसिद्धौ समंफलम् ।
यदि कार्य विपत्तिस्स्यान्मुखरस्तत्र हन्येते ।

यह कहा जायगा कि तुम्हारे ही कारण राष्ट्र और जाति पर इतना भारी उत्पात आया है । मैं निवेदन करना चाहता हूं कि इस बात के पक्ष में कोई कारण उपस्थित नहीं था कोई कह नहीं सकता कि मिताक्षरा पद्धति वास्तव में

हानिकर थी। मैं ने पिछली बार भी कहा था और आज फिर कहता हूं कि मिताक्षरा पद्धति की शरण कुछ मैमना मुसलमानो और खोजा बोहरा और पंजाब के टिवाना मुसलमानों ने भी ली है। जस मिताक्षरा पद्धति के द्वारा कुलगत सम्पत्ति को निरन्तर हज़ारों वर्षों तक हम आगे ले जा सकते थे, उस को हम ने अपने हाथ से खो दिया है। स्वतंत्रता प्राप्त करने के पश्चात हम को पूर्वजों के द्वारा प्रदत्त उत्तराधिकार की रक्षा करनी चाहिए थी, किन्तु हम ने ऐसा नहीं किया जो काम शत्रु हमारे लिए नहीं कर सकते थे, वह हम ने स्वयं कर दिया है। हम ने अंगरेज की कूटनीति को सफल कर दिया है। हमारा पड़ोसी देश अपने घर में इस्लामिक स्टेट कायम करता है और उस के कानून कुरान और हदीस के विरुद्ध नहीं हो सकते, लेकिन हम अभागे नास्तिकों के प्रभाव में आ कर अपने पूर्वज के विधि-विधान को, कानून को, बिल्कुल मन्सूख कर रहे हैं। कोर्ट्स जो कुछ डिस्कस करेंगे, जो भी निर्णय करेंगे, वे इस एक्ट के आधार पर करेंगे, मनु और याज्ञवल्क्य का कोई स्थान नहीं रहेगा। मैं समझता हूं कि आज हमारे कम्यूनिस्ट बन्धुओं को अत्यन्त प्रसन्नता होगी। उन का तो उद्देश्य और नियम ही यही है कि जब तक किसी राष्ट्र की वास्तविक संस्कृति को नहीं उड़ाया जायगा, जब तक किसी समाज के शाश्वत नियमों को बिल्कुल नहीं मिटाया जायगा, तब तक कहां कम्यूनिज्म पनप नहीं सकता है। मैं सारे के सारे कांग्रेसी बन्धुओं को इस विषय में दोष नहीं देता हूं। मैं जानता हूं कि आज उन में श्री भार्गव, श्री टंडन और श्री टेकचन्द जैसे बन्धु भी हैं जिनको कष्ट होता है और जिन्होंने स्थान स्थान पर इस का विरोध किया है, पर अन्ततोगत्वा वे अपने दल के अनुशासन के कारण विरोध नहीं कर सकें। फिर भी उन का मन सोलह आने इस में नहीं है।

यह बात भी बड़ी विचित्र है कि अभी यह विधेयक पास हुआ नहीं है, अभी देवियों को अधिकार आप दे नहीं सके हैं, पर आज ही इस में संशोधन का आमंत्रण आ गया है। यह कितने दुर्भाग्य की बात है कि अभी कानून पास हुआ नहीं, थर्ड रीडिंग अभी समाप्त नहीं हुआ कि यह विश्वास हो गया है कि इस में संशोधन किए बिना हमारा काम नहीं चल सकता है। मैं यह निवेदन करना चाहता हूं कि लाखों वर्षों से हिन्दू ला चलता आ रहा है, पर कभी उस के संशोधन की मांग नहीं हुई। आप उन लोगों के प्रभाव में आ गए और अपना पथ भूल गए जिनकी सभ्यता केवल पांच हज़ार वर्ष पहले पैदा हुई, जब कि मेरी सभ्यता—मेरा राम-राज्या—कम से कम आठ नौ लाख वर्ष पुराना है। आपको तो खाली मैक्समूलर ने पढ़ाया है मगर मुझे उनके गुरुओं ने पढ़ाया है जिन से कि मैक्समूलरने पढ़ा था आपको यदि जीवित रहना है तो आप यह मत कहिये कि १९५६ में क्या हुआ और बीसवीं सदी में क्या हुआ। मैं कहता हूं कि न तो सूर्य बदल गया, पृथ्वी बदल गयी न मुंह से रोटी खाना ही बंद होगया, उसी तरह मेरा कहना है कि जिस कार्य का लाभ अभी तक आपको प्रतीत नहीं हुआ उसका आगे चल कर क्या लाभ पंहुचने वाला है बल्कि मैं तो समझता हूं कि उस क्रम को बदल करके अपने सर्वनाश को आमंत्रित करना है। आज परिस्थिति यह है कि यहां विरोधी पक्ष में बैठने वालों का कोई बह नहीं है और यदि सारे के सारे विरोधी पक्ष वाले एक मत हो भी जांय तब भी कांग्रेस के भारी बहुमत के आगे हम खड़े नहीं रह सकते और वह अपनी मनचाही करवा लेंगे, यह ठीक है, परन्तु न्याय का अर्थ यह नहीं है, सत्य का अर्थ यह नहीं है और हम स्पष्ट रूप से कहते हैं कि जो धर्म और सत्य को तिरस्कृत करता है और जो अपने बल अथवा किसी के बाहुबल पर, जनबल पर, अथवा साम्राज्य बल पर सत्य असत्य की पर्वाह नहीं करता और अन्याय का मार्ग पकड़ता है तो यह बात निश्चित समझिये कि उसका पतन होता है। इसका स्पष्ट उदाहरण हमको महाभारत काल की राजनीति में मिलता है जब कि पाण्डवों ने श्रीकृष्ण महाराज की सलाह मान कर सिर्फ़ पांच गांव की ही मांग कौरवों से की थी और उसको दुर्योधन ने अज्ञानवश ठुकरा दिया था और जिसका कि दुष्परिणाम कौरवों को अन्त में भुगतना पड़ा। हमने भी इस विधेयक के सम्बन्ध में निवेदन किया था कि भले ही आप जितना ख़राब से ख़राब बिल बनाना चाहते हैं, बना लें,। लेकिन हिन्दू धर्मशास्त्रों से हिन्दू जाति का जो अटूट सम्बन्ध चला आरहा है उसको आप न तोड़ें और कभी न कभी तो अपनी भूल अनुभव कर हिन्दू जाति अपने घर पुनःलौट आयेगी लेकिन हमारी विनती को स्वीकार नहीं किया गया। मेरे बहुत से मित्रगण जिस मिट्टी और पत्थर की बनी दीवारों के घर को घर समझते हैं, मैं उस घर को घर नहीं मानता और वह घर नहीं रह गया अगर आपकी उसमें संस्कृति नहीं रही और आपका उसमें तत्व नहीं रहा और

[ श्री नंदलाल शर्मा ]

यदि आपका स्वरूत ही कायम नहीं रहा तो मेरी राय में वह "शवराज्य" हो सकता है, "स्वराज्य" नहीं हो सकता अगर उसमें स्वत्व न रहे ।

महाभारत का दृष्टान्त मैं आपको देने लगा था । दुर्योधन ने अंहाकारवश पांडवों और श्रीकृष्ण की बात नहीं मानी और पांच मांव देने से भी इंकार कर दिया और उसने यह कहा था :

"सूच्यग्रं नैव दास्यामि बना युद्धेन केशव ।।"

अर्थात् युद्ध के बिना मैं पांडवों को सूई की नोक बराबर भूमि भी नहीं दूंगा । उस का श्रीकृष्ण महाराज ने इस प्रकार उत्तर दिया था :

"एकाकी पादचारेण नो चेद्यास्यसि कौरव ।
मन्वाद्यो धर्मवक्तारस्तदास्युर्मद्यपायिन :।।"

भगवान श्रीकृष्ण ने कहा कि आज जो तू मेरी धर्मानुसार बात को नहीं सून रहा है तो अगर मैं ने तुझ को अकेला नंगे पैर भागते नहीं देखा तो मैं समझूंगा कि मनु आदि धर्म शास्त्रकारों ने मदिरा पी कर धर्मशास्त्र लिखे होंगे । मैं आपसे निवेदन करता हूं कि यदि आप देवियों को वास्तव में कुछ अधिकार देना चाहते हैं तो मैं उसका विरोधी नहीं बशर्ते कि वह शास्त्र विरुद्ध न हो, मैं भी किसी देवी के पेट से पैदा हुआ हूं, मेरे भी घर में किसी देवी ने जन्म लिया होगा, मैं भी किसी देवी का भाई हूंगा और कोई स्त्री भी होगी इसलिए आपको इस ढंग से विचार नहीं करना चाहिए कि हम देवियों को कोई अधिकार नहीं देना चाहते । मुझे इस बात का खेद है कि हम लोगों को तंगदिल और संकुचित विचार वाला कह कर देवियों का विरोधी कहा जाता है जब कि हम जगदम्बा के सबसे बड़े उपासक हैं परन्तु हमारा विरोध इस विधेयक के सम्बन्ध में इसलिए है क्योंकि हम देख रहे हैं कि आपने उन देवियों के लिए सर्वनाश के बीज बो दिये हैं, उनकी उन्नति के बीज नहीं बोये हैं । अगर सचमुच आपने उनको किसी प्रकार से और कोई डिवाइस जो भी इंटेस्टेट बसक्सेसेशन में उसको जो स्वाभाविक हिस्सा प्राप्त होने वाला था वह दे दिया होता तो मैं कहता कि स्पष्ट प से आप सत्यवादी हैं और जो प्रतिज्ञा आपने की थी उसको आपने निभाया परन्तु आपने उसमें संशोधन को स्वीकार करके देवियों के अधिकार को काफ़ी कम कर दिया और हम देख रहे हैं कि उसके द्वारा देवियों को कोई अधिकार प्राप्त नहीं हुआ है ।

जहां तक आपकी यह युनिफ़ार्मिटी लाने की बात है उसके बारे में मेरा निवेदन है कि जिस देश में जो धर्म, जो आचार परम्परा से चला आया है शासक को उसका वैसा ही पालन करना चाहिए और हमारे यहां कहा गया है :

