

LOK SABHA

**JOINT COMMITTEE ON THE
CHRISTIAN MARRIAGE AND
MATRIMONIAL CAUSES
BILL, 1962**

EVIDENCE

126 (3)
26/11/63



**LOK SABHA SECRETARIAT
NEW DELHI**

November, 1963/Agrahayana, 1885 (Saka)

Price : Rs. 3.25

WITNESSES EXAMINED

Sl. No.	Names of Associations etc. and their spokesmen	Dates of hearing	Page
I.	The Indian Pentecostal Church of God, Kerala.	{ 18. 4. 1963 & 20. 4. 1963	1 & 25
<i>Spokesmen :</i>			
	1. Rev. K. J. Samuel		
	2. Rev. P. T. Chacko		
II.	India Bible Christian Council, New Delhi.	{ 18. 4. 1963 & 20. 4. 1963	1 & 25
<i>Spokesmen :</i>			
	1. Shri A. G. Mathew		
	2. Shri J. L. Dorsey		
III.	St. Thomas Evangelical Church of India, Thiruvalla, Kerala.	20.4.1963	25
<i>Spokesmen :</i>			
	1. Shri K. S. Joseph		
	2. Shri G. Mathew		
IV.	The All Kerala Catholic Congress, Kottayam.	15. 7. 1963	52
<i>Spokesmen :</i>			
	1. Shri E. P. Varghese		
	2. Shri E. M. Joseph		
V.	Shahjahanpur (Independent) Church, Shahjahanpur.	{ 15. 7. 1963	69
VI.	The United Pentecostal Church, Kodajkanal.		
<i>Spokesman :</i>			
	Pastor A. Joseph		
VII.	Church of God (South India), Girideepam, Chengannur.	15. 7. 1963	77
<i>Spokesman :</i>			
	Rev. P. C. Zachariah		
VIII.	The National Christian Council of India, Nagpur.	15. 7. 1963	91
<i>Spokesmen :</i>			
	1. Dr. E. C. Bhatta		
	2. Shri Korula Jacob		
IX.	Mar Thoma Syrian Church of Malabar, Tiruvalla.	16. 7. 1963	108
<i>Spokesman :</i>			
	Shri K. T. Thomas		

Sl. No.	Names of Associations etc. and their spokesmen	Dates of hearing	Page
X.	The Indian Pentecostal Church of God, Kottayam.	16. 7. 1963	117
<i>Spokesman :</i>			
	Pastor . M. Philip		
XI.	The Orthodox Syrian Church of the East, Kottayam.	16. 7. 1963	128
<i>Spokesmen :</i>			
	1. Rev. Fr. K. C. Thomas		
	2. Shri M. Abraham		
XII.	St. Mary's Syrian Church, Brnakulam.	16. 7. 1963	128
<i>Spokesmen :</i>			
	1. Shri M. Abraham		
	2. Shri C. C. Joseph		
XIII.	The Representative Committee of the "Assemblies of the Brethren", Kottayam.	17. 7. 1963	142
<i>Spokesmen :</i>			
	1. Dr. K. George Thomas		
	2. Shri K. P. George		
XIV.	Church of Christ, Shillong.	17. 7. 1963	152
<i>Spokesman :</i>			
	Shri J. S. Rynthathiang		
XV.	Brethren Church Committee, Angamaly.	17. 7. 1963	162
<i>Spokesmen :</i>			
	1. Shri Danial Oommen		
	2. Shri T. M. John		
	3. Shri E. P. Varghese		
	4. Shri V. T. Mathai		
X.	The Society of the Church of God (Full Gospel) in India, Chengannur.	17. 7. 1963	174
<i>Spokesmen :</i>			
	1. Rev. T. M. Varughese		
	2. Rev. M. Benjamin		
XVII.	Christian Assemblies (Churches) known as 'Brethren', Madras.	18. 7. 1963	180
<i>Spokesmen :</i>			
	1. Shri T. G. Samuel		
	2. Shri Daniel Oommen		
	3. Shri M. J. E. Pritchard		

Sl. No.	Names of Associations etc. and their spokesmen	Dates of hearing	Page
XVIII.	The Archbishop of Bombay and President, Catholic Bishops' Conferences of India, Bombay.	18. 7. 1963	188
<i>Spokesmen :</i>			
	1. Most Rev. Dr. Angelo Fernandes		
	2. Very Rev. Msgr. William Nazareth		
XIX.	The South India Assemblies of God, Punalur.	18.7. 1963	205
<i>Spokesmen :</i>			
	1. Pastor A. C. Samuel		
	2. Shri George Mathew		
XX.	Shri W.S. Desai, New Delhi.	19. 7. 1963	211
XXI.	Orthodox Syrian Church of the East (Diocese of outside Kerala)	19. 7. 1963	220
<i>Spokesmen :</i>			
	1. Shri M. G. Matthew		
	2. Rev. Fr. K. C. Thomas		
XXII.	The Pentecostal Churches of India (Regd.), Ludhiana.	19. 7. 1963	229
<i>Spokesmen :</i>			
	1. Prof. Reuben R. Das		
	2. Shri J. Dennis		
	3. Dr. Mrs. Dhillon		
XXIII.	The Ceylon Pentecostal Mission, Trivandrum.	20. 7. 1963	245
<i>Spokesmen :</i>			
	1. Pastor A. C. Thomas		
	2. Pastor M. Daniel		
	3. Pastor G. Thomas		
	4. Pastor Samuel Paul		
XXIV.	Full Gospel Church, Jabalpur.	20. 7. 1963	245
<i>Spokesman :</i>			
	Pastor O' Neill J. Wilson		

JOINT COMMITTEE ON THE CHRISTIAN MARRIAGE AND MATRIMONIAL
CAUSES BILL, 1962.

MINUTES OF EVIDENCE GIVEN BEFORE THE JOINT COMMITTEE ON THE CHRISTIAN
MARRIAGE AND MATRIMONIAL CAUSES BILL, 1962.

Thursday, the 18th April, 1963 at 15.12 hours

PRESENT

Shrimati Renu Chakravartty—*Chairman.*

MEMBERS

Lok Sabha

- | | |
|-----------------------------|----------------------------------|
| 2. Shri Joachim Alva | 10. Shri Maheswar Naik |
| 3. Shri Rajendranath Barua | 11. Shri Purushottamdas R. Patel |
| 4. Shrimati Kamala Chaudhri | 12. Shri Shivamurthi Swami |
| 5. Sardar Daljit Singh | 13. Shri G. G. Swell |
| 6. Shri Ram Dhani Das | 14. Shri A. M. Thomas |
| 7. Shri L. D. Kotoki | 15. Pandit D. N. Tiwary |
| 8. Shri Mathew Maniyangadan | 16. Shri U. M. Trivedi |
| 9. Shri Bibudhendra Mishra | 17. Shri T. Abdul Wahid |

Rajya Sabha

18. Shri Jairamdas Daulatram
19. Shri P. A. Solomon
20. Shri A. M. Tariq

REPRESENTATIVES OF THE MINISTRY

1. Shri G. R. Rajagopaul, *Special Secretary, Ministry of Law and Member, Law Commission.*
2. Shri R. V. S. Peri Sastry, *Assistant Draftsman, Ministry of Law.*

SECRETARIAT

Shri A. L. Rai—*Deputy Secretary*

WITNESSES EXAMINED

I. THE INDIAN PENTECOSTAL CHURCH OF GOD, KERALA

Rev. P. T. Chack.

II. INDIA BIBLE CHRISTIAN COUNCIL, NEW DELHI

1. Shri A. G. Mathew
2. Shri J. L. Dorsey

I. *The Indian Pentecostal Church of God, Kerala.*

Spokesman:

Rev. P. T. Chacko

II. *India Bible Christian Council, New Delhi.*

Spokesmen:

1. Shri A. G. Mathew.

2. Rev. J. L. Dorsey.

(Witnesses were called in and they took their seats)

Mr. Chairman: Before I proceed, I would like to make it clear to those who have come here to give evidence on the Christian Marriage and Matrimonial Causes Bill, 1962 that the evidence that they will be placing before us will be treated as public and is liable to be published if so necessary. You may of course specifically say if you so desire that the whole or any part of the evidence tendered by you is to be treated as confidential. Even though you may desire us that the evidence be treated as confidential, such evidence is liable to be made available to the Members of Parliament.

Now I think all Members have received copies of the memorandum regarding the Indian Christian Marriage and Matrimonial Causes Bill submitted by the Indian Pentecostal Church of God. I think both the Indian Pentecostal Church of God, Kerala and the India Bible Christian Council, New Delhi are going to place their evidence together. Is that the desire of both of you to place your evidence together or the Indian Pentecostal Church of God will give evidence first and the India Bible Christian Council next? I think the best method would be that you may explain to us your points of view. Of course you may make your general remarks as well as specific objections and after that, if the Members want to ask questions, they may do so.

Rev. P. T. Chacko: I represent the Indian Pentecostal Church of God. I

am glad that I have got this opportunity to lay before this hon'ble Committee the objections we have to make in connection with the proposed Marriage Bill.

First of all, we find that the proposed Bill is an attack on the right of the minority communities to profess, practise and propagate their religion as it existed at the time the new Constitution came into force. Secondly, we find that this Bill marks a serious departure from the teachings of the Bible. The Bible is considered to be the inspired word of God. It is the revealed will of God from which no true Christians can deviate. So, we take the Bible as the final Court of Appeal because it is a matter that concerns our relationship with God. The Bible makes it very clear that marriage is the union of one man and one woman for life by God himself. The marriage is to be treated as very honourable according to Jesus Christ. There is no law which enables people to avoid the will of God concerning marriage. Where God's law is set aside, we see corresponding deterioration of morals and breaking up of the family ties. So, we are really grieved to see that this Bill proposes some deviations which are contrary to the teachings of God. Because it deviates from the revealed will of God, it tends to vulgarise the institution of marriage.

Thirdly, it ignores the prohibited degrees of consanguinity and affinity as taught in the Bible, and renders marriage incestuous. Further our authority is the 'Bible' in the 18th Chapter of Leviticus. There are five books written by Moses, the Law-giver of Israel. In the third book 'Leviticus', God has clearly set forth his will concerning marriage as to whom one should not marry. Marriage is said to be sacramental which cannot be transgressed by false belief. What was revealed at that time is for all time and whoever has transgressed the God's Law has reaped heavily for that. So, we do not want the prohibited degrees of relationship to be made

smaller. We would rather like to have it widened as it is done in several other Churches. Ignoring of the prohibited degrees of consanguinity and affinity as taught in the Bible, is harmful for health too.

Again, I feel it is an attack on the freedom of the conscience of the Minister concerned performing the marriage under the conditions set forth in the proposed Bill. That means the Bill provides greater reasons for divorce and also for remarriage of the divorcee. According to the present Law, if the Minister feels that two people have separated without sufficient reason and they are proposing to have separate marriages, then they can be called adulterers. When the Minister's conscience does not permit him to solemnize this marriage, he would say 'no' to such people. In the present Bill, the Minister is forced to solemnize such marriages. If the Minister refuses to solemnize it, he will have to be sent to jail for one year or he will have to pay a fine of Rs. 500 or both these punishments can be given to him. This is according to the proposed Bill. The Ministers of the unrecognised Churches will thus be exposed to such dangers. I hope I have made myself clear. The Bill takes the substance and gist from the fundamental right of freedom of religion and conscience which are guaranteed to the citizens of India under Article 25 of the Constitution in Part III. The Constitution was framed by giving equal chance, equal treatment to all the citizens of India. Now we find that certain people are discriminated against and if this Bill passes into Law, that would be the end of our freedom of conscience. This is opposed to the interests of a large number of Christians who are not represented by the National Christian Council. The National Christian Council is neither national nor a truly represented body of Christians. This is a foreign set-up and the foreign missionaries have formed it and they represent only themselves.

Mr. Chairman: Which Church do you mean?

Rev. P. T. Chacko: I am referring to National Christian Council. They cannot speak on behalf of all the Christians of India. If at all they have to make any suggestions, they may do only in their name. We have evidence to show that even many of the Churches that were included by them, after having joined it, protested against it and have written that they are not followers of the National Christian Council and that their names may be deleted from it. So, I do not want to say anything further about the N.C.C. but we do not want to be guided by the N.C.C. They do not represent our cause.

The proposal to recognise some churches and to recognise one sect or group of christians over the other group or sect is discriminatory. This violates the provisions of Article 14 and 25 of the Indian Constitution. The bill is a transgression of fundamental rights guaranteed to all persons in India and to all sections of religious denominations and to minorities based on religion. It is a transgression of the right of religious sects to manage their own affairs in the matters of religion. It is a transgression of the rights of minorities based on religion and which concern their own religious culture.

India is a secular State. We cannot discriminate between churches, calling some as recognised and some others as unrecognised. The whole of clause 7 is void under article 14, India being a secular State. A secular State has no religion of its own. It does not have any religion particularly. The proposed legislation in the opinion of many orthodox christian sects cannot therefore be made into law and should be dropped.

We hold that marriage is a sacrament as I said in the very beginning. It was God who performed the first marriage in the garden of Eden in

ideal circumstances when sin had not married the beautiful Plan of God for us. We should always try to hold up those high ideals of holiness and honour connected with marriage.

We know about tendencies especially in western countries where marriage is vulgarised, homes break up and children roam about in the streets. Ten years ago when I was in the United States I saw women drinking and the children simply roaming about in the streets. What is known as juvenile delinquency is prevailing in western countries. Only when I left India I learnt to appreciate our land better. I have heard some leading preachers of America appreciating the womenfolk of India. And so, we should cherish these ideals which have been kept up so well in this country and we should avoid all attempts to lower the standard of morality connected with marriage.

These are my main objections to the bill as it stands at present.

Then, I would like to say that in the matter of marriage, there is a religious aspect and also there is a civil aspect. The Government has a right to know who has married whom. Such necessary details can be recorded. Just as births and deaths are all recorded, marriages also can be recorded and if necessary, the permission can be obtained before the marriage. But our point is this. A uniform law cannot be made to cover all communities of christians. Even among christians we do not agree on all points. Freedom of conscience is given by God himself and it is guaranteed by our constitution. Under the present constitution of India we have to allow such different modes of worship and also solemnity of marriages and so it is impossible to bring about a uniform law to cover all aspects of marriage.

Some of our people have their marriages performed under the trees. Some erect a temporary pandal for

the marriage and some have it in very good buildings. So, the solemnization of the marriage or the reality of marriage does not at all depend on the building in which it is conducted or on the dress of the clergy. In such matters we find that there are no hard and fast rules laid down by the Bible. And so, we have to leave it to the conscience of individuals as they are guided by the Bible and by the Spirit of God. And I believe, if these things are safeguarded, Christians will be happy and they will be able to carry on their home life, family life and social life with the blessing of God upon them. Thank you.

Mr. Chairman: Now, shall we first ask questions to get answers from the witness who has just placed his evidence and then go on to hear evidence from the other witnesses? I think that might be the better way because his evidence is still fresh in our minds. If any Member desires to ask any question, he may put the question to the witness.

Shri P. R. Patel: I would like to ask some questions. Am I to understand that the christians of India follow the dictates given in the Bible? Do the Christians follow all the dictates of the Bible? Am I to understand that this is followed even in respect of vocation, profession and all these matters? Do the christians follow the dictates given in the Bible?

Mr. Chairman: That is what he has said. According to him Pentecostal Church is guided by the Bible. You are asking him whether all christians abide by the Bible.

Shri P. R. Patel: Yes. That is the aspect we have to know because this Bill would apply to one and all of the christian community. My question is simple. In respect of profession, vocation etc. may I know whether all the dictates given in the Bible are being followed by them?

Mr. Chairman: It is a question of interpretation. Every christian, he will say, must follow the Bible.

Shri P. R. Patel: I want to know whether all that is said in the Bible is practised in life by christians or do they depend on certain things said in the Bible for their benefit? My question is simple.

Mr. Chairman: We may put it in this way

Shri Jairamdas Daulatram: The followers of no religion in India carry out the dictates laid down by their religion. The question, I am afraid, is irrelevant.

Mr. Chairman: I will put it this way. Mr. Chacko has said that he objects to this Bill because it is a departure from the Bible. May we ask him as to what are the specific points in which he feels that it is a departure? I think that would make it more specific.

Several hon. Members: Yes.

Shri G. G. Swell: What portions of the bill do you consider as obnoxious or departures from the Bible?

Rev. P. T. Chacko: One specific objection is that it eliminates

Shri G. G. Swell: If you kindly refer to certain portions of the Bill which you consider obnoxious, that will be more helpful. You must have got the Bill before you. You may kindly indicate those provisions of the Bill which are objectionable to you.

Rev. P. T. Chacko: For example, p. 29—prohibited relationship. The prohibited relationships given in the Bill show only 19 such relationships.

Shri G. G. Swell: You mean the First Schedule.

Rev. P. T. Chacko: Yes. But in the Bible there are 30 relationships which are prohibited: A man shall not marry 30 relationships of the opposite sex and so shall a woman not marry 30 relationships. Out of 30 prohibited relations, as ordained in the Bible, the First Schedule of the Bill gives only 19 prohibited relationships. That

means, it has taken away 11 prohibited relationships.

Shri G. G. Swell: You want that all the prohibited relationships as laid down in the Bible should be scrupulously followed.

Rev. P. T. Chacko: Yes, adhered to.

Mr. Chairman: May I ask you one question? On p. 3 of the Bill, kindly refer to clause 4(ii) which reads:

“(ii) the parties are not within prohibited relationship, unless the custom governing each of them permits of a marriage between the two;”

Now, this wording has come from all other marriage Acts which we have passed before. I am just putting a question to you. Is it not that relationships which would appear to be prohibited according to certain Christian sects do not always appear to be always prohibited in certain other sects? Do you follow the point which I am making? We thought it might be better to leave a certain amount of flexibility while enumerating the prohibited relationships in the Schedule.

Your claim uptill now has been, leave as much as possible what has been existing—do not touch and interfere too much. Would you not feel, if there is a customary law or customary habits in certain sections of Christians, why make it rigid enough? On the other hand, those who would like more rigid form would not be prohibited from calling that a prohibited degree of relationship, because we say:

“...unless the custom governing each of them permits of a marriage between the two;”

Rev. P. T. Chacko: If we follow custom, we will have to keep on changing the law to suit more and more customs. But we depend on the revealed Will of God which is the Bible.

Shri Bibudhendra Mishra: Customs do not change.

Rev. P. T. Chacko: Customs have somehow started in history. But the fact that they have been in existence for a length of time is no justification to carry them on further when the Light from the word of God is given to us, when we can know the perfect Will of God. We should adjust ourselves, make the necessary amendments in our law to get nearer to the ideal.

Shri Bibudhendra Mishra: I follow. May I draw your attention to the Law Commission's Report? Please refer to p. 15, para 23. It reads:

"One of the conditions of a valid marriage under the proposed law is that the parties should not be "within prohibited relationship unless the custom governing each of them permits of a marriage between the two." We have set out (i) the relations who cannot be married by a man and (ii) the relations who cannot be married by a woman. In framing this list, we have examined the lists appended to the (English) Marriage Act, 1949, and the Special Marriage Act, 1954, and the provisions of the Hindu Marriage Act, 1955, and we have further taken into account the sentiments of the Christian community of this country in the matter. There is one aspect of this question which may be elucidated. In the list as originally framed by us and included in the draft which was circulated for opinion, we had included in Part I, "sister's daughter, brother's daughter, mother's sister and father's sister", and in Part II "brother's son, sister's son, mother's brother and father's brother". Objection is taken by the Roman Catholic Church witnesses to the inclusion of the above relations in the prohibited lists....".

You say, the prohibited list may be extended, but the Roman Catholics are opposed to it on the ground—

"because, it is said, though marriages with those relations are not viewed with favour, and are prohibited, the prohibition is not absolute and is capable of being removed by a Papal dispensation. It was, therefore, argued that these relations should be taken out of the lists,...."

They have given sufficient reasons. Even if you put them in a prohibited degree of relationship, a Papal dispensation is enough—they can marry. That was the evidence given by the Roman Catholic Church witnesses on whose evidence this list was prepared. Further, it reads:

"or, in the alternative, provision should be made for the grant of dispensation by the appropriate authorities of the Catholic Church. We consider that it would be inappropriate in a piece of legislation like this to enact any provision for dispensation by any authority, and much less by an outside authority. But the question still remains, whether these relations should be placed in the list of prohibited relations. Can it be said that marriage with these relations is so repugnant to the prevailing notions as to call for prohibition? In some communities in India, marriages with some of these relations, as for example, sister's daughter and mother's brother are not unusual, and they are valid. The fact that the Pope can issue dispensation with respect to these marriages shows that they cannot be very obnoxious to Christian sentiment, though they may not be favoured. We have, therefore, omitted these relations altogether from the lists."

Now, what have you got to say about this?

Rev. P. T. Chacko: For Roman Catholics, you may be able to make certain laws and such laws would be

applicable only to the Roman Catholics. We are all non-Roman Catholics and we adhere to the principle mentioned in the Bible. The Bible alone may be the rule for faith and practice, for doctrine and for life. The Bible should be our final Court of Appeal. In our understanding of the Bible, at times, we may differ but our basic Protestant Principle is this that whatever the Bible says, we will abide by it. There may be differences in our understanding. So, if the Pope is able to give exemptions, that applies only to the Roman Catholics. That cannot bind any non-Roman Catholics.

Shri P. R. Patel: I want to know whether the marriage is solemnized among the Christians of Assam and other places within the prohibited relations as set out in Part I?

Mr. Chairman: It would be better if you ask him as to what are the prohibited degrees of relationship which he would like to be included here. According to Leviticus, you have given a list of the prohibited degrees of relationship such as father's sister, mother's sister, father's brother's wife, mother's brother's wife etc., etc.

Rev. P. T. Chacko: Altogether there are 30 prohibited degrees of relationship.

Mr. Chairman: You see the Schedule. There only 19 is given.

Shri G. G. Swell: Why not mention the number of prohibited degrees of relationship which you would like to be included in the schedule?

Mr. Chairman: He has already given that on page 3 of his memorandum. Is that the total that you would like to be added? You have stated that the prohibited degrees of relationship mentioned in the First Schedule of Part I and II is incomplete as father's sister, mother's sister, father's brother and mother's brother are not mentioned. You want

that these should also be mentioned in addition to the 38 mentioned in the schedule. Is that all? Do I understand it correctly?

Rev. P. T. Chacko: Not only these four but there is also a list containing 30 prohibited degrees of relationships which, if you so desire, we can read.

Mr. Chairman: The total prohibited degrees of relationship is 38 according to the Schedule of Part I and II of the Bill. Now, according to you, certain prohibited degrees of relationships have been left out. I take it that these four which you have mentioned at page 7 of your Memorandum should also be included in the Schedule. According to the India Bible Christian Council, the total is 30. It is not quite clear as to what you would like to add to this?

Rev. P. T. Chacko: We find only 30 prohibited degrees of relationships as have been pointed out by Mr. Dorsey.

Mr. Chairman: Can we take it that these are the 30 prohibited degrees of relationships or would you want to add anything more?

Rev. P. T. Chacko: The total number is 30.

Shri Rajendranath Barua: According to Leviticus the total number of prohibited degrees of relationship is 30.

Mr. Chairman: Can a woman not marry her sister's brother?

Shri Rajendranath Barua: My question has not been answered. According to Leviticus the total prohibited degrees of relationship is 30. Do you want these to be included?

Rev. P. T. Chacko: If we have to follow the Bible, we should follow it in full.

Shri Rajendranath Barua: On the one hand you want the prohibited degrees of relationship to be narrowed down and on the other you

want this to be widened. How do you reconcile these statements?

Rev. P. T. Chacko: How can you change the Law of God? God has mentioned the prohibited degrees of relationship as 30. The wider you make it the better it is for us.

Shri T. Abdul Wahid: The law does not propose any change with regard to this.

Rev. P. T. Chacko: We must understand the principles. If we marry our own relations, our own health will be in danger. There are so many cases in the Andhra Pradesh. There the people who have married their own nieces (sister's daughters) have got their children defective both mentally and physically. So, for the welfare of the human race, God has set a certain boundary. The wider you do it the better it is for us. There is no objection.

Shri T. Abdul Wahid: The Government have taken fully into consideration the prohibited degrees of relationship as mentioned in the Bible. After having gone into all these questions, they have brought forward this Bill which is in the interests of the Christians.

Rev. P. T. Chacko: The basis should be from the Bible and there should be no deviation from that. We may make amendments or modifications if need be.

Shri Rajendranath Barua: Nobody has changed what is given in the Bible. The Bible is most progressive. Don't you want progress?

Rev. P. T. Chacko: There will be no progress if we are deviating from the teachings of God.

Shri T. Abdul Wahid: We are not deviating from that.

Shri A. M. Tariq: After going through the Bill, do you feel that this is against the spirit of the Christianity? Do you feel that this

Bill is against the secular democracy of India or do you feel that this Bill has interfered with your religion itself? If so, please explain to us as to how this Bill has interfered with your religion.

Mr. Chairman: He has asked you whether this Bill is against the spirit of Christianity; whether you feel that it is against the spirit of the secular democracy of India and whether it has interfered with your religious beliefs.

Rev. P. T. Chacko: Certainly I feel that it is an interference with our religious practices and beliefs. It is contrary to the spirit of secular democracy of India which we uphold. This is against the spirit of the Bible and the spirit of Christianity because God has spoken to mankind as we find in Paul's epistle to the Hebrews as follows:

Chapter I(1) and (2) of Bible:

"(1) God, who at sundry times and in divers manners spake in times past unto the fathers by the prophets.

(2) Hath in these last days spoken unto us by his Son.....".

God has been speaking and speaking through his prophets. Finally, he has spoken through his Son. We believe in the Bible and we have a perfect revelation of God's will. Family life is one of the most important aspects of life and God has not left that aspect to the changing customs or tastes of people. God has laid down principles which are to be carried out in all generations.

Shri P. R. Patel: It has been said that whatever is dictated in the Bible is the last word on the subject. We wish to know whether there are no differences among the christians. Whatever is dictated by the Bible is the last word. But, after the writing of the Bible we know that there have been so many amendments and so many departures which have been

made in those countries where the Christians are in the majority. So many rules have been framed; so many marriage laws and all these things have come into being there. So, I want to know whether all these things done in other parts of the christian countries are unchristian acts? If we do something like that, how would it be an unchristian act?

Mr. Chairman: The point is this. Since the writing of the Bible, there have been various enactments of laws in western countries to guide christians. Many of these enactments are more or less in keeping with some of the provisions which we are making. Would you consider that to be unchristian acts?

Rev. P. T. Chacko: That is due to some reason or other, may be, ignorance and wilful disobedience of the revealed will of God. Wherever men have deviated from the biblical standards, it is wrong on their part and to that extent they have laid down the moral standards.

Shri Bibudhendra Misra: We have departed not only here. In other western countries also they have departed from the Bible.

Rev. P. T. Chacko: Where there is a law, there is a breaker of that law also. The breaking of law does not mean that there should not be the law. For those who want to live, the law is there for their guidance. Another man thinks: Why cannot I kill? What is the harm if I kill? I am strong enough to kill, etc.

Mr. Chairman: That is different. We have never legalised murder. There are laws in certain western countries which are contrary to those prescribed in the Bible and these are laws. They are not laws which are broken, but they are the laws themselves. From that point of view, in changing times, the Christians have themselves enacted laws

which are not exact reproductions of the tenets of the Bible.

Rev. P. T. Chacko: There have been changes brought about by the so-called western nations. There have been such changes in some countries. But when we want to get to the divine standard, there is only one thing for us to do. We should not look to the practice of other nations or the practice of other countries or other people but we should simply follow the clear teaching of the Bible.

Shri Mathew Maniyangadan: Please see page 23, clause 56(2). Here it is stated as follows:

"Whoever, being a licensed Minister or a Marriage Registrar, refuses, without just cause, to solemnize a marriage under this Act, shall be punishable."

Suppose two persons do not come within the prohibited degrees of marriage as adumbrated in the bill but they are within prohibited degrees, they can go in for marriage to a licensed Minister and he is bound to solemnize the marriage.

Mr. Chairman: If it is not specified anybody who refuses to solemnize the marriage may fall under the clause.

Shri Mathew Maniyangadan: Suppose by custom certain Christians have been having marriages within the prohibited degrees, why should it be done away with now? Why should not freedom of marriage allowed hitherto, be allowed to be continued?

Mr. Chairman: Up till now there have been certain Christian churches which have permitted marriages within the degrees which according to you should be prohibited. In certain degrees of relationships, those marriages will become void. Would you insist on restricting them?

Rev. P. T. Chacko: The changes proposed now are being studied in the light of the Bible. The Bible lays down thirty prohibited degrees. We should make it known to people. In respect of people who are already married contrary to the Bible, we do not say that their marriage is null and void. We do not say that they are not husband and wife. But, with the greater light that is available now people will be careful not to marry within the prohibited degrees.

Shri P. R. Patel: There are marriages within the prohibited degrees. There are marriages which are solemnized.

Rev. P. T. Chacko: Yes, It has been going on in certain areas of India.

Shri P. R. Patel: If the marriage has been solemnized by churches till now, what is wrong in doing it now?

Rev. P. T. Chacko: When legislation is made giving permission in respect of certain marriages, the people will easily take advantage of them. That is the harm done by a legislation.

Shri P. R. Patel: Up till now, there were such marriages. Those marriages have been solemnized by churches up till now. You admit that. They have been solemnized. There has been no law of this type so far. Why should we restrict it by these laws?

Shri Rajendranath Barua: Suppose the law is not there. How would you stop the customs now prevailing according to which the prohibited marriage is going on?

Rev. P. T. Chacko: One method is to enlighten the people on the teachings from the Bible, preaching the word of God, revealing to people the perfect law of God.

Shri Rajendranath Barua: We are not concerned with that.

Mr. Chairman: We will only make the law. It will be people like you who have to propagate your opinions and interpretations. It is not for us to do that. For us, the point which will have some relativity is to see whether what you are saying is really repugnant to the Christian community generally. We have to think on that line.

I think it is better we do not ask for his opinions because his opinions he has made clear. If we want to have any particular clarification, let us ask him that.

Shri Joachim Alva: I want to ask you one question. My point is this. Do you admit that the Roman Catholic Church is stiffer and more strict in regard to marriages and stiffer against any kind of laxity than other churches, especially those who claim to follow the Bible?

Rev. P. T. Chacko: About the Roman Catholic Church, as we heard now, the Pope can give certain exemptions.

Shri Joachim Alva: They are very few. By far and large, the Roman Catholic Church has got very strict rules in regard to marriage and divorce. Is it not? They are more strict than most of the other churches who claim to follow the Bible. Do you admit that?

Rev. P. T. Chacko: We cannot be guided by any church. We always go to the Bible for our authority. That is why following customs or churches or previous generations is always unsatisfactory.

Shri Joachim Alva: But they are in the majority amongst the Christians in the world.

Rev. P. T. Chacko: The truth does not go by the majority. One man may be speaking the truth and the whole world may be wrong. But ultimately the truth will always triumph.

Shri Joachim Alva: At some time or the other, a big secular State like India will have to come in to regulate, even in an elementary measure—not in a major measure—the question of marriages in regard to its citizens. Don't you agree to that? Would you not concede that that at some time or the other India, a secular State, will have to come in to regulate marriages, not to any substantial degree but at least in a minor degree for all its citizens?

Rev. P. T. Chacko: There is the religious side of it and also the secular side of it—the civil aspect. Whatever information the Government wants, we are willing to supply. But leave the ceremonial or the religious or the spiritual aspect to the leaders of the churches. The marriage ceremony may take place under a tree or in a church or in a pandal, whatever the place may be. Take my personal example. My second daughter was married in the house of the bridegroom. So, the place where a marriage should take place is not at all a consideration for us. Just two or three persons gather together at a place in the name of Jesus Christ, He is in their midst.

Shri P. A. Solomon: Can you tell us when the Indian Pentecostal Church of God was established and how many people are belonging to your church?

Rev. P. T. Chacko: We have given all this information on the back side of this memorandum. The Indian Pentecostal Church of God is a well-organised Church, registered in 1935, but it was formed between 1920-1922. It was registered under Societies Act XXI of 1860. Adherents 50,000; local churches 510; Pastors and Evangelists 900, Church buildings 450; the church has well established rules for the solemnization of marriages; the ministers are duly ordained to solemnize marriages and perform other ceremonies of the church; children's homes and orphanages 6; Bible Schools 4, Periodicals 4, Schools 4; Publishing Houses 2.

These are the various activities of the Church.

Mr. Chairman: We, more or less, know his opinions on the prohibited relationships. Now, it is for us to decide.

Shri Maheswar Nalk: What provisions in this legislation are going to uphold the very provisions under the Bible which you yourself want to uphold?

Rev. P. T. Chacko: If the intentions are to uphold the teachings of the Bible, then why eliminate 11 degrees of prohibited relationships? I say, let 30 degrees of prohibited relationships remain as they are.

Mr. Chairman: Let us not ask questions which are a matter of opinion. Let us ask about concrete amendments which they want to make and then we can consider them. Otherwise, you say, "Do you believe in this?" and he will say, "I do not believe in this." Let us be specific.

Shri P. R. Patel: This is the feeling expressed by head of the Church. I want to know what is the feeling of the Christians, say, the non-Catholics. After all, he speaks as the head of the Church. The priest, as we have got in Hindus, could give certain views. But what about his followers? So, I want to know from him whether it is not a fact that different views are held by different communities of Christians, so far as the marriage is concerned.

Shri G. G. Swell: I think that question is not really relevant because Rev. Chacko is speaking on behalf of the Pentecostal Church and we take that as the view of the Church. The followers do not come in. They do not come in. Certain rules are laid down by the Church and all the followers of the Church are expected to follow those rules. There are hundreds non-Catholic Christian sects in the world. Rev. Chacko represents only one of those sects and I think it is enough we listen to him what he wants

to say. We have noted it down and the matter should stop there.

Mr. Chairman: Yes. Now let us apply our minds to another very important point which he has raised in his memorandum and that is about the recognition of the churches. That is, of course, one of the things that has agitated almost all the Christian churches.

Rev. Chacko, you may please refer to clause 7 of the Bill which deals with the recognition of the churches. You have made your specific statement that you do not want that there should be any recognition given to the churches which will give weightage, any favour, to one particular church against the other. What would you suggest? There has been some history behind it. Can anybody solemnize a marriage? Would you want that or would you want certain criteria to be laid down? What is that you want us to consider that would be acceptable to you in keeping with your ideals. Please let us know how should we amend clause 7 of the Bill?

Rev. P. T. Chacko: My answer would be that every Church should be required to get registered under the Societies Act of 1860. By their memorandum and rules of association, every detail about the Church can be known by Government as to what are its teachings, what they stand for and what are their activities and so on. When a Church is registered, that is known to the Government. The rules should be made compulsory to all Christian Churches that the marriage licence would be granted to all such registered churches which would also automatically be recognised by the Government. Recognition is not granted to all Christians. This is a frightening thing. When a person repents for his sins, and accepts Jesus Christ as personal saviour, he is recognised by Heaven. Heaven recognises him as a Christian and a child of God. If the Government of this land refuses to give recognition to me, you imagine how will I feel about it. So,

every Christian must be recognised as a Christian. Even if there are only ten people in a particular sect or denomination, they should be free to follow the dictates of their conscience and their understanding of the Bible. We should have the freedom to think, freedom to speak and freedom to express our views.

Shri G. G. Swell: Is your Church recognised by Government? Does it come under 'Recognised Churches'?

Rev. P. T. Chacko: No church is recognised now.

Shri G. G. Swell: I think there are some churches which have been recognised by Government.

Mr. Chairman: That is for the purpose of marriage. This is a new clause.

Shri G. G. Swell: While any Government of any country should respect the tenets of any particular religion, we have to admit the fact that even within the religion, there is rule for everyone. A responsible person goes round and says that he is fit to do anything he likes in regard to religion. There are people who have faiths in religion and there are others who are by themselves imposters practise religion. Naturally, Government has to satisfy itself whether a particular church has certain minimum standards which ensure that the preachings of the Church are in the interests of the people. In that event that Church has to be recognised.

Rev. P. T. Chacko: What I suggested would cover that also. Government can make it a hard and fast rule that every Church or denomination should be registered according to the Societies Act. The Government will also be able to know what they stand for, what are their activities etc. Necessary details should be supplied at the time of registration and also every year the names of the Governing Body members of the Society

will be sent to the Registrar concerned. If there are any new amendments, they will also be notified in the memorandum. The Government will thus be kept posted with upto-date facts and figures.

Shri Rajendranath Barua: It is very clear that on this point Government can give recognition at any time.

Rev. P. T. Chacko: Recognition should be given to all.

Mr. Chairman: You please read clause (7). For the purpose of solemnizing the marriages, it is not necessary for only the clergymen of the recognised church to recommend for solemnization of the marriage. There are three categories of solemnization of marriages: (i) by any Minister of a recognised Church; (ii) by any Minister of a church licensed under Section 8 to solemnize the marriage and if you look at Section 8 it says:

"The State Government may, by notification in the Official Gazette, grant licences to Ministers of Church to solemnize marriages within the whole or any part of the State".

Whether the Church is recognised or not, just as you are saying, you will have to submit yourself to the production of a Registration Certificate which will enable you to go to a recognised Church. In any case, your Ministers would take out licence from the State Government to have authority and they will continue to have that right to solemnize the marriage.

Shri Rajendranath Barua: Please look up clause 2 of Section 7. This will facilitate you to solemnize the marriage.

Mr. Chairman: If you see in sub-clause (2) of clause 7, you will find that a Committee will be set up in recommending whether the Government should recognise a Church or not. They will report whether the Church is registered under any law for the time being in force relating to the registration of societies in general or

religious societies in particular. They will also go into certain other things such as whether the Church is properly organised and has well-established rules for the solemnization of marriages, whether the church has a proper place of worship, whether the clergymen are ordinarily ordained to solemnize marriages and whether the strength or standing of the Church is such as to justify recognition being accorded thereto. These are the things that are being enumerated here. Do you think that it is necessary? We would like to have your opinions about it.

Rev. P. T. Chacko: As I said, we are not told as to which is the proper place of worship. We can worship anywhere. In the Pentecostal Church, the worshipping is done in a rented house for several years. I too have been worshipping in Secunderabad in a rented house.

Shri G. G. Swell: That is not our point. You can worship even under the shadow of a tree. But in a Church or an Organisation, it must have a place for this purpose.

Rev. P. T. Chacko: Is it shown in the Bible that it should have a special place?

Shri G. G. Swell: Even for solemnization of a marriage you should have records. All these things must have a place in an organization. You cannot simply carry all these things with you in your pocket.

Rev. P. T. Chacko: We have marriage licence and we have books for the purpose.

Shri G. G. Swell: That is what we mean.

Rev. P. T. Chacko: Let us not increase the conditions which are not sanctioned by the Bible.

Shri Bibudhendra Mishra: The Committee will make the recommendation to the Government which takes into consideration whether there are rules

or whether the Church is recognised or not. Your suggestion is that this provision should be deleted.

Rev. P. T. Chacko: This particular provision should be deleted. There are many sections among Christians such as the so-called brethern group, which have free, independent local churches with spiritual fellowship to Unite them. Marriages are solemnized in many churches. But we do everything essential with minor differences just as other Churches carry on.

Shri Bibudhendra Mishra: In effect it would mean that any seven persons can be registered under the Societies Registration Act and can perform the marriage. It does not matter whether they have well-recognised rules or not. It does not matter whether they are recognised or not.

Rev. P. T. Chacko: Let there be any number of churches.

Shri Bibudhendra Mishra: That would be in conformity with Biblical principal?

Rev. P. T. Chacko: In the Bible, there were churches in the homes. Certain churches are addressed as "to the church that is in the home of" so and so, etc. So, the building is not the church.

Shri Bibudhendra Mishra: That is, proper organisation and well-recognised rules of marriage and all that.

Mr. Chairman: We have understood your point of view and we shall certainly consider it. Now, I would like to request the other witness to offer his opinion.

Rev. J. L. Dorsey: Madam Chairman and Members of the Committee, the nature of the testimony, which I intend to give is a different type of testimony than that which has been given already. I want to deal with what effect this law will have rather than dealing primarily on its specific provisions.

All churches have their laws, but we are living in days when members of many churches, denominations and organisations are leaving the precepts which they have voluntarily professed. Not only in India alone, but all over the world, people are coming out of their old denominations and they are forming new denominations. They are leaving the old churches and forming new churches.

The year 1950 was the year of the formation of our Council. In 1948, shortly after independence, the Government of India recognised for the first time two organisations. They recognised the Roman-Catholic Bishops Committee and the National Christian Council. They were recognised for the purpose of admitting missionaries into India. Immediately after this recognition members of the National Christian Council began suggesting that Protestant missionaries could not come into India unless they became members of that Council. That was the problem. We did not want people who do not believe the Bible representing us before the Government. So we formed a Council of our own.

After that, in 1955, the United Provinces Christian Council (U.P.C.C.), which is a subsidiary of the National Christian Council, requested recognition from the U.P. State Government saying that they should represent Protestant missionaries. The State Government gave them permission to represent all Protestant missionaries. The Government heard our objection and they changed the recognition. In other words, we were left free to carry on our own representations directly, without being forced to go through the U. P. C. C.

The attack on one Christian is an attack on any Christian. First the attack was on missionaries. Now the matter has come to this, namely, the local churches are under attack through this marriage Bill. I am not saying that it is under attack main-

ciously, but I am saying that there is an attack on freedom. Now the problem has arisen. You would be aware of the Lok Sabha debate when the hon. Law Minister introduced this bill. The National Christian Council claims the credit for the introduction of this law. And consequently, we are faced in many respects with a law, not of our own choosing, but that of the National Christian Council. Therefore, we have to be here. The National Christian Council has made certain recommendations and these are contained in the provisions of the proposed Bill. Now, what is involved in this law is this. Section 7 recognises some churches, and, if you read the end of Section 7, there is provision for including the National Christian Council with all its member churches under this act. I am talking about sub-section (3) of Section 7. It says:

"The Central Government, after taking into consideration the recommendations made by the Committee under this section, may, by notification in the Official Gazette, declare any Church to be a recognised Church for the purposes of this Act, and any such notification may also declare a group of Churches belonging to any organisation or denomination to be recognised churches."

The groups of churches belonging to the National Christian Council come in as a body whenever somebody is ready to admit them.

Mr. Chairman: To which section are you referring to?

Rev. J. L. Dorsey: Section 7, sub-section (3), last line. They may declare a group of churches belonging to any organisation or denomination to be recognised churches. The N. C. C. with all its churches comes in whenever somebody is ready to admit them.

There are two categories of ministers—those of recognised churches

and those licensed by the State Government. The Bill says that this difference is intentional. The licensed Minister has a different status than that of the recognised Minister. A licensed Minister may be compelled by the Civil Court to do certain things contrary to both his own conscience and to the laws of his church. The civil court can compel him to go against his conscience and against the rules of his own church.

Then, the scope of activity of the licensed minister and the recognised minister is different. A recognised minister is recognised by the Central Government and he can exercise his authority right from one end of the country to the other. A licensed minister can be licensed only for a particular State or a portion thereof. So, there is a great difference between recognised and licensed ministers. This distinction is intentional. We believe that there should be equal freedom of religion to all Christians. A licensed minister is denied the protection of clause 70 of the Bill. He is denied the protection of the laws of his own Church. Clause 70 reads:

"No minister of a recognised Church shall be compelled to solemnize any marriage, the solemnization of which would be contrary to the rules of the Church of which he is a Minister."

That protects the members Churches of National Christian Council and the Roman Catholic Church. That protects anybody who is a recognised minister.

There is also a matter of harassment involved here. I may give you an example. Three of us, in our own Church, applied for being licensed. Licensing is at the will of, what you could call, petty officers. It is at their own mercy whether to license a particular person or not. One of us was licensed to officiate in the entire United Provinces and another was licensed to officiate in the Kanpur district and the other one

was licensed to officiate only in a portion of the Kanpur district. That is what happened. It is all at the mercy of these petty officers. I would like to give you one other concrete example of what can happen in this regard. The other day I received this letter from the Strict Baptist Mission of South India. The man who applied for being licensed is a Pastor. This brother has been trying to obtain a marriage licence for about two years. He is a fully ordained man and applied in the prescribed form for a licence under sections 6 and 9 of the Indian Christian Marriage Act, 1872. On the 15th of March, 1963 he received an order from the District Revenue Officer, Salem. It reads as follows:

"Marriages. Indian Christian Marriage Act 1872—Salem District.

Pastor D. Rajarathnam, Strict Baptist Church, Rasipuram—Licences Christians to be set up by it.

Read: Government Memo No. 96209/Cts. I/62-13 dt. 22.2.63.

Order: Pastor D. Rajarathnam, Strict Baptist Church, Rasipuram, is informed that the Government have declined to grant licences under Sections 6 and 9 of the Indian Christian Marriage Act, 1872, applied for by him. Sd/- P. Sankaran, Dist. Revenue Officer."

This type of thing is done by these petty officers. This man has been trying for a licence for two years and after two years he is told that the licence has been refused. It is all at the mercy of the petty officers. For some reason or other he refused to give a licence. This sort of thing happens again and again. The licensing system should be abandoned.

Then, you and I are faced with another problem. This is about the recognising authority as to who should be the recognising authority. We have made our suggestions in our representation and you will find certain recommendations in the printed blue

sheet which is before you. The National Christian Council recommended that the Central Government, and not the State Government, should be the recognising authority. The Central Government has accepted that. I would like to read to you a relevant portion from the Minutes of the Enlarged Committee on Christian Marriage and Divorce of the National Christian Council July 23-24, 1961, as to why the National Christian Council has, among other things, made this recommendation.

I read as follows:

"Regarding clause 7 a strong view was expressed by a section of this Committee that the following suggestion be made to the Law Ministry as addition to Clause 7:—

"(i) That the power of according recognition to churches whose names are to be entered in the list of Recognised Churches within the meaning of clause 7 of the Bill, should vest in the Union Government, who will, when deciding the matter of recognition, take into consideration the view of the Central Advisory Committee, consisting of Christians to be set up by it (Union Government), and the recommendations received from the State Governments."

This is the reason, among others, in support of this. Please listen to this carefully.

"(3) This procedure will also reduce the multiplicity of Churches seeking recognition and will promote union of Churches, which in the words of the Law Commission itself will render the task of recognition easier."

What business has the National Christian Council to say that it would reduce the multiplicity of Churches seeking recognition and will promote Union? Can the National Christian Council use this legislation as a *danda* over the rest of the Churches? What

right has it got? This is clear, that the National Christian Council wants to use this legislation for its own purpose.

This is what the National Christian Council says in its own Review. Here is the *National Christian Council Review*—this is October, 1962—which says:

“Established churches have rules of discipline for their ministers and also definite rules and forms of service for solemnization of marriages. There is thus a check on the conduct of their ministers. But small ‘independent churches’ and there are many in the country these days, have no such rules or forms of services. There is thus no check on their activities. . . .”

What business has the National Christian Council got in checking the activities of other churches? Are there not sufficient laws in the country to check the activities of the various churches? Further, it is stated:

“The suggestion that all churches should have the authority to solemnize marriages cannot be accepted. Ministers of Churches that are not in the First Schedule will apply to the State Government for a license. . . .”

Secondly, the National Christian Council believes in freedom for itself and not for those who do not want to do anything to do with the National Christian Council. We want the National Christian Council to be free and we want them also to be free in persuading and convincing those who are not members of their Council. But, we do not want to put in their hands the force of law in checking the activities of other churches. The irony of the situation is this. Recognition will be given to those who are at present recognised when the Bill comes into force. I am thinking of the Roman Catholic Churches, the National Christian Council and others also.

1317 (Aii) L.S.—3.

Shri G. G. Swell: Do you mean to say that they have deviated from the teachings of the Bible?

Rev. J. L. Dorsey: Yes, Sir.

Shri G. G. Swell: Who are they?

Rev. J. L. Dorsey: The Roman Catholic Church and the member Churches of the N.C.C. Please turn to page 15 of the Fifteenth Report of the Law Commission. It reads as follows:

“Sister’s daughter, brother’s daughter, mother’s sister and father’s sister, brother’s son, sister’s son, mother’s brother and father’s brother”. Objection is taken by the Roman Catholic Church witnesses to the inclusion of the above relations in the prohibited lists, because, it is said, though marriages with those relations are not viewed with favour, and are prohibited, the prohibition is not absolute and is capable of being removed by a Papal dispensation”.

Now what the Law Commission knows about the Papal dispensation, on what principles, can the Law Commission judge this? How can they go against the clear teachings of the Bible?

I now turn to another paragraph of the National Christian Council with reference to the rules of the Catholic Churches as also the recommendations of the N.C.C. I would like you to go through the introduction of the N.C.C. recommendations on divorce to the Law Commission:

“Despite the teaching of the Christian Church that Marriage is the voluntary union for life of one man with one woman to the exclusion of all others, some persons who profess the Christian faith nevertheless desire that their marriages shall be dissolved”. This is clearly a departure from the teachings of the Bible.

Our problem is that all these organizations are scattered from end to another. Most of them are not members of the India Bible Christian Council. Thousands and thousands of them are not represented here. They take the position that we should not depart from what the Bible teaches us.

Mr. Chairman: Can we take it that your main objection is with regard to the question of recognition of churches?

Shri G. G. Swell: Rev. Dorsey has made out certain good points. So I suggest we hear him first and then we may ask questions.

Mr. Chairman: Is there any other important point?

Rev. J. L. Dorsey: We would suggest that all Christians and Christian Churches are given freedom just as the Hindus, Mohemmadans etc. are given.

Shri Bibudhendra Mishra: You referred to some of the speeches made in the Parliament. What exactly is your point on which you referred to the speeches made in Parliament. Do you take any objection to that?

Rev. J. L. Dorsey: I have no objection. I merely quoted what Shri A. K. Sen said at the time of the introduction of the Bill in Parliament. He stated that so far as the National Christian Council is concerned, there has been a demand from 1955 onwards that the Government should bring forward a Bill as soon as possible. I do not object to this. My objection is that with regard to recognition of churches there may be some harrasment.

Shri G. G. Swell: There is no intentional harrasment.

Rev. J. L. Dorsey: Harrasment does not necessarily mean that it is intentional. I am just giving you an

example to make out my case a little clear. The implications of this Law are that the Government has a right to decide as to which form of Christianity should be recognised and which form should not be recognised. As Christians, we are all recognised under the Constitution. There is no right for anyone to recognise what type of Christianity is right and what type is wrong. Is it the duty of the Government to legislate on morality?

Shri Bibudhendra Mishra: It does not say what type of christianity should be recognised. It only says that all churches are to be recognised for the purpose of solemnization of marriages. It is a different thing to give recognition to the churches for the purpose of solemnisation of marriages. It gives power to Government to give or not to give recognition to churches.

Shri P. K. Patel: If the church is not recognised, then it cannot solemnize marriages.

Shri Bibudhendra Mishra: What is your suggestion about the recognition of the churches?

Rev. Dorsey: The Government claims to have a right to decide about the marriages in our religion. The Government has no right to interfere in our religion. For example, I would like to turn to page 11 of the Fifteenth Report of the Law Commission, para 9 about sacramental marriages. I would also like you to see the conclusions of that section on page 13 which reads as follows:—

“Thus, sacramental marriages must necessarily fall under two categories:—

- (i) those solemnized by ministers of recognised Churches, and
- (ii) those solemnized by ministers licensed by the State.”

The Law Ministry knows nothing about sacramental marriages. The Law Ministry has absolutely no knowledge about sacramental marriages. Sacramental marriage has been a problem among Christians for thousands of years. The Law Commission says in the Fifteenth Report that all marriages in India performed by any Minister would be sacramental. This is the type of decision which clause 7 provides for. This is interference in the religion. I am a Presbyterian and I do not believe that marriage is a sacrament.

I have here with me a number of things from which I would like to illustrate this point. I cannot illustrate all of them. It would be of help to you to understand the problem. First of all, I would like to read from a book of the Roman-Catholics, viz., "Notes on the Canons Law of Christian Marriage". It says:

"When was the sacrament of matrimony instituted? The time of institution is uncertain. It is a dogma that Christ raised it to the dignity of a Sacrament."

The dogma has been made by the Pope that marriage is raised to a sacrament. May I read from the Discipline of the Methodist Church in Southern Asia? It states:

"There are two Sacraments ordained of Christ our Lord in the Gospel; that is to say, Baptism and the Supper of the Lord.

Those five commonly called sacraments, that is to say, confirmation, penance, orders, matrimony, and extreme unction, are not to be counted for Sacraments of the Gospel; being such as have partly grown out of the corrupt following of the apostles."

The Law Commission is supposed to have given valid testimony in the Fifteenth Report where it says that marriage is a sacrament under the Church of England and thus the basis for recognition of Churches under the

old law. I would like to read out to you Article 25 of the Church of England.

"There are two Sacraments ordained of Christ our Lord in the Gospel, that is to say, Baptism, and the Supper of the Lord."

In other words, contrary to the Law Commission testimony, marriage was never a sacrament in the Church of England.

The Law Commission of India, in its Fifteenth Report, page 11, para 9 says as follows:

"Coming next to sacramental marriages, the scheme of the Indian Christian Marriage Act, 1872, is this. Section 5(1) provides for marriages being solemnised by any person who has received episcopal ordination, and this head will comprehend all marriages performed according to the rites of the Church of Rome and the Church of England. Section 5(2) provides for marriages being solemnised by clergymen of the Church of England."

There is a mistake in printing. Section 5(2) should read Church of Scotland.

The Law Ministry wanted to say 'religious marriages'. But they used the word 'sacrament'. In the Lok Sabha, they used the word 'sacrament' and this is the type of thing which will plague us continually when we come to the other matters listed in clause 7. We are faced with a lot of men ignorant about Christianity, producing and applying of this law. That is the problem. Who knows what a properly organised church is? Who can decide this matter as to what a properly organised church is? Who knows about the well-established rules? In setting up Section 7, you are opening a way for men to enter into things about which they know nothing, as has already been shown, and that is what we feel should be

avoided. We hope this type of difficulty will be surmounted.

Please see Law Commission's report. In the matter of episcopal ordination, the Law Ministry recognises a principle. It is found in page 12. I believe that the Ministry recognises a principle which is a valid principle which must be recognised. I would like to quote from page 12 of the Fifteenth Report of the Law Commission, which states as follows:

"Then, as regards the persons who are entitled to solemnize the marriages in the Church of Rome and in the Church of India, Burma and Ceylon, the ministers derive their authority from episcopal ordination. And a provision that they should obtain license from the State might be challenged as constituting the super-imposition of an outside authority on the Church in what is a matter of religion, and therefore repugnant to the Constitution."

The granting of licences can be challenged as super-imposition upon the Church of England, upon the Church of Rome and upon any Church with an episcopally ordained clergy. In respect to hundreds and thousands of small churches, is this licensing not a constitutional imposition upon them also? What does the Law Ministry know about the benefits of episcopal ordination? What is episcopal ordination? This matter of episcopal ordination has been a matter over which Christians have fought for a thousand years. And now the Law Commission says that episcopal ordination carries special benefits—it has solved our problem! It is such an institution that any imposition of licensing upon the episcopally ordained would be unconstitutional.

Lastly, ladies and gentlemen, I plead with you to grant to every section of the Christian community the same right of freedom of religion guaranteed in the Constitution which is given to every other community. Thank you.

Mr. Chairman: Now, Mr. Mathew, would you like to say something? We want to finish with this.

Rev. J. L. Dorsey: He has much to say.

Shri A. G. Mathew: Yes. I am prepared to answer any number of questions.

Mr. Chairman: Let us put specific questions.

Shri Bibudhendra Mishra: You specify the objections.

Shri A. G. Mathew: Where it is a task of making a legislation applicable to Christians and in order to draft that law, it is absolutely necessary that there should be some insight and intimate knowledge of what Christian law of marriages is, what is the law prevailing, what is the conception of marriage, what is their attitude to divorce, what is their attitude towards separation, what is the difference between Roman Catholic Churches and other Churches, what are their implications and all those things. All these things have to be understood in order that we may be able to appreciate it. Otherwise, it is impossible.

Mr. Chairman: I think it is better you give the opinion of your Church because it is very clear that you will not be able to speak on behalf of Catholic Churches which have very definite ideas of their own. We know that however much you may give evidence on behalf of Catholics it would not be very authoritative.

Shri A. G. Mathew: I am going to give evidence on behalf of India Bible Christian Council and St. Thomas Evangelical Church of India.

Mr. Chairman: You may please specifically state what are your objections to the various clauses of this Bill. You have already submitted the memorandum.

Shri A. G. Mathew: I want to explain it.

Mr. Chairman: Mr. Mathew, I just wanted to know whether we could postpone it till the next day, that is, the 20th. You are coming on that day.

Shri A. G. Mathew: Yes.

Mr. Chairman: Now, if the hon. Members want, they can put specific questions to Rev. Dorsey. Let us finish with that.

Shri P. R. Patel: After all, we must know the views of the common man. This could be done only when we visit the places.

Mr. Chairman: That question has been debated upon. We have got an answer. I can tell you that after the witnesses leave.

Shri G. G. Swell: A number of important questions arise from the evidence given by Rev. Dorsey.

Rev. Dorsey, as far as the Government of India is concerned, for them every Church is the same. I mean, they look upon every Church with the same eye. There is no question of favouring the Roman Catholic Church or other Church, favouring this or favouring that. As far as we can see, it is the question of convenience. About this National Christian Council, I am not very familiar with the constitution of this Council—I stand for correction—but, I suppose, it is a sort of a federation of Protestant churches. Am I right? As it is constituted, it is a union or a federation of a number of protestant churches.

Rev. J. L. Dorsey: No, Sir.

Shri G. G. Swell: What is it?

Rev. J. L. Dorsey: It is an organisation which has a membership of churches. It is not a union of churches. It is a representative body. It has a membership of churches. Churches are its members.

Shri G. G. Swell: Membership is of churches. So, it is an organisation of a number of Protestant churches.

Rev. J. L. Dorsey: That is right.

Shri G. G. Swell: Now, as far as I can see, the Government will find it difficult to go into every kind of detail of any problem. It would like to be guided and advised by some representative body of the different churches. We have to understand the problem from the Government's point of view also. As Christianity is constituted, we know it is divided into two broad organisations—Roman Catholic Churches and Protestant Churches. It is universal and it is a world problem that a great division is there between the two sections of Christianity. Therefore, it is not possible to get them together, to sit together, and get an opinion to any problem that comes before the Government. But it is possible that different Protestant churches should put their heads together and advise the Government in matters relating to those churches. Now, if that is conceded, my question would be: What is your particular difficulty, of your organisation, in joining the N.C.C.? By being there in the N.C.C., you have your representation, you have your influence and you have right to tender any opinion to the Government.

Rev. J. L. Dorsey: I have an invitation from a leader of the NCC to join that organisation. But I feel the problem is this. Am I not today recognised by the Government? The India Bible Christian Council is not officially recognised by Government, but I am here! I do not need any recognition. Why does the NCC need any recognition? If Government wants anything, they can ask us. But why special recognition?

Shri G. G. Swell: The point is this. As far as the recognition of a particular church is concerned, the Government would be guided by the advice of the National Christian Council because, as you know, the Government is not expected to know the

details of the working of the Protestant churches. It is natural. Therefore, Government should be guided by the considered opinion of a representative organisation. I think it is on that principle, not because Government wants to favour this or favour that, that they have arrived at this decision.

Rev. J. L. Dorsey: The problem is this for Christians: for Mohammadans and Hindus there should be similar organizations. How can the National Christian Council be selected to represent the Christians when there is not similar organization to be recognised for the Hindus.

Mr. Chairman: I shall ask one other question. What would be the number of members (Protestant Christians, affiliated to the National Christian Council)?

Rev. J. L. Dorsey: According to the National Christian Council, it is about 2 millions.

Shri G. G. Swell: What is the percentage of Protestants in the Christian Council from outside?

Rev. J. L. Dorsey: First of all if we accept the Roman Catholics as representing 50 per cent. and Protestants 50 per cent. of the Christians in India perhaps the number would be between two million Protestants and three million outside the N.C.C. How can you judge that? I have given this figure approximately from the figure given by the National Christian Council. I may be right or may be wrong. The Christian community in India is roughly 10 millions. I do not have the records. This is what I have approximated from the list given by the National Christian Council. Approximately the number of Protestant Christians outside the N.C.C. is about 2 millions.

Shri G. G. Swell: What is your suggestion as regards getting a licence from the State Government? I think this will be looked into by the State Government. They will be advised to

be more liberal in granting licences. In what way would you like the licence to be granted to a recognised Minister?

Rev. J. L. Dorsey: Let us look to clause 7, page 6 of the Bill. The Central Government after taking into consideration the recommendations made by the Committee under this Section, may by notification in the Official Gazette declare any Church to be a recognised Church for the purpose of this Act and by such notification may also declare a group of churches belonging to any organization or denomination be recognised churches. Similarly, there should be a provision with regard to revocation of licence on expiry and surrender of the licence. I have a sacramental right to perform the marriages in the Kanpur Distt. of the United Provinces. Now in the section of the Bill allowing Government to make rules they are going to say that the licence is likely to expire and is to be revoked. Now my licence is permanent. Under this proposed Bill I do not know what to expect. I do not know what the Government of India expects to do. Nobody is willing to take a decision, say in three months, four months or five months' time with regard to this. There should therefore be no provision for opening the Christian Ministry to the harassment of granting licenses. It should be abandoned. License should be granted by the State to parties marrying—not to Ministers.

Mr. Chairman: There seems to be some idea for incorporating a clause on this.

According to British times Law, any person licensed in this behalf, is permitted to solemnize the marriages between Indian Christians.

Rev. J. L. Dorsey: I do not deny that.

Mr. Chairman: What we are trying to understand is this. The Christian Churches are divided into many denominations. From 1872, you have introduced in the Law the question

of licensing of the priests to perform the marriages. What we are trying to understand is that while the other communities in India have not done that, why should we do something here which would go contrary to the practices being followed since a long time.

Rev. J. L. Dorsey: I quite understand the problem. As I told you, the Church of England is a State Church. Wherever there are State Churches, there is some legislation. Under the British Law, it is impossible to get permission to solemnize the marriage with the prohibited degrees of relationship. In India, we should follow the pattern obtaining in America. There is a law in England which is being followed for a number of years. In India, we have been given fundamental rights under the Constitution.

In this connection, I would like to say that the Law Commission has not taken evidence from the State of Kerala. 30 per cent. of the Indian Christian population are living in Kerala. For nearly 2,000 years they have had no licensing system there. But to say that this Bill is development of the Law of India is a great mistake. This Bill is a recent development of Indian Law in regard to Christians. You may go to Kerala and see for yourself as to what is being done there.

Shri Rajendranath Barua: Don't you feel that revocation is possible only if you do not satisfy the conditions mentioned in clause 2 of Section 7?

Rev. J. L. Dorsey: I have not followed this question.

Shri Rajendranath Barua: You have some objection to the revocation. You do not like the power of revocation being given to the Government.

Rev. J. L. Dorsey: It has no right. It is contrary to the Constitution if that is done.

Shri Rajendranath Barua: Revocation is possible only if you do not

conform to the conditions prescribed in clause 2 of Section 7.

Shri J. L. Dorsey: Yes, Sir. There is a principle on which I object to this. There are a group of Christians appointed under clause 7. Whom, they do not know. They will not be able to represent all the Christians to the Government. We do not want anybody representing us except ourselves. I want to protect myself. From the Law Minister's statement in Parliament before introducing the Bill we know that the N.C.C. has had already special consideration.

An Hon. Member: The Bill does not say that.

Rev. J. L. Dorsey: All that I want to say is that this law is not for the N.C.C. only but to cover millions of Christians. It will hinder the propagation and profession of the Christian religion. That is what I feel this will amount to.

Shri G. G. Swell: You want to do away with solemnity altogether?

Rev. J. L. Dorsey: Absolutely. Marriages should be governed on the basis of ancient practice in India.

Shri G. G. Swell: So, you want to leave it to the Church to appoint the person who will solemnise marriages.

Rev. J. L. Dorsey: That is right. I want the churches to do it. It is their own business. In this religious matter they have their own standards and they will conform to those standards. Let us leave it to the churches.

Shri G. G. Swell: About sacramental marriages, you have strong objection to the word 'sacramental'. Would you be satisfied if it is substituted by the word 'religious'?

Rev. J. L. Dorsey: You misunderstood my objection. My objection is not to the use of the word 'sacramental'. My objection is to the non-Christian man who thinks he knows what a sacrament is.

Mr. Chairman: Connotation of the word.

Rev. J. L. Dorsey: I do not speak about the connotation of the word. Our objection is to any man of Government attending to legislate laws in relation to the Christian church, about which he knows nothing. He knows nothing about such churches, what their problems are and what their terms means. So, the Legislation is open to misinterpretation and misuse. My objection is that, about Christian churches, the Law Commission knows nothing yet clause 7 gives a whole series of things which are open to the

same misinterpretation as the word "sacrament".

Shri Bibudhendra Mishra: Sacrament is 'religious ceremony' according to the Oxford Dictionary.

Mr. Chairman: Thank you very much for your evidence. We will again meet on the 20th April at 3 p.m. We will have to examine other Churches also.

(The witnesses then withdrew).

The Committee then adjourned.

JOINT COMMITTEE ON THE CHRISTIAN MARRIAGE AND MATRIMONIAL CAUSES BILL, 1962

MINUTES OF EVIDENCE GIVEN BEFORE THE JOINT COMMITTEE ON THE CHRISTIAN MARRIAGE AND MATRIMONIAL CAUSES BILL, 1962

Saturday, the 20th April, 1963 at 15.12 hours

PRESENT

Shrimati Renu Chakravartty—Chairman.

MEMBERS

Lok Sabha

- | | |
|------------------------------|----------------------------------|
| 2. Shri Joachim Alva | 10. Shri Bibudhendra Misra |
| 3. Shri A. E. T. Barrow | 11. Shri Maheswar Naik |
| 4. Shri Rajendranath Barua | 12. Shri Purushottamdas R. Patel |
| 5. Shrimati Kamala Chaudhri | 13. Shrimati Yashoda Reddy |
| 6. Sardar Daljit Singh | 14. Shri T. H. Sonavane |
| 7. Shri Sudhansu Bhushan Das | 15. Shri Sivamurthi Swami |
| 8. Shri Baij Nath Kureel | 16. Shri A. M. Thomas |
| 9. Shri Mathew Maniyangadan | 17. Shri Asoke K. Sen |

Rajya Sabha

- | | |
|------------------------------|----------------------------------|
| 18. Rajkumari Amrit Kaur | 24. Shri Mulka Govinda Reddy |
| 19. Shri Jairamdas Daulatram | 25. Shri M. H. Samuel |
| 20. Shri A. C. Gilbert | 26. Shri M. C. Shah |
| 21. Shri Dayaldas Kurre | 27. Shri Awadeshwar Prasad Sinha |
| 22. Shri Bansi Lal | 28. Shri P. A. Solomon |
| 23. Shri A. D. Mani | |

REPRESENTATIVES OF THE MINISTRY

1. Shri G. R. Rajagopaul, *Special Secretary, Ministry of Law and Member, Law Commission.*
2. Shri R. V. S. Peri Sastry, *Assistant Draftsman, Ministry of Law.*

SECRETARIAT

Shri A. L. Rai—Deputy Secretary.

WITNESSES EXAMINED

I. INDIA BIBLE CHRISTIAN COUNCIL, NEW DELHI

1. Shri A. G. Mathew
2. Shri J. L. Dorsey

II. ST. THOMAS EVANGELICAL CHURCH OF INDIA, THIRUVALLA, KERALA

1. Shri K. S. Joseph
2. Shri A. G. Mathew

III. THE INDIAN PENTECOSTAL CHURCH OF GOD, KERALA

1. Rev. K. J. Samuel
2. Rev. P. T. Chacko.

**I. INDIA BIBLE CHRISTIAN COUNCIL,
NEW DELHI.**

Spokesmans

1. Shri A. G. Mathew
2. Shri J. L. Dorsey

**II. ST. THOMAS EVANGELICAL CHURCH
OF INDIAN, THIRUVALLA, KERALA.**

Spokesmans

1. Shri K. S. Joseph.
2. Shri A. G. Mathew.

**III. THE INDIAN PENTECOSTAL CHURCH
OF GOD, KERALA.**

Spokesmans

1. Rev. K. J. Samuel.
2. Rec. P. T. Chacko.

(Witnesses were called in and they took their seats)

Mr. Chairman: Before we proceed, I may tell you that your evidence will be treated as public and is likely to be published unless you specifically desire that all or any part of the evidence tendered by you is to be treated as confidential. However, even though you might desire the evidence to be treated as confidential, such evidence is liable to be made available to the Members of Parliament.

Mr. Mathew, we have got your memorandum, your evidence, in writing. If there is anything specific which you want to say, please do so.

Shri A. G. Mathew: I would like to submit that in respect of this Bill which is before this committee, the civil aspects of marriages alone were the subject-matter of this Bill. As far as the religious aspects are concerned, I would submit, the various denominations of the Christian community may be given the freedom that is guaranteed under the Constitution. I am for a legislation under which if there is a child born, whether in wedlock or out of wedlock, the parents must be responsible not only for the maintenance of the children but also must be willing to treat them as their successors. That is in the interest of

the State. I am also for a legislation prescribing health standards, morality and public order. If anything more is done, that will certainly be an interference with our constitutional rights. There is the Hindu Marriages Act which had been passed in 1955, I find that it is made applicable not only to Hindus but also to Jains, Sikhs and a lot of other communities which are not Christians or Jews or Parsis or Muslims. If somebody had pressed before the Law Commission that Christians should be defined as Christians recognised by the Government and the law be made not applicable to others, I would have welcomed it because I could have then taken advantage of the Hindu Marriages Act which is more in conformity with the Constitution, which guarantees freedom of religion, freedom of conscience, etc. Under the Hindu Marriages Act, the marriage can be celebrated according to the customs and ceremonies of any one of the parties of that marriage. The marriage may be registered. Even registration is not compulsory. I am for registration of marriages. There must be an authoritative evidence available to courts whenever there is any dispute.

Shri Asoke K. Sen: Have you got anything in writing?

Shri A. G. Mathew: I have given it in writing also. Whenever there is any dispute as to paternity or as to succession or as to whether a person is married or not, there must be an authoritative evidence available to Government and to courts. Therefore, registration of marriages is necessary. Marriages are contracts. All churches hold that marriage is a sacrament or a religious practice. The churches are unanimous that marriages are also agreements or contracts. A general Law must be made applicable here. That is to say, there must be a rule and a free consent of the parties who must have the capacity to enter into contracts. They must be of the prescribed age and they must have consent; they should not be lunatics or idiots. There may be some other conditions also. All these conditions are

prescribed in Clause 4. I have no quarrel for prescribing the conditions for a valid marriage. I wish more conditions are prescribed e.g., the parties concerned should be free from venereal diseases, leprosy and T.B. I am for prescribing any amount of conditions for a valid marriage. A few conditions are not there. I shall cite few illustrations.

Mr. Chairman: Will you please mention the Clause?

Shri A. G. Mathew: That is Clause 4. Impediments of impotency, leprosy, venereal disease, and pregnancy have not been included which ought to be there as conditions at the time of entering into a contract.

Now let me go to divorce. Under clause 30, one of the grounds for divorce should have been leprosy or V.D. Supposing a person was suffering from V.D. or leprosy at the time of marriage for a period of not less than three years. One has to wait for three years more before the party can present a petition for divorce. By that time, the V.D. or leprosy may be communicated to the other party. Or it may be perpetuated by the production of children. Under the recent amendment made by the Law Commission, it can be made a voidable marriage. If it is made a condition precedent for the marriage, even then the children to be born to the parties will become legitimate. It does not stand to reason because in the Bill itself, there is Section 29. The condition makes it clear that is void or voidable marriages, children born, till the marriage is dissolved by the decree, will be legitimate and shall be deemed to succeed the parents in the matter of property. I am agreeable to all manner of conditions being included in this Bill. I am also agreeable to the marriages being registered immediately after it is celebrated. Under this Bill, it is made obligatory that anybody who was celebrated the marriage should immediately communicate to the Registrar of Marriages the fact about that marriage. It has to be registered. It is also obligatory for the Minister to

keep a register. It is also obligatory for the Registrar to keep a register of marriages and periodically they have to be examined. Nothing more is necessary.

Regarding morality, it is in the interest of the State to prescribe a general standard. But, as far as the Secular State is concerned, there cannot be one system of morality for Hindus and another for Parsi, Jews, Christians or Muslims. If the States were to prescribe the moral standards, it should be the same to be applicable to Muslims, Hindus and for everybody.

Shri Asoke K. Sen: On what subject of law are you referring with regard to the morality?

Shri A. G. Mathew: Fundamental rights have been given to all religions in India for celebrating the marriages according to their customs, subject to Health, order and morality.

Mr. Chairman: Is that your point that the terms and conditions under which a marriage is to be celebrated should be the same for Hindus, Christians, Muslims and for everybody else? Is that what you want?

Shri A. G. Mathew: Yes, madam. When the State makes a legislation, I am for one legislation and am not for a separate legislation for Parsis, Christians and so on. Under Article 44 of the Constitution, there is a directive that there should be one Civil Code. If the word 'Hindu' is removed from the Hindu Marriage Act and the word 'Indian' is substituted, that will serve the purpose. Under the Hindu Marriage Act, a Hindu is entitled to celebrate the marriage according to the usual customs and practices.

Shrimati Yashoda Reddy: He wants that for the word 'Hindu', if the word 'Indian' is substituted, it will serve the purpose better. Will all the other religions be agreeable to this?

Mr. Chairman: I think it is better if we hear his evidence first. Please note down the points and then ask any questions you may like.

Shri A. G. Mathew: I wish to emphasise that the attempt of the State should be to prescribe the standards of morality, order or health which should be applicable to all persons irrespective of the community to which they may belong.

Mr. Chairman: Everybody has understood that point.

Shri A. G. Mathew: If the State were to prescribe moral standards for Christians, they should do so for other religions also.

Shri Asoke K. Sen: The conditions for the valid marriages will be the same for all communities.

Shri A. G. Mathew: Also the standards prescribed by Government should be the same for all.

Shri Asoke K. Sen: Is it for valid transaction of the marriage?

Shri A. G. Mathew: My point is not exactly this. My point is this.

Shri Asoke K. Sen: Please follow my question. Is it your point that the conditions prescribed for marriages should be the same for all communities?

Shri A. G. Mathew: No, Sir. My point is that the conditions of validity of a marriage—to be fixed as absolute by the State should be only those which are applicable to all communities. The liberty should be given to the various communities to do what they want in other respects.

Shri Asoke K. Sen: Nobody has got special communal laws.

Shri A. G. Mathew: Marriage is a personal affair. The State cannot interfere with us.

Mr. Chairman: We have prescribed certain conditions. Do you want to add anything to them or subtract from them?

Shri A. G. Mathew: I am coming to that. It should not be one for Hindu, one for Mohammadan and another for Parsi. It should be the same for all.

There should not be any discrimination because it is a personal question in which the sentiment of the community has to be looked into. Religion is not a matter for reason, it is a matter for sentiment.

Shri T. H. Sonavane: What are the conditions out in the draft bill and what else does he want to put in? I think that will make it clear.

Mr. Chairman: It will be much clearer. In the Hindu Marriage Act there are certain provisions. You have seen the proposed conditions for Christian marriage. Now, what would you like to be added or amended to bring it in line with your views?

Shri A. G. Mathew: When you prescribe degrees of prohibited relationship, you should prescribe all the prohibited relationship which is the minimum for all communities and give freedom to all the communities to add to it and not to subtract from it. Because, if a person does not marry, for example, his father's sister, it will not be immoral. You may say that a person may marry, say, within the second degree of relationship or third degree of relationship if you want.

Shri Jairamdas Daulatram: Our friend here has said that Government should lay down certain minimum prohibited relationships for marriage, having regard to law and order and morality and then leave the rest to each community and each group or religion. Now, in this country, take for instance the Muslim community. They do not think that it is immoral to have marriages within closer relationships than possibly Christians and Hindus. If Government lays down any common standard, Government is likely to run the risk of going against the religious sentiments of some community or other. It is, therefore, difficult to lay down a common standard, for the reason that law in a country like India has to adjust itself to the sentiments of the various sections of the people. Hence there is a separate law with regard to the Hindus and Christians, and I believe, also Muslims.

Shri A. G. Mathew: If there is provision in this bill allowing each community to use and enlarge the degree of prohibited relationship that will save matters.

Shri Asoke K. Sen: Have you got any particular list which is different from the schedule?

Shri A. G. Mathew: We have given it.

Shri Asoke K. Sen: Instead of trying to enumerate the point you might send it.

Shri A. G. Mathew: I am trying to enumerate the principle. We have got the list. We have given it.

Shri Asoke K. Sen: You want to lay down a minimum number of prohibited degrees applicable to all communities leaving the communities themselves to add to that.

Shri A. G. Mathew: Yes.

Shri Asoke K. Sen: Have you got a list of the minimum number? What you have got is based on Leviticus. That cannot be accepted by all the communities. For instance, to the community marrying wife's brother's daughter, it is quite moral. That is why I am saying, you might add to it for your own community, but have you got minimum number which you want to be put in? You want that for all communities there should be one fixed number of prohibited degrees with further liberty to the different communities to add to them. Is not that so? You want this list from the point of view of your own community, but have you got any minimum list which you think should be universally applied?

Shri A. G. Mathew: I have not studied that question. What I should say is that as far as prohibited degrees relationships are concerned, it should be left to the religious feelings and sentiments of the particular denomination. If the Government is feeling that there is any question of morality to be entered into, the Government must prescribe a particular standard. There is no complaint from anywhere that the marriage laws of Christians

are trespassing on morality. Scientifically it is better that no relation is married. So, secular State should not be anxious to allow anybody to marry within the particular relationship. So, my submission is, allow us to follow the list in the Leviticus Chapter 18th, verses 1 to 17. Let the Government prescribe particular degrees of relationship which is the absolute minimum standard.

Shri Jairamdas Daulatram: He says that it should be left to each community to extend that list of prohibited relationship. Where will be the legal sanction for punishing the breach of such extended prohibition? The Church or the organisation says that certain relationships are prohibited. Now, if marriages do take place within such relationships where is the sanction to prevent or penalise, unless it is provided in the law itself? The law must be laid down by Parliament.

Shri A. G. Mathew: The Article of the Constitution is very clear on this point. The Constitution of India, Article 25, states:

"Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practise and propagate religion".

So, whenever the Government feels that public order, morality or health requires interference it can do so. If it does not feel so, it need not interfere at all.

Mr. Chairman: Anyway, we have understood you.

Shri A. G. Mathew: The prohibited relationship should be left absolutely to be determined by a particular religious group or denomination. It is not a matter to be prescribed by Government because no two denominations agree on that list.

Shri Asoke K. Sen: We have followed you.

Rajkumari Amarit Kaur: Are you agreeable to the list as obtains today in the Christian Marriages Act?

Shri A. G. Mathew: I am not at all agreeable to that. I oppose that. I have a very strong feeling against that. I cannot think of marrying a mother's sister or a father's sister or a brother's daughter. It is so obscene, so much against my sentiments. And the justification given is that the Catholic Church wanted dispensation and, therefore, this is allowed. That is a very wrong attitude because the Catholic Church gives that dispensation under very special circumstances. The excuse given is that if this power of dispensation is given to Catholic Church, they may abuse it. What is the abuse? The maximum that can happen is that Catholic Church may allow all Catholics to enjoy this privilege. But it cannot extend to other communities.

Mr. Chairman: The English law seems to be the same. We have not distracted from that. We are, more or less, taking that line. The point that you are making seems to be included in this.

Shri A. G. Mathew: Not in our community. We are Christians here much before English people became Christians. Even 8th or 7th cousins do not marry here. Why this prohibited relationship? It is because we believe that in a family, the purity of the home must be maintained. It obtains in our parts.

Mr. Chairman: May I point out to you, in the Hindu Marriages Act many degrees have not been declared prohibited degrees which in certain parts of India, like my State, would be considered completely prohibited. But it does not prevent societies from prohibiting those marriages within those degrees, say, for example, uncle—niece marriage. That would never be tolerated in eastern India and also in the north. But in the south, as a customary way, it is not within the prohibited degree of relationship.

Shri A. G. Mathew: What has been done in the Hindu Marriages Act is, subject to customs, a list has been prepared and in that list mother's sister is not there.

Mr. Chairman: I agree. What I am saying is, mother's sister has always been permitted under the Christian Marriages Act. Mother's sister is not a prohibited degree of relationship according to the Christian Marriages Act, as it prevails. My point is, there are prohibited degrees of relationships introduced in the Hindu Marriages Act as we passed in 1955 although some of which are not prohibited degrees by our own customs. In certain parts of India they are very strictly prohibited degrees. Normally, a Hindu marriage will never be considered to be feasible between mother's brother and her niece. Now, may I know what is the difficulty in leaving a little flexibility so that all Christians come under this?

Shri A. G. Mathew: That is all the more stronger reason for saying, why should Government interfere in that. If the Government can tolerate any sort of relationship to be married, why should there be a list prescribed by Government of prohibited degrees of relationships?