देशधर्मन्जाति धर्मान्कुलधर्माश्वशाश्वतान्
यास्मिन्देशेय आचारः पारम्पर्यक्रमागतः ।
तथैवपारिपालयोड सौयथासवशमागतः ।।

जिस प्रकार का प्रजा का नियम हो शासक को उस नियम का वैसा ही पालन करना चाहिए और उसमें किसी प्रकार का हस्तक्षेप नहीं करना चाहिये । अंग्रेजों ने यह चीज सन् १८५७ के बाद समझी । मैं कहता हूं ईश्वर न करे कि १९५७ आपको देखना पड़े क्योंकि मैं बाहर सुनता हूं कि १९५६ ए० और १९५६ बी इस तरह की शब्दावली है और १९५७ आप कहना नहीं चाहतें । आप जनता की हार्दिक भावनाओं पर यह केवल सेंटिमेंटलिज्म है, ऐसे कह कर आघात कर रहें हैं और यह चीज निश्चित समझिये कि उनके ऊपर धक्का मारना अपने को धक्का मारना है और मेरा यह विश्वास है :

"यास्यतिजलधरसमयः तवचसमृद्धिर्लधीयसी
भाविता तटिनितट द्रुमपातनपातकमेकं
चिरस्थायी ।।

हमने आपको ऐसी पदवी पर बिठाया है, मैंने व्यक्तिगत रूप से भले ही न बैठाया हो परन्तु मैं उस दल में कभी नहीं था जो दल आपको गिराने वालों में था, मैं अपनी बात कह रहा हूं, और इसीलिए मैं यह शब्द कहता हुं कि हिन्दु जाति ने, गंगा, यमुना में स्नान करने वाली और चंद्रग्रहण और सूर्यग्रहण के अवसरों पर तीर्थों पर जाने वाली हिन्दु जाति ने, जिसको कि आप मूढ़ाग्रही कहते है, उस हिन्दु जाति के लोगों ने आपको इस उच्च पद पर आसीन किया है, उसी तटवर्ती पेड़ को आप आज उखाड़ने बैठे हैं । याद रहे कि यह वर्षा के दिन तो बीत ही जायेंगे परन्तु अपने तटवर्ती पेड़ को उखाड़ने का कलंक सदा के लिए आपके मत्थे पर लग जायगा । मेरा इतना ही निवेदन है कि आप समझ बूझ कर आगे बढ़े और हिन्दु जाति का विच्छेदन न करें और शास्त्र विरोधी कार्य न करें, इसको छोड़ कर आप चाहे कुछ भी करें, स्याह सफ़ेद कुछ भी करें, मैं अपनी ओर से आपको ब्लैंक चैक दे दूंगा कि आप जो चाहें परिवर्तन कर लीजिये । इन शब्दों के साथ मैं इस बिल का विरोध करता हूं ।

**Shrimati Renu Chakravartty:** Mr. Speaker, with the passing of the Hindu Succession Bill, we shall be ending one phase in the struggle for seeking to have equal social rights for women. The House will excuse me if I introduce just a small personal note. Many of us became interested in public affairs with the beginning of the agitation in favour of the Rau Committee. That is why, after so many years, when at least this Bill is being passed into law, we feel happy. I do not hide my disappointment at the way this Bill has finally emerged. But, at the same time, I think it is totally wrong to say that we have gained nothing at all. It is a step in the right direction ; a very small step, but it is certainly a victory over all those people who, as we have just heard, counsel despair and who prophesy the end of all that is good and civilised in our ancient culture. I am a communist. But, at the same time, I am as much an embodiment of the old culture as my hon. friend Nand Lal Sharma. I do not bow before him and say that he has the monopoly of all that is good and we who want changes in keeping with the times, decry all that was good.

I was very much interested when, on clause 2 of the Bill, I think my hon. friend Shri V. G. Deshpande said that Brahmos must be included, they are recognised as part of the Hindu Samaj. I remember the times of my grandfather when they became Brahmos, we were absolutely thrown out of the Hindu society. Nobody would come anywhere near us. When we went anywhere we were asked to sit aside because we had gone against the dharma. Naturally, when certain changes come to be made, it takes time for the people to accept that that is the correct thing. I appreciate the feelings of certain people who are upset because once we have changed certain conceptions, once we have accepted that women have a right to property and we have accepted the principle that she is capable of looking after that property, it will take some time for them to get used to it. That is why I see in this Bill, although it is a very small and circumscribed measure, something to begin another journey and that journey is for the attainment of a universal uniform code for the whole of India. Especially I would like to say that I would have been much happier if the Cabinet had not accepted the Bill as it was introduced by Shri Biswas making a complete change from the Rau Committee's recommendations. If we had had that, then many of the complications and illogicalities that have developed in the course of passing this Bill would not have been there. The Rau Committee's recommendations were there before the country. It is true there was a lot of opposition to them. There is no doubt about it. But there was also opposition when we passed the Child Marriage Restraint Act. There was opposition, and wild opposition as a matter of fact, when we passed the Widow Remarriage Act. At the same time, there were lots of people who also supported it. That is why I feel if we had stuck to that position, we would have done much better. At the same time I would like to say that we have accepted the principle of equal right to the daughters in inheritance. That is a big acceptance. And secondly, we have also given her absolute right to property. These are two principles that have been accepted. Now, how in fact to gain that right is something that has still to be fought out, and we hope in time when the first shock of things abate and our fathers and brothers realise that women will not just ruin the family, when they realise that things are not going to come to a dead end just because daughters are inheriting, I am sure there will be time again to change certain clauses in the Bill and take a step forward towards a uniform code.

Then I would like to say that I do not believe that inheritance gives us automatically emancipation. I am not one of those who think so. I think it does remove some of the anomalies but for emancipation and for enhancing our status, we women have also to do certain other things, and that is why I myself have brought forward an equal remuneration Bill giving the right of equal pay for equal work. I also advocate and many women want and desire the removal of discriminations in jobs. We want that we should have equal opportunities of participating in social production. We want all these things to happen. With them this Succession Bill will also be one step in the right direction. It is with this idea that I am happy that the Bill is passed though as it has finally emerged naturally it falls far short of our expectations. I feel that the task of us women remains. We have to go on educating public opinion, we

[Shrimati Renu Chakravatty]

have to educate ourselves, because in this House itself we have seen that those who have been prisoners of circumstances, of society, often begin to think that the shackles themselves are ornaments. That is why we have to educate ourselves and educate our men folk also.

Lastly, I would like to thank especially my brothers of the Dayabhag school. I have been very much impressed by the fact that almost every Member of the Dayabhag school has unequivocally supported giving equal share to the daughter although it is they who will really suffer in the sense that the largest portion of their patrimony will be taken away from them and will be given to the daughters.

I think it is a step in the right direction and I hope that we shall ere long go forward to a universal and uniform code.

**श्री टंडन** (जिला इलाहाबाद—पश्चिम) : अध्यक्ष महोदय, इस विधेयक के सम्बन्ध में पहले भी मैं ने अपने कुछ विचार निवेदन किये हैं । अब इस के ऊपर अन्तिम बात कहनी है । जिस रूप में यह अब स्वीकार हुआ है मुझे वह ठीक नहीं लगता । मैं न श्री पाटस्कर जी को बधाई दे सकता हूं और न उन का साथ दे सकता हूं। जिस रूप में यह बिल है उस का विरोध करता हूं । मुझ को यह काम बहुत अशुद्ध लगता है । अशुद्ध बात कहीं से आये, किसी अपने सहयोगी की ओर से आये, अपने दल की ओर से आये तो भी वह स्वीकार्य नहीं हो सकती । मैं ने पहले भी अपने भाइयों से कहा था कि कुछ स्वतंत्र रूप से इस विधेयक पर विचार करने की आवश्यकता है । कुछ बहनों, जैसे हमारी बहन श्रीमती रेणु चक्रवर्ती जी ने इस के सम्बन्ध में कहा है कि यह आगे बढ़ने की, उन्नति की, एक सीढ़ी है । मैं नहीं जानता कि कैसे यह उन्नति की सीढ़ी उन को दिखलाई पड़ी । हमारी देवियां चर्चा करती हैं औरतों और पुरुषों की बराबरी की । उन को यह अच्छा लगा कि इस में कोई बराबरी की निशानी आई। क्या बराबरी की निशानी आई ? उन्होंने नहीं देखा कि हमारे समाज में बराबरी की निशानी इस के पहले क्या थी, स्त्रियों को क्या क्या अधिकार हैं जिस बराबरी के अधिकार की उन्होंने पश्चिम से कुछ चर्चा सीखी उसमें जनमत में वोट देने का अधिकार है, उस अधिकार के लिये पश्चिम में स्त्रियों को कितना लड़ना पड़ा है ? और आज भी मुझ को सन्देह है कि किसी किसी देश में यह अधिकार नहीं है ।

**पंडित ठाकुरदास भार्गव** : स्विजर लैंड म भी नहीं है ।

**श्री टंडन** : क्या किसी ने भी उस का विरोध यहां पर किया ? जब हमारे देश में उस की पहले पहल चर्चा हुई, किसी के कान पर जूं नहीं रेंगी, सब पुरुषों ने उस को एक स्वर से स्वीकार किया । पुरुष और स्त्री के अन्तर की जितनी चेतना उन में है, हर समय एक एक बात में यह कहना कि पुरुष और स्त्री बराबर बराबर हैं यह चेतना हमारे यहां नहीं रही है परन्तु हमारे यहां स्त्रियों का सम्मान बहुत ऊंचे स्तर पर आधारित रहा है । उन्होंने कहा कि मैं भी अपने देश की जो प्राचीन मर्यादा है, जो प्राचीन क्रम है, उस को मानने वाली हूं। परन्तु इस बात को स्वीकार करते हुए भी उन्होंने यह बड़ी आवश्यक बात मानी कि लड़की को मृत पिता की जायदाद में अधिकार हो । इस को उन्होंने एक आग की सीढ़ी बतलाई । क्या यह उस से ऊंची सीढ़ी नहीं है कि हम ने अपनी स्त्रियों का अधिकार अपने तंत्र में माना ? क्या कभी आप ने देखा कि हमारे यहां उन को तंत्र में क्या अधिकार हैं ? वे कितने ऊंचे से ऊंचे पद लेती हैं, कितने प्रेम के साथ हम उन को बराबरी में रखते हैं ? लड़कियों का जो प्रश्न है, उस के सम्बन्ध में लड़की को पिता की जायदाद में क्या मिलता है, इस को कुंजी या कसौटी बता देना इस बात की कि स्त्रियों का क्या आदर है, क्या अनादर है, यह मुझ को उचित नहीं लगता ।

यह एक छोटी सी बात थी । उस का जो विरोध हुआ उस में कोई आदर और अनादर का प्रश्न नहीं, फिर आप ने उस में जीता क्या ? विधवा पत्नी भी तो स्त्री थी । उस की जायदाद में से छीन कर एक हिस्सा लड़की को दिया । विधवा पत्नी को सब से अधिक रक्षा की आवश्यकता होती है । पति मरने के पश्चात् पहली आवश्यकता होती है विधवा पत्नी की । आज हिन्दुओं में सब विरादरियों के कुटुम्बों में यह क्रम है जो विधवा होती है उस के चरणों पर कुछ भेंट रक्खी जाती है । इसीलिये कि सब को उस की रक्षा का ध्यान रहता है । उस के चरणों में हिन्दु मात्र के यहां यह प्रथा है कि कुछ भेंट किया जाय । उद्देश्य इस का यही है कि विधवा के पास कुछ धन इकट्ठा हो जाय । तो पति

की जायदाद में जितना उस का अंश था वह रखने के योग्य था बल्कि और बढ़ाने के योग्य था । मैं ने पहले भी निवेदन किया था कि आप उस को अधिकार दीजिये, रक्षा की आवश्यकता लड़की को नहीं है, स्त्रियों में से अधिक आवश्यकता विधवा को होती है । मैं पूछता हूं कि आप ने उस विधवा की क्या रक्षा की ? विधवा को जितना भाग अपने पति की सम्पत्ति में मिलना था उस को भी आप ने घटा दिया । वह बहुत घट गया, फिर उस में से कुछ आप ने लड़की को दे दिया । मैं इस बात को स्पष्ट कर देना चाहता हूं कि जो विरोध और भय है वह इस बारे में है कि इस प्रकार से कुटुम्ब का विच्छेदन होगा। एक कुटुम्ब का अधिकार दूसरे कुटुम्ब में आ कर पड़ता है । लड़कियां प्यार की वस्तु हैं । परन्तु साथ ही साथ यह भी है कि जब उनकी शादी हो जाती है तो कभी कभी दो दो तीन तीन और चार चार वर्ष तक भेंट नहीं होती है, अपने माइके नहीं आ सकती हैं, यह एक साधारण सी बात है । शादी हो जाने के बाद वे उस कुटुम्ब का अंग नहीं रह जाती हैं ।

मैंने पहले भी कहा था कि इस विधि का परिणाम यह होगा गांव गांव में तथा छोटी से छोटी जमीन के लिए झगड़े बढ़ेंगे और जिन कुटुम्बों में व्यापार चलता है उन कुटुम्बों में भी कठिनाइयां उत्पन्न हो जायेंगी । इन सब बातों को देखकर मेरे ऊपर यह असर होता है कि इससे स्त्रियों का जो मान है न तो उसमें वृद्धि होती है और न जो उनके अधिकार हैं उनमें ही कोई वृद्धि होती है और न ही उनकी आत्मनिर्भरता की चेतना में कोई अन्तर पड़ता है । जो आपने माता को ऊंचा दर्जा दे दिया है, इसका मैं स्वागत करता हूं और यह बात मुझे बहुत अच्छी लगी है । परन्तु विधवा स्त्री के अधिकारों में जो कमी कर इसमें स्त्रियों को कोई जीत प्राप्त हुई है, इसको मैं नहीं मानता हूं । केवल इसलिए कि इस विधेयक में लड़की का नाम आ गया है इस लिए हमें प्रसन्नता होनी चाहिये इसको मैं नहीं मानता हूं । लड़की को देना लेना आज भी होता है और आगे भी होता रहेगा । परन्तु दूसरे कुटुम्ब का हस्तक्षेप जहां पर कि लड़की की शादी हुई होती है, यह मुझे अच्छा नहीं लगता । इस वास्ते मैं इस बिल का स्वागत नहीं करता हूं । जैसा मैंने पहले कहा, मुझ पर इसका कोई अच्छा असर नहीं हुआ है । मैं नहीं समझता कि श्री पाटसकर जी ने हमारे समाज के लिए कोई बहुत अच्छा काम किया है और इस वास्ते मैं मंत्री महोदय को तनिक भी बधाई नहीं देता हूं । इस के विपरित मेरी यह निश्चित धारणा है कि उन्होंने एक ऐसा काम किया है जिस से हमारे समाज को हानि होने वाली है, समाज की अवनति होने वाली है । इस कारण में इस बिल का निश्चित रीति पर तथा बलपूर्वक विरोध करता हूं ।

**Shrimati Ammu Swaminadhan :** I won't take up much of the time of the House as it is very late. But, I felt, I should say a few words.

First of all, I congratulate the Minister of Legal Affairs on the patience he has shown and the hard work he has put in in piloting this Bill. I know he has had a very very difficult task. But he has always been patient and he has been hearing the views of people in this House without ever showing any trace of impatience. I am happy that this Bill has gone through. But I am one of those who feel that it does not go far enough. I am also amazed that some hon. Members who have spoken against this Bill have also said that this Bill does not give very much property rights to women. They themselves say that women should not be given equal rights with their brethren in the father's property. I do not understand how one reconçiles the other.

I was rather surprised that Shri Tek Chand, who, I know, is a very eminent lawyer, also said that women were not getting many rights even after this Bill were passed and became law, and that women had better rights under the old Hindu society. I beg to differ from him. I am not a lawyer, as I said before. But I do feel that women have had a very poor deal in Hindu society for many years. It is true that in some families, they were treated well, with honour and with dignity. But a great number of Hindu women have suffered because they did not have equal rights. They have suffered from many disabilities.

**Shri Nand Lal Sharma :** That was due to the poverty of the country as a whole.

**Shri Ammu Swaminadhan :** I feel that this Bill goes a long way in making women feel that they also have an equal place in society in India. The

[Shri Ammu Swaminadhan]

chief thing is that women should be made to feel that they are responsible members of society and they are not merely wives of some persons who happen to be rich men or widows of some persons who were rich men. They should be made to feel that they have rights on the father's property in the same way as the brothers have.

With regard to women not looking after the property or of their not being fully conscious that the children should have a fair deal, I am very much surprised that some hon. Members should have said this. I think women have always felt more responsibility for the welfare of the children than men. Fathers do feel affection for the children but they do not feel the responsibility that mothers feel. If a girl inherits property from her father and then later on from her husband, it is not for herself that she wants to inherit this property but it is to see that her children are looked after properly and they have some security later on. She should be given a share in the father's property so that she will be honoured by everybody and she will have a distinct place in society.

I do not agree with the hon. Member, Pandit Thakur Das Bhargava when he said that the woman, the moment she marries should inherit part of the father-in-law's property. That, I feel, is a lot to expect just now in our society. I feel that it is much more natural for daughters to inherit the father's property and have equal shares in the father's property than in-father-in-law's property. I feel sure that later on, when she has been long in that family or, if, by ill-luck, she becomes widow, then, she gets a share in the property of the father-in-law. But, we cannot expect a new wife who comes into the family of the father-in-law to get a share in his property. I think it is rather too much to expect in our society.

I feel happy that, in spite of certain disabilities which will still be prevailing and in spite of the fact that so many of our lawyer Members are afraid of litigation coming on, this Bill is coming through. I feel that if we all work for a better society, we would not have so much of litigation. Why don't we think of affection ? Why don't we think of parents having proper regard for their children and not only in terms of there being quarrels between brothers and sisters or the mothers and daughters ? Let us think of society which is ruled by affection and regard for each other, and, I am sure there will be not much litigation as some of our friends fear.

I feel today we can be pleased that this Bill has come through. I also feel that this House has to be congratulated on passing this rather difficult and controversial Bill. Once again I congratulate the hon. Minister of Legal Affairs for the extreme patience that he has shown and for the great work that he has put in.

**श्रीमती सुभद्रा जोशी** : मैं भी अपन कुछ दसरे आनरेबल मैम्बर्स (माननीय सदस्यों) के साथ आपना यह फर्ज समझती हूं कि ला मिनिस्टर साहब (मंत्री महोदय) को इस बात के लिए बधाई दूं कि आखिरकार उन्होंने एक बहुत ही मुनासिब कदम उठाया और इस बिल को पास करवाया । हमारे कुछ आनरेबल मैम्बर्स ने कहा कि इस बिल का क्या बना दिया, बन्दर बना दिया है। मैं समझती हूं कि उनके हाउस (सभा) में होत हुए शायद इससे बेहतर चीज़ नहीं बन सकती थी । मुझे उम्मीद है कि अगली दफा जब हमारे ला मिनिस्टर (विधि मंत्री) साहब या दूसरे मैम्बर (सदस्य) साहिबान कोशिश करेंगे तो इससे और भी बहतर चीज़ बनाने में सफल हो सकेंगे ।

मुझे इस बात का बहुत अफसोस हुआ कि इस बिल पर बहस के दौरान में कुछ मैम्बर साहिबान की तरफ से हमारी बहनों के बार में, भारतीय स्त्रियों के बार में और खास तौर पर उन बहनों के बारे में जो इस बिल को सपोर्ट (समर्थन) कर रही थी, बहुत ना-मुनासिब (अनुचित) बातें कही गईं । अगर इस बात की कोशिश की जाएगी कि पश्चिम का नाम लेकर हमारे दिल में खौफ पैदा किया जाए या हमें डराया जाय या हमें लेखा दिया जाये या एक अच्छी बात को भी नामुनासिब होने का हमें यकीन (विश्वास) करवाया जाए, तो इसे मैं मुनासिब नहीं समझती हूं । मुझ को इस बात का भी बहुत रंज हुआ और मैं चाहती थी कि इस बिल पर डिबेट (वाद-बिबाद) खत्म होने से पहले मैं उस रंज का इजिहार कर दूं । आदरणीय टंडन जी ने तितलियां वगैरा तथा कनाट प्लेस के बारे म कुछ ऐसी बातें कही हैं जिनको सुन कर मेरे दिल को सख्त चोट पहुंची है । दूसरे तीसरे दिन जब उन्होंने उसका जवाब दिया तो उस वक्त उन्होंने बात को और भी खराब कर दिया । उन्होंने कहा कि हमारी