Shri Asoke K. Sen: We have followed your point.

Shri A. G. Mathew: That is where the Government should not interfere.

Mr. Chairman: Any other point?

Shri A. G. Mathew: Now, I come to another point, that is, regarding the recognition of Churches. The recognition of Churches is something obnoxious to the Constitution and it ought not to be allowed. It is a violation of articles 14, 15, 25 and 28 of the Constitution. Article 14 states:

"The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India."

It says, to any person

Article 15 states:

"The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them."

Here also, it is against any citizen

Then, Article 25 states:

"Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to practise and propagate religion."

Here, it says, all persons are equally entitled.

Again, Article 26 states:

"Subject to public order, morality and health, every religious denomination or any section thereof shall have the right—

* * *

(b) to manage its own affairs in matters of religion;"

In the Bill, an invidious distinction is made between western Churches and indigenous Churches. Catholic Church has been recognised in this Bill itself; the Church of India, Burma and Ceylon has been recognised in this Bill itself and also the Church of Scotland about the existence of which there is a good deal of doubt and controversy.

Shri A. M. Thomas: There are no followers of the Church of Scotland here.

Shri Joachim Alva: Mr. Thomas says, the Church of Scotland has no followers here.

Shri A. G. Mathew: All those Churches have been recognised in this Bill itself. The Syrian Church of Kerala has been here for the last 2000 years. They have not been recognised. They observe customs which have built stable homes and where divorce is unknown.

Shri Asoke K. Sen: It does not recognise divorce?

Shri A. G. Mathew: It does not recognise divorce. It does not tolerate divorce at all. I have examined all the cases in Travancore-Cochin, Kerala.

Shri Asoke K. Sen: This was what I wanted to know.

Shri A. G. Mathew: Their sentiments have not been looked into at all. While explaining the objects of the Bill it is said that the Christian law which is prevalent here is a western law and, therefore, they want to make it upto date and make applicable to indigenous Christians.

What has been done is, all Christian Churches have been recognised and the laws which obtains in England are taken as a model which is against the professed purpose of the Constitution. The indigenous Churches are completely ignored. One-third of the Christian population in India lives in Kerala. They have got very good customs, laws, which guide their marriages. There is no complaint that the health or the order or morality in India is being affected by the practices followed there. Why should you interfere with us? If you could exempt, Jammu and Kashmir, why not leave us also alone?

Shri Asoke K. Sen: The Indian Divorce Act applies to all Christians of Kerala.

Shri A. G. Mathew: That is only after our Independence. Before 1946 Kerala Christians were enjoying all those rights constitutionally. It is only after Independence, the new Divorce Act was made applicable to us. This is not my point. My point is that these are matters on which we have got a fundamental right to carry on our religious practices according to our sentiments and beliefs. You should not interfere with our religion. There should not be any legislation against us on account of which, I shall show, that there is discrimination against us. If the word 'Hindu'

is omitted from the Hindu Marriage Act and the word 'Indian' is substituted in its place, I will prefer that.

Rajkumari Amrit Kaur: There are, as far as I know, four Syrian Churches in Kerala. They are: (1) Syrian Orthodox Church, (2) Jacobite Orthodox Church, (3) Marthoma Syrian Church and (4) St. Thomas Evangelical Church. Have you got a prepared schedule to show as to which of these Churches are recognised? I presume that everyone is in favour of getting together and forming one single list straightaway. Would you like all these Churches which have been in existence for a number of years to be recognised?

Shri A. G. Mathew: I am against the system of recognition of churches. I am not going to be a party to the application of a rule by which the Government will have the power to recognise some churches and withhold recognition of other Churches.

Mr. Chairman: I can add to this. Last time also, some people said in the course of their evidence that even when the Hindus are not asked to have recognised or licensed lists of priests, why should we have them? That was the point raised by them.

Rajkumari Amrit Kaur: Regarding the recognition of the Churches, I want to know from him as to what his view is?

Shri A. G. Mathew: I want to remove the whole clause about recognition. There is an invidious distinction or discrimination shown in this regard. It is patent and transparent. If you compare Section 3 of the Hindu Marriage Act, you will come to know of this.

Shri Asoke K. Sen: Hindus have no Churches!

Shri A. G. Mathew: Why should the Government be anxious that there should be recognised churches? Religion is a matter between an individual and his God. This being a Secular

State, it should not bother whether the Churches are properly organised, recognised or whether they have got a place for public worship etc. This should not be the concern of the Government. I can challenge the Law Minister in this regard. There should be one Marriage Law for the whole of India.

Shri Asoke K. Sen: The Law Minister is silent and will listen to you!

Shri A. G. Mathew: Be good enough to compare Section 7 of the Hindu Marriage Act, 1955 with clause 6 of the proposed Bill. Under Section 7(1) of the Hindu Marriage Act (Ceremonies for a Hindu Marriage) "A Hindu marriage may be solemnised in accordance with the customary rites and ceremonies of either party there-

"(2) Where such rites and ceremonies include the Saptapadi (that is, the taking of seven steps by the bridegroom and the bride jointly before the sacred fire), the marriage becomes complete and binding when the seventh step is taken."

When the Hindus are allowed to celebrate their marriages according to the rites and ceremonies of either party, why should there be an interference on the part of the State as regards Christian Marriages such as recognition of churches and licensing of the Ministers? If this is insisted, there will be much scope for distribution of State's patronage and the power is likely to be abused and there will be charges against the Government, Ministers, Members of Parliament and all other persons who wield power. For recognition the State's patronage is necessary.

I have got a case with me. In Lahore, one gentleman had applied for a licence and he put in his application two years ago. It has been refused and he could not get it. Consent of the Governor had to be taken to get a licence. So, there is no point to have recognition of churches. There

will be corruption in the matter of grant of licences to the parties.

Shri A. D. Mani: So far the Christians have certain laid down procedures to be followed as prescribed by the Church of Scotland, Church of Rome and other Churches. No association protested against that as being discriminated. In respect of the Christians, it is sought to introduce a procedure which was obtaining amongst Roman Catholics.

Shri A. G. Mathew: I have got a very good answer. All these Churches are of British patronage. That is why this discrimination and unnecessary control over particular communities are there. I shall challenge you as to how you can recognise the Church of Scotland which is not here or in which there are no followers. Can you recognised Roman Catholic Churches and not other Churches? There is a slave feeling amongst some of these people. When this Law was passed in 1872, we were slaves and we had no voice. Now we are free and have been given a fundamental right guaranteed under the Constitution under which the Government cannot discriminate against recognition of one Church and another. So, every Church has to be recognised. I am not going to apply for a recognition of my Church.

Mr. Chairman: We will appreciate that and understand you fully. We shall take all these things into consideration.

Shri Asoke K. Sen: In the proposed Bill, there is a procedure prescribed for solemnisation of marriages of parties which do not belong to a recognised church. It may be done in the same Church by a licensed minister.

Shri A. G. Mathew: I have seen this. I represent St. Thomas Evengical Church.

Shri Asoke K. Sen: Even if it is an unrecognised Church, the parties concerned are entitled to have the

marriage solemnized according to the rules obtaining in that particular Church by a licensed Minister.

Shri A. G. Mathew: I am opposing to the system of issue of licence. If a Hindu can celebrate his marriage in his own way, why not Christians too do the same thing. We consider the marriage to be sacrament. I shall show Roman Catholic Canon Law where it is stated that the marriage is considered to be sacrament. For that there is an agreement; there is a minister. Here the Ministers of the sacrament of marriage are not the priests but the parties. No Roman Catholic considers a marriage as complete, till the sexual union has taken place. They call it a marriage Ratam before it is consummated. I shall read the Canon Law on the Roman Catholics Marriage where it is specifically stated....(*Interrupted*).

Shri Asoke K. Sen: According to you, any man can solemnise the marriage.

Shri A. G. Mathew: It is not a solemnisation. It is a wrong usage. As far as the position of the priest in the Church is concerned, he is an authoritative witness.

Shri Asoke K. Sen: Solemnisation is a well defined term.

Shri A. G. Mathew: He is only a witness. Under the Special Marriage Act, I can take out a licence and celebrate the marriage in my own way.

Shri Asoke K. Sen: According to you, the priest is a witness.

Shri A. G. Mathew: According to the Canon Law, the Roman Catholic Church considers him as a witness.

Shri Asoke K. Sen: That means, according to you, the priest only functions as a witness.

Shri A. G. Mathew: He is an authoritative witness.

Shri Asoke K. Sen: What is the harm in prescribing qualifications for such a witness?

Shri Asoke K. Sen: But the State can certainly prescribe who shall be the witness.

Shri A. G. Mathew: Prescribe for every community. What is the peculiarity only here?

Shri Asoke K. Sen: According to you, in the Christian marriage, the priest is only witness.

Shri A. G. Mathew: Official witness pronouncing the blessing of the church.

Shri Asoke K. Sen: If his function is that of official witness, the State can certainly prescribe who shall be official witness.

Shri A. G. Mathew: In the interest of what?

Shri Asoke K. Sen: To see that witnessing is done by the proper person.

Shri A. G. Mathew: If you execute an agreement between the Government of India and Russia, there need not be a legislation about the competence of the particular witness. Why should it be prescribed for this Christian marriage when there is none for the others?

Shri Asoke K. Sen: That is a different matter. You were urging a different ground sometime back, the ground of discrimination.

Shri A. G. Mathew: So far as this is concerned, even if there are well-recognised churches, there are licensed ministers also to celebrate any marriage and even if the marriage is against the conscience of the licensed minister, he is compelled to celebrate that marriage.

Mr. Chairman: Last time also it was stated by a witness that under the proposed bill, the recognised church minister can refuse to solemnise a marriage but the licensed

minister has to solemnise the marriage.

Shri A. G. Mathew: Section 56, clause (2) states as follows:

"Whoever, being a licensed Minister or a Marriage Registrar, refuses, without just cause, to solemnise a marriage under this Act, shall be punishable with simple imprisonment for a term which may extend to one year, or with fine which may extend to five hundred rupees, or with both."

Shri Asoke K. Sen: That is the point.

Shri A. G. Mathew: It is disloyalty to the constitution.

Shri Asoke K. Sen: Whether it is a constitutional point or not, it is a point for consideration.

Shri A. G. Mathew: In the case of licensed ministers they have got only 30 days to enquire into the question whether there are any valid impediments for that marriage. If it exceeds 30 days, he is liable to be punished. If he exceeds 30 days, the matter is taken out of his jurisdiction. The priest of a recognised church can take 10 years to determine the question. Nobody interferes.

Shri Asoke K. Sen: So, both should be put on the same lines?

Shri A. G. Mathew: Once they are licensed what is the difference? There should not be any distinction.

Mr. Chairman: We follow your point. It is very clear. Could we go to some other point?

Shri A. G. Mathew: I wish to say something on the question of marriage and divorce. The various churches as well as the Christian countries allow what is called dissolution. They were very reluctant at first to allow divorce of marriages. Till the 16th century that was not allowed. It was only in 1867 that the Marriage Divorce Bill was introduced in the British Parlia-

ment and then passed. Before that, the practice was that the ecclesiastical courts had to allow separation. After obtaining separation, any person wishing to remarry could move a special bill before Parliament to permit him to remarry.

Mr. Chairman: Roman-Catholics?

Shri A. G. Mathew: All English people. It included Protestants also. It was only after 1857 that divorce with freedom to remarry was introduced at all. Divorces are allowed on the ground of fornication based upon the expression given in St. Mathew and Pauline privilege conferred under I Corinthians Chapter V, verse 17. "Whoever shall put his wife away except it be for the cause of fornication, and shall marry another, committeth adultery."

Then, there was another section for separation, that was for desertion by an unbeliever under I Corinthians chapter VII, verse 15. The persons who do not belong to any churches advocate that over and above these points when the object of marriage is frustrated marriage should be dissolved. Frustration of the object for which the marriage was entered into, it is only based on that principle that a person can seek divorce. When the purpose or objects for which the contract was entered into have been frustrated, then, the marriage can be dissolved.

Mr. Chairman: From which book?

Shri Mathew: This was advocated by politicians. On that ground it was allowed. When the Christian Marriage Bill is enacted, the question to be considered is, how far the provisions are in conformity with the Bible. In these matters what should be done is this. We have to look into faith and the customs of the particular community. When you prescribe the law for a particular community, it is their faith, customs and practices which have to be looked into. Before 1857 a man had to get a bill passed by Government in Parliament before he could remarry. I will tell you what

happened after 1857. Immediately after the passing of the 1857 Act in England there was an agitation for extending those privileges here also, because, it was very costly for an ordinary man to get divorced. Every individual had to move Parliament and obtain the bill passed before he could remarry. Some persons also wanted to extend those privileges to their fellowmen here. Thereupon, it was extended here. As far as the indigenous Christians in the country are concerned, like Syrian Christians in Kerala, they were not subject to the 1872 Act.

An hon. Member: Is not the Indian Divorce Act applicable to Syrian Christians?

Shri A. G. Mathew: It was extended to Kerala only after our independence. If you accept the principle that once the object for marriage has been frustrated there can be dissolution of marriage, why not extend the principle to paralysis? Why not extend to T.B.? Why not extend it to cancer also? So, that is not spirit with which a Christian enters into a marriage. In all the Christian marriages, the couples are asked to take an oath that for better or worse the two will be together as long as they live. Now, I will read out this passage from the Book of Common prayer read at the time of marriage.

"Wilt thou have this woman to thy wedded wife to live together according to God's law in the holy estate of matrimony? Wilt thou love her, comfort her, honour and keep her in sickness and in health? And forsaking all other keep thee only unto her so long as ye both live?"

So, if on the ground of sickness a person is going to be abandoned, that is against not only the sentiments of Christian community but also against the sentiments of all Indians because in all puranas we have been extolling the sentiments of people who refuse to part with their partners even though they became lepers or other objects

of diseases. So, this is a dissolution of marriage on the ground of leprosy or venereal disease or any other disease on the plea that the object of marriage has been frustrated. It is against the agreement or the contract which was entered into.

Madam, I would even welcome a provision under which any person who enters into marriage should produce a medical certificate to the effect that he is free from venereal disease, free from T.B., free from cancer, free from any disease and that he is physically fit. I would welcome that.

Shri A. K. Sen: I have an instance in mind. I know of a girl who married a man who was suffering from TB. He was a teacher in Calcutta. His books were used to be read all over India. One of his disciples, a very nice girl, married him knowing fully well that he was suffering from TB. In those days TB was not so easily curable as it is now. Why should you stop such marriages?

Shri A. G. Mathew: If a person wants to commit suicide, he is given a good facility. Suicide is not a crime.

Mr. Chairman: Your position is that there is be no dissolution of marriage under any circumstances.

Shri A. G. Mathew: No. No dissolution of marriage on the ground that after the marriage a person has fallen ill.

Mr. Chairman: You are wanting a provision to be laid down as to the conditions of marriage. Once a marriage has taken place, you say, there can be no dissolution of marriage and that any such attempt would be against Christian sentiments.

Shri A. G. Mathew: Yes. The whole thing depends upon the attitude with which a marriage is entered into. Once a marriage has been celebrated, it should not be broken. That is the reason why during the service this is what is put to them:

"Therefore if any man can show any just cause why they may not

lawfully be joined together, let him now speak, or else hereafter for ever hold his peace."

Shri A. D. Mani: I would like to ask one question. Whatever be the attitude of the St. Thomas Evangelical Church, if a minority of Christian do not accept that line in regard to these matters and want to have the same treatment that the Hindus have under the Hindu Marriages Act, would you like to deny them that privilege?

Shri A. G. Mathew: I do not want to deny them that privilege. There is the Special Marriages Act under which they can go and get a divorce.

Mr. Chairman: My point is this. The Indian Divorce Act had been there. There are a large number of Christians who are permitted to take resort to divorce but they do not do it just like the Hindus. It is only a permissible law. In modern times, I think, everyone has fought for the passing of the Hindu Marriages Act. We have always tried to see, and we will be successful, I hope, to a very large extent, that these permissive rules are not misused. Our own experience is, there has been no increase in immorality in passing of this law; rather certain immoral things which had been there during the period when no divorce was permitted have been done away with. Maybe, sometimes we are permitting a certain degree of greater morality by regularising such situations.

Now, the point is this. This measure which we are now proposing will be a permissive one. It is not that immediately after this, everybody will resort to divorce. We are not legislating on that basis. Why do you fear that? There are a large number of Christians who have the permission to divorce, if they so desire. Why should you deny this in a circumstance, when such a law has existed and it has not impinged on the morals of those who do not want to divorce?

Shri A. G. Mathew: Yes, it has.

Shri Asoke K. Sen: The Chairman points out that the purpose of this divorce law is to enable persons who desire any divorce—it does not compel them—to seek a divorce. Those who want to be bound by the oath taken at the time of marriage as not to separate whatever might happen, are not compelled to seek divorce.

Shri A. G. Mathew: I am going to answer that. I was saying that till 16th century, there was very little of divorce in England. It was in 16th century that Martin Luther brought about this reformation. He said, "If the wife leaves, let the maid come." And the result was that certain people even resorted to polygamy. Of course, there was nothing to compel them. The number of divorces increased. But the Anglican Church refused to subscribe to the views of Martin Luther. Till 1857, there were very few divorces. If you read this book, *Divorce and Remarriage in Anglicanism* written by Winnett, you will find that immediately after the passing of the 1857 Divorce Act, the number of divorce cases multiplied like anything in Great Britain. The Church was always against it. Not only divorce will multiply but immorality will also multiply.

Mr. Chairman: We know of that divorce case. He did it much earlier than 1857. He did it by getting dispensation.

Shri A. G. Mathew: That is one of the void marriages.

Shri A. E. T. Barrow: He broke away from the Church of Rome on the question of divorce.

Shri A. G. Mathew: I can read out that case if you want. There is a distinction. That was not a case of divorce. That was a case in which a marriage was declared void on account of the fact that there was prohibited degree of affinity. Queen's sister was a mistress first and later on she was married.

Shri Asoke K. Sen: There was a Bible injunction against this marriage.

Shri A. G. Mathew: It was dissolved later on as it was declared to be void on the plea that the condition precedent for the marriage was not fulfilled.

Shri A. E. T. Barrow: He offered this reason as a matter of convenience.

Shri A. G. Mathew: This is not a matter of convenience but this is a matter of history.

Shri A. E. T. Barrow: I can also quote history.

Shri A. G. Mathew: I have to stress one point. The history tells us that such provisions will only add to immorality. I was going through the *Post Divorce Report of America* which was published by a Professor of Sociology after investigating the past divorce cases. This Report was later published in *Saturday Evening Post* in 1950, January-February. In this Report, it has been stated that the life of the divorcees was much more miserable and it did more harm than what their fate was before divorce. His investigation showed that the woman or the divorcee had to lead a lonely life.

Shri Asoke K. Sen: Let us not go through the divorces of foreign countries. Let us see our country. Are there divorces before?

Shri A. G. Mathew: In America the divorce is too great. American divorce is a national scandal.

Mr. Chairman: In other countries, divorce is permitted. The Hindu Marriage Act is more stringent. You would not allow the provisions made here to be so wide. That is why, I would like to know your reasons as to how this would lead to more immorality.

Shri A. G. Mathew: These past reports show that the women became

lonely. 55 per cent of the delinquent children in America came from the break-up homes. There were five million divorcees and six million half-orphaned children in 1950 itself. Even now, it is a national scandal. The State will be welcoming or creating a national scandal by making a provision for divorce. I shall show you that by collusion, a person can easily get divorce.

Mr. Chairman: If you compare the country like Italy where there are Roman Catholics, the law there does not permit a divorce except by way of dispensation. Compare it with the countries like England. You would see that England has a lesser number of divorcees or delinquent children from the break-up homes than Italy.

Shri A. G. Mathew: Unfortunately, I have no idea about Italy.

Shri Asoke K. Sen: We never recognise divorce. There were many Hindus who were opposed to the very idea of divorce.

Shri A. G. Mathew: In the proposed Bill, there is a provision for collusive divorce. Supposing two persons agree for a divorce. They have first to file a suit for restitution of conjugal rights. The parties agree and then decrees are passed. The only difficulty is that for a collusive divorce, one has to wait for three years after the marriage. I have not come across any such cases.

Rajkumari Amrit Kaur: The witness is completely opposed to divorce. Let us get on to his other objections.

Shri A. G. Mathew: I am completely opposed to divorce, if it takes place after the marriage. I have no quarrel for declaring the marriages void on account of the fact that the conditions precedent for the marriage are not fulfilled. But, after the marriage is celebrated, it should not be dissolved. There should be only separation. This is my point with regard to divorce.

Shri Maheswar Naik: What is the difference between 'separation' and 'divorce'?

Shri A. G. Mathew: In the case of separation, the party is not free to re-marry whereas in the case of divorce, the party is free to re-marry. This is the difference between the two.

Shri T. H. Sonavane: Under what conditions, divorce is allowed?

Shri A. G. Mathew: If any person wants divorce, he can take advantage of the special Marriage Act and obtain a decree from the court.

Shri P. R. Patel: I want to know whether the separation is allowed in the Bible?

Shri A. G. Mathew: It is allowed in the Bible. I shall cite the verses of St. Mathew, Chapter XIX.

Mr. Chairman: I do not think we should go into the Bible. Fornication is the only ground on which divorce can be permitted. Let us see whether there is any other interesting point.

Shri T. H. Sonavane: Are the married couples very happy or are they leading a miserable life? Are there any instances of unhappy married life?

Mr. Chairman: Let us not go into these.

Shri T. H. Sonavane: You please enlighten us as to whether every couple, after marriage, is happy and contented and there is no miserable leading of life.

Mr. Chairman: What is the point of asking this question?

Shri T. H. Sonavane: I want to know whether the couples are leading a happy life after the marriage.

Shri A. G. Mathew: I am very well aware that there are some very hard cases. There are certain principles from which one should not depart.

Shri A. D. Mani: I would like to ask for a clarification about the Special Marriage Act.

Mr. Chairman: Let Mr. Sonavane finish his questions first.

Shri T. H. Sonavane: Can we not permit these divorces if the parties concerned agree to that?

Shri A. G. Mathew: That is exactly what I said. You do not accept the principle of divorce on mutual agreement. If that is accepted, there need not be provision for a decree nisi in the Bill. You provide for a decree nisi which is to be made absolute. Subsequently, the court has to examine whether it is collusive. If the parties agree for the divorce, then that is a different matter.

Shri T. H. Sonavane: You said that there were hard cases. In such cases, supposing both the parties want to part away. Then why do you prevent such couples from being divorced?

Shri A. G. Mathew: That is exactly my point. You cannot sacrifice a principle simply because of some reasons. I will give you one illustration. India is going through an emergency. If we sacrifice our principle of non-alignment, our task will be very easy. Are we to do that?

Mr. Chairman: We have understood your point.

Shri A. D. Mani: Any person who is married under any law can get benefits of the Special Marriage Act. You said that a person who wants divorce can get it under the Special Marriage Act. You cannot get it unless the marriage is solemnised under this act. Suppose one has married in 1940 under the laws of Syrian Christian Church and he wants to get a divorce. He cannot get it under this Act. He could not get it under the section that the bill envisages. It is only under that, he can get a divorce. According to your suggestion, a person who is married accord-

ing to these church laws cannot get divorce. Is that the point?

Shri A. G. Mathew: That is the point. If there is any provision lacking in the Special Marriage Act, it is up to the Government to make suitable provision for those people who do not want to conform to the religious rule, faiths and practices and the rules of a particular church.

Mr. Chairman: At the moment the Indian Divorce Act applies to all of you. Since 1945 it applies to all of you. Therefore the position is a little different from what it was when we were discussing Hindu marriage. When we discussed Hindu Marriage Act there was no such thing because it was not permitted. For the Christians, you have it for the last few years and you now want that it should further be amended and we should make it more stringent.

Shri A. G. Mathew: It was not there for us for the last so many years. It was not there for the last two thousands of years. Only for the last 10 years this is the position.

Mr. Chairman: Do you then say that the application of this for the last ten years has led to such immorality that you would like it to be changed?

Shri A. G. Mathew: Very few know that such a law is available to them. That is one thing. The second thing is this. What is the object of this legislation? This bill is not intended to perpetuate something which was there. The bill has been brought forward as the present one is obsolete and the Law Commission proceeded by saying that it was brought into force by the British people. Now, we want an up-to-date bill. The question is: Is it in conformity with the principles?

Shri P. R. Patel: In other countries where Christians are, divorces are allowed. Am I to understand that they are all unchristian?

Shri A. G. Mathew: To that extent Christ himself has said that there is no man without any sin. There are everywhere so many sinners. It is quite another question.

Shri P. B. Patel: In the world there are so many countries where there are so many Christians who are living. In all countries including America and everywhere divorces are allowed. Now I want to know whether you consider that all of them are not all Christians? Are they unchristian according to you?

Shri A. G. Mathew: There are Christians who observe group marriages like Mormons in America. Luther and others advocated polygamy. The recent commission of the Church of England, the Lambeth Commission, said that there is nothing wrong about homosexuality. Are we to be guided by all these things in making this bill?

Shri P. B. Patel: There are various churches throughout the world. In England, in America, in other countries they have got their churches. I want to know whether any of the churches there objected to divorce?

Shri A. G. Mathew: They have objected even before the passing of the 1857 Act. All the decisions of the churches have been consistently against this divorce. It is applicable to Christians and non-Christians.

Mr. Chairman: We are very clear as to the opinion of the hon'ble gentleman who is giving evidence. He says that whatever rights we may have under the law, he does not want it. He says that the new law should not give any right of divorce.

Shri T. H. Sonavane: Is it not necessary to change it in view of the experience gained?

Mr. Chairman: Why should anybody think of trying to convince him? He has already told us that according to him it is not right. Let us not go into it. It is his opinion.

Shri Mathew Maniyangadan: According to you, divorce is against Christian sentiments. Divorce being against Christian sentiments, do you want to say that no provision should be made for divorce in the Christian Marriages Act, but that permission may be given for Divorce for Christians also if they want, in other laws, or by making suitable amendments in this Act? Am I to understand that?

Shri A. G. Mathew: That is exactly my point. When you legislate something for a particular community, it is the sentiments and the feelings of that particular community which you have to look into and not whether something is desirable or not. There are hard cases and every hard case cannot be remedied. There should be suitable amendments in the Special Marriage Act.

Shri P. B. Patel: They could get divorce under the special law. Would they be entitled to attend the churches and the prayers?

Shri A. G. Mathew: They will not be. A person who does not believe in the faith and practice will not be there.

Shri P. B. Patel: You mean they are not Christians.

Shri A. G. Mathew: They are not Christians according to me.

Mr. Chairman: We need not enter into questions like who is a Christian and who is a non-Christian. We need not enter into such discussions. He is giving his evidence according to his lines of thinking. That is his opinion.

Shri A. G. Mathew: What I have to state is this. There should not be an attempt at legislation regarding personal matters of religion, except to, say safeguard certain minimum standards of health, morality and all that. There need not be any Hindu, Parsi, Muslim or other laws. What should be done is, prescribe the

minimum standards for the marriage of any Indian and allow the respective communities to follow their own personal laws. If somebody wants free divorce, let him take advantage of the civil laws.

An hon. Member: What are the minimum standards?

Shri A. G. Mathew: I have not studied. It is for the State to study this. My position is this. This attempt is not a wise one. Now, for example, one can have four wives according to one community and another three wives and so on. Muslims can have four wives.

Mr. Chairman: You must have noticed that we are trying to bring all the communities to the same level. We have done it in the case of Hindus; we are doing it in the case of Christians and we will do it for Muslims as well.

Shri A. G. Mathew: It is not bringing up at the same level. That should not be the attitude of the Government. The Government should fix a particular minimum standard of morality.

Shri Joachim Alva: In that case you do not foresee that in future the State of India can ever interfere into a Muslims marrying four wives.

Shri A. G. Mathew: For reasons of health and morality you can interfere. Pakistan Government itself insist on monogamy.

Mr. Chairman: Your point is, as long as we apply the yardstick of morality and health, we can legislate the measure.

Shri A. G. Mathew: Apply the same standards of morality and health.

Mr. Chairman: May we go on to the next witness?

Shri M. C. Shah: If I have heard the witness correctly, I remember he said at the beginning that children born in wedlock and those born out

of wedlock should be given the same succession rights.

Shri A. G. Mathew: Yes. They should have the same claim on the parents, they should have the same succession rights. After all, the children are absolutely innocent. The man who is responsible for creating a child must stand the risk of handing over his property to the child.

Shri M. C. Shah: That way, would you not feel that marriage institution may not be considered as sacramental?

Shri A. G. Mathew: It does not mean that.

Shri M. C. Shah: So, your view is that children born in wedlock or out of wedlock should have the same succession rights?

Shri A. G. Mathew: Yes. The innocent children are not responsible for the crime.

Shri T. H. Sonavane: In that case, what will happen to morality of which you are talking all the time?

Shri A. G. Mathew: That will be absolutely moral.

Rajkumari Amrit Kaur: You say, children born in wedlock and out of wedlock should be treated in the same way as far as inheritance and other rights are concerned. But it does not follow that the woman who gives birth to a child out of wedlock need necessarily marry the man who is the father of the child. The man may marry another woman and the woman may marry another man. It does so happen. Then, on whom does the responsibility rest? It does not always follow that they are going to marry each other.

Shri A. G. Mathew: There should be the punishment.

Shri M. H. Samuel: Suppose, a marriage has taken place and after four or five months, a child is born and the husband says that the child is not out of him and the wife admits that she has committed a fault. Now,

under the circumstances, do you think that the husband should continue to take her as wife or do you propose any provision for such a situation?

Shri A. G. Mathew: You can prescribe any amount of conditions which should exist at the time of marriage. Impediment of regnancy should be made one of the conditions.

Mr. Chairman: The point is, the child is born after the marriage, say, after four months or five months, whatever may be the period. It is not the child of the husband. Now such a situation may arise—the human weakness is there—where the husband may say he does not have to bear the responsibility of the child. On whom should the responsibility rest?

Shri A. G. Mathew: That is a responsibility of the father who created the child.

Mr. Chairman: We have understood your point. Now, we go to the next witness. Mr. Joseph, you are representing St. Thomas Evangelical Church of India, Thiruvalla, Kerala.

Shri K. S. Joseph: Yes. At the very outset I would like to point out that the Law Commission did not take evidence before writing out their reports, either the Fifteenth Report or the Twenty-second Report, so that this committee of Parliament has no material before it on which to legislate a measure for the Christians of Kerala, particularly of Travancore-Cochin. I point out that it would be against natural justice to do such a thing. I even go to the extent of questioning the jurisdiction of Parliament at this stage to pass a legislation as far as the Christians of Travancore-Cochin are concerned who continue to be Christians from 52 A.D.

Mr. Chairman: May I know under which article of the Constitution we cannot legislate this measure?

Shri K. S. Joseph: I think it is against natural justice. I say, the

jurisdiction is ousted by considerations of natural justice. The court of law do not allow any sentence that is passed by a tribunal if that sentence was passed without considering the questions of natural justice. That is what happens in the High Courts. The High Courts very often set aside the orders of Government because they find that the considerations of natural justice have not been conformed with. That is what the courts have done so far. Wherever Government have passed orders which were against the principles of natural justice, the courts have set aside those orders. Therefore, I would say it would not be right, fair or just to include Travancore-Cochin within the purview of this Bill.

Shri A. D. Mani: Natural injustice for Travancore-Cochin?

Shri K. S. Joseph: The Law Commission did not take evidence and find out what the customs and law of the Kerala Christians were in this matter whereas they did go to the other parts of India on tour.

Shri M. C. Shah: Have they not come here to give evidence?

Shri K. S. Joseph: Individual witnesses would not come here. So far, only five or six people have come from Kerala and gave evidence. I dare say that certain big communities have not yet given their evidence.

Shri Bibudhendra Misra: It is not correct to say that evidences of Kerala people were not taken by the Law Commission. It is true that the Law Commission did not go to Kerala. But, I find that they were at Madras and they invited people from Kerala to give evidence. Nobody came forward. All the same, there is a list of persons who have given suggestions. Copies of the questionnaire and draft bill were sent and their comments are received. I find from that, that the Christians of Kerala were in one way or the other associated themselves.

Shri K. S. Joseph: May I know the number of persons who gave evidence before the Commission?

Shri Bibudhendra Misra: Quite a large number of persons gave evidence. Here it is not a matter of argument.

Mr. Chairman: The Christians are generally well-organized. It is not necessary that every single individual from Kerala should give evidence.

Shri Bibudhendra Misra: I find that the number of organizations who have come and given evidence is 31. This includes some Churches also.

Rajkumari Amrit Kaur: Considering the largest number of Christians live in Kerala, the Law Commission should have gone to Kerala. It is not possible for everyone to come from other States to give evidence.

Shri Bibudhendra Misra: That is a different matter.

Rajkumari Amrit Kaur: I think that is a reasonable objection.

Shri Bibudhendra Misra: To say that the Kerala Christians' evidence was not taken is wrong.

Rajkumari Amrit Kaur: It does make a difference. There are so many Christians with whom you could have discussed or with the Ministers of churches. You have not gone to Kerala where there is a large number of Christians living. My feeling is that instead of rushing through the Bill quickly, it would be better if some evidence is taken. More time should be taken before a measure like this in which Christians in large number are involved is brought forward. More time should be taken to sit down and discuss with the Ministers themselves as to what their points of view are in regard to this measure. The point I wish to make is that this Bill should not be rushed through in Parliament in this manner.

Mr. Chairman: I wish to make a statement on this point. The Law Commission has gone into this. I do

not think that they have rushed through the Bill. I remember, six months ago, we had the First Reading of this Bill. After that, we have set out questionnaires and have asked people to come here to give their views. I entirely agree with Rajkumariji that we shall hear every single person who wants to come and give evidence. It means that we should ask for further extension of time. That much is perfectly true that it is not possible for us to go to Kerala now at this stage or to every part of India. When the Law Commission visited Madras and Bombay, witnesses were called there to give evidence. As far as Kerala was concerned, nobody wanted to appear before the Law Commission to give evidence. It is true that the Law Commission did not go to Kerala.

Now, the point is whether there are people who want to give evidence. I am told by one of the Members of the Law Commission that this has happened at the time when the Christian Law was under discussion. The Law Commission has gone through the Christian Law now. It was at this stage that Kerala was coming forward to give evidence. It is unfortunate that this point has now come up at this stage that we should go to Kerala.

Rajkumari Amrit Kaur: I only said that it was unfortunate that the Law Commission did not go to Kerala. This is the point I wish to make. As far as the questionnaire is concerned, I believe, it was only sent to a few organizations and not to various organizations.

Shri A. M. Thomas: The Indian Christian Marriage Act, 1872 extends to the whole of India except the States of Travancore-Cochin, Manipur, Jammu and Kashmir. Travancore-Cochin is specially exempted from the operation of the present Act. Why has this been done like that? The largest concentration of Christians is in Travancore-Cochin. You will find that there is a controversy mainly with regard to the recognition of Churches. There

are Syrian Churches like Marthome Syrian Church and Jacobite Orthodox Church which have been omitted from the recognised Churches.

Shri K. S. Joseph: That is exactly my point.

Shri A. M. Thomas: At a meeting of the Select Committee, it was pointed out that it was desirable to take evidence in Bombay, Calcutta and some other place in the South. It is only proper that at least this Committee should go to Kerala and take evidence.

Mr. Chairman: I am going to stop further discussion. After all, we are in the Select Committee stage and we are taking evidence. It is good that we take the evidence. After all, this matter should not have been discussed in the presence of the witnesses. All these matters are for the Committee to discuss. We have discussed this many a time. Probably, this is the fourth time that we are discussing. I think it is better if we take the evidence of the witnesses. Afterwards, we can discuss amongst ourselves as to what we should do.

Shri M. C. Shah: Is it correct that no witnesses came before the Law Commission for giving evidence?

Shri G. R. Rajagopal: I am still a Member of the Law Commission. Generally, this is the procedure that is followed. To start with, when we take up a particular subject, we notify the public and ask them for Comments. We tour the country and take evidence wherever necessary and collect various materials.

In regard to the Christian Marriage Bill also, on the basis of whatever materials we collected, we prepared a draft of the report as also the Bill. Then we tried to circulate them to as many representatives and organizations as possible. From the records of the Law Commission, I find that we had circulated this report and the Bill not only to the usual governmental and other bodies but also to several private persons coming from Kerala. There is a list of 81 persons

to whom the draft bills prepared by the Law Commission were circulated. We were also prepared to take evidence from the people. There were people who gave evidence at Madras and Bombay. Apart from Delhi, these were the only two places where actually the people came forward voluntarily and gave evidence. We did not go to Kerala. But I gather that there was no demand from Kerala for this Commission to visit that place whereas demands came from Madras and Bombay. Similarly, we did not visit Calcutta. So far as I remember, there was no demand from Kerala. Whatever witnesses came forward to give evidence, their evidence was taken. We were prepared to take evidence from the people but nobody came forward from Kerala. We sent one memorandum stating that anybody who wanted to come and to give evidence on any points could do so. We had a lot of written representations. You will find from the summaries that I have got, there are a number of Churches, and organizations who have sent us representations with regard to the various provisions of the Bill. All of them were considered. One other point to be mentioned is that after the report was prepared and submitted to the Government, the Government asked the Law Commission again to reconsider the whole thing in the light of the various points that were raised. Again we followed the same procedure. We sent them out to the same organizations which had sent us representations before. We notified for the information of the public and as far as I know—I am subject to correction—there was no demand from Kerala for oral evidence being taken.

— So, on the basis of whatever information we got, we reconsidered our earlier report and submitted a second report.

Mr. Chairman: I saw that the Indian Pentecostal Church has given evidence. I find that the Kerala Christian Council has given it.

Shri K. S. Joseph: Kerala Christian Council does not represent any church. But it is an institution in which a number of churches send their representatives and try to see how far they can work together. They cannot represent any church at any time.

Mr. Chairman: There is also Syrian Metropolitan Church of Malabar.

Shri K. S. Joseph: I understand personally from the Metropolitan Church that they wanted to be given opportunity to be heard.

Mr. Chairman: We want to give opportunity for every single person who wants to give evidence.

Shri K. S. Joseph: The very fact that oldest churches in India, the ancient Christian churches, namely, Jacobite Orthodox Church and the Marthome Syrian Churches are not mentioned among the recognised churches shows the ignorance about those churches that the Law Commission had. It does not require better proof.

Mr. Chairman: Your point is that they should be included. Is that your point?

Shri K. S. Joseph: That would have been included if the Law Commission knew that these churches were existing. They did not know about it. They did not know that.

Shri P. R. Patel: After all, legislation is not done. How can Law Commission know?

Shri K. S. Joseph: Law Commission is a Commission that was commissioned to go all over the country. Why should they go to Bombay and Calcutta only? They could have very well remained in Delhi. I would request this Committee to give opportunity for all such people to give evidence. There are thousands of people who do not read English paper.

Mr. Chairman: Kerala is the State which has got the highest literacy. When the Hindu Law Commission went round the Hindus came from all over the place to give evidence and it was a job to wade through the huge amount of evidence that they gave. To say that they had not visited Kerala is one thing about which we have nothing to say. But, to say that the Kerala Christian Churches were not aware of the fact that the Law Commission was seized of this task would be not quite correct. I am sure the Christian Churches at least knew about it.

Shri K. S. Joseph: I am an advocate. I plead ignorance. There were many people like me in Kerala, educated like me, who did not know about it. Perhaps they did not see the particular day's paper in which this item was published.

Shri Jairamdas Daulatram: Our friend says that there should not be any violation of natural justice for him in the sense that the parties concerned should be heard and their views should be understood. Parliament has not yet passed the law. The Select Committee has not recorded its views on the Bill. We are still at the very initial stage, a stage at which public opinion of various parties can come before us. Anybody who wishes to express an opinion from Kerala can appear before the Committee and he would be most welcome to come here and give evidence. It is only after hearing friends from Kerala and any other part of India that the Select Committee will finalise its report which will come before Parliament for discussion. We are at the initial stage and hence no natural justice has since been violated. We are thankful to our friend here for drawing our attention to the fact that there is a section of people who feel that they have not had a chance to put their point of view. Certainly we should hear that point of view.

Shri K. S. Joseph: I was saying that the Law Commission did not go there as they had done in respect of other places. We have given in our Memorandum five names but we could send only two of us. It is very difficult to send all of them all the way to Delhi. There may be others who might put certain points of view which we may not have put in.

Shri A. E. T. Barrow: We should go into this question. The witness has raised an important point. We should discuss how we can meet his request.

Shri K. S. Joseph: I would request this Committee to persuade Parliament to send out a Committee to Travancore and Cochin and other parts of Kerala to take evidence. This should be placed before Parliament for consideration. That is the request that I would like to make. Having done that, I will now pass on to the main provisions of the bill.

Rajkumari Amrit Kaur: The Commission visited only two cities. This State has the largest majority of christians in the country which place the Law Commission had not visited. I want to ask whether the evidence taken in two cities of India is considered enough to frame a measure of this nature. I consider not.

Mr. Chairman: That is for our Committee and for Parliament to decide. The point is that opportunity should be given to everybody to give evidence. Every church in India can give evidence. I shall request Parliament to extend the time. We shall hear the witness from every single church in India that desires to give evidence.

Shri K. S. Joseph: It is very difficult to come to Delhi, after travelling for 4 days in summer, to give evidence. If this Committee or a sub-Committee

could go round to take evidence there, it would be more helpful. Hundreds of people would come to give evidence as Madam Chairman has stated.

Shri Jairamdas Daulatram: The Committee cannot ascertain opinion in various parts of the country. The Committee has to go as a whole. For the Committee to go as a whole to various parts is today a big problem. The ends of justice would be amply satisfied if we give them the fullest opportunity to place their point of view. We would allow every person who wishes to say something to place his point of view before us. That is all that can be done in my opinion and that should really meet the situation. Friends from Kerala may give their memoranda. We will give them every opportunity to be heard.

Shri T. H. Sonavane: The idea was mooted that we go round. The question has cropped up. It is essential to take decision on that because otherwise grievances would be left.

Mr. Chairman: Shall we proceed further and ask the witness to put forward his opinion? Let us have his opinions.

Shri K. S. Joseph: The next point that I would like to make out is: this is beyond the object of the Bill. (After reading the preamble of the bill). The object of the Bill is to amend and codify the law relating to marriage and matrimonial causes amongst Christians. In other words, it is not suggested that this Bill is in the interest of public order, morality or health. So, I submit, as long as these three items, public order, health and morality are not violated, it should not be the policy of the State to interfere with religious matters. Therefore, I respectfully submit

that it is not right for a secular State to make laws which to a large number of Christians are unpalatable. Generally, social laws are introduced or brought forward by the community to which the law would be applicable. This is definitely a social law because, as I pointed out, there is no indication in this Bill that it affects public order, or health or morality. So, this is not a matter in which the State should reasonably concern itself.

Mr. Chairman: Is it your contention that no marriage laws can be taken up by the State?

Shri K. S. Joseph: Unless it is found that the marriage laws of a particular community are against public order, or health, or morality. It is only on these matters that the secular State can concern itself. According to our Constitution, the State would not interfere with any matters of religion. That is what the Constitution says. So, I submit, the Bill as it is framed is found to be obnoxious to a large section of Christians, to a large number of Churches. This Bill ought to be dropped. It is not the province of Parliament to legislate in matters of religion where these religious practices do not interfere with public order, morality and health. If we have passed other laws, that does not make it right especially when it is pointed out that it is wrong to pass such laws.

Now, I would go on to some of the provisions of the Bill. One of the very obnoxious provisions is that of licensing and recognising of Churches.

Shri Maheswar Naik: Mr. Joseph, you and Mr. Mathew represent the same Church? Is it not?

Shri K. S. Joseph: Yes.

Shri Maheswar Naik: You represent some other Church also.

Shri K. S. Joseph: Mr. Mathew represents another Church also.

Shri Maheswar Naik: We have already taken the view points of St.

Thomas Evangelical Church of India. If you have got to add anything more to what Mr. Mathew has already said, you can do so.

Shri K. S. Joseph: I am trying to make out points which Mr. Mathew did not make out. I do not want to waste the time of the committee.

Shri Maheswar Naik: Not that; we want to give you as much time as you want.

Shri A. D. Mani: It is already 5.30 p.m. I suggest that we might meet again on Monday afternoon at 3 p.m.

Mr. Chairman: We have called the other witnesses who represent the National Christian Council of India. We cannot expect them to stay on in Delhi. We have to get through the witnesses whom we have called. I propose that we should sit today till 6 p.m. and on Monday we should meet in the morning between 9 a.m. to 11 a.m. They have been waiting for two days.

An Hon. Member: We may examine them tomorrow.

Mr. Chairman: I do not want them to come on Sunday. We cannot ask our witnesses to wait in attendance on us.

Rajkumar Amrit Kaur: You will not expect the Bishop of Delhi to come tomorrow. It is not possible. He has got to conduct services in the morning and in the afternoon also. Another thing, it is not proper to ask Christians to come on Sunday.

Mr. Chairman: It is not proper to ask Christians to come on Sunday. I know that. That is why I propose that we should meet at 9 a.m. on Monday and sit till 11 a.m. We will have two hours to hear the evidence of these persons who have been waiting to give evidence during the last two days. We should finish with this evidence.

Hon. Members: Yes.

Mr. Chairman: So, we shall meet on Monday from 9 a.m. to 11 a.m. Under the rules of procedure, we cannot meet between 11 a.m. and 1 p.m. Now, Mr. Joseph, you please continue on.

Shri K. S. Joseph: About this recognition, I want to point out, we are already here. Who can refuse to recognise us? We are already here. Who can refuse to recognise any of the Churches. Under what Law can they do this? That would be discrimination against some.

Mr. Chairman: At the moment, is there any recognised Church existing? Is there any Law regarding the Indian Christians?

Shri K. S. Joseph: I have not seen any Act.

Mr. Chairman: Under Sec. 5, there is a provision for getting recognition.

Shri K. S. Joseph: That was in the days of the British. It was enacted by the British Government.

Mr. Chairman: It has not been challenged in a Court of Law.

Shri K. S. Joseph: We do not know. It is not applicable to us. Whatever Law was there it was before Independence. After Independence, the State declared itself as a secular one and the people who were here were recognised by the very Act so that nobody can say that they are not recognised. We do not recognise the grant of licences to some of the existing churches in India. All churches have to be recognised.

Shri Mathew Maniyangadan: In the existing Act also, there is no provision for recognition of the Churches.

Shri K. S. Joseph: That is what I say. Nobody has got a right to refuse to recognise churches. There should be freedom of conscience to refuse solemnisation of marriages on just grounds provided for in the cases of all Ministers who are licensed.

There should be no rule that the recognised Churches only have got a right to refuse to solemnize the marriage if it is against their conscience to do so. In the recognised churches, only the Ministers who are licensed shall have the power to solemnize a marriage whether it is legitimate or not. That provision is also obnoxious. See clauses 56 and 70.

Rajkumari Amrit Kaur: Is there any provision for recognition in the Indian Christian Marriage Act?

Shri K. S. Joseph: Nobody can recognise any existing Church. Now, coming to the question of marrying near relatives, the question that I would raise before this hon. Committee is this. Would you try to place more temptations before the people or would you try to reduce the temptations? Would you try to liberalise the conditions of marrying near relations? Supposing my wife's sister comes to me, she recognises in me one with whom she is as free a person as her own brother. There is absolutely no distinction. She has all the freedom and all the respect which she would have for her own brother and if such a person could be married, it would disturb the whole relationship between these people. What I wish to say is: would you try to place more temptations before the community which, so far, have been comparatively free from such temptations? We follow Leviticus system as Mr. Mathew and many others pointed out. I do not want to say anything further on this. Mr. Mathew has explained everything. I wish to stress one point and that is that the State should not try to interfere. As regards divorce, I am reading the verses from the Bible in Christ's own words:

"And I say unto you whosoever shall put away his wife except for fornication, and shall marry another committeth adultery; and whosoever marrieth her which is put away committeth adultery".

Now I want to draw the attention of the Committee to the words 'fornication' and 'adultery'. Fornication, according to the dictionary meaning is sexual intercourse with a woman who is not married. If, after the marriage, the husband finds that she is not a virgin, she can be put away. But what is said about that person who put away his wife is 'whosoever marieth her which is put away committeth adultery'. This is Christ's injunction. We, particularly the Church which I represent, take the Bible as the sole authority for matters of faith and doctrine. Other interpretations are not acceptable to us when the meaning is very clear. Fornication and adultery are two words in the dictionary which cannot different meanings. According to that, 'fornication' means 'sexual intercourse' with a lady who is unmarried. The husband, if he comes to know that she was not a virgin at the time of marriage, can put her away. What the Bible says is that if a person so put away is married by another person, then that is adultery. That is as plain as truth to me. So, it does not require anybody's interpretation. Would you then put this community into a position where people who are not religious minded or who are materialist minded can take this opportunity to do what their Church prevents them from doing? When the State gives a recognition to such people, they of course take it easy. Therefore, as I said, this is another reason why the State should not interfere in matters of religion except in those three points viz., public health, order and morality. If the State tries to interfere in regard to other matters, they will come in the way of people.

As I said, a person who marries a divorcee or a woman that is put away commits adultery according to the Bible. Therefore, it is against the principles that Christ has taught. So, the morality of the Christians will be absolutely undermined if these provisions are put in the Bill. That is

1317 (Aii) L.S.—5.

my case. I am sure that is not the idea of the State in bringing forward a Bill like this. I respectfully submit that such provisions be taken away from the Bill if the Bill is to be considered by Parliament. I would also request this Committee to recommend to Parliament that the Law Commission be requested to take evidence in Kerala and then re-draft the Bill according to the wishes of the people. If it is found necessary to re-draft it, even there, I would suggest that it should not be the business of the State to interfere with the religion except in regard to morality, order or public health and to enact laws for the minority communities.

I am thankful to the Committee for having heard me so patiently.

Mr. Chairman: You are Mr. Samuel of the Pentecostal Church of God. May I ask you whether you would like to be heard today or on Monday?

Rev. K. J. Samuel: I would like to be heard today. I represent the Indian Pentecostal Church of God.

Mr. Chairman: On behalf of the Pentecostal Church of God, Rev. Chacko has already given his evidence.

Rev. K. J. Samuel: Since Mr. Mathew and Mr. Joseph have already elaborated their points, I shall speak my points very briefly.

The Indian Pentecostal Church of God is an indigenous, independent National Church. We take the Bible as the only rule of faith and practice.

The proposed Christian Marriage Bill is opposed to the teaching and interest of our Church in various ways as follows:

1. *Prohibited relationships:* The objection relates to the prohibited relationships listed in "The First Schedule", Part I and II. Contrary to the Bible, *Leviticus* 18: 1-17, the entire list of prohibited relationships is not given. Of a possible 30 prohibited relationships to each partner of a mar-

riage, "The First Schedule" lists only 19 for each.

2. (a) *Grounds for Divorce:* Clause 30 provides grounds for divorce.

Marriage is a contract for life between one man and one woman. It is dissolved only by death. The following are a few passages from the Bible which set forth this teaching:

Mathew 19:4-9

Romans 7:2-3

I Corinthians 7:10-16.

(b) *Re-marriage after Divorce:* Clause 33 provides grounds for remarriage of divorcees.

The Bible gives no basis for divorce and remarriage. According to the Bible, divorce and remarriage are adultery. This clause puts the minister also in trouble. He is forced to solemnise the marriage of the divorcees against the Bible and his conscience.

3. *Recognition of Churches through the recommendation of a Committee:* Chapter III, Clause 7 says that for the purpose of advising the State Government, as respects Churches to be declared as recognised Churches, the State Government shall establish a Committee consisting of such number

of Christians, not exceeding five, and it shall be the duty of the Committee to examine application by Churches.

The members of this Committee who may be selected from the larger Churches of this country will naturally be prejudiced against the small Churches. So, our Church cannot accept such a Committee to present our case before the Government.

I therefore pray on behalf of my Church—

- (1) That the provision for recognition of Churches and licensing of ministers be dropped or recognition of all Churches be provided for;
- (2) That in the list of prohibited relations all the 30 relations of the Biblical list be included; and
- (3) That the provisions for divorce on grounds other than fornication and for remarriage of divorcees be dropped.

Mr. Chairman: Rev. Chacko has already elaborated certain points. They are quite clear. Thank you very much.

(The witnesses then withdrew).

The Committee then adjourned.

JOINT COMMITTEE ON THE CHRISTIAN MARRIAGE AND MATRIMONIAL CAUSES BILL, 1962

MINUTES OF EVIDENCE GIVEN BEFORE THE JOINT COMMITTEE ON THE CHRISTIAN MARRIAGE AND MATRIMONIAL CLAUSES BILL, 1962

Monday, the 15th July, 1963 at 10.00 hours

PRESENT

Shrimati Renu Chakravartty—*Chairman.*

MEMBERS

Lok Sabha

2. Shri Joachim Alva
3. Shri A. E. T. Barrow
4. Shri Rajendranath Barua
5. Sardar Daljit Singh
6. Shri Ram Dhani Das

7. Shri Sudhansu Bhushan Das
8. Shri M. L. Dwivedi
9. Shri L. D. Kotoki
10. Shri M. K. Kumaran
11. Shri Baij Nath Kureel
12. Shri Mathew Maniyangadan
13. Shri Panampilli Govinda Menon
14. Shri Bibudhendra Misra
15. Shri Purushottamdas R. Patel
16. Shri T. H. Sonavane
17. Shri Sivamurthi Swami
18. Shri G. G. Swell
19. Shri A. M. Thomas
20. Pandit D. N. Tiwary
21. Shri U. M. Trivedi
22. Shri T. Abdul Wahid
23. Shri Yashpal Singh
24. Shri Asoke K. Sen

Rajya Sabha

25. Rajkumari Amrit Kaur
26. Shri Jalramdas Daulatram
27. Shri A. C. Gilbert
28. Shrimati Jahanara Jaipal Singh
29. Shri Dayaldas Kurre
30. Shri Bansi Lal
31. Shri Mulka Govinda Reddy
32. Shri M. H. Samuel
33. Shri M. C. Shah
34. Shri Awadheshwar Prasad Sinha
35. Shri P. A. Solomon
36. Shri A. M. Tariq

REPRESENTATIVES OF THE MINISTRY

1. Shri G. R. Rajagopaul, *Special Secretary, Ministry of Law and Member, Law Commission.*
2. Shri R. V. S. Peri Sastry, *Assistant Draftsman, Ministry of Law.*

SECRETARIAT

Shri A. L. Rai—*Deputy Secretary.*

WITNESSES EXAMINED

I. THE ALL KERALA CATHOLIC CONGRESS, KOTTAYAM

1. Shri E. P. Varghese
2. Shri E. M. Joseph.

II. SHAHJAHANPUR (INDEPENDENT) CHURCH, SHAHJAHANPUR
 III. THE UNITED PENTECOSTAL CHURCH, KODAIKANAL

Pastor A. Joseph.

IV. CHURCH OF GOD (SOUTH INDIA), GIRIDEEPAM, CHENGANNUR
 Rev. P. C. Zachariah.

V. THE NATIONAL CHRISTIAN COUNCIL OF INDIA, NAGPUR

1. Dr. E. C. Bhatta
2. Mr. Korula Jacob.

I. THE ALL KERALA CATHOLIC
 CONGRESS, KOTTAYAM

Spokesmen:

1. Shri E. P. Varghese:
2. Shri E. M. Joseph:

[Witnesses were called in and they took their seats]

Mr. Chairman: First of all, let me thank the All Kerala Catholic Congress, Kottayam for having taken the trouble of appearing before the Committee. I will just read out to them the rule governing the witnesses appearing before a committee to give evidence.

"Your evidence shall be treated as public and is liable to be published, unless you specifically desire that all or any part of the evidence tendered by you is to be treated as confidential. Even though you might desire your evidence to be treated as confidential such evidence is liable to be made available to the members of Parliament."

Now, would you like to make some preliminary remarks? Before that, has this memorandum been circulated to all members of the Committee?

Rajkumari Amrit Kaur: I have not received a copy of the memorandum.

Mr. Chairman: Anyway, I would request the witness to make a few preliminary remarks highlighting the particular points which he would like to impress upon the Committee.

Shri E. P. Varghese: We have in our memorandum, first of all, taken the objection that such a Bill is against the religious freedom that is guaranteed under the Constitution because as far as most of the Christians are concerned matrimony is one of the seven sacraments which are perhaps the essentials of that religion, and our humble submission is that the Parliament should not introduce any legislation which will in any manner interfere with the sacrament regulating the procedure. It must be left absolutely to the churches concerned to regulate it because it is purely a religious matter.

Shri A. K. Sen: As it is, there are laws in force.

Shri E. P. Varghese: Of course, there are certain laws in force, but the fundamental rights were guaranteed only after the Constitution came into force.

Shri A. K. Sen: Naturally, every law has to conform to the fundamental rights.

Shri E. P. Varghese: Now that the question is being taken up, it is our duty to bring these things to the notice of the Members of Parliament.

Shri P. R. Patel: Among Hindus also marriages are sacrament and for the last so many years there is a law.

Shri A. K. Sen: It is nothing but a sacrament for the Hindus.

Shri E. P. Varghese: I also know that. It was for the Hindus to have protested then.

Mr. Chairman: I think we may allow the witness to make his points

and then members may put questions in the end.

Shri A. K. Sen: I was only reminding the witnesses that laws are already in force. Much of it is foreign law and some of it is Indian law. It is only to rationalise the law, as recommended by the Law Commission, that this Bill has been brought in.

Shri E. P. Varghese: The law is there, but now that the Parliament is taking up the question of amending that Act or modifying the provisions there, we get an opportunity to tell the Members of Parliament not to legislate upon that subject or repeal that Act because it affects the religious freedom that is guaranteed under the Constitution. That Act was in force at a time during the British period when the fundamental rights were not guaranteed under the Constitution. Now that we have a Constitution article 25 of which guarantees the freedom to practise, profess and also propagate religion, we want hon. Members to bear in mind that this is an abridgement of that right. We want to put it before you with all the emphasis and strength at our disposal that this should be seriously taken into consideration because it is a matter which affects primarily our religion. So, nothing should be done to regulate that by means of a legislation.

Shri A. K. Sen: Is it not possible that in countries which have fundamental rights marriage and divorce laws are in existence, as in America, where there is a very large Catholic population, including the President himself?

Shri E. P. Varghese: That may be true. But we want our viewpoint also to be considered.

Shri A. K. Sen: Because the provisions of this Bill are as recommended by the Law Commission, they would have seen whether they are in conformity with the provisions relating to fundamental rights in the Constitution or not. Which of the

provisions of the Bill, according to you, are contrary to the fundamental rights provisions?

Shri E. P. Varghese: I was submitting that in regard to the Bill as a whole because it regulates, or proposes to regulate, the marriages. So it interferes with the marriage laws of a particular religious community. This is by way of introduction. Then I will come to the clauses.

Shri G. G. Swell: You are saying that the Bill infringes the fundamental rights guaranteed by the Constitution. Now, what is the difference between the Indian Christian Marriage Act, 1872 and the proposed Bill in this respect? Do you say that the Indian Christian Marriage Act infringes the Constitution?

Shri E. P. Varghese: Section 88 of the 1872 Act contains a provision which reads as follows:

“Nothing in this Act shall be deemed to validate any marriage which the personal law applicable to either of the parties forbids him or her to enter into.”

That provision does not find a place in this Bill. Since this is a personal law relating to Christians, we say “please do not touch our personal laws, our religious laws and our religious freedom guaranteed by article 25 of the Constitution. Some of the provisions of the 1872 Act may be violating the Constitution but, as far as we in Kerala are concerned, we had no occasion to complain because that Act was not in force in Kerala.

Shri P. R. Patel: At pages 2 and 3 of your memorandum you have tried to define a “Christian” as a person who professes the Christian religion and a member of the Christian church or denomination. Suppose he is not a member of a church, does he become a non-Christian merely because of that?

Shri E. P. Varghese: Yes, because Christianity is an organised religion.

Shri P. R. Patel: After all, a Christian is a Christian and a Hindu is a Hindu, because each one follows certain principles of the religion. If a person follows all the principles laid down in the Bible if by chance he is not attached to any church, do you mean to say that he is not a Christian?

Shri E. P. Varghese: No, he is not a Christian. To become a Christian either he must be baptised or he must belong to any of the organised denominations of Christianity.

Shri P. R. Patel: Suppose a person can become a Christian only by belonging to or being attached to a church, do you not think that there will be superiority of the church over the people for all times to come?

Shri E. P. Varghese: No, no.

Shri P. R. Patel: According to you, every Christian must belong to one church or the other. If that is the case, since matrimonial ceremonies can be performed only by churches or by persons authorised by the churches, do you not think that the superiority of the churches over the people will last for all time to come?

Shri E. P. Varghese: Only on the followers of that religion.

Mr. Chairman: Suppose a person is not a church-going Christian; that is to say, he does not strictly come under the local pastor. At the same time, he is also not ex-communicated. In such a situation, how will his marriage be governed?

Shri E. P. Varghese: He can come under the Special Marriage Act.

Mr. Chairman: So, if he is enabled to marry under the Christian Marriage Act, you would be against it?

Shri E. P. Varghese: Yes, that is right.

Shri M. H. Samuel: A person has never become a Christian until he has been baptised in a church. That means he must belong to a church in

order to be baptised before he becomes a Christian.

Mr. Chairman: Do you mean to say that all the denominations of all the recognised churches go through the formality of baptism?

Shri M. H. Samuel: Yes, that is so.

Shri E. P. Varghese: That is why we have brought in baptism in the definition. As far as we Catholics are concerned, baptism is an essential condition to make one a Christian.

Shri A. K. Sen: How does the present definition come in conflict with that?

Shri E. P. Varghese: Suppose a person says he is a Christian because he is professing that religion, according to us that alone will not do. There are Christians without baptising.

Shri A. K. Sen: Salvation Army people for example.

Shri A. E. T. Barrow: Salvation Army is not a Christian denomination. Any one can become a member of the Salvation Army. It may well be that most of the members of the Salvation Army are Christians. To be a Christian, one must be baptised; whether it is inside a church or outside, it must be by a priest. Otherwise, anybody will perform such ceremonies.

Mr. Chairman: In the case of the Salvation Army people, for instance, they need not go through the formality of baptism and yet they are considered to be Christians. So, would it not be much better to leave it as wide as we can, covering all those who profess that faith?

Shri A. K. Sen: The present definition covers both baptism and also non-baptism, whereas you want to confine it only to those who have been baptised.

Shri E. P. Varghese: We have anticipated that objection. That is why we have said that a Christian means a person professing the Christian religion and is a member of a Christian

church or denomination. In the case of some denomination they need not go through the formality of baptism, but they must belong to some denomination, some organised body with certain rules and regulations. There may be several denominations but each may have its own professions. One individual may not belong to any denomination or church. He can say, I am a Christian. It is not so. He must belong to an organisation.

Shri A. K. Sen: There was a time when each denomination regarded the other as heretics capable of being burned as non-Christians. Let us not talk of those things.

Shri G. G. Swell: The point is this. We want a clear answer from the representative of the Church to one question. Do you consider a person to be a Christian who is not baptised? I think you are clear on that point.

Shri E. P. Varghese: He must belong to one or the other of the churches.

Shri G. G. Swell: Can he be considered a Christian without being baptised?

Shri E. P. Varghese: There are some persons who do not belong formally to any church and do not undergo baptism. From the Catholic point of view baptism is a *sine qua non*. Even in the Bible it has been stated. I have quoted the Bible. In our memorandum "Go and teach ye all nations; baptising them in the name of the Father and of the son and of the Holy Ghost". It is the teaching of Christ himself. Later on people began to talk about all kinds of baptism and said it is an organised religion which will cover both baptised and unbaptised persons but he must belong to some denomination or church.

Shri E. M. Joseph: If you are going to discuss this point I think we will be taking more time. Our time

is limited and I think we might come to a point as to what we have to consider.

Shri A. K. Sen: It is an important point. If there is genuine objection which is shared by other denominations, it has to be agreed to.

Hr. Chairman: I remember there was some evidence given before us here that one who follows the teachings of the Bible should be regarded as Christian. That again is liable to interpretation. I think the Deputy Law Minister was there. Some witnesses suggested that such a person should be considered Christian. That was one of the evidence given over here. Majority of Christians and all Catholics must undergo baptism. We would like to know whether there are some who profess the Christian faith but who do not undergo the form of baptism. We have found that there are some such persons. The real point to be considered is, what will happen even if you do not put specifically that a person has to be baptised. The other point is that they must belong to a church or denomination. There may be some who do not actually belong to any church. There were some spokesmen of churches who said that they go to marriage under the tree. Such things are happening. Therefore we will have to consider it in a wider aspect.

Shri A. K. Sen: This definition is in the existing Act. You have noted that there is no difficulty. Actually this expression has been in vogue ever since 1872. There is no difficulty. It should not be changed lightly. I don't think there is any difficulty when it comes to you.

Mr. Chairman: We know your opinion. We can now proceed.

Shri E. P. Varghese: I have suggested suitable amendment in my memorandum about which I have mentioned earlier. He must belong to a church or denomination. The denomination is not a church.

Shri A. K. Sen: The present definition includes both. There is another point. If you look at section 70 of the proposed bill, I think that will meet all your objections.

Section 70 states as follows:—

“No Minister of a recognised Church shall be compelled to solemnise any marriage, the solemnization of which would be contrary to the rules of the Church of which he is a Minister”.

No catholic priest can be compelled to solemnise the marriage of any person which is contrary to the catholic church.

Shri E. P. Varghese: What about the church itself? We are suggesting amendment to that.

Shri A. K. Sen: Church is not going to be regulated. It is only marriage.....

Shri E. P. Varghese: Could the church be compelled to recognise that marriage?

Shri A. K. Sen: There is no question of churches being compelled to recognise or not. As far as the law is concerned, the offsprings of that marriage will be regarded as legitimate. That is all. We are not dealing with the churches' right to recognise or not to recognise. Even in predominantly catholic countries where the law permits divorce, certain churches do not recognise the offsprings of the second marriage as legal. Nevertheless the law of the country recognises them as legal. It does not compel the church to take a different view. It is the same here. We are providing for certain types of marriages being allowed. We are, at the same time, taking care to see that the church cannot be compelled to solemnise that marriage. So far as country's law is concerned, the marriage will be recognised as valid and the offsprings will be recognised as legal.

Shri E. M. Joseph: He may be given time to give the evidence. Afterwards this explanation may be given.

Shri A. K. Sen: For evidence, we have to point out to you the purpose which underlies the bill so that your evidence may not be on lines which are different from the purposes of the bill. Evidence cannot be on a vacuum.

Shri E. M. Joseph: If he will be given more time he will just go on speaking about all these things.

Shri A. K. Sen: Please do not repeat what you have stated in the memorandum.

Shri E. M. Joseph: We have to make certain explanations.

Mr. Chairman: Go ahead:

Shri A. K. Sen: This Bill has nothing to do with the policies of a particular church regarding their views on marriage or divorce or such other things. This is to recognise certain marriages performed among Christians and to recognise the offsprings as valid according to the laws of the land. Whether the church is recognising that or not is a different matter. They cannot be compelled.

Shri E. P. Varghese: There is a Special Marriage Act for that. Why do you put it in the Christian Marriage Act?

Mr. Chairman: Under the Special Marriage Act one has to make a declaration that he is not a Hindu or Christian or a Muslim and so on. But suppose a person wants to say that he is professing a particular faith and wants to get married.

Shri E. P. Varghese: We say that matrimony is a religious matter.

Shri A. K. Sen: You must remember that the Special Marriages Act came long after the Christian Marriages Act.

Shri E. P. Varghese: We only say “don't call such marriages Christian marriages because Christian marriages can be only between Christians”.

Mr. Chairman: Coming to clause 2, you want the items included in Parts I and II to be incorporated in the Bill as prohibited relationships.

Shri E. P. Varghese: On subsequent consideration and discussion we have decided not to press for it. Let the provision in the Bill remain as it is.

Mr. Chairman: Can you explain why you have withdrawn this suggestion?

Shri E. P. Varghese: In the Catholic church permission or dispensation can be granted by the church authorities, and there is no provision here for it. So, we do not press for it.

Shri G. G. Swell: Do you not insist that all the degrees of prohibited relationship mentioned in the Bible need necessarily be mentioned here?

Shri E. P. Varghese: There is nothing in the Bible about it. We do not want it because we are free to give dispensation.

Mr. Chairman: Coming to "recognised churches" are you against the provision as such or do you only want the inclusion of "Jacobite Church" and "Marthomite Church"?

Shri E. P. Varghese: We feel that the State need not make any classification, so far as churches are concerned.

Mr. Chairman: What about your view that these two churches should be recognised?

Shri E. P. Varghese: We now take the view that the State need not come and recognise churches, licence ministers and all that.

Shri A. K. Sen: In that case, you must define "churches".

Shri E. M. Joseph: Our present suggestion is that both "churches" and "ministers" may be defined so that it will put an end to this controversy.

Shri E. P. Varghese: We do not want the State to come in and recognise churches. For that purpose, a definition may be added in the definition clause for "church" and "ministers".

Mr. Chairman: What you have stated in your memorandum almost implies that you have accepted recognition.

Shri E. P. Varghese: After discussing the matter with other representatives of the churches we have come to the conclusion that it is not necessary.

Rajkumari Amrit Kaur: You were pleased to say that you are against the State recognising churches or licensing ministers. In that case, you would like to include in the Act not only a definition of "churches" but also a definition of 'ministers'.

Shri E. M. Joseph: Yes, that is what we are saying. In the context of our proposed amendment, definition of not only "church" but also "minister" will become essential. If that is accepted, we can do away with the clauses dealing with recognition of churches and licensing of ministers.

Shri E. P. Varghese: The definition which we have in view is:

"'church' means an organised body of Christians, holding the same creed, following the same rights and acknowledging the same authority."

Shri A. K. Sen: The moment you say "an organised body following the same rights" anybody may dispute anybody else. Who will decide it?

Shri E. P. Varghese: The courts will have to decide it.

Shri A. K. Sen: Not in each case.

Shri G. G. Swell: What do you mean by "authority"? Who is the authority?

Shri E. M. Joseph: Bishop or some other authority.

Shri G. G. Swell: In some cases, Christ or the Bible is the authority.

Shri E. M. Joseph: There are some known as elders in each church.

Shri G. G. Swell: The four main churches are the Church of Rome, the Episcopal church, the Presbyterian church and the Congregational church. Which is the authority?

Shri E. P. Varghese: Every church has got some authority.

Shri E. M. Joseph: For the Catholics the Bishops and of course the Pope and for the Marthomite Church or the Jacobite Church in Travancore Cochin the Bishops are the authorities. For the Salvation Army the authority is the Commander-in-Chief.

Shri G. G. Swell: Do you propose that all those authorities should also be defined in the Bill?

Shri E. M. Joseph: We do not want to define the authorities; we only want to define the Church.

Shri A. K. Sen: The definition is unexceptionable except that, as you know, there is always denial by one denomination of the christianity of some others.

Mr. Chairman: My impression after hearing the evidence of the representative of the Indian Bible Christian Council was that they would not fall into any of these four categories and I have very grave doubts whether they have any centralised authority at all; yet, they are very firm that the only authority is the Bible. So, what we want to understand is whether we would be excluding by such a definition certain bodies or groups of Christians who profess themselves to be Christians but who would not fall under your definition.

Shri E. P. Varghese: They too will fall under the definition because they are a group and that group is also organised.

Shri G. G. Swell: Who is the authority in that case?

Shri E. P. Varghese: The head of that group.

Shri U. M. Trivedi: This part of your evidence is not contained in your memorandum.

Mr. Chairman: No, it is not; they have taken a little different position now.

Shri A. K. Sen: In the memorandum they were supporting recognition. But in case recognition is ruled out who is to decide in case of dispute?

Shri E. P. Varghese: If there is a Church, the Church authority will solemnise the marriage.

Shri A. K. Sen: But in the absence of recognition who will decide it? It is a very valid question. We do not want hundreds of civil cases occurring all over India.

Shri E. M. Joseph: Christianity is about 2,000 years old and no such things have happened till now and are not going to happen.

Shri A. K. Sen: You think that there will be no dispute but the difficulty is that people belonging to an over-disciplined Church.....

Shri E. M. Joseph: Not over-disciplined.

Shri A. K. Sen: You yourselves call yourselves over-disciplined. I do not consider 'over-disciplined' as anything objectionable. If you ask me we want over-discipline in this country. Anyway, I did not use that expression with any idea of disparagement but with the idea of appreciation. However, we cannot ignore possible disputes just because we happen to belong to a disciplined organisation. There are cases occurring particularly from the side of non-consenting parents and we have to think of that.

Shri E. P. Varghese: With all respects, I do not quite follow you. But

we are very particular that recognition should not be left to the State. This must be left to the sect concerned.

Shri U. M. Trivedi: You fear that in that case some sort of interference from the State will be there. That is the only objection that you have, I think.

Shri E. P. Varghese: That is one of the main objections.

Shri U. M. Trivedi: What other objections do you have?

Shri E. M. Joseph: Let us first explain our proposals.

Shri E. P. Varghese: One thing which is not there in our memorandum is regarding clause 2(p), definition of "rule". To that definition of the word "rule", we are just suggesting an amendment. The rule speaks about a right, ceremony or custom of the Church. We are just only saying that the rites, ceremonies or the customs are what are called formalities. That does not mean rule. The rule means and includes the rites of the churches. The churches frame rules for matrimony. You must include 'rules, rites, ceremonies or customs of the church relating to matrimony'. Rule means 'rules, rites, ceremonies or customs of the church relating to matrimony'. Rule has been defined but not the rule of the church. Only the form is given.

Shri U. M. Trivedi: You are making a suggestion. Shall we take it that we are not examining the witnesses or the witness refuses to answer this question first?

Mr. Chairman: There can be two ways of dealing with the witnesses. Let him give his evidence. Then we may put questions.

Shri E. P. Varghese: We are explaining to you our difficulties.

Mr. Chairman: Do you want to put any particular question to the witness?

Shri U. M. Trivedi: If we want to have suggestions, let us finish with those suggestions.

Mr. Chairman: Let the evidence proceed and then we may ask questions.

Shri E. P. Varghese: As far as 'consent' is concerned, we have got clause 4 'Consent by the minor'. If you maintain the age of 15 for the bride, she being a minor, the guardian has to give consent for her. It is one of the essentials of a valid marriage. The contracting party also should give consent i.e. both the bride and the bridegroom over and above the guardian. If one of them is a minor, that minor also should give her or his consent for entering into a marriage.

Mr. Chairman: Does it not appear in your memorandum?

Shri E. P. Varghese: On page 4, clause 4(v) says that 'Consent of the bride too shall be made a condition'.

Mr. Chairman: The parent's consent certainly shall be given together with that of a minor.

Shri U. M. Trivedi: That means the consent of the minor is necessary.

Mr. Chairman: This point is clear from a commonsense point of view.

Shri E. P. Varghese: Consent of the minor shall be there. That is true. As far as matrimony is concerned, you ask for the consent of both the bride and the bridegroom as to whether she or he is prepared to marry so and so. If a consent is given, then that shall be a lawful marriage.

Shri P. R. Patel: Am I to understand that the marriage of the party below 18 years would be illegal?

Shri E. P. Varghese: No, sir. I am only concerned with the consent of the party.

Shri P. R. Patel: If the boy is of 18 years, will it not constitute a valid marriage?

Shri E. P. Varghese: Even if she is a minor girl, no boy below 18 years of age can enter into a marriage.

Shri E. M. Joseph: Over and above the consent of the guardians her consent is to be obtained.

Shri G. G. Swell: I do not know the practice regarding the solemnization of the marriages. Normally a question is asked as to whether the bride is agreeable to marry so and so. If she agrees to take him as her husband, the marriage is solemnized. They are made to say these things. It is a consent and it is implied.

Shri U. M. Trivedi: The consent is already implied. Without the consent you cannot solemnise a marriage. Then why do you want these additional words here?

Mr. Chairman: From a common-sense point of view, the law will work. Supposing the marriage is entirely against the will of the daughter. Although there is no will of the daughter, as long as the will of the parent is there, it can be done according to the law. Since the girl is not a major, certainly the consent of the parent must be there.

Shri U. M. Trivedi: The point is very clear here. We have only to consider the way in which the Christian marriage is performed. The bride has to say in a particular form something at the time of the marriage.

Mr. Chairman: What is your point here?

Shri E. P. Varghese: Suppose the girl says 'no'. She being a minor, it is not a valid refusal according to the law. Still it will be a valid marriage according to this Bill if the guardian's consent is there.

Shri U. M. Trivedi: If she says 'no' let her say this even before the minister.

Mr. Chairman: Now we have understood your points.

Rajkumari Amrit Kaur: What would be your opinion if we get rid of the 'consent'?

Shri Varghese: I am personally in favour of raising the age to 18. If this is done, all the conditions about the consent of the guardian etc. will be over. There may be social upheaval on that point. The parents may be anxious to dispose of their daughter. I think if the age of 18 is accepted there shall be a provision as under the Sarda Act for enabling the Government to exempt any one who is below 18 to contract a marriage.

Mr. Chairman: Now let Rajkumari-ji put questions?

Rajkumari Amrit Kaur: Does the Sarda Act apply to the Christians?

Shri G. E. Rajagopaul: It applies to everybody. The age is 15 in the case of girls and 18 in the case of boys as per the Sarda Act.

M. Chairman: There are many Christian marriages taking place at the age of 15. That should not be changed.

Shri E. M. Joseph: Since we have no time we are skipping over the other sections. Let us take Section 70.

Shri E. P. Varghese: You have now exempted the ministers from being compelled to solemnize any marriage. This suggestion is not in our memorandum. We shall read that out.

Shri E. M. Joseph: At the end of clause 70, I would like to add the words "no church shall be compelled to recognise the marriage as valid which is not in accordance with its rules".

Mr. Chairman: At the end of this clause you want 'No church shall be compelled to recognise as valid the marriage which is not in accordance with its rules'.

Shri U. M. Trivedi: Where is the question of recognising the marriage?

Shri E. P. Varghese: If the minister is exempted, there will be difficulties.

cropping up later on. Suppose a man is brought under the discipline of a church when he does not marry according to the rules of the church. Then the troubles will crop up. Marriages can be solemnised only by a minister. We want that the church discipline should be maintained.

Shri U. M. Trivedi: What particular emphasis do you want to put upon the point? I am not talking about solemnization of marriage. Who are you to decide that you refuse to recognise the marriage as valid?

Shri E. P. Varghese: Because that person concerned belongs to a particular church.

Shri U. M. Trivedi: You want to preserve your right to say that he is a Christian of a particular denomination.

Shri E. P. Varghese: We are putting him under certain discipline; there are punishments prescribed for violation of certain rules.

Shri U. M. Trivedi: I would like to know from you as representing a particular denomination of the Christians community as to whether you want to preserve to yourself the right to recognise or not to recognise the marriage solemnly performed by some other Church? Is that the point?

Mr. Chairman: The point is this, Mr. Varghese. Suppose somebody who has been refused marriage by a particular minister gets his marriage solemnised by somebody else. There is nothing in this Bill which forces the church to recognise it as valid. But the State will recognise it.

Shri E. P. Varghese: Let the State recognise it, we have no objection to that.

Shri E. M. Joseph: For the purpose of the civil rights the State can recognise it. We have no objection to that. Our objection is only this, that the church shall not be compelled to recognise those marriages which are not in compliance with the rules of the church.

Shri E. P. Varghese: Suppose some disciplinary action is taken against that person because it is not in accordance with the rules of the church. He may come and say, "we are duly married therefore his marriage should be recognised". The fact that the State recognises the marriage should not mean that.

Mr. Chairman: The church can say that it is not valid. We are not legislating on that point at all. That is a question for the church and its constituents. As far as we are concerned, we are only permitting that it may be valid as far as the State is concerned.

Shri E. P. Varghese: I have no objection to that.

Shri G. G. Swell: I am concerned with the position of the married parties and the children. You say that no church should be compelled to recognise a marriage that has not been solemnised according to the rules of the church. You mean every church? Suppose two Christians have been married by the marriage registrar according to the Bill here. What happens to their position as Christians? According to you, no church will recognise them and in the eyes of the church they have been ex-communicated because they were not married according to the rules of the church. What happens to their children?

Shri E. M. Joseph: According to this Bill they are married. But it is in contravention of the rules of the church and the church can take disciplinary action against the couple, those two members of the church, who have gone and married in contravention of the rules of the church. They can be denied certain rights: they can be denied the holy sacrament.

Shri E. P. Varghese: Christian burial can be denied to them.

Shri E. M. Joseph: The church may not be compelled to recognise their marriages as valid marriages according to the rules of the church.

Shri G. G. Swell: According to what you say, no church will recognise them, and in the eyes of the church they are out of the church. Does it mean that they cease to be Christians?

Shri E. P. Varghese: All those questions do not come in. Our point is this. They should not come and say, "Give me the sacrament, Christian burial etc.; I am duly married, you cannot deny me all these things".

Shri U. M. Trivedi: They have their rights as Christians.

Shri E. P. Varghese: You are accepting the conscience of the minister in clause 17.

Shri P. R. Patel: If a marriage that is not done under the rules of the church is not recognised by the church, should that Christian be excommunicated or denied the opportunity of offering worship to God.