बहने कनाट प्लेस में भोग विलास का ज्यादा ध्यान रखती हैं तथा दूसरी चीजों का कम । मैं नहीं समझती कि यह बात कोई बहुत अच्छी बात थी जो उन्होंने बहनों के बारे में कही । इस बात को सुनकर मुझे रंज हुआ । मुझे इस बात का यकीन है कि मारेल्स (नैतिकता) का या अच्छी तरह से रहने का कपड़ों से बहुत ज्यादा सम्बन्ध नहीं है और शायद बहुत कम ही सम्बन्ध है ।

मैं ऐसे बहुत से लोगों को जानती हूं, जो बहुत सीधे-साधे ढंग से रहते हैं बड़ी अच्छी मूर्ति दिखाई देते हैं पर अच्छे वस्त्रों के पीछे भीषण कार्य करते हैं । इस के मुकाबले में मैं ऐसे कई भाई और बहनो को जानती हूं जो कि बहुत फैशनेबल समझी जाती हैं, लिप-स्टिक लगाती हैं । लेकिन वे बड़ी सीधी, शरीफ और मुनासिब हैं । मैं यह निवेदन करना चाहती हूं कि कपड़ों या कहीं घूमने से इस विषय का बहुत कम सम्बन्ध है । अगर कोई व्यक्ति अपनी स्थिति का फायदा उठा कर इस प्रकार की बात कहे, तो वह मुनासिब नहीं है । जो इस बिल को सपोर्ट (समर्थन) करते हैं, अगर उन के लिए कोई नामुनासिब बात कही जाय, जिससे उन के बारे में किसी प्रकार का रिफलेक्शन पड़े, (सन्देह उत्पन्न हो) मुझे यह अच्छा नहीं मालूम होता है । मैं अपने ला मिनिस्टर साहब को यह यकीन दिलाना चाहती हूं कि हम को इस बात का गर्व है कि हम इस बिल के साथ पाटस्कर साहब का नाम जोड़ना चाहते हैं । हमें इस बात का अहसास है कि इस बिल में वे तमाम बातें नहीं हैं, जो कि होनी चाहिए थी, लेकिन फिर भी वह एक मुनासिब और प्राग्रेसिव (प्रगतिशील) रास्ते पर एक कदम है, जिससे लड़की को अपने बाप की सम्पत्ति में अधिकार मिल रहा है । इस बात की हम को बहुत खुशी है । यह एक बहुत बड़ा कदम है । मैं यकीन दिलाना चाहती हूं कि हिन्दुतान की भावी सन्तान—चाहे वे लड़के हों या लड़की—पाटस्कर साहब का नाम बड़े आदर के साथ लेंगी । मुझे पूरा यकीन है कि उन भाई-बहिनों के घरों में जो स्त्रियों की उन्नति के लिए या दूसरे गिरे हुओं की उन्नति के लिए काम करेंगे, पाटस्कर साहब की मूर्ति रहा करेगी । वह मूर्ति, वह तस्वीर, कोई ऐसी वैसी नहीं होगी । वह तस्वीर कंस का संहार करते हुए कृष्ण की तस्वीर की तरह होगी, क्योंकि उन्होंने एक तरह से पुरानी मूर्तियों—पुराने अन्ध-विश्वासों का संहार करने की कोशिश की है । इस बात का हम सब को बहुत गर्व है । मैं उन को यकीन दिलाना चाहती हूं कि बावजूद इतने विरोध के जिस सब्र के साथ और जिस मेहनत के साथ उन्होंने यह बिल आगे बढ़ाया है, यह महत्वपूर्ण कदम उठाया है, वह सचमुच उन के और हमारे दोनों के लिए मुबारकबाद का मौका है ।

इस बारे में बहुत सी बातें कही गई हैं । कहा गया है कि इस बिल से समाज का नुकसान होगा और आज तक हिन्दु ला में तब्दीली करने की जरूरत नहीं पड़ी । हमारे एक आनरेबल मेम्बर ने कहा कि आज तक उस में कोई संशोधन नहीं हुआ है, कोई बात नहीं बदली गई है । इस बारे में मैं सिर्फ यह कहना चाहती हूं कि.

It is only fools and duds who never change their minds.

अगर आज हम को अपने समाज में कोई कमी नजर आई है, तो आज हम ने उस को बदलने की कोशिश की है । अगर कल कोई और कमी नजर आई तो कल कोई और तब्दीली (परिवर्तन) की जायगी । अगर कोई कमी परसों नजर आई, तो परसों फिर मुनासिब तब्दीली करने की कोशिश की जायगी, क्योंकि हम चाहते हैं कि हमारा समाज और हमारा देश रोज रोज एक एक कदम उठा कर तरक्की करे और स्त्रियां भी जो कि हमारे समाज का एक अंग हैं बराबर तरक्की करें ।

आखिर में मैं एक बार फिर ला मिनिस्टर साहब को बधाई देती हूं और उन को यकीन दिलाती हूं कि हिन्दुस्तान की भावी सन्तान हमेशा उन की कृतज्ञ रहेगी ।

**Shrimati Sushama Sen :** I rise to join in congratulating the hon. Minister of Legal Affairs for having so ably piloted this Bill, this very difficult Bill, through this Parliament. As we all know, the old Hindu law was one-sided and there have been long disputes; many committees and commissions have considered this point, and it is only today that this elected body, this Parliament, has been able to get through this difficult measures enacted. Of course, there may be some defects still and it is only time that will prove whether there are any defects or not in it. I do not agree with those who are pessimistic and throw cold water by saying that this Bill contains so many defects that women will not get their due share. I must say that we have progressed and surely on the right path. I do congratulate the hon. Minister of Legal Affairs for having piloted this Bill so ably.

[Shrimati Sushama Sen]

One word more. I think that in independent India, we must inspire the rising generation, the young men and women of new India, that they should learn to share their ancestral property in order to achieve real success in life. Besides, from the trend of thought and society, there will not be much property left. But anyway, we have gone in the right track and I am sure that the women will gain and will not lose as is the opinion of some of my friends here. With these words, I congratulate the hon Minister.

**पंडित ठाकुर दास भार्गव** : कई बरस हुए इस हाउस (सभा) में हिन्दु कोड बिल आया था और उस मौक़े पर (समय) में ने एक तजवीज़ (सुझाव) पेश की, जिस को में आज तक पेश करता रहा हूं। हाउस (सभा) को यह मालूम होना चाहिए कि कुछ आदमियों को री-एक्शनरी (प्रतिक्रियावादी) कहने से और कुछ लड़कियों को बहुत आगे चलने वाली कहने से हम किसी सवाल को हल नहीं कर सकते हैं। हम इस बात की कोशिश करते रहे हैं कि जो मामला हमारी बहिनों और बेटियों से ताल्लुक (संबंध) रखता है और इस लिहाज़ से वह उन के भाइयों और बापों से भी ताल्लुक रखता—यानी उस का ताल्लुक सब लोगों से है—उस में किसी झगड़े की नौबत न आए। हमारा देश बहुत बड़ा है और वह किसी एक कानून के मातहत नहीं रहा है। जैसा कि अभी हमारी बहिन श्रीमती अम्मू स्वामीनाथन् ने कहा, साउथ (दक्षिण) में एलिया संतानम् और मरुमकतायम का सिस्टम (पद्धति) रहा है, जहां लड़की को लडक़े के मुकाबले में ज्यादा हक़ूक (अधिकार) हासिल रहे हैं। वहां पर कई एक बिरादरियां ऐसी भी हैं, जिन में लड़की अपने खाविन्द (पति) को व्याह कर अपने घर में ले जाती हैं। नार्थ (उत्तर) में एगनैटिक थ्योरी फैली हुई (पितृ बान्धव्यका सिध्दान्त) है। पंजाब में एक ऐसी कस्टम (प्रथा) इवाल्व (बन) हो गई थी, जो कि एगनेटिक थ्योरी पर बेस्ड (आधारित) थी। इस हालत में अगर श्रीमती स्वामीनाथन मेरी मैन्टेलिटी (आशय) को न समझ सकें जब मैं यह कहूं कि विवाहिता लड़की को हिस्सा न मिले, तो उन का कोई कसूर नहीं है, बल्कि उस सिस्टम (पद्धति) का कसूर है, जो कि नार्थ (उत्तर) में मौजूद है। दनिया का—युरोप का—को ईभी मुल्क बताया जाय, जिसमें औरतोंको इस तरह के हक़ूक (अधिकार) शुरू से हों जिस तरह से आज हमारे देश में हैं। यह कह देना बड़ा आसान है कि हम रीएक्शनरी हैं हम आगे नहीं चले और यहां की औरतें बड़ी तक्लीफ में हैं और उन को कोई हक हासिल नहीं है। इंगलैण्ड में १८८३ में ही मैरिड विमैन्ज़ प्रापर्टी एक्ट पास हुआ था। मुझे अभी तक याद है कि स्विट्ज़रलड में मेरी मौजूदगी (उपस्थिति) में वहां के स्पीकर साहब ने अपनी लड़की के सामने गुफ्तगू (बातचीत) के दौरान में कहा कि हम औरतों को वोट (मतदान) का अधिकार नहीं देना चाहते हैं। हर देश की अपनी अपनी प्रथा होती है। जिस वक्त हम ने अपना कांस्टीच्यूशन (संविधान) बनाया हम ने औरतों और मरदों को हक़ूक को बराबर मान लिया। जैसा कि अभी श्री टंडन ने फरमाया, वोट के बारे में कोई झगड़ा नहीं हुआ और औरतों और मरदों को बराबर वोट का अधिकार दिया गया। उस के बाद कांस्टीच्यूशन में औरत और मरद के दरमियान किसी किस्म की तमीज़ (भेद) नहीं की गई, बल्कि उस में एक सैक्शन (धारा) रखा गया कि यकसां (समान) काम की उजरत (वेतन) औरत और मरद (स्त्री और पुरुष) को यकसां मिलेगी और इस के अलावा उस में यह कहा गया (जिसकी चर्चा यहां पर हर रोज़ होती है) कि सैक्स (लिंगभेद) की बिना (आधार) पर कोई तमीज़ (भेद) नहीं की जायगी। उस उसूल (नियम) से हम भी कमिटिड (बद्ध) हैं। जहां तक औरतों के हक़ूक का सवाल है, हम किसी से पीछे नहीं हैं। हां, हमारे रास्ते मुख्तलिफ़ (भिन्न) हो सकते हैं। हो सकता है कि मैं किसी दूसरे रास्ते से बहिनों और बेटियों को हक़ूक देना चाहूं। पंजाब, यु० पी० और बिहार के लोग चाहते हैं कि उन के पुराने सिस्टम में डिस्टर्बेन्स (गड़बड़ी) न हो। हम लोग औरतों को कहीं ज्यादा हक़ूक दिलाना चाहते हैं। उन से जो इस बिल के जरिये मिले हैं। हमारी बहिनों को जो हक़ूक मिले हैं, वे पूरे नहीं हैं—उन को इस बिल से बराबर के हक़ूक नहीं मिले हैं। मैं चाहता हूं कि बहिनों को बराबर का हक मिले। मैं चाहता हूं कि एक लड़के और उसकी बीबी (पत्नी) को बराबर के अधिकार मिलें। मैं यह चाहता हूं कि खाविन्द और बीबी में कोई किसी किस्म की तमीज़ जायदाद व इकोनिमिक हक़ूक में न रहे और उन को बिल्कुल बराबर हक़ूक मिलें। अगर मेरी तजवीज़ (सुझाव) पर अमल किया जाता, तो औरतों को इसी बिल में बहुत ज्यादा हक़ूक मिल जाते।

7 P.M.

मैं अब भी यह अर्ज करता हूं और बतलाना चाहता हूं कि यह कोई नई तजवीज नहीं और चार बरस हुए मैंने इसे यहां पर पेश किया था और उसके बाद भी कई मर्तबा (बार) मैं इसें यहा रख चुका हूं और जनाबेवाला (श्रीमान) आप इसके आथर (लाने वाले) हैं और कोई आपकी आथरशिप को माने या न माने लेकिन आपने इस तजवीज को पेश किया था और बख्शी टेक चन्द्र ने, डा० पट्टाभिसितारा-म्मिया ने तथा दूसरे बहुत से लोगों ने इसे पसन्द किया था जहां तक हमारे पंजाब, यू० पी० और बिहार का ताल्लुक है, बहुत ज्यादा लोग इसके हक़ में हैं। मैं बार बार इस चीज को यहां पर कह चुका हूं और हमारे डिप्टी स्पीकर साहब जो यहां पर बैठे हुए हैं और जो सिख कम्युनिटी को रिप्रिजेंट (प्रतिनिधान) करते हैं उन्होंने भी इस चीज को पसन्द किया है। मैं अदब से अर्ज (निवेदन) करता हूं कि इस चीज को पंजाब के जितने भी मैम्बर साहिबान हैं वे पसन्द करते हैं। हम सब इसे इस वास्ते पसन्द नहीं करते कि हम औरतों को कोई हकूक देना नहीं चाहते। यह गलत बात है। मैं बारबार कह चुका हूं कि इस किस्म का जो इल्जाम (आरोप) हमारे खिलाफ लगाया जाता है कि हम उनको हकूक देने के खिलाफ हैं यह बेबुनियाद (निराधार) है। हम चाहते हैं कि हमारी बहिनों और हमारी बेटियों को बराबर के हकुक मिलें। लेकिन इन हकूक को देने का जो तरीका है वह दूसरा होना चाहिये। मैं इस चीज को दोहराता हूं कि जिस तरह से आपने किया है उससे पंजाब में तथा दूसरे हिस्सों में बहुत ज्यादा डिससेटिसफेकशन (असंतोष) फैलेगी। इस बिल का जब लोगों को पूरी तरह से पता चलेगा तो मैं आपको बतलाना चाहता हूं कि छोटे छोटे जमीन के टुकड़ों के लिए तथा छोटे छोटे मकानों के लिए जब दामाद अपना हिस्सा मांगेगा तो बहुत सख्त तकलीफ होगी। यह तकलीफ इतनी ज्यादा होगी कि इसका अंदाजा भी नहीं लगाया जा सकता। मैंने पंजाब के अन्दर देखा है कि जब कभी लड़कियों के साथ बहन या लड़कियों की औलाद गांव में आती है तो जब तक गांव वाले उन्हें निकाल नहीं देते तब तक दम नहीं लेते। ऐसे केसिस (मामलों) में मैंने मर्डर (कत्ल) होते हुए देखे हैं तथा मुकद्दमे चलते हुए देखे हैं। आपने जो मैरीड डाटर (विवाहित पुत्री) को हिस्सा देने की बात कही है मैं इसको कबूल नहीं करता हूं और मैं समझता हूं कि आने वाले वक्त में आपको इसमें तरमीम (सुधार) करनी ही पड़ेगी और आपको इस बात को मानना ही पड़ेगा कि मैरीड डाटर को उसके पिता की सम्पत्ति में हिस्सा न मिले और अनमैरीड (अविवाहित) डाटर को मिले तथा ससूर की जायदाद में उस के लड़के व वीवी को बराबर के हकूक मिलें जिस के अन्दर किसी किस्म की इनक्वैलिटी नहीं है, बल्कि इक्वैलिटी है।

आज मैं देखता हूं कि मेरी बहनें खुश हैं। मैं भी खुश हूं और उनकी खुशी मे मेरी भी खुशी है। आज कांग्रेस ने तथा कांग्रेस के लीडर्स (नेताओं) ने जो एक वर्ड आफ आनर (वचन) दिया था कि जहां तक औरतों के हकूक का ताल्लुक (संबंध) है, उनको बराबर के हकूक मिलेंगे, वह कुछ हद तक पूरा हो गया है। मैं यह भी जानता हूं कि लड़कियों को बराबर का हिस्सा नहीं दिया गया है। मेरी बहन रेणु चक्रवर्ती ने यह कहा है कि स्त्रियों के साथ यह एक फ्राड (धोखा) किया गया है। मैं इसे फ्राड तो नहीं कहता हूं। लेकिन पाटसकर साहब ने मिताक्षरा तथा दूसरी चीज को मिलाने का जो निर्णय किया है, वह ऐसा नहीं है जिसे सन्तोषजनक कहा जा सके। इससे लड़कियों को बहुत कम हिस्सा मिलता है। मैं इस चीज से नाखुश हूं।

एक और गलत चीज की गई है। हम को चाहिये था कि जैसे कि हमारे बुजुर्ग मानते आए हैं, सारी सोसाइटी मानती आई है और जो सोशलिस्टिक पैटर्न आफ सोसाइटी (समाजवादी ढंगके समाज) से भी मेल खाती है कि देश के अन्दर जितनी भी जायदाद संपत्ति है वह देश के फायदे के लिये इस्तेमाल होगी। एक एमेंडमेंट (संशोधन) पेश की गई है कि एक शख्स (व्यक्ति) की जायदाद में उसके नाबालिग बच्चों का, उसकी अनैमरीड डाटर का तथा विडो (विधवा) का भी हिस्सा रहना चाहिए। श्री देशपाण्डे की बड़ी ही माकुल (उचित) एमेंडमेंट थी। लेकिन उसके अन्दर जितना हिस्सा हमने माना है वह भी बड़ा मुनासिब है लेकिन उस का आयन्दा असर का मुझे अंन्दाजा नहीं है। हमारी जो लड़कियां हैं उनकी जो लड़कियां तथा लड़के है उनको भी राइट आफ मेन्टेनेंस (निर्वाह-व्यय लेने का अधिकार) उनकी जायदाद में कायम हो गया है। मैं समझता हूं कि यह कहना कि लड़कियों का राइट बिल्कुल एबसोल्यूट (पुरा) हो, गलत बात होगी। उनको इससे ज्यादा राइटस (अधिकार) नहीं मिलने

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[पंडित ठाकुर दास भार्गव]

चाहियें । किसी सूरत में भी उनके जो मेल रेलेटिव्स (पुरुष संबन्धी) हैं उनको जो हकूक हासिल हैं, उनसे ज्यादा हकूक हासिल नहीं होने चाहियें । उनके हकूक को भी कनज़र्व करने की हमें कोशिश करनी चाहिए । जायदाद औरत के पास हो या मर्द के पास हो उसको कनज़र्व करना चाहिये । हमने एक गलत चीज़ पास की है और मैं जानता हूं कि हमारा अगला स्टेप (कदम) यह होगा कि इसे दुरुस्त (ठीक) किया जाए और जितनी भी जायदाद है उसे सब लोगों के फायदे के लिए इस्तेमाल किया जाए । जो यह हस्वमर्जी बेचने इत्यादि की बात कही गई है यह दुरुस्त नहीं है । मैं समझता हूं कि एबसोल्युट राइट (आनन्य अधिकार) उसका जायदाद में नहीं होना चाहिये ।