Shri E. M. Joseph: Not even the State can prevent it.

Shri E. P. Varghese: There is not compulsion. Anybody can enter the church. But there are certain rights which can be denied to them when the marriage has not been done according to the rules of the church.

Shri U. M. Trivedi: That means ex-communication can be done by you.

Shri G. G. Swell: Mr. Varghese, we have got your views on that point. But so far as this clause 70 is concerned, it confines itself to the minister of a recognised church, that he shall not be compelled. What about a licensed minister?

Shri E. P. Varghese: If you accept our amendment, all the consequential amendments should be made.

Shri G. G. Swell: If you accept the principle that recognition is retained would you suggest that this compulsion or non-compulsion should also apply to a licensed minister?

Shri E. P. Varghese: I think there is no objection to that.

Shri G. G. Swell: To any licensed minister. He also should not be compelled—because he can be penalised if he refuses to solemnize.

Shri E. M. Joseph: If our suggestions are accepted recognising and licensing will go. It should be applied to a licensed minister also—recognised or licensed minister.

Shri M. H. Samuel: What is the compulsion you are having in mind? Is it State interference you are thinking of? Who is to compel the minister? Suppose there is a person who changes his church and goes to another church and wants to be married. There should be no objection to that.

Shri E. P. Varghese: No objection. But he cannot come back and claim all his rights. He should not say, "I am still a member of the previous church, all my rights should be intact".

Shri M. H. Samuel: You also do not want the entities to be disorganised; otherwise there will be confusion and rivalry with each other. Is it not so?

Shri E. M. Joseph: Precisely.

Shri G. G. Swell: Would you suggest the omission of clause 56(2)?

Shri E. P. Varghese: As far as divorce is concerned, we are against it in the Christian Marriage Act. We have stated it in our memorandum.

Mr. Chairman: That is clear.

Shri E. P. Varghese: As far as certain provisions regarding divorce are concerned, you will note under "Grounds of divorce", in clause 30(1) (i) the provision "has, since the solemnization of the marriage, committed adultery". In the Hindu Marriage Act the expression you have put in is "living in adultery". Here, under this provision, a person can put in

a petition at any time and ask for a divorce.

Shri U. M. Trivedi: This is a very salutary provision.

Shri E. P. Varghese: My point is that we should not be treated with special discrimination. If it has happened once or twice it must not be a ground for divorce. The provision should not be different here.

Shri E. P. Varghese: It should be, 'Is living in adultery'. We are not sitting as a moral court. We are taking practical cases to meet difficulties.

Shri U. M. Trivedi: That is the ordinary law.

Shri E. P. Varghese: 'Living in adultery'—this is the ordinary law of divorce.

Shri G. G. Swell: Suppose a person lives with his wife and he goes on . .

Shri E. P. Varghese: They can put in a petition for judicial separation.

Shri U. M. Trivedi: Will the Law Minister inform us, so far as ordinary law or divorce is concerned, is it living in adultery or committing adultery?

Mr. Chairman: It is a peculiar position as far as I can remember from the report of the Law Commission.

Shri U. M. Trivedi: The Hindus are degraded.

Mr. Chairman: In the English law, it is peculiar. In the case of a woman, one case is enough. For a man more cases are necessary.

Shri Bibudhendra Misra: The English law is, since the celebration of the marriage committed adultery.

Shri U. M. Trivedi: That ought to be so.

Shri T. H. Sonavane: We have not followed what the witness wants.

Shri E. P. Varghese: We should make it more or less the same for all as far as possible. We are saying that

there should not be any discrimination, as far as the Hindu Marriage Act is concerned. We do not accept my friend's saying that the Hindus are degraded.

Shri U. M. Trivedi: You need not say that. It is our impression; you need not advance that argument.

Shri P. R. Patel: In the reasons for divorce, I do not find mental cruelty.

Shri U. M. Trivedi: Cruelty includes mental cruelty.

Mr. Chairman: As far as the Catholics are concerned, in no circumstances, except under Papal dispensation do they ever support divorce. What is the point in asking these questions?

Shri E. P. Varghese: One word of explanation. It is only in one solitary instance that the Pope dissolves marriages, that is, wilful failure to consummate. There may be marriages which are null and void. That is a different thing. Once a valid marriage is contracted, it is only in one solitary instance where there is proved wilful failure on the part of the husband or the wife to consummate that the Church dissolves the marriage.

Shri P. R. Patel: Suppose the Court dissolves a marriage, that will have to be recognised by the Church.

Shri E. M. Joseph: No. That is why we say that the Church shall not be compelled to recognise that.

Shri P. R. Patel: Under the Muslim and Hindu law, if a divorce is granted by the court, that is accepted. That means you do not want to lose the supremacy.

Shri E. P. Varghese: This is organised religion. Every organised religion does it.

Mr. Chairman: We should not ask such questions. We should ask them to clarify the points which they are bringing forward.

Shri U. M. Trivedi: In page 10, you say: "Nothing in this Act shall invalidate a marriage which the rules of the Church to which either party belongs treat as valid."

Shri E. P. Varghese: We would rather ask you to retain section 88 of the Act of 1872 to be a part of this.

Shri E. M. Joseph: Or, we would say that the Catholics may be excluded from the operation of this Act.

Shri E. P. Varghese: The reason is, it is practically admitted by the Law Commission that the rules of the Catholic Church regarding marriage are very complete. There are very clear and well defined rules in the Church that the State need not be so anxious over our marriages.

Mr. Chairman: Here is a point which you have not answered. A point was raised by the Law Minister that although the Church has definite rules, in all those Catholic countries, there are laws which have been passed.

Shri E. M. Joseph: In those countries, it does not go contrary to the rules of the Church. It is the canon law that is the basis of those laws and enactments in those Catholic countries. England, for example, is only a Christian country. It is not a catholic country. You may remember that in England, for the Catholics, franchise was given in 1924 or so. We were handicapped. Franchise was denied to Catholics. You cannot favourably compare all those Christian countries in regard to these cases.

Mr. Chairman: There is the American law.

Shri E. M. Joseph: They are predominantly non-catholics. It is not a catholic country.

Mr. Chairman: There is a strong minority.

Shri E. M. Joseph: That does not mean that the law of the country is based upon the canon law of the Catholics, or their personal law.

Mr. Chairman: There is divorce in a predominantly Catholic country like France.

Shri E. M. Joseph: Yes. But, the Catholics are allowed to retain their specific laws regarding marriage and the Church is not coerced to recognise any of the laws.

Mr. Chairman: What would you say to clause 70? Suppose a divorced man or woman wants to get married in your Church, clause 70 will operate and will protect you.

Shri E. P. Varghese: It will protect only the Minister.

Shri G. G. Swell: How will he solemnise the marriage if the Minister refuses?

Shri E. P. Varghese: There are certain rights. He, as a married man, can claim, give me my rights.

Rajkumari Amrit Kaur: Suppose the State gives divorce and the Roman Catholic Church does not recognise the divorce. The children of the divorce whether it be man or woman, if he wishes to bring under the Roman Catholic Church, is there any objection? Would you accept that child?

Shri E. P. Varghese: They can be brought up under the Catholic Church. We have no objection.

Rajkumari Amrit Kaur: Only thing is you do not recognise the divorce and you do not want the Church to be compelled to recognise it.

Shri E. P. Varghese: Yes.

Mr. Chairman: When the Minister is not compelled, how is the Church compelled?

Shri E. P. Varghese: The Church will not recognise that marriage.

Shri U. M. Trivedi: They want to differentiate between the right to solemnise a marriage and the right to recognise a marriage. These are two

distinct things. That is what is in my mind when I put the question. I have not understood. They want to reserve the right to recognise a marriage as distinct from the duty cast upon the minister to solemnise the marriage. What is the difference between the two? How will it operate?

Shri E. M. Joseph: The sum total of this Act, regarding divorce, regarding judicial separation, all these clauses read together, the effect will be that the Church will have to consider as valid marriages which are not in conformity with their own rules of the Church. That will be the total effect.

Mr. Chairman: Suppose your rules prohibit a divorcee from marriage and such a divorcee gets married by any other means, how is your Church compelled to recognise that marriage?

Shri E. M. Joseph: I will illustrate by another example. A and B are two Catholics. They want to get married. If the Church has to recognise their marriage as a valid marriage, according to the rules of the Church, certain formalities and certain principles have to be adhered to. If they go out of the Church and get themselves married by a minister who does not belong to the Catholic Church and not in conformity with the rules of the Catholic Church, that cannot be considered as a valid marriage according to the rules of the Church. Still they may claim themselves to be Catholics and even though they have married outside the Church, they can again come to the Catholic Church and ask for all the favours and for all the other benefits under the Catholic Church.

Mr. Chairman: Do you not have rules that a member of the Catholic Church who has not been married by a Minister of the Catholic Church has no right to ask them?

Shri E. P. Varghese: That is true. Can we enforce anything against the State? Supposing an individual comes

and says that his marriage has been recognised by the State, and, therefore, his other rights cannot be denied and they have to be given to him, then what will happen? We cannot enforce our rules against the State.

Shri E. M. Joseph: Nothing will turn out of it if that suggestion is added that that does not affect any of the other rights of the parties, such as the civil rights etc.

Shri E. P. Varghese: We are only asking for the saving of the conscience of the minister and the conscience of the Church also. Let us not be forced to recognise it for practical purposes.

Shri U. M. Trivedi: I want to be clear about one thing. You have stated at page 10 of your memorandum that:

“Nothing in this Act shall invalidate a marriage which the rules of the Church to which either party belongs treat as valid.”

Does this mean that marriages which are prohibited by this law will still be considered valid if they are recognised by the church?

Shri E. P. Varghese: That is our request.

Mr. Chairman: We have a similar clause in this Bill, which is not very fortunate, according to me, to the effect that we accept the personal law. Through this suggestion they are only bringing in a different form, that any marriage which has been solemnized according to the rules of the personal law should be considered valid, notwithstanding this Bill.

Shri U. M. Trivedi: There is a little difference. Their suggestion is that nothing in this Bill shall invalidate a marriage which the rules of the church to which either party belongs treat as valid. Supposing there is a peculiar church which recognises marriage between the prohibited degrees mentioned in this Bill, and the church performs such a marriage, then notwithstanding this Bill, they

compel us to recognise that that marriage also shall be a valid marriage. Are you not going to undo whatever law we are going to enact by this kind of suggestion?

Shri G. G. Swell: I have not been able to grasp this clause. Would you kindly illustrate in what manner this contingency may arise?

Shri E. P. Varghese: As the Chairman has said, this is only to safeguard the personal law. We want that the State should keep intact the personal law, and should recognise the personal law. If it is valid according to our personal law, then the State should not invalidate it.

Shri Bibudhendra Misra: Some of the provisions of this Bill would be inoperative in that case, particularly the provisions regarding the prohibited degree of relationship.

Shri E. P. Varghese: I believe you would have seen our note with regard to section 88 of the 1872 Act.

Mr. Chairman: In the Hindu Marriage Act, this has been permitted only in regard to the prohibited degrees of relationship. We have provided therein a proviso to the effect that any marriage which is solemnised between the prohibited degrees of relationship, if permitted by the personal law, shall be permitted. But then that was provided for only with regard to the prohibited degrees of relationship. But you want an overall clause, which would mean that there will be no necessity for this Bill at all.

Shri E. P. Varghese: We are only asking you to retain section 88 of the 1872 Act in another form.

Shri G. G. Swell: I have been thinking on the same lines as the chairman. What is the contingency that may arise other than the one relating to marriage between prohibited degrees of relationship?

Shri E. P. Varghese: There are other contingencies also.

Shri P. R. Patel: There is, however, one difficulty. Supposing one of the parties goes to the court and the marriage is declared invalid, despite this, can you say that the marriage is legally valid according to the rules of the church?

Shri E. P. Varghese: If it is legally valid according to the rules of the Church.

Shri P. R. Patel: You want to be a superior authority over the State?

Shri E. P. Varghese: It is not a question of our being a superior authority. As far as matrimony is concerned, it is a sacrament. That is what I have stated from the very beginning. As far as the personal law is concerned, we want that the State should not interfere.

Shri E. M. Joseph: In the realm of religion, we claim to be superior.

Shri U. M. Trivedi: You ought to have raised this objection when the Hindu Marriage Act was being enacted. At that time the Hindus only were being hit, and, therefore, the Christians were very much pleased.

Shri E. P. Varghese: It is not as if the Christians were pleased. The point is that we were not very much concerned with the Bill at that time. So, why should we have poked our noses into other people's affairs?

Shri U. M. Trivedi: As Indian citizens, you should have raised the objection then.

Shri E. P. Varghese: At that time we were not called. Only now we have been called in connection with this Bill so that we may present our objections.

Shri U. M. Trivedi: You would have done a great service, if you had raised this objection a little earlier.

Shri E. P. Varghese: If I had been a Member of Parliament, perhaps, I would have raised the objection. But unfortunately I was not. At that time, if I had raised this objection also,

I would have been dismissed as being out of court.

Mr. Chairman: Have you got any other points to urge?

Shri E. P. Varghese: I would only like to thank the chairman and the Members for putting us questions and trying to get elucidations. I would once again request you to consider our representation with all the great care that it deserves. We are a small and insignificant minority in India. Our numerical strength is very small compared to the 400 odd millions in the country. So, I would request that you should not try to bring in any law which affect our personal laws. Especially after having enunciated article 25 in the Constitution, you should not directly or indirectly try to water it down. That is my submission.

Shri E. M. Joseph: That is the appeal that we would like to make finally.

Shri E. P. Varghese: If still the law is going to be framed as it is, we are helpless against your verdict.

Mr. Chairman: It is not a question of anybody being helpless or not. It is a question of our trying to codify the entire law for all. I personally did not think that the Christians who have always had a law to guide them would really be so vehemently objecting to this Bill. As a matter of fact, you would remember that we had to face the very same difficulty in connection with the Hindu Marriage Act, when we were trying to change the Hindu law.

Shri U. M. Trivedi: We did not have this much of difficulty at that time.

Mr. Chairman: The witnesses have made some very interesting points. We shall consider them. But I would request the witnesses to send the written amendments which they had promised, so that we could get them circulated to all the Members of the Committee.

Shri E. P. Varghese: Those definitions will be sent to you. Now, we have only tried to put our case in our own way. We feel that at least in the matter of the essentials of religion such as sacrament, baptism, matrimony etc. the State should not try to legislate, because that would mean practically taking away by one hand all that you have given with the other.

Shri Mathew Maniyangadan: This provides only for marriages between Christians. What is your view regarding marriages between Christians and non-Christians?

Shri E. P. Varghese: That should also be allowed to be solemnized by a Minister of a Church. That provision was there in the 1872 Act. I do not know why it has been taken away in this Bill. We have suggested that provision also in our memorandum.

Shri U. M. Trivedi: The Special Marriage Act makes provision for that.

Shri Bibudheadra Mishra: The reasons are given in the Law Commission's report.

Shri E. P. Varghese: I may tell you why we are insisting on it. Supposing a Catholic wants to marry a Protestant, or a Muslim or a Hindu, and supposing the other party has no objection to having the marriage solemnised by the Church, then the Church should be allowed to do it. Otherwise, what will happen is this. Supposing a Christian marries a Hindu and goes and registers that marriage, he will be taken to task by his church and will be denied the solaces of religion later on. Supposing the other partner has no objection to coming to the church and having the marriage solemnised there, then there should be no objection to that.

Shri P. R. Patel: Your statements seem to be contradictory. At page 2 of your memorandum, you have stated that:

"That definition in the Bill will mean that anyone who states that he is a Christian is a Christian

for the purpose of marriage according to this law.”

Then, you have stated:

“In considering the clauses of the Bill, the first thing that strikes is the definition of the word ‘Christian’. Excepting a few small dissident groups, the vast majority of Christians consider baptism as a *sine qua non* to Christianity.”

According to this marriage could be between two Christians. But now you want to add that a Christian can also marry a non-Christian.

Shri E. P. Varghese: That is so.

Shri P. R. Patel: When one of the parties is not a Christian, how can the marriage be solemnised in the church?

Shri E. P. Varghese: Why not? It is permitted according to our law. Supposing a Catholic or a Christian wants to marry a non-Christian woman, she need not become a Christian at all. She can remain in that faith. But the marriage should be solemnised in the church.

Shri P. R. Patel: When she is not a Christian, why should she be bound by the rules of the church?

Shri E. P. Varghese: She is not bound.

Mr. Chairman: This affects the children, the offspring.

Shri U. M. Trivedi: Does what you have said apply to Christian girls trying to marry Hindu boys?

Mr. Chairman: Yes. Everywhere, the offsprings will automatically become Catholic.

Shri E. P. Varghese: Not automatically. They have to give a gentleman's agreement to bring up the offsprings in the Catholic faith.

Mr. Chairman: I was educated in a Catholic school. I know about it very well.

Shri E. P. Varghese: There was a Muslim who married a Catholic girl. They were not married in the church. Later on, they solemnised it in the church and the children were brought up in the Catholic faith. But when they grew up, they all became Muslims.

Mr. Chairman: That is the right of the individual.

Shri E. M. Joseph: Those parties who are willing to have their marriages solemnised in the church may be allowed.

Shri E. P. Varghese: That is all. The Christian partner will be subject to certain discipline if he gets married in the church. If the non-Christian partner is willing to have the marriage solemnised in the church, it should be allowed.

Rajkumari Amrit Kaur: Do you want such a provision to be added in the Bill because as it is, there is nothing in the Bill in regard to that at the moment? It was in the old Act.

Shri E. P. Varghese: It was in the 1872 Act. We want that provision to come in here for this purpose.

Shri P. R. Patel: According to you, a person who is not a member of the church, has no right to get his marriage solemnised. Suppose a Hindu is marrying a Christian girl. The Hindu is not under the control of the church. Do you say that such a marriage should be solemnised in the church?

Shri E. P. Varghese: It may be, provided the Hindu gives a gentleman's undertaking that the offspring will be brought up in the Catholic faith.

Shri P. R. Patel: Why that undertaking?

Shri E. P. Varghese: That is the rule of the church.

Mr. Chairman: Thank you very much. Please send us your written amendments.

The witnesses then withdrew.

II. SHAHJAHANPUR (INDEPENDENT)
CHURCH, SHAHJAHANPUR

III. THE UNITED PENTECOSTAL, CHURCH
KODAIKANAL

Spokesman:

Pastor A. Joseph.

(Witness was called in and he took his seat)

Shri G. G. Swell: Would you kindly introduce your church to us?

Pastor A. Joseph: Actually speaking, we represent the churches which are biblically minded, which follow strictly the teachings of Lord Jesus Christ. We do not believe in the authority or dispensation of the Pope in regard to marriage and divorce, nor do we accept the Protestant church of England, nor do we give any importance to the congregational churches. We adhere strictly to the teachings of Lord Jesus Christ as prescribed in the Bible. We are more or less independent churches.

Rajkumari Amrit Kaur: Does this exist only in Shahjahanpur or elsewhere in India also?

Pastor A. Joseph: There are many such churches even in Travancore. I do not know exactly when this church was formed, but to my knowledge, it was about ten years ago. When people realised and heard the gospel truth, they formed themselves, for the spread of the teachings of Christ, as an independent church.

Rajkumari Amrit Kaur: Outside India, does it exist anywhere in the world, and if so, what is it called?

Pastor A. Joseph: It does exist almost in every country in the world, and it is called Pentecostal or Evangelical Church.

Shri A. E. T. Barrow: Do these Churches come under any organisation of an all-India character?

Pastor A. Joseph: Actually, we do not have any head of our organisation. All these are independent in their own understanding and separate registration.

Shri Jairamdas Daulatram: What is the number of your followers in the country, roughly?

Pastor A. Joseph: We have about 15,000 throughout the country in my Church.

Shri G. G. Swell: How is your Church organised, and how does it function?

Mr. Chairman: Have you anything to do with the India Bible Christian Council?

Pastor A. Joseph: No, this is a separate body altogether.

Mr. Chairman: Have you got an all-India or regional body?

Pastor A. Joseph: We do not have an all-India body. In every State these Churches are formed independently, and now they are grouping themselves, trying to form a united body.

Shri Mathew Maniyangadan: Have you got any constitution governing the affairs of your Church?

Pastor A. Joseph: The only constitution or rule of faith is the Bible.

Shri U. M. Trivedi: You say yours is an independent body of Christians who have established a Church for themselves, a sort of non-conformist Church, which does not conform to any of the established Churches.

Pastor A. Joseph: May I know what you mean by established Churches in India?

Shri U. M. Trivedi: That is the list that has been given in the Bill.

Pastor A. Joseph: It has not yet come into force.

Shri U. M. Trivedi: You say you are not in any manner represented by the National Christian Council, which includes various denominations of Christians, particularly those who are from the Church of Rome, the Church of Scotland, the Church of India, Burma and Ceylon and such other Churches which are recognised.

Pastor A. Joseph: To my understanding, the National Christian Council does in a true sense represent the indigenous independent Churches in India. It only represents the foreign Missions that were established during the British time. So, I refuse to accept any argument about the National Christian Council.

Rajkumari Amrit Kaur: Who appoints your pastors, and have you any special form of worship?

Pastor A. Joseph: According to the Bible teaching of Christ, our pastors must be holy and clean, and they must be filled with the spirit of God. Such a person is nominated by the congregation to be the head or leader. He takes over the leadership of the Church and appoints the elders to be nominate or ordained for the Ministry according to the Biblical pattern.

Shri G. G. Swell: So, you have a congregation. How is it formed? Is it elected?

Pastor A. Joseph: The members get together and according to the Biblical teaching, as it is said, those who are according to the teaching of Christ, found fit to serve God and man, get nominated according to the qualification laid down in the Bible.

Shri G. G. Swell: Who nominates?

Pastor A. Joseph: It is decided by the congregation as a whole that such and such a person should be appointed, and the proposal is placed before them, and such persons as hold the qualifications necessary are nominated and are ordained by elders of the Church as Ministers.

Mr. Chairman: What is the number of your congregation in Shahajahanpur?

Pastor A. Joseph: About 150 members.

Mr. Chairman: You have contacts with other centres also who follow the same type of organisation?

Pastor A. Joseph: Yes.

Mr. Chairman: Mainly in U.P.?

Pastor A. Joseph: It is almost all over India. We have a Pentecostal independent Church in Kanpur, Allahabad, Dehra Dun, Bareilly, Jabalpur, Nagpur, in the Lushai Hills and Aijal District of Assam, in Manipur, in Kerala and in East and West Godavari Districts and Secun-drabad in Andhra. There are Churches in Rajahmundry and Tadepaligudem in Andhra.

Mr. Chairman: Is there any particular aspect of the Bill which you would like this Committee to consider?

Shri U. M. Trivedi: The memorandum suggests only general opposition to the Bill, but makes absolutely no suggestions about any amendment. We can take that into record, and no further point need be illustrated by examining the witness.

Mr. Chairman: He can support his memorandum by saying that he wants a particular clause to be deleted. After all, we have called him as a witness, and he has a right to express himself. He may disagree totally or partially with this, or he can even change.

Pastor A. Joseph: It has hurt our feelings that after India has achieved freedom, we are being refused the right to preach and practise our religion as guaranteed under the Constitution. The name of the Bill, as is given, does not appeal to us. The title of the Bill should be Foreign Christian Matrimonial Causes Bill, because it refuses to acknowledge, as is laid down in the Bill, the churches which will not be

hereafter recognised if the Bill comes into force.

Shri G. G. Swell: Why?

Pastor A. Joseph: Because it has been laid down in the Bill that the people gather in different places, houses and shelters and that most of the churches are very poor. My suggestion is that the old Bill which was already in existence may continue because we find that the freedom of our church, our faith and religion are assured there and it does not discriminate among the Christian churches.

Shri M. C. Shah: But that is an old Act enacted by the foreign Government.

Pastor A. Joseph: But it does not harm anything that is contained in the Constitution of India.

Mr. Chairman: Is your case against clause 7, that is, the Central Government declaring certain churches as recognised churches and in doing so, they have to record whether a church is properly organised, is registered or is well-established or is a proper place of worship? Is that your main objection or what is the specific form in which you feel that it will harm your religion?

Pastor A. Joseph: The whole of clause 7 should be deleted completely. I take it that it is a direct insult to the Constitution.

Shri P. R. Patel: Am I to understand that you want that marriages should be performed anywhere even outside the church by any Christian?

Pastor A. Joseph: No. What I mean to say is that the churches as they are existing today and solemnizing the marriages under whatever custom has been followed hitherto would not to be allowed to perform the marriages hereafter under the provisions of this Bill. We who hold the Bible as a rule of faith feel so.

Shri P. R. Patel: I agree that holding the Bible in hand for the purpose of marriage under clause 3(1) is provided for. There is no objection

to it and if the marriage is celebrated or performed or solemnized by any Christian who believes in the Bible, there is no objection.

Pastor A. Joseph: According to the Bible, only ordained ministers can perform the marriage and not every member.

Shri P. R. Patel: But suppose if the minister is there and he does not follow the principles laid down in the Bible, according to you he is not a Christian. Why not that right be conferred on a licensed minister and in having a true Christian who believes in the principles laid down in the Bible?

Shri G. G. Swell: You are technically against the principle of recognition of the churches.

Pastor A. Joseph: Yes; and in licensing the ministers for marriages. Because, according to this Bill, there are to be some recognised ministers. Now there are ministers who are at liberty to follow the rules and customs of their church to solemnize the marriages, whereas the licensed minister is not at liberty to follow the rule of his church. He has to abide by the rule of the proposed Bill and if he refuses he is liable to be prosecuted.

Shri G. G. Swell: In what way the marriage should be solemnized?

Pastor A. Joseph: On the basis of the teachings of Christ.

Mr. Chairman: By whom?

Pastor A. Joseph: By an ordained minister.

Mr. Chairman: Ordained by your congregation according to certain rules which you have laid down?

Pastor A. Joseph: Which Christ has laid down already in the Bible.

Shri U. M. Trivedi: In what portion of the Bible?

Pastor A. Joseph: I will quote Hebrews, Chapter 13, verse 4, which says: "Marriage is honourable in all,

....." whether he be a Protestant or Catholic.

Shri A. E. T. Barrow: Protestants or Catholics are not mentioned in the Bible.

Pastor A. Joseph: Marriage is honourable for all.

Shri A. E. T. Barrow: Please read the text and then expound.

Shri U. M. Trivedi: I would like to know whether the method of solemnization of marriage is put down in the Bible. I have also been a student in a Christian college from my childhood. But I was never taught these things.

Pastor A. Joseph: I shall quote from the Gospel of St. Matthew, Chapter 19, Verse 3 and what follows proceeds like this:

"The Pharisees also came into him, tempting him, and saying unto him, Is it lawful for a man to put away his wife for every cause?

And he, (that is, Jesus,) answered and said unto them, Have ye not read—

that is, in the Book of God in the Old Testament—

that he which made theme at the beginning made them male and female.

And said, For this cause shall a man leave father and mother, and shall cleave to his wife: and "they twain shall be one flesh?"

Wherefore they are no more twain, but one flesh. What therefore, God hath joined together, let not man put asunder.'

Mr. Chairman: Therefore, there should be no divorce. That is your point.

Shri P. R. Patel: Who can solemnize marriage, according to the Bible?

Pastor A. Joseph: I shall show you. This is about divorce. Then we come to the ground for divorce.

Shri M. C. Shah: We wanted to know about the minister. You said that the minister can perform the marriage. Shri U. M. Trivedi asked you whether anything has been prescribed in the Bible as to the solemnization of marriage.

Pastor A. Joseph: I was asked to show from the Bible the principle and the law of marriage.

Shri U. M. Trivedi: I wanted to know whether the method of solemnization and the person who administers it are described in the Bible.

Pastor A. Joseph: Chapter IV—Ephesians—verses 10 to 12 read thus:

"He that descended is the same also that ascended up far above all heavens that he might fill all things. And, he gave some apostles, some prophets, some evangelists, some pastors and teachers; For the perfecting of the saints, for the work of the Ministry, for the edifying of the body of Christ."

He says that Christ has given to the Church ministers, pastors and teachers to perform the legal rights of the Church. It includes marriage also. The work of the Ministry is not only to guide and preach, but watch the Christian families and children; When they are sick, we have to attend on them.

Shri P. R. Patel: Suppose the marriage is solemnised by any Christian. Where is the difficulty in the Bible?

Pastor A. Joseph: If marriage is not work of the Church, then anybody can solemnise the marriage. But if it is the work of the Church, then it is the duty of the pastor. It says, only the pastors are responsible for it.

Mr. Chairman: There is nothing specifically stated. He says it is the work of the ministry. Whether the ministry will include such offices like solemnisation of marriage is a matter of interpretation. There is no specific mention of marriage in what he has read.

Shri Joachim Alva: You quoted from the Bible saying,

"What God hath joined together,
let not man put asunder."

Do you adhere to this injunction that marriage cannot be dissolved under any circumstances?

Pastor A. Joseph: No, it cannot be. The only ground Christ has laid down in the Bible is adultery.

Mr. Chairman: What about non-consummation of marriage?

Pastor A. Joseph: No; even then it should not be allowed. These things are happening because the majority of Christians in India and the world over are not aware of the teachings of Christ. That is why such things are happening.

Shri M. H. Hamuel: Do you perform marriages?

Pastor A. Joseph: Yes.

Shri M. H. Samuel: After performing a certain marriage, do you register it?

Pastor A. Joseph: Yes; I keep a register and I send a copy to the Government.

Shri M. H. Samuel: Do you hold any licence from Government?

Pastor A. Joseph: Yes; I hold a licence from the Government.

About non-consummation of marriage, according to the teachings of the Bible, separation is granted, but not re-marriage. Either party cannot remarry. They can pray to God and God will heal them. We have known cases where God has healed leprosy. If they pray to God, they will not have such troubles and the society will be clean. As I said, the Christians in India and the world over are not aware of the teachings of Christ.

Mr. Chairman: What about prohibited degrees?

Pastor A. Joseph: About prohibited degrees, in Leviticus Chapter 18, God says that you cannot marry your close relations. According to the proposed

Bill, there are certain things in this regard which we cannot accept, though they may be appealing to the other sections of Christians. We, who follow the Bible and demand freedom from Government interference, cannot accept it.

Shri G. G. Swell: What about the customs of the people?

Pastor A. Joseph: According to the Bible, customs of the people are vanity.

Shri G. G. Swell: What is laid down in Leviticus Chapter 18 relates to the custom of ancient Hebrews.

Pastor A. Joseph: They are not actually customs, but strict laws given by God to Israelites and Christ supported them.

Shri G. G. Swell: Do you mean to say the moment a person becomes a Christian, he ceases to be a follower of the customs of his community?

Pastor A. Joseph: If he is a married man and if the husband converts to Christianity, but not the wife, then according to the Bible he must not leave his wife. If she does not want to remain with him, she can leave.

Shri G. G. Swell: As far as prohibited degrees are concerned, your point is that what is contained in Leviticus Chapter 18 should be strictly followed. I say that there is a view that what is laid down in Leviticus is based on the customs prevailing among the Jews. We have to take into consideration the different communities, different peoples and different customs which permit certain marriages and do not permit certain other marriages. According to you, you do not want those customs to be taken into consideration at all. Does it mean that the moment a person becomes a Christian he foregoes all the customs of his people?

Pastor A. Joseph: Yes, Sir; when he becomes a Christian he has to abide by the teachings of Christ.

Shri G. G. Swell: Suppose I belong to a particular community and in that particular community there are certain customs followed and practised, do you mean to say that the moment I become a Christian I have to forego all those customs of my people?

Mr. Chairman: Obviously, when you are converted into another religion you do give up certain customs automatically.

Shri G. G. Swell: I belong to a matri-lineal society which takes the clan from the mother. In my case certain marriages are permissible because of the matri-lineal nature of the society and they are not permissible in other societies. What is to be done in that case?

Pastor A. Joseph: In that case he has to abide by the laws of God.

Mr. Chairman: In the proposed Bill the definition of a Christian is: "Christian means a person professing the Christian religion". That was what was there in the earlier Act also. Is that definition sufficient?

Pastor A. Joseph: I have not seen the old Act.

Shri G. G. Swell: Just by professing the Christian religion and without being baptised, can a person be called a Christian?

Pastor A. Joseph: According to our belief, unless a person is baptised according to the teachings of Christ in the Bible he cannot be a Christian.

Mr. Chairman: That is, you agree that it is not enough if we say: "Christian means a person professing the Christian religion". Will it be sufficient if we add: ". . . and is a member of a Christian Church or Denomination"? Would your Church fall under that category?

Pastor A. Joseph: No.

Mr. Chairman: Would your Church be considered a denomination of Church?

Pastor A. Joseph: Well, we do consider denominational churches. My Church is a denomination.

Shri M. C. Shah: What amendment do you suggest to the definition of the word "Christian" as put in the Bill?

Pastor A. Joseph: It seems all right if you look at it from a general point of view, but when it comes to the question of recognising and not recognising certain things I oppose it.

Shri G. G. Swell: Is it enough for a person to profess Christianity to become a Christian?

Pastor A. Joseph: No, it is not enough; because even in the time of Christ, even in the time of Apostles there were many who were professing but even Christ refused to acknowledge them.

Shri G. G. Swell: What more do you want to be added to this definition?

Pastor A. Joseph: We must say: "A Christian is one who follows the footsteps of Christ or teachings of Christ".

Shri M. C. Shah: That is already there.

Shri G. G. Swell: Would you kindly turn to the first page of the Bill and read Clause 2(a) where it is said: "A Christian means a person professing the Christian religion"? Do you agree with that definition?

Pastor A. Joseph: It should be: "Christian faith" and not "religion".

Shri M. C. Shah: How do distinguish between the two?

Pastor A. Joseph: "Faith" means there are definite laws to be followed and by following them one becomes a Christian.

Shri G. G. Swell: Supposing I am born a Hindu, brought up as a Hindu and at a certain stage of my life I am attracted by the teachings of

Christ. I do not join any particular Church, I do not get myself baptised, but I go on preaching and professing Christianity. Will I be considered a Christian?

Pastor A. Joseph: No, Sir. This is wrong. It should read: "A Christian means a person professing the Christian faith".

Shri G. G. Swell: Supposing I profess the Christian faith, I am not baptised at all, I do not join any Church, I go on professing the teachings of Christ and urging people to follow the teachings of Christ, can I be called a Christian?

Pastor A. Joseph: I should say, it should read: "A Christian means a person believing and practising the Christian doctrine".

Shri A. E. T. Barrow: It comes to the same thing.

Pastor A. Joseph: There are many people even in our Christian society who call themselves as Christians, get married, move about and do everything as Christians and yet they have not taken baptism and have not identified themselves according to the teachings of Christ.

Mr. Chairman: Who are they? Is there a substantial number of such people?

Pastor A. Joseph: There is a Church known as Friend's Mission. It is a foreign mission.

Shri G. G. Swell: What about the Jehovah Witnesses?

Pastor A. Joseph: They have a different formula of their own interpretation.

Shri U. M. Trivedi: What about the 7th Day Adventists? Are they Christians?

Pastor A. Joseph: Yes.

Shri G. G. Swell: They are Christians in all respects. They have their

own organisation, they have baptism and all that.

Shri U. M. Trivedi: According to Pastor Joseph, will they be Christians? They follow a particular method of committing sins and getting those sins washed away.

Shri G. G. Swell: There is nothing like that. The only difference between the 7th Day Adventists and other Christians is that they observe Saturday as Sabbath and not Sunday.

Mr. Chairman: Anyway, that will not affect us as far as this Bill is concerned. But we would like to know whether there are people who, according to their laws and customs, are recognised as Christians but who do not necessarily have baptism.

Pastor A. Joseph: There are. They take baptism but they say that they have taken it by faith.

Shri Joachim Aiva: They are not many.

Mr. Chairman: The Society of Friends themselves do not go in for baptism.

Shri U. M. Trivedi: Is it compulsory for every Christian to be baptised?

Pastor A. Joseph: Yes, it is, according to the Bible.

Shri U. M. Trivedi: Somewhere in the Bible there is a reference to circumcision also. Therefore is it necessary for a Christian to be circumcised?

Mr. Chairman: No. We have understood your point.

Pastor A. Joseph: Regarding the grounds for divorce may I make it more clear from the Bible?

Mr. Chairman: That is very clear. You are completely against it except in the case of adultery.

Pastor A. Joseph: Another point is regarding clause 7, recognition of Churches.

Mr. Chairman: You are against recognition, but you are not against licensing. Or, are you against licensing of ministers?

Pastor A. Joseph: Yes. When religious heads of other communities in India are not required to obtain any licence, why should it be imposed upon us?

Mr. Chairman: But in your case there is a certain kind of central discipline which is not there in the case of other religions.

Pastor A. Joseph: We have no objection to it, but it should apply equally to all.

Mr. Chairman: For a Hindu it is not specifically laid down that he will have to be baptised. In the case of Hindus everyone is born a Hindu and there is no rule regarding baptism etc. In the case of Christians, if they do not abide by the rules, they will be thrown out or excommunicated and cease to be members of a Church. Therefore there is a little difference between the more centralised discipline of a Church in a Christian community and the Hindus. Actually, you can go to any temple in the city and get married. It need not necessarily be a temple also. You can get married anywhere, if you are a Hindu.

Pastor A. Joseph: We have no objection provided it applies equally to all.

Shri P. R. Patel: Do you suggest that there should be absolutely no change to whatever rules that have been laid down in the Bible some centuries ago?

Pastor A. Joseph: No, there should be no change at all, because Christ says in the Gospel of St. John:—12:47-48.

“And if any man hear my words, and believe not, I judge him not: for I came not to judge the world, but to save the world.

He that rejecteth me, and receiveth not my words, hath one that judgeth him: the word that

I have spoken, the same shall judge him in the last day.”

Shri P. R. Patel: Do you mean to say that there is no scope for any reform in marriage, divorce or anything?

Pastor A. Joseph: No, only on the ground of the Bible. Because we call ourselves Christians, why should we follow the Church of Rome or other Churches? The Bible says that Christ is the author of salvation. The Pope has not got a different Bible; the Church of England has not got a different Bible. Now, since India has become independent, I feel free to go according to my teachings and I demand from my Government complete freedom. But according to this Bill we are put to disgrace because we are liable to be declared as unrecognised.

Shri G. G. Swell: The point here is only this. There was at one time a man who spoke largely about the teachings of Christ and was successful in gathering a number of people with him. He started a new form of Christianity, but it did not remain and after some time the whole thing vanished. Do you mean to say that five people may organise, appoint a pastor and that pastor should be free to solemnise marriages or do something for a number of years and then disappear? There can be room for abuse in religious practices. Therefore do you not think that it is necessary for certain minimum requirements to be there in order to see that people do not abuse religion by resorting to all kinds of practices?

Pastor A. Joseph: For that I have moved all over India these past few months and have requested the Church to re-organise themselves and form a body that can keep a check over all the ministers and pastors so that such abuse does not take place in our community.

Shri G. G. Swell: So, you want recognition to be given by some all-India organisation of Christian Churches and not by any law.

Pastor A. Joseph: Yes, it should be left to the Christian denominations.

Shri G. G. Swell: You are not contending against the principle of recognition.

Mr. Chairman: He is opposed to the principle of recognition by the State. He wishes that there should be some form of regulation by the various Churches and denominations existing today which, as far as we are concerned, we think is at the moment a pious wish.

Shri G. G. Swell: You do not want to be recognised by the State but you want a particular organisation to be recognised by some super-Christian organisation in the country.

Pastor A. Joseph: No.

Shri A. E. T. Barrow: He wants recognition to spring automatically.

Pastor A. Joseph: There are already registration departments and Churches are registered. We are maintaining our Churches according to the rules and conditions. But man is always weak. In every denomination and in every department, people fall; they are corrupted.

Rajkumari Amrit Kaur: Would you prefer the 1872 Act to remain unchanged and this Act should not be brought at all?

Pastor A. Joseph: That will be far better. That is my opinion.

Mr. Chairman: Thank you very much. Are you registered under the Societies Act?

Pastor A. Joseph: It is registered. May I request you whether I have to come again tomorrow? I have also to appear on behalf of the United Pentecostal Church. Do I need to come again?

Mr. Chairman: Not necessary at all. Thank you very much.

Pastor A. Joseph: About the points that I have desired to speak I have spoken.

Mr. Chairman: We will meet again at 14.30 hours. Tomorrow, we will meet at 9.00 hours. Then we will decide about the meeting in the afternoon tomorrow.

(The witness then withdrew)
(The Committee then adjourned till 14.30 hours)

The Committee reassembled at 14.30 hours).

IV. CHURCH OF GOD (SOUTH INDIA), GIRIDEPAM, CHENGANNUR

Spokesman:

Rev. P. C. Zachariah,

(Witness was called in and he took his seat).

Mr. Chairman: We are going to hear the evidence of the Church of God (South India), Girideepam, Chengannur.

Rajkumari Amrit Kaur: May I ask you as to how many members are there in the Church and how long has this Church been in existence?

Rev. P. C. Zachariah: The Church of God of South India has been in existence for about 40 years.

Mr. Chairman: May I first read out to him one thing? I have just to tell you that under the Rules of Procedure the evidence of the persons given before the Committee will be treated as public and is liable to be published unless you specifically desire that the whole or any part of the evidence tendered by you is to be treated as confidential. Also I have to tell you that even if you desire that the evidence should be treated as confidential, such evidence is liable to be made available to the Members of Parliament. I have to inform you about this particular aspect. Now Rajkumariji may put her question.

Rajkumari Amrit Kaur: Since how long has your Church been in existence?

Rev. P. C. Zachariah: I have already answered that we have been as a movement working for the last forty years.

Rajkumari Amrit Kaur: What about its membership?

Rev. P. C. Zachariah: The membership of this Church in South India comes to 5,000.

Rajkumari Amrit Kaur: Is it confined only to Kerala or elsewhere too?

Rev. P. C. Zachariah: We have worked in other parts of India, for instance, in Assam.

Shri G. G. Swell: In which area are you working in Assam?

Rev. P. C. Zachariah: In Khasi and Jayantia Hill areas we are working.

Shri G. G. Swell: Are you connected with the work in the State of Assam?

Rev. P. C. Zachariah: Yes, Sir. But I am representing so far as the work in South India is concerned. I understand that a report has been made by the Assam Christians also. That is what I am given to understand.

Mr. Chairman: It must be there. We shall consider it at the appropriate time. I think the Church of Shillong is a part of your Church. Would you like to underline any specific portion of your part of your memorandum which you think will be important or which you would like the Members to consider?

Rev. P. C. Zachariah: This memorandum was prepared with a view to stimulate thinking for further studies in the field. So, the points I have raised there are all important.

Mr. Chairman: The first one that you have stated in your memorandum is that marriage is sacramental. Therefore, Government should not interfere with the teachings of the Bible relating to marriage and divorce. That is in favour of the cus-

toms and present-day opinion. You have also stated about the prohibited degrees of relationship to be conformed to the Leviticus. These are the three points which you have made. All these three points have been considered by this Committee and we have more evidence on the 30 prohibited degrees of relationship.

Rev. P. C. Zachariah: The Church of God of South India as the Syrian Church has conformed to these. We have our own rules and regulations for years and for centuries past and there has not been any interference so far by any Matrimonial Law.

Mr. Chairman: On the prohibited degrees of relationship you say that there are at least 30 prohibited degrees of relationships as cited from the Bible whereas 19 are listed in the First Schedule. Your point, therefore, is that all the 30 as defined in the Leviticus should be incorporated in the Bill itself when we define the degrees of prohibited relationships. Is that your contention?

Rev. P. C. Zachariah: Quite so. But, at the same time, the Churches should have the freedom to stick to their rules as other otherwise it will be a sort of interference in the fundamental rights enjoyed by them.

Mr. Chairman: Can you tell us as to what are the specific rules or the means by which your church always sticks to the prohibited degrees of relationships? Do you want to have a proviso to permit also the marriages within the 30 degrees of prohibited relationships?

Rev. P. C. Zachariah: No. I have said that so far as we are concerned we have our own rules, we stick to the rules that are already prevalent in our community; but in case this happens to be passed into an Act, then naturally there should be that proviso.

Mr. Chairman: What is the rule as far as prohibited degrees of relationship are concerned?

Rev. P. C. Zachariah: More or less the Leviticus.

Shri Swell: What about the customs?

Rev. P. C. Zachariah: The Church of God in South India are composed of two sections: one; the Syrian Christians and the other the Mission Christians. They have their own regulations. It varies from district to district.

Shri P. R. Patel: I want to know whether under your rules you permit only marriages observing the prohibited degrees from 19 to 30 or whether there are cases where permission has been given for marriages between relatives.

Rev. P. C. Zachariah: So far as Syrian Christians are concerned, we stick to the thirty. In the other sections, because they are not Syrians, they have some slight modification. We leave it to the particular community concerned.

Shri P. R. Patel: When the Bill becomes law, don't you think that it should apply to one and all, instead of giving discretion and saying "if your church does not permit between 19 and 30, you may not do it"?

Rev. P. C. Zachariah: I have my own reservation there whether we should interfere in that matter and whether it is not an interference by the Government into the fundamental rights to stipulate only nineteen, sixteen or thirteen. Leave it to the Christians because they have their own rules. Otherwise, if the Government is going to stipulate that we shall have it as nineteen, fourteen or thirteen, it is really interference in our religious law.

Shri G. G. Swell: You mean to say that a list of prohibited degrees of relationship should not be mentioned in the proposed legislation?

Rev. P. C. Zachariah: Well, if you read our memorandum, our solution is totally different. The solution is not in bringing a Bill like this. We are

actually opposed to any uniform code like this.

Shri G. G. Swell: Apart from that, I was asking a specific question. Suppose the Bill is to go through. Do you mean to propose that there should not be any list of prohibited degrees of relationship at all and it should be left to the church concerned?

Rev. P. C. Zachariah: In that case you take all the prohibited degrees mentioned in the Leviticus; give an exhaustive list according to the Bible.

Shri G. G. Swell: You are saying that the Syrian section adheres to all the thirty degrees mentioned in the Leviticus. What would you propose for the other section?

Rev. P. C. Zachariah: I would leave it to the community concerned.

Shri G. G. Swell: If, as you say, all the thirty degrees should be mentioned in the Bill, that means the other section would be affected.

Rev. P. C. Zachariah: Give them the option that according to the rules prevailing in the particular community they have the freedom.

Shri G. G. Swell: That means we should allow them departures from these degrees that are mentioned, according to their custom?

Rev. P. C. Zachariah: Yes, departures should be allowed according to the rules of these various communities; but in the Bill all the thirty should be brought.

Shri P. R. Patel: Suppose, as suggested by you, we remove the section regarding prohibition of marriage within certain degrees, don't you think that there would be marriages within nineteen degrees or within ten degrees or within five degrees even?

Rev. P. C. Zachariah: Take the situation as it is at the moment. The Syrians have their own rules; the non-Syrians have their own rules. According to their rules they are conducting marriages—if they want to

remain within the church. That is binding so far as they are concerned.

Mr. Chairman: I want to ask you one point. Of course you may regard this solely as a religious question. But do you also have any idea—in your memorandum you have also stated that it is a civil institution; you recognise that it is partly a civil institution—don't you think that all advanced thinking today is beginning to realise that eugenically marriages between very close degrees of relationships should not be permitted, and that is why this question of prohibited degrees of relationship comes in. For example, even among the Hindus this question is coming up and is being considered, certainly on the basis of religion, but also on a more scientific basis. Is there any thinking on these lines in your church?

Rev. P. C. Zachariah: Well, so far as marriages are concerned, in our church we stick to the rules prevailing at the moment. But, since according to modern thinking it is not entirely a religious question but also a civil institution, having regard to article 25 of the Constitution, if you have a uniform code for public order, morality and health—if those things are satisfied—leave the freedom to the churches to have marriages solemnised according to their rules and regulations: so much so that the civil aspect of marriage is satisfied. If there is a uniform code for public order, morality and health, affecting not only Christians but also all sections of people in India, that would be safer.

Mr. Chairman: That point in your memorandum is very refreshingly different from some of the others, and that is why I asked you that question.

Shri U. M. Trivedi: Do you want that there should be a list of prohibited degrees of relationship as we have given in the Bill, or do you want to say that there should not be any prohibited degrees? Why I ask you this question is this, that any contravention of this provision is being treated as

an offence punishable with imprisonment and fine. If we take the list out and follow your rule, there is no sanction behind it. We cannot enforce what you have got in your rules. What we can enforce is only that which is in the law. Do you want it in the law, or do you want that we should merely adhere to the moral sanction that is there?

Rev. P. C. Zachariah: So far as embodying that in the Bill is concerned, keep it to the minimum to satisfy public order, morality and health and give freedom to the Churches to add.

Shri U. M. Trivedi: Do you mean to say that the Bill should remain as it is and the Churches may be allowed to add or subtract?

Rev. P. C. Zachariah: They have their rules now so far as the minimum requirements are concerned.....

Shri U. M. Trivedi: I am sorry; I will repeat. As you know, in the Bill, we have given a list of prohibited degrees. If any marriage is performed in contravention of these prohibited degrees, we can punish the man in a court of law. If he performs any marriage which is prohibited by your Churches, we cannot prosecute him. There is no prosecution for that purpose. Do you still maintain that we leave it to you to carry in according to your rules and we should have nothing to do with prohibited degrees in this law?

Rev. P. C. Zachariah: So far as this Bill is concerned, you should state the minimum requirements of prohibited degrees and then you should give complete freedom to the Churches to add.

Shri G. G. Swell: Are you not contradicting yourself?

Rev. P. C. Zachariah: I do not believe I am contradicting myself. Take the Syrian Christian community. Even though you give 5 or 6 prohibited degrees to satisfy this clause on public order, morality and health, do not worry so long as we, as a community

have freedom to keep to our present rules.

Rajkumari Amrit Kaur: I think you will agree with me that Indian Christians in India have really been governed to a large extent by the Hindu view in these matters. We do not like to have consanguinity among first cousins. For example, they are allowed to marry. By and large, we object. I myself feel very strongly. If you have only the minimum, that marriage will be valid in law and yet, the Church will declare it not valid. You will come up against very great difficulty. Have you any objection to our adopting in this Bill what has been given in the Hindu Marriage Act, that is to say, up to the third generation inclusive in the line of ascent through the mother and 5 in the line of the father? I think more or less the Syrian Christian Church in South India and probably yours also would fall in line with that and it would be probably good to have the same applicable to all of us. What is your reaction?

Rev. P. C. Zachariah: What will be the reaction of the other Churches? Would you not take it....?

Rajkumari Amrit Kaur: We have to ask. I would like to know what is your reaction.

Rev. P. C. Zachariah: When we are applying it to all communities in India, we must respect their feelings and their present rules and regulations concerning marriage. Our difficulty is this. If we say that all the 30 prohibited degrees should be there, there will be a lot of opposition to that by every section who do not follow that much. If, for instance, we reduce it to 5 or 6, one section will object.

Rajkumari Amrit Kaur: Do you object to cousin marriage?

Rev. P. C. Zachariah: Yes; we object.

Rajkumari Amrit Kaur: We do not find it in this list as it is.

Rev. P. C. Zachariah: Yes.

Rajkumari Amrit Kaur: Therefore I am saying, if you have only a minimum, you may have more difficulty.

Rev. P. C. Zachariah: That is suggested. Will that in any way take away the freedom that we have?

Rajkumari Amrit Kaur: No one is taking away your freedom. You will come up against difficulty. If a person marries under this law, with minimum degrees that you want to put in, you will say that the marriage is not valid; but the law will say that it is valid.

Rev. P. C. Zachariah: Since the rules vary from community to community, is it possible to give such a general list of prohibited degrees that will be acceptable to every section in India?

Rajkumari Amrit Kaur: The Hindus objected at the time of the Hindu marriages Act and that was finally adopted.

Rev. P. C. Zachariah: That will be certainly difficult. Unless you know the various sections and their background, you can never have a uniform list acceptable to all sections.

Shri T. H. Sonavane: The law also recognises custom. Retaining the prohibited degrees as they are and if we say whatever the custom is, would be valid, would that satisfy the Churches?

Rev. P. C. Zachariah: Certainly. If that is the proviso, whatever is the custom, we have no objection.

Shri Bibudhendra Misra: It is already there.

Mr. Chairman: Look at clause 4.

Rev. P. C. Zachariah: Then, why do you want a list?

Mr. Chairman: As Rajkumari Amrit Kaur put it, in this Bill, 19 degrees of prohibited relationship have been put in. As you rightly stated, we have to strike a golden mean between what is the scientific modern view and custom. Therefore, whilst we do enumer-

ate 19 essential prohibited degrees of relationship, after that there is a sub-clause. Clause 4 says:

"A marriage may be solemnised between any two Christians if the following conditions are fulfilled, namely:—

.....

(ii) the parties are not within prohibited relationship unless the custom governing each of them permits of a marriage between the two;"

Shri U. M. Trivedi: There is a legal difficulty. Is this proposition acceptable that there is custom among Christians also?

Mr. Chairman: That is what they are saying. The gentlemen, in the morning, objected.

Rev. P. C. Zachariah: There you have provision for custom. Is that absolute? If custom is absolute, where is the necessity for the list?

Mr. Chairman: The necessity for the list is.....

Rev. P. C. Zachariah: Let there be the minimum to satisfy public order, morality and health, for all citizens of India.

Mr. Chairman: You know the intention is—we are bringing all the various sections of the community closer together as far as the civil Code is concerned regarding marriage. Now that we have the Hindu law, we are now thinking of the Christian law and we are trying to bring the two more or less to a common pattern as far as these matters go, that is, consanguinity etc. That is why this is being enumerated. At the same time, we are leaving it open to custom. Because, you cannot at one blow change the custom that has developed over a period of time. The Syrian Christians have one custom; others have another. For the time being this permission is being granted under the law. May be, for a long

time it will remain. Laws are not made for a day. In order to get used to it, we are allowing custom also to have its play for the time being.

Rev. P. C. Zachariah: I am sorry, I still do not entirely follow the line of argument. If our intention is to have a uniform code in the years to come by stages for all citizens of India, will it not be very helpful if we start with a minimum to satisfy the various sections? The people have their customs. There, the matter ends.

Mr. Chairman: Do you mean to say that the 19 will be the minimum?

Shri G. G. Swell: Will the proposed list be the minimum?

Rev. P. C. Zachariah: There are, for instance, certain sections who want to reduce that.

Shri P. R. Patel: You want to reduce that?

Rev. P. C. Zachariah: There are certain sections.

Shri P. R. Patel: If you suggest that the list be reduced,....

Mr. Chairman: His point is that we should leave it with an irreducible minimum and then allow custom.

Rev. P. C. Zachariah: Even if you say 2 or 3 we are not affected so long as the customs are, the deciding factors.

Shri M. C. Shah: The question is, what is the minimum. Will these 19 suffice? Or there should be some more additions or subtractions? That is the point.

Rev. P. C. Zachariah: So far as the limitation is concerned, as the chairman has suggested eventually the idea is to have a uniform code applicable to all sections and all communities in India. If you take into account the customs of all sections of the community and make a study of them,

then certainly it will be possible to have the minimum that will satisfy public order, morality and health, irrespective of whether one is a Christian, Muslim or Hindu. Along with that, if you give the freedom to stand by the prevailing customs and rules, absolutely there is no interference at all.

Shri G. G. Swell: Your point is that the prohibited degrees should be the same for everybody in India, irrespective of religion; in other words, there should be one single law for marriage?

Mr. Chairman: That is not his point. That is the ideal towards which we are moving. When that will come is another matter. Here, the point is that we have enumerated the 19 prohibited degrees of relationship on the basis of what is already contained in the Hindu law. I want to know whether any particular item there is considered as abhorrent. The question is whether that has to be reduced further or that has to be extended further.

Rev. P. C. Zachariah: As a Syrian Christian, I shall stick to the 30 prohibited degrees.

Shri P. R. Patel: You say that there should be a minimum, and now you say also that it should be 30.

Rev. P. C. Zachariah: So far as I, a Syrian Christian, am concerned, I am not going by the minimum; I shall stand by the custom in the whole of my church.

Shri M. C. Shah: We are allowing custom to play its part in the Bill itself. The chairman has already pointed out that the customs which are prevailing will continue.

Rev. P. C. Zachariah: When we have the number 30, what were the criteria on which you reduced it to 19?

Shri P. R. Patel: You have told us that in some communities of Christians, the prohibition is limited to five degrees or six degrees or even ten degrees....

Rev. P. C. Zachariah: There may be exceptions to the 19.

Shri P. R. Patel: So, in order to have a common law applicable to one and all, the clause is put like this, restricting the number to 19.

Rev. P. C. Zachariah: That is the thing which I do not understand. Have you made a study of the customs and rules concerning marriage among all these sections of Christians in India, before you arrived at this number of 19?

Shri P. R. Patel: So many witnesses have already come before us.

Rev. P. C. Zachariah: I am certain that so far as the churches in Kerala are concerned, they have not had a hearing in this matter.

Shri M. C. Shah: That is why the question is put to you now. What should be the irreducible minimum?

Rev. P. C. Zachariah: So far as my church is concerned, namely the Syrian Christian church, we shall stick to the 30 prohibited degrees.

Shri P. R. Patel: What about the other Christians?

Rev. P. C. Zachariah: There are also Mission churches which are part of our church in Kerala, and there we follow the local custom which is prevalent. For instance, there are certain sections where even cousins are allowed to marry, and that is recognised in those mission churches, but we do not interfere in their custom, because that is the custom in that area. But that would not be applicable to the Syrian Christian section belonging to the same church. So, you can see the difficulty. In the same church, we have two sets of rules.

Rajkumari Amrit Kaur: Do the Syrian Christians allow first cousins to marry? I hope they do not.

Rev. P. C. Zachariah: We do not allow cousins to marry, whereas the mission churches in the extreme south allow cousins to marry. There are instances where even an uncle mar-

ries the niece, which is an abomination to us.

Even in the same church, the rules and regulations vary from locality to locality and from caste to caste and community to community. So, it is very difficult to have a common law or even to have a fairly exhaustive list, if you take into consideration the various or rather numerous Christian communities in India.

So, in order to satisfy the civil aspect of marriage, the workable plan will be this. Do not interfere with the rules and regulations of individual churches or communities. If the State wants to interfere, because it is also a civil institution where the State has a certain amount of right to interfere, then that interference should be restricted purely to public order, morality and health affecting all citizens of India. If that is done, then we have no objection.

Shri G. G. Swell: Even on grounds of health, certain degrees of relationship have to be prohibited.

Rev. P. C. Zachariah: Certainly, I agree to that. But I want to know whether these 19 degrees of prohibited relationship have been arrived at after consultation with the different sections.

Shri G. G. Swell: That was what I wanted to know from you.

Rev. P. C. Zachariah: I have absolutely no objection, even speaking on behalf of the Syrian Christian churches, if you are able to satisfy that these are the minimum required under prohibited degrees, to satisfy public order, morality and health, on the basis of the opinions of competent persons and specialists and authorities on the subject.

Shri G. G. Swell: What is your personal view in this matter?

Rev. P. C. Zachariah: My personal view is that so far as marriages amongst the Syrian Christians are concerned, we should keep to the 30 prohibited degrees, and that adds to

the stability of public order, morality and health.

Shri U. M. Trivedi: Therefore, you agree that the question of customs, so far as the Christians are concerned, should enter into the picture?

Rev. P. C. Zachariah: It should enter, and that will be the dominating factor unless you have a uniform law for the whole of India concerning public order, morality and health.

Shri U. M. Trivedi: If you want to have a uniform law, a uniform civil code for everybody, then there should not be anything special for the Christians or for the Hindus.

Rev. P. C. Zachariah: I have made my submission very clear in my memorandum.

Shri U. M. Trivedi: I am glad that you have that view. But I want to know from you one thing. Amongst the Hindus, custom has been shrouded over a long time. Do you want that the custom amongst Christians should also be shrouded or they should strictly adhere to the dictates of the Bible which lays down the prohibited degrees of relationship, and have nothing more?

Rev. P. C. Zachariah: I have already answered this question. So far as the Syrian Christians are concerned, we shall stick to the dictates of the Bible and stick to the 30 prohibited degrees.

Mr. Chairman: I shall sum it up in this way. As far as his personal opinion is concerned, he would like the number to be increased to 30. But he is in a difficulty there because there are churches where marriages between closer degrees of relationship are permitted. Therefore, he suggests that if such marriages are allowed by custom they should be allowed to be solemnized even within closer degrees of relationship.

Shri U. M. Trivedi: Does it not completely conflict with what the previous witnesses had told us that it will be an unchristian act?

Mr. Chairman: There are many interpretations.

Rev. P. C. Zachariah: I have already expressed my personal view as a Syrian Christian. To say that that is unchristian is something which I cannot bear....

Mr. Chairman: That is what Christians belonging to other denominations have said.

Rev. P. C. Zachariah: I only posit this namely that so far as the Bill is concerned, it should not in any way interfere with the fundamental rights of the Christian communities in regard to marriage, unless it be to satisfy the conditions mentioned in article 25 of the Constitution, namely public order, morality and health, in which case I have no objection.

Shri P. R. Patel: You say that the churches should be allowed to add to or subtract from the present rules according to their desire?

Rev. P. C. Zachariah: Not according to their desire, but according to the rules prevailing amongst them.

Shri P. R. Patel: You want that they should have the power for additions and subtractions from the present rules?

Rev. P. C. Zachariah: I am saying additions or subtractions, so far as the present list is concerned. They are not going to invent anything new tomorrow. They are only to add to or subtract from the present rules, which are prevalent now.

Shri P. R. Patel: You say that that privilege should be given to the churches. If the State exercises that privilege, why should you object?

Rev. P. C. Zachariah: I do not know whether you have understood me correctly. When I say additions and subtractions, I am referring to additions to and subtractions from the prevailing rules amongst the communities. Suppose you put only 10 prohibited degrees. The Syrian Christian

section will add 20 to it, not anything new. Suppose there is a community that follows 20 and you put only 10, it will add 1 to it.

Shri P. R. Patel: If it is 19 and they have 17, we may subtract 2. Your point is that the right of subtraction and addition should be with the church. If it is with the State, why should you object?

Rev. P. C. Zachariah: Who is to give that privilege to the State?

Shri P. R. Patel: Legislation.

Rev. P. C. Zachariah: That should not be in conflict with articles 25—27 of the Constitution which are very clear provisions. We are here to help Government to form a uniform code. But the unfortunate thing, if I may be allowed to say it, is that the framers of the Bill have probably taken into consideration those British codes that were prevalent before independence and have thought that some reforms in them would satisfy all sections of Christians in India. The Syrian Christians have been here for centuries. I do not know whether the framers are aware of the full picture. Should the freedom we enjoyed even before the independence of our country be denied now by legislation? Also it is in contravention of articles 25—27.

Mr. Chairman: One point for my personal understanding. There is the question of extending it from 19 to 30. That is one position, so far as Syrian Christians are concerned. But amongst other communities you have been mentioning to how many degrees would you reduce?

Rev. P. C. Zachariah: I have not studied it. For instance, in the Assam church, they have tribal rules and regulations. I have not studied them. But we find these things vary from State to State.

Mr. Chairman: Would it make a very big difference from 19?

Rev. P. C. Zachariah: Certainly. A study would be revealing and amazing, how customs vary from State to State. This is with reference to marriage.

Mr. Chairman: I am talking specifically of prohibited degrees, because some of us feel very strongly that this is relevant especially from the point of view of health of children. We have just considered that 19 may be considered the minimum. How much would you further reduce order to cover all the cases you are thinking of? Would it mean a great restriction?

Rev. P. C. Zachariah: No. If you think that all the 19 are necessary for public order, morality and health, no rejection is possible and allowable.

Mr. Chairman: We have to allow many things as compromise.

Rev. P. C. Zachariah: Then why not leave it as it is? We have our rules and regulations in the churches. They have not given any trouble to public order or morality or health.

Shri G. G. Swell: Your suggestion is: do not have any list of prohibited degrees at all.

Rev. P. C. Zachariah: It is humanly impossible to have a uniform law like this affecting all sections when there are so many communities with varying degrees of understanding. It only creates disturbance.

Shri P. R. Patel: You say in your memorandum, "In practice, the liberalising of divorce and provisions for remarriage may result in what is sometimes referred to as 'serial polygamy or limitless adultery' ". You know that in certain communities all over the country, divorces are allowed.

Rev. P. C. Zachariah: Not in my community. I am talking about Syrian Christians.

Shri P. R. Patel: Leave aside Syrians. You have made a charge that if this provision is allowed, there will be limitless adultery and also

that there will be serial polygamy. What is your experience of those communities where remarriages|divorces are allowed?

Shri G. G. Swell: Do you countenance or oppose divorce?

Rev. P. C. Zachariah: Even with regard to divorce, we follow certain definite rules in the Bible. The custom has been not to allow it except in cases of adultery. That is the biblical pattern.

Shri G. G. Swell: It is permissible only on the ground of adultery. You do not allow it on the ground of non-consummation of marriage.

Rev. P. C. Zachariah: Those are things which are so involved. After all, our idea is to bring about a stable family life. If there is slackness and there are changing ideas and all that in view of modern times, it will inevitably end in disaster. That has been the history of countries which attempted it.

Shri G. G. Swell: Take a case of non-consummation for one reason or another after the marriage has been solemnised. What is your view?

Rev. P. C. Zachariah: The oath or pledge that the parties took at the time settles the issue. It is an indissoluble thing till death does them apart. Only on the ground of adultery, it is allowed. That is the safest rule.

Shri M. C. Shah: According to you, customs vary from place to place. Are there different grounds for divorce among different sections of the community, in accordance with their customs.

Rev. P. C. Zachariah: Not the Christian community. I want to ask whether the framers have got information that there are different customs amongst Christians in India in this respect. So far as I am aware, adultery is the only permissible ground.

Shri P. R. Patel: Are divorces allowed for other reasons?

Rev. P. C. Zachariah: No. My Church has other sections which also do not allow it.

Mr. Chairman: Those who belong to the Presbyterians have definitely other grounds for divorce.

Rev. P. C. Zachariah: That is because they are modelled on the British code.

Shri T. H. Sonavane: Just now you said there were several grounds for divorce on the basis of custom. What are those grounds?

Rev. P. C. Zachariah: I am afraid you did not understand me properly. I was saying about rules and regulations when we were discussing prohibited degrees of relationship. In regard to divorce, there is only one Biblical clause, and that is adultery, and it is for Churches to stick to that, because it is a life-long bond and it is not to be dissolved by ill-health, sickness, cruelty or anything like that.

Mr. Chairman: You also represent Churches in Assam and other places. All the other States except Kerala are guided by the Christian Marriage and Divorce Act, in which there are other grounds for divorce. If that Act has ruled all these years, why should you now say that it should be further restricted?

Rev. P. C. Zachariah: That is law has not been applicable to us for centuries. Why should we be affected by it now?

Shri G. G. Swell: You are opposed to the extension of this Bill to Kerala?

Rev. P. C. Zachariah: That is what I was aiming at. I have stated in my memorandum that it is better that Government do not interfere in this, but have a uniform code for public order, morality and health. Let them get a licence, and let the marriages be performed according to the rites and customs of the various Churches.

Rajkumari Amrit Kaur: Do you have judicial separation?

Rev. P. C. Zachariah: In our Church, no.

Rajkumari Amrit Kaur: If a woman is treated cruelly by her husband, she has got to bear with it all her life?

Rev. P. C. Zachariah: Cruelty is very vague. Some people say habitual cruelty. These are dangerous things to be brought in when you think of the sanctity of family life.

Shri Joachim Alva: Thrashing a wife is not cruelty?

Rev. P. C. Zachariah: Certainly, but do you want a Marriage Act for that?

Rajkumari Amrit Kaur: You cannot except any woman to stand daily beating from anybody. I think it is wrong.

Rev. P. C. Zachariah: Do you want a Marriage Bill for that? There are other provisions in the law.

Shri Joachim Alva: Does your Church give relief for such things?

Rev. P. C. Zachariah: As a matter of fact, this is unheard of in my community.

Shri Joachim Alva: In my boyhood, I have seen neighbours in my town thrashing their wives.

Rev. P. C. Zachariah: People are of different natures, but why do you bring that in the Christian Marriage Act?

Mr. Chairman: It is there in the Hindu Marriage Act also, where the Hindus never had divorce, adultery or no adultery. It was introduced in spite of much public objection on the same grounds as yours. Now there are so many grounds on which divorce is permitted. So, it is not only a question of wanting it to be applied to the Christian community.

Shri A. E. T. Barrow: All these grounds for divorce are only enabling

measures. Any Church or any Christian need not take advantage of it if it is against his conscious.

Rev. P. C. Zachariah: That is the most dangerous aspect of it. This certainly contradicts the marriage oath. So far as cruelty and other things are concerned, there should be provision for that affecting all sections. Why do you bring the special clause for divorce?

Shri P. R. Patel: It is there in the Hindu and Muslim laws also.

Rev. P. C. Zachariah: Do you want a Hindu, Muslim or Christian law to object to a man beating his wife?

Mr. Chairman: Is it your contention that we should not have any laws pertaining to Christians, Hindus or Muslims, but have just one civil code?

Rev. P. C. Zachariah: That is what I have been saying, so far as the civil aspect of marriage is concerned, but you said it could be only by stages. If you have some permissible clause, people will take advantage of it.

Shri Jairamdas Daulatram: Various High Courts have given various interpretations of adultery. According to you, would one act of adultery suffice, or would living in adultery be necessary?

Rev. P. C. Zachariah: Bible only says adultery. One act of adultery is enough, but it should be proved.

Rajkumari Amrit Kaur: Have you said in your memorandum, anything about the recognition by the State of your church?

Rev. P. C. Zachariah: I have already in my introductory remarks mentioned that this memorandum was sent with a view to draw the attention of the framers of this Bill to the need for further study. I find that there are so many sections which are highly objectionable. For instance, the recognition of churches should go. Chapter III should be wiped off. I have got a copy of it only a few hours ago from the Kitab Mahal.

Rajkumari Amrit Kaur: What about the question of licences being given by the State to the Ministers of the church?

Rev. P. C. Zachariah: There should not be any difference shown. We do not have any licences. Why should it be imposed now? For nearly 2,000 years there has been no need for it. Why should it be imposed now? Do you impose a licence in the case of Hindu, Parsee or Muslim purohits?

Shri G. G. Swell: What about the marriage of two Christians before a marriage registrar?

Rev. P. C. Zachariah: Those Christians will belong to a church. They will go to a marriage registrar only if they are not law-abiding and faithful members of the church.

Shri G. G. Swell: What about the marriage of a member of your church and a member belonging to the 7th Day Adventists church?

Rev. Zachariah: We object to that, if he wants to go ahead he has to go out of our church.

Shri G. G. Swell: You do not allow inter-church marriages?

Rev. P. C. Zachariah: We allow them, so long as the church agrees. You should not think that we are always for marriages within the church. But when the church objects to a marriage between one community and another, we cannot do it.

Mr. Chairman: So you have got rules in your church saying that a Christian belonging to one church shall not marry another belonging to another church and so on.

Rev. P. C. Zachariah: We have many such rules regarding marriage from the one church to another church. That is very clear.

Mr. Chairman: Now, Hindus used to have such things as gotra marriages, that is, a person belonging to one gotra could not marry a person belonging to the same gotra and so

on. In the same way, you have got rules framed saying that one can marry from one church with another church provided they belong to such and such a church.

Rev. P. C. Zachariah: Yes, we have.

Shri U. M. Trivedi: You said you have your own custom. Every church has probably got its own custom. Suppose, a Christian of a particular denomination and belonging to a particular church wants to marry a girl of another church—such a marriage can be solemnized because both are Christians—which particular custom will govern this marriage?

Rev. P. C. Zachariah: It is done according to the custom prevailing in those two churches. There are what you call certain understandings. The boy can take a girl from that church. The boy knows that.

Shri U. M. Trivedi: Is there a custom preventing one Christian from marrying a Christian of another church?

Rev. P. C. Zachariah: Without giving a specific instance, I may say that a church or rather the protestant section objects to the marriage of a girl from the Roman Catholic section. It is all stipulated there definitely, and 90 per cent of the people abide by it.

Shri U. M. Trivedi: What about a protestant convert marrying another protestant, say, the persons from the north not adhering to the south? What will be the governing custom in such cases? My impression was that the moment a man belongs to one religion and marries, there is no place for any custom. What happens in such cases? Is it the custom of the community within Christianity or is it the custom of those obtaining in a particular area to which those people belong, that will prevail?

Rev. P. C. Zachariah: I shall illustrate it by giving an example. Suppose a Hindu becomes an Anglican, he takes baptism and becomes a

communicant of the church. Naturally he will try to marry according to the rules and regulations prevailing in the Anglican church, but if he wants to go out and marry a Baptist or a 7th day Adventist or a Russelite, it all depends upon the rules and regulations of the church of which he became a member; either he will abide by that or go out of that.

Shri P. R. Patel: You said that licences should not be necessary and observed that licences are not required in the case of Hindu purohits. Therefore, you said that licences should not be imposed in the case of Christians.

Rev. P. C. Zachariah: Up to this moment, the question of licences never arose in our churches.

Mr. Chairman: That is only in Kerala.

Rev. P. C. Zachariah: Where there is a considerable number of Christians if you take the whole of India. We are there for centuries and to ignore our rules and regulations and say that in other parts of India certain things are prevalent and we also should follow them is not correct. We do not object to those customs but let us have a hearing. So far as our rules and regulations are concerned, even before the Britisher came and imposed his law what is called the Indian Christian in India, we had our own rules and regulations, and the Maharajas never interfered with these things. We had absolute freedom. There were no licences required. We have not in any way put public order, morality or health in peril. Why this interference now?

Shri P. R. Patel: I want to know when those rules were framed; 1,000 or 2,000 years ago.

Rev. P. C. Zachariah: One of the apostles of Christ came to Kerala. That is the tradition. Even from the first century Christians were in Kerala. If you ask me who framed those rules and when, I may say that

even before the days of printing, there were rules and regulations and there was custom.

Mr. Chairman: They have come down through tradition. We have understood you.

Rev. P. C. Zachariah: So far as recognition is concerned, I have made it very clear. I told you that when I actually studied the present Bill, I found that Chapter III affecting the recognition of a church and giving a licence is going to be a big problem for our churches in Kerala. So, you should make a real full-dress study of the whole situation. We are not really for putting any obstacle, but let us do it in such a way so that all of us have a right and proper understanding of a measure like this. Once it becomes law it has to stand.

Mr. Chairman: You have said something about it. We will take note of it.

Rev. P. C. Zachariah: I was amazed to find that section 2 was not there in the 1961 Bill. It was later on introduced in the 1962 Bill. I mean section 2(n). It says:

"recognised church means the Church of Rome, that is, the church which regards the Pope of Rome as its spiritual head;

the Church of India, Burma and Ceylon;

the Church of Scotland as by law established;

and any other Church declared to be a recognised Church under section 7."

You do not find them in the 1961 Bill.

Shri Bibudhendra Mishra: That is because the first Bill was drafted in accordance with the recommendations of the 15th Report of the Law Commission, and in the 22nd report they have suggested this change.

Rev. P. C. Zachariah: That is somewhat revealing—what made them to being in this invidious distinction. The fact that it was totally absent in the 1961 Bill and the fact that it has been included in the 1962 Bill gives us the impression that certain bodies have been respected. You respect the Papal dispensation. We have our own dispensation about many of these things which you do not respect.

There is mention of the Church of Scotland. I am yet to know where that church is. It is a clear indication that this is only a revision of the existing law and that is why the framers of the Bill have gone wrong. When we want to have a uniform law affecting the Christians, there should be a realistic approach. We are the people of the soil and we are citizens of India. We are not to import any law from Britain or Scotland. That is what has made it very difficult. The Church of India, Burma and Ceylon is known only in north India. It has been mentioned whereas at least 12 major churches in the south which should have got recognition have been ignored. First of all, I entirely oppose the division. If there should be a division, at least these 12 major churches should certainly get recognition.

Shri T. H. Somavane: You said in the 1961 Bill there was a provision for "any other church". Here also in sub-clause (n) (d) on page 3 there is a provision,

"any other Church declared to be a recognised Church under section 7".

Mr. Chairman: They are opposing the very idea of recognising churches. He says, under sub-clause (d) any other church will have to be recognised, whereas those mentioned in (a), (b) and (c) are automatically given recognition.

Shri Joachim Alva: After all the announcement in the papers and ascertaining views about the Bill, you still feel that your side is going to be left unrepresented?

Rev. P. C. Zachariah: I have pointed out already that there should be some provision made to visit some of these major centres to get oral evidence from the field. I was later on given to understand that there is a technical difficulty for the Joint Committee to move out. Then, some other provision should be made. There are many things to be clarified and I think there is a very heavy responsibility on the Joint Committee and the Parliament when this becomes law.

Shri P. R. Patel: So far as the witnesses coming before us are concerned, they are heads of some churches here and there. I want to know what are the feelings of the people, whether they want any reforms in marriage, divorce, etc.? Do they want it or is it only the bishops who want these things?

Mr. Chairman: I think the question is irrelevant.

Rev. P. C. Zachariah: The Christian community can be broadly divided into the Eastern Churches, the Roman Churches, the Protestant Syrian Church, the real Protestants of the 18th century and so on. There are so many other denominations. If you recognise Christians as such, respect should be given to the customs, rules and regulations of all Christians, whether big or small. That is a fundamental right. The Bishops Conference recommending something is not really the thing which should decide an important matter like this. I am a member of the Executive Committee of the Kerala Christian Council, which is a regional body of the National Christian Council. I have been working for six years and this is my third term. The fact that something was done by the National Christian Council does not mean that that has been done after proper consultation and enquiry with the various regional bodies. The regional bodies and the National Christian Council are merely advisory bodies. They have absolutely no right upon the constituent churches. If you want to know

the feelings of the bishops, the congregators, etc., you should meet them at their level. There are so many permutations—papal, episcopal, presbyterian and congregational—and you should meet them at their level. It is not the National Christian Council or any other body which has to decide these things.

Mr. Chairman: We have noted your views. Thank you.

(The witness then withdrew).

V. THE NATIONAL CHRISTIAN COUNCIL OF INDIA, NAGPUR

Spokesmen:

1. Dr. E. C. Bhatta:

2. Mr. Korula Jacob:

(Witnesses were called in and they took their seats)

Mr. Chairman: Three of you were supposed to come.

Shri K. Jacob: Rt. Rev. Bishop Mondal was not able to come.

Mr. Chairman: I thank you both for taking the trouble to come and give evidence before the Committee. Before you proceed I want to make it known to you that according to rules your evidence will be treated as public and is liable to be published unless it is strictly desired that any part of the evidence tendered by you is to be treated as confidential. Even so, even if it is to be treated as confidential, such evidence is liable to be made available to Members of Parliament.

Shri K. Jacob: We have just signed a declaration accepting those terms.

Mr. Chairman: You have submitted a memorandum which we have seen. Now, would you like to say something to underline some of the important points which you would like to Committee to consider.

Shri G. G. Swell: Before Mr. Jacob is requested to give his views on the Bill, could we get some

enlightenment as to the nature, the membership and functions of the National Christian Council?

Shri K. Jacob: The National Christian Council is a consultative body representing a very large number of non-Roman Catholic Churches in India.

Shri A. E. T. Barrow: What is the exact number of Catholics?

Shri K. Jacob: We have two classes of membership in the Council—full membership and associate membership. Full membership is open to churches which accept the aims and objectives of the Council, and also to a number of regional councils. We have now 14 regional councils one in each principal language area of India. Then we have a class of associate membership whose representatives do not vote at the meetings of the Council. That membership is open to missionary societies. At present we have about six such societies in membership including two or three societies who have their headquarters outside India. Then we have all-India Christian organisations like the National Council of YMCA, the National YWCA, the Student Christian Movement, the Bible Society of India and similar organisations numbering eight. In the first category, in addition to the 14 regional councils which send to the Council two or three delegates each, we have 23 churches on our membership at the present time which cover practically, at least geographically, the whole of India. It is difficult to say exactly what the total membership of the various churches are, but if the Committee is interested I can give some figures.

I mentioned the regional councils. There are small churches which exist only in a part of a State or sometimes two districts. They are related to our regional councils but not directly related to us. However, for all practical purposes we regard them as related to the Council.

Shri G. G. Swell: What are your aims and objectives.

Mr. Chairman: Let us have the total number of the congregation—approximate figure.

Shri K. Jacob: I have not brought with me the schedule of membership. In the memorandum that we submitted we have given a list of churches. All of them are not members of the Council but a great majority of them are. If you have the list in front of you, I can go down the list and say who our members and what their approximate numerical strength is.

Shri G. G. Swell: You have only 22 churches.

Shri K. Jacob: But under No. 6 there are several bodies grouped together.

Now, taking the list, the Church of Rome is not a member of the Council, but we included that as being the largest church in India because this is a list of churches which we thought should be in any schedule attached to the Act. Then, the Church of India, Pakistan, Burma and Ceylon is a member of the Council. Its membership is 340,000. The Church of South India is a member. It is a church formed in 1947 by the amalgamation or merger of four churches including a big part of the above one but found only in South India. Its total membership is 1,145,000. That is the largest church body outside the Roman Church. Then, the Church of the Brethren is a very small church which is found only in Gujarat. Its membership is 13,000 and it is a member of our Council. Under No. 5, Baptist Churches belonging to various councils, there are a number of bodies mentioned. Each one is a separate church. The Council of Baptist Churches in North-East India covers most of Assam.