मैं अर्ज करता हूं कि आपने मुझे हर क्लाज (खंड) पर अपने ख्यालात को रखने का पुरा मौका दिया है, इसलिये मुझे उन क्लोजेज पर बोलने की जरुरत नहीं है । लेकिन मैं अर्ज करता हूं कि जब हम फिर तरमीम (सुधार) करेंगे तो हम इन दोनों बातों को दुरुस्त करेंगे और जो हम ने अपने कांस्टीट्यूशन में दर्ज किया है और जिसको हम सब मानते हैं, उसको हम पूरा करेंगे और उस तरमीमी बिल के अन्दर हम लड़के और लड़की में, बहन और भाई में कोई भी तमीज (अन्तर) नहीं करेंगे । मेरे मुताल्लिक (बारे में) यहां पर काफ़ी सख्त बातें कही गई हैं लेकिन मैं उनको बताना चाहता हूं कि मेरी खाल बहुत मोटी है और मैं उनकी बातों की क़तई (कोई) पर्वाह नहीं करता क्योंकि मैं ने जो कुछ यहां पर इस बिल के बारे में कहा है वह नेकनीयती के साथ कहा है । मुझे अफ़सोस है कि जब कोई श्रुस टंडन जी या किसी बहन के बारे में कुछ सख्त बात कहे और मैं उसको टालरेट (बर्दाश्त) नहीं कर सकता । मैं समझता हूं कि जिस गुडविल (नेकनीती) के साथ हम लोगों ने इस बिल पर बहस की है और सोच बिचार किया है और श्री पाटस्कर को मैं ज़ाती तौर पर मुबारक़वाद (बधाई) देना चाहता हूं कि उन्होंने ऐसी मुलामियत से इस बिल को हाउस से पास करवाया और यही बिल अगर डाक्टर अम्बेडकर साहब पेश करते तो चूंकि वह ज़रा सख्त अल्फाज (शब्दों) में अपनी बात को पेश करते थे तो लोग अक्सर नाराज़ हो जाया करते थे, वैसी नौबत इस मौके पर नहीं आने पाई और मंत्री महोदय ने बड़ी योग्यता और मुलामियत से हाउस (सभा) में अपना बिल पास करवा लिया ।

जहाँ तक ज्वांइट हिन्दु फ़ैम्मिली (संयुक्त हिन्दु परिवार) का सवाल है मैं समझता हूं कि अगर ज्यादा नहीं तो ७५ फ़ी सदी (प्रतिशत) तो हमने उसको इस बिल के ज़रिए ख़त्म ही कर दिया है लेकिन मुझे उसका कोई दुःख नहीं है क्योंकि ज़माना बदलता जाता है और देश और समाज को भी समय के अनुसार अपने को ऐडजस्ट करना (बदलना) पड़ता है और कोई भी देश और समाज स्टैटिक (स्थिर) नहीं रह सकता और उसको दुनिया के और देशों के साथ साथ तरक्क़ी की राह पर बढ़ना होता है । मुझे तो कोई ऐसा हिन्दू नहीं दिखाई देता जो केवल धर्मशास्त्र पर ही चलता हो, कोई मुसलमान ऐसा नहीं दिखाई देता जो केवल कुरानशरीफ़ पर ही चलता हो और ऐसा कोई ईसाई नहीं दिखाई पड़ता जो एक मात्र बाइबिल पर चलता हो और हमें इस हक़ीक़त (सत्य) से अपनी आंखे नहीं मूंद लेनी चाहियें कि ज़माना तेज़ी के साथ बदल रहा है और हमें भी ज़माने के साथ साथ आगे बढ़ना है नहीं तो हम तरक्क़ी की दौड़ में दूसरे मुल्कों और क़ौमों से पिछड़े जायेंगे । अब इस विधेयक के मुताल्लिक़ जो यह कहा गया कि इससे फ़ला चीज़ टूट गयी है, सोमनाथ का मंदिर टुटा नज़र आता है और ताजमहल टुटा नज़र आता है, तो मैं तो ऐसा नहीं मानता कि इससे इस तरह की कोई चीज़ टूटी है और मैं मानता हूं कि ज़माने के साथ साथ हमें चलना है और तभी हम तरक्क़ी कर सकेंगे और ज़रुरत के मुताबिक हमको अपने क़ाननों में तबदीलियां भी करनी होंगी । इन अल्फ़ाज़ के साथ जहां तक इसके दो प्राविज़न (उपबन्धों) का ताल्लुक़ है मैं उस की सख्त मुख़ालफत (विरोध) करता हूं ।

**Shri Jawaharlal Nehru :** Mr. Speaker, Sir, I have followed with some care and interest the long debates in this House on this Bill. As the House probably knows, I am deeply interested in this measure and yet I have refrained from taking particularly any active part in it and speaking about it and even now it is with some reluctance that I got up.

First of all, I should like to congratulate this House on the way it has considered this measure. Obviously it was a Bill on which people felt strongly this way or that way, and yet, throughout these many days while we

have considered this, we, the hon. Members of this House, have done so in an even temper and with a desire to understand each other's points of view. I need not say much about my colleague Shri Pataskar who was in charge of this Bill and who has conducted it throughout this long period with an amazing perseverance and evenness of temper.

I have just been listening to two speeches of the colleagues of mine—one from a very dear friend and one of the oldest colleague here—Shri Tandon—and the other from another colleague who has just spoken. Both have in different degrees expressed their displeasure at either the whole of this conception or a part of it. I suppose there are not many people here who think that this particular Bill is the ideal one. We have all our reservations about it. We would like to have it go a little further here or there or vary it here and there. I am not going into those matters, because they have been discussed at considerable length in the course of the second reading and previously in the other House. What I am concerned with much more is the basic idea underlying this Bill and I think that is of crucial importance. We have passed many measures in this House during the past few years. I do think that from one point of view, this particular Bill dealing with women's rights can take precedence over almost anything that we have done. I do not mean to say that this is a terribly revolutionary measure, because it is not. Generally it does not upset anything very much. It may upset things a little. But, the fact that it goes in a certain direction, the fact that it takes us out of the ruts of thinking and action and social behaviour that we are in is of high importance.

Thakur Dasji expressed the hope that later perhaps some of the changes made in this Bill will be altered again or will be left out or eliminated. Well, I do not know about that; but, I feel pretty sure that in course of time, and not in the too distant future, other changes will be made which perhaps will go in another direction not approved by Thakur Dasji, because the basic thing is this. Let us think of the past. Certainly it is important that we remember our past, because we are products of that past, whatever we are We have grown in that past and that past is now there in our blood and bones and in our thoughts. But, we live in the present and we must have an understanding of the future, where we are going to. The hon. Member Mr. Chatterjee, said something. I had said previously in this House which I can repeat and that is that the whole conception of Hindu law and Hindu custom became petrified with the coming of the British here. It was a dynamic idea, a dynamic conception of something changing not only by geography in different parts of India, but by influx of time. It may not have changed rapidly or dramatically, but it did change. It did adapt itself to changing circumstances and when the British came, they petrified it partly because they did not understand it and partly because they were not interested in social reforms. They were only interested in not having trouble in carrying on with their business of Government or making money or whatever it was. So, they petrified it and made something that was dynamic completely static. So, today we suffer from that. We have suffered from that in various ways. Our economy became static; our social behaviour became static; our thinking became static.

In the political field, various circumstances forced us into thinking in different lines and the mere fact of subservience or subjection to foreign power was itself a major relevant in that. Politically we began to get out of the grooves, and yet it is quite extraordinary, while we have got out of the grooves politically and we have brought about a political revolution in this country, it is strange how closely we follow the British models in the political field. Whether it is this Parliament, whether it is even a good bit of our Constitution, whether it is even the language we often use, we follow the British models. I am not complaining about that; I am merely pointing out the fact. Then, something as important and sometimes even more important than politics began to stir our mind. And that was in the economic field. I hope we are engaged now in something that is in the nature of an economic revolution in this country. Now, almost for the first time we are touching the social field.

**Shri Nand Lal Sharma:** Moral field.

**Shri Jawaharlal Nehru:** Quite right; moral field. There is nothing more immoral than the type of static society in which we have lived for a long time. There is nothing immoral than to be out of step with the times. What is morality? There are certain basic

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principles of morality undoubtedly. But, morality and social behaviour have to fit in with the times.

May I give an example, for instance? Do you expect the same type of social behaviour in a society which is, let us say, educated, in a smaller sense of the word, of going to school, etc? What social behaviour do you expect? Do you expect the same social behaviour in an industrial society as in an agricultural society? When the whole conditions of life have changed, obviously the social behaviour must fit in. You may struggle against it. I saw somewhere,—I hope I am not wrong—my hon. friend Shri Tandon expressed his displeasure at the coming of the railways to India. We need not go into that argument whether it was good for the railways to come or not. The fact is that the railways have come. The fact is that we have adapted ourselves to railways. He and I and all of us travel by rail unless we travel by air. We have adapted ourselves. Yet we want the society in its social sense to function as in the pre-railway days, if I may say so, for example. It cannot be done.

Shri Tandon, I understand, expressed a certain displeasure at some of our young women. Now, there are many things which our young women, or for the matter of that, our young men, or for that matter our old men and old women do which I strongly disapprove. That is so. They are all aspects of society. I have previously expressed in this House my admiration for the womanhood of India. When I said that, I was not merely referring to the historic examples of great women in India whom we all remember and revere. But, when I said that, I referred to the women of India today, in our times. I am not approving of everything that is done. Nobody can approve of everything that is done by any country or any large group. But, I do say that and I say that with some knowledge of other countries and other people. It is not up to us to criticise any people and I do not see why we should. Each country grows according to its genius. The new womanhood of India which is growing, with all its petty faults and superficialities, is something which I admire, is something which gives me hope for the future. I believe that if any great real advances are going to come to India,—I believe they are going to come—they will come very largely through the women of India. There was a French writer, a great writer who once said, if you want to know how civilised a country is, how advanced a country is, how progressive it is, find out what the women of that country are like, what the laws relating to the women are, what is the social behaviour relating to women and you can judge the country from that. You can ignore the men. That is a better test. I think that is a better test and that is the correct test.

Many of you may have read the Hindu law report or the Hindu Code report, or whatever it is called, or Shri B. N. Rau. Some parts of it are pretty ghastly in their description of the lot of the women of India. It is no good my judging the lot of women in India by my family or by my friends' families who may be favourably circumstanced in various ways. But the lot of women in India today is not a good lot, and that is not the fault of the women. It is the fault of the social structure that has long survived the period when it might have been good, because we must always remember that even a good law, even a good society of a time may outlive its usefulness and may become a bad structure later. You and I may talk about feudalism, and yet feudalism in its heyday was something suited to the environment of that period. What is the good of cursing feudalism of a thousand years ago? It was a right thing then probably. I was not there then. Or, you may talk about capitalism. Capitalism in its day was a good thing but the day has passed. It is no good sticking on to it when the day has passed and something else is demanded of us. Therefore, social structure if it is static is necessarily by the very nature of things unprogressive. Life is not static. We are born, we are children, we are young, we grow old and we die. Life is a flux. It never stays. Society is always in a flux. A social structure, if it becomes static, loses touch with the dynamism of life, and what has happened in India is that in spite of many great things that our forefathers accomplished, in spite of even the dynamism of the Hindu structure of society in past ages, it became static and what is demanded of us and more especially the Hindus, is to give it its dynamism and vitality again. We ill-serve the Hindu conception of society as it was by maintaining that it should remain static. It cannot remain static. If one thing is dead certain, it cannot remain there

because life is changing all round us. The result will be if you do not go with this current of life and change with it, the whole structure will crack up and go to pieces. Or else, we adapt it to these changing conditions in life.