Shri G. G. Swell: Naga Hills?

Shri K. Jacob: Partly, and also Gauhati in the plains, Silchar etc. Its total membership is 600,000. It is our member. Then, the Telugu Baptist

Samavesan has a membership of 365,000 and it is our member. There is another Baptist Church also in Andhra Pradesh in the coastal areas—in the districts of Vizag, East and West Godawari etc.—and it is a member of our Council with a membership of 110,000. (d) is now known by the name of the Bengal-Orissa Baptist Churches convention. The names reflect to some extent the different kinds of structure which the churches have. They have a membership of over 11,000 or nearly 12,000. The next is the Council of Baptist Churches of North India, functioning in Delhi, Bengal and some parts of Orissa, which has a membership of 75,000.

Shri A. M. Thomas: Since it is a long list, I think it would be better if the witness is asked to supply us the figures later. Otherwise, it will take so much of our time.

Mr. Chairman: Since the National Christian Council has come in for a lot of criticism, I think we would like to know its representative character. Let us see the representative character of those who have been giving evidence before us.

Sri K. Jacob: I am sorry. I did not anticipate this question. Otherwise, I would have added the figures.

The membership of Lutheran churches are as follows:

The Andhra Evangelical Lutheran Church ..	2,85,000
The Arcot Lutheran Church.	11,300
The Tamil Evangelical Lutheran Church. ..	55,000
The Evangelical Lutheran Church in Madhya Pradesh. I am afraid I do not have the figures. It may be a few thousands, say, ..	3,000
The Northern Evangelical Lutheran Church ..	35,000
The Gossner Evangelical Lutheran Church in Ranchi ..	215,000
The India Evangelical Lutheran Church ..	25,000

The Evangelical Lutheran Church of Jaypore .. 1,300

The Evangelical Lutheran Church of East Jeypore I am afraid, I have not got the figures.

The South Andhra Lutheran Church. .. 15,000

The Mar Thoma Syrian Church has a membership of .. 2,60,000

Mr. Chairman: Is it a member of your Council?

Shri Jacob: Yes.

The Methodist Church of Southern Asia 5,57,100

The Methodist Church of North India 9,000

The Orthodox Syrian Church of the East 5,54,000

(It is not a member of our Council)

The United Church of Northern India (a member of our Council). 4,86,000

The Disciples Church 7,700

The Salvation Army 2,10,000

The Church of Scotland .. Practically, it does not exist in India. We put it because it is in the Bill. There are probably two congregations, one in Calcutta and another in Bombay the members of which are mostly Scotsmen. Perhaps, there may be a few Indians associated with them.

Shri Mathew Maniyangadan: It is affiliated to the National Christian Council?

Shri K. Jacob: No, it is not.

St. Thomas Evangelical Church is not affiliated to the N.C.C. It broke away two or three years ago from the Mar Thoma Syrian Church. . . . Its membership is 25,000.

Seventh Day Adventists (not our members) 20,000.

Shri Joachim Alva: When did Seventh Day Adventists start functioning in India?

Shri K. Jacob: I cannot tell you off-hand. They are not members of our Council. I think they have been here for forty years at least.

Regarding the Assemblies of God in Great Britain and Ireland and Australia etc. they are only affiliated to our regional councils and indirectly related to us. I am afraid, I do not have the figures for them.

The Church of God (affiliated to us through regional councils) ..10,000.
Out of the Mennonite churches, Telugu Mennonite Brethren Convention has the largest membership of 1,20,000. General Conference Mennonite Church is a small one with a few Thousands. Christian and Missionary Alliance .. 6,500

(affiliated to us)

The Church of the Nazrene is a small church in the same category with more or less the same strength, affiliated to us. The Church of the East (Chaldean Syrian), which is not affiliated to us, is perhaps one of the oldest churches in India with a membership of about 30,000. There is another branch of the ancient church in Kerala known as the Malabar Independent Syrian Church, which is not a member of our Council, with a membership of 2,500.

Shri A. M. Thomas: Coming back to item No. 10, the Orthodox Syrian Church of the East, you say their membership is 5,54,000. In their memorandum they say that their population is 1.2 million.

Shri K. Jacob: The statistics are not absolutely reliable. The National Christian Council publishes a Handbook every five years for which we collect information from the church office and from others who are willing to give the figures. These figures are based on the 1959 edition of the handbook. We cannot swear by them. We get information from the churches and we make every effort to get reliable information.

Shri G. G. Swell: There is no mention here of the Presbyterian church.

Shri K. Jacob: We have got the Church of South India and the United Church of Northern Indian, items 3 and 11. These are working in two geographical areas. The Presbyterian churches are merged in them.

Shri G. G. Swell: Does the United Church of Northern India include also the Presbyterian church in the Khasi Hills?

Shri K. Jacob: Yes.

Shri Joachim Alva: When did the Seventh Day Adventists come to India? Have they spread because of the large amounts of money they got from America? When did they infiltrate here?

Shri K. Jacob: The Seventh Day Adventist Mission, which is not a member of our Council, is one of the missionary societies recognised by the Government of India.

Shri M. C. Shah: When was it established?

Shri G. G. Swell: There is a branch of the Seventh Day Adventist Church in Shillong and I think it must have been working there for the last more than 20 years.

Mr. Chairman: In Calcutta there is a Seventh Day Adventist Church and School which has been there since I used to go to school. I remember, I used to pass in front of that. So, it must be there for 25 years.

Shri K. Jacob: I would say it would be in the neighbourhood of 50 years. It cannot be very much longer than that because the denomination itself is not much older than that. It was founded in the last century.

Mr. Chairman: So, we now more or less have an idea of the National Christian Council.

Shri M. C. Shah: Since how long is this Council functioning?

Shri K. Jacob: The Council was first started as the National Missionary Council of India. It began functioning as a council of missionary societies. It was in the process of formation in 1913. The first meeting of the Council was held in February 1914; so that we are nearly 50 years old.

Shri M. C. Shah: When was this name adopted?

Shri K. Jacob: It was reconstituted dropping out the missionary society and incorporating or bringing into membership more Churches. This has gone on steadily, but the present name was adopted in 1921 or 1922.

Shri G. G. Swell: Can you tell us about the aims and objectives of your Council?

Shri K. Jacob: The Council has no mandatory authority over any of its members. It is only a Council for consultation on matters of common interest. The Council will take action on behalf of any member-Churches or group of member-Churches at their request. The Council publishes a journal. It has various other programmes. It has departments, like adult education, where we try to bring the Churches together in their effort to do literacy work. There are about 40 Christian university colleges in India related to Churches which are members and we have a consultative committee on higher education. We have a department on rural reconstruction. The

Council does not operate a big programme by itself but it tries to bring together people who are engaged in these different activities for consultation, advice, mutual strengthening of efforts and to avoid overlapping and so on.

Shri Mathew Maniyangadan: Was the memorandum submitted after consulting the various Churches affiliated to you and does this reflect the opinion of the various Churches?

Shri K. Jacob: May I refer a little to history with your permission?

The Council, in 1932, as far as I can see now from records, began discussion of a possible revision of the 1872 Act. From that time onwards there have been many, many consultations with member-Churches, but as I emphasised at the beginning, we had no authority over the Churches. We sent to them proposals and received their suggestions. We tried to incorporate them and our Council, in fact, prepared three or four draft Bills and circulated them among the Churches. It has been done several times, the earliest was in 1941.

The purpose of the revision was to avoid a kind of discrimination between two classes of Churches and unfortunately in the final form in which this Bill has come the discrimination has not been removed. I might submit one other thing.

Shri A. M. Thomas: Will you please make it clear regarding discrimination?

Shri K. Jacob: What happens is that when we send these things down to the Churches and Councils for an expression of opinion, they are not always taken very seriously. Only when a Bill was finally introduced in Parliament some people began to take serious notice of this.

What I meant by discrimination is this. In the old Act established Churches which were by law established in Britain and consequently in India had a special status. That was extended to other Churches which

had episcopal form of government. This is understandably historical but the vast majority of our own membership are not episcopally governed and the idea that only episcopal Churches have rules and discipline is not borne out by the facts.

Shri G. G. Swell: How are those Churches governed?

Shri K. Jacob: In varying ways. Take the United Church in Northern India. It has a General Assembly. Below the General Assembly there are a number of Synods and each Synod comprises of a number of Church councils. Each Church council has under it presbyteries or sessions, - as they are called, each looking after one separate parish or congregation. The Church in Nagpur, for instance, is a session. Then there is the Nagpur Church Council which is under the Synod of Maharashtra ultimately under the General Assembly of the Church. It is democratically governed in the sense that a certain number of ordained ministers and a certain number of lay representatives are elected to the General Assembly and to the Synods and Councils respectively. They have a written constitution. They have rules for marriages and for appointing ministers. If you take the Church of South India, it is somewhat different because it has Bishops. Corresponding to the General Assembly it has a Synod. There are 15 Dioceses each under a Bishop and each Diocese has a Diocesan Council which consists of the ordained ministers and an equal, if not slightly larger number, of lay representatives elected by the various Parishes. The Diocesan Councils' elected representatives to the Synod. It is not direct election but indirect election.

The Baptist Churches have a different tradition. Each Baptist Church is independent in theory at least but they have, what is called, a Convention which is formed of representatives from each congregation; the Conventions do not have mandatory authority. They are consultative and

advisory though the tendency at the present time as everywhere is for the Convention to become more and more powerful and centralised.

Shrimati Jahanara Jaipal Singh: As far as I understand, the National Christian Council is primarily intended for doing social work in this country through Christian Agencies. For example, I would like to mention about the Bengal Refugee Service in Calcutta which I have visited. I have seen the work that is being done there. In the same way, there is in Delhi the Famine Relief Society which is also doing the same sort of work. My impression was that the National Christian Council was an agency through which money comes into this country for this work rather than taking any active part in the actual administration of the Christian Council.

Shri K. Jacob: I won't say that the National Christian Council is more interested in social services, than in anything else. But it is greatly interested in alleviating suffering and rendering assistance to people who are in less fortunate circumstances to the extent of our ability with resources within India and with resources which friendly people and related churches and church bodies are willing to place at our disposal. Reference has been made to the Bengal Refugees' Services. This is a department of ours. The Council has set up a Committee and a Board to look after this. The programme is largely supported,—almost entirely, at the present time—by the World Council of Churches with headquarters at Geneva with whom we have very very close association. But we are also interested in the training of people. We have a Board of Theological Education. I did not want to tire you with a complete list of our portfolios. We have four full-time secretaries and 3 or 4 part-time secretaries each carrying 3 or 4 portfolios each so that the Council is interested in many many aspects of the Churches' life. But we are not

directly responsible for the government of any Member Church.

Shri G. G. Swell: Are the views which you have stated, the views of the Member Churches?

Shri K. Jacob: The Memorandum which we have submitted was approved by our Executive Committee which consists of 25 people who are authorised to act on behalf of the Member Churches. Whether every word and comma would be approved by every Member church, much less every member of every church is impossible to be determined. This we have done as far as we understand and as far as our constitution authorises us to do.

Mr. Chairman: You also appeared before the Law Commission, I think.

Shri K. Jacob: Not personally. Our representative was there.

Mr. Chairman: Your organisation came and gave evidence before the Law Commission. May I know whether the evidence given on behalf of your organisation to the Law Commission was circulated to all your member organisations?

Shri K. Jacob: We have had a standing committee since 1932 on the revision of marriage and divorce laws and the minutes of these committees are circulated widely. But the actual deposition made by the witnesses were their own analysis and interpretation of the committee's decisions and attitudes.

Shri A. M. Thomas: Would you agree that there is no necessity of having any distinction between recognised church and non-recognised church?

Shri K. Jacob: What we had sought to do was to enlarge the number of churches which by virtue of their own constitution etc. would be competent to perform marriages. We wanted as many churches as possible and the Orthodox and Roman Catholic Churches we have listed here are to be included. But now, in the light of the

discussion, we would be willing and we would in fact be happy if this distinction of recognised churches and non-recognised churches be taken out of the bill and that licensing be also deleted. In other words we would suggest in the light of further discussion and opinion of the churches as expressed from various quarters that we would be in favour of deleting entirely sections 7 and 8 of the Bill.

Mr. Chairman: You have stated in your Memorandum that Chapter I Sec. 2 (n) be deleted from the Bill and a schedule giving a list of churches be included and consequential changes made in sections such as in 1(2)(J), (1), (2), (n), III(a) III (7), III (11) and in some other parts of the Act. You recommended that the churches listed may be included in the schedule. Additions may be made to this from time to time, in accordance with provisions of section 7(3) on application from other church bodies. Now, would you say that this also should be as per this suggestion of yours?

Shri K. Jacob: If it is permissible for us now to amend, in the light of certain misunderstandings and opinions expressed we would now say that 7 and 8 might be entirely omitted and consequential changes may be made. Reference to recognised churches and licensed Ministers will automatically go out of the bill.

An. hon. Member: Would you like to define the word 'Church'?

Shri K. Jacob: In the Bill as it stands now there is an implied definition which is: Church is a body Ministers of which can perform marriages either by recognition of government or by licensing. We would want, for completeness' sake, a definition of church in the Bill but that should not be a theological definition but a very pragmatic definition to suit the purposes of this Act.

Shri Mathew Maniyangadan: What is the real term that you want to define?

Dr. E. C. Bhatt: Ministers also should be defined. I might point out that there are Christian bodies which do not call themselves Churches. Take for instances Salvation Army or the Society of Friends some of whom, as you know here in Delhi. They are also called 'quakers'.

Shri G. G. Swell: What about Jehovah's witnesses?

Dr. E. C. Bhatt: They are a category by themselves altogether. It is very difficult to regard them as Christians because they profess doctrines which are not very similar to those of Christians. They are more like Jews rather than Christians I would say.

Shri A. M. Thomas: According to your approach, will you be able to give us some idea?

Shri K. Jacob: I would say that the 'Church' means an organized body of Christians. (Christian as defined in the Act) holding the same faith and following the same rites and acknowledging the same authority. This, as far as I can see, would cover all the denominations.

Shri G. G. Swell: What is meant by 'acknowledging'?

Dr. E. C. Bhatt: In some churches they will say that they will acknowledge the authority of the Pope and in another Church they will say that they will go by the authority of the Bible. But they have some authority.

Mr. Chairman: Even in that category there are some authorities which guide them.

Shri K. Jacob: Yes.

An hon. Member: Do you mean to say that the definition of the word 'Christian' will be enough?

Mr. Chairman: Will you please let us have your suggestions in writing as regards the definition which you would like to have which would cover

all categories of Christians as defined in the Act?

Dr. E. C. Bhatt: I hope that the Committee will try to define a Minister for the purpose of this Act as a person authorised by the Church to perform marriages either by virtue of his office in the Church or by appointment by a competent authority in that Church.

Rajkumari Amrit Kaur: I would cover all the categories of people.

Dr. E. C. Bhatt: For example take Salvation of Army. There is a category of personnel with titles such as Major, Captain and Lieutenant. They would be competent to perform marriages. So, it might be a general authorization in the sense of authorising a category of people or special authorization of individuals to solemnize marriages.

Mr. Chairman: You will please let us have these definitions in writing.

Shri A. M. Thomas: Would you be in favour of recognising the existing practice and functions of the church in regard to marriages?

Shri K. Jacob: Yes, Sir. If clauses 7 and 8 are deleted, the operative clause in the Bill would be clause 11 with regard to the performing of marriages.

Mr. Chairman: May we ask you that in clause 2 itself when we deal with the definition, as to what is your desire about the definition as adumbrated in the proposed bill regarding the word 'Christian'? Christian means a person professing the Christian religion.

Dr. E. C. Bhatt: That is the definition taken from the existing Act.

Mr. Chairman: How did it function earlier? Are there any churches left out?

Dr. E. C. Bhatt: No. I know that a definition will be possible. In fact, we had submitted a fuller definition

to the Law Commission which was not acceptable to them.

Shri Bibudhendra Misra: What was that?

Dr. E. C. Bhatt: It was something like this: 'Christian' means (a) a person who, by baptism or any other equivalent public or overt act of profession, recognized as such by some Christian Church has professed the Christian religion, or (b) a person who has been born of such parents or (c) a minor child who has been born of such parents of whom one is a Christian as defined in (a) above and who has been brought up in the Christian religion provided that the person or minor child has not formally, renounced the Christian religion either by a public or over act previous to entering upon the ceremonies of marriages. It is a long definition.

Shri G. G. Swell: The crux of the whole thing is whether you consider Baptism essential for this purpose?

Mr. Chairman: He has made another category as to what is laid down.

Dr. E. C. Bhatt: Some Christians have Baptism. The Salvation Army and the Quakers do not practise Baptism. But some of the churches baptise only adults and not children. The Disciples Church, Mennonite Church, Pentecostal Church of God etc. follow Adult Baptism only so that it is conceivable that a person will reach the age at which he is competent to marry before being baptised. I think the definition in the present Act is working satisfactorily, as a definition only for purposes of the Act.

Shri G. G. Swell: I would like to put a hypothetical question. I have been born in a Hindu family and I was brought up as a Hindu but later on I profess Christianity. I have not joined in any particular Church. Will I be considered as a Christian?

Dr. E. C. Bhatt: Probably a few of the Churches may consider you as

a Christian while a good many of them would not consider you as a Christian according to their belief. Rightly or wrongly, they believe you cannot be a Christian without being a member of a fellowship in a Church.

Mr. Chairman: The Law Commission actually considered all these things and they have stated that the religion is primarily a matter of faith and belief. It is not desirable to lay down a connotation by reference to organizational and ceremonial prescriptions. There is, therefore, no reason for modifying the definition as given in the rule. I presume that in the original act itself, they say that it is primarily a matter of faith and belief.

Dr. E. C. Bhatt: It would not be a perfect definition. But for the purpose of this Act, I think it will be a working definition. Speaking quite frankly, a person who is not a Christian might claim to be a Christian but I do not see as to how he can be precluded from that. A person might even agree to be baptised for the sake of marrying a particular girl or a boy.

Rajkumari Amrit Kaur: One witness told before us that he would prefer the word 'Christian' to religion. Have you any suggestions to offer?

Dr. E. C. Bhatt: I would not object to that. I think it is a theological question on which I am not competent to express an opinion. As a layman, I can say that it would be equally acceptable.

Shri Joachim Alva: The definition of the word 'Christian' is one who is professing christianity. This is according to you. Would it cover everyone?

Dr. E. C. Bhatt: In regard to Baptism there may be several ways of doing things. For instance, baptism is done only on adults and children are not taken in such a ceremony.

Mr. Chairman: The point is that one witness has stated that he would like the definition to be that the 'Christian' means a person professing the Christian religion and who is a member of a Christian Church or of any denomination. Now I would like to know from you as to whether there are churches or any Christians who are not all included as members of the Churches as such or they would not be called strictly as members of a denomination?

Dr. E. C. Bhatt: I would think that it is likely. I cannot say for certain. There may be some people.

Mr. Chairman: Our worry is that if we accept any particular definition which really ignores certain Christians who are actually Christians but for purposes of the definition become excluded, that would not be correct. That is why the wider definition might cover everybody. That might be a point of objection to some people. At least it would not exclude them once a Christian should be eligible to marry under this Act.

Dr. E. C. Bhatt: We want it to be as comprehensive as possible because it is a law which affects all the Christians. Everybody who claims to be a Christian should be eligible to marry under this Act.

Shri Mathew Maniyangadan: Is there any category of Christians who do not belong to either one or the other denomination?

Mr. Chairman: That is exactly what I was asking.

Shri K. Jacob: I could not tell you whether there are, but it is conceivable.

Mr. Chairman: You could possibly have a discussion within yourselves and let us know—because you have a large number of churches—whether any of your churches will be excluded under this.

Shri K. Jacob: Under this definition nobody would be excluded.

Shri Mathew Maniyangadan: Which definition?

Mr. Chairman: The definition "a member of the Christian church or denomination".

Shri K. Jacob: There may be very small groups of people who may have separated from another church, and it is very difficult to say what size or strength a group should have before it could be called a denomination or a sect. I think, Madam, as you have said, if you make it more particular you may inadvertently exclude people who ought not be excluded. And this definition has been in the Act for nearly a hundred years. Perhaps we ought to let it remain.

Mr. Chairman: In actual practice it has not yielded to malpractice?

Shri K. Jacob: So far as we know, no.

Shri Rajendranath Barua: With regard to the list of prohibited degrees incorporated in the Bill, do you want to change it?

Shri K. Jacob: I think it is good to recognise that this list of prohibited degrees of relationship is not acceptable to all churches. What the Law Commission did was to boil the list down to a minimum, but it has excluded many relationships which normally most churches at any rate would regard as totally abhorrent, e.g. father's sister, mother's sister, father's brother's widow, mother's brother's widow, people who in status are in the position of a mother almost.

Rajkumari Amrit Kaur: First cousins are not mentioned.

Shri K. Jacob: Quite so.

Shri Rajendranath Barua: Do you want it to be expanded?

Shri K. Jacob: The difficulty is this. The Roman church which constitutes almost as large a group or more than all the other churches put together had certain difficulties in regard to a larger list. The difficulty can be

overcome—this is only a suggestion—by safeguarding the authority of individual churches to make lists in addition to this. Whether that is feasible I do not know.

Mr. Chairman: If you look at clause 4, we have said that a marriage may be solemnized between any two Christians if the following conditions are fulfilled namely—and if you look at sub-clause (ii)—“the parties are not within prohibited relationship, unless the custom governing each of them permits of a marriage between the two”.

Shri K. Jacob: This is a list of prohibitions, and the more relations you add to it the more restricted becomes the choice of the partner. What I am suggesting is, not that churches should be allowed to contravene this, but make supplementary lists. I do not know how that can be done. In clause 70 you have safeguarded the minister of a church from being compelled to perform a marriage which is against the rules of the church. Can the church have rules which do not contravene any of these provisions, which for instance do not allow anything that this list prohibits, but have further prohibitions? For instance, orthodox churches in Kerala would be governed more or less by the same kind of prohibition as in the Hindu marriage Act up to five generations on the father's side and three on the mother's side. They would be very much pleased if they had the freedom to put additional restrictions on this, as part of their own law. You say that the minister shall perform the marriage according to the rules, rights and ceremonies of the church. Could that include a rule to be made by a church for its own members only? If that is done I think the objection would go.

Shri U. M. Trivedi: That is, you are suggesting that the church may be allowed to observe a law which is in conflict with this law?

Shri K. Jacob: No, it is an addition to the law.

Shri U. M. Trivedi: Suppose a man wants to perform a marriage observing a prohibited degree which is different from that observed by the church. Thereby he will be contravening the rule of the church but he will be within the law. Will the church refuse to perform that marriage?

Shri K. Jacob: Yes. What I suggest is this. If a man marries his father's sister, which is not included in this list—I am mentioning this for argument's sake—suppose he marries before a marriage registrar and comes back to the church. The church will not say “you are not a Christian”, because the Bill is for Christians and it enables him to marry like that, but the Church will seek to maintain the right to say “you are not a member of this denomination, you are not a member of the orthodox church, you are a Christian but you cannot exercise your right here”.

Mr. Chairman: The Church can always do it?

Shri K. Jacob: I do not know. This is a big question.

Shri U. M. Trivedi: Will it be possible for any Christian church to refuse to solemnise a marriage, by a licensed minister who has been licensed for the purpose of performing marriages?

Rajkumari Amrit Kaur: If it is against the rules of the church there should not be any compulsion to perform that marriage.

Shri U. M. Trivedi: We do not want to break those rules. But will any party, or any church, be allowed to have rules which are inconsistent with the law? I would like to know whether the law will prevail or the rules will prevail.

Shri A. M. Thomas: That is why they say that custom or practice should be recognised.

Shri U. M. Trivedi: There may be enabling provision about particular customs . . .

Mr. Chairman: What has been permitted in Chapter II is to allow custom to prevail about prohibited degrees of relationship.

Shri U. M. Trivedi: And not the other way about. If they have got another prohibited degree which is over and above what has been provided by this, will it be correct to say "we will not perform this marriage, although it is legal"?

Mr. Chairman: But by this clause you are permitting those whose custom allows them to exclude certain other prohibited degrees also to do so.

Shri U. M. Trivedi: No.

Mr. Chairman: Yes, you are allowing.

Shri U. M. Trivedi: The parties are not within prohibited relationship, unless the custom governing each of them permits of a marriage between the two: the reverse is the position. There must be prohibited relationship: that is what we have limited. They cannot put further limitations.

Shri K. Jacob: The clause here allows exceptions to the prohibited list. What we are asking is whether Churches which have conscientious objection to this could be permitted to add to this list for their own members. They do not require that for all Christians. They only will say if you are a member of our association, you cannot do this; you cannot marry your father's sister.

Shri G. G. Swell: Will it not be better to increase the list of degrees of prohibited relationship to 30 as mentioned in the Bible and add this overriding clause of allowing custom?

Shri K. Jacob: Would that satisfy the Roman Catholic Church? Speaking on the spur of the moment—I have

not thought about it—if you have a fuller list and allow freedom, would custom also include the practice of the Roman Catholic Church where the Bishop, in the name of the Pope, can give special dispensation? It is done in rare cases. Will that be covered by the word custom?

Shri G. G. Swell: That would be the case perhaps.

Rajkumari Amrit Kaur: The Roman Catholic Church and the Syrian Church do not permit first cousin marriages. I do not think it would be right that, if under this Bill two first cousins wanted to marry, we should compel the Minister in the Roman Catholic Church or the parish or priest to perform that marriage, because it would go against the canon law of his own Church.

Shri K. Jacob: That, I think, is safeguarded by clause 70. Clause 70 safeguards the Minister. The real crux of the problem is, when the Minister says, I cannot do this, I am safeguarded by clause 70, this chap, in order to marry his father's sister goes to the Registrar and gets married.

Rajkumari Amrit Kaur: I do not think the Church can be compelled.

Shri K. Jacob: I am taking it that you have agreed to take away licensing, and there is only one kind of Minister who can marry. That man is protected by clause 70. He says, I cannot do it. Nobody can compel him to marry. This chap who wants to marry, goes to the Registrar and gets married. Then, the position of the Church is, you have violated our rule, you cannot be a member of our Church. You are a Christian; nobody will say you are not a Christian; but you are not a member of our Church. That ought to be made clear.

Shri Bibudhendra Mishra: That would be a question of interpretation.

Shri K. Jacob: The fear of these people who are concerned is this: the person might then go to court and say that the court should decree that he should be restored to membership in the Church.

Mr. Chairman: We will have to consider that. That is a ticklish question.

Shri K. Jacob: That is a difficult problem.

Mr. Chairman: Anything else?

Rajkumari Amrit Kaur: What about 'rule' in page 3? Are you satisfied?

Shri K. Jacob: In answer to this question, it is said here: "rule" in any expression denoting rules of any Church, includes a rite, etc. We would prefer the word 'means'. That is the expression used elsewhere. It should be:

"'rule', in any expression denoting rules of any Church means a rite, ceremony, custom or regulation of that Church in relation to matrimony."

Shri Bibudhendra Mishra: This is a matter of drafting. If you say 'means' that definition is exhaustive. If you say 'includes', it is much more than that.

Shri K. Jacob: It does not include something that we want to include. You may say, 'includes rite, ceremony, custom or regulation of that Church in relation to marriages or matrimony'.

If by any chance, the suggestion that licensing be given up is not acceptable and it is retained, then we would plead that the licensed Minister should also be given freedom of conscience under clause 70. When a man is ordained to the Ministry, he takes certain oaths, sacred oaths to act in accordance with the regulations of the Church. If the court says, you break your oath, that is putting him in a very very difficult position. If licensing is retained, clause

70 should apply also to a licensed Minister.

Rajkumari Amrit Kaur: While you say that no Minister shall be compelled to perform a marriage, would you also not say that no Church shall be compelled to recognise as a valid marriage one which is contrary to its own rules?

Shri K. Jacob: That is a point we have raised and the Chairman has made note of it. One possible suggestion that comes to the mind of a layman is, no Minister shall be compelled to perform a marriage and no Church shall be compelled to recognise a marriage which is contrary to its rules. It does not prevent a man from marrying. It will prevent a man claiming membership of a Church. He will have to go to another Church which permits that kind of marriage.

Shri U. M. Trivedi: Recognition is one thing; solemnisation is another thing. You may not be compelled to solemnise a particular marriage. What do you suggest by recognition of a marriage? What can be the effect of non-recognition of a marriage?

Mr. Chairman: You really terminate his membership of that particular denomination.

Shri U. M. Trivedi: That is power of ex-communication: is that desirable now?

Mr. Chairman: That is exactly what happens. You do not say ex-communication.

Shri K. Jacob: In the certificate of marriage, details are not adequate for identification. AB and CD: it should be AB son of so and so and CD daughter of so and so. So many people have similar names. It is desirable to have a little more details for the purpose of identification, AB son of XY and CD daughter of PQ.

One other question with your permission. This Bill says that the return will be sent to the Registrar

General. I do not know whether the Registrar General is required by law to preserve them.

Mr. Chairman: Surely. Otherwise, there is no point in it.

Shri K. Jacob: The Registrar General is, under the other Act—I am speaking without knowledge; I may be wrong—required to maintain registration of births and deaths. I think there must be a clause somewhere.

Shri U. M. Trivedi: Under the new Bill, he is compelled to maintain the register, and preserve it.

Mr. Chairman: I am assured by the Special Secretary in the Ministry of Law that the register is maintained and kept.

Rajkumari Amrit Kaur: Have you got anything to say on clause 4 (iv) which says:

“the bridegroom has completed the age of eighteen years and the bride the age of fifteen years at the time of the marriage;”?

Have you got any ideas on this? Would you like to keep the bride's age at as low a figure as 15?

Shri K. Jacob: Speaking personally, which I suppose has no place here, we would like to see the age of marriage raised, if it could be raised, to eighteen, in the case of the bride. Then, a lot of this consent business will go out of the Bill. But we have not got a definite mandate from the particular churches on this question. This question was never raised at all before them. We feel that in some rural areas and also in certain churches, where the people are still rather old-fashioned, a sudden raising of the age of the girl from 15 might be objected to. As it is, in certain churches in the rural areas, the age is only 14. They will now have to amend their rules.

Shri A. E. T. Barrow: Are not teen-aged girls at the age of 13 and 14 getting married now?

Rajkumari Amrit Kaur: That is all wrong.

Shri K. Jacob: I should think that such cases will be very rare. I have not personally come across any girl below 15 getting married. I personally would not want any daughter of mine to be married at the age of 15.

Shri A. E. T. Barrow: We are discussing the law and that was why I asked the question.

Rajkumari Amrit Kaur: Some witnesses who appeared before us have said that if the girl is considered eligible to be married at the age of 15, then her consent as well as the consent of her guardian should be obtained; and it was suggested that the guardian should not force her to marry somebody against her will.

Shri K. Jacob: The Law Commission's report, namely the Fifteenth Report, has dealt with this, and has suggested that the parties and the church would be well advised to get the consent of the girl, but that she is not legally competent to give her consent. But certain churches would argue that if she is competent to marry and to be a wife and to live with a man, then she ought also to be competent to say 'yes', so that, if it is permissible, it would be good to say that the consent of the girl as well as that of her guardian should be obtained for what it is worth.

Shri U. M. Trivedi: Would not the repetition of the words 'I take thee to be my lawful husband' amount to consent?

Shri K. Jacob: Yes, it would. But, for the other parties you are requiring a prior declaration, and, there is no reason why this girl also should not be competent to give her consent; legally, it may not be worth anything; but psychologically it has some value, and it will meet the objection of certain churches which hold the view that if she is able to marry and go and live with a man, then she also should be able to say 'yes'.

Mr. Chairman: If there was such a thing then it would have validity at the time the banns are published; at that stage, the girl's consent can be taken. It is not at the later stage that consent can be taken. It is at the time the banns are published that the girl can say 'no'. It is very difficult for a girl to say 'no' when she is at the altar. If at the stage of publishing the banns, the girl says 'no', her parents cannot force her to marry; I think that would be psychologically much better rather than that she should be led to the altar and at the time of the vow be expected to say 'no'. It is next to impossible for a girl to say 'no' at that stage.

Shri Joachim Alva: It happens only once in fifty years that a girl comes to the altar and then refuses to marry.

Shri K. Jacob: In a good many of the churches, the marriage ceremony itself provides for asking both parties: 'Will you take this man to be your husband?' or 'Will you take this woman to be your wife' and so on. But that is formal. As you say, it is almost humanly impossible at that stage, with all the wedding feast and everything else ready, to say 'no'. But there are also churches where this question is not put.

In the eastern churches,—Mr. Thomas may correct me if I am wrong—the bride or the bridegroom is not asked these questions. No questions are at all asked.

Shri A. M. Thomas: That is right. There are no questions asked.

Shri K. Jacob: These are assumed. The western churches have this system, but the eastern churches do not have the formal promise.

Shri T. H. Sonavane: There is one more point in regard to the definition of the term 'cruelty'. You have stated in your memorandum that it should be defined in similar terms as in the Hindu Marriage Act.

Shri K. Jacob: We have been told that 'cruelty' is a legal term and need

not necessarily be defined. But since it has been defined in the Hindu Marriage Act, we thought that perhaps, the definition, though redundant or superfluous, might be included.

Mr. Chairman: You are quite right. We had a very long discussion on this at the time the Hindu Marriage Bill was passed. Whether it was superfluous or not, at that time, there were certain Members who insisted on the definition being included. So, we can include it here also.

Shri G. G. Swell: May we have your views on divorce?

Shri K. Jacob: With regard to divorce, I would make a very brief statement. The position of the churches varies considerably. At the one extreme, there are churches which say that no divorce is permissible; then there are churches which say that even a papal dispensation is only for nullity, judicial separation etc.; remarriage is almost impossible, I think, in the eastern churches. I think that it is allowed only in case the marriage has not been consummated. At the other end of the spectrum we have churches which would adopt even more liberal—though that is not the right word—grounds for divorce.

Mr. Chairman: Except in the case of the Roman Catholic Churches which allow divorce only under a papal dispensation, all other churches which say that they are against divorce permit divorce on the ground of adultery. Is that not the position?

Shri K. Jacob: That is right.

Mr. Chairman: I do not think that there is any church which is against divorce as such. There are representatives of many churches, who have given evidence before us who say that there shall be no divorce except on the ground mentioned in the Bible, namely on the ground of adultery. So, I should say that on that one ground divorce is permitted, and on no other ground. Therefore, there is no church, except perhaps the Roman Catholic Church, which says that there should

be no divorce as a principle. Have I stated the position correctly?

Shri K. Jacob: Yes, but there are other churches which would regard other grounds as equally valid for divorce, and since this is only a permissive legislation, we thought that we should not try to impose the strictest code of any church on the generality of members using the State coercion to do that.

Mr. Chairman: We thank you very much for your very enlightened views. Kindly send us also the particular definitions that you have suggested which we shall certainly consider very care-

fully. You can also send us any additional material not on the memorandum but on the specific clauses of the Bill.

Shri K. Jacob: Would it be permissible to send any additional material before the Bill is discussed?

Mr. Chairman: You can send us additional material on the specific clauses of the Bill in the course of the next two or three days, and that will be quite useful to us in our deliberations.

(The witnesses then withdrew)

The Committee then adjourned.

JOINT COMMITTEE ON THE CHRISTIAN MARRIAGE AND MATRIMONIAL CAUSES BILL, 1962

MINUTES OF EVIDENCE GIVEN BEFORE THE JOINT COMMITTEE ON THE CHRISTIAN MARRIAGE AND MATRIMONIAL CAUSES BILL, 1962

Tuesday, the 16th July, 1963 at 09.12 hours

PRESENT

Shrimati Renu Chakravartty—*Chairman.*

MEMBERS

Lok Sabha

2. Shri Joachim Alva
3. Shri A. E. T. Barrow
4. Shri Rajendranath Barua
5. Sardar Daljit Singh
6. Shri Ram Dhan Das
7. Shri Sudhansu Bhushan Das
8. Shri M. L. Dwivedi
9. Shri L. D. Kotoki
10. Shri M. K. Kumaran
11. Shri Baij Nath Kureel
12. Shri Mathew Maniyangadan
13. Shri Panampilli Govinda Menon
14. Shri Bibudhendra Misra
15. Shri Purushottamdas R. Patel
16. Shrimati Yashoda Reddy
17. Shri T. H. Sonavane
18. Shri Sivamurthi Swami
19. Shri G. G. Swell

20. Shri A. M. Thomas
21. Pandit D. N. Tiwary
22. Shri U. M. Trivedi
23. Shri T. Abdul Wahid
24. Shri Yashpal Singh

Rajya Sabha

25. Rajkumari Amrit Kaur
26. Shri Jairamdas Daulatram
27. Shri A. C. Gilbert
28. Shrimati Jahanara Jaipal Singh
29. Shri Dayaldas Kurre
30. Shri A. D. Mani
31. Shri Mulka Govinda Reddy
32. Shri M. H. Samuel
33. Shri M. C. Shah
34. Shri Awadheshwar Prasad Sinha
35. Shri P. A. Solomon
36. Shri A. M. Tariq

REPRESENTATIVES OF THE MINISTRY

1. Shri G. R. Rajagopaul, *Special Secretary, Ministry of Law and Member, Law Commission.*
2. Shri R. V. S. Peri Sastry, *Assistant Draftsman, Ministry of Law.*

SECRETARIAT

Shri A. L. Rai—*Deputy Secretary.*

WITNESSES EXAMINED

I. MAR THOMA SYRIAN CHURCH OF MALABAR, TIRUVALLA

Shri K. T. Thomas

II. THE INDIAN PENTECOSTAL CHURCH OF GOD, KOTTAYAM

Pastor P. M. Philip

III. THE ORTHODOX SYRIAN CHURCH OF THE EAST, KOTTAYAM

1. The Rev. Fr. K. C. Thomas
2. Shri M. Abraham

IV. ST. MARY'S SYRIAN CHURCH, ERNAKULAM

1. Shri M. Abraham
2. Shri C. C. Joseph

I. MAR THOMA SYRIAN CHURCH
OF MALABAR, TIRUVALLA.

Spokesman: SHRI K. T. THOMAS.

(Witness was called in and he took his seat)

Mr. Chairman: We have already received your memorandum. You have given there the number of ordained ministers etc. Would like to explain to us the congregational strength of your church, whether it is only in Kerala or is spread over other parts of India and so on?

Shri K. T. Thomas: It is spread over other parts of India also. The strength would be about 4 lakhs. It is mainly concentrated in Kerala.

I would briefly indicate the points I seek to make in this representation, namely, the constitutional aspect of it, the provisions relating to prohibited degrees, classification of churches as recognised churches and otherwise and licensing of ministers. Then I would place before you the minimum amendments that would lead to a considerable simplification of the Bill and also respect the sentiments of the overwhelming majority of Christians.

Concerning the first, I would submit that this Bill constitutes an inroad into the fundamental freedoms guaranteed by the Constitution. We are a minority; the fundamental freedoms guaranteed by the Constitution have necessarily to be safeguarded, and if that be not done, it would cause considerable heart-burn and would lead to the disorganisation of the community which is now known by the term 'Christians'. I am alive to the circumstance that there are a large number which go by the name 'Christian church' and have considerable diversity in the forms of rites and ceremonies which they insist on.

Shri D. N. Tiwary: Do you think that legislation by Government on Christian marriages will be unconstitutional?

Shri K. T. Thomas: That is my position.

Shri D. N. Tiwary: There was an enactment before this. Was it unconstitutional?

Shri K. T. Thomas: I may straightway say that the legislation pre-existing, the Christian Marriage Act of 1872, was an enactment of preindependence days when no question of fundamental freedoms arose. That Act did not apply to the erstwhile Travancore State wherefrom I hail. But now these freedoms are guaranteed and any legislation will be tested on the touchstone of the constitutional provisions concerning these freedoms.

Shri U. M. Trivedi: Is it your suggestion that the Christian Marriage Act of 1872 did not apply to the Kerala State up to date?

Shri K. T. Thomas: Yes, definitely.

Shri U. M. Trivedi: By what law were you governed after 1950?

Shri K. T. Thomas: There was no enactment governing the subject. So far as the erstwhile Travancore State is concerned, it is customary law, law of the church and the rules relating to matrimony laid down and obeyed by the members of the church.

Shri U. M. Trivedi: Is it your contention that the Christians of Travancore-Cochin are different in any manner from others?

Shri Jairamadas Daulatram: I would suggest that we may note down points while the witness makes his statement and then put questions after he has finished his statement.

Mr. Chairman: I think that would be better.

Shri U. M. Trivedi: That is not the procedure I have been following for the last ten years. We have examined the memorandum and we want to find out from him whether he wants to add anything more to it or subtract from it, whether it is correct. If questions are asked now, it would shorten

the procedure. My hon. friend must have seen that this was the procedure we followed with regard to the Constitution (Fifteenth Amendment) Bill. We are not here to listen to a lecture. The arguments are already advanced; we want to find out what are his objections. There must be cogent reasons for his objections. So we must be able to cross-examine him. We want to know what is the law that governs him, by what law he would like to be governed.

Mr. Chairman: What is the objection to his making his statement first?

Shri U. M. Trivedi: I have no objection.

Mr. Chairman: You may say whether you wish to add to or subtract from your memorandum or to underline any points already made.

Shri K. T. Thomas: As for the constitutional aspect, this Bill is an infringement of the fundamental freedoms guaranteed by the Constitution. Ultimately that question may have to be decided in appropriate proceedings by the Supreme Court, and I shall leave it at that.

So far as recognition and licensing are concerned, my Church's position is that any Minister of a Church, by virtue of his office as a clergyman of the Church, is *ipso facto* competent to solemnise marriages, and we do not want the State to interfere and say what Churches are recognised and what are not. That should be left to the Churches and they ought not to seek recognition, because that will be opening the door for State interference in matters of religion.

My position, briefly put, is: let us not have three forms of marriage as envisaged in this Bill, but only two: one being sacramental marriages of the Church, the second is the marriage before a Registrar. There is an anomaly there, that a marriage before the Registrar, while embodied in this Bill, will bring it in the class of Christian marriage, which I cannot

possibly accept. Nevertheless, the Bill may provide for the form of marriage of two Christians marrying before the Registrar. If that and certain amendments that I propose are accepted, the Bill will be considerably simplified. There will not arise occasions for recognition or licensing.

So far as prohibited degrees are concerned, a very short list is given in the Bill, but my Church has a very much larger list, and it is revolting to our sentiment to permit marriages of certain relationships not included in this Bill like marriage between first cousins, second cousins and so on. It should be left to the rule of the Church to which the parties belong to determine who may marry whom.

Coming to the age of consent, so far as my Church is concerned, its rules provide that the bridegroom should have completed 18 and the bride 14. We would not mind a raising of that age. If this Committee could find its way to recommend that the bride should have completed 18, I shall have no quarrel, my Church has no objection, and if that amendment is accepted, it will do away with the provisions dealing with the consent of guardians and the occasions where such consent may have to be got or the District court has to be approached for obtaining permission for marriage.

Then I would indicate the minimum amendments that I would request this Committee to consider. The first is definition of the term "Christian". That definition, as it stands, is "a person professing the Christian religion". I know it is only for the purpose of this Act, but nevertheless I should say that that will not satisfy the fundamental faith of the Christian religion, the reason being this, that Christianity does not know of an unattached Christian. To put it in better language, an individual Christian is a contradiction in

terms. The faith of the overwhelming majority of Christians all over the world is that the Church was founded by Christ. He laid down the rite or the ceremony for initiating a person into the Church. He is the head of the Church, and the Church is the body of Christ, and any person to be initiated into the Church must be one who professes the Christian religion, meaning thereby the doctrines and beliefs taught by Him and at the same time goes through an initiation ceremony or rite of baptism. I know that there are groups which do not insist on the rite of baptism, for example, the Salvation Army. In the Baptist Church, for instance, they postpone the rite of baptism until a person has become an adult. There are these different views. Nevertheless, to comprehend all the groups, I would say the definition should be "a person professing the Christian religion and is a member of any Church or denomination", because an unattached or individual Christian is unknown to the Christian faith and religion. Unless a person is grafted into the body of Christ—this is the language of St. Paul—he is not a Christian as Jesus Christ understood, as the apostles understood, as the overwhelming majority of Christians understand it. I am not called upon to pronounce whether a particular person is a Christian or not, but my faith is that to be a Christian, he has got to be in society, in a group, in an organised body, who is a part of a Church which St. Paul calls the body of Christ, meaning thereby that Christ is the head, the body is the group of members who profess the faith in Christ, and a Christian is expected to work out not only his individual salvation, but the salvation of society, of the nation, of the entire humanity.

Shri K. T. Thomas: Having founded the church and prescribed the mode of admitting individuals into it,—the entire New Testament according to me is built on that foundation and we stand by that—let us not sit hard on groups which do not prescribe baptism and all the rest of it. Taking all

the groups I would say one who professes the Christian religion and is a member of any organised church or groups or denomination is a Christian.

The next point that I would say is that this Bill should contain definitions of two terms: one, the church, and two, the minister of the church. I would say that the term church has got to be defined and I would submit that the definition which I suggest will be acceptable to all. That is, the church mean an organised body of Christians holding the same creed, following the same rites and acknowledging the same authority.

Mr. Chairman: These have been urged before us.

Shri K. T. Thomas: So far as the term minister is concerned, I would say that a minister of the church means a person authorised by a church to solemnize marriages either by virtue of his office in the church or by appointment by a competent authority in that church: The reason being that there is a broad division of churches: episcopal and non-episcopal. My definition, I may submit, comprehends both groups. Therefore it is that I say "either by virtue of his office," that is the group which comprehend the organised churches as is known today, because, by virtue of an ordination by the bishop and laying on of hands, a person is made a minister by virtue of his office. There are groups, which do not insist on or do not practise ordination either by a bishop or otherwise. There are persons who are authorised by that particular branch of the church to solemnize marriages by the competent authority. That competent authority need not be a bishop. It may be merely the executive council, to put it at the lowest, of the group. So if he is so authorised he will be a minister for that branch of the church and he will be authorised to solemnize marriages. If these two definitions are included, my own feeling is that nobody would object to that. There

is nothing objectionable in it. It comprehends all groups. But without these definitions it would be extremely difficult to work a legislation relating to Christian marriages.

Then I would draw your attention to the definition given in sub-clause (p) at line 16 on page 3 of the Bill. It says:

“rule’, in any expression denoting rules of any Church, includes a rite, ceremony or custom of that Church.”

I would earnestly contend for the inclusion of the term “rules” after the words rules of any church includes”. The reason is this. So far as I am concerned, my church has well-defined, well-respected and obeyed rules relating to matrimony, prohibited degrees, age of consent, persons authorised to solemnize marriages and the consequences of any infringement of those rules. I am pressing for this amendment. I may frankly say that by that amendment I seek to have the rules of the church to which the parties belong, respected. Otherwise, it would lead to considerable difficulties. It may lead to an eventual disorganisation of the church which, according to me, cannot be the object of a legislation of this kind.

Then, I would go to clause 70, which reads as follows:

“No Minister of a recognized Church shall be compelled to solemnize any marriage, the solemnization of which would be contrary to the rules of the Church of which he is a Minister.”

The amendment that I am seeking is as follows:

“No Minister of a recognised church shall be compelled to solemnize any marriage, the solemnization of which would be contrary to the rules of the church of which he is a minister, and no church shall be compelled to recognise marriages which contravene the rules of that church in relation to matrimony.”

Mr. Chairman: We have understood. That has been urged by several other witnesses also.

Shri K. T. Thomas: With these amendments and addition to the Bill, I can say that my church may not have any serious objection; Provided these suggestions are accepted.

Shri G. G. Swell: As far as I can see from your memorandum, and after hearing you now, it appears to me that except for the definition, all other objections of yours flow from these two suggestions which you have made. One is your objection to the limited list of prohibited degrees of relationship. You would insist that more of these prohibited degrees be included. The second point of yours is contained towards the end of your memorandum—paragraph (b). You have said:

“Our prayer is that the ancient Syrian Churches be allowed to maintain their own time-honoured rules of prohibited degrees and be not asked to allow divorce and to recognise remarriage of divorced or judicially separated persons.”

I think that problem of yours can be solved by your own suggestion to amend clause 70 of the proposed Bill. That is to say, no minister of a church be compelled to solemnize any marriage, the solemnization of which would be contrary to the beliefs of the church of which he is a minister nor any church be compelled to recognise a marriage that runs counter to that. I think that takes away all your constitutional objections or any other kind of objection.

Shri K. T. Thomas: Yes; I agree.

Shri G. G. Swell: As far as the prohibited degrees of relationship is concerned should all the degrees mentioned in the Leviticus be mentioned in the Bill? I do not know what is the procedure in your church. But these are hypothetical propositions. Suppose I say all the degrees of prohibited degrees of relationship mentioned in the Leviticus are mentioned in the Bill and clause 4(2) of the Bill remains as it is, the parties are not

within the prohibited degree of relationship unless the custom covering each of them precludes the marriage between the two. That would solve the problem greatly.

Shri K. T. Thomas: To a certain extent. If my amendments in relation to the rule and clause 70 are accepted, probably I may not at all go into the question of prohibited degree, because they are governed by our domestic rules. If the rules of the Churches are allowed to operate, then I need not go into the question of prohibited degrees.

Rajkumari Amrit Kaur: Section 4(ii) says:

“the parties are not within prohibited relationship, unless the custom governing each of them permits a marriage between the two”.

Does it cover your point sufficiently, provided that the amendment you have suggested to the rule is also accepted?

Shri K. T. Thomas: Yes, provided my amendment to the rule and to clause 70 is accepted.

Mr. Chairman: You want to change the definition of Christian. You say a person who has not attached himself to a denominational church is not a Christian at all. But there are in the world many Christians who are not absolutely attached to any church and yet they profess the Christian faith. According to you they are not Christians at all, but according to the civil law, if they desire to be married in a particular church and if the rules of the church do not prohibit them, why should you limit the definition of the term ‘Christian’?

Shri K. T. Thomas: In the question posed, the statement is there that there are ever so many Christians who are not attached to any group or denomination or church. That is a position which I cannot accept. I go by the injunctions contained in the New Testament as to what is a church and

who can be a member of a church. If a person says “I profess the Christian faith and swear by Jesus Christ”, that is good to a certain extent; but he has got necessarily to be attached or initiated into a group, denomination or church, because Jesus Christ never knew of an unattached Christian.

Shri M. C. Shah: Are there any Christians in the country who claim that they do not belong to any particular Church or denomination?

Shri K. T. Thomas: If there are persons who are not attached to any group or denomination or church who choose to call themselves Christians, I shall not quarrel with them. But unfortunately, tested in the light of my faith, I would say ‘no’. I do not want to pronounce on the honesty or sincerity of his profession, because that is a matter between him and God and I leave it there.

Shri U. M. Trivedi: Am I to understand from what you say that although a person may call himself a Christian, he will not be accepted as a Christian by any of the Christians who belong to a church?

Shri K. T. Thomas: You may go further and say “churches, denominations or groups”.

Shri U. M. Trivedi: I mean, by those who belong to a particular caste among the Christians.

Shri K. T. Thomas: There is no caste in Christianity.

Shri P. A. Solomon: In the memorandum, it is said:

“Our church has laid down definite rules regarding, solemnization of marriage, prescribing the age of parties, prohibited degrees, ministers entitled to solemnize marriage and has also provided for separation of married persons on certain well-defined grounds.”

What are those well-defined grounds for separation?

Shri K. T. Thomas: Without going into considerable detail, I can say that these rules provide for the persons who are competent to solemnize marriages, the places where marriages may be solemnised, the parties who may be united in wedlock, the formalities which they have to go through before the actual solemnization of marriage, inviting any member of the congregation to object to an intended marriage on grounds recognised by the church, etc. Contingencies may arise where the continuance of life as husband and wife would be dangerous from different angles of view, in which case a separation may be allowed by the church, but we stop there. We do not go further to divorce, because Christianity does not recognise divorce. The parties may live separately. There would be no compulsion on them to live together as man and wife. We stand by the sacramental conception of marriage and our position is that no sacrament is liable to be dissolved.

Shri U. M. Trivedi: You have said in your memorandum that you would like to have your customs preserved in respect of the prohibited degrees of marriages. Where from did this custom originate?

Shri K. T. Thomas: I object to the expression "custom"; it is not the custom I am speaking of, I am speaking of the rule of the church which has been well recognised and well obeyed all through these ages.

Shri G. G. Swell: What is the fountain of your rules?

Shri K. T. Thomas: The Bible.

Shri G. G. Swell: Does the Bible allow divorce on the ground of adultery?

Shri K. T. Thomas: No.

Shri U. M. Trivedi: Marriages between first cousins and second cousins among the Christians on your side is considered most abominable. Is it laid down in the Bible?

1317 (Aii) LS—9.

Shri K. T. Thomas: It is not laid down in the Bible that it is abominable. But it will come within the prohibited degrees laid down in the Bible and therefore it is repugnant to our sentiment.

Shri G. G. Swell: Do the degrees of prohibited relationship coincide exactly with the degrees of prohibited relationship laid down in the Bible?

Shri K. T. Thomas: Almost.

Shri G. G. Swell: Why almost? Is there any part where you depart from the Bible?

Shri K. T. Thomas: No.

Shri G. G. Swell: Is there any part where you add to it?

Shri K. T. Thomas: Yes.

Shri G. G. Swell: Then the Bible is not the sole fountain of your rules.

Shri K. T. Thomas: If you take the prohibited degrees as given in the Christian Marriage Act, the Divorce Act and the Special Marriage Act, probably my Church may not have much to oppose. What I say is, that the Church has evolved through these centuries and in the present day position it considers abominable for cousins to marry, first or second for that matter.

Shri U. M. Trivedi: You do not like the idea of recognition and you feel that recognition of churches by Government would amount to interference in the religious right. Is that your contention?

Shri K. T. Thomas: Recognition if allowed to stand would lead to interference by the State into matters of our faith.

Shri U. M. Trivedi: What are the particular tenets of your faith where you feel interference would take place. Articles 35 and 36 of the Constitution are very clear as to what extent they may interfere and to what extent they may not. In what manner do you feel that by giving

recognition to a church the State will interfere with certain tenets of your faith?

Shri K. T. Thamos: It is not interference with the tenets of our faith, it is an inroad into my right guaranteed by the Constitution to profess my religion, to practise my religion and to propagate my religion.

Shri U. M. Trivedi: You are at liberty to do that. All that I want to now is how the Government are going to interfere with the tenets of your faith merely by giving you recognition?

Shri K. T. Thomas: Who is to recognise?

Shri U. M. Trivedi: The Government.

Shri K. T. Thomas: That is exactly what I am opposing. It is not for the Government to do that.

Shri U. M. Trivedi: My question is, how does recognition of a particular church by the Government interfere with your right to propagate your religion?

Shri K. T. Thomas: My religion does not permit the State to recognise a church and not to recognise a church.

Mr. Chairman: Nobody can say that in the act of recognition there is any interference by the State or that it goes against the Constitution. His point is, supposing the Government does not recognise a particular community or the minister of a particular church, then that church which is empowered to carry out the ceremony of marriages can no longer do that and therefore there is interference to that extent.

Shri Rajendranath Barua: Does not clause 70 of the Bill meet with all your objections regarding State interference?

Shri K. T. Thomas: Clause 70 as suggested by me. That is why I said if the amendments proposed by me are

accepted then we are not opposed to most of the clauses of the Bill.

Shri Rajendranath Barua: I want you to read the clause as it is now.

Mr. Chairman: That is regarding resolementisation. That is the conscience clause. They want a further bar. They say that if a marriage is refused by a minister and it takes place in another church it will not be binding to recognise it as valid by that church. He wants a double bar. This is an extra bar which they want.

Shri Bibudhendra Misra: You are opposed to the provisions regarding recognition of churches on the ground that it amounts to interference by the Government. It is not the desire of the Government to interfere with the religious practice of any particular community. But this provision has been inserted with a view to preventing clandestine marriages being solemnized or to regulate marriages. That is why we have said that there should be a committee consisting of Christian members on whose advice only churches will be recognised. We are anxious that these conditions should be fulfilled in every church, that a church must be well recognised, it must be registered, it must have well established rules for solemnization of marriages and all that. Now, supposing we do away with this provision altogether and accept your suggestion that churches should be defined and there should be no recognition as such, then it is just possible that four or five persons may themselves form a church and solemnize a marriage. Would you object to that or would you say that it does not matter whether it is organised or not and it is open to any four or five persons to form a church and solemnize a marriage?

Shri K. T. Thomas: Provided that group is organised.

Shri Bibudhendra Misra: Who will see to it? You are only defining the church.

Shri K. T. Thomas: Let them form a church; I have no quarrel.

Shri A. M. Thomas: Am I right in saying that many of these Christian churches, especially the ancient ones, are concentrated in Kerala?

Shri K. T. Thomas: Yes.

Shri A. M. Thomas: There has been no question of recognition or non-recognition or licensing or non-licensing of these churches so far?

Shri K. T. Thomas: No.

Shri A. M. Thomas: Have you throughout these years found any difficulty because of the non-licensing or non-recognition of the churches there?

Shri K. T. Thomas: Absolutely none.

Shri A. M. Thomas: Has any case come to your notice or has any complex situation arisen where an unauthorised person has solemnized a marriage?

Shri K. T. Thomas: Not one.

Shri P. R. Patel: Suppose there is a Christian who is not attached to any church but who follows the principles or tenets of that religion according to his light. Has he not got the right to get married according to his individual faith or right?

Shri K. T. Thomas: He can resort to the provisions of the Special Marriage Act.

Shri P. R. Patel: Freedom or fundamental rights under the Constitution are given to the citizens and not to churches or bishops. Suppose a male and a female follow a particular faith and call it Christian according to their light. Can they get married under a tree according to their wish without interference from the church or not?

Shri K. T. Thomas: I must plead my inability to understand that question.

If you can kindly explain it, I will answer it.

Mr. Chairman: I am not going to that extreme. But suppose we accept your amendment to clause 70 that the church will have a further right to refuse recognition of the marriage if a man or woman marries outside the rules of the church. Now, according to us no person who professes the Christian faith should be debarred from using the clauses of the Christian Marriage Act for getting married. But you want the definition to be further tightened up so that a Christian must not only profess that faith but he must belong to a church or denomination. So, that will leave out certain cases of people. Suppose a woman, who is a church going person and is deeply devoted to that church and a member of that church or denomination marries somebody outside, somebody whom she is not permitted to marry in that church, in such a situation you would not permit even the use of this Act by making the definition of the term "Christian" more rigid: If we were to accept your amendment to clause 70, we could never accept your suggestion to make the definition more rigid. You cannot have it both ways. Then there is no use of having this Act at all.

Shri K. T. Thomas: On the question whether a person belonging to a particular denomination or church can marry outside or beyond the rules of that church, my position is that the church, in the eye of law, is a voluntary association of individuals. I think no statute can deny the right of any voluntary association to lay down its rules of conduct.

Mr. Chairman: No, nobody will.

Shri K. T. Thomas: So, they have the absolute right to determine on what basis they form the association and any person offending the provisions of the bye-laws of that association must necessarily take the consequences indicated or cease to be members of that association. The

position, therefore, is if the church is not protected, or if I may so put it, if the conscience of the church and the conscience of the minister are not protected, it may well happen that the church may be dragged into courts when the church takes disciplinary action against its members for offences against its own rules.

Mr. Chairman: I agree with you there. But suppose we accept your amendment to clause 70. After that, you want to deny the right of marrying under the Christian Marriage Act to some persons by tightening up the definition of the term "Christian" so that he is outside the purview of being a Christian at all, because he does not belong to a denomination or a church or he contravenes the rules of a church. You tighten the definition in such a manner that he is no longer a Christian although he professes to be a Christian.

Shri G. G. Swell: But he may belong to another denomination the rules of which may permit him to marry.

Shri Jairamdas Daulatram: Suppose the witness were part of the Government running the administration of the country. He comes across a number of persons who believe in Christ and in the bible who carry out in their daily life meticulously all the instructions, principles and teaching of the bible. They do not believe in Krishna or the Mohammad or in the leader of any other faith. They say they are Christians who believe in the bible and Christ who do their prayers every morning before Christ. Suppose such people want to get married. The State cannot ask them to marry under the Hindu Marriage Act or the Muslim Marriage Act. The State must enable them to marry according to the Act which applies to people who believe in Christ and the Bible, and that is the Christian Marriage Act. What will the witness do if he were to run the State and has to deal with such persons of Christian faith?

Shri K. T. Thomas: If I am so placed, I will request them to resort to the provisions of the Special Marriage Act, continuing to profess Christianity according to their light. The Christian religion does not prohibit their profession. Their profession may continue.

Shri Jairamdas Daulatram: But they may like to call themselves Christians.

Mr. Chairman: We need not labour this point. We have understood the point of view of the witness.

Shri A. E. T. Barrow: The example of running a State when we consider religion is not quite relevant and it is not on all fours. Suppose we are having a game of cricket. Can somebody from outside come and say: "I want to join your game but I do not want your l.b.w. rule in this case"? If it is cricket, the l.b.w. rule is always there. If you do not want to follow that rule, do not come to us.

Mr. Chairman: That point is quite clear to us.

Shri G. G. Swell: In your memorandum you have prayed that your church may also be included in the group of recognised churches. Suppose we admit your prayer and admit or include the Mar Thoma Syrian Church and other ancient churches in Kerala in the list of recognised churches, would you be satisfied? What would be your objection to the principle of recognition if your church is included among the group of recognised churches?

Shri P. B. Patel: You have got certain customs and ceremonies in your church. Similarly, there are other customs in other churches. Those divergences must be there even in the case of degree of prohibited relationship in the case of marriages. Is there any provision in the Bill which would require a man to marry within the prohibited degree, as laid down in the Bible?

Shri K. T. Thomas: If the question is about a man being required to marry within the prohibited degree, I would say there is none in this Bill. This Bill does not require any person to marry. But if he marries within the prohibited degree of relationship, then this Act comes into play.

Shri P. R. Patel: My question is different.

Shri K. T. Thomas: Then I did not understand it.

Shri P. R. Patel: Looking at clause 2(m) and Schedule I in the Bill regarding prohibited degrees of marriage, is there anything in the Bill which would require a man to marry within the prohibited degrees laid down by the Bible?

Mr. Chairman: He has said that it does not cover all the points contained in the Bible.

Shri P. R. Patel: My question is quite different.

Mr. Chairman: We are not able to follow your question.

Shri U. M. Trivedi: One of the conditions to be fulfilled for solemnizing a marriage between two Christians is that the parties are not within prohibited relationship, unless the custom governing each of them permits of a marriage between the two. Prohibited relationship is enumerated in Parts I and II of the First Schedule. Is there any compelling provision that a man who does not want to marry within prohibited degrees obtainable in particular Churches should marry?

Shri G. G. Swell: Who can compel a man to marry?

Shri U. M. Trivedi: Therefore the answer to this question must be 'No'. If you want to observe the custom of not marrying your first or second cousin there is nothing in this law to compel you to marry.

Rajkumari Amrit Kaur: I would like to know your reaction or feelings to one thing. Nothing is contained in

this Bill with regard to a Christian marrying a non-Christian. There were some regulations in the old Act. Do you think that it is an omission in this Bill and would you like something of that nature to be included in this Bill? Your Church, I think, does allow a marriage between a Christian and a non-Christian.

Shri K. T. Thomas: My Church does not allow it.

Rajkumari Amrit Kaur: But there are Churches that do. What would be your reaction to it?

Shri K. T. Thomas: If a provision is embodied in this Bill to permit a marriage between a Christian and a non-Christian, provided that the amendments that I have placed before the Committee are accepted, I shall not quarrel with even that provision if it is there.

Shri G. G. Swell: Because you are not compelled to recognise that.

Mr. Chairman: His point is that recognition of the Church should be there.

Thank you very much. We have got a very clear idea as to what your opinions are and we shall certainly consider them.

Shri K. T. Thomas: Would the Committee desire me to put in writing the amendments that I have mentioned?

Mr. Chairman: We will be very grateful if you will do so.

(The witness then withdrew)

II. INDIAN PENTECOSTAL CHURCH OF GOD, KOTTAYAM.

Spokesman:

Pastor P. M. Philip.

(Witness was called in and he took his seat).

Mr. Chairman: Pastor Philip, you represent the Indian Pentecostal Church of God. I think your Church has already been examined.

Pastor P. M. Philip: The Indian Pentecostal Church has two groups. We represent the group in Kottayam.

Mr. Chairman: Within the Church is the division only regional or doctrinal?

Pastor P. M. Philip: The division is called disciplinary or is that of governance.

Mr. Chairman: That means to say that your rules differ.

Pastor P. M. Philip: Yes.

Mr. Chairman: We have got another request from the Pentecostal Church, Ludhiana, to give evidence.

Pastor P. M. Philip: That is different.

Mr. Chairman: We have got your memorandum. Could you just tell us in short the difference between the Indian Pentecostal Church which you represent and the Indian Pentecostal Church which was represented before us by Rev. P. T. Chacko and Rev. K. J. Samuel of Kerala? Before you answer it I may tell you that you have to state specifically whether you want your evidence to be treated as confidential. Unless you want it to be treated as confidential, it will be liable to be made available to Members of Parliament.

Pastor P. M. Philip: It can be made available to them.

Mr. Chairman: What is the difference between your Church and the Church represented before us by Rev. K. J. Samuel?

Pastor P. M. Philip: We worked together for the last many years. For two years there is a division in the church and these two groups are working on two different basis.

Mr. Chairman: What is the basis?

Pastor P. M. Philip: One stands for local independence of the Church. The other group stands for the central organisation.

Mr. Chairman: If you wish to state specifically any special points for consideration, you may do so.

Pastor P. M. Philip: Yes.

Shri U. M. Trivedi: You have strong objection to divorce. Don't you agree to the provisions regarding divorce in the Bill?

Pastor P. M. Philip: Madam Chairman and hon. Members.

May I have the freedom to justify what I say? First of all, I thank you very much for the privilege given to me to come and give evidence on behalf of the Indian Pentecostal Church which I represent from Kerala. Our group is an indigenous Indian Church. The Indian Church is not foreign in its origin. Ever since Saint Thomas, the Apostle, came to India we have an indigenous Indian Church. Therefore, the Christian Church in India is not foreign.

Next, the Christian group in India comprises of 2½ per cent of the population of India. Hence it is a minority group in India. Minority rights must be preserved and we maintain that Christianity is not western in its origin. It is not a foreign church or religion. It is originated in the Orient itself. The Holy Bible is the only guide for our faith and practice in our Christian life and conduct. It should not be adulterated by western demoralising ideas.

The present Bill has borrowed some ideas of the laws of the Britishers who made the laws in British India for their own benefit. Kindly do not force the same on the indigenous Indian free Christian churches which have their own culture.

By introducing such laws in the so-called Christian Western countries, they have multiplied broken families, divorces, orphans and illegitimate children and high percentages of suicide and bloodshed. Kindly throw away this western culture into the Mediterranean Sea and wash our hands.

The so-called Christian westerners have taught our Indian Christians to have collar and tie and to smoke and drink and now the old wolf in the sheep's skin is entering the Christian fold in India through the help of N.C.C. to demoralise the Indian Christian Churches by paving the way for divorce and exchanging of wives and husbands. Please do away with this western evil. It has already demoralised U.S.A. and Europe. We want only our old Bible way for marriage.

Divorce is almost unknown in Travancore and Cochin where we are Christians for 1900 years because we believe in the teaching of Jesus Christ that marriage is instituted by God for life-time. Hence we have better family life than Americans or Europeans have.

So, the Indian indigenous churches do not want this Bill which will demoralise the Indian Christians.

I would like to deal with the next point, namely, the recognition of churches. It is our submission that Chapter III must be totally changed or omitted, for, it is absolutely against the Fundamental Rights of the Indian Constitution, and it is against Articles 14, 15, 25 and 28 of our Indian Constitution.

By the eternal mercy of Almighty God the Indian Constitution has granted as the birth-right of every Indian citizen, liberty of thought, expression, belief, faith and worship.

It is our submission that this is against the Constitution because it is openly discriminating the small christian churches, for, they are not now recognised and the proposed five-man committee will not recognise them for most of them do not possess all the qualifications proposed in the Bill.

So, naturally, the small Groups must join the bigger churches against their own belief and practice and conscience. The bigger bodies will use this opportunity to fish in troubled waters as we see always in history.

Then, the question is: Should we, poor minority groups, escape for upholding our conscience and belief and worship, to some other part of the globe as the Puritans of old did by running away to America for which we are not ready? Our motherland's Constitution safeguards every citizen of India to practice and worship God according to his own faith and belief.

We believe that every individual Christian is a possessor of Christ and not a professor of Christ. Such a Christian is the living temple of God and his body, soul and mind is the Holy temple for God. We believe God is omnipresent, omnipotent and omniscient. He cannot be limited in a Church building. According to the teachings of Christ if two or three gather in His name He is present in their midst: Mathew 18:20. So, for, Christians, the shade of a tree or a house or a public hall or tent or even this particular room is as good a place of worship as conducting our religious ceremonies in a magnificent church building in Jerusalem.

The early Christians used to assemble in houses. See Philoman 1:2 Rom 16:5 and even in Catacombs. So in many places we conduct our services, in rented homes or sheds or halls, according to the financial ability of the local churches.

According to Clause 7 of Chapter III many of our indigenous churches cannot get recognition. So, we will be openly discriminated because of our faith and we are denied equality. So, we need protection according to the Constitution, for which this chapter must be totally removed.

There are three forms of Churches' governments, Episcopal, Presbyterian, and congregational. Why should a secular State like India discriminate congregational churches and presbyterians and give prominence for episcopal people?

According to the teachings of Christ Matt. 23.8-12, there is no one to be called father; all are brothers. But we

believe that minister is called by God and given by God to minister the humanity. So, in our church, we have ministers and apostles, we have teachers and we have evangelists. So, if recognised ministers are only given the freedom we will be in trouble. So, every minister of the christian groups must have the full right to solemnize for their members' marriages according to their own faith.

As regards prohibited degrees of relationship we follow the Holy scriptures in Leviticus 18-6-17. This should not be changed by any christian Pope or any other person in the whole world. A secular State should take off its hands in this matter because this is considered a sacramental thing instituted by Christ and the State should, therefore, not interfere in what is considered sacrament of the church, subject to public order, morality and health and these must be according to Fundamental Rights in Articles 25 and 26. We do not want anything which is not subject to public order, morality and health.

As regards licence for ministers, Government does not demand other communities to have licence. Priests, for instance, do not obtain licences. According to section 7 of the Hindu Marriages Act, a Hindu marriage may be solemnized in accordance with the customary rites and ceremonies. If this can be allowed in the case of Hindus, why has such a clause been substituted in this Act? Ministers should, therefore, be at liberty to solemnize marriages without obtaining licences. Otherwise, we say that it is directly discriminating. We, christians, say that this is against the Constitution of India. In Chapter IX, Clause 56(2) and also in Chapter X, clause (70), what a gulf of inequality for the christian ministers of the christian church! This is gross injustice and equality is openly denied. A licensed minister is not allowed to object a marriage. If he objects a marriage, he will be punished under Indian Penal Code for one year's imprisonment and for a fine. On the other hand, a recognised church

minister could refrain from conducting such a marriage because it is against the church rules. These small groups, even if given licence, have also our church rules and we also have conscience. If two partners come for a marriage to a licensed minister in a small group and if that marriage is according to the custom and Bible of the particular group he belongs to, then only because he is a licensed minister, he is not safeguarded and he has to be punished. On the other hand, a bigger group church minister can refrain from marrying that person because of his conscience and because of the rules of the church. This is . . .

Mr. Chairman: We follow the discrepancy. You need not elaborate.

Shri A. M. Thomas: Please be brief.

Pastor P. M. Philip: Yes, I shall be brief. As regards divorce, read Mathews 19, 1-9. Christ has spoken explicitly against polygamy and divorce. Christ has definitely said that polygamy is wrong and divorce cannot be accepted. Christ is the only authority for the christian church. The teachings of Christ cannot be altered. We value the teachings of Christ more than our lives. So, we cannot advocate divorce under any circumstances.

Shri G. G. Swell: You cannot advocate?

Pastor P. M. Philip: Under no circumstances we advocate divorce.

Shri G. G. Swell: In your memorandum you say that husband and wife are bound by eternal laws of God and no divorce can be asked for except in the case of adultery if the party concerned so desires.

Pastor P. M. Philip: I will explain that. That wording is wrong. The word should be fornication. There are two different things.

Shri G. G. Swell: So, you want to change the word?

Pastor P. M. Philip: Fornication refers to sexual intercourse committed

before the actual marriage, which means, during the period of engagement. If such a thing happens, the party asks for the freedom to divorce. That is our stand in this matter.

Rajkumari Amrit Kaur: How do you have divorce before marriage?

Pastor P. M. Philip: What I said can happen when a person is only engaged.

Then, coming to sickness, I want to say that when we take our oath in the name of God before the Alter in our church, we do not merely say that we will live together in health alone. We say that we will live together both in health and in sickness. This is the oath which we have been taking for centuries and therefore this cannot be altered. So, if a partner becomes sick, that is no reason to get rid of the marriage itself. Christ has said that the husband and wife are like the head and body. Suppose, you get some pains in the body. That does not mean that you should cut your head from the body.

Shri G. G. Swell: Where is it said in the Bible that it is like head and body?

Pastor P. M. Philip: The Bible says so. Ephesians 5, 23 to 31 say that.

Shri A. E. T. Barrow: I think he accepts that.

Pastor P. M. Philip: Since he has asked me that question, I will read it.

Mr. Chairman: Let him read that portion.

Pastor P. M. Philip: It reads as follows:

"23. For husband is the head of the wife, even as Christ is the head of the Church and he is the saviour of the body.

25. Husbands, love your wives even as Christ has loved the Church and gave himself for it.

26. That he might sanctify and cleanse it with the washing of water by the word.

27. That he might present it to himself a glorious Church not having spot or wrinkle, or any such thing; but that it should be holy and without blemish;

28. So ought remain and love their wives as their own bodies. He that loveth his wife loveth himself.

29. For no man ever yet hated his own flesh; but nourisheth and cherisheth it, even as the Lord the Church.

30. For we are members of his body, of his flesh, and of his bones.

31. For this cause shall a man leave his father and mother, and shall be joined unto his wife, and they two shall be one flesh.

32. This is a great mystery; but I speak concerning Christ and the Church.

33. Nevertheless let every one of you in particular so love his wife even as himself; and the wife see she reverence her husband."

Shri G. G. Swell: Where is the head of the body?

Mr. Chairman: Let him first continue.

Pastor P. M. Philip: When there is some difficulty for the body either due to sickness or physically, inability we do not cut off the head and join it to another body to fit in. Similarly when a man is married, they are eternally united until they are separated by death. Whether it is a question of insanity or sickness we believer in the prayer to personal God for their cure. If a partner is sick, God who hears the prayer heals it. Further if life is not more than eating and drinking and fulfilment of sexual desires, man is still in the realm of beasts in the forest. If life is in that realm, man is not. Sometimes life may be smooth and sometimes it may be hard. There will be valleys and Hills. Both the husband and wife lead a family life. Sometimes one may get sickness in life for a short time or may be for

a longer time. That must be taken patiently. The partner of life must have the patience to serve the other. One partner serves the other in times of troubles.

Mr. Chairman: Your point is that under no circumstances divorce should be allowed? Is it correct?

Pastor P. M. Philip: Yes, Sir. Divorce is allowed only if fornication is proved.

Shri Sonavane: Are you concluding it?

Pastor P. M. Philip: Having come all the way from Kerala I would like to explain my points of view before the Committee fully. I would require a little more time. I shall come to the next points and then I shall conclude.

Mr. Chairman: We shall not cut short your time. You may proceed.

Pastor P. M. Philip: No divorced person can be united again for it is against the Bible. (Read 1 Cor. 7:10, 11. Rom. 7:1-2). If a person is divorced, he should not marry again. This is the teachings of the Bible. No one will marry if a partner is living. When the partner is dead, then the party is free to marry again. As long as the partner is living, the Bible does not allow a Christian to marry again.

Mr. Chairman: You do believe in the theory of resurrection.

Pastor P. M. Philip: We believe in the resurrection. We do not give in marriage. That is true. It is celestial. In the terrestrial world, we have marriage and family life. Similarly there is no family or marriage life here in the Celestial world. The minister who stands for the truth of the Bible can never re-marry a divorced person. But, according to the rule in this Act, if two parties who have mutually consented to the divorce and one of whom comes before the minister to get married, the law allows this. But the Bible does not allow this. Minister, according to

his conscience and according to the teachings of the Bible, cannot marry that person. But in that particular case he is also liable for a punishment of one year and the fine. So, we cannot allow that. If that is done, it is a discrimination and we are not given the equality of rights. The Constitution specifically says that all persons must have equality of rights. All persons means even the people living for the truth of the Bible. We must be safeguarded. We come here to request for safeguarding us from this Act.

Rajkumari Amrit Kaur: One other witness has suggested a change in the definition for the Church building. Have you got anything to say regarding this? Would you require any change to be made in the First Schedule of this Act?

Mr. Chairman: May I request Rajkumariji to ask for the specific amendment a little later? Let him first proceed and say what he wants.

Pastor P. M. Philip: If divorce is brought forward to our religion, we oppose that. Religion is the concept of every individual. If a person who has already joined in matrimony changes his religion, as long as the party agrees to live together, there is no question of divorce. The Bible does not allow us this because the other party has changed the religion. If this is allowed, many people may be jumping from one religion to another after remaining as a Christian for two or three years and then marry a girl in another religion.

Mr. Chairman: It is not allowed under the new Act. No bigamy is allowed.

Pastor P. M. Philip: If he changes the religion he can divorce. He can find out the loopholes by just changing the religion and go in for any number of wives in his lifetime. This will demoralise the great standard which we are keeping for all these years. We should not adopt western system to be followed here. This will lead to demoralisation. We are requesting the

hon. Members of this Committee not to put it in the Act. I also propose the remedies for it. Article 44 of the Constitution states that the State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India. During the days of English people, the policy was to divide and rule. In those days, they encouraged Hindu water, Muslim water, Hindu well and Muslim well because they had the idea to encourage division. But Indian Union stands for unity. Why not we have a uniform Civil Code for marriage for all Indians, like Births and Deaths Registered irrespective of the Church or religion before a Government Officer or a Civil Officer? In the same manner, let there be an Officer in Civil Panchayat in every town for the civil side. Let the Officer on the civil side see whether anyone can be allowed to marry. If that particular Officer on the civil side finds it all right, let him give a licence to have the marriage solemnized within three months' time. Let him take that licence to any minister whom he wants in his denomination to have that marriage conducted according to his own believe and customs. Let the minister countersign the certificate and send a copy of the same to the Office and keep a copy to himself. Likewise every church which conducts the marriage needs only to countersign the licence given by the Officer as this will solve the problem. This is my proposal for remedy. In connection with that, I say that prevention is better than cure. The Officer whom I have proposed should call for the partners for the marriage to give evidence, I think it is my personal opinion or my church's opinion, to the effect that he can produce a medical certificate from an authorised medical attendant that he does not have any incurable diseases or venereal diseases. By securing such a certificate, it can be one of the conditions for keeping back the marriage. Thus, the civil side is also satisfied. The Officer concerned can now give a licence and the party can marry according to his own culture, and cus-

toms, in his church, mosque or temple or wherever it may be. So this is my remedy for the whole matter.

And in conclusion I would like to suggest:

- (1) Drop all provisions for the recognition of churches and licensing of ministers;
- (2) Drop all provisions for dissolution of marriage except on the ground of fornication before marriage;
- (3) Include all persons prohibited under Leviticus, Ch. XVIII, in the list of prohibited degrees in the schedule;
- (4) Give freedom to all churches and denominations and groups, irrespective of strength, to have their own canons and rules in the matter of prohibited degrees and solemnisation of their marriages and to enforce these canons and rules in regulating matters between members of their own denominations.

Thank you, Madam Chairman and distinguished Members, for giving me this attention to hear our grievances and our opinions on this matter.

Mr. Chairman: I want to ask you one question before other Members put questions. In para 10 of your memorandum you say, "We suggest that the Indian Christian Marriage Act, which is now in force and which has clearly proved to be most adequate, be continued".

Pastor P. M. Philip: It was in force only in British India, but in Travancore-Cochin it was not in force.

Mr. Chairman: That means it should not apply to Travancore-Cochin but should apply to the rest of India?

Pastor P. M. Philip: Though it was the law in force, as long as it is not amended we cannot say anything in the matter.

Mr. Chairman: I was thinking that you perhaps have no objection to the

clauses of the Indian Christian Marriage Act. Your point is that it should remain, and your second point is that it would not apply to Kerala in any case.

Pastor P. M. Philip: We in Kerala have the original Indian culture. We want that to be continued.

Rajkumari Amrit Kaur: Would you suggest any amendment in regard to the definition of "church building" to which you object?

Pastor P. M. Philip: We have no objection to the buildings if the local churches can afford them. But we do not believe that building is a temple of God; it is only a place to preserve persons from the weather.

Shri P. R. Patel: You referred to Hindu Law and cited one section. You said that a Hindu is allowed to have his marriage performed according to his customs. But you will agree that there is nothing in Hindu Law which would restrict a man to have his marriage performed in a different way from the custom followed by his father and forefathers?

Pastor P. M. Philip: As far as my knowledge goes, what I mean is that according to Hindu Law . . .

Mr. Chairman: I think, Mr. Patel, we are getting involved in questions which are not really relevant. Because, how is he expected to propound what is in the Hindu Law?

Shri P. R. Patel: Then why should he refer to it?

Mr. Chairman: The point he mentioned was about recognition of minister.

Shri P. R. Patel: Then another thing. Would you be satisfied if all the rights regarding marriage which are enjoyed by Hindus are conferred on Christians, with no discrimination absolutely?

Pastor P. M. Philip: What we say relates to the civil side, not the religious side. I mean the civil side

of the marriage. We believe marriage is a divine institution instituted by God.

Shri P. R. Patel: You talked of discrimination. So I am putting this question. If whatever rights and privileges the Hindu has under Hindu Law regarding marriage are given to Christians there would be no differentiation, is it not?

Pastor P. M. Philip: What I mean is this: the sapthapadi or taking seven steps. . . .

Shri P. R. Patel: I am putting a simple question.

Mr. Chairman: What is your exact point, Mr. Patel?

Shri P. R. Patel: He is talking of discrimination and says "Hindus are given these rights and we are denied these rights" and so on.

Pastor P. M. Philip: Only one right I referred to.

Shri P. R. Patel: So, regarding marriage, if whatever rights are enjoyed by the Hindus are conferred on Christians would you be happy?

Shri G. G. Swell: In the case of solemnisation of marriage, so far as Christian ministers are concerned they require. . . .

Shri P. R. Patel: I want his explanation.

Mr. Chairman: He made only one point, on the question of licensing of minister, that our Brahmins do not require licence. One can answer that point, because this is a completely different structure.

Pastor P. M. Philip: That is the only point I made.

Shri U. M. Trivedi: You are the first witness who has been very straightforward in his assertion that we do not want any divorce under any circumstances. Am I right?

Pastor P. M. Philip: Yes.

An Hon. Member: He does not know whether he is the first witness to say that!

Shri U. M. Trivedi: The question is this. Notwithstanding the fact that you as a very religious minded person do not want divorce because your religion does not permit divorce, do you still not feel that there is a necessity for divorce in the modern world under the present social structure obtaining in India?

Pastor P. M. Philip: Excuse me. Under the Special Marriage Act a man who does not believe in the Bible or God can go to the civil court and get his marriage done in the civil court and get divorce when he wants. Why should he come to the Christian church which believes in the Christian Truth?

Shri U. M. Trivedi: The Special Marriage Act does not come to help where a man has not preconceived the position that he may have to obtain a divorce. Where the marriage is performed even in the most religious manner in the Christian church, difficulties arise. And when these difficulties arise, do you want to stand in the way of a man or a woman who is so much harassed, to obtain a divorce in the present-day society? Do you still maintain that?

Pastor P. M. Philip: My stand is still biblical.

Shri U. M. Trivedi: Your stand is biblical? Thank you.

Shri P. A. Solomon: The witness discussed that the existing Indian Christian Marriage Act is not applicable in Kerala State generally.

Pastor P. M. Philip: It was not applicable to us.

Shri P. A. Solomon: In Cochin and Travancore, of course. But your Church is registered in Andhra Pradesh and the same Act was in force in Andhra Pradesh.

Pastor P. M. Philip: Yes, it was forced on the Christians who were

living in British India but was not applicable to those living in the Indian States. Now this is coming as an Act for the whole of India and that is why we are pointing this out.

Shri P. A. Solomon: You cannot say that it was not applicable throughout the country. You can say that it was not applicable to the people who belong to your Church.

Pastor P. M. Philip: I do not follow.

Mr. Chairman: He says to those in Andhra, the Indian Christian Marriage Act was applicable and that has proved adequate. You are prepared to accept it for those people, but when it comes to the other people in your area, you say, it should not be so.

Pastor P. M. Philip: Yes.

Shri Joachim Alva: You said at some stage that you are denied equality. How do you say that?

Pastor P. M. Phillip: Because a licensed Minister will be appointed and if he does not conduct a marriage because it is against his. . .

Shri Joachim Alva: That is with reference to Hindu priests. Anything else?

Pastor P. M. Phillip: There are other things. We are a small group. We are not recognised. We are not given equality like other bigger groups which are recognised.

Shri Joachim Alva: We are all Christians. How do you say that?

Pastor P. M. Phillip: I mean equality in giving authority to solemnise marriages. We are small groups. While bigger groups are given authority to solemnise, we are not given equality.

Mr. Chairman: He made the point that if a licensed Minister does not solemnise a marriage he comes under the penal clause while in the case of recognised Church, they have clause 70. He says this is discrimination.

Shri Joachim Alva: You said there is no divorce among Christians! This is only in regard to your area?

Pastor P. M. Philip: Almost unknown. I do not say completely.

Mr. Chairman: What about the Anglican Church?

Pastor P. M. Philip: I said in our Church.

Shri A. E. T. Barrow: Our Church does not recognise that.

Shri G. G. Swell: There are a few sentences in your Memo which appear to be a bit vague. For example, in para 3, referring to 6(a) you say:

“The recognition of Ministers by Government to solemnise marriages in their own churches or prayer halls should be continued as at present.”

Pastor P. M. Philip: In Kerala, a Minister is allowed to have the marriage in a rented house or public halls which they rent for the purpose. They are given the privilege to do it. They must be allowed to do it.

Shri G. G. Swell: The Bill says that: Marriages may be solemnised under this Act by any Minister of a recognised Church. What are you objecting to?

Pastor P. M. Philip: Our groups are small. They may not be recognised.

Shri G. G. Swell: We are not talking of the principle of recognition now. If you say that you are objecting to the principle of recognising some Churches and not recognising others, that is a different thing altogether.

Pastor P. M. Philip: I refer to Chapter III-clause 6(a).

Shri G. G. Swell: You mean to say that the principle of recognition should be taken out.

Pastor P. M. Philip: Yes.

Shri G. G. Swell: What do you mean by imperialistic Churches?

Pastor P. M. Philip: Those Churches which are being helped and controlled by western big bodies.

Shri G. G. Swell: How are they imperialistic, I do not know.

Pastor P. M. Philip: To my mind...

Shri G. G. Swell: You say in para (a):

“In the absence of any specific rules in the Act for the committee to judge the ordination of Ministers, how can they determine the ordination of particular pastors and recommend the same to Government for recognition.”

Which part of the Bill are you referring to?

Pastor P. M. Philip: Chapter III.

Mr. Chairman: The clause which relates to the licensing of Ministers.

Shri G. G. Swell: I do not think anywhere in the Bill there is anything like that.

Pastor P. M. Philip: In Chapter III, there is provision for that.

Shri G. G. Swell: This is recognition of Church.

Mr. Chairman: It will apply in the case of licensing.

Shri G. G. Swell: What is there to object?

Pastor P. M. Philip: Five men will be appointed by the Government from the bigger Churches.

Shri G. G. Swell: Why do you assume that? You do not know.

Pastor P. M. Philip: That is what we fear. In the Christian Churches, one body does not recognise the ordination of another body. We are not episcopal Churches.

Shri G. G. Swell: Here it says, whether, according to the rules of the Church,—rules of the particular Church.

Mr. Chairman: You have ordination?

Pastor P. M. Philip: Yes, we have. We do not have the episcopal...

Mr. Chairman: Are there any Churches which do not have ordination?

Pastor P. M. Philip: There are.

Mr. Chairman: There can be a pastor without ordination?

Pastor P. M. Philip: A group of believers join and ordain. Not by a Bishop; they themselves ordain. Congregational Church.

Shri G. G. Swell: The congregation is the authority.

Pastor P. M. Philip: What we fear is that it will not be accepted by the bigger Churches. They stand for the episcopal.

Mr. Chairman: I do not think there is any reason. Of course, there is the fear that bigger Churches will dominate in the committee. As far as the clause goes, it is according to the rules of that Church; to find out whether ordination is all right or not.

Pastor P. M. Philip: It will be on the ground of long standing and strength of the Churches.

Shri G. G. Swell: We are talking about this clause.

Pastor P. M. Philip: I am talking of the whole Chapter. We are afraid about the whole Chapter.

Mr. Chairman: You are afraid that recognition will not be given to you.

Shri G. G. Swell: I think your fears are a little bit unfounded.

Shri M. C. Shah: You have stated in your memo that the Indian Christian Marriage Act of 1872 has stood the test of time and it is adequate. Even then, you do not want that Act to be made applicable to your Church. You also do not want that the Bill that we are discussing today should

be made applicable to your area. What will be the resulting position? You do not want any law?

Pastor P. M. Philip: We are always law-abiding people. When the law was made by the British, we did not have fundamental rights. We were slaves and the Britishers were imposing their British laws upon us. Today, we are a free nation. We are having fundamental rights; we have freedom of speech, freedom of conscience, freedom of worship. That is why hon. Members have given me an opportunity of coming here and presenting our grievances. At the time of the Britishers, we were not given the chance to come and voice our grievances. We did not have fundamental rights. In these days, why should we bring in a law which was passed in the days when we did not have fundamental rights? Why should we not make a law today in free India for the need of the hour?

Shri M. C. Shah: The question is this. In spite of the fact that the Christian Marriage Act of 1872 was passed in British times, you have already said that it was very adequate and it has stood the test of time. The question is, why should that Act not be made applicable to your area. That is one.

Further, ours is a country in which we are all law-abiding citizens, and we are all governed by laws. This Bill is being discussed by this committee now, and ultimately it will be passed into an Act. Even then, you do not want that this Bill when enacted should be made applicable to your area?

Pastor P. M. Philip: We are law-abiding citizens of India, and we want to abide by law. That is the reason why we have come here to place our grievances before you before this Bill is made into law.

Shri M. C. Shah: You are welcome to put forward your grievances, but you should also realise that Parliament has the right to enact laws.

Pastor P. M. Philip: Parliament has the right to enact laws, according to my knowledge, in accordance with the Constitution of India.

Shri M. C. Shah: We are governed by the Constitution. But the position is that you do not want any law to govern your church regarding marriages.

Pastor P. M. Philip: We want to be governed by a law according to the Constitution of India.

Shri M. C. Shah: Everybody is governed by the Constitution. Whatever law is enacted has to be in accordance with the Constitution. So, if we pass the law, why should you object to that law being operative in your area?

Mr. Chairman: According to his understanding of the Constitution, this law is *ultra vires*. There is no point in discussing it now. We are not the Supreme Court to decide that issue now.

Shri T. H. Sonavane: The witness should also realise that the fundamental rights can be circumscribed by reasonable restrictions. Does he agree to that?

Mr. Chairman: Why should we argue this point now.

Shri T. H. Sonavane: He says that it is a question of the fundamental rights, but the fundamental rights are circumscribed by reasonable restrictions. Does he realise that?

Pastor P. M. Philip: Yes, I quite understand that.

Mr. Chairman: We have already heard his point of view. There is no point now in discussing what the restrictions can be and so on.

Shri Joachim Alva: Forgive me for asking this question. Has your Pentecostal Church enough places of worship? This question arises out of clause 7(2)(iv). Has your Church enough proper places of worship?

Mr. Chairman: According to him, any place, whether it is a house or a hall is a proper place of worship.

Shri Joachim Alva: That is theoretically right. I want to know what the actual practice is.

Pastor P. M. Philip: We are free to worship in private homes, in pandals, and even under the shade of a tree. All places are equal to us because we believe that God is omnipresent.

Shri Joachim Alva: How many have got proper church buildings?

Pastor P. M. Philip: Only a very few have proper buildings.

Mr. Chairman: Thank you very much for your evidence.

(The witness then withdrew)

III. THE ORTHODOX SYRIAN CHURCH OF THE EAST, KOTTAYAM

Spokesmen:

1. The Rev. Fr. K. C. Thomas,
2. Shri M. Abraham.

IV. ST. MARY'S SYRIAN CHURCH, ERNAKULAM

Spokesmen:

1. Shri M. Abraham,
2. Shri Joseph.

(Witnesses were called in and they took their seats)

Shri M. Abraham: The Rev. Fr. K. C. Thomas and myself represent the Orthodox Syrian Church of India. Mr. Joseph and myself represent the Ernakulam Parish Church.

While I represent the Orthodox Syrian Church of India, I have also to represent the Ernakulam Parish Church, whose representatives are scheduled to give evidence on the 18th instant. My name is mentioned in the list of representatives to come on the 18th instant also.

Mr. Chairman: Could we not request you to give your evidence today itself?

Shri M. Abraham: Yes, I shall be glad to do so.

Shri A. M. Thomas: I might mention that Rev. Fr. K. C. Thomas is also the Vicar of the Delhi Orthodox Church.

Mr. Chairman: Are we to take it that the Syrian Church exists throughout India?

Shri M. Abraham: Yes.

Mr. Chairman: We have received the memoranda of both the associations, namely the Orthodox Syrian Christian Church of India and also the St. Mary's Syrian Church, Ernakulam. And we have all read them carefully.

If you have got any points to urge, you can do so.

Shri A. M. Thomas: The two memoranda are more or less on the same lines.

Shri M. Abraham: Except for items 7 and 8, the two memoranda are identical.

Shri T. H. Sonavane: When they represent two different churches, will their views be the same?

Shri M. Abraham: We are the same church. Ernakulam is a parish, one of the units of the main church.

Mr. Chairman: What will be the strength of your congregation?

Shri M. Abraham: About 12 lakhs.

Shri G. G. Swell: You recognise marriage as one of the seven sacraments. What are the other six?

Shri M. Abraham: Baptism, confirmation of the Holy Moron, the Holy Mass or kurbana, sacrament communion, ordination of priests and high priests, marriage and the extreme unction.

Shri G. G. Swell: Do you permit judicial separation?

Shri M. Abraham: On proper grounds, almost analogous to the grounds given in the Bill.

Shri G. G. Swell: You say your church is not registered under any Act.

Shri M. Abraham: For 2,000 years this church has been in existence without any registration. 12 lakh people have been getting on without registration. Marriages were conducted and solemnised, properties were acquired and sold. We have been continuing without any sort of registration for 2,000 years.

Shri G. G. Swell: Do you mean to say that your church should not come under the law of the land?

Shri M. Abraham: Our church is more or less a juristic person recognised as such capable of owning properties, suing and be sued.

Mr. Chairman: You mean the State should have nothing to do with your church and there should be no legal binding which we apply to churches?

Shri M. Abraham: We do not claim that. To the extent fundamental rights have been guaranteed under the Constitution, we would like to preserve that. To any other extent, where the State wants us to cooperate, we are there.

Shri G. G. Swell: What is your objection to registration which does not conflict with your rules and practices?

Shri M. Abraham: The other communities in India have not been called upon to register themselves, e.g. Hindus and Muslims. Moreover, it is impracticable with 12 lakhs.

Rajkumari Amrit Kaur: Do you think that the present Bill is an inroad on your fundamental rights?

Shri M. Abraham: Certainly. Ours is a church recognising marriage as a sacrament. It is a matter of our faith.

Mr. Chairman: Could you say more specifically how this is an inroad on your fundamental right to worship?

Shri M. Abraham: Freedom of religion guaranteed under article 26 to manage our own religion is being violated. This is a matter concerning our faith, practices, dogmas and tenets.

Mr. Chairman: Which particular clause goes against it?

Shri M. Abraham: For instance, the chapter on divorce. For us, marriage is a sacrament, a matter of faith. An inroad into that will constitute an infringement of our fundamental rights. Under a Supreme Court decision, even the practice of religion is guaranteed.

Mr. Chairman: Divorce is not enforceable; it is only permissive legislation.

Shri M. Abraham: The effect of that will be that if divorce is allowed under law and it is not recognised, there will be difficulties.

Shri G. G. Swell: Suppose we make a suitable amendment giving you the liberty not to recognise any marriage or divorce, what is the objection?

Shri M. Abraham: You mean that the Church is to be allowed to carry on its own worship, faith, doctrine, discipline etc. and that this will not be an inroad into that?

Shri G. G. Swell: There is no question of inroad. We allow you full liberty to carry on your practices, solemnise marriage according to your rites and practices and we also allow you not to recognise any marriage that conflicts with your rites and practices. What is the objection then?

Shri M. Abraham: If a divorced person is to be treated as a member of our church, we cannot do that.

Shri G. G. Swell: You need not.

Shri U. M. Trivedi: Do you maintain that you will have the right to excommunicate such persons who are

divorced persons even though they are Christians of your denomination, that is to ostracise them?

Shri M. Abraham: We have got the liberty guaranteed under the Constitution to enforce our own discipline on our members, to ostracise people on proper grounds.

Shri A. M. Thomas: Yours is the largest Church in Kerala next to the Catholic Church.

Shri M. Abraham: Yes.

Shri A. M. Thomas: Yours is an episcopal church?

Shri M. Abraham: It is purely episcopal.

By virtue of ordination, one of the powers which priests and high priests get is to solemnise marriages.

Shri A. M. Thomas: There is no question of any recognition and further licensing.

Shri M. Abraham: By virtue of their office, priests, high priests, including bishops, archbishops, metropolitans and Catholics are entitled to solemnise marriages. There is no question of superimposition of registration.

Shri A. M. Thomas: And this has been going on since when?

Shri M. Abraham: Ever since the inception of Christianity, for 2000 years, uninterfered with by legislation.

Shri A. M. Thomas: So you are against recognition of churches for the purpose of marriage and also licensing.

Shri M. Abraham: That is so.

Mr. Chairman: Your Church also exists in other parts of India, and the Indian Christian Marriage Act has applied to the constituents of your Church who were in the rest of India. If you have been able to keep your faith in tact with the full rights of divorce given under that Act, what is

your objection to such an Act being passed now?

Shri M. Abraham: Though it was technically made applicable to us also, no case has come up before the courts as yet for testing its validity.

Mr. Chairman: What is new in the situation that has developed that a community, to which this has applied for so many years, suddenly says that this will harm their rights and worship?

Shri M. Abraham: People of our Church in other parts of India were in small numbers, and there was no occasion to test the validity of this Act and its applicability to them.

Mr. Chairman: I know the Catholic Church a little better than your Church. If this Indian-Christian Marriage Act is applied to the Catholics without being considered an inroad on their religion and has not changed very fundamentally what they believe in or the discipline of that Church, how do you consider it a fundamental attack on your rights and that it will change the discipline of your Church?

Shri M. Abraham: Our rights are not dependant on the Roman Catholic Church. Our rights have been guaranteed by the Constitution, and we stand by it.

I may refer to paragraph 11 at page 12 of the Fifteenth Report of the Law Commission, where it is said that it has been held by the Supreme Court that religion includes not merely matters of doctrine and belief, but also practices which are regarded by the community as part of its religion.

Mr. Chairman: They also say that Churches cannot be compelled to adopt rules for solemnisation of marriage different from those sanctioned by their usage. That is granted in this Bill also. You are not forced to accept any rules for solemnisation of marriage different from those sanctioned by usage.

They further point out that they have to recognise two different modes

for solemnisation of marriages, one for Ministers of the established Churches and another for other Ministers of religion. They say that the former must be left to be governed by usage, while the latter will have to be regulated by statute.

Shri M. Abraham: The Supreme Court has clearly held that religion includes not merely matters of doctrine and belief, but also practices which are regarded by the community as part of its religion, so that it is not merely a question of usages. So far as my Church is concerned, it has codified canons governing the matter, and we treat it as part of our religion, so that it is a question of maintaining our practices and religious tenets. It is not merely a question of custom. Whatever the community considers to be part of its religion is included in the term religion.

Shri A. M. Thomas: Apart from the question whether the Bill is *intra vires* or *ultra vires* of the Constitution, what are the specific points that you want to urge to improve the Bill or amend it?

Shri M. Abraham: I have certain suggestions on the Bill.

Shri G. G. Swell: You are opposed to a marriage by a marriage registrar?

Shri M. Abraham: Our church is opposed to it.

Shri G. G. Swell: Who will solemnize the marriages?

Shri M. Abraham: The priest or the high priest, that is the bishop.

Shri G. G. Swell: What about the licensed minister?

Shri M. Abraham: We do not have licensed ministers.

Shri Mathew Maniyangadan: Please make suggestions for modification and alterations or amendments if any.

Shri G. G. Swell: You have prayed that your church too should be included in the group of recognised churches. Suppose that is conceded, if your

church is recognised or is given recognition, would you waive your objection to the principle of recognition?

Shri M. Abraham: It is not a question of waiving my right.

Shri G. G. Swell: Your objection is to the principle of recognition.

Shri M. Abraham: It is not a question of any benefit being conferred on us. We oppose it on principle.

Shri G. G. Swell: If you have opposed the point on principle straightway, there would be no doubt about it. But your prayer gives us the impression—

Shri M. Abraham: The idea is that we oppose the scheme altogether, but in case the Parliament thinks it proper to proceed with the Bill on these lines we pray that our community which has a recognised church should be included, that is, our church should also be included. The first objection is that this should not be done on principle.

Shri A. M. Thomas: So you are against any distinction between a recognised or a non-recognised church. That should be done away with. If, for any reason, there is going to be a schedule of recognised churches, you say that your church should also be one of those recognised churches.

Shri M. Abraham: Yes. I will have to give some suggestions also.

Rajkumari Amrit Kaur: You are also opposed to the suggestion on principle that there should be licensing of ministers competent to perform marriages according to the church.

Shri M. Abraham: Yes; it means a discrimination in the sense that the priests or *purohits* of other communities are not called upon to take out a licence, and so why should the priests in the Christian community alone take out licences?

Rajkumari Amrit Kaur: You said you are opposed to marriage by a marriage registrar. Does that mean

that you are opposed to any system of civil legislation for marriages? If a member of your church were to go in for a civil marriage, you would have the right not to administer to him the sacrament or give him any other benefits that he is entitled to if he were a full member of your church.

Shri M. Abraham: We do not mind the freedom being given to members of a community to marry under the Special Marriage Act.

Shri Joachim Alva: You have got 950 parish churches which means you have got about 4000 ordained priests. How many years' course does it take to ordain a priest at your seminar?

Shri M. Abraham: Five years. After the school course, they have to pass the Intermediate Examination, and then undergo five years' course at the theological seminar; that is the minimum qualification for becoming a priest.

Shri Joachim Alva: You said you object to licences for priests. You know amongst Christians there is a register of births as well as marriages kept for years. You also plead for literacy. You know that Christians have a better record of births, and deaths, marriages and divorces than any other community. Is it true or not?

Shri M. Abraham: It is true.

Shri Joachim Alva: What is the objection if you also allow the taking of licence by a minister?

Shri M. Abraham: Who is to administer is a matter to be decided by the church itself.

Shri U. M. Trivedi: What we grant you is a licence. We do not decide who is to be the minister. The decision as to who will or will not be a minister is left in your hands. The Government simply licenses a minister to concur with the provisions in clause 11 that the marriage should be performed before a minister of a recognised church. If your church is

recognised certainly your minister will be able to perform the marriage without obtaining any licence. But you object to a licence being given to a minister.

Rev. Fr. K. C. Thomas: You are giving the right to the Government or some other authority to decide who shall be the minister.

Shri U. M. Trivedi: We will not decide about a minister.

Rev. Fr. K. C. Thomas: Who among the ministers should alone do it?

Shri U. M. Trivedi: That is for you to decide.

Rev. Fr. K. C. Thomas: That is not made clear in the Bill. My point is that all ministers who are ordained under the rules of the religion to solemnize marriages should be allowed to do so without any imposition from others.

Shri U. M. Trivedi: There is no difference between a minister of a church and others whom you call a minister. You will not have two categories. In recognised churches you will have ministers. We are not going to license them. They will automatically perform marriages. But the license is needed for any minister of church licensed under section 8.

Rev. Fr. K. C. Thomas: We have specific qualifications for becoming a priest. As I have already submitted, he must have a proper theological training and education. Besides, he must have the ordination of the imposition of hand by which we believe the whole grace of marriage is attained. The priest is the means through which the whole grace of the spirit of God has transcended into the couple, so that it is not to be left to the State to decide who will be the means through which the whole grace is being imparted.

Shri U. M. Trivedi: You agree to the provisions of clause 11, but you do not want to agree to the provisions of clause 12.

Rev. Fr. K. C. Thomas: I am opposed to licensing of ministers.

Shri U. M. Trivedi: We are providing in this Bill for marriages to be solemnized among Christians. Once we say that it should be solemnized under this Act by any minister of a recognised church, he need not be licensed. The question of licence comes up in the case of particular denominations of churches to apply for a licence or not to apply. What objection do you have for a licence being given to some people who come to us and who get a licence as ministers? What is the exact objection?

Under clause 11 we have a provision that marriages should be solemnized under this Act by any minister. The second provision is that when a marriage is solemnized by a licensed minister, a particular procedure comes up. There is a difference between a marriage to be performed by a minister and by a licensee.

Rajkumari Amrit Kaur: The license is given by the State.

Shri U. M. Trivedi: So far as they are concerned, they need not take out a licence. Still, they would be authorised to solemnise marriages.

Rajkumari Amrit Kaur: They object to the recognition in principle. But if the Act is imposed upon them, then they will want their church also to be included in the schedule.

Shri U. M. Trivedi: Once they are recognised, the marriages can be solemnised by the ministers of that church without any licence.

Mr. Chairman: In your memorandum you have said that the Orthodox (Jacobite) Syrian Church should be included in the schedule of recognised churches. If that is so, then you do not want any licence at all. So, if you become a recognised church, you have no objection regarding the question of licensing.

Shri M. Abraham: The Hindu purohits and the Muslim Hajis are

not licensed. Why should the licence be imposed upon us?

Mr. Chairman: Even before independence, the licensing was there. Of course, that Act did not apply to Kerala because it was a native State. But both before and after freedom, during all these years licensing has already been there. It is not a new idea. It has been there whereas licensing did not exist among the Hindus and Muslims. So, what is the new situation that has developed 17 years after independence that you plead that licensing is an interference by the State in the practising of your religion?

Shri M. Abraham: It depends upon the view of the particular churches. Our view is that licensing is not proper. We have never taken a licence.

Shri G. G. Swell: Have you ever taken a licence?

Shri M. Abraham: No; for the last 2,000 years, we have not taken any licence.

Mr Chairman: Outside Kerala?

Shri M. Abraham: Even outside Kerala. Rev. Fr. Thomas is Vicar of the Delhi Church and he has not taken any licence till now.

Rev. Fr. K. C. Thomas: I have not taken any licence and I have conducted so many marriages. In our State, we get authority to administer sacraments from our episcopal ordination. Licensing from the State means a super-imposition of an outside authority on us.

Mr. Chairman: I am sorry. I find that up till now the episcopal church had a privileged position. It is the Congregational churches and the Presbyterian churches which were under a disadvantage.

Rev. Fr. K. C. Thomas: The Church of India, Burma and Ceylon are also exempted from licences because they receive authority to administer sacraments from the episcopal ordination. We are in the same position.

Shri Mathew Maniyangadan: Your point is that who should be ministers and who should conduct and solemnise marriages is a matter of religion in which the State should not interfere?

Rev. Fr. K. C. Thomas: Yes; under the Constitution, the State has no authority to interfere in that.

Shri A. M. Thomas: What are the changes which you would like the suggest?

Shri M. Abraham: My first suggestion will be about clause 2 about the recognition of the Orthodox Syrian Church.

Shri A. M. Thomas: Rev. Zachariah said that his church was Orthodox (Jacobite) Church. Your church is also known as Jacobite?

Shri M. Abraham: Yes; I have also mentioned in the memorandum my church as the Orthodox (Jacobite) Syrian Church.

Shri M. Abraham: Then, under clause 7(2) (ii), one of the criteria for recognition of a church is that "the church is registered under any law for the time being in force relating to the registration of societies in general or religious societies in particular". This should not be a ground for recognising it.

Shri G. G. Swell: Then, how are you going to safeguard against the abuse of the right of running a church or solemnisation of marriages? Suppose a hundred people get together, form a church and appoint some people to solemnise marriages. How are you going to safeguard against that abuse, when you object to registration and recognition by Government?

Shri M. Abraham: For the purpose of recognising a church under the provisions of this Bill, it is provided that the question of registration should be one of the criteria. Take our Church. It is not a registered

Church. This should not be a criterion for recognition.

Shri G. G. Swell: How are we going to safeguard against any abuse of that kind. It is quite possible that some 100 people might like to exploit the religious sentiment of the people, get together, form a church and appoint somebody to solemnize marriages.

Shri M. Abraham: There are other Acts apart from the Act relating to Christian marriages.

Shri G. G. Swell: Your responsibility is not with regard to your own Church; your responsibility is with regard to the entire Christian community in the country. You are as much interested that there should not be any abuse of religion as I am. The State can safeguard against any kind of abuse by laying down the minimum restrictions so that any church or any organisation that would be registered would be allowed to function. I am not very much enamoured of the principle of recognition myself, but I feel that the State must keep some watch and it must lay down the minimum conditions to safeguard against any kind of abuse.

Shri M. Abraham: We feel that the other grounds mentioned in clause 7 will be enough and registration is not necessary.

Rev. Fr. K. C. Thomas: I personally do not think that any Government Act or law should maintain the integrity of the Church.

Shri G. G. Swell: You say that the right to solemnize marriages must be left to the particular Church concerned and the Government should not interfere. It is quite possible, as I said some 100 unscrupulous people taking advantage of the sentiment of the people or the situation form a church, appoint somebody as a priest and solemnize marriages. They may lay down certain rules of their own and go on indiscriminately solemnizing marriages.

Shri M. Abraham: You may impose certain conditions, lay down certain rules and other things. But the question of registration as such should not be a ground for recognition.

Rev. Fr. K. C. Thomas: If the same thing happens in any other religion what would be the position?

Shri G. G. Swell: My feeling is that it is necessary that churches that are allowed to carry on that kind of work must be registered.

Shri M. Abraham: Registration does not add to the solemnity of it.

Shri Bibudhendra Misra: You are opposed to registration but you do not mind if 100 people join together, form a church and solemnize marriages.

Rev. Fr. K. C. Thomas: We do not mind.

Shri G. G. Swell: We should not draw a parallel by saying that among the Hindus there is no such thing and therefore there should not be such a thing among Christians. I do not accept that position because the way we function are different. Now, you are interested as much as I or any other Christian that the purity of Christian religion should be maintained and there should not be any abuse. My question is, what do you propose to safeguard against any kind of abuse of religion and the right to solemnize marriages?

Shri M. Abraham: So far as we are concerned, we have a standing for 2000 years and without any kind of registration we have been carrying on.

Shri G. G. Swell: I am not questioning about your Church.

Shri M. Abraham: In the absence of any registration we have been carrying on. We insist that registration should not be one of the conditions for recognition.

Mr. Chairman: He is talking on behalf of his own church, he is not talking in the higher sense of the entire community of Christians. I do not think we should press it now. They say that in chapter VII a preamble may be added saying: "Nothing in this chapter shall apply to marriages solemnized in Churches treating marriage as a sacrament". Actually, we learnt about divorce from the Christians. Hindus never had any divorce. I have always advocated divorce in extreme cases. We have fought for it and we have got it for the Hindus among whom it was considered as sacrament. Do you mean to say that those Churches that accept divorce automatically say that marriage is not sacrament?

Shri M. Abraham: So far as we are concerned, it is sacrament and we know no divorce.

Mr. Chairman: Suppose we put that preamble at the beginning of the chapter, it will really mean that all those who are married in a church will not be allowed to have any divorce.

Shri M. Abraham: No. All marriages in churches need not necessarily be sacramental. It is not the place where it is solemnized that makes it sacramental.

Mr. Chairman: Some say there are seven sacraments and some say there are more. As far as we are concerned, according to the English language, a sacramental marriage means a religious marriage and a civil marriage is one which is done under registration.

Shri M. Abraham: Sacraments are those means by which the holy spirit of His Grace is transcended into human beings.

Shri U. M. Trivedi: What do you call a sacramental marriage? Is it not one which is performed in a Church through a minister?

Shri Abraham: No.

Rev. Fr. K. C. Thomas: There are certain Churches which do treat marriage as a sacrament and there are Churches which do not treat it so.

Shri U. M. Trivedi: How do you distinguish between these two Churches. Do you mean to say that marriages of all Syrian Christians are sacramental and they shall not be subject to divorce?

Shri Abraham: That is so.

Mr. Chairman: I would like to ask our Christian friends one thing. If we put this preamble before chapter VII which says: "Nothing in this chapter shall apply to marriages solemnized in Churches treating marriage as a sacrament", do you mean to say that the marriages of Presbyterians and others—I know the Protestants also accept divorce—would be excluded from it? If we use that in the preamble to Chapter VII, would it not exclude almost all churches?

Shri A. E. T. Barrow: Yes, almost all churches would be excluded.

Mr. Chairman: We have to consider the entire Christian community when we consider this.

Shri M. Abraham: Sub-clause (ii) of clause 4 says:

"the parties are not within prohibited relationship, unless the custom governing each of them permits of a marriage between the two;"

The prohibited degree of relationship given in the Schedule is not sufficient, because it includes first cousins.

Mr. Chairman: Do you want them to be excluded?

Shri M. Abraham: Up to third cousins should be prevented.

Mr. Chairman: In the Hindus marriages we have so many degrees. How many degrees do you want?

Shri M. Abraham: Eight degrees, four on either side, must be the minimum. That was the position in the

original draft, but on the suggestion of the Roman Catholics it has been deleted.

Coming to sub-clause (3) of clause 5, I would say that if a father refuses to give consent to the marriage of a minor it shall not be the right of a distant relative to come forward and give consent. If the father or mother, who are vitally interested in the well-being of the minor refuses for proper reasons to sanction the marriage, it shall not be left to the other distant relatives, who are not so much interested as the father or mother, to come forward and say that this marriage may be sanctioned. So, I would submit that the word "refuses" in sub-clause (3) should be deleted.

Coming to sub-clause (4) of clause 5, where the father or the mother refuses to sanction the marriage, it shall not be the duty of the court to interfere because they are the best judges of the well-being of the ward.

Sub-clause (6) says:

"Where such a petition is made, the district court shall examine the allegations of the petition in a summary manner and shall decide the matter after giving a reasonable opportunity to the parties to be heard."

As the clause stands at present, the hearing will be confined only to the parties, the bride and the bridegroom. The guardian might have a proper reason for refusing to sanction the marriage. So, he must be given a chance to explain why he refused the sanction. Then only can the court decide whether the sanction has been denied unjustifiably.

Mr. Chairman: Regarding clause 6 in Chapter III are you against registration altogether? Suppose a person gets married by registration. Will he not be permitted to continue as a member of your church?

Shri M. Abraham: If it is not a marriage according to the rules of the

church, it will not be taken as a sacrament.

Rajkumari Amrit Kaur: Since you do not want licensing, sub-clause (b) will go and only (a) and (c) will remain. So, there would be only two types of marriages: (a) by any Minister of a recognised church and (b) civil marriage by the registrar.

Shri M. Abraham: That is so.

Shri T. H. Sonavane: On the contrary, they want the deletion of sub-clause (c) of clause 6.

Rajkumari Amrit Kaur: So, only sub-clause (a) remains.

Shri M. Abraham: That is all in the memorandum.

About registration being a condition precedent to the recognition of Churches (Clause 7), I have already submitted our view.

Coming to Chapter VI, Nullity of marriage, clause 27, I would like to have the words "whether before or" deleted, I would like this clause to read like this:

"Any marriage solemnised, after the commencement of this Act, shall be null and void and may, on a petition presented . . ."

Here I will add:

"during the lifetime of both the husband and the wife by either of them"

Then, it will continue:

"for the purpose, be so declared by a decree of nullity, if it contravenes the condition specified in clause (i) or clause (ii) of section 4."

The idea is that the right to declare a marriage null and void should not be made applicable to marriages which have been solemnised earlier to the coming into force of this Act, that is, retrospective effect should not be given to it.

Shri G. G. Swell: Why?

Shri M. Abraham: Because the marriage has been solemnised before this Act comes into force.

Shri U. M. Trivedi: If you read clause 4, you will find that your contention is not correct.

Mr. Chairman: In the Christian Marriage Act you have all these clauses. I am sure, they are there.

Shri M. Abraham: But so far as we are concerned, there was no Act. Therefore it should not be retrospective in effect. This is coming up for the first time.

Mr. Chairman: Would you have a person to be married by your Church if he had another spouse living?

Shri M. Abraham: No. But there may be cases in which marriages may be had under other Acts or unwittingly some mistake might have been committed. If such marriages have been solemnised, they should not be re-opened.

I would add another condition. The privilege of setting aside a marriage or declaring a marriage null should be confined to the period when both the spouses are living. The privilege of praying for annulment of marriage should be left to either of the spouses and during the lifetime of both; otherwise, it may lead to difficulties if third parties or strangers come forward for annulment of some marriages.

Mr. Chairman: I want to raise one point from a woman's point of view. This is there in the Hindu Marriage Act also with the result that the man can do it but the woman cannot because the woman has not got the wherewithal to do so. So, if her father sees that his daughter is being maltreated and takes the responsibility of the daughter, even he cannot do it.

Shri M. Abraham: It may be for and on behalf of her. I do not know if the reference is to her means to

institute the proceedings, but if that is so, the father can do it. However, it must not be the privilege of third parties to come forward for annulment of a marriage because they may be interested in inheritance or devolution of property.

Mr. Chairman: Normally, nobody wants to come forward and fight a case.

Shri Abraham: There may be cases of two spouses living and none of them may be interested in setting aside the marriage, but somebody else may come forward and say that it contravenes section 4 of the Act and therefore it must be set aside.

Then, it must be confined to the period when both the spouses are living. It should not be left to one of the spouses to do away with the marriage after the lifetime of the other. Suppose, the husband dies first and leaves behind some property. Then it should not be left for the wife to apply later on for the declaration of nullity of marriage. So, this right should be exercised only when both the spouses are living.

Mr. Chairman: Can that be done?

Shri M. Abraham: If it is declared null afterwards, it may have consequences of inheritance of property. The Bill does not provide when it can be done; so that it may be done at any time.

Mr. Chairman: We will consider that point. But that is rather a ridiculous position to take.

Shri M. Abraham: About clause 28, sub-clause (1), I will say that the words "whether before or" may be deleted on the same grounds or principle that I suggested earlier. It should read like this:

"Any marriage solemnized, after the commencement of this Act, shall be voidable and may be annulled by a decree of nullity on any of the following grounds, namely:—".

As regards Chapter VII, clause 30, Grounds of divorce, we have already submitted our position on that, namely, that it being a sacrament divorce should not be allowed. I do not have any further comments to make on this.

As regards clause 58, it is merely correcting the language, perhaps. It says:

"Whoever, by himself or another, wilfully destroys or injures any Marriage Certificate Book . . ."

It should be either 'tampers' or 'mutilates'. We do not say that a Certificate is injured.

Shri M. Abraham: I will now pass on to clause 70.

Mr. Chairman: They should not be compelled to recognise the marriage. That is your point.

Shri M. Abraham: This amendment should be added to that. Church should not be compelled to recognise marriages solemnised in contravention of its own rules. Church as a congregation or body should not be compelled to recognise marriage solemnised in contravention of its own rules.

I have submitted my position.

Mr. Chairman: It is quite clear.

Shri M. Abraham: About additional matters I can submit in writing.

Mr. Chairman: If there is any special matter on which you wish to say something, please send it on.

Shri Bibudhendra Misra: Send it as early as possible.

Shri Joachim Alva: Is there any basic difference between your approach and the approach of the Roman Catholic church?

Shri M. Abraham: On the question of prohibited degrees one distinction is there. So far as our churches are concerned, marriages between cousins are not allowed. So far as Roman Catholics are concerned, they, in some cases do permit it. Of course, it may be based on the theory that Pope is the head of the State. But so

far as our Church is concerned we do not recognise marriage between cousins.

Mr. Chairman: I stand corrected if I am wrong. Except for the right of Papal dispensation, everything else is more or less the same.

Shri M. Abraham: On that point, may I submit our views? The basic principle is that there should not be a marriage between cousins.

Mr. Chairman: That is true of Roman Catholic churches except for Papal dispensation.

Shri M. Abraham: On principle we do not accept him as head of the State. It is not acceptable to us.

Shri Bibudhendra Misra: He can condone.

Mr. Chairman: They do not allow such marriages except under this.

Shri M. Abraham: It is not left to him to decide.

Shri Mathew Maniyangadam: An amendment has been suggested that no church shall be compelled to solemnise marriage of Christians. May I know why you insist that the present list must be expanded to include all the prohibited degrees of relationships?

Shri M. Abraham: To make it specific and quite clear.

Mr. Chairman: Mr. Abraham, thank you very much for the very interesting and informative evidence. We have got your memorandum. We will examine that and we will consider anything else which you would like to submit to this Committee. If you want to send in any specific amendment, please send it on. Thank you very much.

Shri M. Abraham: Thank you.

Mr. Chairman: Tomorrow we will meet at 9-00 hours. In our agenda we have got to examine four sets of witnesses. There are certain common points made by them in their evidence.

(The witnesses then withdrew)

(The Committee then adjourned)

JOINT COMMITTEE ON THE CHRISTIAN MARRIAGE AND MATRIMONIAL CAUSES BILL, 1962

MINUTES OF EVIDENCE GIVEN BEFORE THE JOINT COMMITTEE ON THE CHRISTIAN MARRIAGE AND MATRIMONIAL CAUSES BILL, 1962

Wednesday, the 17th July, 1963 at 09.04 hours

PRESENT

Shrimati Renu Chakravartty—*Chairman*

MEMBERS

Lok Sabha

2. Shri Joachim Alva
3. Shri A. E. T. Barrow
4. Sardar Daljit Singh
5. Shri Ram Dhani Das
6. Shri Sudhansu Bhushan Das
7. Shri M. L. Dwivedi
8. Shri V. B. Gandhi
9. Shri L. D. Kotoki
10. Shri M. K. Kumaran
11. Shri Baij Nath Kureel
12. Shri Mathew Maniyangadan
13. Shri Panampilli Govinda Menon
14. Shri Bibudhendra Misra
15. Shri Purushottamdas R. Patel
16. Shri T. H. Sonavane
17. Shri Sivamurthi Swami
18. Shri G. G. Swell
19. Shri A. M. Thomas
20. Pandit D. N. Tiwary
21. Shri U. M. Trivedi
22. Shri T. Abdul Wahid
23. Shri Yashpal Singh

Rajya Sabha

24. Rajkumari Amrit Kaur
25. Shri Jairamdas Daulatram
26. Shri A. C. Gilbert
27. Shrimati Jahanara Jaipal Singh

28. Shri Bansi Lal
29. Shri A. D. Mani
30. Shri Mulka Govinda Reddy
31. Shri M. H. Samuel
32. Shri M. C. Shah
33. Shri Awadheshwar Prasad Sinha
34. Shri P. A. Solomon
35. Shri A. M. Tariq

REPRESENTATIVES OF THE MINISTRY

1. Shri G. R. Rajagopaul, *Special Secretary, Ministry of Law and Member, Law Commission.*
2. Shri R. V. S. Peri Sastry, *Assistant Draftsman, Ministry of Law.*

SECRETARIAT

Shri A. L. Rai—*Deputy Secretary.*

WITNESSES EXAMINED -

**I. THE REPRESENTATIVE COMMITTEE OF THE "ASSEMBLIES OF THE BRETHREN",
KOTTAYAM**

1. Dr. K. George Thomas
2. Shri K. P. George

II. CHURCH OF CHRIST, SHILLONG

Shri J. S. Ryntathiang

III. BRETHREN CHURCH COMMITTEE, ANGAMALY

1. Shri Danial Oommen
2. Shri T. M. John
3. Shri E. P. Varghese
4. Shri V. T. Mathai

IV. THE SOCIETY OF THE CHURCH OF GOD (FULL GOSPEL) IN INDIA, CHENGANNUR

1. Rev. T. M. Varughese
2. Rev. M. Benjamin

I. THE REPRESENTATIVE COMMITTEES OF
THE "ASSEMBLIES OF THE BRETHREN",
KOTTAYAM

Spokesmen:

1. Dr. K. George Thomas
2. Shri K. P. George

(Witnesses were called in and they took their seats)

Mr. Chairman: You are from the Assemblies of the Brethern, Kottayam.

Dr. K. George Thomas: Yes, Sir.

Mr. Chairman: Thank you for taking the troubles to give evidence before this Committee.

Before we begin, I have to read out to you the Rules guiding the giving of the evidence before such a Committee.

"The evidence shall be treated as public and is liable to be published unless specifically desired that the evidence tendered is to be treated as confidential. It is liable to be made available to the Members of Parliament".

You have submitted to us a memorandum giving us an idea of your submissions which you would like to place before this Committee. I shall ask you as also the Members of the Committee will ask you further questions if they have anything to be clarified. If you, on your part, want to underline some special aspect of this memorandum, you are free to do so. You may add or subtract also anything from your memorandum.

Shri G. G. Swell: In your rider to the Memorandum giving a short history of group of Christians, you have raised a number of points and some of them appear to me to be rather unusual. What do you mean, for instance, by 'superstitious beliefs'? You may consult your notes if you like.

Dr. K. George Thomas: According to the beliefs that we follow as a Church, we feel that the organized churches have added to what the Bible teaches us. Some of these we call 'superstitious beliefs'. For example,

we do not have ordained priests in our Church. We feel that our Ministers are ordained by God and not by man and we have separated ourselves from these churches forming small groups of believers. That is why we have said that we have separated ourselves from superstitious beliefs.

Shri Joachim Alva: Some kind of training or renunciation is necessary for having a faith.

Dr. K. George Thomas: It is not so in our church.

Shri G. G. Swell: Do you think that 'superstitious belief' is a proper expression?

Dr. K. George Thomas: What is not in the Bible or what is according to us is not in the Bible is practised among the people or people who claim themselves to be Christians, can be termed as 'superstitious'. That is why we have put this word.

Shri A. E. T. Barrow: Don't you think that training or renunciation for a priest is necessary because you believe in Christianity?

Dr. K. George Thomas: People believe that training is necessary. That training is given to those individuals who come to a particular Church or a seminar for giving service on Bible.

Shri G. G. Swell: Who conduct the service?

Dr. K. George Thomas: Elders and ministers conduct the services.

Shri G. G. Swell: Is it by election or by selection? Is there any authority which determines as to who will render services in Church?

Dr. K. George Thomas: We believe that every Christian can perform all Christian rites or religious services. We believe that a person who believes in Christ is a priest and can perform all the Christian religious services. Therefore, we do not elect a particular person to perform the services. Nor do we select a particular person to perform the services. But, when we find that one is gifted to perform the

services of the church and if the church accepts him as their elder or a minister, he does the services. In other words, we feel that he is a particular person who is taught by the holy spirit and is accepted by the congregation as the Minister to perform the religious services. There is no particular authority vested in him by the Church. But the Church accepts him.

Mr. Chairman: May I ask for a clarification? That means anybody who believes in your congregation has the right also to preach or to take service. Is that your answer?

Dr. K. George Thomas: He is permitted.

Mr. Chairman: I would like to add one more question. Has there been a case where a particular member of your congregation has been rejected or not being allowed to preach or conduct the services?

Dr. K. George Thomas: There have been certain cases when a person does not conform to the rules, faith and rites of our Church is rejected to perform the rites in the church.

Mr. Chairman: Are there any rules?

Dr. K. George Thomas: We find these rules in the Bible.

Mr. Chairman: Who is the authority to decide whether a person has deviated from the rules?

Dr. K. George Thomas: The Church itself will decide.

Mr. Chairman: That means it is a sort of what is called a majority decision for having deviated from the teachings of Christ in the Bible.

Dr. K. George Thomas: In our local church, we have what is called elders.

Mr. Chairman: Who elects the elders?

Dr. K. George Thomas: Whenever any church finds anyone leading a christian way of life in a congrega-

tion it accepts him as an elder. If any person does not conform to the rules of our church the elder brings this fact to the notice of the congregation.

Mr. Chairman: You say some of them are elected as elders. How do they become elders?

Dr. K. George Thomas: Because they are accepted by the congregation as elders.

Mr. Chairman: There is some means of selection or election. If you want 'X' he is taken as an elder.

Shri M. C. Shah: What is the procedure?

Dr. K. George Thomas: We do not follow a particular procedure. When the Congregation feels that we need some elders to guide the matters of the church, we obviously find a few people who have been in the Church for a long time and who, as I said, have led a Christian way of life by following the teachings of Christ and they are an example to the congregation. It is very obvious. There is no overt form of election or selection. But they are accepted by the congregation as leaders.

Shri A. E. T. Barrow: There is a fundamental question here. You say in your memorandum: "We the assemblies of the Brethren function as individual groups of Christians" and that is based on Mathew 18:20 "Where two or three are gathered together in my name, there am I in the midst of them". Suppose two or three people in Delhi wanted to join your group. What is the procedure, the organisational method of becoming members of your group? How do we do it?

Dr. K. George Thomas: This has been happening in Kerala, from where I come, for the past more than half a century. If a person wants to join the church he has to profess before the church his personal faith—I underline the words 'personal faith'—in the Lord Jesus Christ as his personal saviour and master. When he

professes this before the congregation we accept him as a member of our church.

Shri A. E. T. Barrow: It is a mere testimony?

Dr. K. George Thomas: It is a testimony, and then he has to take baptism.

Shri A. E. T. Barrow: You have baptism for admission to your church?

Dr. K. George Thomas: Yes.

Shri M. C. Shah: Suppose a person considers himself to be an elder and the congregation does not consider him to be fit enough to be an elder. Can it happen like that?

Dr. K. George Thomas: Well, there could be an exception.

Shri M. C. Shah: An elder becomes so by himself.

Dr. K. George Thomas: It is quite possible that once upon a time a person was performing these services and after some time it may very well happen that he went away from the Christian life and he is no more an example to the congregation. Then he will be put out by the congregation.

Shri M. C. Shah: Or the congregation may not accept him as an elder. That may also happen.

Dr. K. George Thomas: That very well happens.

Shri M. C. Shah: How will you try to reconcile these two things, the congregation not accepting an elder and the person considering himself to be an elder?

Dr. K. George Thomas: There can very well be that conflict, and very often the elder will quit the church. He is free to quit the church.

Shri M. C. Shah: If he does not quit?

Dr. K. George Thomas: We will say that he cannot take part in the holy communion every Sunday. That means he is out; a person who does

not take part in the holy communion is out.

Rajkumari Amrit Kaur: Do you call yourselves a church or an assembly?

Dr. K. George Thomas: We call ourselves an assembly.

Rajkumari Amrit Kaur: And your membership is limited to Kerala?

Dr. K. George Thomas: No. As a matter of fact it is all over the world, in the United States, England, Africa and in India. In Delhi itself there are two groups who call themselves Brethren.

Rajkumari Amrit Kaur: Have you a form of worship?

Dr. K. George Thomas: Yes, we have.

Rajkumari Amrit Kaur: Made by yourselves?

Dr. K. George Thomas: It is the worship service, as we call it. We meet in a hall; it is not a consecrated church building. It can be a hall, it can be the room of a home, it can be underneath a tree. We gather together, read from the Bible, sing and pray. As a rule every Sunday we have holy communion, we have bread and wine and we accept it as a symbol of the body and blood of Christ.

Shri G. G. Swell: Do you meet at different places or usually at one place?

Dr. K. George Thomas: Normally we meet at one particular place. In Delhi, for instance, we have been meeting at one particular place for many years. And at Kottayam, for instance, we have been meeting at one particular place for many years. If we find the place inconvenient we naturally go to another place. But it need not necessarily be a consecrated building which is set apart separately for worship.

Shri A. E. T. Barrow: Do you regard marriage as a sacrament or a contract?

Dr. K. George Thomas: It is a divine institution.

Shri A. E. T. Barrow: But it is not sacramental?

Dr. K. George Thomas: No.

Shri A. E. T. Barrow: What are your views on divorce?

Dr. K. George Thomas: The biblical view that what God has joined together no man should put asunder.

Shri A. E. T. Barrow: And the Bible has given when there can be divorce.

Dr. K. George Thomas: That is the question of adultery.

Shri Joachim Alva: What will be the number in your assembly?

Dr. K. George Thomas: In Kerala we figure it would be about thirty thousand people. We do not have very strict statistics.

Shri Joachim Alva: Where did it originate, your assembly?

Dr. K. George Thomas: It is a biblical pattern and generally speaking it has been a movement in the second half of the nineteenth century all over the world.

Shri Joachim Alva: Where did it originate, in Kerala or outside?

Dr. K. George Thomas: According to our history, in England, in Plymouth some of the brethren came out of the Anglican church and formed a small group.

Rajkumari Amrit Kaur: I was going to ask whether they are allied to the Plymouth Brethren.

Dr. K. George Thomas: That is exactly the pattern that we follow.

Rajkumari Amrit Kaur: The Plymouth Brethren today are more or less Quakers.

Dr. K. George Thomas: That is what is generally understood, but we are quite different from the Quakers.

Mr. Chairman: I do not think they have the holy communion with bread and wine.

Shri A. E. T. Barrow: They use it only as a symbol.

Mr. Chairman: I do not think there is any such thing as a holy communion in it, if I am not very much mistaken.

Shri M. C. Shah: What is your total membership throughout the country?

Dr. K. George Thomas: May be sixty or seventy thousand. As I said, we do not have strict statistics. Roughly the figure will be that.

Mr. Chairman: I want to put one question which deals directly with the clauses of the Bill. In clause 70 of the Bill it is stated that "no Minister of a recognised Church shall be compelled to solemnize any marriage, the solemnization of which would be contrary to the rules of the Church of which he is a Minister". Obviously, in your church you have no such people who may be termed as ministers, is it not so? You say that you follow strictly the rules laid down by the Bible. Suppose in a particular matter you consider that this Bill permits the members of your congregation to act or to solemnise their marriage according to rules which are contrary to the Bible, in such a case how would clause 70 apply to you? I think it would not apply to you at all.

Dr. K. George Thomas: According to the draft Bill that we have, we are not a recognised Church.

Mr. Chairman: There is no such thing as a recognised Church yet. That is one of the points of the Bill itself, which is being considered.

Dr. K. George Thomas: That is why I said, according to the draft before me.

Mr. Chairman: I think you have more or less opposed to recognition.

Dr. K. George Thomas: We are.

Mr. Chairman: Suppose this refers to recognised Churches, in such a situation, would you take out a licence? According to your rules, any person who belongs to the congregation can solemnise a marriage.

Dr. K. George Thomas: Yes:

Mr. Chairman: Therefore, the question of licensing would apply to you.

Dr. K. George Thomas: Yes.

Mr. Chairman: What is your idea about licensing?

Dr. K. George Thomas: Generally speaking, we oppose the recognition of a particular Church and also licensing of a minister. We feel that a Church should be clearly defined in the Bill, to include our Assemblies also.

Mr. Chairman: What would be your definition.

Dr. K. George Thomas: I would say that a Church is an organised body of Christians who hold the same creed, follow the same rites and acknowledge the same authority. That is, we acknowledge the Bible as our authority. The local group follows the same rites. If some members do not follow the same rites, they are out of the Church. We follow the same rites in our local Church. If some person does not follow the same rites, naturally he is out of the Church. If a definition of Church is given as a body of Christians who hold the same creed and follow the same rites and acknowledge the same authority, I think, personally that we can also come under the purview of this definition. Our rights will be very well safeguarded if this particular definition is given to a Church. Otherwise, it will be, if I may say so, introducing some caste system into Christian Church, some Churches recognised on the one hand and other un-recognised on the other.

Mr. Chairman: Have you read the Bill? We have not given any definition of any Church at all. We have left it open. We have defined who is a Christian. In that definition, we have made it wide by saying that a Christian means a person professing the Christian religion. Beyond that you ask that the Church should be defined.

Dr. K. George Thomas: Yes. I would. Because our principle is that the local Church or the local group is autonomous. That is the Church. As far as we are concerned, we do not have a Central authority. If Church is defined, our local Church will come under the definition and therefore our rights will be safeguarded by the Bill. It will be safe, I believe, if the Committee should define the Church.

Mr. Chairman: One difficulty which I find is this. You say authority would mean the authority of the Bible.

Dr. K. George Thomas: That is our interpretation.

Mr. Chairman: That is interpreted in various ways by the various groups who have given evidence before us. For example, there have been groups which have defined the question of prohibited degrees of relationship in a particular manner. Certain others have said that the Bible lays down that the prohibited degrees should be governed by certain other interpretation. If there is litigation, which obviously, in the case of legislation we will have to consider, what would be the authority of the Bible? You leave the whole thing fluid.

Dr. K. George Thomas: I personally feel that that will depend upon which Church goes for litigation. If it is the Church which accepts the Bible as the authority, naturally, the lawyers or the Judges will have to take that into consideration because the faction will be from the same Church and the same Church will accept either the Bible as the authority or something more than the Bible as the authority.

Mr. Chairman: In interpreting theological points of the Bible.

Dr. K. George Thomas: Yes. That is what we have seen. There have been Church litigations in the past.

Shri G. G. Swell: You have said in your memo that any believer has a right to Conduct any service. I just want one information, whether there

has arisen an occasion when a number of people have asserted the right of conducting religious service and whether there has been some kind of misunderstanding and quarrels over that and whether you think that that sort of a situation will be in the best interests of Christianity and the people.

Dr. K. George Thomas: When we are dealing with such a broad matter, there can always be differences.

Shri G. G. Swell: Has there been such an occasion? Has any occasion arisen when a number of people have asserted the right to conduct service at the same time?

Shri P. R. Patel: How is that possible?

Shri G. G. Swell: I want an answer from the witness.

Dr. K. George Thomas: I cannot remember any occasion arising.

Rajkumari Amrit Kaur: What are your views in relation to prohibited degrees as notified in the Bill?

Dr. K. George Thomas: Generally speaking, we accept the biblical pattern as set out in the Leviticus.

Rajkumari Amrit Kaur: Would you like them to be included?

Dr. K. George Thomas: Yes.

Rajkumari Amrit Kaur: You would not agree to first cousins marriage.

Dr. K. George Thomas: That is right.

Rajkumari Amrit Kaur: Or uncle and niece marriage.

Dr. K. George Thomas: That is right.

Shri G. G. Swell: You must be aware that even in wishful thinking, the ideal State is one in which there is complete anarchy, that is, every individual is alive to his responsibilities, he knows his duties how to conduct himself, etc. That is the ideal State. But, human beings as we are, with

limitations, it is impracticable. Will it be practicable in day to day life?

Dr. K. George Thomas: We have found it practicable for more than a century. I can with all confidence assert that our Church is one of the most disciplined Churches that I have ever known. I have visited Churches.

Shri G. G. Swell: You have said you have rules for solemnising marriages.

Dr. K. George Thomas: As they are in the Bible.

Shri G. G. Swell: What are the rules in the Bible?

Dr. K. George Thomas: First of all, marriage should be between Christians, a Christian boy should marry a Christian girl. When I say Christian, I mean anybody who has accepted Christ as his or her personal saviour: not because one is born a Christian.

Shri M. C. Shah: Have you seen the definition here?

Dr. K. George Thomas: Yes.

Shri M. C. Shah: Are you satisfied with it?

Dr. K. George Thomas: I am not satisfied with that. When we are making a law for all people . . .

Mr. Chairman: I would ask your opinion about this definition: Christian means a person professing the Christian religion and is a member of any organised Church or denomination.

Dr. K. George Thomas: Strictly speaking, a Christian need not necessarily belong to a Church of denomination. Because, if he has personal faith in the person of Christ, he should be a Christian.

Shri M. C. Shah: You are satisfied with the definition in the Bill. No amendments are necessary?

Dr. K. George Thomas: I am not proposing any.

Shri G. G. Swell: You have not answered the question. You have stated in your memo; "Such Churches do not give undue importance to factors like "proper place of worship", "well established rules"....". That means to say, you discountenance the idea of having any well established rules in your Church.

Dr. K. George Thomas: That is right. At the same time, we follow a certain pattern.

Shri G. G. Swell: My knowledge may be limited. In the Bible there is nowhere mention of rules. It only says, two persons can marry within certain limitations. They must be faithful to each other; they cannot separate, etc.

Dr. K. George Thomas: Yes.

Shri G. G. Swell: When you solemnise a marriage, you have to follow certain rules, certain ceremonies, certain rules.

Dr. K. George Thomas: Our Church has those rules or the pattern or whatever else you may like to call it, and the bride and the bridegroom come to the church and they are married according to those rules or that pattern.

Mr. Chairman: Do you mean to say that there are well-established rules? Different Churches have been placing before us this very fact that they go by the rules which are in keeping with the teachings as embodied in the Bible. But then we find that in practice there is difference in the rules. For example one Church says that adultery would be granted as a ground for divorce as laid down in the Bible. Another group says that not adultery, but only fornication, that is, before marriage, alone can be a ground for divorce, and not adultery. Both groups are saying that they are interpreting the rules according to the Bible. So, when you say that there are well-established rules, do you mean that one group may follow rules slightly different from those followed by some other group? Or do

you have a set of well-established rules for all the groups spread throughout India?

Dr. K. George Thomas: No, we certainly do not. We as a group have certain rules, and others may have other rules. The Bible can be interpreted in different ways.

Shri U. M. Trivedi: You have stated just now that you solemnize marriages in the manner laid down in the Bible. I would like to know which particular portion of the Bible lays down the form for solemnization of marriages of Christians.

Dr. K. George Thomas: As I said, in our church, we solemnize marriages according to a pattern which is laid down by our church.

Shri U. M. Trivedi: It is not that the rules are to be found in the Bible?

Dr. K. George Thomas: Those rules are broadly inkeeping with the principles laid down in the Bible.

Mr. Chairman: As interpreted by you?

Dr. K. George Thomas: As interpreted by us.

Shri U. M. Trivedi: So, they are not to be found in the Bible.

Mr. Chairman: They are found in different places at different times.

Shri U. M. Trivedi: So, no form of marriage is given in the Bible.

Shri Bibudhendra Mishra: I think that you said that anybody in the Congregation can solemnize a marriage?

Dr. K. George Thomas: The reason is that according to our belief everybody in the Congregation is competent.

Shri Bibudhendra Mishra: According to you, it is not necessarily the elders who can solemnize a marriage, but anybody in the Congregation is entitled to solemnize a marriage?

Dr. K. George Thomas: Yes, anybody is entitled. But usually it does not take place like that. When there is an elder present or if an elder is available, usually, the marriage is conducted by the elder, because that is a certain accepted unwritten rule in our church. But the right is there for any believer, because any believer can perform a religion service.

Shri Bibudhendra Mishra: Who selects that a particular person will solemnize a marriage? Is it for the bride and the bridegroom to select a particular Member of the Congregation?

Dr. K. George Thomas: It is the Congregation where the marriage is conducted.

Shri Bibudhendra Mishra: So, the Congregation has to select?

Dr. K. George Thomas: For example, the bridegroom may be from Kottayam, and the bride may be from Delhi. If the ceremony is conducted in Kottayam, the Kottayam Church Congregation decides who is going to conduct the marriage. There need not necessarily be a conflict in this.

Mr. Chairman: That means that for every marriage, the Congregation has to meet?

Dr. K. George Thomas: No, not necessarily, because, usually, in that particular Congregation, one person or two persons will be conducting the marriage; there will be one or two persons who have always been doing it.

Mr. Chairman: In other words, everybody knows that Mr. X. usually conducts the marriage, and, therefore they can go to Mr. X. Similarly, there may also be another person Mr. Y who also conducts, and if the parties like, they can choose Mr. Y also. Is that the position?

Shri P. B. Patel: You have used the word 'church' in your memorandum, and the Bill also has used the word church. Is it not necessary that a

definition of church should be there in the Bill so that there may not be misunderstanding as to whether a church includes an assembly or not. Do you agree to this?

Dr. K. George Thomas: I agree to that because a church should include an assembly also, as far as we are concerned.

Shri Bibudhendra Mishra: Do you keep any register of marriages?

Dr. K. George Thomas: Yes, we do.

Shri Joachim Alva: You say that you are about thirty thousand in your Congregation. What is the highest number of marriages performed in a year on an average? Will it be of the order of two or three thousand a year?

Dr. K. George Thomas: I do not know. It may be one hundred or two hundred.

Shri Joachim Alva: What is the record for the whole church?

Dr. K. George Thomas: That was what I said. It may be one hundred or two hundred.

Shri Joachim Alva: Are there cases of rejection or refusal to perform marriages and if so, on what grounds?

Dr. K. George Thomas: No, not in my memory.

Shri Mathew Maniyangadan: You say that marriages are solemnized by elders. Do you call them ministers of the Church? Would you be able to give a definition of the term 'minister of Church'? What should be that definition, according to you?

Dr. K. George Thomas: I feel that for the purposes of law, we can give a definition of the term 'minister', because we would not have any objection to it. I would say that a minister of a Christian church may generally mean a person who according to the rules of the church is competent to conduct marriages. This is my

feeling. If that is also included in the Bill, our case would be very much safeguarded, and I do not think that the other Christian churches also will find it difficult to accept that kind of definition. A minister is a person who according to the rules of the church to which he belongs, is competent to conduct marriages.

Shri G. G. Swell: Do you have any rules in your church?

Dr. K. George Thomas: We follow very definite rules. They may not be written, and they may not be visible to the eye of an outsider. But if you come to our church, you will find that there are certain very definite rules, and if anyone goes against those rules, he has to go out of the church.

Shri G. G. Swell: Are those rules written down in your church? Are those rules the same and are they followed all the time, and can they also be reduced into writing sometimes?

Dr. K. George Thomas: We have not found it necessary to reduce them into writing, because we feel that the Holy Spirit is presiding over the Christian Church, and a believer or a true Christian is indwelt by the Holy Spirit, and, therefore, he is able to know what is right and what is wrong.

Rajkumari Amrit Kaur: Do you have baptism in your church?

Dr. K. George Thomas: Yes.

Rajkumari Amrit Kaur: Do parents bring the children for baptism or do you have only adult baptism?

Dr. K. George Thomas: We follow adult baptism. The reason is that we feel that a person who is capable of professing his faith, knowing that he is doing that, in the Lord Jesus Christ alone should be baptised. A child cannot profess its faith in the Lord Jesus Christ. Therefore, we do not baptise a child.

Rajkumari Amrit Kaur: Do you have any naming ceremony there for the child?

Dr. K. George Thomas: No, we do not. The parents call their children by the best name they like.

Rajkumari Amrit Kaur: That is, the children of the parents belonging to your church are not recognised as members of your church or even as Christians, until they become adults and are baptised?

Dr. K. George Thomas: That is very correct.

Rajkumari Amrit Kaur: What happens when a child dies? Do you give it a Christian form of burial. Or do you say that the child is not a Christian, and it may be buried as the parents like?

Dr. K. George Thomas: We do not say whether the child is a Christian or not, and the child is buried in our cemetery.

Mr. Chairman: That is, if the parents so desire.

Rajkumari Amrit Kaur: In other words, if the parents are Christians, you give the child a Christian form of burial. Do you have a Christian form of burial service?

Dr. K. George Thomas: We do have a Christian burial service? We feel that it is our Christian duty to give the child a Christian burial, if the parents are Christians.

Shri Joachim Alva: You said twice or thrice that anybody who did not agree with the rules of your church goes out! This assumes the colour of excommunication. Are excommunications common in your church? Are they too frequent?

Dr. K. George Thomas: No, because joining our church is a matter of personal conviction and a very definite choice. Nobody is born into our church. When a person joins our church or comes into our fellowship to use a more technical term which we use, he has come there with a certain conviction, knowing certain rules. Therefore,

when he comes to our church, he sticks to it.

Shri Joachim Alva: Can you tell us the number of cases of excommunication during the last thirty or forty years?

Dr. K. George Thomas: As I said, I do not remember any case of excommunication.

Shri Joachim Alva: At least in theory you speak of people getting out.

Dr. K. George Thomas: That is not excommunication. They go out voluntarily.

Shri G. G. Swell: What are the actual provisions you would like to be incorporated in the Bill?

Dr. K. George Thomas: I would like a definition of 'Church' to be included in the Bill so that the interest of all the various groups of Christians may be safeguarded. I would also like the definition of 'minister' to be included in the Bill so that the interest of smaller unrecognised—if I may again use that word—churches may be adequately safeguarded.

Shri M. C. Shah: What is the number of people voluntarily going out?

Dr. K. George Thomas: We do not keep a record of it.

Shri M. C. Shah: In the last 40 years, how many have gone out voluntarily?

Dr. K. George Thomas: I really do not know—it will be a very small number.

Shri G. G. Swell: These are the things you would like to be put in the Bill?

Mr. Chairman: Besides the one he has suggested.

Shri A. E. T. Barrow: I will read out to you the addition which has been suggested to clause 70. Would you give your opinion on the addition suggested?

We give up the word 'recognised' 'No minister of a church shall be compelled to solemnise any marriage, the solemnisation of which would be contrary to the rules of the church of which he is a minister, nor shall any church be compelled to recognise marriages which contravene the rules of that church'.

Dr. K. George Thomas: I feel with the definition of the 'Church' and 'minister' put in the Bill, this particular clause might become redundant.

Shri A. E. T. Barrow: You say that you accept anyone who says 'I am a Christian'. He gets married to his first cousin and he comes to your church. Will you recognise that marriage?

Dr. K. George Thomas: We won't solemnise the marriage.

Shri A. E. T. Barrow: They have solemnised the marriage. They are adults. You take them when they are adults. No other church will accept them. Will you accept them?

Dr. K. George Thomas: It is up to God to forgive their sins. If they have confessed their sins and do not live in sin again, I believe we will accept them.

Shri A. E. T. Barrow: But they are lawfully married. But according to you, they cannot be married because they are first cousins. Will you accept them?

Dr. K. George Thomas: As I said, I want in the Bill all the categories of prohibited degrees mentioned in the Bill—30. So there is no question of asking whether we would accept a person who is married like that.

Shri G. G. Swell: What about customs of the particular community?

Dr. K. George Thomas: When a person accepts the Christian faith and has said goodbye to the customs of his community, he has aligned himself to Christ and the teachings. He has put forward.

Shri M. C. Shah: We have it from other witnesses that even though a man has embraced Christianity, the customs go along with him and they have to conform to those customs.

Dr. K. George Thomas: The church, to which he belongs, will have its own way of reconciling those things. I do not know whether we will be able to put general rules to those exceptions.

Shri M. C. Shah: What will be the view of your church regarding the customs he brings?

Dr. K. George Thomas: If they are contrary to the teachings of the Bible, we will patiently advise him not to follow them.

Shri P. R. Patel: Suppose they do not?

Dr. K. George Thomas: We will teach and instruct them and advise them. We need not try to get them out. In Christian love, we will try to help them as much as possible.

Mr. Chairman: Thank you. It has been a very interesting evidence. If there is any specific amendment you would like to propose on the basis of the clauses—not general statements—for our consideration, please send them to us in legal form.

Dr. K. George Thomas: I would like this amendment to the definition of 'Church' to be included and the definition of 'minister' to be included.

Mr. Chairman: Will you please put it down in writing and give it to us?

Dr. K. George Thomas: Yes.

The witness then withdrew.

II. CHURCH OF GOD, SHILLONG

Spokesman:

Shri J. S. Ryntathiang.

(Witness was called in and he took his seat)

Mr. Chairman: You represent the Church of God, Shillong.

Shri J. S. Ryntathiang: The Church of Christ.

Mr. Chairman: Now that you are present before us, I think it is necessary that you explain your point of view about the prohibited degrees. As your submission is a little different from others, it is important that our Members should have a clear as to what you are trying to represent.

Shri J. S. Ryntathiang: I have worked out a schedule which I am submitting to the Committee.

Shri G. G. Swell: Before you give your testimony on the Bill, we want to know the background of your Church. Does your Church belong to any all-India body?

Shri J. S. Ryntathiang: No.

Shri G. G. Swell: Is it a Member of the National Christian Council?

Shri J. S. Ryntathiang: No, nor of the Assam Christian Council.

Shri G. G. Swell: What is the origin of the Church? It starts in your place, or it has its origin somewhere else?

Shri J. S. Ryntathiang: We broke away from the Welsh Presbyterian Church.

Shri G. G. Swell: Is it an indigenous Church started by the people of Shillong?

Shri J. S. Ryntathiang: That can be said, because we are not affiliated with any of the foreign Missions. It is an independent, indigenous Church.

Mr. Chairman: What would be your congregational strength?

Shri J. S. Ryntathiang: More than 1,000, but I cannot give the specific number just now. We have 20 Churches all over Khasi and Jaintia Hills. We have Churches in Gauhati and Garo Hills also, but it principally serves the Khasi people.

Mr. Chairman: I think you may begin by giving us an idea as to when you broke away and why broke

away from the Welsh Presbyterian Church.

Shri J. S. Ryntathiang: I may begin my testimony saying that I have come to this place because I am a citizen of India, and as a free citizen I profess my religion as guaranteed under the Constitution. I am coming from a place where we have customs and practices which are altogether different from that of the other communities in India. When we saw this Bill, we saw that it took away our rights. So, I am here to defend them. It affects the rights given under the Constitution to profess our religion according to the Bible.

Moreover, what surprises me is that this Bill is an insult to our own Parliament. I do not understand how you feel. I say it is an insult because it takes away something of the moral conception and the originality of our society and Parliament. First of all, on the moral side, we as Christians have a different conception of morality. I think this should be the same thing for all other people in the country also. Morality must conform to the laws of God. Anything that goes against it is immoral. Christ has said that anyone who commits adultery cannot be a Christian. That is what St. Paul also has said. Adultery is immoral.

One thing that surprises me in this Bill is that the framers of this Bill have made a different standard of morality. Take, for instance, Christianity. According to this Bill, an act of adultery is a ground for divorce. According to the Hindu Marriage Act, one party must be living in adultery, a course of conduct, to enable the husband or the wife to divorce the guilty party. Here we noticed the different standard of morality. But are we not equal in the eye of law? What is the difference between myself and my neighbour? My neighbour may be a Hindu and

I am a Christian. But we have different standards of morality according to this Bill. That is one thing that surprises me. There is a discrimination sought to be made not only between Hindus and Christians, but also among different communities in the country. There are different classifications.

Another point that affects most of us is the prohibited degree of relationship. The Bill is discriminatory in this respect also. We know it is against the Bible. If you look in the Book of Leviticus Chapter 20 you will find that God has punishment for each and every offence of this nature. In the matter of prohibited degree of relationship, there is a great difference between a Hindu and a Christian. You have classified the Christians in this matter into a number of items: 19 in Part I and 19 in Part II. In the Special Marriage Act, you have 37 items in Part I and 37 items in Part II. Is it not an insult to have such things? Is it not an insult to the system of marriage among Christians and also to Hindus? That is one thing that surprises me. This affects each and every Indian. It is an insult to Parliament. This Bill is not based on the Indian customs and traditions. It is based on English law. It is based on the recommendations of the Law Commission that based its recommendations on English law. But you know the English customs have nothing to do with us. We have our own customs. English customs are foreign to us. Why should the English custom be the basis for our prohibited degree of relationship? I object to that basis.

They attach importance to the Pope's authority. The customs of the English and of the Pope's authority have been given importance but nothing has been said about the Indian customs. What the National Christian Council has recommended has also been accepted by the Law Commission. That is why I said this is an insult to Parliament. There is also discrimination. Who is the

Pope? He is nothing for us. We have nothing to do with him. For us, the Bible is the sole authority and anything that goes against it is not acceptable to us. The Pope cannot change it. He has no authority. Further, the NCC does not represent all the Christians in India.

Only yesterday I met the secretary of the KCC—the Kerala Christian Council. They represent the Regional council of the NCC. He said that they did not give any power or mandate to the NCC to represent any of the Churches in respect of this Bill. The NCC is only a council of foreign churches.

As I said, in the case of the prohibited degree of relationship, there is discrimination between Hindus and Christians, and also between one community and another. Some are covered by the special marriage laws. That is why we objected. The list of prohibited degrees completely changes our customary laws. You know that we are governed by our customary laws as far as our marriages are concerned. Though we are Christians we are governed by customary laws. As far as prohibited degree of relationship is concerned anyone who belongs to the clan is not allowed to marry within the same clan. That is what I have written in the list of prohibited degree of relationship which we have prepared. We have three classifications. First, we are forbidden to marry within the same clan though the parties are far removed from one another. Second, even two or three clans that come under the prohibited degree of relationship, are not allowed to marry within that circle. Thirdly, is the list of prohibited degrees. We have actually thirty-seven items on the male side and about 34 items on the female side. We are governed by them. The list is not exhausted.

The British missionaries came and tried to impose their customs on us. They wanted us to marry within some of the prohibited degrees. The church in our place was deadly against that move and they opposed it.

We pointed out that that system would reduce man to the standard of the animal, and so these missionaries got wild. Some people were threatened to be punished and to be put in jail, as a consequence. At last those missionaries had to yield and allowed the customs to govern our marriages and they formed a 'sang Committee' in the churches and said that we can marry according to the customs prevailing here, as far as the prohibited degree of relationship is concerned. What I do not understand is this. In its report, the Law Commission considered the customary laws of the people in Travancore-Cochin, but they did not consider about our customary laws. They did not mention anything about that. That is why the Churches did not send any representation and I had to submit this memorandum with special permission from the Deputy Secretary.

Then, I would deal with divorce, remarriage and licensing taking them together. We have an interesting story regarding licensing. The British Government brought our churches also into their law i.e., The Indian Christian Marriage Act, 1872. Many people in our place were very much against it, because divorce and remarriage are against the Bible. There is no provision for remarriage and divorce in the Bible except on the ground of adultery and in that case also remarriage is not allowed. When the British brought in the question of licensing and said that ministers must have licence to marry people. The people defied against such move, and they had to separate from the church because of that. That is how the Church of Christ came into existence. They were dead against this action of the British and so they formed a church of their own.

A case was instituted against the Pastor during the British days in our place and the DC tried the case. The Pastor said, "You have no auto-

city to licence a Minister, because that is not in the Bible. It is unnecessary to take a licence to marry people. Moreover, we do not believe in divorce, and remarriage because it is against the Bible." The DC asked the Pastor "By whose authority do you perform the marriage?" The Pastor said, "I get the authority from the Bible and from the King of England". That stopped the DC and since that time they never interfered regarding the licence business and whether we allowed divorce or not, they did not bother. We continued like that till independence. When independence came, we thought of accepting licensing because it was part of the law of the land. When the District Council came into existence in our place they introduced this law for the whole district.

Mr. Chairman: The District Council also insisted on licensing?

Shri J. S. Ryntathiang: Yes; they simply followed the existing law. Regarding remarriage, there is no provision for it in the Bible. There is no provision for divorce also, except on the ground of adultery and even then remarriage is not allowed.

Mr. Chairman: What was the customary law among your clans?

Shri J. S. Ryntathiang: We have divorce and remarriage among the clans. But when we accepted Christianity, we followed the Bible. Anything against the Bible we dropped and we retained only those portions of customary law which were supported by the Bible.

Mr. Chairman: You have prohibited degrees beyond what is there in the Bible.

Shri J. S. Ryntathiang: Yes. About the provision of divorce and remarriage in the law, what I do not understand is this. In the Country, we have a law against having many wives, against polygamy. But what is the difference between having series of wives, one after another, and having many wives at the same

time? We know in western countries they do not have polygamy, but they have series of wives, one after another. In America, in 1946, there were 22,91,045 marriages—16·4 per cent—the number of divorces was 6,10,000, i.e. 4·3 per cent. Ten years later, in 1957, the number of marriages were 15,18,000—8·9 per cent and the number of divorces came to 3,81,000, i.e. 2·2 per cent. In 1958 you have less marriages—1,494,000 or 8·2 per cent. They have more divorces than what they had in 1957—3,95,000 or 2·3 per cent. So you find that there is an increase of ·1 per cent from 1946 to 1947 and also from 1957 to 1959. That is very strange, and that is what I am afraid of when we have laid down the clauses enabling the people to divorce and re-marry. I am afraid that by laying down these clauses our country will also come up to the standard of U.S.A. I remember a remark made by the hon. Chairman during the debate in the Lok Sabha. She said:

"We have passed the Hindu Marriage Act some five, six years back. Can we claim that we have a much lower standard of morality than they have in England? It is the society, the social opinion, the situation that prevails in that country, the moral opinion that is there, the economic and the family unit and their attitudes that help in keeping the morals of family life."

This is what she said during the Lok Sabha debate. But basing on the statistics, especially, of the western countries where they have divorce and re-marriage—because in our case also we have followed the western standards and customs in this respect—I can say that six years is nothing. This is not a thing which will change the whole society in a fortnight. In England and America more than 100 years have passed and during that time it was not so much as it is there nowadays. Now it has become a scandal, a social problem to

their society, a sort of a monster. They cannot do anything. No solution has been found out. What will they do with the question of divorce and re-marriage and the delinquents that have come out as a result? That is what I am afraid of as far as our country is concerned. I am here not only as a Christian, but I am here as a citizen of India. This does not concern only me as a Christian but it concerns all the people in the country. Once we enable them, give them a chance to divorce and re-marry, gradually we will reach the standard obtaining in other countries. That is what I am afraid of. We are now laying down the causes for divorce. Among the Hindus, they are very strict, they seldom allowed divorce. They are very much against it. In the Christian Law also we do not have that problem because we have not given many reasons for divorce except one. But now you are providing many causes for divorce. It appears as if the Government is encouraging divorce. You have legalised adultery. You are on the way of legalising incest. I am afraid a day will come when you may have to legalise even homosexuality, as that is a problem in England and America nowadays.