At no period in history I suppose has there been such rapid changes in the structure of life—leaving out the biological part, and even that is changing—as in recent ages. They are due to many causes. We are living completely differently from what our forefathers to live in. And I have been wondering, thinking, well, necessarily of my own family, of how in two or three generations the changes it has seen—my grandfather, my father, myself, my daughter. I see these three or four generations before me and the rapid changes that are coming in each generation. And that, of course, is one of a million families in India which are varying from day to day. Everything is changing, except the minds of some people which refuse to change or see or understand anything, and they get left behind and then they are angry, angry with the world that the world does not fit in with their thinking, not realising that it is they who are out of step with the world. The world may be good or bad as it is, but the world is a changing world and unless we keep in step with it, it is not the world that suffers, it is we who suffer, and if a group or society falls out of step, that society remains behind, becomes a backwater.

Changes have come, they have come because of many reasons, but certainly the changes now in modern life have come through science and technology which have changed the texture of our life. Wherever we are living, we are using science and technology all day. We are not a technically advanced country and yet we are using technological things and science and industrial things every day and every hour of the day practically. Other countries are doing so more. Now, the whole system of production, of consumption, everything is changing. Therefore, the texture of life is changing. The basic principles do not change, I am prepared to agree. Goodness is goodness, evil is evil. May be, let us admit that. And we have to build up what I would call a good society,—certainly a prosperous society, but also a good society,—whatever our conception of good may be; it may slightly differ, but I think basically we may agree about what a good society is and what a prosperous society is. But having conceded that the whole texture of life changes, you have to fit in your conception of goodness and evil in that texture. Otherwise, you are completely stranded away from it, and the goodness, if it does not fit in with life, itself does not affect anybody or apply to anybody, and the structure breaks up. So, I should like this House to consider this question from this broader point of view.

I have no doubt in my mind that one of the basic things essential in India is the complete freedom, economic freedom—political freedom in a sense they have—of the women of India. I do not mean to say that the women of India are deliberately suppressed by their menfolk; many of them may do so. I do not mean to say that they are not admired or liked. It is not that. But there is no doubt about it that the women of India at the present moment, by and large, do not, and have not had, economic freedom. This Bill of yours will not give them economic freedom as such. But it is a step in that direction. Personally, I am not very anxious for my daughter or anybody to have to rely upon me for maintenance and the like; I want her to stand on her own feet. I want everybody in India to have the capacity to stand on his or her own feet. I do not like this idea of dependence even of the most intimate people. I want comradeship. I do not want dependence between anybody. So, this Bill is only useful really because it has taken a first, and a good and vital step in that direction—it has not done very much—because it has taken us out of the ruts of our thinking and behaviour. It may be that many people do not like it. Many people used to other ways think that it is a very radical step, and it will upset our joint family and many other ways of life that we have been accustomed to. But those ways of life are being upset by many factors. It is not your little Bill that is going to upset them. In fact, your Bill itself is the result of the other factors. And I want you to think of that.

I talked about the changing conditions of life. I imagine that the next few years or so will see an even more rapid tempo of change in technological advance and the like, with the coming of far greater forces in man's control. They may annihilate man possibly, and they may rebuild

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human society. My point is that in this rapidly changing world, nothing seems to me more out of place and rather ridiculous than to continue thinking as if we lived a thousand years ago or two thousand years ago.

What are our laws? After all, our laws are more especially based, and very rightly based, on a society that existed hundreds or, may be, thousands or more of years ago. And what was the population of India, let us say, two thousand years ago? I do not konw. But I did see some estimates of it. It was a very very small fraction of the population of today, and naturally,—I do not know—about a hundredth of it, or in fact, less. I think it was calculated that the population of India two thousand years ago was infinitely less than what it is today.

**Shri Nand Lal Sharma:** It was 56 crores, five thousand years back.

**Shri Jawaharlal Nehru:** Here speaks a voice of experience.

**Shri Nand Lal Sharma:** Yes, of experience of the *shastras* and of history.

**Shri Jawaharlal Nehru:** I regret to say that I do not accept that statement of the *shastras* and any *shastras* that say so do not speak in the language I am aware of, the language of accuracy and science.

**Shri V. G. Deshpande:** What is the authority of the figure that the Prime Minister is quoting?

**An Hon. Member:** Census.

**Shri V. G. Deshpande:** Which census? Census conducted two thousand years ago? (*Interruptions.*)

**Shri Jawaharlal Nehru:** If Shri V. G Deshpande wants some authority, I suggest his taking an elementary course in science.

**Shri A. M. Thomas** (Ernakulam): Why this war of words?

**Shri V. G. Deshpande:** He should take a course in arithmetic. His arithmetic is zero.

**Shri Jawaharlal Nehru:** What is the world's population today? It has grown from what it was. We know the figures of the world's population during the last 200 years or so with fair accuracy. We have seen it grow, and grow very rapidly. However, we need not go into those figures. But what he said is completely and absolutely inconceivable. I should like him to work it out, how 56 crores, or if I may say so, one-tenth of that figure, were fed in India with the amount of cultivable land in India at that time. We can estimate it, the land, the forest and so on. I should like him to estimate it. Of course, if we lived in a period of jinns and fairies and wonderful happenings and men coming from the skies, that is a different matter. But if they grew food from the land, how much cultivable land there was, how much per acre could be cultivated from it? It is a relatively easy calculation, not accurate but easy. I say today if we want to go back to that method of cultivation, half our population would die through sheer hunger, because there would not be anything to live on.

**Shri Nand Lal Sharma:** It is on account of your partition. It was not the geographical dimension of today.

**Shri Jawaharlal Nehru:** My humble effort was to point out to this House that it has become important and vital for us, even if we are to survive as a nation—much more so if we want to progress—to get out of the thinking of our hon. friend opposite. That thinking is very interesting but it is fit for an anthropological museum. Anthropological museums are very important for us to know the past or even the survivals of the past unto the present, but they are not guides to us for the present, much less for the future.

I submit therefore that we have to understand these questions in the present day, to understand them in the context of it, and have some vision of the future society that we are going up to. We have to hold fast to what I consider are basic conceptions and basic ideas which have moved our society. We have to realise, as I do realise, that there was great strength in them and something of tremendous value in them, which has kept Hindu society going through all these ages past. I respect that, but I think it is doing a discredit to that dynamic conception of Hindu society if we approach it from the static and unprogressive point of view and think in terms of a magic past. Whether there was magic in the past or not, I feel there is no magic in the present. And we have to live in the present, understand the present and thus work for the future.

In spite of its partial deficiencies, in spite of the fact that it is not anything ideal that we are going to pass in this Bill, I do consider that it is a most important measure. I consider it a vital and, in a sense, a revolutionary measure, in the sense that it takes a revolutionary step in a particualr direction, although it by itself is not revolutionary by any means, because it shakes them out of their lethargy of thinking. That, I think, is highly important, because India can only progress if in addition to the political revolution that we have had and the economic revolution through which we are passing, we have a social revolution also, and integrate these three. Then India will progress and we will be worthy of our past and our present and be able to build up a magnificent future.

**Shri Pataskar:** I would not take much time of the House which has already borne with me so patiently and for such a long period. Some have tried to depict me almost as if I were Muhammad Ghaznavi, who broke the Somnath idol. I do not know what the reference is to, but, I take it more or less as a matter of abuse in substitution of argument.

So far as this question is concerned, I would appeal to those hon. Members not to look at this from any prejudiced angle but try to see what we have really done so far as this measure goes. The history of this measure is that as far back as 1937, for the first time, as I said, not a Congressman but a protagonist of Hindu culture, brought forward a Bill in this House to give the widow the same rights as the other heirs have. Even then, along with the widow, he wanted to make the mother and daughter a co-heir. Unfortunately, for the same reasons which are now being adduced in this House against this measure, he could not succeed fully but was able to provide a share only to the widow and that too a limited one.

After that, if we look to the history of this, we will find that several attempts were made to have a uniform Hindu Code. There was that famous Rau Committee's Report. After that report, when the Bill came before the former House, probably, the same arguments were repeated. Ultimately, the Government decided that this Code may be brought before this House in parts and this part relates to succession amongst Hindus.

From the speeches of some hon. Members, it appears clear that they regard as Hindus only those who are governed by the Mitakshara system of law. I think it is entirely wrong, particularly for those whose avowed intention is to serve the cause of Hindus. As I said, Hindus comprise people of almost diverse faiths but of the same culture. For instance, those that are governed by the matriarchal system are as good Hindus as those governed by the Mitakshara. There are also the people governed by the Dayabhaga and it is a misnomer to say that only these people are Hindus. Not only that.

I have very carefully listened to the speeches of those hon. Members who have chosen to call me the breaker of religion. I wanted to find out whether they had anything to say as to what really the Mitakshara contained so far as the present Hindu law, which they say I was breaking, was concerned. As a matter of fact, if those very learned people were to dive deep into it, they will find that these reversioners, the limited estates and women being excluded and all that is not mentioned in Vijnaneswara for whom I have also as much respect as they have, but that they are subsequent additions made, as I have already said, on account of different conditions. But, some people, hugging the ideas which they still have, can naturally raise this sort of argument that this is going to destroy religion. But, it is not true.