Regarding this question of divorce and re-marriage, I take exception to the remark made by the Deputy Law Minister during the debate in the Lok Sabha. He said:

"Objection has been raised about divorce provisions. It is, they say, opposed to Christian faith and conception of society. The same objection was raised when the Hindu Marriage Act and the Special Marriage Act was passed. That is a thing of the distant past. Now, it has been accepted and it is going into the statute book, whatever be our personal laws."

This, I am afraid, is an Atheistic attitude to take. It goes against the religious faith and belief. He said that

he was going to pass the law whatever be the opposition. He said that they had done it in the Hindu Marriage Act and the Special Marriage Act and they would do the same thing in this case also. What has happened to our Fundamental Rights? What is the freedom of our religion if those in authority can do whatever they like? This is also a thing that I am afraid of. What the people in our side think in this respect is that this law is being framed only for some people and those people who frame it need it. We have seen the Profumo scandal in England. We do not want the same thing repeated here also.

Mr. Chairman: You know that Mr. Profumo did not use the Divorce Act at all.

Shri J. S. Ryntathieng: He could use it.

Then we come to the question of recognition of churches. This is also a provision which, I feel, affects our fundamental rights very much. The Church of Rome, the Church of England and other foreign churches have been recognised in this Bill. What about the churches in India. Are we not citizens of India? Should our churches not be recognised? Why should there be this recognition at all? What is there in the Christian Religion that make the Government to want to recognise Christian churches? What about the Hindu religion, the Sikh religion, the Buddhist religion and others? Do not they desire to do the same thing in respect of them? What is there in the Christian religion that make the Government to be so charmed and to want to recognise the churches? That is a question which affects the fundamental rights of the people in the country. Moreover, you recognise some of the foreign churches. You do not recognise many of the Indian churches. As the Law Commission had said, there are legion of churches in India. There are many of them. They are independent churches without being attached to any foreign mission. Those

churches have been left out. This is a clause which, I feel, should be deleted from the Bill. All relative clauses, clauses relating to the question of recognition of churches, must also be deleted. This provision is against the Constitution and against the fundamental rights.

Regarding the question of licensing I have already made my point clear. These two provisions relating to licensing and recognition should be deleted.

Then, in clause 72 of the Bill I find that a number of items have been listed where the Government could legislate in respect of the churches. That is an interference in the church affairs. There is nothing on which the Government can legislate in respect of the churches. It is provided that the minister must be licensed. Under the present Act, once a minister is licensed.....

Mr. Chairman: Are you referring to clause 72 or 7(2)?

Shri J. S. Ryntathieng: Clause 72.

Mr. Chairman: What is your objection against clause 72?

Shri J. S. Ryntathieng: It gives a rights to the Government to interfere in the affairs of the church. Sub-clauses (e), (f) and (g) refer to the conditions under which licences to solemnize marriages may be issued by the State Government and the circumstances under which they may be revoked. So, Government can grant, withhold or revoke a licence at any time they like under this Bill whereas under the existing Act once a licence is granted it cannot be revoked by anybody. Neither does it expire. So, this is another form of interfering with the affairs of the church. So, I would submit that this clause should be removed from the Bill.

Then, in the notes on clauses, under clauses 12 to 22 on page 38 it is stated by the Law Commission:

"In clause 20 it is provided that the licensed Minister in solemi-

nizing marriages should follow the rules of the church to which he belongs instead of the matter being left to his choice as at present."

This again is another form of interference in the affairs of the churches. Government cannot force the Churches to make rules or compel the churches to follow any particular set of rules regarding the solemnisation of marriages.

In the end, I would again submit that the whole Bill should be scrapped. Do not make one special law for Christians, another for Hindus, yet another for Muslims and so on. Let there be only one law for all the people in the country which prescribes a minimum standard of morality, health etc. leaving the rest to the churches or temples or mosques. It is not for the Government to say or prescribe what standard of morality should be observed or followed by a particular religion. Each religion may prescribe what it feels as the highest standard of morality. So, let there be only one law, which prescribes the minimum standards.

We do not want you to make any discrimination in the framing of laws for different communities. The framers of this Bill, even Parliament I should say, are still suffering from communalism-complex. There was a lot of confusion in the country about language, because of discrimination. Now you are making a discrimination in the case of marriage laws. Therefore, we submit that there should be only one law for all the people, especially in the case of marriage.

Moreover, this Bill is based on the English law and not on the Bible. Neither is it based on the customary laws of India, although we have many of them in the country. The English law is based on the customs prevailing in England, and you are trying to force a law of that pattern on the people of India. It is not justified.

Shri A. D. Mani: Coming to clause 72, suppose sub-clauses (d), (e) and (f) were dropped, do you have any objection to the clause as it stands? I am asking this question because it will be desirable to have marriage registers maintained as it will greatly facilitate the settlement of succession disputes during later years. Since your objection seems to be against licensing, you should have no objection if the sub-clauses relating to that are dropped from this clause.

Shri J. S. Ryntathiang: Even if you omit those sub-clauses, sub-clause (I) gives the Government unlimited powers to make rules. So, that should also go.

Shri A. D. Mani: On the question of recognition of churches, I quite agree that it is not fair for Government to draw up a list of recognised churches on the basis of the advice tendered by their officers. Suppose there is a committee or council of representatives of all Christian communities which unanimously agrees upon a list, the expansion of which has to go through the formality of consultation with the council, would you have any objection to it?

Shri J. S. Ryntathiang: Even then it is not necessary.

Mr. Chairman: That question is not very relevant. They are opposing recognition on principle, not because the committee may consist of non-Christians or they may recommend something wrong.

Shri G. G. Swell: All the witnesses who have appeared before us are against the principle of recognition and licensing. They also want the expansion of the list of prohibited degrees of relationship. What I am particularly interested in is the fact that there are certain points which are particular to the area that the witness represents. In that area great premium is laid on the customs of the people. Even the Constitution of India puts a great premium on the customs of the people there. Therefore I would like that any piece of

legislation about marriage among Christians should not stand in the way of the customs of the people there. In your memorandum you have said:

“The social set up of the people residing in UK-J Hills and Garo Hills in Assam is MATRILINEAL. We have our way of accounting and tracing the relationship, and we have our own table of Kindred and Affinity wherein whosoever are related are forebidden to marry together.”

Then you have made a reference to the clans and all that. So, would it serve your purpose if to clause 4 a sub-clause is added saying:

“There is nothing in their customs to prevent such a marriage.”

Shri J. S. Ryntathiang: In sub-clause (ii) it provides:

“the parties are not within prohibited relationship, unless the custom governing each of them permits of a marriage between the two”.

Shri G. G. Swell: Sub-clause (ii) puts a premium on custom, that is, if the custom allows, two people can be married even if they are within the prohibited degrees of relationship. But what I suggest is to meet your particular difficulty, that is, a new sub-clause (vii) be added providing that two persons can be married if there is nothing in their customs to prevent such a marriage.

Shri J. S. Ryntathiang: In my memorandum I have said:

“We, therefore, appeal the law Ministry|Law Commission to rewrite clause (m) of section 2 of the Christian Marriage and Matrimonial Bill, 1962, so as to read as in the following:—

“The Schedule is applicable to the whole of India, except the Autonomous Districts of Assam, where the customary Laws prevailing in these areas will govern

in the case of prohibited relationship."

I want to bring to the notice of the Committee also that among the Tribals of Assam they have different customary laws in almost all the Districts.

Shri G. G. Swell: It will be rather difficult to exempt the application of a particular Act to a particular area in the country. To mention in the Act itself that it will not apply to a particular area may create some difficulties. But article 12 of the Sixth Schedule of the Constitution gives leave to the Governor to notify that a particular Act shall not apply or that a particular Act shall apply to the area with certain modifications. But I am interested in keeping your customs intact and therefore if we were to put in something like this:

"A marriage may be solemnized between any two Christians if the following conditions are fulfilled, namely:—"

the parties are not within prohibited relationship, unless the custom or usage governing each of them permits of a marriage between the two;"

Shri J. S. Ryntathiang: About the wording, I do not of course claim that my wording is correct because I do not have the authority in law which you have. You know better. But what I want is that our customs should remain as they are.

Then, there is one point that I objected to in the beginning. As I said there must be a standard of morality. I would refer again to what the hon. Minister said during the debate in the House.

Mr. Chairman: That is true. But if we want to cover all those cases where custom has permitted either a loosening or a tightening of standards, we will have to set up a standard; otherwise, how do we do it? Suppose, you say that to you marriage between

first cousins would be abhorrent. But then there will possibly be quite a substantial number of Christians who do marry with that relationship. Even among the Hindus, in my part of the country, it is abhorrent for an uncle to marry his niece, but there are large tracts in India where it is a custom and is something that is not at all abhorrent; on the contrary, that is supposed to be the best form of marriage. So, we cannot at one go say that no such customs should be allowed. Therefore as a first step we have provided that the parties are not within the prohibited degree of relationship. We have set down 19 relationships on each side and you may make them 20 or 21 or 22. You may say, let them be 32 according to Leviticus. So, in order to have a golden mean, let there be at least these 19 and then we say that custom and usage should be protected. According to your interpretation, this is merely a question of not marrying in the prohibited degree of relationships. We shall be covering everybody as far as possible. But the 19 must be the minimum standards laid down as you call the public health. Your point is about the public health.

Shri U. M. Trivedi: Even these 19 have been considered as sacrosanct. Clause 4 says that the parties are not within the prohibited relationship, unless the custom governing each of them permits of a marriage between the two. That means as we have already said that even these 19 is not considered as sacrosanct.

Mr. Chairman: That is what I am saying. We have permitted it. We should permit that here also.

Shri U. M. Trivedi: The phraseology may be a little different.

Mr. Chairman: We now understand your point. What must be there according to you?

Shri J. S. Ryntathiang: But this is the Law for the Christians.

Mr. Chairman: If the whole interpretation is left to the Christians alone, it will be difficult to implement it. Some will say that dispensation may be dispensed with while others will say that it should be left to them. We shall have to apply our minds as to whether these customs and usage permit all these 32 or even more. In some cases the customs and usage corrode into these 19. We have evidence for that. It does not debar you as far as your church is concerned to follow the customs and usage. It does not also debar you from insisting that certain degrees of relationship will be prohibited.

Shri J. S. Ryntathiang: It does not. What I am afraid is that the licensed minister will then act as a civil servant.

Mr. Chairman: That I understand.

Shri J. S. Ryntathiang: The people may also complain against the Ministers. This is the point I am making out.

Shri U. M. Trivedi: Some questions were put by Mr. Swell which indicate that customs and usage must have the predominant values in the association of law so far as your church is concerned. I would like to know as to whether there are customs among the tribes? Have they formulated any such thing amongst the Christians?

Shri J. S. Ryntathiang: It is the same thing for all the people.

Shri G. G. Swell: There is nothing like Christian Customs.

Shri U. M. Trivedi: Some witness yesterday stated that they have got it laid down in the rule—the rules of the Church or something like that. Is something like that in your church also?

Shri J. S. Ryntathiang: We have the same customs for all.

Shri G. G. Swell: I can enlighten you on this. The organized church (Catholic) or Baptist or any other

church having formed rules conduct the ceremonies connected with solemnization of marriages according to the rules. Marriages can be solemnized and recognised by that church. If it runs counter to the church, it cannot be done.

Shri U. M. Trivedi: Have you got a system in your church whereby if a man's marriage is not solemnized according to your rules or by a Minister, you refuse to recognise him as a Christian?

Shri J. S. Ryntathiang: We expel him from the church or tell him to solemnise the marriage according to the customs of the church.

Shri U. M. Trivedi: You want to preserve to yourself that right in regard to solemnisation of marriages.

Shri J. S. Ryntathiang: That is the Freedom of the Church.

Mr. Chairman: You have in your testimony stated that the Law Commission presumes to recognise which Churches have 'organisation and standing'. It presumes to attach to the Biblical requirements for Christian Marriage the need of an ordained clergy and rules of the solemnization. What does it mean? It seems that there is no need for the rules for solemnisation. According to the rules of the Church, recognition will be given. You seem to say that there is no need for rules of solemnisation to be there.

Shri J. S. Ryntathiang: According to the Bible, we should go in regard to solemnisation of marriages.

Mr. Chairman: We could not find any example as to the degrees to be observed in solemnisation of the Christian marriage. That is the point which Mr. Trivedi has been asking. Recently there is an evidence to show that really there is no section of the Bible which says specifically as to how a Christian marriage is to be solemnised. Then how do you say that it is according to the rules of the Bible?

Shri J. S. Ryntathiang: I did not say that. Every Church has got its own rules.

Rajkumari Amrit Kaur: I have understood his point. He is willing to accept the prohibited degrees of relationship as mentioned in the present Act. I want to know as to what form the church is to be governed? Have you elders in your Church?

Shri J. S. Ryntathiang: There are elders in our Church.

Rajkumari Amrit Kaur: Are the Ministers ordained?

Shri J. S. Ryntathiang: Yes, the Minister is ordained. We do not have any special mode of ordination. As you might have known; there are two forms of ordination: (1) The Episcopalian or Papal ordination and (2) the other form. In our Church we do not follow the Episcopalian ordination, because we believe that a minister is appointed of God. When we ordain a man to be a Minister or Pastor, the congregation come together and with the Leader we offer a special prayer and we accepted that ordained person to be the Minister as a man ordained of God.

Rajkumari Amrit Kaur: Only the pastor can perform the marriage.

Shri J. S. Ryntathiang: In our Church only the pastor can perform the marriage.

Shri Joachim Alva: Have you elders in your church? If so, have they been elected?

Shri J. S. Ryntathiang: Yes, Sir.

Rajkumari Amrit Kaur: In your opinion, you do not agree with the proposal for the State in recognising the Church. Also you do not agree to the issue of the licences by the State. Would you now like the definition of a minister in the Act? No such definition of the church is in the Act at the moment?

Shri J. S. Ryntathiang: The Church is a spiritual-organisation. The Emphasis is on the spiritual side. We

would not like to have any definition, on the minister on the church.

Rajkumari Amrit Kaur: How is it possible to know that unless the Church is very well known or unless one knows as to what the organisation of the church is. Does your church allow or recognise a marriage between a Christian and a non-Christian, because nothing is said in this Act on that point. You don't allow?

Shri J. S. Ryntathiang: We don't allow.

Mr. Chairman: You are very strong on this question of divorce. I do not want to argue with you on the way you have given the statistics. In India divorce is much more difficult under the Hindu Marriage Act than it is in America. But even the statistics which you have given should have been given in the context of the total number of married people, not in the context of particular number of years and the marriages and divorces taking place during that period. Anyway, my point is a different one. The Indian Christian Marriage Act, which provided for divorce, applied to you for almost a century now, a little less than a century. Would you say that this permissive legislation—because it is not a legislation which forces you to divorce, it is a permissive legislation used only in hard cases—would you say that it has really reduced your community to immorality?

Shri J. S. Ryntathiang: This is no problem at all especially in our parts in India. Why this provision at all?

Mr. Chairman: Has it been an encouragement? The Indian Christian Marriage Act had divorce. The Hindus never had it; they have now had it for six years. You said that six years is not a long enough period to judge. Now, the Indian Christian Marriage Act has been there for almost a century and it applied to your parts of India also. Therefore I would like you to consider whether this permissive piece of legislation has actually

in fact affected the morality of your people.

Shri J. S. Ryntathiang: No, it has not, because we are against re-marriage.

Shri M. C. Shah: You have stated in your memorandum that exception may be granted to the autonomous districts of Assam because the persons residing in these districts are observing their own customary laws. As stated by Shri Swell, if the customary laws are preserved and protected, will you have any objection to this being made applicable to your areas?

Shri J. S. Ryntathiang: I objected to quite a number of clauses in the Act.

Shri M. C. Shah: If the customs and customary laws are preserved, would you have any objection if the Act is made applicable to your districts also?

Shri J. S. Ryntathiang: The present Act, you mean?

Shri M. C. Shah: The Bill that we are discussing.

Shri J. S. Ryntathiang: I object to a number of points in the Bill. When you re-write the Bill again, it may be different. I cannot agree with all the clauses in the Bill, including those on customs and usages.

Rajkumari Amrit Kaur: Do you have baptism?

Shri J. S. Ryntathiang: Yes.

Rajkumari Amrit Kaur: Do you have the children baptised or wait till they are adults?

Shri J. S. Ryntathiang: We wait till they are adults.

Rajkumari Amrit Kaur: What happens to the children? They are not Christians?

Shri J. S. Ryntathiang: They are Christians. We do not baptise them. We dedicate them.

Rajkumari Amrit Kaur: If a child dies, is it given Christian burial?

Shri J. S. Ryntathiang: Yes. As I said, we dedicate the child.

Shri M. C. Shah: Are your customary laws in accordance with the precepts of the Bible or contrary to them?

Shri J. S. Ryntathiang: Those that are contrary, we leave them. But those which have the support of the Bible, we retain them. That is the practice in our place.

Mr. Chairman: Thank you very much. We shall certainly consider the points which have been made by you. Some of them are quite interesting.

Shri J. S. Ryntathiang: Thank you very much, Madam.

(The witness then withdrew.)

III. BROTHERN CHURCH COMMITTEE, ANGAMALY

Speakersmen:

1. Shri Daniel Oommen
2. Shri T. M. John
3. Shri E. P. Varghose
4. Shri V. T. Mathai

(Witnesses were called in and they took their seats)

Mr. Chairman: Before we begin I have to read out to you the rules relating to evidence being tendered before the Committee. The evidence shall be treated as public and is liable to be published unless it is specifically desired that the whole or any part of it should be treated as confidential. Even though this may be granted, such evidence is liable to be made available to the Members of Parliament. We have seen your memo. To refresh memory, you may tell something about your Church or Congregation and you may also say whether the Assembly of the Brethren in Kerala is the same as your fellowship.

Shri Daniel Oommen: We represent Brethren Assemblies of Kerala. This is different from Assembly of Brethren from Kottayam in Kerala.

Mr. Chairman: We have received a memo from Kottayam. They have given evidence. Is it the same community?

Shri V. T. Mathai: The name is the same. But, we are having no association with them at present. They are a different group.

Mr. Chairman: But you are of the same association.

Shri V. T. Mathai: The only difference is we are not associating with them for certain reasons.

Mr. Chairman: Are the reasons theological or difference of rites or rules?

Shri V. T. Mathai: Mainly because of their un-biblical association with some groups outside India.

Shri G. G. Swell: Would you kindly elaborate on that: un-biblical association?

Shri V. T. Mathai: They have organised a Mission known as India Gospel Mission and they are connected with that with which we cannot associate. Therefore, we have severed from them.

Shri Mathew Maniyangadan: How is it un-biblical?

Shri V. T. Mathai: Because there are many misrepresentations and false statements in their publication.

Shri Mathew Maniyangadan: How long is it since you severed from them?

Shri V. T. Mathai: It was in 1959.

Shri G. G. Swell: In what way are they un-biblical?

Shri V. T. Mathai: Mainly because they are associating with other Chris-

tian groups with whom we do not associate.

Shri A. D. Mani: How is it un-biblical?

Shri V. T. Mathai: We consider some denomination as un-biblical. They are having their association with some of them for the propagation of the Indian Gospel Mission. They are having their association with them. With those denominations we cannot have any association.

Shri G. G. Swell: Would you kindly specify the un-biblical points?

Mr. Chairman: What would be the denominations which they consider un-biblical: why not ask in that way?

Shri V. T. Mathai: We do not have permanent association with Baptists and some other Presbyterian groups. It is true that some of their doctrines are biblical. Some are un-biblical. Therefore, we do not have full association with such groups. Therefore, we have severed.

Shri G. G. Swell: Baptists and Presbyterians?

Shri V. T. Mathai: Some of their teachings we cannot fully endorse.

Rajkumari Amrit Kaur: Have you anything to do with Plymouth Brethren?

Shri V. T. Mathai: We know Plymouth brethren. We are in association with the Plymouth Brethren, in some doctrinal points.

Rajkumari Amrit Kaur: Are you allied to the Quakers also?

Shri V. T. Mathai: No. We have no central organisation in Plymouth. Our Assemblies are autonomous. We are almost practising the same doctrines as the Plymouth brethren practise. We are known as Brethren. Therefore we have put in our Memo as Christians known as Brethren.

Rajkumari Amrit Kaur: Have you Ministers in your Church?

Shri V. T. Mathai: Yes.

Rajkumari Amrit Kaur: Ordained by whom?

Shri V. T. Mathai: By God and recognised by the Church.

Rajkumari Amrit Kaur: Church means Congregation.

Shri V. T. Mathai: By the Congregation.

Rajkumari Amrit Kaur: Have you Elders?

Shri V. T. Mathai: Yes.

Rajkumari Amrit Kaur: Also elected by the Congregation?

Shri V. T. Mathai: Also approved and recognised by the Congregation. We have Elders.

Rajkumari Amrit Kaur: Do you have baptism?

Shri V. T. Mathai: We have baptism. Believers' baptism we practise.

Rajkumari Amrit Kaur: That is to say when

Shri V. T. Mathai: When they profess their personal faith in Lord Jesus Christ, we baptise.

Rajkumari Amrit Kaur: That means adults. You do not have child baptism.

Shri V. T. Mathai: We do not practise child baptism. We consider it unbiblical.

Rajkumari Amrit Kaur: Do you have the ceremony of dedication of children?

Shri V. T. Mathai: No special ceremony of dedication. Baptism is the first ceremony if it all it is a ceremony.

Rajkumari Amrit Kaur: If a child, Christian born belonging to your Church dies, do you not recognise as a Christian child?

Shri V. T. Mathai: Yes; it is a Christian child. But, till it comes of age to profess its faith in Lord Jesus, we do not baptise. That is all. We consider it a Christian child.

Shri A. D. Mani: What would be the numerical strength of this in Kerala?

Shri V. T. Mathai: Nearly 20,000 according to the statistics we have at present.

Shri M. C. Shah: Have you any groups elsewhere?

Shri V. T. Mathai: In Andhra there are similar groups. Their number will perhaps come to 200 or 300.

Shri Mathew Maniyangadan: What is the total number of your Churches?

Shri V. T. Mathai: All over in India there are over 600 Churches.

Shri Mathew Maniyangadan: In Kerala?

Shri V. T. Mathai: Over two hundred.

Shri T. H. Sonavane: In what way do you depart from those recognised Churches or Christianity as professed by Catholics and Protestants?

Shri V. T. Mathai: We do not have infant baptism; we have no ordained clergymen. We consider that all Christians who really put their personal faith in Lord Jesus Christ are Christians and they are spiritual priests and they are entitled to do spiritual sacrifices directly to God.

Shri U. M. Trivedi: No ordination is necessary?

Shri V. T. Mathai: It is the privilege of all Christians.

Shri U. M. Trivedi: Do you agree that each of them will be a Minister?

Shri V. T. Mathai: Any one can be a Minister if he is endowed with special grace from God and if he manifests the same in his Ministry.

Shri U. M. Trivedi: Will it not be necessary to obtain a licence to perform any marriage?

Shri V. T. Mathai: Not necessary. It must be only with the consent of the Church.

Shri M. C. Shah: Who shall decide that?

Shri V. T. Mathai: It is the Church, the local Congregation.

Shri T. H. Sonavane: Church means Congregation.

Shri V. T. Mathai: Congregation.

Shri T. H. Sonavane: How do you define Church?

Shri V. T. Mathai: All those members who are born again who are baptised, and who meet together in the name of the Lord.

Shri A. D. Mani: In para 4, it is said: "Where 2 or 3 are gathered in my name, there am I in the midst of them." Assembly in a Church is not necessary according to your faith.

Shri V. T. Mathai: A church building is not necessary.

Shri A. D. Mani: They can meet in any place; two or three can constitute a Church.

Shri V. T. Mathai: In the Bible, in four places Church in the House is mentioned. It is recognised by St. Paul.

Shri Mathew Maniyangadan: Who does the solemnisation of marriages?

Shri V. T. Mathai: One who is authorised by the Church.

Shri Mathew Maniyangadan: There are Ministers authorised by the Church?

Shri V. T. Mathai: Yes; accepted by the authority.

Shri T. H. Sonavane: To form a Congregation, what is the minimum number required?

Shri V. T. Mathai: We have said in the memorandum: "Where 2 or 3 are

gathered in my name, there am I in the midst of them". The minimum is two.

Shri T. H. Sonavane: If that is the criterion. If everybody takes it into his head or their head, how many Churches you can form, how many exist in India at present; can you give us a fair idea?

Shri V. T. Mathai: No, we cannot give any fair idea, but we follow the Biblical standard and the criteria which are laid down in the Bible.

Shri G. G. Swell: Let me put a hypothetical question to you. Suppose I am a Hindu, and another friend of mine is a Muslim. And suppose some day we are inspired by the teachings of Christ, and we meet together somewhere and we start praying in the name of Christ, and so on, and then we start associating together from that time, will you recognise us to be a church?

Shri V. T. Mathai: Yes, if there are two or three members, and they accept Christ as their personal saviour and they gather together in the name of the Lord Jesus Christ, according to the Bible, they constitute a local church.

Shri G. G. Swell: Will that be enough to make it a church which can solemnize marriages and do other things?

Shri V. T. Mathai: Yes. According to the Bible, that is so. Nothing more is defined in the Bible. But there are elders in the church who are responsible for the administration and the government of the local church. As the church grows, there will be elders who are approved by the church, and those elders manage the affairs of the local church and they are responsible.

Mr. Chairman: But it is not necessary that they alone can be responsible for solemnizing marriages, but anybody in the Congregation can solemnize a marriage?

Shri V. T. Mathai: Anybody who is accepted and approved by the local church can conduct the marriage.

Mr. Chairman: So, it is not necessarily relegated only to the elders?

Shri V. T. Mathai: No.

Shri A. M. Tariq: You have stated in your memorandum that:

"We believe in the promise of our Lord that 'Where two or three are gathered in my name, there am I in the midst of them'."

Can you explain what this means? For instance, I am a Muslim. I have been taught in my Quaran that God is everywhere, whether there is one human being or whether there are two human beings, God is there; in fact, even when there was no human being in the world, God was there, and he will remain when there will be no human being in this world.

Can you explain what you mean by this statement of yours in the memorandum that:

"We believe in the promise of our Lord that 'Where two or three are gathered in my name, there am I in the midst of them'?"

Shri V. T. Mathai: It is not the universal presence or the omnipresence of God that is stated here. This is a special right or privilege granted by Christ to those who follow him. It is true that God is omnipresent, and he is present everywhere. But this is a specific privilege given. This is the simplest form of the local church. Christ has given this special privilege to those followers of his who gather together.

Shri A. D. Mami: So, in terms of this, a marriage can be performed by a particular Minister who has received the Grace? That is to say, a marriage can be performed in the house of a person where three members are present, and one of them is a person who has received the Grace? Am I to understand that according to the custom of the Brethren, a marriage

can be performed in a private house with three persons?

Shri V. T. Mathai: In the Bill itself, there is a provision to the effect that a marriage can be conducted in a private house. So it is with us. In clause 13(c) it has been provided:

"if it is intended that the marriage shall be solemnized in a private building....."

Shri Mathew Maniyangadan: That means that any private building will do, and no special place of worship or building is necessary.

Shri V. T. Mathai: In *St. John* 4:7, Christ has clearly stated that it is not the place but it is the mode which makes the difference.

Shri Mathew Maniyangadan: Do you keep a marriage register?

Shri V. T. Mathai: Of course, we keep a marriage register in which are contained particulars as to who conducted the marriage, where it was conducted, the date and the signatures of the parties and also the signatures of the witnesses.

Shri Mathew Maniyangadan: Is it kept by the Congregation?

Shri V. T. Mathai: It is kept in the church.

Shri Mathew Maniyangadan: You say there are assemblies of brethren also. So, could you say that there are certain rules which govern your church?

Shri V. T. Mathai: There are rules. We follow the Bible. We have got also the prohibited degrees, which have been stated in the Bible in *Leviticus*, Chap. 18, and we believe that it is a divine institution instituted by God; God has instituted the institution of marriage, and we have to abide by the rules which have been stated in the Bible as far as marriage is concerned:

Rajkumari Amrit Kaur: Are you satisfied with the definition of the term 'Christian' mentioned at page 1 of the Bill?

Shri V. T. Mathai: Specifically, a true Christian, according to us, as we conceive of from the Bible, is one who has undergone an inward change; it is not the change in outward form that makes him a Christian but it is the inward change that has happened in the particular individual when he believes in the Lord Jesus Christ as his personal saviour. It is the new life which he receives because of that which makes him really a Christian.

Rajkumari Amrit Kaur: How would you define the term in the Bill, if you do not like the present definition?

Shri V. T. Mathai: All those who accept Christ as their personal saviour and born again of the Holy Spirit are true Christians. That should be the definition according to us.

Rajkumari Amrit Kaur: That is the definition that you would like to have.

Shri Mathew Maniyangadan: Do you feel that baptism is necessary for one to be recognised as a Christian?

Shri V. T. Mathai: No. The definition that we would prefer is that all those who accept the Lord Jesus Christ as their personal saviour and are thereby born again by the regenerating power of the Holy Spirit are Christians.

Mr. Chairman: That is a theological tract. But you must have some legal definition.

Shri V. T. Mathai: We are not very much against this definition in the Bill, because that will include all, according to us.

Mr. Chairman: That means that you are not insisting on the denominational aspect of it?

Shri V. T. Mathai: No, we are not at all insisting on the denominational aspect. We admit that there are so many persons who are 'born again' outside our denomination; if they are really born again by taking the Lord Jesus Christ as their personal saviour, they are also members of the church, according to us.

Shri G. G. Swell: In what way will they be born again in the eye of the law?

Shri V. T. Mathai: Law concerns the material aspect of things.....

Shri G. G. Swell: That is what we are concerned with now.

Shri V. T. Mathai:but this is a purely spiritual thing. It will be difficult for the material man to understand this. It is said in the Bible, in I. Corinthians, Chap. II. that spiritual things cannot be discerned or understood by the ordinary man.

Shri M. H. Samuel: How can law take cognizance of a man being born again?

Shri V. T. Mathai: A law cannot say anything on this, as far as I can see. As far as the marriage Bill is concerned, no special definitions are needed as to whether they are born again or not. All those who are Christians can be covered.

Shri Mathew Maniyangadan: Would you recognise a marriage between a Christian and a non-Christian as permissible according to your faith?

Shri V. T. Mathai: It is quite against our faith and against what is taught in the Bible, to solemnize a marriage between a Christian and a non-Christian. A 'born-again' Christian cannot marry a non-Christian.

Mr. Chairman: His point is that there should be no marriages between Christians and non-Christians.

Shri V. T. Mathai: Definitely so.

Shri G. G. Swell: Does it mean that a 'born-again' Christian, that is, born Christian?

Shri V. T. Mathai: They can marry.

Shri G. G. Swell: How do you differentiate between a 'born' Christian and a 'born-again' Christian?

Shri V. T. Mathai: That person who has accepted the Lord Jesus Christ

as his personal saviour is spiritually re-born or born again. That is our doctrine. That is what we understand from the Bible.

Mr. Chairman: Your point is that it is not enough if a person is born to parents who are Christians, but he has to reassert the fact that he wants to remain a Christian by taking baptism at a later stage, when he becomes newly born, and he accepts the Lord Jesus Christ as his personal saviour. Is that the point?

Shri T. M. John: Baptism follows after being born again. The person takes the Lord Jesus Christ as his personal saviour, and after that he is baptised, as a symbol of that.

Rajkumari Amrit Kaur: Does your church recognise the marriage of a Christian with a non-Christian?

Shri V. T. Mathai: No.

Rajkumari Amrit Kaur: If any member of your church were to do that, you would ostracise him?

Shri V. T. Mathai: Yes.

Rajkumari Amrit Kaur: Do you consider that a definition of 'Church' necessary in this Bill?

Shri V. T. Mathai: It is not quite necessary because it is not applying to us alone. As far as we are concerned, the definition of Christian is sufficient.

Rajkumari Amrit Kaur: You do not want a definition of 'Minister' or 'Pastor'.

Shri V. T. Mathai: No.

Rajkumari Amrit Kaur: How do you object to licensing then? Who then is competent to perform a marriage?

Sri V. T. Mathai: As far as we are concerned, anyone who is authorised and approved by the local church, is entitled to solemnise marriage.

Rajkumari Amrit Kaur: Would you not like a definition of 'Minister' in this Bill

Shri V. T. Mathai: We will appreciate if there is.

Shri Daniel Oommen: The Minister acts in the ministry of the church in conducting worship, holding congregations and so on.

Rajkumari Amrit Kaur: He has been recognised as competent to be minister by your church. Therefore, if you want a definition of 'minister', you have also to have a definition of the 'church' that recognises that.

Shri Daniel Oommen: The Minister is a member of the church who exercises the ministry.

Rajkumari Amrit Kaur: How is it known what is a church?

Shri Daniel Oommen: The church will recognise that.

Rajkumari Amrit Kaur: You will have to have a definition of 'church' also.

Shri V. T. Mathai: Where two or three are gathered unto the name of the Lord Jesus Christ accepting Him as personal saviour and accepting Him as the Lord of their lives—that should be written as definition of a church.

Shri Mathew Maniyangadan: Churches which are organised.

Shri V. T. Mathai: We have no objection to a definition, but the above should also be included in the definition. When that definition is there, we are also naturally included under that definition.

Shri Mathew Maniyangadan: Do you welcome the inclusion of your church also in the definition?

Shri V. T. Mathai: Yes, for the purpose of marriage, we have no objection.

Shri Daniel Oommen: The other profession churches may also be treated as denominations of Christians.

Mr. Chairman: What is meant by 'other professing churches'?

Shri Daniel Oommen: That is, though they do not actually fall in

line with us. Not only those who are re-born with the powers of the spirit are to be treated as denominations of Christians, but others may also be treated as churches. Therefore, this can apply to them also so far as the social ordering of the community is concerned.

Shri V. T. Mathai: Our main objection is to there being recognised and unrecognised churches.

Shri M. C. Shah: You want all churches to be recognised.

Shri V. T. Mathai: Yes, there should not be discrimination.

Shri G. G. Swell: Are you against the principle of recognition or against discrimination?

Shri V. T. Mathai: We are against discrimination. All Christian churches should be recognised.

Rajkumari Amrit Kaur: You do not object to churches being recognised by the State. You do not look upon that as State interference.

Shri V. T. Mathai: We believe that the State has already accepted all Christian churches, even without this law.

Shri G. G. Swell: The question that is being asked is: do you welcome the interference of the State.....

Mr. Chairman: It is an absolutely leading question. I do not allow it. They are not against recognition as such provided there is no discrimination.

Shri T. H. Sonavane: What according to you should be a church so as to make it all pervasive?

Shri V. T. Mathai: We are not very particular about what the definition should be. In the first instance, according to the Bible marriage is a matter of religion a divinely ordained institution and all have to obey the Bible.

Shri T. H. Sonavane: As the Bill expresses, in what way do you think

the expression 'recognised Church' should be redefined or redrafted so as to cover all your ideas?

Shri V. T. Mathai: Clause 2(a) may be defined as:

"Christian" means a person who is professing the Christian religion and accepts Christ as his personal saviour".

This would be satisfactory as far as we are concerned. As regards 'church' if two persons come together to worship Christ and form a congregation, they should be considered as church.

Mr. Chairman: What I understand from your statement is that a declaration of faith accepting Christ is enough, not the organisational aspect of the church.

Shri V. T. Mathai: Yes, that is correct.

Shri A. D. Mani: If all churches are recognised without exception and a complete list is drawn up, would you have any objection to clause 72?

Shri V. T. Mathai: Our main objection is to there being legislation as far as the religious aspect of marriage is concerned, because it is a matter of religion.

Shri Daniel Oommen: So far as recognition is concerned with respect to marriage matters, we object. All churches should be recognised.

Shri G. G. Swell: The Bill never says that some churches should not be recognised. It says that any church may be recognised on certain conditions.

Shri V. T. Mathai: Most of the independent Churches may not be able to comply with the conditions, and they would be at the mercy of the other big Churches, and they would be forced to take licences in order to solemnise marriages.

Rajkumari Amrit Kaur: Therefore, you should be in principle against recognition.

Shri V. T. Mathai: In principle we are against it.

Rajkumari Amrit Kaur: But what you said earlier was contradictory.

Mr. Chairman: There is no contradiction. Their point is that if two or more people come together and tell the Government that they have formed such and such an assembly, there should not be any conditions attached, they should be automatically recognised.

Rajkumari Amrit Kaur: Do you recognise divorce at all?

Shri V. T. Mathai: No.

Rajkumari Amrit Kaur: Are you in favour of judicial separation?

Shri V. T. Mathai: No, except on the ground of fornication. Where it is allowed, the divorce is not permitted to remarry according to the Bible.

Shri Daniel Oommen: The Roman Catholics are also against divorce, and they do not allow the divorce to remarry. Lord Jesus has said that it was because of the hardness of heart of the Jews that in the Old Testament divorce could be allowed on the ground of fornication.

Mr. Chairman: Do you allow nullity?

Shri Daniel Oommen: It does not arise in our case at all, because as believers we have come to understand the spirit of God working in us, in our life and activity and outlook. We will never come to a position that we have performed a marriage which ought to be a nullity.

Mr. Chairman: Suppose there is a marriage which has not been consummated.

Shri Daniel Oommen: In that case also.

Shri T. H. Sonavane: Have no concrete cases of difficulties between husband and wife come to the notice of your Church?

Shri Daniel Oommen: Very seldom. Even if there is anything, we would

try to settle it as between the husband and wife and not go to a court of law for declaration of a nullity.

Shri V. T. Mathai: It was with a dual purpose that marriage was established. On the one side, it was for the propagation of mankind, and on the other, it was to typify the mystic bond between Christ and the Church. The Church is considered to be the body and Christ the head, and there cannot be any separation whatever. That is what the Bible teaches.

Shri T. H. Sonavane: You are not in favour of any of the grounds for divorce given here?

Shri V. T. Mathai: We are not at all for divorce.

If the discrimination between Ministers of recognised and unrecognised Churches is taken away, the question of licensing will also be automatically done away with.

Mr. Chairman: Suppose we do not go into the categorisation as to which is to be a recognised Church and which is not to be but say that all Churches will submit to Government a list according to their rules and conventions of the people who will be performing marriages on their behalf, and they will be given licences.

Shri Daniel Oommen: If permission is given to conduct marriages in that manner, we will be happy, we will not object to that.

Shri V. T. Mathai: There should be no special definition as to what the Minister should be.

As for prohibited degrees of relationship, we have given a list.

Shri Joachim Alva: You also represent Kerala. It has been mentioned to us that marriages in Kerala have been on the whole very happy, and that if this legislation is introduced, there will be trouble. Is that so?

Shri V. T. Mathai: It is almost so as far as we know because we have been enjoying this right in Kerala.

especially for the last twenty centuries, and there has been no legislation by which our marriages are regulated.

Shri Joachim Alva: There must have been a lot of unhappiness among many couples.

Shri V. T. Mathai: They have never gone to the court.

Shri Joachim Alva: They are helpless.

Mr. Chairman: This is what is very intriguing to us. The Christian community in Andhra, for instance, have always had the Indian Christian Marriage Act with divorce applying to it.

Shri V. T. Mathai: The Divorce Act applies to Kerala only since the freedom of India; The 1872 Act is still not applicable to Kerala.

Mr. Chairman: The people in Andhra and Assam had it always applied. Do you mean to say that your congregation or assemblies are better, and because of the clauses of the Divorce Act, 1869 used to apply to those in Andhra and Assam, they are more immoral than those in Kerala?

Shri V. T. Mathai: As far as we are given to understand, they were following the British legislation. During those days they had no voice to oppose.

Mr. Chairman: I am not saying whether they supported or opposed it. What will be the social consequences?

Shri V. T. Mathai: We have not studied the effect?

Mr. Chairman: Do you mean to say that the Christian society which existed, your Brotherhood in Kerala, was far superior to that which existed in Andhra?

Shri V. T. Mathai: In the 1869 Act there were two grounds: adultery and change of religion.

Mr. Chairman: There were four grounds.

Shri V. T. Mathai: Mainly three: adultery, change of religion and bestiality.

Mr. Chairman: All those grounds are there.

Shri V. T. Mathai: We have no statistics as to what was the consequence in Andhra as a result of this Act.

Mr. Chairman: That means you never had need to do it.

Shri V. T. Mathai: Yesterday we enquired about the statistics in regard to divorce. But we could not get anything. We enquired whether it was available, but we learnt that it was not published.

Shri M. C. Shah: What were the general effects of that law?

Shri V. T. Mathai: We actually do not know what has been the effect there, but we believe that there might have been some judicial divorces.

Shri Joachim Alva: You do not know any specific cases?

Shri V. T. Mathai: Andhra is far away from us. During the former days there was no communication. We were not visiting each other.

Mr. Chairman: We do not think that has completely collapsed.

Shri Daniel Oommen: If there is no law there is no transgression. So long as it was not a law which was known to Kerala, we should say that transgression of such a law was also not known.

Shri Bibudhendra Mishra: It is said in the last sentence that the customary law of Kerala does not differ in substance from the mode of the Roman Catholic church and therefore there is no sufficient justification to exclude the territories of the erstwhile Travancore-Cochin State from the proposed Act. Is it correct?

Shri V. T. Mathai: According to the Law Commission they have gone into the procedural law alone. About the divorce, prohibited degrees list and remarriage, they have not gone into the substantive points.

Shri Bibudhenra Mishra: I am talking about the solemnization of marriages. They say there is no difference between the one and the other. We would like to know whether the statement of fact is correct or not.

Shri V. T. Mathai: We publish banns and if they are not within the prohibited list, we solemnize the marriage.

Shri Bibudhendra Mishra: The statement of fact is that the customary law in substance does not differ very much so far as solemnization is concerned.

Shri V. T. Mathai: There is no difference so far as solemnization is concerned.

Mr. Chairman: Even on the question of prohibited degrees, we are mentioning 19 on the one side and 19 on the other.

Shri U. M. Trivedi: You were mentioning substantive law and procedural law. What is the substantive law and procedural law so far as the solemnization of marriage is concerned, and what do you suggest?

Shri V. T. Mathai: Substantive law mainly considers the condition of marriage, who all should be married, who the parties should be, etc. Procedural law is in regard to the way in which ban is proclaimed, after the decision has been arrived at, and how the matter is looked into and how it is solemnized. As far as that part is concerned we are not objecting to it.

Shri U. M. Trivedi: Customs differ from one church to another. Is it your contention that so far as the prohibited degree, which you call is a matter of substantive law, is concerned, it differs? The difference on the question of substantive law is only the difference as has been observed for

the prohibited degree of relationship in the various churches.

Shri P. R. Patil: Suppose the law is the one that prescribes the privileges relating to marriage and the conditions which should be satisfied; the privileges and the conditions or obligations which should be satisfied in respect of marriage between the parties.

Shri U. M. Trivedi: What are the exact privileges which are attached to a substantive provision?

Shri Daniel Oommen: If the parties expecting to get married do not stand within the prohibited degree of relationship and they are not wanting in the public testimony regarding career and character, we say they are fit persons to be married.

Shri U. M. Trivedi: So the particular question about substantive law is narrowed down to this, namely, the various churches differ in one respect and that is, some have got a particular set of prohibited degrees of relationship and others have got another different set. That is the only difference.

Shri Daniel Oommen: Not only prohibited degrees; also in the lives and conduct. If one is carrying on certain activities which are nefarious and which ought not to be brought into a social family relationship, certainly, that is objected to.

Shri U. M. Trivedi: You take into account the private conduct of the man also, and if the conduct is not approved by you, you reserve the right of not marrying him?

Shri Daniel Oommen: If the assembly of the church cannot approve the conduct of one party or the other or both the parties, we say they are not fit persons to be married.

Shri U. M. Trivedi: Suppose a man is a thief, you will not approve of his marriage.

Shri Daniel Oommen: If he is a convict, we do not approve of his conduct.

Shri U. M. Trivedi: What is the particular conduct in respect of which you will refuse a man to be married?

Shri Daniel Oommen: The man must have a proper testimony in the assembly and public life and he must come within the suitability.

Shri G. G. Swell: Anyhow the church must satisfy itself with regard to the capacity of the party for the marriage.

Shri Daniel Oommen: Yes, moral and spiritual.

Shri Bibudhendra Mishra: So far as prohibited degrees are concerned, you follow the Biblical law?

Shri Daniel Oommen: Yes.

Shri Bibudhendra Mishra: Does it differ from Church to Church in Kerala?

Shri Daniel Oommen: There may be certain churches which may disregard them, but so far as our Church is concerned, if they happen to be our members, and if it comes within the knowledge of our Assembly, we will certainly ask them not to disregard it.

Shri T. H. Sonavane: Before solemnizing any marriage, do you have any medical examination of the couple?

Shri Daniel Oommen: We do not.

Shri T. H. Sonavane: Then, how can you know whether the bridegroom is impotent or suffering from any incurable disease; etc.?

Shri T. M. John: We make enquiries about these things as far as possible and only after satisfying ourselves, we solemnise the marriage.

Shri T. H. Sonavane: If during the enquiry false statements are made and later on if impotency is discovered, you want the couple to lead a miserable life?

Mr. Chairman: They have made their position very clear in reply to my question. They have said, under no circumstances nullity is granted.

Shri T. H. Sonavane: We want to make them understand the reasoning behind it by putting these questions.

Mr. Chairman: Without going through the details which you have said, I put the question myself and they have said nullity is never granted. Must we discuss these medical things? I do not think they are relevant.

Shri P. R. Patel: You have said in the case of adultery divorce may be granted. I do not know what you mean by adultery. Suppose the husband is a bad character. Would you consider that adultery?

Mr. Chairman: But they have only said 'fornication' and not 'adultery'. It is clear.

Shri M. C. Shah: Whatever sins a party has committed, if he or she repents sincerely, then God forgives the sinner and those sins should not be taken into consideration for future life. Is that your point?

Shri V. T. Mathai: What we have stated here is, when one repents all his sins or her sins and accepts the Lord Jesus Christ as the personal saviour, thereby he or she enjoys the full and free forgiveness of their sins. That is clearly there in the Bible. Those sins are completely wiped off and a new life begins then and there.

Mr. Chairman: Thank you very much. Your exposition is more or less the same as the exposition given by the other group. We shall certainly consider your suggestions.

Shri Daniel Oommen: In our memorandum, we have mentioned 9 items:

in our prayer. There, we have covered all the points. First of all, we have said that the provision in the Bill for recognition of churches and denominations be dropped.

Mr. Chairman: Yes. I have it here. We shall certainly consider them. Thank you.

(The witnesses then withdrew)

IV. THE SOCIETY OF CHURCH OF GOD
(FULL GOSPEL) IN INDIA,
CHENGANNUR

Spokesmen:

1. Rev. T. M. Varughese
2. Rev. M. Benjamin.

(Witnesses were called in and they took their seats).

Mr. Chairman: I just want to tell you about the rules guiding the evidence tendered before this Committee. The evidence that you tender before the Committee is liable to be published unless you specifically desire that any part of the evidence is to be treated as confidential. Even if it is to be treated as confidential, such evidence is liable to be made available to Members of Parliament.

Shri Joachim Alva: I believe, Madam Chairman, in a case like this we have nothing confidential.

Mr. Chairman: We are bound by our rules.

Now, according to you, the points that you want to impress upon the Committee are: that the question of recognition of churches and licensing of ministers is to be dropped; the list of prohibited relations should, I presume, be taken to the Leviticus level; the provision for divorce on grounds other than fornication should be dropped and the clause relating to remarriage should be dropped. Now, would any of the members like to put any question to the witnesses?

Shri G. G. Swell: You have said here, Mr. Benjamin, that recognition of churches and licensing of ministers should be dropped or recognition of all churches and denominations should

be provided for. You have suggested both these things. To which one would you attach more importance?

Rev. M. Benjamin: All churches should be recognised without there being any committee of five members to recommend recognition.

Shri G. G. Swell: There is a big point of difference here. Are you opposed to the very principle of recognition of churches by the State or are you not against the principle of recognition if all the churches are recognised?

Rev. M. Benjamin: If all the churches are recognised then we have no objection.

Mr. Chairman: You say that whenever you form a church or a denomination you will notify to the Government that you have formed a church or a denomination telling them the rules you have framed and all that, and that should be enough for the Government to issue recognition to it. If that is done, you say you have no objection.

Rev. M. Benjamin: Then we have no objection.

Shri M. C. Shah: Therefore, you think that recognition is necessary.

Rev. M. Benjamin: Yes, it is necessary.

Shri M. C. Shah: Why do you think it is necessary?

Rev. M. Benjamin: Because you are framing an Act for that purpose, it is necessary that all churches should be recognised.

Shri Mathew Maniyangadan: Do you mean to say that recognition by Government is necessary?

Rev. M. Benjamin: Yes.

Shri Mathew Maniyangadan: What do you mean by saying that all churches should be recognised? What are the conditions that you suggest for recognition of a church?

Should there not be some condition for recognition of a church?

Mr. Chairman: He says that no such condition should be laid down and as soon as an organisation writes to the Government saying that a church has been formed the Government should recognise it and it is not for the Government to say that the church is good or bad.

Shri Mathew Maniyangadan: That in effect means that they are against the principle of recognition by the Government.

Mr. Chairman: You may interpret it like that. They have not said that in so many words.

Shri M. C. Shah: They want that there should be no enquiry and that all churches should be recognised.

Shri Mathew Maniyangadan: What is the purpose of such a recognition? It means that you are against the idea of recognition by the Government.

Rev. T. M. Varughese: We are not against recognition by the Government but by the five-member committee.

Shri Mathew Maniyangadan: Supposing there is no committee. Somebody has to do it. Some Secretary or some other official has to give the recognition if you think that recognition is necessary.

Rev. T. M. Varughese: As soon as a church is formed we register it. All churches are registered by the Government.

Shri Mathew Maniyangadan: Therefore, according to you, all registered churches should be recognised?

Rev. T. M. Verughese: In the original draft the power of recognition was with the State. Now it is with the centre. The Bill also makes provisions for the appointment of a committee

consisting of not more than 5 members who are all Christians for recommending recognition. Divisions exist in the Christian church because of differences. No one particular group is anxious about the continued existence of others. The anxiety is all the other way. This provision which is apparently a boon is a bane. These provisions make it rather impossible to get recognition for smaller groups.

Rajkumari Amrit Kaur: When the Government is given the power to recognise, it follows that the power not to recognise must also be there. How do you reconcile the two things? If you say that all churches ipso facto after they come into being are to be recognised, that is no recognition at all. Have you thought over this carefully?

Shri G. G. Swell: Right to recognise also implies right to withhold recognition.

Rev. T. M. Varughese: Yes.

Shri T. H. Sonavane: Supposing two or three Christians form themselves into a church, do you want the Government to recognise it?

Rev. M. Benjamin: According to the Bible the Lord has promised:

"Where two or three are gathered in my name, there am I in the midst of them".

Therefore, He recognises a church formed by two or three people and it should be recognised by the Government also where we as Christians have the right to solemnize marriages and other things. For that we need the recognition of the Government because we have the licence from the Government.

Shri T. H. Sonavane: Supposing one man and one woman want to marry, they are not allowed to marry by any church, they form themselves into a church by bringing in a third man as priest and get married. Should such a congregation, according to you, be recognised by the Government?

Rev. Benjamin: For that we need at least two witnesses also.

Shri T. H. Sonavane: Then the minimum requirement is not three. Suppose after the solemnization they break off and there is no church. What happens?

Rajumar! Amrit Kaur: Does the Bible say that you should have two witnesses to have a marriage?

Rev. M. Benjamin: No.

Rajkumari Amrit Kaur: So, it is your own creation.

Shri Mathew Maniyangadan: When you say that all the churches should be recognised do you mean that the Government should take into consideration the existence of a church without going into its working (that is to say, no formal recognition as such) or do you mean formal recognition by Government by law? If the law provides for the recognition of churches it means as a corollary the right to refuse recognition also, in which case you are contradicting yourself because you say that all churches must be recognised.

Rev. T. M. Varughese: According to the Bill, it should be on the recommendation of some of the big churches.

Shri G. G. Swell: We are talking about the principle of recognition, not about the ways and means of recognition.

Mr. Chairman: They are more afraid of this committee discriminating than the State interfering with the churches.

Shri T. H. Sonavane: What should be the minimum congregation for recognition according to you?

Shri G. G. Swell: They say that when two or three people gather they should be treated as a church.

Rajkumari Amrit Kaur: In some cases they go according to the Bible and in others according to their own rules. In the memorandum they say that the provision for recognition of churches and licensing of Ministers should be withdrawn. What is the minimum number they require for a church? Three persons?

Rev. M. Benjamin: That is what the Bible says.

Rajkumari Amrit Kaur: Are you not taking words out of context and interpreting them in your own way? We have heard two or three versions of the interpretation.

Rev. M. Benjamin: Unfortunately, we in the south are in a peculiar position because for the last two thousand years we never had such an Act.

Mr. Chairman: Do you have banns?

Rev. M. Benjamin: Yes.

Mr. Chairman: That means that your society is sufficiently in the know that a marriage is to take place. Could you not consider that would be one of the absolute musts for a marriage? A banns must be there?

Rev. M. Benjamin: It is there so that the congregation should know that the marriage is being celebrated in the church and if anybody has any objection, it should be sent within three weeks.

Mr. Chairman: That would be a sufficient safeguard against clandestine marriages.

Shri G. G. Swell: How is your church organised?

Rev. T. M. Varughese: Ordained Ministers, Ministers, eldersmen and so on.

Shri Joachim Alva: What is the period of training?

Rev. T. M. Varughese: At least three years.

Shri T. H. Sonavane: How is the ordaining done? Is it done by the congregation on the basis of election?

Rev. T. M. Varughese: In a church if a proper person is recommended by the people, that proposal will go to the Executive Council and the President, who will talk over the matter and see whether he has come up to that status or position. If they feel that he is a fit person, they will proclaim or announce that so and so is ordained as the pastor.

Shri T. H. Sonavane: Suppose there is more than one person in the congregation fit enough to become a Minister?

Rev. T. M. Varughese: Both the President and the Executive Council will go through all the nominations, consider the position of each nominee and then appoint the best available person. We ordain him as the pastor.

Shri G. G. Swell: Suppose, there is some difference of opinion among the congregation, about the person to be ordained. How do you resolve that?

Rev. T. M. Varughese: There would be no difference of opinion. We will pray and the Lord will just lead us. Only a man who is baptised, who has received the holy spirit and who has always set apart his life for the Lord's work will be ordained. It is always unanimous.

Shri M. C. Shah: How do you decide if there is more than one aspirant?

Shri G. G. Swell: What they say is that there is no aspirant.

Mr. Chairman: I think, we have had their ideas. They have been very clear. We have also got their memorandum.

Rev. T. M. Varughese: We have also brought our statement to be given to you. It is already printed.

Mr. Chairman: Please give that to us. You have got an accepted Council and ordained ministers.

Rev. T. M. Varughese: Yes. One thing that we wanted to stress is that we are against divorce.

1317(Aii)LS-13.

Rev. M. Benjamin: According to the word of God and according to the Bible, divorce is not to be allowed. We want to live and practice the word of God according to the Bible. We want to go to heaven.

Mr. Chairman: But you are not forced to divorce.

Rev. M. Benjamin: That is true; but the loophole is given.

Mr. Chairman: There are Christians who for all these years had the right to divorce and are still being considered Christians. There are certain Christians who do not believe that there should be divorce and they are not forced to do so. But for a community like the Christians to take away the right of divorce would be something very difficult to do.

Rev. M. Benjamin: But if a Christian does not live according to the Bible, we do not believe that he is a Christian.

Mr. Chairman: Your Church may not accept him but there are others who will. We do not say that you will have to accept him, but we cannot take away that right which already exists.

Rev. T. M. Varughese: According to the Bible, divorce is permitted only on the ground of fornication and even in a case of this nature the divorcees are not allowed to re-marry. Sickness of a spouse is an occasion for greater devotion and loyalty and not an occasion for desertion or divorce. The Indian tradition is also to this effect.

Shri U. M. Trivedi: There we agree with you.

Shri G. G. Swell: The opinion of some Christians is that even on the ground of fornication there cannot be divorce but only separation.

Rev. M. Benjamin: The interpretation of the Bible is that you can divorce on the ground of fornication alone but after divorce they are not

to be married again because that itself is another fornication. If you have this according to the law that you are bringing forward there will be too many fornications in the Churches and the high standards of the Churches will be lowered.

Mr. Chairman: Except for Christians in Kerala the rest of the Indian Christians have had the right to divorce. Whether they have used it or not is another matter.

Rev. M. Benjamin: It is not according to the word of God.

Mr. Chairman: The Indian Christian Marriage Act applies to the Catholics too and it just happened that the rules of the Church were accepted by them as stronger than the legislation. If that is the fact, I am not able to understand the great fear in the minds of those who are urging before us that Doomsday will fall upon our society and that everybody will run to the courts if this is provided for. Facts do not prove that at all. Our society has shown that in spite of the fact that they have had the right to divorce nothing very extraordinary is happening.

Rev. M. Benjamin: In America, I think, 50 per cent of the people are divorced after their marriage.

Mr. Chairman: But we have not made it as easy as that. Divorce is quite difficult to get here.

Rev. T. M. Varughese: But we believe that divorce should not take place in India. In the olden days there used to be the Sati system. They even went to the burial ground, lay down by the side of the coffin and burnt themselves up because of the love that they had towards their husbands.

Rev. M. Benjamin: The word of God says; What God has joined together let no man put asunder. So, no man is allowed to put it asunder unless one of the parties dies. That is the word of God and that is what we believe.

Shri G. G. Swell: In your community is marriage arranged by the parents or is it brought about by the free choice of the parties?

Rev. M. Benjamin: In our community parents do interfere.

Rev. T. M. Varughese: Generally it is an arranged marriage and we have never had a divorce case for all these 2,000 years.

Rajkumari Amrit Kaur: Do Christians belonging to your Church marry a non-Christian? Would you allow it?

Rev. M. Benjamin: We will not allow it in our Church.

Rajkumari Amrit Kaur: You would not recognise it.

Rev. M. Benjamin: No. A Christian should marry a Christian.

Shri Joachim Alva: I presume that there is no such case which has come to your knowledge where it has gone to the Court as per the provisions of the Civil Marriage Act.

Rev. T. M. Varughese: If there is any divorce, that person will be put out of the Church. But it will never go to the Court.

Shri Joachim Alva: Have you done that?

Rev. T. M. Varughese: Yes.

Shri Joachim Alva: Don't you know that there is an Ex-communication Law in Bombay?

Rev. T. M. Varughese: That is there even in the Church.

Mr. Chairman: Thank you very much. We shall certainly take all these into consideration.

Rev. M. Benjamin: We want you to consider it favourably so that the Christians may become the true citizens of India and remain to be so.

Mr. Chairman: Now we should keep to the same schedule viz., we shall start at 9 A.M. and finish the evidence at 13 hours.

(Witnesses then withdrew)

The Committee then adjourned.

JOINT COMMITTEE ON THE CHRISTIAN MARRIAGE AND MATRIMONIAL CAUSES BILL, 1962

MINUTES OF EVIDENCE GIVEN BEFORE THE JOINT COMMITTEE ON THE CHRISTIAN MARRIAGE AND MATRIMONIAL CAUSES BILL, 1962

Thursday, the 18th July, 1963 at 09.07 hours

PRESENT

Shrimati Renu Chakravartty—*Chairman.*

MEMBERS

Lok Sabha

2. Shri Joachim Alva
3. Shri A. E. T. Barrow
4. Sardar Daljit Singh
5. Shri Ram Dhani Das
6. Shri Sudhansu Bhushan Das
7. Shri M. L. Dwivedi
8. Shri V. B. Gandhi .
9. Shri L. D. Kotoki
10. Shri M. K. Kumaran
11. Shri Bajj Nath Kureel
12. Shri Mathew Maniyangadan
13. Shri Panampilli Govinda Menon
14. Shri Bibudhendra Mishra
15. Shri Purushottamdas R. Patel
16. Shrimati Yashoda Reddy
17. Shri T. H. Sonavane
18. Shri Sivamurthi Swami
19. Shri G. G. Swell
20. Shri A. M. Thomas
21. Pandit D. N. Tiwary
22. Shri T. Abdul Wahid
23. Shri Yashpal Singh

Rajya Sabha

24. Rajkumari Amrit Kaur
25. Shri Jairamdas Daulatram
26. Shrimati Jahanara Jaipal Singh
27. Shri Dayaldas Kurre
28. Shri Bansi Lal

29. Shri A. D. Mani
30. Shri Mulka Govinda Reddy
31. Shri M. H. Samuel
32. Shri M. C. Shah
33. Shri Awadheshwar Prasad Sinha
34. Shri P. A. Solomon
35. Shri A. M. Tariq

REPRESENTATIVES OF THE MINISTRY

1. Shri G. R. Rajagopaul, *Special Secretary, Ministry of Law and Member, Law Commission.*
2. Shri R. V. S. Peri Sastry, *Assistant Draftsman, Ministry of Law.*

SECRETARIAT

Shri A. L. Rai—*Deputy Secretary.*

WITNESSES EXAMINED

I. CHRISTIAN ASSEMBLIES (CHURCHES) KNOWN AS 'BRETHERN', MADRAS

1. Mr. T. G. Samuel
2. Mr. Daniel Oommen
3. Mr. M. J. E. Pritchard

II. THE ARCHBISHOP OF BOMBAY AND PRESIDENT, CATHOLIC BISHOPS' CONFERENCES OF INDIA, BOMBAY.

1. The Most Rev. Dr. Angelo Fernandes
2. Very Rev. Msgr. William Nazareth

III. THE SOUTH INDIA ASSEMBLIES OF GOD, PUNALUR

1. Pastor A. C. Samuel
2. Mr. George Mathew

**I. CHRISTIAN ASSEMBLIES (CHURCHES)
KNOWN AS 'BRETHERN', MADRAS.**

Spokesmen:

1. Shri T. G. Samuel:
2. Shri Daniel Oommen.
3. Shri M. J. E. Pritchard.

(Witnesses were called in and they took their seats)

Mr. Chairman: Before we begin I have to draw your attention to the

rule guiding the presentation of evidence before the Committee, that the evidence shall be treated as public and is liable to be published unless you specifically desire that all or any part of the evidence should be treated as confidential; and even if it is treated as confidential, such evidence is liable to be made available to Members of Parliament.

Now, we have read the memorandum which you have submitted to us, and we also more or less know what

is the fellowship known as Brethren, because we have already had two evidences. Actually, as far as the memorandum goes, we have discussed all these points in rather great detail with the other two sets of witnesses who have come before. So if any of the Members wish to put any questions they may do so.

Rajkumari Amrit Kaur: In your memorandum you have objected to recognition, but you have said nothing about licensing of ministers. You have ministers in your assembly?

Shri T. G. Samuel: We have Elders.

Shri Daniel Oommen: We have Elders elected by the congregation who according to the exercise of the grace of God bestowed on them guide the church, lead them in worship and administer all the functions and duties of the church.

Rajkumari Amrit Kaur: What I wanted to know was whether in your opinion these ministers that are elected by your congregation—or by whatever method the Elders are elected—whether they *ipso facto* have a licence to solemnize marriages.

Shri Daniel Oommen: By their ministry we believe that they have the unction, the anointing, in a spiritual sense, from God to administer the functions of the church.

Rajkumari Amrit Kaur: So in your opinion they should be given the right?

Shri Daniel Oommen: That is exactly what we beg to submit.

Rajkumari Amrit Kaur: Does the definition of 'Christian' in the Bill satisfy you or do you want to make any addition or subtraction to it?

Shri Daniel Oommen: We would only say that all that is spoken here about Christians may be granted with special reference to us and that we should not be in any way put under any discrimination.

Rajkumari Amrit Kaur: That I know. I am only asking whether the definition of 'Christian' in clause 2 of the Bill, that 'Christian' means a person professing the Christian religion, satisfy you.

Shri Daniel Oommen: For the purpose of this Bill we will say that the definition of 'Christians' will suffice as it is given in the Bill, including us as also every other denomination for the purposes of this Bill. We will have no objection to the word 'Christian' being used comprehensive of all denominations.

Rajkumari Amrit Kaur: For the rest your practices are the same as in Kerala or elsewhere?

Shri Daniel Oommen: As we submitted along with the Brethren of Angamaly yesterday, we are one in fellowship with them in all the doctrines and all the practices.

Rajkumari Amrit Kaur: Would you like the definition of 'church' to be included if the recognition goes?

Shri Daniel Oommen: We would like to have a definition in this way: that 'church' will represent all bodies of believers in Jesus Christ who have accepted Him as personal saviour, irrespective of the number, the strength or the location of the assembly or any pomp and show of the assembly.

Mr. Chairman: Could you send us in writing your definition of 'church'?

Shri Daniel Oommen: Yes.

Shri A. E. T. Barrow: May I know whether your Elders, before they perform a marriage, have to get any licence from the Government?

Mr. Chairman: That is what they have stated.

Shri G. G. Swell: One of the questions arising from that point which Mr. Barrow has raised is this. You have stated in your memorandum "Our representatives or Elders are now given the privilege etc." How

do you equate representatives with Elders? Representatives of whom?

Shri Daniel Oommen: Of the Church, or the assembly.

Shri G. G. Swell: And represent where?

Shri Daniel Oommen: In the local places where the assembly gathers. We say that our representatives or Elders represent the churches in the places where the assembly gathers.

Shri G. G. Swell: That is not my main question; I wanted to have the background. I understand from your memorandum that your assemblies of Brethren are local assemblies and are autonomous. That is, each particular assembly in a particular locality will regulate its own affairs, it will have its own Elders, and I suppose those Elders continue?

Shri Daniel Oommen: Yes.

Shri G. G. Swell: And they run the church?

Shri Daniel Oommen: They guide the church, they lead the church.

Shri G. G. Swell: They are running the show. Whom do they represent?

Shri Daniel Oommen: They run it subject to the restrictions given in the scriptures of God.

Shri G. G. Swell: That is merely verbal.

Shri Daniel Oommen: As we believe in the Bible, the word of God.

Shri G. G. Swell: You have said "Our representatives or Elders are given the privilege of solemnizing marriages under the licences issued to them for that purpose". Who issues the licences? The State Government?

Shri Daniel Oommen: Yes.

Shri G. G. Swell: Then do I take it that you are not opposed to the practice of granting licences by the State Government?

Shri Daniel Oommen: It is the State Government that holds authority to issue the licence.

Shri G. G. Swell: Who holds the authority under God, that is a different matter. I am asking your opinion whether you think that the practice of granting marriage licences by the State Government is good and should continue.

Shri Daniel Oommen: It should continue.

Shri A. E. T. Barrow: You are not opposed to the principle?

Shri Daniel Oommen: No, I would like to clarify our position. So far as marriage is concerned, from the point of view of the social aspect of it, for the ordering of it, we may say that the law should interfere in the matter and licences should be issued.

Shri G. G. Swell: There is a section of opinion among Christians in this country which seems to be of the view that the right to solemnise a marriage is inherent in the position of a minister or some authority or recognised person in the church.

Shri Daniel Oommen: We agree with that.

Shri G. G. Swell: There is a big difference between the two. You cannot agree to both.

Shri Daniel Oommen: So far as the obligations of the ministers to the State are concerned we have to satisfy the State and the laws given by the State. Therefore we have to submit to the law issued by the State.

Shri G. G. Swell: That is altogether a different question. You have to recognise the law. But I am asking you whether you countenance the principle of the State giving licences to your ministers.

Mr. Chairman: That he has clearly stated. There are two opinions. His opinion is that there is a spiritual side. He accepts it. But as regards the social side or the civil side, so to

say, he believes that there should be licensing.

Shri A. E. T. Barrow: Suppose the State Government refused to give licence, what is the remedy?

Shri Daniel Oommen: Our submission is that the State Government may not be pleased to refuse.

Mr. Chairman: Has it ever happened?

Shri Daniel Oommen: Hitherto, we have got the licences issued.

Mr. Chairman: Whoever applied has always received licence?

Shri Daniel Oommen: Yes.

Shri A. E. T. Barrow: The power to grant a licence also confers the power to withhold a licence. Therefore, you are conceding the principle that the State Government can withhold the licence. You are conceding that principle.

Shri Bibudhendra Mishra: They have experienced no difficulty so far.

Shri A. E. T. Barrow: May I have the opinion of the witnesses? You agree that the State Government has the right to refuse the licence also?

Shri Daniel Oommen: We will not take up that position. If the State Government were to refuse a licence, the Assemblies will suffer. Therefore, in the interests of the Assembly, we submit that each Assembly should be given the privilege of having a Minister who can administer marriages, who can perform the marriage of the Assembly Members. The State Government should not refuse the grant of licence.

Mr. Chairman: The point which we would like to know is, as far as you are concerned, you have not been refused licence. Do you find it difficult to get licence?

Shri Daniel Oommen: So far as it stands now, the applicants have been granted licence up to now. There has been no refusal.

Shri M. C. Shah: Is it your view that the State Government should automatically give licence to those persons whom you recommend and the State should not have the authority to refuse?

Shri Daniel Oommen: When the Assembly recommends, the recommendation should be accepted by the State. That is what we want. Otherwise it will give rise to practical difficulties.

Shri M. C. Shah: You say you have not experienced any difficulty. As our friend put it, the right to grant a licence also includes right to refuse.

Mr. Chairman: He has put a leading question. He asked, do you concede the right to an outside authority, that is the State to grant licence, which also means the right not to grant also.

Shri M. C. Shah: What should be the criterion for granting a licence: can you say?

Shri Daniel Oommen: The standing of the Assembly. No discrimination should be made with regard to one assembly and another.

Shri Joachim Alva: Is there baptism in your Assembly?

Shri Daniel Oommen: We have baptism; it is adult baptism.

Shri Joachim Alva: You do not consider that a Christian is complete without having baptism.

Shri Daniel Oommen: A Christian when he accepts Lord Jesus as his personal saviour, it means he is supposed to be re-born and he becomes a re-born Christian. His baptism is only an outward expression of the inward change.

Shri Joachim Alva: You know the assurance or promise made to Peter by Christ.

"O Peter, thou art the rock upon which I shall build the Church."

Shri Daniel Oommen: We differ from that. The Church is built upon the eternal truth that Jesus Christ is the

son of God. That is what Lord Jesus Christ said.

Shri Joachim Alva: Do you deny the statement?

Shri Daniel Oommen: We are denying the fact that Jesus referred to Peter as the rock upon which he built the Church. This is the testimony which the Peter gave: "Thou art the son of God". Upon that foundation, the Church was built. That is the sure foundation for the Christian faith, the inevitable foundation, the in-alienable foundation.

Mr. Chairman: May I ask a practical question, moving away from the theological? Mr. Samuel, you belong to Madras. The Indian Christian Marriage and Divorce Acts always applied to you, all these years, about 70 years before Independence and 20 years after Independence. Why is it that you are now making such a vehement opposition to the question of divorce as fundamentally opposed to morality and to everything that you consider to be Christian. It has always been there as far as you are concerned. You have seen the Act in practice: the right of divorce being given in practice, how far they have used it and how far the morality of society has been affected or not. May I ask from you why do you now enter a caveat against it?

Shri M. H. Samuel: We had no option. We were not there to oppose. Now that a new Bill is being introduced, it is only right that we should express our views on the subject.

Mr. Chairman: Kerala people say, the Act did not apply. In Madras it was applied. Do you feel that the community in Madras has been more adversely affected?

Shri M. H. Samuel: I would not say that.

Rajkumari Amrit Kaur: It is only an enabling measure. After all, if a woman is badly treated by her husband and she finds life unbearable with him, would you not agree even to judicial separation? Do you not even approve of it?

Shri Daniel Oommen: Any differences or any treatment of which either party may complain about the other is a thing which can be rectified and restituted at the intervention of the Assembly and the Ministers and according to the scriptures. Marriage relationship is a union for life between a man and woman.

Rajkumari Amrit Kaur: You would expect a woman, however cruel he is, that she should continue to live with him.

Shri Daniel Oommen: A Christian woman has no choice to go away from the husband and complain about ill-treatment which she received from her husband at all. The woman has to feel that it is by divine ordination that the husband was given to her. That joining between the husband and wife is a divine institution. God who created man and woman has made them that way and has joined them. What God has done no man shall put asunder. Therefore, it is a union for life.

Rajkumari Amrit Kaur: She has got to live with the husband whatever the condition.

Shri Daniel Oommen: Yes; and try to rectify and have restitution.

Rajkumari Amrit Kaur: Are you not condoning cruelty?

Shri Daniel Oommen: A woman should consider her husband as her master. That is the New Testament. Christian relationship between husband and wife has just that spiritual significance by comparison and analogy with that of Jesus Christ and the believers.

Mr. Chairman: What section of the Bible says that man is the master?

Shri Daniel Oommen: The New Testament pattern. St. Peter says, in olden times, you know the pattern of Sarah wife of Abraham who called him Master. That should be the attitude of the wife to the husband.

Mr. Chairman: In the Ephesians. That is the Old Testament pattern.

Shri Daniel Oommen: In the New Testament, it is reiterated and confirmed. Referring to the old pattern, St. Peter who lived in the New Testament times says: the pattern of submissiveness of the wife should be that of Sarah wife of Abraham whom she called Master.

Shri M. J. E. Pritchard: With your permission, may I read one text?

Mr. Chairman: Please. Though this has not much relevance here, this is for my personal information.

Shri M. J. E. Pritchard: It says in the Epistle to the Ephesians:

"For the husband is the head of the wife even as the Christ is the head of the Church and He is the saviour of the body.

Therefore, as the Church is subject unto Christ, so let the wives be to their own husbands in everything."

Mr. Chairman: So, if the husband is cruel, we have to submit.

Shri M. J. E. Pritchard: It goes on to say—the husband has a responsibility.

Mr. Chairman: What is the responsibility of the husband?

Shri M. J. E. Pritchard: There is reciprocity. The responsibilities of the husband also have been mentioned there. That portion reads thus:

"Husbands, love your wives even as Christ loved the church and gave Himself for it."

Shri P. A. Solomon: That is a very old version. Recently, the Pope has admitted that the rights of women must be accepted as being equal; he has admitted that in his pastoral letters.

Mr. Chairman: But they do not believe in the Papal Dispensations at all. So, only the Catholic women have equal rights and not those who are in the Assemblies.

Shri A. E. T. Barrow: Suppose the husband does not love his wife, and the husband who is the head is mentally deranged. What will you do about it?

Shri M. J. E. Pritchard: 'What God hath joined together, Let no man put asunder.' We have had experience of these things. I know of a case in Bangalore, where a Christian woman has refused to leave her husband who had been very cruel to her, but by God's grace, they are now coming together, and God is trying to bring them together again in happiness.

Mr. Chairman: Of course, there are such cases. Surely you do not think that the clause as given in the Bill forces a woman or a man to go to the court the moment there is cruelty, and seek separation or divorce etc. This is only a permissive legislation. It depends upon the ability of the woman or the man to suffer, and when they reach the point of no hope, then they should have the right to go to court and seek divorce etc. This is not an obligatory clause at all.

Shri M. C. Shah: May I know whether you are opposed to the principle of recognition of churches by the State, or do you think that the State should recognise all the churches?

Mr. Chairman: We have already discussed this, and we know their views. You are opposed to the clause about recognition?

Shri Daniel Oommen: We are opposed to recognition, because that might lead to discrimination between churches and churches.

Shri P. R. Patel: In these days, when we have got the Constitution which gives equality to one and all, to both man and woman, do you not think that the women should have equal rights with the men?

Mr. Chairman: He has made that position clear that according to the Bible, it is not so.

Shri P. R. Patel: Whatever that may be, after the Constitution has come

into force, it gives equality to one and all. What have you to say about this?

Shri Daniel Oommen: We submit that in regard to the relationship and the position which the woman maintains with the husband in society, she may walk ahead, or walk abreast of the man. But in spiritual matters, she should have submissiveness, so far as her relationship with her husband is concerned.

Shri P. R. Patel: You have used the word 'master'. There cannot be any master after the Constitution has come into force.

Shri Daniel Oommen: She must take him as her master in her submissiveness.

Shri P. R. Patel: But after the Constitution has come into force, there has to be equality.

Shri Joachim Alva: That may have been so at the time of the Romans.

Shri Daniel Oommen: But, the husbands are not to treat them as chattel.

Shri G. G. Swell: Could you enlighten me on one very tricky point which I have not been able to reconcile myself with, in regard to the marriage of a woman? Our Christian conception of God is that He is a just God and a Father who wishes happiness to all those in his church. Am I correct?

Shri Daniel Oommen: Yes.

Shri G. G. Swell: If God joins together two persons for His purpose, namely to carry on the work of creation etc., then it must be for their happiness. Am I correct in this?

Shri Daniel Oommen: Yes.

Shri G. G. Swell: If a husband turns out to be a beast who is the source of misery and unhappiness to the wife, do you think that it will be the Act of God in joining them together or it is a human aberration in joining together those people? What would be your view?

Shri Daniel Oommen: We can answer this question, so far as our Assemblies are concerned.

Shri G. G. Swell: Just think about it. What is your view on this?

Shri Daniel Oommen: Happiness does not consist merely in the sense in which we look at it from the outward angle. It is an inward happiness which comes from many things like meekness, gentleness, satisfaction, contentment, and the absence of any tendency to revolt against the authority in any manner whatsoever. There is a spiritual happiness which one feels in one's union with God and His purposes and His will. That is what we have found in the Australian Constitution. There they clarify what the purpose of religion is. Religion does not merely talk about the relationship between man and God, but it also talks about man's obligations and responsibilities which he has to fulfil, which are imposed upon him in his conception of religion as relating himself to God. Therefore, if a man in his conception of religion does not carry out his functions and liabilities, as I would put it, so far as his obligations are concerned under the will of God and obedience to God, I should say that he is not carrying out the purpose of God, and he is going far away from the purpose of religion. Therefore, the happiness that is given to man is not merely material happiness but also inward happiness.

Shri G. G. Swell: So, you say that he is not marrying according to the purpose of God?

Shri Daniel Oommen: I said that he is not carrying out the purpose of God.

Shri Joachim Alva: Do you bring cases of couples between whom there are very great differences and cruelty cases before your Assembly or private parties?

Shri Daniel Oommen: It is open to every party who is aggrieved to bring it up. It is open to either party

bring the matter to the notice of the elders or the Assembly.

Shri Joachim Alva: Do you grant separation at least?

Shri Daniel Oommen: We never grant separation, and we shall never even advocate that.

Mr. Chairman: You do not grant even separation?

Shri Daniel Oommen: We shall never even advocate that.

Mr. Chairman: There is one difference. You do not advise people to do it, but supposing somebody wants it, will you give it?

Shri M. J. E. Pritchard: We shall bring the two together, if they are both believers in the word of God.

Shri Joachim Alva: If the word of God fails, then what will happen?

Mr. Chairman: If they continue to want a separation, do you at any stage or under any circumstances at all grant separation to them?

Shri Daniel Oommen: We have never done it.

Mr. Chairman: I think that we have now more or less clear ideas as to the opinions of the Brethren.

I suppose the prohibited degrees should also be according to the *Leviticus*?

Shri Daniel Oommen: Yes. Our submission has been that nothing should be imposed upon us against our conscience, but it should be as we find it in the word of God.

Mr. Chairman: We are not forcing you to accept such people in your church. Your point is that no discrimination should be made as between churches?

Shri Daniel Oommen: Yes.

Shri Jairamdas Daulatram: My question is really inspired by a genuine desire to help in solving a complicated question. What exactly is meant by the expression 'Whom God has joined?' Suppose a young boy and a girl fall in love with each other. They are not drawn by any spiritual or moral pull but purely by physical pull. Suppose they go to the church and the Minister in charge performs the ceremony of marriage. In what sense do you say that God has joined them? The reason for their joining together is that they are loving each other, a purely physical attraction. They come to the church and somebody performs the marriage. If the same process is repeated in the matter of divorce or separation—that is, the two again agree, to separate, they come to the church and some Minister agrees to their separation—in what sense do you make a differentiation? Why do you say that God has joined them? You assume, I suppose, that God will not make a mistake and make two persons join whose joining is against their interests and happiness on who are temperamentally incompatible. Why do you bring God into this process?

Shri Daniel Oommen: We do not perform marriage to a new couple coming, a young man and a young woman, who step into the Minister's house over the chapel and say 'We would like to get married'. We notify the matter to the assembly. We test their character. We give sufficient time to see that they are believers in the doctrine of the church. We see whether they actually know the meaning of they intend to do. We announce it to the assembly and put it in the form of a notice. If anybody has any objection, the matter is considered and they will again test them. Only when we are convinced of their bona-fides, only when we find that they are candidates qualified enough in the spiritual significance also, we administer marriage to them. If in future, there is any difficulty, if they cannot mutually settle it, the matter shall be brought before the assembly who will

look into the matter and try to rectify. Apart from that, we never ask them to go to a court of law. We never want to see them separate because they go into the marriage life with the belief and faith—bona fide—that God has joined them. No man can try to put them as under. That is according to the Bible. Lord Jesus Christ has himself said that no marriage union shall be separated. If there is any difficulty, it is open to them to settle it as husband and wife, if no, come to the assembly where the elders will look into the matter and try to restore the position. It is always possible to do that.

Shri Jairamdas Daulatram: This is a matter as between human beings with regard to certain things. Why do you introduce God into this?

Mr. Chairman: We need not discuss it further. It is a question of a different attitude.

Thank you very much. We have taken note of your views. We would like you to give us in writing your specific amendment on the definition of 'church'.

Shri Daniel Oommen: Yes.

From the practical difficulty, we might say that if licence is not granted to ministers of our local assemblies it will be a hardship.

Mr. Chairman: That clause will not work against any church or any member. It has never harmed you in the past. I am sure we will see that it will not harm you in the future.

The witnesses then withdrew.

II. THE ARCHBISHOP OF BOMBAY AND PRESIDENT, CATHOLIC BISHOPS' CONFERENCE OF INDIA, BOMBAY.

Spokesmen:

1. The Most Rev. Dr. Angelo Fernandes
2. Very Rev. Msgr. William Nazareth

(Witnesses were called in and they took their seats)

Mr. Chairman: We have received your memorandum which has been submitted with the proviso that you would like no changes hereafter to be made in any of the provisions which are acceptable to you.

You do realise that this Christian Marriage Act is going to apply to the whole of the Christian community, that is not only the Catholics, but a very large number of Christian congregations professing the Christian faith guided by different rules and rites. Therefore, I would like Members to ask you questions. I would like to ask one question myself.

Shri A. M. Thomas: We could ask them whether they have got anything to say.

Mr. Chairman: If they want to say something specific, we have no objection. We have their memorandum. Anyway, would you like to underline any particular point?

Most Rev. Dr. Angelo Fernandez: Yes. We very much appreciate this opportunity of expressing our opinion once again on the Christian Marriage and Matrimonial Causes Bill, 1962.

First, I would like to say we are not here just in an individual capacity but on behalf of the Catholic Bishops' Conferences of India, they only representative organ of the Catholic Church in the country.

In this connection, His Eminence Cardinal Gracias wrote to the Law Commission in 1958 that "While the Law Commission will naturally receive and consider representations submitted to it by individual Catholics and Catholic Bodies, you will appreciate that the representation of the CBCI will have to be taken as the *only official* Representation of the Catholic Church, with which no representation of an individual catho-

lic or a Catholic Body can differ, much less be in conflict."

I would like to make a few preliminary remarks before coming to the letter under reference, the memorandum of the 25th September, 1962.

At the outset, we must emphasize that for the Catholics marriage consists in consent; nevertheless, marriage is not only a contract but also one of the seven Sacraments given to the Church by her founder. What is more, the one aspect cannot be separated from the other and legislation on the one affects at once the other.

The emphasis on the sacred and sacramental aspect of matrimony is so pronounced for us that State legislation on the subject not only hurts our religious sentiments but interferes with the religious and fundamental rights guaranteed to us by the Constitution of India.

If there has to be State legislation on the marriages of Christians, why should not our personal law (Canon Law) be accepted for the purpose? In this connection a suitable draft was submitted to the Law Commission on the 21st September, 1958.

With reference to the letter of the 25th September addressed to the Secretary of the Lok Sabha, the following points need to be emphasized still further.

Since Baptism is not just a ceremonial rite but an essential requisite for membership of the Church and a *conditio sine qua non* for participation in its life and benefits, it is felt that baptism should enter into the definition of a Christians.

To cover the case of Christians for whom Baptism is not essential, a wider definition might be the following:

"A Christian is a person who has been baptised or is a member of a Christian denomination which does not require its members to be baptised."

Mr. Chairman: Would you repeat that portion?

Most Rev. Dr. Angelo Fernandez: The suggestion is that we feel that the idea of baptism should enter into the definition of a Christian. But since there are sects in the country which do not necessarily demand baptism, for their purpose we have given a wider definition, and that would cover both types. That is given in the memorandum also.

Another point that I would like to make is with reference to the provision for the marriage of a Christian with a non-Christian:

A Catholic is not free to marry outside the church. It is a matter of conscience for him that he should be able to conform to the rules and regulations of his church. In the case under reference, he would be precluded from doing so.

A non-Christian who, for good reasons, is willing to marry in a Catholic Church is being denied a basic human right in not being able to do so according to the Act.

Thirdly, since marriage of a Catholic that has per chance been performed outside the Church is deemed to be invalid and the person to be living in sin and the children born to the marriage illegitimate and the Catholic debarred from reception of the Sacrament and Christian burial, it can be seen how the operation of this Act militates against the religious rights and liberties of a Catholic.

The next point I would like to emphasize very strongly is the matter of consent. We cannot stress sufficiently the absolute necessity of free, full, personal consent to marriage on the part of both the parties, whether minors or not. This is absolutely essential for any marriage according to our Catholic conception and the lack of such consent would make marriage invalid and obviously, therefore,

a ground for nullity thereafter. No parent or guardian or minister anybody else can substitute for the person concerned in a matter so strictly personal.

Want of respect for the human personality has been and is responsible for countless evils, for instance, in the realm of work and wages and kindred social matters. To allow the same disregard for the human personality to permeate the sacred realm of marriage would be disastrous. Such an approach equates man or woman with goods and chattels or a soulless piece of property.

Anybody who has some experience in such matters will be able to recall many instances where young people have been subjected to a life of endless misery because of the pressure of parents and guardians. When one is debarred from a suitable marriage because of difference of caste, community, inequality of status and so on a life of complete frustration often follows. This was even before such consent was required on the part of guardians. One can well imagine what the future will be like if in the case of minors it is the parents or guardians only who have to give their consent to the marriage.

In this connection I would like to recall Article 16 of the Declaration of Human Rights of the United Nations. It says in so many words:

"Marriage shall be entered into only with a free and full consent of the intending spouses."

It is, therefore, inconceivable for us to contemplate a marriage where both parties have not given their full and free and personal consent.

The next point is about minors who want to marry, perhaps without permission of their guardians, having recourse to a district court, when they are denied permission to marry by their guardians and being obliged to have recourse to a district court. We would like to point out that this can only bring untold hardship, anxiety

and dissatisfaction as explained in detail in paragraph 5 of our memorandum. The poor and the illiterate particularly, whom we have many, have neither the means nor the ability to pursue such a course so that it is not unlikely that they would just live in sin and bring forth children who would be born with a stigma of illegitimacy. Therefore, it is maintained that an alternative should be provided of recourse to the bishop or his deputy as in the existing law.

With regard to clause 11(2) and clause 19(b), we just want one clarification on the phrase "lawful impediment" which occurs in the Act.

So much for the letter of the 25th September, 1962. Sub-section(vii) of clause 30(1) reads:

"has wilfully refused to consummate the marriage, and the marriage has not therefore been consummated".

It seems desirable to transfer this sub-section to the previous chapter, Chapter VI, on nullity, making wilful refusal to consummate marriage a ground for voidable marriage rather than for divorce. This is to obviate lengthy and unnecessary hardship for those who have secured a dissolution of marriage according to the Church Law.

Then, it seems repugnant to us to associate the very idea of divorce with Christian marriage. "What God has joined together, let no man put asunder". The Catholics spurring the laws of the Church in this matter—obviously there may be some always—may register their marriage under the Special Marriage Act of 1954 which is not being repealed and avail themselves of the reliefs provided therein. So, it is urged that the entire chapter on divorce may be removed from this new Christian Marriage Bill as being incompatible with the very idea of Christian marriage.

Lastly, we would like to place on record that most of the grounds listed

for void and voidable marriage in Chapter VI are at variance with the laws obtaining in the Catholic Church.

Mr. Chairman: What are the grounds of voidable marriages according to the Catholic Church? You can give us a list of the grounds.

Most Rev. Dr. Angelo Fernandes: Suppose there is a spouse living; the marriage is then void.

Very Rev. Msgr. William Nazareth: Impotency, and lack of consent are also grounds for declaring a marriage null and void. Where somebody has been forced into marriage, the matter being referred to the ecclesiastical court, can be declared null and void. Impotency would be another case. We understand impotency not according to the civil law as it exists, namely, impotent only at the time of marriage and until the filing of the suit; we recognise impotency as a ground if it is antecedent to marriage and if it is of a permanent incurable nature. Also insanity would be one of the grounds for nullity of marriage. We do not have such a thing as voidable marriage. But there is dissolution of marriage. For instance, if a marriage has taken place, but has not been consummated, it is possible to dissolve such a marriage.

Shri A. E. T. Barrow: In regard to divorce, you said the remedy lies in the couple registering under the Special Marriage Act of 1954. At the time of marriage, they do not contemplate that they are going to be divorced and so they do not register under that Act. It is only after they live together for a number of years that they realise the incompatibility one way or the other. So the remedy which you suggest does not appear to be a proper remedy.

Very Rev. Msgr. William Nazareth: As far as I understand section 15 of the Special Marriage Act, I do not think it is necessary that they should register their marriages immediately after the ceremony takes place in the church. They can do it subsequently.

The only condition is that the parties should be living together at the time of the registration of the marriage. So, they can even do it later.

Shri G. G. Swell: You have said nothing in your memorandum for or against the principle of recognising churches. Should we take it that you endorse the principle of recognising a church by the State?

Most Rev. Dr. Angelo Fernandes: We have only made comments on what we thought to be objectionable, at variance or obnoxious so far as we are concerned. We did not feel we should go all along the line and express our view on everything in the Bill.

Very Rev. Msgr. William Nazareth: At the first hearing that we had before the Law Commission, we had objected to clause 7 and subsequent to that, they put us straightaway as recognised church. That is why in the memorandum we have not added anything. Originally we had objected to it.

Shri G. G. Swell: Apart from the fact that you have been put in the recognised church, you must be aware that there is a great deal of protest all over the country against this principle of recognition. It will help us a good deal if you could give us your view on the principle of recognition as such.

Very Rev. Msgr. William Nazareth: From the very start we had objected to the question of recognition because we also felt that it should not be a question of enquiry as to which church is to be recognised or not. It is something which goes against our religious sentiment. I do feel that it may not be a right thing to make any discrimination. So, if this clause is completely removed, all churches would be equal.....

Shri G. G. Swell: You would like removal of this clause?

Very Rev. Msgr. William Nazareth: I would not say one way or the other.

Most Rev. Dr. Angelo Fernandes: At the very outset, we objected to it and asked for its elimination. Since that was not taken into consideration, but we were just listed as a recognised church, we did not feel it was a point which we should press. But if you want to know our mind, the mind was originally expressed. You have that in the initial representation made to the Law Commission.

Mr. Chairman: We are asking this question because this is going to be reconsidered.

Most Rev. Dr. Angelo Fernandes: Our First memorandum contains our whole approach. With it we had submitted three exhibits, namely, a brief exposition of the Catholic Doctrine on marriage; (b) The draft bill of the Marriage Act for Roman Catholics; (c) amendments of the Indian Christian Marriage Act XV of 1872. We suggested suitable amendments for drafts for all the three. If you go back to the original position you will see that.

Mr. Chairman: That is quite clear.

Rajkumari Amrit Kaur: In this Bill the question of licence also arises, to ministers to solemnise marriages. What is the position of the Roman Catholic Church in regard to that? Is it the same as the Anglican church that a priest, when he is ordained, is *ipso facto* entitled to solemnise marriages? Are you in favour of the State being given the power to give licences, or not to give them?

Very Rev. Msgr. William Nazareth: Personally I am not in favour of the State licensing any priest. Marriage is a sacrament, and to celebrate the marriage they get the jurisdiction from the legitimate authority in the church; and outside the church it could not be supplied, according to our view of marriage.

Rajkumari Amrit Kaur: Therefore you feel that the minister who is licensed by the church itself to solemnise marriages *ipso facto* has the power to do so without any reference to the State?

Very Rev. Msgr. William Nazareth: Yes.

Shri A. E. T. Barrow: You have used the word "personally" twice in the course of your evidence. Does it represent your view or the view of the Bishops' Conference?

The Most Rev. Dr. Angelo Fernandes: We have objected to licensing from the outset. A minister for the purposes of the Act should at least be a person who, according to the rules of the church to which he belongs, is competent to solemnise the marriage.

Shri A. D. Mani: Would you like the definition of "minister of church" being incorporated in the Bill?

The Most Rev. Dr. Angelo Fernandes: The first thing is we would certainly object to the State giving licences to clergymen to perform their official functions within their own charge. We feel the authority comes from their own religious superiors. That is the first thing we like to establish. We objected from the start to any licensing. But in the Act Roman Catholic clergymen are listed as automatically having the power; so that does not affect us in any way. Now you raised a question. The general statement would cover the field. That is: a minister of the church for the purposes of the Act would mean a person who, according to the rules of the church to which he belongs, is competent to solemnise marriages.

Shri A. D. Mani: So that is the definition you suggest?

The Most Rev. Dr. Angelo Fernandes: This is to meet your present question.

Mr. Chairman: Would you give in writing this definition which you have suggested?

The Most Rev. Dr. Angelo Fernandes: Certainly.

Rajkumari Amrit Kaur: If the clause for recognition (cl. 7) goes, would you favour a definition of "church" to come into the Act, because if the recognition clause goes, what is a church?

The Most Rev. Dr. Angelo Fernandes: It will have to be for the Commission to see that one hangs with the other properly.

Rajkumari Amrit Kaur: Not only minister but the church. That would be a natural corollary.

The Most Rev. Dr. Angelo Fernandes: I suppose they all go together; but that would be a revised approach.

Shri A. E. T. Barrow: How would you like this definition:

"Church" means an organised body of Christians holding the same creed and following the same rites.

The Most Rev. Dr. Angelo Fernandes: May I give our suggestion? Church is the congregation of all baptised persons, united in the same true faith the same sacrifice and the same sacraments, under the authority of the sovereign pontiff and the bishops in communion with him.

Shri A. E. T. Barrow: What about other churches?

The Most Rev. Dr. Angelo Fernandes: I am giving the definition as we understand it. You can see how you can fit it in for the rest.

Shri Bibudhendra Misra: Is it your view that any member of any church should be permitted to solemnise any marriage?

The Most Rev. Dr. Angelo Fernandes: No, we have said this: that is, a minister for the purposes of this Act means a person who, according to the rules of the church to which he belongs, is competent to solemnise marriages. We do not say 'anybody', but somebody who is competent according to the rules of his own church.

Shri Bibudhendra Misra: Competent means authorised?

The Most Rev. Dr. Angelo Fernandes: We do not say so. 'Competent' may mean that he may have the competence by virtue of his office or by delegation or by appointment or by nomination.

Mr. Chairman: It will be comprehensive.

Shri M. H. Samuel: After hearing you I felt that although you are suggesting some amendments to the provisions of the Bill, you will rather not have any legislation at all. Am I right?

The Most Rev. Dr. Angelo Fernandes: Our approach was three-fold in this matter: Leave well alone; we have been living under the 1872 Act as a law-abiding community in peace and harmony for the last so many year. Not that everything in that Act is perfect; there are some disabilities. But we suggested a few amendments with which we could go on. That was one approach that we suggested.

If it was felt necessary to have some legislation, then we went on further and said, let us have our own canon law which is very well-knit and well codified. That was our approach. But if it is felt that it is best that it is not done at all and we revert to the existing position and observe the 1872 Act, we will be quite happy about it.

Shri M. H. Samuel: Can I assume that you clearly don't think that this Bill infringes upon the religious rights of the Christian community, kind of State interference?

The Most Rev. Dr. Angelo Fernandes: It certainly does in so many ways, as we have pointed out, all along the line. It certainly infringes in so many fundamental things. That is why we have said, let us go back to the old one.

Shri M. H. Samuel: With the amendments that you have suggested, such interference will be minimised or eliminated?

The Most Rev. Dr. Angelo Fernandes: Amendments to the 1872 Act?

Shri M. H. Samuel: To this Bill that we are now considering.

The Most Rev. Dr. Angelo Fernandes: This is just to meet the situation if Parliament feels it essential. I suppose we cannot be up against a wall. If we cannot have that, let us have this minus all the obnoxious clauses.

Shri Samuel: You have suggested that probably your denomination might be allowed to live under your canon law?

The Most Rev. Dr. Angelo Fernandes: We ask for it.

Shri M. H. Samuel: Is it feasible or possible for the State to legislate for different sects of Christians? As far as the Roman Catholic Church is concerned, perhaps it is possible and feasible. Do you think such a legislation can cover the rest of the Christians, non-Roman-Catholic Christians comfortably and comprehensively and work with the effect with which we want it to work?

The Most Rev. Dr. Angelo Fernandes: I would say this. Firstly, out of nearly 11 million Christians in the country, about 8½ million are Roman Catholics, a majority in the country. That is a pretty big number, for one thing. And if they have a law which is used in the whole world and effectively in all countries, well, that is something to be considered. It is not just a question of its being there in India: it is something that is at work everywhere.

Secondly, it is for the State to consider how it can go about its business. If it wanted, in deference to the numbers, the nature and scope of the Church, it can give them their law and perhaps make another for others considering that we are in a country where there are so many different kinds of religions. That is a problem. That does not necessarily mean that all have to be bunched together.

Shri M. H. Samuel: The Roman Catholic Church has a basis. Is it based so much on the canon law or is it based upon the Bible equally?

The Most Rev. Dr. Angelo Fernandes: Neither the one nor the other. It is a more comprehensive thing than all that.

Shri M. H. Samuel: May I know the basis of that?

The Most Rev. Dr. Angelo Fernandes: If you will permit, I will give a little lecture. It involves the whole approach—the founding of the Church, what Christ did, when he instituted the Church, and the functions he gave to the Church, the aim of the Church and the means to attain that end. The Church is a supernatural society. I do not want to give a lecture. Since you have asked, I am making a note of that. For us, the Church is not just an organisation. For us, the organisation is only the framework. It is only the balustrade. For us, the more important thing is the living organism. For us, it is a supernatural organism, Christ continued in the world, continuing to teach, continuing to rule, continuing to sanctify. "What matters for us is above all the organism; the organisation exists for this, the institutional side, namely, which carries power to make laws, power to judge and the power to sanction". This Church has two aspects, organisational and the organic, dynamic vital side. That is the more important one. The two go together. We cannot separate the two. That is why marriage is a sacrament and a contract. This is the case all the time, all along the line. That is naturally a very peculiar situation.

Mr. Chairman: And a practical situation. I think your Church has taken a practical and pragmatic approach. I do not know how far it is spiritual. All that I say is, all your amendments have a very pragmatic

and practical approach to human foibles and problems.

The Most Rev. Dr. Angelo Fernandes: I agree. We feel that although we are trying to lead people to the other world, we are still in this world and we have to be realistic.

Shri A. D. Mani: May I ask a question arising from the questions of Shri Samuel? If the amendments which are suggested to the various clauses are not incorporated in the Bill, would you oppose the Bill and allow the *status quo* to remain?

The Most Rev. Dr. Angelo Fernandes: From the outset, we have expressed our mind fully with regard to the whole Bill from 1958 onwards. Subsequently, many of the things objected have been removed. That is a fact. We are grateful for that. We have come to a stage where we are told that this is wanted. We tackle and cross the river when the time comes. We have come to make representations on this. As to what we shall do later, we shall consider the matter when the time comes.

Shri P. R. Patel: You said that you are not opposed to the Act of 1872. Would you like to say that that Act may continue and the present legislation be dropped?

The Most Rev. Dr. Angelo Fernandes: I said that that is not perfect in every way.

Shri P. R. Patel: You are not opposed to it; you accept it.

The Most Rev. Dr. Angelo Fernandes: We accept it with a few suggested amendments.

Shri P. R. Patel: In that Act of 1872, certain principles are laid down for marriage and divorce. Those principles are laid down in this Bill. What are the particular sections which you find are opposed to the principles laid down in the Act of 1872?

The Most Rev. Dr. Angelo Fernandes: The basic thing is this. That Act, as far as I am aware, concerns itself only with solemnisation of marriages. This one goes much further and puts conditions affecting the substance and validity of marriages. That is vital.

Mr. Chairman: Validity and marriage will also be challenged by certain clauses.

The Most Rev. Dr. Angelo Fernandes: By and large, that concerned itself with external solemnisation and therefore leaves us intact in the pursuit of our personal law, whereas this one is diametrically opposed to the personal law. Naturally this is much more obnoxious.

Shri A. E. T. Barrow: On a point of clarification, Shri A. D. Mani asked what would be your attitude if this Bill were accepted without your amendments.

The Most Rev. Dr. Angelo Fernandes: We will think of it them.

Shri A. E. T. Barrow: That does not help us. We want to report to Parliament.

Mr. Chairman: I think he is right. I think this question should not be put. Hypothetical questions should not be asked. They will have to see what are the amendments, whether they are of a fundamental character or not. We will not give a blank cheque that we will not make any changes. That has to be seen in the future.

Shri A. D. Mani: I do not want to press the point. I only wanted to say this that the Joint Committee is concerned about the reactions of the various communities among the Christians in India. If we find that the witnesses regard certain points fundamentally opposed to them and if they are not accepted, there would be opposition from that community, we may be persuaded to reconsider our attitude in regard to various clauses.

Mr. Chairman: May I now intervene? As far as the Catholic Church is concerned, they have submitted their memoranda. Generally the views of the Catholics are known. We can understand the points to which they have strong objection. They have given three memoranda and they have given a memorandum now. I think the Committee know what are the points to which they object.

Shri A. D. Mani: May I now go to another point in regard to clause 2(a). The witness has stated that the Act of 1872 has not created any complication. Why should there be a comprehensive definition of the word Christian here? If it has not created any trouble, why cannot the definition of Christian as it stands now be allowed to remain?

Mr. Chairman: You have said, it has caused difficulties in interpreting it. We would like to know how.

The Most Rev. Dr. Angelo Fernandes: I at no stage said that we are enamoured of the Act of 1872. What I said was, that by and large it has allowed us to carry on peaceably. There are clauses in it, definition for instance, with which we are not satisfied. There are other things, which we do not like. Therefore, we suggested, if it is to be touched, certain amendments should be made. That is one point.

Mr. Chairman: This is much more important for us. What has been the difficulty in interpreting it? We have to see the practical implications.

The Most Rev. Dr. Angelo Fernandes: First the question of definition. We cannot agree to the definition. That was made long ago. We had nothing to do with it. We had no say. That was in 1872. Since this has come up now, naturally, we may express our minds.

Mr. Chairman: Of the numerous Churches, the Catholic Church existed in 1872 also. What we would like to know is this. Whether you are enamoured of the 1872 Act or not is not the point. We would like to

know how you found the definition to be defective.

The Most Rev. Dr. Angelo Fernandes: We did not say definition.

Mr. Chairman: You have said:

“ . . . and has caused difficulties in correctly interpreting it.”

By way of litigation? What is it that has really happened? That is what we want to know.

Very Rev. Msgr. William Nazareth: I think that there are no practical cases, but taking the definition as it stands, it can create difficulties. For the purpose of marriage, for instance, a person who is not a Catholic at all and who is not a Christian at all can say that he is a Christian for the purpose of marriage and then do nothing else about it.

Shri Bibudhendra Mishra: I want to know whether you have experienced any difficulties because this definition has been there for a long time?

Mr. Chairman: May I just ask you what you feel about this? Suppose a person who is not a Christian says that he professes the Christian faith and marries according to this law. Now, the only point which you have to safeguard is that you do not accept him. Is that not so? Your church would not recognise him obviously? Therefore, as far as your church goes, there is absolutely nothing which forces you to accept him as a person professing the Christian religion.

Very Rev. Msgr. William Nazareth: That is absolutely correct, because we insist on a certificate. Those people who want to make a convenience of the law would just, for the purpose of marriage, go to the civil registrar and say that they profess the Christian faith, and make a declaration and go ahead with the marriage, when they have nothing to do with following Christianity.

Mr. Chairman: But there is one more limiting factor. He would have to be accepted by some Christian body to solemnize the marriage. Our point is that there are so many sects and so many communities. Therefore, if we leave the definition vague to cover anybody who professes the Christian faith, the only limiting factor is that he will have to be accepted by some church which will agree to solemnize his marriage. The Catholic Church will not obviously accept him; some other churches also may not accept him, but there may be certain churches which may accept him and agree to solemnize the marriage. Therefore, why should we bar that person who says that he professes the Christian faith from being accepted by that church and from being married by that Christian church? We do not force any church to solemnize the marriage. But why should we bar him? That is our point.

Very Rev. Msgr. William Nazareth: Practically there may be no difficulty, but yet in itself it is something which goes against the very notion of a Christian.

The Most Rev. Dr. Angelo Fernandes: The definition as such did not matter so much in the old Act, but now it does; inasmuch as the emphasis in the old Act by and large was just on external solemnization, the question was not gone into very deeply; it did not matter very much, but now, since it affects marriage, and the question of consanguinity and other things come in, naturally, the definition is going to come right into the picture all the time. Therefore, I do not think that it is perfectly fair to view the definition in the same light in the old Act and the new Act. Consequently, we have suggested a definition which is much wider and at the same time includes what for us is a fundamental notion. So, I say that when you can have it both ways, in our definition you can have it both ways; you give the

definition which we think as essential for us, such as baptism etc. and you include also the others therein. So, nobody is in any way hurt by it.

Mr. Chairman: But you must be aware that there are cases which have come before us where there are persons whom you may not even call as belonging to a denomination. The Christian community has become so prolific that there are such cases also. Any how, we shall consider your point.

Shri Bibhudendra Misra: If your definition is accepted, then many Christians will have to be left out of the definition.

Mr. Chairman: In regard to the prohibited degrees, it has been urged that the Bible lays down in *Leviticus* thirty or thirty-two degrees. What is your opinion about it?

The Most Rev. Dr. Angele Fernandes: I think that in answer to a previous question I said that our whole approach was not a partisan approach based on the Bible alone. Ours is a more comprehensive approach.

Mr. Chairman: I want your specific answer on this point.

The Most Rev. Dr. Angelo Fernandes: Our approach to everything is the living witness of the living church; the Bible is part of our patrimony; along with it we have tradition from the very outset, both coming together, the written word and the spoken word guaranteed by the Lord; in the context of all that the living voice of the living church decides as we go along.

Many of the things which you are referring to in the Bible are in the Old Testament. We are now living under the new law, the Gospel of Love, and consequently, for us, the disciplinary measures etc. mentioned in the Old Testament are not applicable any more. The church has full authority, not to touch the essence of the sacraments and things of that

kind, but in regard to all the external disciplinary aspects. So we are not bound in any way by the disciplinary measures of the Old Testament. This applied to the Jews and the Jewish Synagogue.

Mr. Chairman: If that is your approach, what would be your reaction if we were to include, as many witnesses have urged before us, the entire thirty or thirty-two prohibited degrees of relationship as laid down in *Leviticus*. Would it affect you or your church?

The Most Rev. Dr. Angelo Fernandes: Yes; we have expressed that before in our memoranda. It will affect us inasmuch as these aspects of marriage, such as disciplinary things etc. come under the legislative power of the church. We have got the power to dispense on the one or the other, as and when may be necessary. If you list them, you would prevent us from doing so.

Shri G. G. Swell: Am I to understand from what you say that in these matters you believe that there is some other authority also, besides the Bible?

The Most Rev. Dr. Angelo Fernandes: The Bible only came into existence, thanks to the church. It could not fall between two covers by itself. It was put together by the Church at the instance of Pope Damascus in the 4th Century. Obviously, a book cannot form itself. There has to be an outside authority. Take for instance a book like the constitution of India. You have the book, but the book does not tell you what it means. You have got to have a supreme authority interpreting it for you. St. Augustine in the 4th Century said: "The Bible without the Church to explain its meaning and interpret it to me is a vain and useless book".

Shri G. G. Swell: What is the interpreting authority?

The Most Rev. Dr. Angelo Fernandes: It is for us the Church to interpret it. The Church is Christ doing

it in the world with His authority; it has power to teach, govern and sanctify. So, he who has the world of God tells us what it means. The church is not just a human organisation.

Mr. Chairman: I presume you have stated that on the question of prohibited degrees of relationship, you will be guided by the Canon Law. What is the Canon Law in the Roman Catholic Church, with regard to this point? If it is too long, we would like that to be extracted and sent to us, because that is rather important for us. Or is it laid down that it can be changed according to the Papal Dispensation or anything like that?

Very Rev. Msgr. William Nazareth: For the time being, the prohibited degrees of relationship in which marriage is forbidden are forbidden in Canon Law. Now, it can be that the church changes that or adds some more or reduces the number. It all depends.

Mr. Chairman: By church you mean the highest or the supreme authority?

Very Rev. Msgr. William Nazareth: Because this is a positive law, which can be changed, the Church can change it.

Mr. Chairman: At the moment, these are the prohibited degrees of relationship? Can you give us the list? Is it very large?

The Most Rev. Dr. Angelo Fernandes: You have a whole heap of things concerning, for instance consanguinity. About four centuries ago, it has extended till the seventh degree, but now it applies no more. Now, it only goes to the second cousin or third cousin or something like that. For instance, if the great grand-father or the great grand-mother is not common, there will be no impediment. If the parents were not first cousins then there is no impediment, and so on. But in the

older days, that is, about three centuries ago, it went much further.

This is a positive thing, and it can be changed. At the moment these are the things. Then, there is the case of affinity. Here also there is a whole heap of information.

Mr. Chairman: We would like to know how far it would affect you if we list the degrees in the Bill. After all, in a legislation we do not want to give too much scope for the personal law; though of course, we would cover the personal law, we should take into consideration the other aspects also.

Very Rev. Msgr. William Nazareth: I would mention that in the first draft, they had put in many more degrees than there are now in the present Bill. We said that we would be prepared to accept them provided we have the power of dispensation as done under the Christian Marriage Act of 1872. The Law Commission said that it did not want to give us the power of dispensation. They reduced the number of degrees so that we would not need to grant dispensation in those cases.

Mr. Chairman: What we have got now would work to a certain extent.

The Most Rev. Dr. Angelo Fernandes: It would to a certain extent only because even in some degrees mentioned, it is possible to grant dispensation. For instance, affinity in the direct line in every degree would be dispensed by papal dispensation. Although normally it is not granted, it can be granted.

Mr. Chairman: Of course, papal dispensation is an overriding clause.

The Most Rev. Dr. Angelo Fernandes: No. We make a distinction between natural law and positive law. Things which are inherent in the basic natural law cannot be dispensed. Positive law—yes. We have got a very clear cut distinction—the whole business. At the moment, one or two of those cases we could dispense with. But they hardly ever occur. So we

do not think it necessary to make a song about it.

Rajkumari Amrit Kaur: With reference to clause 70, some witnesses have urged before us that in addition to the fact that no minister should be compelled to perform, we should add that no church shall be compelled to recognise as valid a marriage contrary to its own laws.

The Most Rev. Dr. Angelo Fernandes: We agree that that is only a further addition which makes it still stronger.

Rajkumari Amrit Kaur: Many witnesses have said that the definition of 'rule' on page 3 should include not only rites, ceremonies and customs of a church but also canon law or rules of the church.

The Most Rev. Dr. Angelo Fernandes: Definitely our understanding was that it was included, but this makes it specifically clear. By all means include it. We will be happy.

Rajkumari Amrit Kaur: In this Bill, there is nothing in regard to a Christian marrying a non-Christian, whereas the catholic church recognises only those marriages which are between christians. Would you like to say anything?

The Most Rev. Dr. Angelo Fernandes: I have made that clear.

Shri Mathew Maniyangadan: There does not appear to be any good reason why a sacramental form of marriage should be insisted upon when a Christian marries a non-Christian. What is your answer?

The Most Rev. Dr. Angelo Fernandes: First, a catholic is not free to marry outside the church. It is a matter of conscience for him that he should be able to conform to the rules and regulations of his church in this matter. And in the case under reference, he is precluded from doing so. Secondly, a non-Christian who for good reasons is willing to marry in a catholic church, is placed under a disability. He is being denied the basic

human right to do what he pleases in the matter, by not being able to do this. Thirdly, since the marriage of a catholic that has perchance been performed outside the church, as it will have to be in a situation like this, is deemed to be invalid and the person considered to be living in sin and the children born of the marriage illegitimate and the catholic debarred from the reception of the sacraments and Christian burial—a whole heap of things—it can be seen how the operation of this Act militates against the religious rights of that individual who wants to marry a non-Christian.

Shri P. R. Patel: Marriage is a sacrament according to the Bible. How can there be a sacrament between a Christian and a non-Christian?

The Most Rev. Dr. Angelo Fernandes: According to us, there are two schools of thought on that. It is a disputed point. Some hold it is a sacrament; some say it is not.

Shri P. R. Patel: You call it a sacrament.

Very Rev. Msgr. William Nazareth: Sacrament for the catholic party.

Shri P. R. Patel: If it is a sacrament only for the catholic party, how can there be sacramental marriage between a Christian and a non-Christian?

The Most Rev. Dr. Angelo Fernandes: As I said, it is a disputed point. There are two schools of thought on that.

Mr. Chairman: As far as the catholics are concerned, the catholic party will continue to consider it as a sacrament and the other party will not.

The Most Rev. Dr. Angelo Fernandes: That is one view.

Shri M. H. Samuel: In that case, would there be any understanding reached before the sacramental marriage is performed that the non-catholic would eventually become catholic?

The Most Rev. Dr. Angelo Fernandes: Most emphatically no. The two things are quite different. Religion is between a person and God and the other is between a man and a woman. We separate the two issues clearly.

Mr. Chairman: There generally is an understanding, that is about the issues.

The Most Rev. Dr. Angelo Fernandes: My point is that if a non-Christian, for reasons known to himself, is willing to do that, why deny him the right to go ahead and do so?

Mr. Chairman: Have there been any cases where a marriage has been solemnised in a catholic church between a catholic and non-catholic where the children have not been baptised?

The Most Rev. Dr. Angelo Fernandes: They would not come to us because they know.

Mr. Chairman: Suppose the mother is a catholic and the father a non-catholic and get married in a catholic church. Now the children are brought up....

The Most Rev. Dr. Angelo Fernandes: That is not a formality. It is not certain at all that it may be. It depends entirely on us.

Mr. Chairman: Suppose the children are brought up as non-catholics—generally I know that they are always brought up as catholics....

The Most Rev. Dr. Angelo Fernandes: I would not be so sure.

Mr. Chairman: But suppose they are not brought up like that, what would happen to the mother? Would she continue to be a catholic, when her children are brought up as non-catholics?

The Most Rev. Dr. Angelo Fernandes: (1) This whole business is a gentleman's agreement. We are not policemen to go and see whether they keep their promises or not. So it can happen all the time. (2) Once a catholic always a catholic. The

mother is baptised. She is catholic. She can become lax, but God willing, she will become fervent at the end.

Mr. Chairman: It is a question of a gentleman's agreement. That means they can agree to treat the children as Roman catholics or they can agree not to do it.

The Most Rev. Dr. Angelo Fernandes: No. The gentleman's agreement is this: If you want to marry a catholic—for reasons which I will not go into—you must be prepared for these two conditions. Incidentally, we first explain them at great length and only after they have been fully understood in all their implications do we bring up the question of signing them at all.

Mr. Chairman: The implication being that the children are brought up as catholics.

The Most Rev. Dr. Angelo Fernandes: It is largely psychological. By-products of these mixed marriages can be unhealthy. It is like oil and water—they do not easily mix. There are a lot of possible complications. We explain all this for days together. Thereafter in an enlightened fashion the parties are asked to sign or not—and they are free to refuse.

Mr. Chairman: Then would you solemnise the marriage?

The Most Rev. Dr. Angelo Fernandes: No.

Rajkumari Amrit Kaur: In the summary of your comments on the entire Bill sent to me kindly by His Eminence the Cardinal, there is a reference to clauses 25, 30 and 34. In this summary, it is said that under this Bill the 'Christian convert is not given the right to divorce his non-Christian spouse as the latter is given that right. This is discriminatory against the Christian convert and deprives him of the right conferred by the Converts Dissolution of Marriage Act which cannot be abrogated according to article 13(2) of the Constitution which prohibits the State

from making any law which taken away or abridges these rights'.

"The best solution is that the Marriage Act of 1872 must continue to remain on the statute-book."

Is that your view?

The Most Rev. Dr. Angelo Fernandes: We accept that.

Shri Bibudhendra Mishra: Does judicial separation apply to Catholics?

The Most Rev. Dr. Angelo Fernandes: We have provision in our canon law that where two people are having difficulty, they can even get an ecclesiastic separation. We understand the human problem. We dealt with a case only two weeks ago.

Very Rev. Msgr. William Nazareth: With regard to judicial separation, if it is merely for civil effects, yes. As far as the Catholic parties are concerned, once they are married, they have an obligation to live together, and therefore, it is for the Church, since it is a sacrament, to decide whether in a particular case they are entitled to live separately or not. As far as that part is concerned, I would say we would not accept a court's decision—rather, it would not be in conformity with our teaching. If it is merely for civil effects or things like that, we would agree.

Shri Joachim Alva: If in a mixed marriage, the Catholic mother does not fulfil her promise to bring up the children as Catholics, do you deny her sacraments?

The Most Rev. Dr. Angelo Fernandes: As I said before, we are hardly in a position to check on whether people are standing by their words or not. That is a matter of honour. We leave it to them.

Shri Joachim Alva: You said in the beginning that some of the clauses of this Bill run contrary to many of your rules, and that if it is passed as it is, it will not be acceptable at all to the Catholic community.

The Most Rev. Dr. Angelo Fernandes: That is why we have made all these recommendations today.

Shri Joachim Alva: Suppose the recommendations are not incorporated?

The Most Rev. Dr. Angelo Fernandes: In the words of the Chairman, I think we should leave that to the future. Hypothetical questions should not be dealt with here.

Shri Joachim Alva: Your marriage law is applicable to a vast number of Catholics in many countries. In theory it is supposed to be perfect. One of the contentions by many witnesses here is that so far everything has been all right, there has been no trouble; but they warned us the moment we bring in this law, the door will be opened for divorce and many other evils. But is it not true that in the West, though the law is perfect in theory, it has led to many disadvantages?

The Most Rev. Dr. Angelo Fernandes: I do not know why we should take a leaf out of the West. Our approach in India, particularly towards marriage, is at a higher level and I wish we keep that. I do not see why we should bother about what is happening in the West at the moment.

Shri Joachim Alva: People from the South have come and said that marriages have been highly successful there in the sense that they never entertain divorce, and that the moment we bring in this enactment, it will open the door to all evils.

The Most Rev. Dr. Angelo Fernandes: It is like putting ideas into people's heads, may be.

Mr. Chairman: There are two amendments which you have proposed, which I presume are really from the point of view of the children, so that the children may not be illegitimate. In regard to emergency marriage, you have said that the Bishop should be permitted, but this would

automatically give rather overriding powers of deciding the veracity and the circumstances of the parties to the wedlock to the parish priest. We are going to legislate for the entire community of Christians. We have come across many cases where in small Churches any member of the congregation is chosen or permitted to solemnise marriages. If that is the situation, and if we would like to give these emergency powers for performing marriage or legalising living together, would you not say there is a case for licensing? It possibly would not occur in your case, because it is a big Church and it would be automatically recognised, but this licensing may be necessary in the case of the small Churches.

The Most Rev. Dr. Angelo Fernandes: We have naturally felt that we should place our point of view all along the line. We have not necessarily viewed this in the context of what may happen to little organisations. We have in our canon law the possibility of being able to do this in an emergency for human reasons. We feel we would not like somebody at death's door to be deprived of this possibility of being reconciled with God, and the children being made legitimate. We have that provision and we would like to ensure that it continues.

Shri P. R. Patel: If emergency marriages are allowed, would it not put a premium on immorality, and would not immorality increase?

The Most Rev. Dr. Angelo Fernandes: It does not happen every day. Most people, thank God, live well. If perchance we run up against somebody who is at death's door and wants to be reconciled, why should we who should help humanity close the doors even at the eleventh hour. As far as our experience goes, there has never been any abuse.

Shri G. G. Swell: In any case, when the person is at death's door, he has little chance for any more immorality!

With reference to the right of giving consent to the marriage of a minor, you would like the Bishop also to be given this power. I think there is a good deal of force in that because not everybody can go to court, especially the poor, but then you have suggested an amendment, a sort of addition of the expression "ecclesiastic authority". What exactly do you have in mind?

The Most Rev. Dr. Angelo Fernandes: I said this morning that an alternative should be provided of recourse to the Bishop or his deputy.

Shri G. G. Swell: When we legislate, we cannot legislate for a particular Church, it must be for all Christian denominations. So, would you include in the expression "ecclesiastic authority" a representative of a congregation or a presbytery? Would you confine it to the bishops or their representatives?

The Most Rev. Dr. Angelo Fernandes: We take a very enlightened view with regard to marriage. We do not leave it to the discretion of even individual priests. He has to refer the matter to the bishop or his deputy to ensure that there is no abuse. As for what others do, they have their own organisation.

Shri G. G. Swell: Would you like the expression "ecclesiastical authority" to be defined in the Bill?

Very Rev. Msgr. William Nazareth: If I may suggest, that expression is not happy because it would not cover all the cases. Probably we might say "legitimate authority in respect of the church". That would cover every case.

Mr. Chairman: If you think of it from the civil authority, actually the giving of dual authority in such matters will have to be considered very carefully because it will apply in the generality of cases of all denominations of all churches of all Christians. Therefore, whilst there is some practical validity in cases where

it is necessary, we will have to consider the matter in the light of what you have said. If we were to follow what you have said—that the minor church should also have the right of giving consent plus the other thing—it would mean that we would be giving these powers to all types of people who have been authorised by the various denominations.

The Most Rev. Dr. Angelo Fernandes: I suppose one cannot avoid this: marriage like education is a mixed matter. It does affect both sides, the sacramental, religious side, and also the civic side. So, there are certain points where there appears to be some sort of divergency. If we can work it out amicably, if it can be done by both sides amicably, that would be good.

Very Rev. Msgr. William Nazareth: It would not be enlarging on the powers that we already have under the old Act. The bishop has discretion. So, we would not be giving anything that he has not had before.

Shri G. G. Swell: With reference to clause 19(b), you have made a suggestion in your memorandum. Would you like that expression "lawful impediment" to be removed altogether from the Bill?

The Most Rev. Dr. Angelo Fernandes: We have asked for clarification. We do not know what you meant. It is rather vague.

Shri G. G. Swell: Of course it cannot be left vague. Then, with regard to clause 64(b), what exactly is your objection to that wording, "community"? Why do you like to replace it?

Very Rev. Msgr. William Nazareth: That is too limited. We cannot leave it to the individuals to decide where they are going to be married. It is for the church to decide the place for the celebration of the marriage. The community may say that it is going to have the marriage in its own home. That would not be a correct thing.

Therefore, it is for the church to decide what is the proper place where the marriage can take place. If you leave it to the particular community, they may have their own fancy ideas.

Mr. Chairman: Some communities or denominations or assemblies have said that wherever two or three people meet in Christ's name, there He is. That becomes a place for marriage. That is a church.

The Most Rev. Dr. Angelo Fernandes: The word "church" may cover it for them.

Mr. Chairman: That would lead to several interpretations.

Very Rev. Msgr. William Nazareth: It refers not to the organisation but to the place of worship.

Shri M. H. Samuel: You have asked that clause 4(vi) might be deleted. Now, this provides that the marriage between Indians and non-Indians might be solemnized in this country and cannot be solemnized outside the country, particularly, when you say in the second part of your memorandum about the inheritance and so on. Do you not think that the existence of this provision in the Bill makes for a very good safeguard for both the parties to come here and get themselves married in this country instead of outside, because both of them would be quite aware of the circumstances?

Very Rev. Msgr. William Nazareth: The only thing is, it may not be feasible for them to come and get married in this country. They may be placed in circumstances where it may not be convenient or possible for them to do so. Suppose a person is in England, only for the purpose of marriage he may not be able to come to India just in order to get the benefit of the Act.

Mr. Chairman: Do you not think that they should marry according to the law of the country? Otherwise, it will lead to abuse. Suppose a boy is in England and the girl is a Hindu and they marry outside India, they

come back here and the law applies. Perhaps one does not know which law applies to them, British or Indian. There is a lot of trouble about it and there are so many cases.

The Most Rev. Dr. Angelo Fernandes: I would not press that point.

Rajkumari Amrit Kaur: In order to overcome the difficulty in respect of inheritance for the children, say, a better provision corresponding to that in the Special Marriage Act which exists now, should be made so that the parties might be subject to the provisions of the Indian Succession Act. Is that not your point?

Very Rev. Msgr. William Nazareth: Yes.

Mr. Chairman: The provision as it exists now is that if they were domiciled in India, then, even if they marry outside India, this law will apply. But they will have to be domiciles of India.

Rajkumari Amrit Kaur: It would be perfectly all right if that marriage were solemnized in India. Suppose it is solemnised outside India, their point is that provision for inheritance etc., should be made.

The Most Rev. Dr. Angelo Fernandes: We are not pressing that point. But the question is this: suppose an Indian is working abroad, say, in Air India or something like that. He has two domiciles. He may not be able to come to India for two or three years. He marries. He may have to come back here to be able to avail himself of the property rights and so on.

Shri Bibudhendra Mishra: That is provided for. Under the international law a man can have only one domicile.

Mr. Chairman: If he is an Indian he will be guided by the laws of India.

The Most Rev. Dr. Angelo Fernandes: If he comes back and if that is secured, that is enough.

Mr. Chairman: Thank you very much. We have asked you for the definition of a minister and of a church and also about the prohibited degree of relationship as it stands now.

The Most Rev. Dr. Angelo Fernandes: We will send that.

Shri Bibudhendra Mishra: Please also indicate the cases in which you can have dispensation in the light of the 19th prohibited relationships in the present Bill.

The Most Rev. Dr. Angelo Fernandes: Yes.

Mr. Chairman: Then, you may give us a list of the grounds for nullity of marriage according to the Catholic Church.

The Most Rev. Dr. Angelo Fernandes: Yes.

Shri T. H. Sonavane: Sub-clause (ii) of clause 4 reads:

“the parties are not within prohibited relationship, unless the custom governing each of them permits of a marriage between the two.”

What is your view about retaining this section?

Mr. Chairman: They are not objecting to it. It is we who have raised that point.

Thank you.

(The witnesses then withdrew)

III. THE SOUTH INDIA ASSEMBLIES OF GOD

Spokesmen:

1. Pastor A. C. Samuel
2. Shri George Mathew.

(Witnesses were called in and they took their seats).

Mr. Chairman: Has the Church of God of South India anything to do with you? Their memorandum is remarkably similar to yours.

Pastor A. C. Samuel: Yes. I do not know anything about their memorandum.

Mr. Chairman: The evidence given before the Joint Committee shall be treated as public and is liable to be published unless it is specifically desired that all or any part of the evidence tendered by you is to be treated as confidential. However, even if it is to be treated as confidential, such evidence is liable to be made available to the Members of Parliament.

Is it your case that there can be no grounds for divorce except on fornication?

Pastor A. C. Samuel: Yes.

Mr. Chairman: Your view is under no circumstances remarriage can take place?

Pastor A. C. Samuel: After divorce, the party should not remarry.

Mr. Chairman: But do you accept divorce?

Pastor A. C. Samuel: No.

Mr. Chairman: So, no question of remarriage arises.

Would you like to give evidence in any other language?

Pastor A. C. Samuel: Yes; in Malayalam.

Mr. Chairman: Will you interpret it in English?

Shri Mathew: Yes. I will interpret it in English. He has prepared a note which I shall read, with your permission.

We are a group of Protestant Christians with whom the Bible is the sole basis and test for its faith and practice. We are bound to follow the teachings of the Bible in all questions of faith and practice. We have ordained ministers who administer sacraments. According to us marriage is indissoluble. The only exception provided is in St. Mathew Chapter XIX verse 9 and that is only for

separation on the ground of fornication and we do not allow the re-marriage of divorcees. In the matter of prohibited degrees we consider the injunctions given in Leviticus Chapter XVIII verses 6 to 17 as absolute. In practice, we have enlarged further the degree of prohibited degrees. Amongst us, the remotest relations freely mingle as if they are brothers and sisters and we do not allow their relationships to be polluted by any feelings or thoughts in the sexual line. This has only helped us for the last twenty centuries to keep very high standards of morality and also to build up stable homes.

The Christians in Kerala were the only indigenous christians in India and the Christian Marriage Act of 1872 was never extended to them. The Indian Divorce Act of 1869 was extended to Kerala only after our independence. These two Acts were based on the law as it then stood in England. The revision now made in these laws have been based on the report of the Royal Commission published in 1955 in England and so, suited only to the western conditions.

The Bill should be so modified as to suit the faith and practices of Christians in India. The only indigenous Christian community in India viz. Christians of Travancore Cochin area form the major part of the Christian community in India and divorce and remarriage of divorcees are unknown to them. They do not marry anybody within the prohibited degrees given in Leviticus Chapter XVIII verses 6 to 17. They have been solemnising marriages without any recognition of their Church by Government or licensing of their ministers for the last twenty centuries and their system of marriage could compare favourably with that of any other community in India and the practices prevailing among them should have been made the basis of the Bill.

Before the celebration of the marriage we publish banns or notices. We have prescribed the impediments which will make marriages void or irregular. The purpose of publishing the banns is for the discovery of such impediments. If impediments are disclosed by anybody the marriage is not celebrated. If either before or even at the time of marriage impediments are not disclosed by anybody we uphold the marriages unless they are absolutely void.

We hold that death alone can dissolve a marriage. Sickness we consider as an occasion for greater devotion and loyalty to each other. This is in perfect harmony with the Indian traditions which teem with stories of couples who stayed together in spite of the worst form of diseases. We feel that the provisions made in S. 28 and 30 for dissolution of marriages, are too liberal and will promote trial marriages. Even refusal to comply with a decree for restitution of conjugal rights is made a ground for divorce which renders solusive divorces quite easy.

We have been granted certain fundamental rights under the Constitution. We have the fundamental freedom under Article 25 to profess, practise and propagate our religion. Marriage is a religious practice and as such the celebration of marriages according to the religious rites of either party should not be interfered with by insisting on the churches being recognised or the ministers being licensed before such marriages can be solemnised. This fundamental right is recognised in the case of all other communities forming 97.6 per cent of the population and is being refused only in the case of Christians who form only 2.4 per cent. of the population. This amounts to discrimination between Christians and other communities prohibited in Article 15 of the Constitution. The distinction between recognised churches and unrecognised churches and the insistence on licensing of ministers of unrecognised churches amount to dis-

crimination between churches and churches. Licensed Minister does not enjoy the same privileges as the ministers of recognised churches. Under S. 70 only the ministers of recognised churches are given the option to refuse to solemnize marriages which are against the canons of the Church. If the licensed minister refuses to solemnize marriages under similar circumstances he is liable to punishment. Licensed minister cannot take more than 30 days for deciding about objections to marriage. Minister of a recognised church can take any length of time. The law commission practically concedes the right of the church to refuse marriages as are repugnant to canon law. Page 18 of 15th report states "This does not preclude the church from refusing to solemnize such marriages as are repugnant to canon law and that is what has been provided". (See Appendix clause 70 i.e. S. 70). The Commission is under the impression that such a privilege has been conferred on the churches by S.70. But a reading of S.70 shows that it provides only for an option to the minister of a recognised church to celebrate or not to celebrate marriages which are against the canon law of his church. It can be celebrated with impunity by any other minister of the same church, or another church or any licensed minister or marriage registrar as provided in S.8. S.70 may be amended to enable churches to enforce their own canons in the matter of marriages especially enabling them to prohibit marriages within the list of prohibited degrees according to their canons and also prohibiting divorce and remarriage of divorcees. All the provisions relating to the recognition of churches and licensing of ministers may be dropped. Great difficulty and delay are experienced in obtaining licenses for ministers in places where the present Act is in force. Applications for licences are unduly delayed and arbitrarily refused. For the recognition of churches, provision is made in this bill for a committee of five christians for

making recommendations in that matter. It is not a boon. The Committee members have necessarily to belong to some denomination or other. Ordinarily one denomination is not very considerate to another; and the committee can never be impartial and it will be very hard and unjust if recognition is made dependent on the recognition of such a committee.

Shri P. R. Patel: You have said in this pamphlet that you have read just now that "this fundamental right is recognised in the case of all other communities forming 97.6 per cent of the population and is being refused only in the case of Christians who form only 2.4 per cent of the population." Amongst Hindus you know that a marriage could be solemnised by anybody, by any Brahmin, not of a particular temple or sect; and similarly amongst the Muslims also a marriage can be solemnised by any Maulvi who may belong to any particular sect or mosque. If this right is given to the Christians, have you any objection?

Mr. Chairman: I am not able to understand your question, Mr. Patel. Because, how can the Christians all become Brahmins?

Shri P. R. Patel: What I say is, by any Christian, because a Hindu marriage could be performed by any Brahmin. So, have they any objection if that right is extended to Christians and Christians can have their marriages solemnised by any Christian believing and following the Bible—just as it is among Hindus and Muslims?

Shri Mathew: That is not permissible.

Shri P. E. Patel: Then how is it discrimination and why should you object?

Shri Mathew: We have ordained ministers in our churches and they perform marriages and have been performing them for years.

Shri P. R. Patel: So you should withdraw the word 'discrimination'.

Mr. Chairman: It is not necessary to withdraw anything. That is his opinion. It is for us to say whether we consider it to be discrimination.

Shri G. G. Swell: I think most of the points you have made in the two memoranda have been made by many other witnesses who have appeared before the Committee. These, naturally, will be considered: for example the question of recognition, the question of licencing and the other questions. We would like to know from you one or two things which are not mentioned in your memo. Have you got definite rules of running your Church or of solemnising marriages?

Shri Mathew: There are bye-laws in the Church.

Shri G. G. Swell: You have not said anything about prohibited degrees of relationship in your memo.

Shri Mathew: We have referred to the book in the Bible.

Mr. Chairman: Beyond Leviticus they want even more prohibitions.

Shri Mathew: Yes.

Rajkumari Amrit Kaur: Have you baptism?

Shri Mathew: We have baptism.

Rajkumari Amrit Kaur: Adult baptism or child baptism?

Shri Mathew: Adult baptism by immersion. We do not baptise unless they come of age when they can understand.

Shri Mathew Maniyangadan: Until that age, that is, until they are baptised, are they considered Christians?

Shri Mathew: They cannot take part in the Holy communion. Since their parents are members of the Church, they can come to the Church and they are more or less taken as part of the Church.

Rajkumari Amrit Kaur: Are they given instructions in Sunday Schools as children of Christians?

Shri Mathew: Yes.

Shri M. C. Shah: What do you consider the proper age that you mentioned?

Shri Mathew: We have no definite age.

Shri M. C. Shah: Generally 15 or 18?

Shri Mathew: Eight or nine is the minimum.

Shri P. R. Patel: You have stated in the statement:

"The Christians in Kerala were the only indigenous Christians in India and the Christian Marriage Act of 1872 was never extended to them. The Indian Divorce Act of 1869 was extended to Kerala only after our Independence."

So, the Indian Divorce Act applied to Kerala after Independence. I want to know what adverse effects this Act has had on the morality of the people.

Shri Mathew: The traditional discipline of the Church for years has been such that it has not had much effect on the members.

Shri P. R. Patel: There has been no effect on the morality.

Shri Mathew: Not so far, Maybe in the next generation.

Shri P. R. Patel: Up till now, there is none.

Shri Mathew: The people who are living at present have been brought up in the traditions and this Act had no effect on them.

Shri Mathew Maniyangadan: You fear it may be affected in future?

Shri Mathew: May be affected.

Shri P. R. Patel: You say:

"The Christians in Kerala were the only indigenous Christians in India.....".

I want to understand what you mean by this.

Shri P. A. Solomon: It is a question of history. We can study without the help of the witnesses.

Shri P. R. Patel: What have the witnesses to say?

Shri Mathew: We profess and we believe that we are Christians since Christ's time.

Shri P. R. Patel: You are indigenous?

Shri Mathew: We are not later day Christians, converted yesterday.

Shri P. R. Patel: I want to know one thing. Please excuse me if I put this question. Christianity came from outside to India. All these people were converts from other religions, may be 2000 years ago. Christianity came from outside India. What have

you to say? Christ was not born in India.

Shri Mathew: Faith is not confined to one country.

Shri P. R. Patel: After all, Christ was not born in India, you will agree. His teachings were done outside India in the beginning. Later on some people followed it and some people who followed became converts to this.

Shri Mathew: This is actually a question of history. That has to be studied. It is a sort of a debate.

Shri G. G. Swell: That is right.

Mr. Chairman: Thank you very much. We shall take into consideration all these points.

(The witnesses then withdrew)

The Joint Committee then adjourned.

JOINT COMMITTEE ON THE CHRISTIAN MARRIAGE AND MATRIMONIAL CAUSES BILL, 1962

MINUTES OF EVIDENCE GIVEN BEFORE THE JOINT COMMITTEE ON THE CHRISTIAN MARRIAGE AND MATRIMONIAL CAUSES BILL, 1962

Friday, the 19th July, 1963 at 09.15 hours

PRESENT

Shrimati Renu Chakravartty—Chairman.

MEMBERS

Lok Sabha

- | | |
|-----------------------------------|----------------------------------|
| 2. Shri Joachim Alva | 14. Shri Bibudhendra Misra |
| 3. Shri A. E. T. Barrow | 15. Shri Purushottamdas R. Patel |
| 4. Sardar Daljit Singh | 16. Shrimati Yashoda Reddy |
| 5. Shri Ram Dhani Das | 17. Shri T. H. Sonavane |
| 6. Shri Sudhansu Bhushan Das | 18. Shri Sivamurthi Swami |
| 7. Shri M. L. Dwivedi | 19. Shri G. G. Swell |
| 8. Shri V. B. Gandhi | 20. Shri A. M. Thomas |
| 9. Shri L. D. Kotoki | 21. Pandit D. N. Tiwary |
| 10. Shri M. K. Kumaran | 22. Shri T. Abdul Wahid |
| 11. Shri Baij Nath Kureel | 23. Shri Yashpal Singh |
| 12. Shri Mathew Maniyangadan | 24. Shri Asoke K. Sen |
| 13. Shri Panampilli Govinda Menon | |

Rajya Sabha

- | | |
|------------------------------------|-----------------------------------|
| 25. Rajkumari Amrit Kaur | 31. Shri Mulka Govinda Reddy |
| 26. Shri Jairamdas Daulatram | 32. Shri M. H. Samuel |
| 27. Shri A. C. Gilbert | 33. Shri M. C. Shah |
| 28. Shrimati Jahanara Jaipal Singh | 34. Shri Awadheshwar Prasad Sinha |
| 29. Shri Dayaldas Kurre | 35. Shri P. A. Solomon |
| 30. Shri A. D. Mani | |

REPRESENTATIVES OF THE MINISTRY

1. Shri G. R. Rajagopaul, *Special Secretary, Ministry of Law and Member, Law Commission.*
2. Shri R. V. S. Peri Sastry, *Assistant Draftsman, Ministry of Law.*

SECRETARIAT

Shri A. L. Rai—Deputy Secretary.

WITNESSES EXAMINED

- I. Shri W. S. Desai, New Delhi

II. ORTHODOX SYRIAN CHURCH OF THE EAST (DIOCESE OF OUTSIDE KERALA)

1. Shri M. G. Matthew
2. The Rev. Fr. K. C. Thomas

III. THE PENTECOSTAL CHURCHES OF INDIA (REGD.), LUDHIANA

1. Prof. Reuben R. Das
2. Shri J. Dennis
3. Dr. Mrs. Dhillon

I. Shri W. S. Desai, New Delhi

(Witness was called in and he took his seat)

Mr. Chairman: We have received your memorandum to the Joint Committee, and I believe that all the Members have read it; if Members would like to put any questions to him for clarification, they may do so.

Shri P. A. Solomon: Mr. Desai, you have said that you are a Christian. May I know to which denomination you belong?

Shri W. S. Desai: I belong to no denomination.

Shri P. A. Solomon: You do not belong to any church?

Shri W. S. Desai: I belong to the Lord Jesus Christ and acknowledge all who belong to him to be my brethren.

Shri P. A. Solomon: Does it mean that you are not bound by any rules and formalities of the Christian churches?

Shri W. S. Desai: I am bound by the Bible.

Mr. Chairman: Yours is a very interesting case. We have been trying to find a Christian who does not belong to any denomination, because we have to cover such cases too. What suggestion would you make on clause 2? I suppose you have got the copy of the Bill before you?

Shri W. S. Desai: I have read it. I could not get a copy.

Mr. Chairman: I shall arrange to give a copy to you.

Shri P. A. Solomon: Why can you not organise such people into a particular denomination, if there are such people in the country?

Shri W. S. Desai: The Bible does not recognise denominations.

Shri G. G. Swell: Were you born a Christian or you accepted Christianity later on?

Shri W. S. Desai: I was born of Christian parents and so was my father.

Shri G. G. Swell: Your father belonged to any particular church when he was born?

Shri W. S. Desai: My father was born of Presbyterian parents.

Shri G. G. Swell: So, you were also a Presbyterian?

Shri W. S. Desai: I was never a Presbyterian. But no man is born as a Christian; he may be born of Christian parents, but he has to become a Christian himself.

Shri G. G. Swell: I was only talking about the parents. Were you baptised in any church at any time in your life?

Shri W. S. Desai: I was baptised in the Presbyterian church when I was a child. My parents later withdrew from the Presbyterian Church.

Shri G. G. Swell: That means that you still belong to that church?

Shri W. S. Desai: No.

Shri G. G. Swell: You say that you do not belong to any church. By the way, if you do not mind, I may ask you another question. Are you married?

Shri W. S. Desai: Yes, I am.

Shri G. G. Swell: Your wife belonged before marriage to any particular church?

Shri W. S. Desai: My wife originally belonged to the Methodist Church.

Shri G. G. Swell: Does she continue to be a member of that church?

Shri W. S. Desai: No. She came to realise from the Bible that she should not belong to any denomination.

Shri G. G. Swell: What about your children?

Shri W. S. Desai: My children are in the same position as myself.

Mr. Chairman: Have they been baptised?

Shri W. S. Desai: Yes, they have been baptised.

Mr. Chairman: Where were they baptised?

Shri W. S. Desai: They have been baptised at home.

Mr. Chairman: By whom were they baptised?

Shri W. S. Desai: By someone who belonged to the Lord Jesus, as chosen by the parents.

Rajkumari Amrit Kaur: Was it a Minister or somebody else who baptised your children?

Shri W. S. Desai: We do not recognise any Minister.

Rajkumari Amrit Kaur: Who baptised your children?

Shri W. S. Desai: I baptised some children.

Rajkumari Amrit Kaur: You baptised your children yourself?

Shri W. S. Desai: Not my children, but the children of some others. Some other friends like myself who only accept the Bible baptised my children.

Shri A. E. T. Barrow: That means that you are a group of Christians??

Shri W. S. Desai: We meet together for various functions like the reading of the Bible, prayer and the breaking of bread or Lord's Supper.

Shri A. E. T. Barrow: Do you have any meeting ground for the reading of the Bible?

Shri W. S. Desai: Yes, the Bible.

Rajkumari Amrit Kaur: Do you have a Communion service?

Shri W. S. Desai: We have the breaking of bread on Sunday morning.

Rajkumari Amrit Kaur: That is also carried out by those whom you term as laymen?

Shri W. S. Desai: We meet as disciples of the Lord Jesus Christ used to meet, as found in the Acts of the Apostles.

Shri A. E. T. Barrow: So, you are a group of persons?

Shri W. S. Desai: No, we are individuals, and only when we meet together, there is a collective position.

Mr. Chairman: There is nothing which binds you to meet on a particular day or anything of that kind?

Shri W. S. Desai: The Bible.

Shri G. G. Swell: Do you meet regularly somewhere for the purpose of prayer etc.?

Shri W. S. Desai: Yes.

Shri G. G. Swell: When do you meet?

Shri W. S. Desai: We meet on Sunday morning, Monday and Wednesday.

Shri G. G. Swell: A good number of you meet together?

Shri W. S. Desai: Yes, about 12 in Delhi.

Shri G. G. Swell: Who conducts the service?

Shri W. S. Desai: We do not call it service. But the meeting has to be conducted by the Holy Spirit and not by any man. We are subject to the Holy Spirit.

Mr. Chairman: Is it meditation or the giving of some sermon or some exposition?

Shri W. S. Desai: It is all this and more.

Shri G. G. Swell: Could you kindly describe how you start and how you end the service generally?

Shri W. S. Desai: If we come together for the reading of the Bible, then we meet together, and have a silent prayer, that is, individual prayer. Then, one brother stands up and prays, or first we sing a hymn. Then another brother reads the Bible, and then we have ministry. We close with a hymn and prayer.

Shri A. E. T. Barrow: Have you a symbolic form of Communion in the form of the breaking of bread and the taking of wine?

Shri W. S. Desai: We have it as given in the Bible.

Shri A. E. T. Barrow: But somebody must perform that simple ceremony or whatever else you like to call it. How is that done? Is it done by agreement at the meeting?

Shri W. S. Desai: No, we sit together; then a hymn is announced which all sing and then one give thanks and breaks the bread which is then passed round to be partaken of. We do not call the breaking of bread as Communion, but Communion should follow; and then after another thanks-giving we have the cup, and all who are present sing a hymn and

then the brothers give thanks one by one, after which the Scripture may be read with ministry. There is no set form, but as the Spirit moves one and another.

Shri A. E. T. Barrow: Somebody leads in the breaking of bread. Who is that?

Shri W. S. Desai: It may be A today, C next week. It is decided by the Holy spirit.

Shri A. E. T. Barrow: You wait till one member takes the initiative. He is moved by the spirit.

Shri W. S. Desai: He should be.

Rajkumari Amrit Kaur: Where do you live?

Shri W. S. Desai: In Delhi, Patel Road.

Rajkumari Amrit Kaur: Are there many belonging to your group here?

Shri W. S. Desai: There are not many. There are about a dozen.

Shri P. R. Patel: Are there many in the country who are of your views?

Shri W. S. Desai: I do not think so, not in this country. These are just a few.

Shri P. R. Patel: Outside?

Shri W. S. Desai: Outside, there are a good few.

Shri P. R. Patel: Have you any connection with people outside?

Shri W. S. Desai: Yes, they sometimes come on visit. I have been on visit.

Mr. Chairman: Where do you bury your dead? Are you permitted by the various denominations and churches to use their burial ground?

Shri W. S. Desai: There are burial places. The only thing I can say is that the burial does not take place in the Roman catholic ground.

Mr. Chairman: Others permit you?

Shri W. S. Desai: Yes.

Rajkumari Amrit Kaur: Who solemnises your marriages?

Shri W. S. Desai: I was married in Fatehgarh and it was solemnised by the Dy. Commissioner or Collector who was the Marriage Registrar. The form I have suggested was carried out. Before the marriage, there was a meeting in the House where there was singing, Bible reading exhortation and prayer. Then we went to the Registration's office. After the marriage was solemnised, there was another meeting.

Mr. Chairman: Was the Registrar a Christian?

Shri W. S. Desai: He was, because there was a law at that time that he must needs be a Christian.

Mr. Chairman: What would happen if the Registrar is not a Christian?

Shri W. S. Desai: So far as I am concerned, I would recognise any Registrar appointed by Government.

Mr. Chairman: Would he be in a position to give you the exhortation?

Shri W. S. Desai: He does not. We wouldn't want it from him.

Mr. Chairman: You do not think it absolutely necessary as a part of your marriage ceremony?

Shri W. S. Desai: Any government officer is ordained of God. Rom. ch. 13.

Shri A. M. Thomas: What are you by profession?

Shri W. S. Desai: I am a retired professor of History, Rangoon University.

Shri A. M. Thomas: How many children have you?

Shri W. S. Desai: Three.

Shri A. M. Thomas: They are grown up?

Shri W. S. Desai: All grown up and married.

Shri A. M. Thomas: When were they baptised?

Shri W. S. Desai: One was 3 and the other was 7. They were baptised in England by a friend. The third when a few months old.

Shri A. M. Thomas: Was he a pastor?

Shri W. S. Desai: Just like myself.

Shri A. M. Thomas: How were they married?

Shri W. S. Desai: In the same way as I was. One was married in Lahore by the Dy. Commissioner who was the marriage Registrar—I forget his name. Two were married here, one by Mr. Bhanot who was the Marriage Registrar and the other by Mr. Lewis, who was Marriage Registrar.

Shri A. M. Thomas: They are also married to Christians?

Shri W. S. Desai: Yes.

Shri A. M. Thomas: To which denomination do those people belong?

Shri W. S. Desai: They are in the same position as myself.

Shri M. C. Shah: Before they married, your sons were belonging to any denomination?

Shri W. S. Desai: No. But there are cases: they might belong. We would instruct them and show the scriptures to them.

Shri M. C. Shah: Do you think baptism should be performed only after they become adults or a child could also be baptised?

Shri W. S. Desai: In the Bible, there is baptism of men and women, baptism of eunuch, baptism of households. So when a child is baptised, that child is baptised as belonging to a Christian household, baptised on the faith of the parents or a parent.

Shri M. C. Shah: Is it necessary that he should be baptised again after he becomes adult?

Shri W. S. Desai: I personally think it is not necessary. But if somebody has any conscience about it, he may have it done again. I think it is not necessary.

Shri P. A. Solomon: Would you consider that all the Christians, so-called Christians, belonging to denominations and churches are true Christians or not? True Christians?

Shri W. S. Desai: Not all are true, but there are true ones scattered all over.

Shri P. R. Patel: You are a well-read person. According to you, it is not necessary for a Christian to be attached to any church or denomination.

Shri W. S. Desai: There is one church which is the church of God to which all genuine Christians belong.

Shri P. R. Patel: I am referring to the physical church, that on earth. If a true Christian follows the Bible, according to you, he should not be attached to any church or denomination on earth.

Shri W. S. Desai: Not attached to any denomination or sect.

Mr. Chairman: You said that they all belong to the church of God. There is a denomination going by that name which has appeared before us.

Shri W. S. Desai: That won't do.

Mr. Chairman: You do not mean it in that sense?

Shri W. S. Desai: No. All true Christians are of the Church of God (or of Christ); not organised by man.

Shri M. C. Shah: Would you permit a Christian to marry a non-Christian?

Shri W. S. Desai: I am not the one to permit, but if he does marry, I would acknowledge the marriage as given in the Bible. A believer should marry believer.

Rajkumari Amrit Kaur: When you say households can be baptised, have you any evidence to show that a household would not include the children?

Shri W. S. Desai: It must include minor children.

Rajkumari Amrit Kaur: Therefore, children can also be baptised.

Shri W. S. Desai: Yes, but on household lines, on the faith of the parents.

Rajkumari Amrit Kaur: If they wish to have the child baptised, they have the right to do so.

Shri Dayaldas Kurre: What is the number of your group?

Shri W. S. Desai: That number is registered in heaven. If we register, we become a sect.

Shri P. R. Patel: We have had so many witnesses before us who opposed divorce. What are your views on that?

Shri W. S. Desai: In the Bible, the Lord Jesus Christ says that marriage is a marriage, but divorce may be permitted for one cause only. Personally, if a divorce takes place for that one cause, he or she should remain unmarried.

Shri P. R. Patel: That one cause is adultery?

Shri W. S. Desai: Yes.

Shri P. R. Patel: Adultery before marriage or after marriage?

Shri W. S. Desai: I have not given thought to that "before marriage."

Mr. Chairman: What is the word used in the Bible?

Shri W. S. Desai: Adultery.

Mr. Chairman: Not fornication?

Shri W. S. Desai: I think in another place it is used. But the dictionary meaning does not differentiate between the two.

Shri P. E. Patel: A husband does something which is absolutely wrong, like sodomy. Would that be a ground for divorce?

Shri W. S. Desai: It depends on the wrong he has done.

Mr. Chairman: Sodomy, bestiality or some such thing.

Shri W. S. Desai: I would put it in a few words. A genuine Christian must not think of divorce. But the government have to make provision for all types of people who have the label 'Christian'. Even if one partner disappears or deserts, the other partner must remain unmarried.

Mr. Chairman: Remarriage is prohibited?

Shri W. S. Desai: I would not say prohibited. Government may permit it, but if he remains under the authority of Christ, he will accept it as a discipline for himself.

Mr. Chairman: You do not feel the need of any authority which permits excommunication, since you do not believe in the authority of a physical organisation?

Shri W. S. Desai: Excommunication is provided for in the Bible in the sense that the person was deprived of the privileges of the Church, when the Church was functioning, but now the Church is not functioning, the Church has failed.

Shri G. G. Swell: When was the Church functioning according to you?

Shri W. S. Desai: In the early days in the first century. Now it is divided into denominations. So, they excommunicate people from the denomination. According to my belief and practice and as provided in the Bible, it is a question now not of excommunication, but for the person himself, if he finds someone is not walking rightly, to withdraw and stop walking with him. 2 Tim. Ch. 2.

Shri G. G. Swell: You are a professor of history. When did the Church stop functioning in history?

Shri W. S. Desai: By the close of the first century A.D.

Shri A. E. T. Barrow: Which occasion or event marked it?

Shri W. S. Desai: That is also given in the Bible. Apostle Paul was martyred probably about 65 A.D. Before he died he said:

"For I know this, that after my departing shall grievous wolves enter in among you, not sparing the flock, also of your own selves shall men arise, speaking perverse things, to draw away disciples after them". Acts. Ch. 20.

So, before the close of the first century A. D., different denominations started appearing and they continued to multiply.

Shri M. C. Shah: Have you seen the definition of Church in this Bill?

Shri W. S. Desai: It is all right for the Government purpose.

Shri M. C. Shah: Do you suggest any amendments?

Mr. Chairman: I will put it more specifically. The definition in the Bill of a Christian is a person professing the Christian religion. There have been suggestions that this is not enough, and that we should add "who undergoes the sacrament of baptism and is a member of an organised Church or denomination".

Shri W. S. Desai: I would not agree to that. For the public purpose a Christian is one who calls himself "Christian", same as for census.

Mr. Chairman: Till now we were under the impression that every Christian has to be a member of an organised Church. A person like you would not belong to an organised Church, and therefore you would not come under the definition of Christian

at all, if we insist on that being part of the Bill.

Shri W. S. Desai: I do not agree to that definition, Actually a true Christian should not be a sectarian. I have read and studied the Bill, and I think it is very well drawn up except for a few points I have pointed out.

Shri G. G. Swell: In your memorandum you have said that the terms of oath and swearing should not be there in the Bill anywhere, and also that the Marriage Registrar need not necessarily be a Christian, although the Bill does not say that anywhere. Do you mean to say that if these two points are accepted, you would accept the Bill as it is entirely?

Shri W. S. Desai: There are two more points. One is about divorce because one party gets converted to another religion. I do not agree to that. It would lead to complications. If a person gets converted and then later gets re-converted, he may be playing tricks. In the Bible provision is made that a Christian may have an unbelieving wife, and *vice versa*—not that it is recommended.

Shri G. G. Swell: In which part of the Bible is that?

Shri W. S. Desai: It is in I. Corinthians, Chapter 7:

"But to the rest speak I, not the Lord: if any brother hath a wife that believeth not, and she be pleased to dwell with him, let him not put her away.

"And the woman which hath an husband that believeth not, and if he be pleased to dwell with her, let her not leave him.

"For the unbelieving husband is sanctified by the wife, and the unbelieving wife is sanctified by the husband: else were your children unclean; but now are they holy."

Such a situation may be found. It was found with my grandfather who

was converted and his wife was not converted. The wife would not touch him. The question arose who should have the children, and the Maharaja of Baroda, who was interested in the family, sent the political agent and said let the children go with that party according to the choice of the children. Both the children—my father was not born then—preferred to go with the father, but later on my grandmother was also converted. She also as a Hindu went with her husband.

Rajkumari Amrit Kaur: Have you any idea about the degrees of prohibited relationship?

Shri W. S. Desai: I do not agree to the list. There should be prohibition to a man marrying his sister's daughter or brother's daughter. The Bill at the end says that that is permitted because the Pope has granted dispensation. The Pope can grant any dispensation but this is certainly near of kin, and marriage between uncle and niece is prohibited in the Bible.

Mr. Chairman: What do you mean "prohibited by the Bible"? Do you mean the Leviticus?

Shri W. S. Desai: Near of kin gives the principle.

Rajkumari Amrit Kaur: Would you object to first cousin marriages and would you like them to come within the prohibited degree?

Shri W. S. Desai: I would not; but it is eugenically unsound.

Rajkumari Amrit Kaur: Even second cousins?

Shri W. S. Desai: Not second cousins. This is uncle and niece.

Rajkumari Amrit Kaur: I am asking about cousins.

Shri W. S. Desai: Personally I should think there should not be a marriage between first cousins. But

if they are insistent on it, it is on their own responsibility. Eugenically it is not sound.

Shri P. E. Patel: In the Bill it is provided that the minister can solemnize a marriage—the minister of a recognised church. There are cases where you would not call a minister. So, is it not desirable to put a clause in the Bill that the marriage can be solemnized by a Christian, leaving aside the minister and others?

Shri W. S. Desai: It can be solemnized by a Government marriage registrar.

Shri P. E. Patel: After all the marriage has to be done by a Christian; not by a minister. I think the clause should be made wider enough to cover that viewpoint.

Shri W. S. Desai: You may do it; it can be done. If one is particular about the marriage registrar, why does he not go to his denomination?

Shri P. E. Patel: There would be some persons like that who do not belong to any denomination or church. They want marriage to be solemnized. The Bill provides that only the minister of a church can solemnize a marriage and none else. So, is it not desirable that any Christian can solemnize a marriage? Would it cover your points?

Shri W. S. Desai: Any christian. He must be appointed by the Government.

Shri G. G. Swell: You do not recognize any church. According to you there is no church.

Shri W. S. Desai: I do not recognize the sectarian churches.

Shri G. G. Swell: We take the church as we understand it today—the Roman Catholic church or the Presbyterian church. You do not recognize any church. Then how do you reconcile your personal view that the Bill may be accepted if your points are conceded, namely, the Govern-

ment may recognize some churches and may not recognize some other churches. The principle of recognising some churches is in the Bill. How you will reconcile your personal view that you do not recognise any particular church with the principle of recognition that is in the Bill?

Shri W. S. Desai: Government have to take the situation as it is. Government do not hold the views that I hold as a Christian. They have also the income-tax department; somebody may disagree with the customs department, for example. But it is their duty to function and provide according to the situation. My duty is that I must accept what is according to the Bible. I would not go to the denominational priest.

Shri G. G. Swell: What is wrong to you personally? How can you accept that? Government is made up of human beings. How can you say that it is right for the Government to do that, when in your personal life, you think it is wrong?

Shri W. S. Desai: There are many things going on. We are not concerned with them. We must go the right way.

Mr. Chairman: You are only concerned with this Bill to see that what you believe in is not left out of the purview of Christian marriage.

Shri W. S. Desai: Yes.

Shri M. C. Shah: You want that Government should have the power to recognise churches.

Shri W. S. Desai: That is Government's responsibility. I have no view.

Shri G. G. Swell: When a law is made it must be a law that must affect the life of the people in some way.

Shri W. S. Desai: It does not affect me.

Shri G. G. Swell: It does not solve the problem to say that "I do not bother because I do not want to interfere."

Shri W. S. Desai: I do not want to be a critic of the Government because it does not affect me morally.

Shri G. G. Swell: It may affect your neighbours and your country.

Shri W. S. Desai: I do not see how.

Shri G. G. Swell: When a law is passed it affects the sovereignty of the people.

Shri W. S. Desai: Each one will accept what is suitable to him.

Shri A. E. T. Barrow: Then civil marriage should be good enough to you.

Shri W. S. Desai: Marriage is marriage.

Shri A. E. T. Barrow: For solemnization you can go to the civil court, and so this Bill would not affect you personally. You have got the Civil Marriage Act so that the Christian marriage as such is not affected.

Shri W. S. Desai: It would affect morally because in the Bible the duties of the husband and the wife are laid down. If a Hindu husband and wife are converted and genuinely become Christians, they do not get married again. That marriage is recognised. Marriage is marriage in the sight of God, whether one is a Hindu or whatever he might be.

Shri G. G. Swell: If that is so, do you think that some intermediary agency is necessary for solemnizing the marriage? Of course, God is there; we cannot see him or feel him anywhere. I think most people feel so.

Shri W. S. Desai: In the Bible no ceremony for marriage is laid down.

Shri G. G. Swell: Suppose a man and a woman just live together, is that enough?

Shri W. S. Desai: No, because marriage must be recognised publicly and by the Government.

Shri G. G. Swell: There is nothing wrong as long as a man and a woman live together and they have children and society accepts them.

Shri W. S. Desai: Are they Christians?

Shri G. G. Swell: Yes.

Shri W. S. Desai: Then there is no marriage in the sight of God.

Shri G. G. Swell: You said there is no need of any solemnization of that marriage.

Shri W. S. Desai: The Government registrar solemnizes a marriage.

Shri G. G. Swell: So, some solemnization must be there?

Shri W. S. Desai: Yes.

Mr. Chairman: He has stated that when he got married the DC who was the Marriage Registrar solemnised the marriage.

Shri W. S. Desai: There must be witnesses.

Mr. Chairman: There must be representatives of society.

Shri W. S. Desai: Then there is also the question about property, as to whom it will go to.

Shri G. G. Swell: That is the contract side of the marriage, the legal side.

Shri W. S. Desai: There is the legal side, moral side and spiritual side of marriage.