**Shri Nand Lal Sharma:** What about clause 4?

**Shri Pataskar:** Let us come to the merits of the Bill. What is it that has really been done which, my friends contend, is likely to break society? In 1937, even what the then Law Member, Shri Sarkar and, probably, Dr. Deshmukh and others wanted to do could not be done for several reasons. As I said the other day, has not the time come when we should at this late stage, after so much of enquiry and with so much of a change in the social and economic conditions, try to put the daughter and the mother and the other widows on the same place where the widow was placed then? That is what this humble attempt seeks to do. As I said again the other day, we have only to go through the record of the proceedings of that Bill to find that the same objections which are raised now were raised almost 20 years back. At least

[Mr. Pataskar]

I have tabulated them, but I will not take the time of the House by repeating them again. When the Bill was first brought forward in this House, it excluded all references to Mitakshara property. It said that it did not apply to Mitakshara property, nor to the property owned by persons who are governed by the matriarchal system of law. It applied only to those governed by the Dayabhaga law. The hon. Shri Chatterjee very rightly said at that time that there was no uniformity and that we were trying to make the law applicable only to a small fraction of the people. He also said, why do you call it a law applicable to the Hindus? Naturally, therefore, attempt has been made to make the law applicable to the other systems to the people governed by the other systems of law. As I have been saying, care has been taken by discussion, by consideration and by every other means to see that society is disrupted as little as possible. I do not say that, if at all mitakshara cannot remain on account of the existing conditions and is probably disappearing, I am trying by this Bill to preserve it, but I can say that we have taken as much care as we possibly could to see that there are no immediate upheavals in society. Therefore, I would still repeat for the information of hon. Members that as soon as we pass this Bill, the great difference is that no joint family on that day is going to be disrupted. What will happen subsequently is a different matter and we shall see it then. That is why we had to pass through a certain process. When we did it, my friends come and say, why do you not do it immediately? If we do it immediately, they will say that we are destroying society. That is the way in which critics can look at it, but if you have to look at it constructively, you will find that the attempt made in this Bill is that while trying to be just and fair to the daughter and to the female heir, it does not immediately disrupt society. I have no hesitation in saying—and I have said it before—that it is impossible that this sort of system will continue for ever on account of the changing social and economic conditions of life. Still, I know and realise the responsibility. There may be untold consequences if an attempt is made to disrupt society immediately; that is the charge. If it is not done immediately, the other charge is, why this slow process of killing is adopted.

I might say that so far as this Bill is concerned, an attempt is made to put the daughter as much as possible, under the circumstances, on a par with the son, though not exactly the same. Some of my friends turn round and say that the widow was getting something more under the Deshmukh Bill and that we are now giving something less to her. Naturally, if the daughter, the mother and the other heirs should get something, it will be less. Even then it was realised that there was no justice in the case, but we had to wait. Now, when we want to do something, my friends,—some of them,—turn round and say that we are harming the widow. I do not think it emanates from a desire for safeguarding the interests of the widow. It may be due to a sort of a feeling that no change should take place.

There is another thing. We have abolished the limited estate. It is said that this will lead to litigation. I will ask the lawyer friends of this House: what was the cause of litigation before? Will this not decrease litigation? Litigations were due to partition, reversioners, widows' allowance and so on. No eminent lawyer got more cases from the other litigations, apart from zamindari. I am sure that if there is this provision, there will be fewer litigations and there will be fewer occasions for disturbing alienations made by widows because it will not be limited.

Apart from all these things, I would say that this will improve the position of women, particularly the daughter. The other day I referred to the report of the Saurashtra Government. I referred to it in all seriousness. It was a committee appointed by the Saurashtra Government. There were a number of suicides. They came to the conclusion that these were due to psychological causes, due to a feeling of helplessness among the women. I am sure, by this right, apart from the property involved, she will always feel safe and there is something on which she can fall back if her husband discards her and drives her out of his house or does some such thing. We all admit that our women are not educated. They are helpless. What is their present condition? They cannot go to their fathers' house. So far as their husbands' family is concerned, they have no right there. Therefore, it is not as if all people have gone wrong. I do not say so. This is a social disease which has arisen. It is the height of 'unsympathy'—I would say—to regard

this as something else and try to solve this problem by merely saying that they are 'Devis.' They have committed suicide because they could not find any happiness. One way or the other, this problem has to be tackled. Whether the share is small or great, there will be a psychological change in the mind of a daughter. If the husband drives her out of the house, she has some place to go. That is the more important aspect of this question, apart from other small matters. In spite of the fact that some hon. Members may say that I am one of those who are responsible for breaking the whole religion, I am as much proud of Hindu culture as anybody else. The culture changes. There is nothing wrong in it; it changes from time to time. It is not as if Hindu women were always what they are today. On the contrary, there is authority to show that at the time of Vijnaneshwara, they were much better. If probably, my hon. friends, who speak in his name, had really studied and tried to understand the conditions in those times, probably they would have spoken in a different tone. But it is all mixed up with so many prejudices and so many other opposition. I do not want to refer to them.

On the whole, I can say that I am glad that with the co-operation which all of you extended this could be done. I must admit that I felt encouraged by your co-operation—though not from every one of you, but from many of you,—and that resulted in putting this Bill in the statute-book. I am not so vain as to think that I have done something which will make me a Manu nor am I going to be worried by any of the ridicules which are poured on me. I am a humble person trying to do my duty. I have tried to do it to the best of conscience and ability and that gives me satisfaction. Leaving aside, all these things, I would again thank all the hon. Members of the House for the way in which they co-operated in this matter and discussed this matter, almost free from passion, except in certain cases, with the sole desire to co-operate and do something which will be in the interest of the progress of our country.

**Mr. Speaker:** It is now my privilege to place this motion before the House.

Now, under rule 340, the Speaker can, whenever he chooses address the House before he places a motion before the House for its decision. I must congratulate all the Members here, who have spent as many as 40 hours on this Bill this time. Both the Houses have spent a number of hours on this Bill. This Bill and its predecessor have been before the country and the House for a number of years. I must also congratulate the hon. Minister for Legal Affairs for having been sweetly reasonable. Whenever a suggestion was made, he tried to react and ultimately gave satisfaction to Members, one and all. I only appeal to hon. Members to forget whatever words might have escaped from their lips in the heat and passion, either from this side or the other side. I hope they will be forgotten here and when they go back they will go with a feeling that they have been able to give a sense of security to the sisters and daughters of this land.

There is social security and economic security. This is an economic security that we have given. Till now the daughters and wives had only a right to maintenance. This Bill can be called revolutionary. At the same time it is non-revolutionary also. The idea of making a woman a heir to property is not a new thing to our land. If a man died without leaving any sons, his widow succeeded to his estate. If he were a millionaire, the entire property worth a million passed on to his widow. It was stated that it was only in the form of a limited estate and that she could sell the property only for necessity. Therefore, this is nothing new. So far as the daughters also are concerned, if a man died without leaving any sons but leaving only a daughter, that daughter would inherit and will succeed to all the property. Therefore, both the widow and the daughter, in the absence of sons, were treated as heirs for all properties from the very beginning, even from the puranik period.

All that we have done is to make them co-heirs with the sons. If there were no sons, nobody including the mother and father, could take away the property. They could not succeed in preference to a daughter. One step was taken recently to make a widow co-heir along with the son. That was done in 1937. We have taken the second step today and that is to make the daughter also a co-heir along with the son. If there was no son left by the deceased, she would be absolutely entitled to all the property of the father. The widow also would have been entitled to all property of the husband

[Mr. Speaker]

if there was no son, under the regular Hindu law. The only advance made in 1937, as I said, was to make the widow a co-heir along with the son and today we have extended it to the daughter also. Therefore, to some extent it may be called revolutionary and to some extent it is not as we are only following a precedent.

But in a joint family it is different. Any brother who succeeds to a property was to maintain the daughter, give her education and get her married. Instead of that, now a share is being given. What is the objection in that?

Therefore, the House has rightly passed the Bill. Nobody need go under the impression that he has committed an error against the ancient *shastras*. Shastra is not static. Manu passed laws. Some others later on went to Parasara and asked him to change those laws according to changed circumstances. Parasara changed those laws. Manu is not the ruling law of the land today. Parasara gave his own *smritis*. As many as 131 *smritis* were passed in our country, one after the other. If law was static, there should have been only one Manu Law. But each *smriti* developed or changed the previous law. And today, in the absence of Maharshis, the House has taken the place of all the Maharshis put together. At no time in our country was there an Assembly which could sit in the name of the 360 million people of our country. We are too near the event to recognise what a great change has come over the country. If really we understand—and I am appealing to the Hindus to understand—where God is, Hindu God is not in heaven but in the hearts of men. To a Hindu, humanity is God and service is his worship. So, I believe, this House has taken the right step in doing this and removing some doubts and difficulties in the minds of our sisters and daughters by giving them a sense of security. All Hindu Members of this House can go forth with a sense of satisfaction that they have done nothing wrong and have only followed in the footsteps of the ancients and tried to give the daughters and the sisters a sense of security.

So far as absolute property is concerned, the widows and the daughters had absolute estate in the sense that they could sell for necessity. But there, they went to lawyers, paid them enormous money and devised some kind of necessity. All those straits are avoided today. They are being given a full right to dispose of the property as they like. I believe so much of fraud has been removed and if ever this legislation has contributed anything, it has removed immorality and has substituted morality for immorality all along the line.

So far as property is concerned, even before the daughter was given the right to share in the self-acquired property. The only change is, it has been extended to joint family property also, and even there it is confined to a share of the father or the share of the person who dies and not the entire property. A compromise has been effected. I do not think even persons who are interested in the maintenance of joint family property will have much to complain against this legislation.

I am not here as a Member sitting below and therefore it is not right for me to go on expatiating on the Bill. All I can say is that this House can justly be proud of the manner in which it has conducted the proceedings and of the ultimate result that has been produced. All sections will be happy, and I am sure that nobody will have any occasion to resent in spite of what has happened in this House. I also feel that this will become law as early as possible.

It is now my privilege to put this motion to the vote of the House.

The question is :

"That the Bill, as amended, be passed".

*The motion was adopted.*

7-57 P.M.

*The Lok Sabha then adjourned till Half Past Ten of the Clock on Wednesday, the 9th May, 1956.*

# DAILY DIGEST

[*Tuesday, 8th May*, 1956.]







G1PN—S-III—115 LOK SABHA—21—3—57