Mr. Chairman: So, you do recognise the need for some authority to put a man and woman together.

Shri W. S. Desai: Yes; it should be the Government.

Shri G. G. Swell: Then there is no need for this Bill at all; The Special Marriage Act is there.

Mr. Chairman: He has said in his memorandum:

"In the actual Marriage Ceremony before the Registrar, if the

parties so desire it, they should be allowed to use the following words:—

'I call upon these persons present here to witness that I, A.B. in the Name of our Lord Jesus Christ the Saviour, do take these C.D. to be my lawful wedded wife (or husband).'

So, that would be the distinguishing characteristic between a person marrying as a Christian. That is his amendment.

Shri W. S. Desai: I think both should be Christians according to this Act.

Mr. Chairman: Yes; they have to be Christians according to this Act. That is why you are proposing that in such cases they should take this promise?

Shri W. S. Desai: Yes; if they so desire. Some may not desire it.

Shri P. R. Patel: I would give a concrete case. Where the bridegroom is a non-Christian and the bride is a Christian, what type of oath should they take?

Mr. Chairman: Unless you change the Bill, according to this, it will not apply to them.

Shri P. R. Patel: He read from the Bible saying that there can be a marriage between a Christian and non-Christian. In such a case is any oath necessary?

Shri W. S. Desai: There is the Special Marriage Act. They can go there.

Mr. Chairman: Thank you Mr. Desai; I think we have had more or less a very interesting discussion.

Shri W. S. Desai: What about prohibited degrees?

Mr. Chairman: You have said that sister's daughter and brother's daughter should be brought within the prohibited degrees. There is a very large number of prohibited degrees in

Leviticus which have not been included here. Many people have insisted that those should be included. If that is done, then automatically these two also would come in. We will consider it. Thank you.

(The witness then withdrew).

II. ORTHODOX SYRIAN CHURCH OF THE EAST (DIOCESE OF OUTSIDE KERALA)

Spokesmen:

1. Shri M. G. Matthew.
2. The Rev. Fr. K. C. Thomas

(Witness were called in and they took their seats)

Mr. Chairman: We have already heard the evidence of the Orthodox Syrian Church inside Kerala. You represent the Orthodox Syrian Church of the East outside Kerala.

"Your evidence shall be treated as public and is liable to be published, unless you specifically desire that all or any part of the evidence tendered by you is to be treated as confidential. Even though you might desire your evidence to be treated as confidential such evidence is liable to be made available to the members of Parliament."

We have received your memorandum which we have read. Our Members would like to ask you a few questions for clarification.

Shri G. G. Swell: In para 11 of your memorandum you have said:

"The question of recognition will be an obstacle in the way of the marriage of boys and girls who belong to the unrecognised Churches. They will have to wait for long to get married till their Church is recognised and the obtaining of the recognition will often take months and years and sometimes the Church may not be recognised at all."

How will it stand in the way of the marriage and delay the marriage?

Shri M. G. Matthew: There is no guarantee as to how long it will take for the church to get recognition.

Shri G. G. Swell: But they can get married by a licensed Minister.

Shri M. G. Matthew: They may not like to get married by a licensed Minister and it is inconvenient to get married by a licensed priest. They might like to get married through properly ordained priests. In that case, you will be forcing a person to marry in a way which he does not like. Suppose a licensed priest is not available. What will happen to them? And a licensed priest is appointed only in an un-recognised Church, which is repugnant to the ideas of the average man.

Shri G. G. Swell: The Bill by itself does not delay their marriage at all.

Shri M. G. Matthew: The orders of the Central Government may be considerably delayed.

Shri G. G. Swell: I am not talking about recognition, I am talking about your point that there will be delay in solemnising marriages.

Shri M. G. Matthew: When recognition is delayed, there will be delay in solemnisation of marriage. Suppose a boy or girl feels that it is not possible to get married from a particular church. There will be a tendency for him to go away from the church. How could he stick to such a church?

Shri G. G. Swell: You have certain rules in your church, you have your ministers. There will be no difficulty for them to get the necessary licence.

Shri M. G. Matthew: I doubt very much. Who knows whether there will be difficulty or not?

Shri A. M. Thomas: Suppose the Bill is passed as it is. If I want to get my daughter married, there is no way unless I change my religion or make it a registered marriage!

Shri M. G. Matthew: It is very correct. It will be certainly a very great hindrance.

Shri M. C. Shah: In case all the churches are recognised, what will be the difficulty?

Shri Mathew: Then the clauses on recognition have to be deleted. Why should the difficulty be put in the way of some churches? No other community in India has its marriages being performed by a system of recognitions.

Shri M. C. Shah: So you feel that Government should not have a system of recognition for this purpose?

Shri M. G. Matthew: Yes. The Government should not have a system of recognition for the purpose. You better leave it to the different denominations as it is now so that they can carry on their marriages in the usual way. In the memorandum I have pointed out one fact. As far as the Hindu Marriage Act goes, clause 7 says that a Hindu marriage can be solemnised in any manner according to the customary ceremonies of either of party to the marriage. It is a very good way in which a marriage could be conducted. So a Christian may have his marriage conducted according to the rules of the church to which the bride or the bridegroom belongs. That is how it is now conducted.

Shri G. G. Swell: You have not said that.

Shri M. G. Matthew: I have mentioned it.

Shri G. G. Swell: In page 7 of your memorandum you have made a prayer that "A Christian Marriage may be solemnized in accordance with the customary rites and ceremonies of either party thereto". You don't say the church.

Shri M. G. Matthew: Not saying the word. Church does not change the ideas. What I have said is wording that appears in the Hindu Marriage Act may be adopted with advantage.

Shri G. G. Swell: You want the same thing?

Shri M. G. Matthew: Yes. According to the customary ceremonies of either party (Who are Christians) to the marriage.

Shri G. G. Swell: Or the rules of a particular church?

Shri M. G. Matthew: If you discuss it, probably there is not any difference between rules and rites or ceremonies. Probably in the interpretation some people may say that all these are the same thing, while some others may say they are different.

Shri A. E. T. Barrow: Suppose you have a group of Christians who say "we do not believe in any ceremonies and rites, we have no customary ceremonies or customary rites". Therefore, any Christian can marry those two people.

Shri M. G. Matthew: There are no such Christian sections who may say that they have no ceremonies or rites, unless it is a question of marriage under the Special Marriage Act.

Shri A. E. T. Barrow: We just had a witness who said that they had no ceremonies or rites.

Shri M. G. Matthew: I have probably observed one marriage where the ceremony was little; but even there, there was presentation of cloth and exchange of garlands. That was the ceremony. Some such ceremony is necessary. Without that no marriage can be performed. Because, marriage is the exclusive union of a man and woman and the community should recognise that. For that purpose it is necessary that there should be some publicity and the Ceremony gives the publicity. I do not think there is any Community which has a marriage system without some ceremony so as to make others understand that the couple are man and wife.

Shri M. C. Shah: In para 6, line 5 of your memorandum you have said that "fresh Churches are coming into existence".

Shri M. G. Matthew: In Kerala there is what is called the Marthoma Church. The practice among the churches in Kerala is that the priests are ordained by bishops. One section of the people there thought that there is no need of bishops ordaining the priests, that all the priests are as good as the bishops themselves, and so they said that twelve priests should ordain a bishop. That was three or four years ago. They are one-third or half of the community which numbers about six or seven lakhs. That is the view of certain people that so much of formality and tradition and flowing robes and other things are not necessary for the formation of a church or for observance by its members. So a new section of Evangelical Churches was formed.

Shri P. R. Patel: There are some Christians who would desire that their marriages should not be solemnised by priests and ministers of churches; they believe in the church of God in Heaven, so they desire that the marriage could be solemnised by anybody. What have you to say to that? Should we allow these people to go on with their custom or should we impose on them that they must utilise the ministers and priests?

Shri M. G. Matthew: We have to allow these people to go on with their Customs. My opinion is, we should not impose our views upon people about their faith? If a person feels that he should remain an atheist—you know people who do not believe in God, atheists—why should we tell him "you believe in God, or if you don't we don't recognise you". Is it a correct form of legislation?

Shri P. R. Patel: Don't you feel that the clause in the Bill could be so amended that anybody can solemnise a marriage, so as to include the viewpoint of such persons?

Shri M. G. Matthew: I would make one suggestion. The Christians so far have not felt the need for any enactment in respect of their marriage customs. No difficulty whatever has

arisen to attract Legislation in the matter of marriage.

Shri P. R. Patel: I did not ask that question.

Shri M. G. Matthew: My explanation will clarify your doubt. In fact there are many denominations. I mentioned that it is more than twelve. It will be a hundred. Some denominations feel that they should have priests, some other feel that it is sufficient to have a brotherhood, and that no particular authorisation or ecclesiastical appointment is necessary. Suppose a thousand people or ten thousand people feel like that—but they all believe in Christ—we can't say that they are not Christians. They may have a particular form of conducting marriage. We should not insist that their marriages should be conducted by priests if they do not believe in such marriage. There are sects where an elder or chief man, will conduct the marriage, or if he himself is not able to do it somebody else may do that. As far as that particular denomination is concerned that is a valid marriage.

Shri P. R. Patel: In para 14 of your memorandum you have said that "no other community in India is subject to this Law of recognition of its religion or is required to obtain a Licence for its Priests and Ministers to conduct its marriages". You know, among the Muslims and the Hindus any Maulvi or any Brahaman can solemnise the marriage.

Shri M. G. Matthew: They do not conduct marriage under a State license but only Customs of their Religion.

Shri P. R. Patel: Among Christians there is no community like Brahmans and so on. So is it not desirable to put in a clause that any Christian can solemnise a marriage?

Shri M. G. Matthew: No. If the particular sect has their marriages conducted, so it can be permitted. As in the Hindu Code, if it is mentioned that a marriage can be solemnised in the form in which it is conducted now,

then a Christian can conduct a marriage if it is in the custom among the sect to which the couple belong.

Shri P. R. Patel: It is not necessary that there should be a brahmin. They have done away with brahmins in Maharashtra. It is not necessary that there should be a brahmin. In Saurashtra, they are beginning. Certain ceremony is necessary. That is important. It may be done by anybody.

Shri M. G. Matthew: Why should we say that? If a person is prepared to have it conducted by anybody, he can go to the Special Marriage Registrar.

Shri P. R. Patel: Why?

Shri M. G. Matthew: We are considering here a Christian marriage and so we should not say that a Christian marriage can be conducted by anybody.

Shri M. C. Shah: You have suggested that in the definition of 'Christian' some more words should be added. A Christian means a person professing the Christian religion in any of its forms and developments. Should he not be affiliated to some Church or denomination?

Shri M. G. Matthew: Need not necessarily. Here is a Christian. After some time he gets some associates. They together form a community. That community is the Christian form into which it has developed. Even as it is, the definition is sufficient. It would be more meaningful if we add these words "in any of its forms and developments". There is no harm in adding these words. The idea is, doubts, if any, will be removed.

Shri M. C. Shah: What do you think about a Christian marrying a non-Christian?

Shri M. G. Matthew: I think there is no harm.

Shri G. G. Swell: In para 9 of your memo, you are opposed to regis-

tration of a Church. Then, you make a rather interesting statement:

"And particularly, no Church or any religion existing in India has been registered under the Societies Registration Act."

Just now, the next Church that we are going to interview is the Pentecostal Church of India. Within brackets you see the word Registered.

Shri M. G. Matthew: If you go through the facts that I have mentioned in the preamble to the Societies Registration Act, the object is promotion of literature, science, arts, etc. Seven or more people by signing a memorandum and submitting it to the Registrar can form a society. You can distinguish a registered Church from a society formed for other purposes. The idea of a Church is different from forming a society formed for the promotion of literature, arts, and other things. There are some societies registered by Churches, not for the purpose of propagation of faith but for working some institution in a practical form such as schools and hospitals. For its proper management, they form an association and have it registered.

Shri G. G. Swell: I am only interested in the fact of the statement. I understand that your view is against registration. What I am trying to do is to draw your attention that your statement is not correct. Some Churches are registered.

Shri M. G. Matthew: It is not the Church as such that is registered. Suppose they want to run a school. In order to facilitate the running of the school, some members of the Church form into a society. Church of Mission Society in England is running most of the schools in Kerala. That does not mean that registration has anything to do with the faith or religion of the Church. It is only for the purpose of making it possible to sue and be sued in the name of the society, and for proper management that the Societies Registration Act is brought into operation.

Shri M. C. Shah: Would you like the Church to be defined?

Shri M. G. Matthew: It has not been defined in the Bill itself. Church is not a building or a place of worship. A definition will be better. Church is a denomination of Christians . . .

Shri M. C. Shah: The point is whether it is necessary to have it in the Bill.

Shri M. G. Matthew: My own idea is that the Bill may be dropped. I have not gone into the question of defining the Church.

Rajkumari Amrit Kaur: Are you satisfied with the definition of Christian as it is given in the Bill?

Shri M. G. Matthew: I am satisfied. I have made a suggestion. A Christian means a person professing the Christian religion. That is the definition in the Bill. I have suggested the addition of the words, in any of its forms or developments. If these words are added, the idea is better.

Rajkumari Amrit Kaur: Would you send this in writing to the Secretariat?

Shri M. G. Matthew: Yes.

Rajkumari Amrit Kaur: You are opposed in principle to this recognition and licensing of Ministers. You think that the Ministers are licensed by the Church and not by the State. If recognition and licensing by the State go, would you consider that the Church should be defined and the definition of the Church and Minister would be necessary to be included in the Bill?

Shri M. G. Matthew: My humble opinion is, if these two facts recognition and licensing go from the Bill, it is only the shell or husk that would remain. The most important provisions of this Bill are recognition of Churches and licensing of priests. When these two things go, I wonder what purpose will be served by having provisions relating to guardians, consent and divorce for which we have already existing laws. Practi-

cally the essence of the Bill is how the Church should solemnise marriages through priests and if the Church is to be recognised. If these clauses are dropped, — of course, the Bill may be passed—it is not worth the trouble and the time that we would spend. As far as divorce is concerned, there is another law. Regarding guardians, etc. there is another law. This Bill is mainly to regulate the marriages: not succession or any other thing.

Rajkumari Amrit Kaur: There is nothing in the Bill as regards marriage between a Christian and a non-Christian. Would you like a provision to be included in the Bill?

Shri M. G. Matthew: A marriage between a Christian and non-Christian cannot be conducted under the provisions of this Bill. Because, the Bill applies only to Christians. There is the Special Marriage Act under which marriages between Christians and non-Christians can be solemnised.

Shri G. G. Swell: The Roman Catholic Church would like that provision to be made that a marriage between a Christian and a non-Christian may be solemnised in the Church. What is your view about that? Do you want that?

Shri M. G. Matthew: No. My view is, it is better not to dilute the principles of the Church by such half-hearted provisions.

Shri G. G. Swell: With regard to definition of Christian, you said, a Christian professing the Christian religion in any of its forms and developments. We had a very interesting witness sometime ago who says that he does not belong to any particular Church or denomination, but he asserts that he is a Christian. Would you accept such a person as a Christian?

Shri M. G. Matthew: He does not belong to any group; he is a single individual and he can be a Christian.

Shri G. G. Swell: There may be some fellow travellers who think like him. They do not belong to any Church.

Shri M. G. Matthew: In that case, you will have to recognise him. Because, you cannot restrict the number of people for a Church or community. It may be half-a-dozen people or a few thousands.

Shri G. G. Swell: You have to recognise them?

Shri M. G. Matthew: Yes.

Mr. Chairman: It appears from what you have stated in your memorandum that you are not opposed to divorce, for, you have stated:

“In the chapter on Divorce, a provision that the Proceedings should be conducted *in camera* has to be included.”.

If you would kindly read the Bill, you will find that the Bill gives that right. If either of the parties or the court demands that it should be heard *in camera*, it will be heard *in camera*.

Shri M. G. Matthew: Why not put it in the Bill? There are certain communities in Kerala in respect of whom it is absolutely laid down in the Act that all these proceedings should be *in camera*. That is why I have made this suggestion.

Mr. Chairman: Either party can ask for it.

Shri M. G. Matthew: I have only made a suggestion. That does not mean that it is not provided for in the Bill.

Mr. Chairman: You have also suggested that:

“The provision to add the co-respondent as a party to the Divorce proceeding need not be made mandatory.”.

We shall consider that point.

Shri M. G. Matthew: Sometimes, new names may have to be included, which it may not be necessary to publish, otherwise, there may be unnecessary publicity to these proceedings.

Mr. Chairman: So, according to you, that is not to be opposed? You are not opposed to divorces?

Shri M. G. Matthew: The Church does not recognise a divorce.

Mr. Chairman: You have suggested the following definition for the term 'Christian', namely:

“‘Christian’ means a person professing the Christian religion (in any of its forms or developments)”.

Why could you not accept the definition given in the Bill itself?

Shri M. G. Matthew: I do not say that the definition given in the Bill is insufficient or anything of that sort. But I was just following the definition of the term 'Hindu' given in the Hindu Minority and Guardianship Act, and I have suggested the definition that the term 'Christian' means any person professing the Christian religion in any of its forms or developments and that will make the meaning clear.

Mr. Chairman: We are not going into the forms and developments of the religion. We only grant the right to anybody who professes the Christian faith to marry under this Act. Some persons may profess it and belong to one denomination while some others may profess it and belong to some other denomination, or it may be the case that there are persons who do not belong to any denomination at all but who profess the Christian faith. So, do you not think that the definition as it is given in the Bill would cover all such cases?

Shri M. G. Matthew: There is no harm that way. In fact, I was only following the definition of the term 'Hindu' given in section 3 of the Hindu Minority and Guardianship Act.

Mr. Chairman: Your general idea is that we should try to keep it as far as possible in line with the provisions in the Hindu Marriage Act and other such Acts, as far as possible?

Shri M. G. Matthew: I feel that these wordings could very well be included in the definition with advantage.

Shri Dayaldas Kurre: You have stated in your memorandum that:

“The provisions regarding the prohibited relationship of marriage and provisions regarding guardianship and consent may altogether be dropped or made more elastic and less cumbersome.”.

Do you think that the provisions regarding the prohibited degrees of relationship should be dropped altogether?

Shri M. G. Matthew: My idea in regard to these two provisions is this. The prohibited degrees of relationship for marriage according to Canon Law includes many more relationships than are mentioned in the Bill. So, those communities who are governed by the Canon Law would certainly like to have the list of prohibited degrees of relationship to be expanded. That is my submission on this point.

Regarding guardianship and consent, as far as I could read the Bill, I find that if the father is unwilling to consent to the marriage of his daughter, the Bill makes it almost possible for strangers to come in and give consent. The father is the most competent person or the person who is most interested in seeing that his girl is not married to an improper person. So, if he does not give the consent, we should not force him to give the consent. We should not force either the girl or the others, to give consent against the wishes of the father himself. That was exactly what I meant.

Shri G. G. Swell: One point is not very clear. You want that the list of prohibited degrees of relationship should altogether be dropped or it should be expanded. I could not follow what you mean by this?

Shri M. G. Matthew: I want that it should be expanded.

Shri G. G. Swell: But you have said that it should altogether be dropped. That means that you are going back

on what you have said in your memorandum.

Shri M. G. Matthew: No, I am not going back. I am only expanding the idea.

Shri G. G. Swell: You have said in the memorandum that the list may altogether be dropped. So, we want to get it clear from you.

Shri M. G. Matthew: If it is dropped, that means that you are restoring the *status quo ante*. That is the communities will go on as before.

Regarding guardianship and consent, what I mean is this. Before the consent is given, the intended marriage has to be published in the church, and kept open for about three weeks, so that anybody who wants to file objections can do so. After the publication of the banns, anybody who has got objection can bring it up. The objection may be according to the particular section of the church to which he belongs, and if that church does not permit marriage between the two people who are within the prohibited degrees of relationship, then that objection can be filed.

Shri Mathew Maniyangadan: Suppose we provide that a Christian marriage may be solemnized in accordance with the customary rites and ceremonies of either party thereto, then would you want the provision regarding the prohibited degrees to be incorporated in the Bill?

Shri M. G. Matthew: It really comes to a question of interpretation whether these prohibited degrees of relationship for marriage also form part of the customary rites of that marriage. We cannot say for certain what interpretation will be put upon it when it goes before a court of law. That is what I feel.

Shri Mathew Maniyangadan: What would you suggest? There must be some clear provision in the Bill.

Shri M. G. Matthew: I would suggest, first of all, that it should be

dropped. If that is not possible, then give the parties the legislative right that each party may have the marriage solemnized according to their customs. Then, this question of prohibited degrees etc. can be properly looked into.

Shri Mathew Maniyangadan: So, there is no necessity for having a provision regarding the prohibited degrees of relationship included in this Bill?

Shri M. G. Matthew: It may be dropped.

Shri Mathew Maniyangadan: Also, you say that the provision regarding the recognition of churches and the licensing of Ministers of the church may be dropped?

Shri M. G. Matthew: Yes.

Shri Mathew Maniyangadan: Would you suggest that the term 'church' may be defined in such a way that all churches that come within the purview of that definition may come under the Act? Similarly, would you also suggest a definition of the term 'Minister of the Church' so that all persons who come within the purview of that definition will be entitled to solemnize the marriage? Would you suggest any definitions in this regard?

Shri M. G. Matthew: No, I would not suggest it that way. My feeling is that if we are going to define the term 'church', it will be a most confused way of looking at the question and no complete and perfect definition can be had. It can never be easily solved in that way. It would be better if you leave the definition of the term 'Christian' as 'a person who professes the Christian faith in any of its forms or developments' and leave it at that. If he belongs to any particular group, that is his church; other people may belong to some other group and that is their church. So why should we define the term 'church'?

Shri Mathew Maniyangadan: Then, who is to perform the ceremony of marriage?

Shri M. G. Matthew: They are being performed now without any difficulty.

Shri Mathew Maniyangadan: Do you agree that there must be somebody called the Minister of the Church who is entitled to perform the ceremony of marriage?

Shri M. G. Matthew: I feel that it is not for the legislature or for the State to interfere and say 'You should have this religion or faith, and you should celebrate the marriage according to this or that'.

Shri Mathew Maniyangadan: But there must be some provision in this Bill in that regard.

Shri M. G. Matthew: The position may be left as it was before. It is enough if we have the definition of the term 'Christian' as a person who believes in Christianity in any of its forms or developments, and he may celebrate his marriage according to the customs.

Shri Mathew Maniyangadan: I am not referring to the definition of the term 'Christian' just at present. I am talking about the definition of the term 'Minister of the Church'. Who, by virtue of this law will be entitled to perform marriages? Who is that person? How will you define that person? Is it to be a person licensed by the State or is to be a person who is authorised by the laws of the church to solemnise marriage?

Shri M. G. Matthew: It should be a person authorised by the laws of the church, not by the State.

Shri Mathew Maniyangadan: Do you not accept the necessity of a definition of the term 'minister of church'?

Shri M. G. Matthew: We will not be able to define it properly with the addition of any number of words. Already it is governed by the rules of the church.

Shri Mathew Maniyangadan: There is a suggestion made that a 'minister of church' may be defined as a person

who, according to the laws of the church, is competent to celebrate marriages either by virtue of his office in the church or by appointment by the authorities of the church. Would you not accept it?

Shri M. G. Matthew: No, because that will be interference by the State in the form of the religious arrangements.

Shri Mathew Maniyangadan: Suppose it is defined as a person who, by virtue of the office he holds in the church or the authority he gets from the church, for example, ordination. Then he becomes entitled *ipso facto* to be a minister of the church. Do you not accept it?

Shri M. G. Matthew: No, that is still defective.

Shri Mathew Maniyangadan: How is the State to recognise a marriage performed by an individual, whether he is authorised by the State or appointed by the State?

Shri M. G. Matthew: If the marriage is celebrated according to customs, it has to be accepted by the States who ever conducts the marriage. Should the State do all these things?

Shri A. M. Thomas: May I know whether you have got codified Canon Law regulating marriages?

Shri M. G. Matthew: Yes.

Shri A. M. Thomas: You just said that you have no objection to a marriage between a Christian and a non-Christian?

Shri M. G. Matthew: That is my personal view.

Shri Asoke K. Sen: With regard to those groups of Christians who have no fixed priesthood to solemnise marriages—as for example, the Arya Samaja or Brahma Samoj who have no fixed priesthood, where anyone can solemnise marriage—questions have arisen as to how we could prescribe rules for solemnising marriages in their case. A suggestion has been

made that we could do so by providing that anyone who can perform the marriage according to the faith and creed and practices of the group would be competent to do so under this Act. Have you anything to say?

Shri M. G. Matthew: Among the Nayers in Kerala, the marriage is solemnised by the presentation of the cloth, nothing more. That is a tradition. Then it is mentioned that among Hindus marriage may be performed in any of its forms prescribed among the community of the husband or the wife. If *saptapadi* is one of the conditions, that also should be observed. In the Christian Marriage Bill, you say that the husband and wife should say 'I take you to be my wife', 'I take you to be my husband'. That is probably a very novel way of doing it. It is not prevalent in Kerala where 55 lakhs of Christians—nearly two thirds of the Christian population of India—reside.

So there is no hard and fast rule for these things. In the Jacobite church, they would not ask either of the parties whether he or she would like to marry the other. The priest conducts the ceremony. Presentation of the ring is done by the priest, not by the husband, on behalf of the church. Different communities have different forms. So this is much more than any law we can pass for them. They conduct their marriage according to their custom.

Shri Asoke K. Sen: If it is provided that if he is competent according to the practices and creed of the group, you are satisfied.

Shri M. G. Matthew: That, I think, would be the best. Probably then there will be no interference with these ideas of faith.

Shri Asoke K. Sen: I am very glad about your liberal views in the matter.

Mr. Chairman: Thank you very much.

(The witnesses then withdrew.)

III. THE PENTECOSTAL CHURCHES OF INDIA (REGD.), LUDELIANA

1. Prof. Reuben R. Das.
2. Shri J. Dennis.
3. Dr. Mrs. Dhillon.

(Witnesses were called in and they took their seats)

Mr. Chairman: A large part of your memorandum is to prove that the National Christian Council does not represent you or anybody. That is not something that we really want to enter into as far as the Bill under discussion is concerned, because we are not going to take the National Christian Council's word as the only word. They are part of the Christian community. They have given their evidence. We shall certainly give them consideration as we shall give you consideration.

You have given your opinion that there should be no licensing, no recognition of Churches, no divorce. You have said you are basing yourself exclusively on the Bible. This is more or less the sum total of your memorandum.

Shri Asoke K. Sen: Please excuse my ignorance, but is the Pentecostal Church a part of what is described as the Protestant or the Catholic Church?

Prof. Reuben R. Das: It can be brought under protestants, but we do not wish to use the word "protestant".

Mr. Chairman: Is it episcopal?

Prof. Reuben R. Das: Congregational.

Mr. Chairman: You have your elders?

Prof. Reuben R. Das: Elders, pastors, deacons, evangelists, apostles and so on. We base all our organisation on the Bible, we are Bible-believing Christians.

Mr. Chairman: That has come from every sect before us. What is your congregational strength?

Prof. Reuben R. Das: If you mean the numerical strength of the fellowship, we can give you, but we do not have any numerical strength because in the Bible we are told not to count the number of the Church members unless we are very definite that they are redeemed by Lord Jesus Christ. On that basis, we do not generally have any numerical strength, but of course we know who is who in the local Church.

Shri G. G. Swell: You have no register?

Prof. Reuben R. Das: We have a register, but we do not have a list of members there.

Mr. Chairman: Do you have parishes?

Prof. Reuben R. Das: We have assemblies.

Mr. Chairman: Assemblies would be composed of members?

Prof. Reuben R. Das: Members, pastors, elders, deacons. We generally do not keep a very accurate list of the number of members because of the fear that, as stated in the Bible, unless we are sure that they are all redeemed, the curse of God might fall upon us.

Shri G. G. Swell: Your body is registered under the Registration of Societies Act. I think you have to declare the number of members there.

Prof. Reuben R. Das: Yes. We have given 37 members there.

Shri M. C. Shah: You do not know the exact number?

Prof. Reuben R. Das: It must be a little more than 200 in the North.

Shri Asoke K. Sen: Each congregation is separate in this organisation?

Prof. Reuben R. Das: Every assembly is sovereign.

Shri Asoke K. Sen: What is the link between these units in the different parts of the country?

Prof. Reuben R. Das: We have got one fellowship, and in the annual function they come together and discuss many common problems, but in internal organisation, they are sovereign.

In the Bill, "Church" has not been defined, though we are talking about it. Church means those who are called out, coming from the Greek word *ecclesia*. Church therefore means men and women who have been called out and separated unto God.

Shri P. A. Solomon: When was your Church registered?

Prof. Reuben R. Das: In the fifties.

The two-fold function of Christ's mission in the world was, firstly salvation of the individual, and secondly, to build a Church. This is a spiritual function more than anything else, and the emphasis is always on the spiritual fellowship of the believers rather than on numerical strength, because He says: "When two or three people assemble together, I am there".

In regard to worship, there is a point raised here as to where we should worship. I think there is some demand that we should have a suitable place of worship. The same question was raised by a woman Samaritan as to where they should worship, either in Jerusalem, or on the mountain, and the Lord said "The day is coming and has come when we shall not worship in Jerusalem or the mountain, but in spirit and in truth". There is no mention of a building there. Furthermore, it says that God does not live in the temples made by hand, but in our hearts, that is the real temple. We Pentecostal people have this particular peculiarity that we believe that the spirit of God does come and abide in us, and that is the temple. So, we do not very much cater to the demand of the public that we should have very big buildings. This room can be made into a temple if we come together and worship here, or the garden outside.

Mr. Chairman: If we do away with the requirement of a particular place of worship, you would have no objection.

Prof. Reuben E. Das: Then we come to the functionaries of the Church as given in the Bible—apostles, prophets, evangelists, pastors and preachers. These pastors we believe are not made by man, they are always made by God. Therefore, it is not man's ordination; it is God's ordination for a particular service of a ministry and that man is called pastor. Then there are bishops and according to Bible Titus is the first bishop of the church.

I personally feel that in the history of India, the main periods have gone. That era is over. Now the time has come for the church. All these various assemblies that we are talking about are nationalist in their outlook. We want to have our national church in India. We do not know how long our good friends wish to be with us. It is very difficult to prophesy. But as conditions stand, I believe that they will not be with us for a long time. Therefore we have got to have a national church in India, but at the same time, we do not want people to come in there and write their names, pay four annas each and become members.

Mr. Chairman: It is up to you to decide whether one national church is necessary or whether you will have a hundred other churches. The main point is, what is it that you would like us to incorporate in this Bill or to leave from the Bill which you may consider to be anti-national or not national. Is there anything that could be done in this Bill to help you form a national church? Let us confine ourselves to the points contained in the Bill.

Prof. Reuben E. Das: I am coming to that. There is this question of recognition and non-recognition of various churches. I have been trying to find out what sanction is there for the Government of India or the Law

Ministry to divide the church as recognised and non-recognised ones. I have failed to find out any reason or criterion by which they can divide the church which is one part of Christ. Suppose you recognise certain churches, is it because of their long-standing? If the Church of England, which is now called the Church of India, Burma and Ceylon, the Church of Rome or the Church of Scotland are longstanding, then, why have they not recognised the Syrian and Marthomite churches?

Mr. Chairman: Suppose those two are added, what is your view? There is nothing in the Bill not to recognise them.

Prof. Reuben E. Das: Or, is it because you have inherited these three churches from the British Government? They had recognised them, and so you have also done that.

Mr. Chairman: There was no provision for recognition in the old Bill at all.

Prof. Reuben E. Das: They are established churches.

Shri G. G. Swell: What we want to know in particular is whether you object to some churches being recognised and some churches being not recognised, or, whether you object to the very principle of recognition.

Prof. Reuben E. Das: We want to find out on what criterion this split has been made.

Shri G. G. Swell: Many people feel that the principle of recognition is bad; some churches have somehow been put in the Bill as recognised. We would like to know from you what your view is. We would like you to be very clear on that point.

Prof. Reuben E. Das: Recognition of some churches and non-recognition of some other churches will bring about disunity among the churches ultimately.

Shri M. C. Shah: In case all the churches are recognised?

Prof. Reuben R. Das: We would be very happy.

Mr. Chairman: Then you have no objection to the principle of recognition?

Shri M. C. Shah: Are you opposed to the principle of recognition as such?

Prof. Reuben R. Das: I am opposed to the principle of recognising certain churches and not recognising some others. There is discrimination.

Shri G. G. Swell: But you are not opposed to recognition as such?

Prof. Reuben R. Das: It is a secular Government.

Shri G. G. Swell: The right to recognise implies also the right to refuse recognition.

Prof. Reuben R. Das: How can a secular Government make it? There is no sanction for the secular Government to recognise spiritual bodies.

Shri M. C. Shah: According to you, the Government should not have this discretion to recognise churches.

Prof. Reuben R. Das: Yes.

Mr. Chairman: If the absolute theory is that the secular Government can have nothing to do with marriage which is supposed to be a religious matter, would you not also oppose the registration of marriages by the registrar? We are going to make it compulsory. Why should we go to the authority of the State? Would you not oppose that also?

Prof. Reuben R. Das: Suppose we have a universal law for all the communities as far as marriage is concerned which is applicable to all communities, that is one thing.

Shri G. G. Swell: The specific point the Chairman wants to know is this. Marriage once solemnised is solemnized. Notice of the marriage, though solemnized, should be sent to the marriage registrar and the Government for registration. Why?

Prof. Reuben R. Das: My suggestion is, start with the registration and then go back to the church. For the list of persons fit for marriage, we go back to the pastor.

Shri G. G. Swell: That does not solve the problem. The provision of solemnization of marriage is one thing and the completion of it is another. The two people must have registered that they have married only after the solemnization. What I want to know is whether you are opposed to send such information to the Government.

Prof. Reuben R. Das: Would it be registered in the church itself?

Mr. Chairman: It will be.

Shri G. G. Swell: Government have to maintain a list of people in the country, who are married and who are not.

Prof. Reuben R. Das: The practice now is perhaps to send the information to the Government. I think it may continue.

Mr. Chairman: There will be cases where some marriages will be solemnized by bishops and some by priests and by believers. We come across all types of procedures. Would you not think that in such a situation there is some justification for asking for licensing in order to prevent certain evils?

Prof. Reuben R. Das: Whether they are bishops or priests or others, they have been elected by the body of the church. The church has got confidence in them and there is no question of licensing by the Government.

Mr. Chairman: In the course of this evidence, we have come across all sorts of Christians. There are those who believe it is enough to have the marriage solemnised by a person whom they choose, one of their friends who happens to be a Christian or a member of their fellowship. In such circumstances what would you say?

Prof. Reuben R. Das: I would submit that if a man has been ordained

by God any people think that he is the right man to solemnise the marriage, he can go ahead; there is no question of licensing at all when the church has put confidence in a religious leader.

Shri A. D. Mani: Do you consider the 1872 Act an improvement on the present Bill and do you think it will be much better not to amend the 1872 Act in any way?

Prof. Reuben R. Das: We have been very happy under that Act. At the same time we would not like there should be any licensing of the priests.

Shri A. D. Mani: Do you think that the 1872 Act has created any hardship in the way of the Christian community?

Prof. Reuben R. Das: The 1872 Act was introduced by the Britishers in India and we were not consulted upon it. We had no voice in that matter. If we had some voice, we might not have had the question of licensing there at all.

Mr. Chairman: There is licensing in that Act. Have you found, from practical experience, that it is something which you would like to eliminate?

Prof. Reuben R. Das: It is very difficult to get the licences for the priests. So, I want that the matter should be left to the Assembly itself and the members should decide it; not the Government.

Mr. Chairman: Where you have a marriage conducted by the church or the assembly, after that would you not say that you should at least recognise the right of the Government not only to know about the marriage, but to see that it is registered in a proper form? In the Brahma Samaj, anybody can marry, but the marriage has to be registered with the Registrar.

Prof. Reuben R. Das: He has got the marriage book; the record is there in the register.

Mr. Chairman: You do not want that the Government should have anything to do with any recording of any marriage?

Prof. Reuben R. Das: Government has something to do so far as the morals and public order are concerned.

Shri M. C. Shah: After a marriage is registered, in the church, the church authorities will forward it to the Registrar?

Prof. Reuben R. Das: I have no objection to that.

Mr. Chairman: But everybody would not do that.

Shri M. C. Shah: The witness says that the church authorities will forward this information to the Registrar.

Prof. Reuben R. Das: If the Government so desires.

Rajkumari Amrit Kaur: You talked about discrimination and asked why should this apply only to the Christians? So, if it applies to everybody, you would be perfectly willing to agree to it.

Mr. Chairman: The point is, where there is registration, you are eliminating it. Where there is no registration, you say it should be introduced. Step by step you are eliminating that which is already existing and putting it where it did not exist. So, we are moving backward and not forward.

Shri Mathew Maniyangadan: Would you like it to be made obligatory that a priest or pastor who conducts a marriage should send a report to the Registrar?

Prof. Reuben R. Das: If it is not applicable to other communities, why should it be applicable only to the Christian community?

Shri Mathew Maniyangadan: Is there any religion or any section where the marriage need not be informed to the Government?

Prof. Reuben R. Das: Yes; I do not think the Sikhs or Muslims report the marriage to the Government.

Shri Mathew Maniyangadan: I am not asking about licensing.

Prof. Reuben R. Das: These two questions are interlinked.

It has been maintained that the question of recognised and unrecognised churches would bring about unity in the church. That is the ultimate aim you want to achieve, but how is it possible that by division or dichotomy you can bring about unity?

We have got certain denominations. A young man belonging to a certain denomination feels some kind of stability, a belongingness and he feels a little proud of his denomination. But when you bring the question of recognised and unrecognised churches, you make the man humiliated. If I belong to an unrecognised church, I feel humiliated; there is always an inferiority complex. I shall be always depending on you, whether you recognise my church or not and I shall be coming to you bringing applications, going from clerk to clerk and so on. So, the only result of introducing recognised and unrecognised churches would be to split the church into two parts. We are Bible-believing Christians and we believe that all our faith should be established on the word of God. There is nothing extraneous; whatever is outside the Bible does not in any way affect our religious life. We have evolved these national churches which have no connection with the foreigners. I do not mean that the connections are bad. We have to begin somewhere to take the national churches, so that if and when the others are out we may know something about ourselves. But before us many hindrances have been placed. For instance, the children who have joined the little assemblies, their scholarships have been withdrawn.

Shri G. G. Swell: Church scholarships?

Prof. Reuben R. Das: No, mission scholarships, and we have been threatened that they would not bury us in their graveyards or marry our children in their churches.

Shri G. G. Swell: Are these things very relevant to the Bill?

Prof. Reuben R. Das: I am coming to that.

Shri G. G. Swell: What we understand is that you are opposed to the principle of recognition or the discriminatory nature of recognition. That point we have understood. Not only you, but many other witnesses have made a similar point.

Prof. Reuben R. Das: Is the Law Ministry going to establish a church in India as the British Government had done?

Shri G. G. Swell: You are opposed to recognition. That point we have understood thoroughly.

Prof. Reuben R. Das: We are against this recognition and non-recognition.

Coming to the question of marriage between two Christians, there is the list of prohibited degrees of relationship. I do not know why the ruling of the dispensation power of the Pope should apply to others. I am sure you know it. In the Report it is given that there are four prohibited degrees of relationship which are dispensed with by the Pope. The Roman Catholics can get married within those degrees of relationship.

Shri G. G. Swell: Is that provided anywhere in the Bill?

Mr. Chairman: He is referring to the Report of the Law Commission. We cannot legislate on the basis of an authority anywhere outside India. We have not mentioned that.

Prof. Reuben R. Das: It is in the Law Commission Report.

Shri G. G. Swell: Can you show it anywhere in the Bill?

Shri Bibudhendra Misra: His point seems to be that certain things which ought to be in the list of prohibited degrees are not in the list on the reasoning given by the Law Commission that the Catholics can do it, and he probably wants that they should be included.

Shri G. G. Swell: There is a very big volume of opinion that all the thirty degrees mentioned in the Bible should be provided in the Bill.

Prof. Reuben E. Das: That is what we stand for, all the thirty degrees of prohibited relationship.

Mr. Chairman: What are you going to do for more than half of the total population of Christians who are guided by different rules?

Prof. Reuben E. Das: By the Pope, you imply?

Mr. Chairman: We were told it is not always the Pope; the ecclesiastical court also gives it.

Prof. Reuben E. Das: If there is such a case as that, if we can give the dispensation, we can do it. Nobody can stop him. Let him dispense with it. We have no objection to his dispensing with it. But why should you on that ground take away something from the Bible?

Mr. Chairman: We have to legislate for the entire Christian community—I want you to understand it—and we have to take and put into the Bill the minimum which is required for the public morality. From that point of view, we do not force anybody of your church to marry within what you consider to be prohibited degrees; there is nothing obligatory that you must. But we have to legislate with a golden mean in-between, keeping in view public morality. That is how we have to legislate.

Prof. Reuben E. Das: I quite understand what you mean, but at the same time you thereby give the Pope the dispensation power in respect of the whole Christian community.

Mr. Chairman: More than half the Christian community believes in him.

Prof. Reuben E. Das: If we can give the dispensation to marry between those relations...

Mr. Chairman: We are not recognising his authority of giving dispensation. We are allowing the church. So far as the legislative competence of the Parliament is concerned we make our position clear that they can marry within those degrees. But if your church considers that these degrees of relationship are prohibited, there is nothing which forces them to marry within these degrees. We are not legislating on a point which forces you to do something which is abhorrent to your ideas. There are certain degrees of relationship which can be released by Papal dispensation. But because we consider these nineteen degrees to be essential we have put down those nineteen degrees.

Prof. Reuben E. Das: In that way don't you think that all the Biblical teachings become relative?

Mr. Chairman: There are many interpretations in the Bible. So how do we legislate? We are not forcing you. You can object if we are forcing you to accept a marriage within the prohibited degrees, degrees which you consider to be prohibited. But by this clause you are not forced.

Prof. Reuben E. Das: Why do you eliminate those four or five others?

Mr. Chairman: Very well, you may go ahead. I do not think I will be able to explain to you.

Shri T. H. Sonavane: I would refer you to the nineteen degrees of prohibited relationship coupled with clause 4(ii). Here are the nineteen prohibited degrees and if they are read with clause 4(ii), would you be satisfied that the thirty degrees of prohibited relationship as mentioned in the Bible would not be needed to be enumerated here? Please see those nineteen degrees and clause 4(ii) and then give your opinion.

Prof. Reuben E. Das: I have understood. I personally feel that customs do not determine the way. The only authority behind us is the Bible: not customs. Customs are relative in time and space. They keep on changing. Our God does not change. We have certain prohibited degrees. We will follow them.

Shri T. H. Sonavane: There have been witnesses before us who have said that in their congregation or church, certain customs have been developed which allow marriages even within prohibited degrees as mentioned in the Bible.

Prof. Reuben E. Das: I think you are referring to the Kerala Church.

Shri T. H. Sonavane: Therefore, I say, if coupled with the first Schedule, this clause is retained, all the Christian opinion on these prohibited degrees would be satisfied.

Prof. Reuben E. Das: I do not think so.

Shri T. H. Sonavane: Evidence is to that effect.

Prof. Reuben E. Das: I do not think so.

Shri P. R. Patel: Please read clause 4 (ii) of the Bill under discussion. Prohibited degrees of relationship are limited to 19. We can go up to 30 as laid down in the Bible or even 32, whatever it may be. Looking to this clause:

"the parties are not within prohibited relationship may be 30 unless the custom governing each of them permits of a marriage between the two;"

Even though we put in 30, there is nothing in law which would prohibit a marriage within prohibited degrees if the custom prevails among the parties. What I am submitting is, no purpose will be served by increasing the number to 30 or decreasing it to 14. The purpose is not served.

Why should you persist in the number 30?

Prof. Reuben E. Das: First reason is biblical. We are biblical people.

Shri P. R. Patel: What is the purpose?

Prof. Reuben E. Das: When it comes to customs if my little knowledge helps me, it is only in Travancore and Kerala, there is a kind of Church which has been following them from 1900 years ago.

Shri P. R. Patel: The very fact that they are following them for 1900 years gives them some kind of sanction. They become like law.

Prof. Reuben E. Das: We are now talking for the future generations.

Shri P. R. Patel: When we legislate for all the Christians, naturally we have to consider all these things.

Prof. Reuben E. Das: When the Pope can dispense . . .

Shri P. R. Patel: The question of the Pope does not come in. It is only custom.

Prof. Reuben E. Das: If the custom is there and a certain party wants to carry on the custom let him do it. Why curtail the biblical list?

Shri Mathew Maniyangadan: You insist so much on the provisions in the Bible. Am I correct in saying that in the Old Testament, there are instances where one man has more than one wife?

Prof. Reuben E. Das: It is beyond me. Just now we are talking about prohibited degrees. That does not arise to my mind from this. Whatever is given in the Bible I stick to it.

Shri Mathew Maniyangadan: Is there any provision in the Bible, Old Testament which says that one man can have only one wife?

Prof. Reuben E. Das: In the New Testament, we have got many references to it.

Shri Mathew Maniyangadan: You are now referring to the Old Testament in regard to the prohibited degrees. The provisions in the Old Testament have been in so many cases renewed and amended by the New Testament by Christ. Why do you insist on the provisions in the Old Testament so much?

Prof. Reuben R. Das: There is one very interesting word in the English language, 'but'. The Lord was put a question about divorce, which my sister is going to take up this morning, "why should we not divorce". He said, Moses allowed me to do this, but I say unto you, we have now given certain dispensation. With the word 'but' Christ has stated, man will leave his mother and father and stick to his wife: one man one wife.

Shri Mathew Maniyangadan: That is exactly what I say. You find contradictory things: in the Old Testament and the New Testament. When there is such a contradiction, how to reconcile between the two?

Prof. Reuben R. Das: I have requested my sister Mrs. Dhillon to say a few words on the question of divorce.

Mr. Chairman: Shall we go to the question of divorce?

Prof. Reuben R. Das: There is another thing. It is your gracious remark in the Parliament that it will be hard if there is no appeal. A man is not recognised. There is no appeal. It was very gracious on your part to point that out to Parliament. The other thing was, you have got purohiths who can carry on. Why should a Christian first have recognition and then take a licence? It was gracious on your part to point that out to Parliament and we are thankful to you for that. I need not go into that all. I now come to divorce.

Arguing with the Roman Catholic Church, the Law Commission asked, why the Roman Catholics should not accept divorce: they have lived under it for 90 years. That is the question

that was put to the Roman Catholic Church. May I respectfully ask why do they not let us live with one basis for divorce, adultery, as we had lived for 90 years. We have had one basis for divorce and that is adultery or fornication.

Mr. Chairman: Do you mean to say that is the only ground in the Act of 1872?

Prof. Reuben R. Das: I am talking of the Bible. The 1872 Act refers to adultery. I may be wrong.

Mr. Chairman: You are wrong. When you say 90 years, you mean the 1872 Act. Under the 1872 Act, there is of course adultery coupled with cruelty, then sodomy, bestiality—all these are grounds of divorce.

Prof. Reuben R. Das: We have lived under this faith that divorce is possible only under one condition that is fornication or adultery. We cannot improve upon what God has said. Things keep on changing, depending upon the circumstances. But, God does not change. We have lived under this for 2000 years almost now. Our community is knit together because of that one fact. Otherwise we will lose this and we will have some trouble as in America or England.

Mr. Chairman: You have said that your society is well-knit because you have not permitted divorce. But, the point is, this divorce provision has been there. May be in some places it has been easier and in some other places not so easy. It is the Hindu community that has never allowed divorce. In India you have the interesting phenomenon that in the Kerala State the right of divorce is not permitted, whereas in the rest of India, the Christian communities have had the right of divorce.

Prof. Reuben R. Das: From the church.

Mr. Chairman: We are not forcing the church to give that right. It is the State which is going to give that

right. It is up to the church by its authority, that is, moral authority etc. to keep away its flock from utilising that right. We are only discussing now what we are going to legislate for. We are only discussing the State part of it. Therefore, I would like to ask you one question. Do you believe that the Christian families who live in States like Andhra Pradesh or Madhya Pradesh or Maharashtra are less well-knit than the Christian families or households which exist in Kerala?

Prof. Reuben R. Das: It is very difficult to answer that question.

Mr. Chairman: I am not asking for any statistical survey, but generally, what is the position? Generally, would you say that the Kerala Christian community is much more solid and more well-knit than the Christian families which exist in other States . . .

Prof. Reuben R. Das: . . . more well-knit than the Christian communities in America.

Mr. Chairman: I am not interested in what obtains in America. Our divorce laws are much stricter than those of America. So, it is not right to compare the two. I am comparing the conditions in India itself in different States. There are States where divorce has been permitted, and there are also States where divorce has not been permitted. That is the position at least now. I do not know what you will say. But there have been very hard cases where Christians have got the right of divorce.

Prof. Reuben R. Das: The church does not allow it.

Mr. Chairman: Your church may not allow it.

Prof. Reuben R. Das: No church allows it.

Rajkumari Amrit Kaur: Supposing a man perpetually ill-treats his wife, what redress would you give to that poor woman?

Prof. Reuben R. Das: Thank you for this question. I think that the lady to my left will answer this question better than I would.

This is an enabling Bill. The argument used is this that this Bill will not make Christians actually divorce their wives or husbands, but it just enables them to divorce their wives or husbands. So, that would mean that you are enabling the Christian homes to do the wrong thing.

Mr. Chairman: The meaning of the term 'enabling' is this. It is a permissive provision in the Bill. In very hard cases, you permit this. That is all. Nobody says, 'I have given you the right; so, you, A and B, should go and have divorce'. That is not the position. That is an extreme position. The other position is this. The husband is ill-treating the wife, and she is unable to remain with him any longer; it is not that in every such case, the woman would like to go away from him; she may be very strong and bear it, but there may be cases where the circumstances may be such that some redress will have to be provided to the woman. And yet, according to what you are trying to say, she must continue like this because the intention of God is that she must continue to suffer like that. In such a case, the State does permit that person, even though the church does not allow it, in such hard cases, to have the right of divorce. That is the difference between a permissive legislation and an obligatory legislation.

Rajkumari Amrit Kaur: May I have the reply to my question? Supposing a woman is perpetually being ill-treated by the husband or supposing he has certain diseases which have been referred to in the Bill, what redress has that woman got, in particular, when the husband indulges in continual cruelty?

Dr. Mrs. Dhillon: I would tell you only one thing in this respect, and that is this. As Christians, we have got many remedies for checking cruelty or ill-treatment by the husband and *vice versa* also. If we are Christians, I think that all of us have got the capacity of tolerance, and that helps us to overcome certain difficulties when we meet in our family or in our married life. If we have got enough grace, that helps us very much to overcome difficulties; before we can actually come to the point of divorce, which is an extreme step that any Christian can take, we must first try to settle the things ourselves. This is also biblical that we must first try with prayer to settle our differences. If the two of us do not agree, then we can go to the church, or the church members and the elders, and we can put our difficulties before them. This is the provision in the scripture. And they will talk to both wife and husband and if they can be pacified by them, then it is well and good. If not, finally, it can be taken to the pastors, and the pastors may be able to say something in this respect. If even all these things have failed, then I think this is not biblical, but this is a little personal that the final thing would be to do what the law would do for them; if these repeated efforts by the different parties and the church etc. fail, then the final thing is to do what the law would do for them. Whichever party is aggrieved by the wrong it may be the wife or it may be the husband can take it to a court of law, and whatever punishment is justified may be given to him or her; it may be that the person may be put in prison, and that will give that person enough time to be secluded from his wife, and once he is in prison, he will regain his senses, and he will become aware of what he has done. I have seen many cases where separation has taken place; separation does not mean actual divorce, but the husband and wife have stayed away from each

other for long enough to give them time to think what they have been doing. If once the husband nor the wife, as the case may be, is put in prison or some sort of punishment is given to them, certainly, I am sure that when they are away from each other, they will have enough time to think what they have done, and what the consequences will be, even if they are not going to mend after that. This is actually what I feel should be done when a woman is being ill-treated continuously by her husband.

Rajkumari Amrit Kaur: Would you agree under any circumstances to judicial separation, if not, to actual divorce? Or you do not agree even to that?

Dr. Mrs. Dhillon: We do not stand at all for separation of any kind, judicial or mutual, granted either by the church or by the State; we do not stand for it at all.

Rajkumari Amrit Kaur: This is the first time that we have had a woman witness to give evidence on this Bill. Is your group progressive enough to allow women to become priests in your church?

Dr. Mrs. Dhillon: Elders we have.

Rajkumari Amrit Kaur: In other words, women can become elders but not priests. They can become deacons and elders but not priests?

Dr. Mrs. Dhillon: That is so.

Shri T. H. Sonavane: I would like to have your opinions on some of the clauses. You have stated that the church or the priests should intervene to bring about a compromise when there is cruelty and so on. Suppose we make a provision in this Bill to the effect that a certain period, say, a year or so, is given to the priests or the church or the congregation, to bring about a reconciliation between the parties; if even then, the reconciliation is not brought about, you say that the party concerned may be

put in prison so that there may be enough time for him or her to think what wrong he or she has done and so on. Even then, would you not advocate that right of divorce, as mentioned here, to the parties?

Dr. Mrs. Dhillon: No, I cannot; that is not what I feel should be the remedy.

Shri T. H. Sonavane: Taking the reality as it is, taking the conditions in the modern world and the modern society as they are, and considering human nature as it is, is it not necessary, after all the efforts have failed, that we should go in for provisions of this nature?

Dr. Mrs. Dhillon: No. If all efforts fail, the only thing is to go to a court of law. If the woman is being ill-treated continuously, if the church has failed to pacify them, if all human efforts have failed and still the husband continues to ill-treat the wife, finally the remedy is to take it to a court of law.

Shri G. G. Swell: There must be some ground.

Dr. Mrs. Dhillon: If the wife goes to the court and says that all efforts at pacification have failed, she is the complainant, and it is for the court to find out a solution for them.

Shri M. C. Shah: The court can only inflict punishment if it is satisfied that there is cruelty. It can put the man in jail. But even after the jail term is over, they do not live a happy life. Let us take extreme cases. When all efforts have failed, in extreme cases, should not divorce be granted?

Dr. Mrs. Dhillon: How is divorce going to help them?

Shri T. H. Sonavane: You have said that she should be allowed to go to court. The court cannot cure certain things. Take for instance, impotency on the part of the husband. In such cases, would you not advocate divorce?

Dr. Mrs. Dhillon: Not at all, because the Bible supports my view. When a Christian marriage is taking place we go before the altar—we do not go before a man—knowing full well that God is present there. The vows between husband and wife are made before God, knowing that He is present there. The vow is that they accept each other either for better or for worse, in sickness or in health.

Shri T. H. Sonavane: You say marriage is an institution. The object is the propagation of the progeny. In the case I have mentioned, that object is not served.

Dr. Mrs. Dhillon: I do not think Christian marriages have got only one object, that they are getting married only to produce.

Shri T. H. Sonavane: As a spiritual value, it is there. So why should it be continued when one of its objects is denied?

Mr. Chairman: She says that is not the only purpose of marriage.

Shri A. D. Mani: Would you spell out the implications of your statement that whenever there are serious differences which are unresolved, the matter should be tried by a court of law? Would you prefer amendment of the law to prescribe criminal punishment for established marital differences as being an improvement on the provision for divorce?

Dr. Mrs. Dhillon: Yes.

Mr. Chairman: In family life, the question of children is also very important. There are many cases where a husband brings in a woman and all sorts of immoralities are committed in front of the wife and the children. The mother is ill-treated, insulted, may be physically, even more so morally. In such a situation is it not better that there should be either separation or divorce so that the children may grow up in a much better atmosphere than keeping them in that hell?

Dr. Mrs. Dhillon: The Bible does not support it. I as a woman and as a medical woman also come across such cases daily, of female members who have been repeatedly ill-treated by the wife. They are even ready to take advantage of the divorce law. Yet I have found that in their heart of hearts, when I talk to them, both as a doctor and as a friend, and ask if they do not love their husbands, if some remedy could not be found to bring them together, they come round.

Mr. Chairman: That is correct. Not that divorce is a good solution. One should try everything else. But one should not also insist that the only moral way is to continue to live surrounded by immorality. One can lecture to them—although that is very difficult—that they should bear it, specially when the children are there and so on.

Dr. Mrs. Dhillon: In such an atmosphere, I think the best thing is to separate the children from the husband and wife, from such atmosphere.

Mr. Chairman: How is it possible? Let us be practical.

Dr. Mrs. Dhillon: There are many examples. We try reconciliation. In the Hindu Marriage Act we have said that this is not the ideal solution. But human nature has to be taken into account and we have to legislate for the social and moral health of society. This is necessary specially for children. It is true that women do not want divorce; right up to the last minute they will never agree to it. The presence of children is, to my mind, the biggest saving factor which does not break up family life. A very negligible number take the extreme step. We legislate for these extreme cases. My idea is that if we legislate on divorce in this context, it will be taken care of by the goodwill and good sense of the people, the women themselves. There is the consideration of the care of children. But we should not bar the way to legislation if somebody wants it. The Christian community has already had it for years now. Yet you cannot say

that the people in Kerala Christian households are far more moral, more strong than they in Andhra, Assam or elsewhere.

Shri G. G. Swell: What would be the remedy? Would you advise the mother and the children to go out of the house?

Dr. Mrs. Dhillon: Husbands are not very fond of children. If it is a question of separation, it is the wife who will seek the children.

It is not a question of the mother and children going out of the house.

Shri G. G. Swell: How could they carry on in such an atmosphere?

Dr. Mrs. Dhillon: It is not a question of leaving the house. It is not a question of divorcing. But in such extreme conditions, one thing can be there, that is, the mother is responsible for the children. Time can be given to the wife and the husband to stay away for some time, with the children staying with the mother. In the Bible it is stated that where there are strained relations between husband and wife, they can go away from each other for a certain period, for a season of fasting and prayer, to do some serious thinking over their lives and actions, to see if they can come together.

Shri G. G. Swell: If in some cases the remedy is not found, and the thing is repeated again and again; the wife comes back and the husband goes on behaving badly?

Dr. Mrs. Dhillon: In my 13 or 14 years of service as a medical woman, I have gone throughout Punjab, and now I am working in Delhi, and I have come across hundreds of cases where such Christians have been brought together.

Shri P. E. Patel: Divorce is available under Hindu, Muslim and Christian law. Don't you agree that in spite of this, the percentage of divorce in India is negligible?

Dr. Mrs. Dhillon: As soon as the Hindu Marriage Bill was passed, in

Bhatinda in the Punjab, there were six women, one of them the wife of a Sub-Judge, who put in petitions in the court for divorce.

Shri P. R. Patel: That is negligible.

Shri Joachim Alva: They may have been genuine cases, waiting for a long time.

Shri P. R. Patel: The Divorce Act applies to the Christian community also. What has been its effect on the social life of the Christians?

Dr. Mrs. Dhillon: If there is a provision for divorce, there will be divorces among Christians also, but even though they get this right of divorce, many of them do not want to take advantage of it. I have got on record many cases where what they are doing is adultery.

Mr. Chairman: You are arguing against your own proposition. If they do not take recourse to divorce but continue to live in sin, would you condone that? After all, it is much better to be honest than continue to live in adultery and in sin.

Dr. Mrs. Dhillon: I stick to one thing. Any Christian of any denomination who knows what Christianity means, who knows the teachings of Christ, his character and holiness, will never allow such things in the Christian community. No doubt, human flesh is weak, but the Bible is our remedy. God is there to listen to our cries and prayers and friends and the Church to help us. Why should we take recourse to divorce. If a wife or a husband lives an unholy life even after getting married, I would say it is not a Christian marriage at all. We cannot call them Christians, nor their home a Christian home.

Mr. Chairman: But you know that there are many such Christians, as there are in any other community, who continue to be considered as Christians in the sense that they get all the benefits of the Church. They go to Church and are considered part of the Church. That is why we want

to legislate for extreme cases. We are thinking of cases where every type of reconciliation has failed, where it can be considered not socially good for the children, and where if we do not give the right of divorce, they would be living in sin, and is it your opinion that even in such cases we should not have divorce?

Dr. Mrs. Dhillon: If a couple of that type exists, with whom every type of reconciliation has failed, I would not consider them Christians, and any rule can apply to them.

Shri M. C. Shah: You said earlier that in extreme cases where the atmosphere is vitiated in the home, the children may be separated and the wife may continue with the husband.

Dr. Mrs. Dhillon: I have no children and so I would not be able to understand it very well. But I think many of us feel that the attachment between mother and child will be such that it would be difficult in the circumstances. I have given you only one point. It is not that we shall separate the children altogether from their parents. It is an impossibility. But that can be done for a certain time, for a specific period, so that they can be free. If they can do it by their own effort, by the efforts of their friends, that is good. If, in spite of all that, everything fails, then they cannot be called Christians. But if they are believers in the Bible, no human effort can fail to do it.

Shrimati Yashoda Reddy: If a person is a true Christian he will not believe in divorce. I have got great respect for it. But why should there be any objection for having a clause for divorce? If a person is a full believer in Christianity he will never take recourse to this clause. If, however, he is not a true Christian, if he feels married life miserable and he feels that we should make legislation for such people who believe that there should be separation, it is a better test for religion to say who is a Christian and who is not. If you resist against the temptation of

divorce, it will be a better test for you. Why should you psychologically fight instead of having a real argument against divorce?

Mr. Chairman: She has answered that. She said that in such circumstances—of course it will lead to a question of interpretation—she would say that the person would not be a

Christian and this law should not apply to him.

Thank you very much. It has been a very interesting evidence and we shall certainly take them into consideration.

Prof. Reuben B. Das: Thank you.
(*The witnesses then withdrew*).
(*The Committee then adjourned*)

JOINT COMMITTEE ON THE CHRISTIAN MARRIAGE AND MATRIMONIAL CAUSES BILL, 1962

MINUTES OF EVIDENCE GIVEN BEFORE THE JOINT COMMITTEE ON THE CHRISTIAN MARRIAGE AND MATRIMONIAL CAUSES BILL, 1962

Saturday, the 20th July, 1963 at 11.07 hours

PRESENT

Shrimati Renu Chakravartty—*Chairman.*

MEMBERS

Lok Sabha

- | | |
|------------------------------|----------------------------------|
| 2. Shri Joachim Alva | 13. Shri Bibudhendra Misra |
| 3. Shri A. E. T. Barrow | 14. Shri Purushottamdas R. Patel |
| 4. Sardar Daljit Singh | 15. Shri T. H. Sonavane |
| 5. Shri Ram Dhani Das | 16. Shri Sivamurthi Swami |
| 6. Shri Sudhansu Bhushan Das | 17. Shri G. G. Swell |
| 7. Shri M. L. Dwivedi | 18. Shri A. M. Thomas |
| 8. Shri V. B. Gandhi | 19. Pandit D. N. Tiwary |
| 9. Shri L. D. Kotoki | 20. Shri U. M. Trivedi |
| 10. Shri M. K. Kumaran | 21. Shri T. Abdul Wahid |
| 11. Shri Baij Nath Kureel | 22. Shri Yashpal Singh |
| 12. Shri Mathew Maniyangadan | |

Rajya Sabha

- | | |
|------------------------------------|-----------------------------------|
| 23. Rajkumari Amrit Kaur | 30. Shri Mulka Govinda Reddy |
| 24. Shri Jairamdas Daulatram | 31. Shri M. H. Samuel |
| 25. Shri A. C. Gilbert | 32. Shri Awadheshwar Prasad Sinha |
| 26. Shrimati Jahanara Jaipal Singh | 33. Shri M. C. Shah |
| 27. Shri Dayaldas Kurre | 34. Shri P. A. Solomon |
| 28. Shri Bansi Lal | 35. Shri A. M. Tariq |
| 29. Shri A. D. Mani | |

REPRESENTATIVES OF THE MINISTRY

1. Shri G. R. Rajagopaul, *Special Secretary, Ministry of Law and Member, Law Commission.*
2. Shri R. V. S. Peri Sastry, *Assistant Draftsman, Ministry of Law.*

SECRETARIAT

Shri A. L. Rai—*Deputy Secretary.*

WITNESSES EXAMINED

I. THE CEYLON PENTECOSTAL MISSION, TRIVANDRUM

1. Pastor A. C. Thomas
2. Pastor M. Daniel
3. Pastor G. Thomas
4. Pastor Samuel Paul

II. FUEL GOSPEL CHURCH, JABALPUR

Pastor O'Neill J. Wilson.

**I. THE CEYLON PENTECOSTAL MISSION,
TRIVANDRUM**

1. Pastor A. C. Thomas
2. Pastor M. Daniel
3. Pastor G. Thomas
- 4 Pastor Samuel Paul.

**II. FUEL GOSPEL CHURCH, JABALPUR
PASTOR O'NEILL J. WILSON**

(Witnesses were called in and they took their seats.)

Mr. Chairman: The evidence tendered by you shall be treated as public and is liable to be published unless you specifically desire that all or any part of the evidence tendered by you is to be treated as confidential. However, even if the evidence is treated as confidential, such evidence is liable to be made available to Members of Parliament.

The Members of the Committee would like to know about the two Churches as to the number of your congregations, etc. The Ceylon Pentecostal Mission has given us an idea of its set-up. You have your local churches carrying out work under ordained Ministers. Is it the same with the Jabalpur Church also?

Pastor O'Neill J. Wilson: Yes.

Mr. Chairman: The Ceylon Pentecostal Church works entirely in Kerala?

Pastor A. C. Thomas: We work throughout India and outside India also.

Mr. Chairman: What about the Jabalpur Church?

Pastor O'Neill J. Wilson: We have got about 40 to 50 Churches and approximately 2000 members therein.

They are all indigenous churches working on a national basis.

Mr. Chairman: Where is the bulk of your work?

Pastor O'Neill J. Wilson: The headquarters is at Allahabad.

Mr. Chairman: Are your churches located throughout India?

Pastor O'Neill J. Wilson: They are practically in northern India—in Punjab, West Bengal, Madhya Pradesh and a little bit in Bombay State also.

Shri G. G. Swell: I am particularly attracted by a sentence in the memorandum submitted by the Ceylon Pentecostal Mission. In para. 3 you have said:

"We believe that the ministers of the Christian church shall hold no paid job nor shall they have any possession in this world".

Then, how do the pastors support themselves?

Pastor A. C. Thomas: We believe by faith depending upon God for our needs. If anybody gives any free-will offering, we will accept that.

Shri G. G. Swell: That is right; in practice how do they support themselves?

Pastor A. C. Thomas: We have no central source of income. We have no income of our own because we have given up our all. But we look to God for our needs living by faith.

Shri G. G. Swell: Do the pastors marry, having families and if so, how do they bring up their children and what do they do for food, clothing and shelter?

Pastor A. C. Thomas: We have no objection to pastors getting married. We have homes which we call faith homes. We rent out homes in different parts wherever there are assemblies. We live there and serve God.

Shri G. G. Swell: Who pays for the rent?

Pastor A. C. Thomas: We pray and God gives. The assembly also gives free-will offering which we accept.

Mr. Chairman: To put it in secular terminology, it comes through collections from the believers?

Pastor A. C. Thomas: Yes.

Rajkumari Amrit Kaur: Who ordains your ministers?

Pastor A. C. Thomas: We have elders and pastors—senior people—who ordain others.

Rajkumari Amrit Kaur: Do you have a special service or ordination?

Pastor A. C. Thomas: Yes; we have an ordination service.

Rajkumari Amrit Kaur: How many years' training is prescribed for ordained ministers?

Pastor A. C. Thomas: At least seven years, before they are ordained.

Rajkumari Amrit Kaur: Do you give baptism for children or do you wait for them to become adults?

Pastor A. C. Thomas: Only to converted people, we give baptism saying that Jesus is their personal saviour.

Rajkumari Amrit Kaur: Do you give religious instruction to children of Christian parents?

Pastor A. C. Thomas: We do give.

Rajkumari Amrit Kaur: Do you find that most of them make themselves eligible for baptism?

Pastor A. C. Thomas: Most of them are eligible for baptism when they can bear testimony that they have accepted Jesus as their personal saviour. Then only we give baptism.

Rajkumari Amrit Kaur: Do you have any form of holy communion?

Pastor A. C. Thomas: We have communion according to the word of God.

Mr. Chairman: That means you do not have baptism for the children of Christians?

Pastor A. C. Thomas: We do not give baptism to any children, whether born of Christian parents or otherwise.

Mr. Chairman: Do you insist on baptism at any stage for those who have been born of Christian parents?

Pastor A. C. Thomas: We give baptism when they are grown up and are able to accept Jesus as their personal saviour.

Mr. Chairman: So, baptism takes place after the person is able to affirm?

Pastor A. C. Thomas: Yes.

Shri M. C. Shah: What is the age stipulated for purposes of baptism?

Pastor A. C. Thomas: We have stipulated no age.

Shri M. C. Shah: Still approximately?

Pastor A. C. Thomas: When they are over 12 years, that is, when they can understand things.

Shri A. E. T. Barrow: What is the procedure regarding burial in respect of the children of Christian parents whom you do not baptise? Do you give them a Christian burial?

Pastor A. C. Thomas: We give them a Christian burial; the children are dedicated.

Rajkumari Amrit Kaur: May I know whether you have got any specific suggestions or amendments to this Bill, or do you want the Bill to be dropped altogether?

Pastor A. C. Thomas: We feel that the Bill should be dropped because it is very injurious to Christian community.

Mr. Chairman: Is that the position of the Jabalpur branch also?

Pastor O'Neill J. Wilson: Yes, because that takes away our constitutional freedom—freedom that is granted to us by the Indian Constitution to profess, practise and propagate our religion. This Bill is certainly an encroachment on our freedom guaranteed to us by the Constitution.

Mr. Chairman: Can you specify the clause which is against the Constitution?

Pastor O'Neill J. Wilson: The Bill is not according to the Constitutional freedom given to us by Articles 25 and 26 of the Constitution. We are, under this Bill, supposed to go in for recognition whereas Hindu priests or Muslim Mullas can perform marriages anywhere without going in for any recognition or licence. We are supposed to take a licence from the State Government which throws a hardship on us. In this connection I would invite your attention to the statement made in Lok Sabha by Shrimati Renu Chakravartty on 8th August, 1962 where she said that "if we can have our Purohits, why not the Christians church have those ministers who are ordained by their churches? Why should they have to go first for recognition and then for licence, I think it is hardship." [Lok Sabha Debate, dated 8th Aug., 1962, p. 793, Col. 1.] It is a discrimination against the Christian community.

Mr. Chairman: In other words, you say that the clause which insists on recognition of churches is directly contrary to the fundamental rights. That is your view. Anything else? Is that the view of others also?

Pastor O'Neill J. Wilson: We have got the liberty of worship and this Bill comes in the way of our worship and practice, and religious ceremonies.

Mr. Chairman: The point is this: Is there any clause in this Bill which insists that you should not carry out your ceremonies according to your practice? Which is that particular clause? If you do not have a copy of the Bill, we will get you one,

Pastor O'Neill J. Wilson: I may be given a chance to read my testimony.

Mr. Chairman: That will not serve the purpose. I am trying to put specific questions to you. Both of you have made a general statement that the Bill goes against the Constitutional guarantees. We should like to

know from you which particular clause in this Bill takes away from you what is guaranteed to you by the Constitution. We have got to understand that point, first of all. In the meantime, what have you got to say on this?

Pastor A. C. Thomas: Clause 7, Chapter III, says: "For the purpose of advising the Central Government as respects churches to be declared as recognised churches. . . the Central Government shall. . . establish a Committee. . ." This clause is concerning the recognition of churches. This is very harmful to the smaller groups of christians. We, smaller groups, had been once members of the larger groups. We were dissatisfied with the life and doctrine of those people and therefore we came out of their fold. When these larger groups are recognised and we have got to depend upon them for our recognition, naturally we will gradually be absorbed into larger groups. That will harm us very much.

Mr. Chairman: And you feel there will be discrimination practised as a result of this clause.

Pastor A. C. Thomas: And the discrimination will destroy us. Smaller groups will be done away with. That is their desire also, that we should go back to their fold.

Mr. Chairman: That means, that it is rather the fear that there will be discrimination practised by this Committee than any actual objection to the principles governing the recognition of churches. If it is a question of discrimination, then you will have to wait and see whether there is actual discrimination or whether the law as it is being enacted is *ultra vires* or not. But if you fear that action will be taken against you, because of certain other factors, by the Committee. . . .

Pastor A. C. Thomas: If recognition is allowed to some churches, that means we are giving some special status to them and the smaller groups

will have to depend upon them for any benefit to be received from the Government.

Mr. Chairman: That means that the fact of recognition does not really take away your right to be recognised. You feel that the operation of this Committee may militate against you. Is that your contention?

Pastor A. C. Thomas: Yes, in a way. Our contention is that all churches should be equally treated and there should be no discrimination whatsoever.

Shri A. E. T. Barrow: Would you accept the suggestion that at the moment recognition should be given to no churches at all?

Pastor A. C. Thomas: We do not want any church to be discriminated against another. All churches should be treated in the same way as citizens of mother India.

Shri G. G. Swell: The right on the part of the Government to recognise means also the right to refuse recognition or de-recognise a particular church that has already been recognised. That recognition may be withdrawn. What we want to know from you is this: Would you like that power of recognition to be thrown out altogether, or would you like that that power of recognition should be there and all churches should be recognised?

Pastor A. C. Thomas: If at all there is recognition then it should be for all the churches. Otherwise, it should be thrown out.

Shri M. C. Shah: Do you want the State to have the power of recognition? The State may have that power, but in that case do you want all churches to be recognised?

Pastor A. C. Thomas: Churches were running without any particular recognition so far and we were quite safe. We would like the same conditions to prevail.

Pastor O'Neill J. Wilson: A Church is not a thing which can be recognised by the Government, because it is the body of Christ. A Church is not a body or it is not a group of persons that have come together or formed a Committee. It is a mystical body. The general conception of Church in the mind of the people is that it is a body of certain people who have come together to worship God in a building. But, the Bible which is our Handbook tells us that the Church is a group of believers who rigidly adhere to the teachings of Lord Jesus Christ. This is a mystical body and the believers are the very temple of God. How can we recognise the temple of living Lord by a law instituted by the Government? We are the living body of Christ, a living Church. As Lord Jesus told the samaritan woman, He wants worshippers should worship Him in truth and in spirit. If a Committee comes from the Government to recognise us, I think we are losing spiritual freedom. We want full freedom of conscience, freedom to profess our religion.

Mr. Chairman: Recognition does not take away freedom automatically.

Pastor O'Neill J. Wilson: Recognition has got that fear. This five-man committee is a "Super Body" that has been forced upon us. We do not know how they will be. I say I have a right to represent anything to the Government. I do not want these 5 people to represent me before the Government. Who appointed them to represent me? Apart from this, in India, we have 144 denominations and various Churches. Who are these 5 people to represent us, 90 lakhs of people?

Mr. Chairman: I think that is clear. Both the positions have been taken. One is that there should be no interference by the State. The other is, the real fear is not to the principle, but to the fact that as soon as you allow a committee, there will be discrimination.

Shri T. H. Sonavane: The witness has gone to the definition of Church. We would like him to be more explicit. There is no definition of Church in the Bill. Would you give us your definition of a Church that you would like us to include, for the consideration of the Committee?

Mr. Chairman: I want to ask this. Why do you want a definition of Church to be put in here? As I find it, we have not gone into this controversial question of what is a Church and what is not a Church. Why do you want us to put in the Church so that it need be defined? I have not understood it. Many have urged that Church should be defined. I would like to know this. If we take away the whole question of recognition, where does it come in?

Pastor O'Neill J. Wilson: Because, the general conception of the people about a Church, even among the Christian community is that a Church is a group of people who are worshipping in a building under the directive of a pastor who is the Minister in charge. The Biblical pattern that God has given is, it is a group of believers who have accepted Jesus as the Saviour. They worship him in truth and spirit. If the Government will appoint this five-man committee upon this Church which is a mystical and spiritual body of Christ, I think it will be imposing a superbody upon us. We do not know whether they are spiritual people or not. They do not represent us. I have a right to represent anything myself to the Government. I do not want any representative from any quarter. The other thing is—Pastor Daniel has already said—their is a religious denominational bias against us. In that respect we say that the Church in past has been persecuted in many ways. Religious bias is one way. In that way, we will be deprived of many things. We do not want any recognition of the superbody. This body will lay down that there must be rules for solemnising marriages. In the scriptures we have got very

well laid down rules for solemnising marriages. This we have got from the apostolic days. From them the Roman Catholics and the Protestants got it. Things have been going on like this. Some people say that the Christians should marry with exchange of rings, some orally, some with the Bible. This should not be imposed on us by any committee. Apart from that, they want a proper place of worship. It is said in the Bill that there must be well established rules for marriages. What rules can this committee enforce upon us?

Shri G. G. Swell: They are not going to impose. The point is that every Church should have certain rules for conducting marriages.

Pastor O'Neill J. Wilson: We have them already.

Shri G. G. Swell: Rules laid down by the Church.

Pastor O'Neill J. Wilson: We have got everything. In the last 1900 years, Churches have been functioning all over the world. They have rules which are more or less universally based upon the word of the Lord.

Mr. Chairman: The point is, as far as I can see in this Bill, the word Church occurs wherever they talk about licensing Ministers of Church or recognition of Church. If we were to take away the clause regarding recognition and the clause about licensing, there is absolutely no necessity for us to define or use the word Church at all.

Pastor O'Neill J. Wilson: Yes if you delete this word or drop the question of recognition by the State Government or the Central Government. We do not need any recognition. We want full freedom. Before the Government came into power, we were functioning for 1900 years; Churches have been functioning in South India ever since.

Rajkumari Amrit Kaur: A large majority of Christians do belong either to a denomination or a Church. This Bill gives the Government a right to say that A. B. C. Church is recognised. Perhaps, if they have the right to recognise, obviously they will also have the right not to recognise. You want that the right of recognition given to the State should go. Since a majority of the Christians belong to a Church, is it not necessary that there should be some kind of a definition of a Church? The Church must be there because it is the Church that governs the standard of behaviour of the Christians who belong to it.

Pastor O'Neill J. Wilson: In India, we have got various missions. The Roman Catholic Church is big enough. There is the Church of England, the Anglican Church, the Church of Scotland. Apart from that, we have got various Churches. In South India we have got . . .

Rajkumari Amrit Kaur: I am not disputing that fact. I am only asking this. The Chairman asked you, why do you want the word Church to be used at all. Is it not your feeling that because the majority of the Christians belong to a Church, whether big or small, the word Church cannot be eliminated from the life of the Christian community?

Pastor O'Neill J. Wilson: Yes.

Rajkumari Amrit Kaur: That was what I wanted to know from you. But you are not answering the question in a direct manner.

Mr. Chairman: You have stated that we should not say anything about the rules. . . .

Shri G. G. Swell: They do not want rules to be imposed upon them.

Mr. Chairman: On this point, I want to ask you a question. Regarding your ceremonies, your rites etc., obviously, the State will not impose any rules upon you. But what would

you say if the State were to insist that in respect of all marriages which are registered with the church—generally, you have church registration of marriage—the moment you register a marriage you should fill up a form which will be given to you by the State, and send it to the State? Suppose we insist upon that, would you consider that as an infringement of the rights of the church?

Pastor O'Neill J. Wilson: No. But the point is this. We register the marriage after solemnizing it, with the signature of three or two witnesses, and then we sign the certificate and we give it to the girl, and that is kept by her for ready reference for her life. And we have got a ready record in the church. Our church is a congregational church, and there is a secretary, and there is a treasurer and everybody else. My point is that when we keep a record already, if Government want any reference to be made, the reference can be made to the Pastor, and we can furnish the report. So, what is the necessity of our giving information to Government just to enable them to keep the record?

Shri G. G. Swell: Suppose Government wants to maintain a sort of census of marriages in the country, and for that purpose, they would like all information about marriages to be sent to them. That is, each time a marriage is solemnised, and you register it, you may send a copy to Government for Government's information and record.

Pastor O'Neill Wilson: But why discrimination only in regard to Christians?

Mr. Chairman: Although I am not supposed to answer your question, I may answer it this way. As far as the State is concerned, any person who thinks rightly for social good would want that every community should register more and more, and that is the direction in which we are going. As far as the Christian community goes, they are an organised

community, and they have always had registration. As a matter of fact, they have always had registration; except perhaps for a small minority in Travancore-Cochin, they have always had licensed Ministers and recognised churches such as the Church of Scotland etc. And, therefore, there has been a very good record. Therefore, do you think that Government's wanting a record is a bad thing?

Pastor O'Neill J. Wilson: No, it is not a bad thing.

Mr. Chairman: Does it in any way militate against your religious practices?

Pastor O'Neill J. Wilson: It does not militate against religious practices, because it is only a question of giving information.

Mr. Chairman: That is all that I am interested in knowing. That was the only thing which I wanted to know.

Shri G. G. Swell: It is not a question of discrimination; but, suppose the Christian community as an enlightened community in the country sets an example, would that not be better?

Mr. Chairman: Surely, you do not want all the things that apply to us to apply to you, such as the caste system etc.?

Pastor O'Neill J. Wilson: As I have said already, this cannot affect our religious rights, because it is only a question of giving some information for record.

Mr. Chairman: We do not want to do anything that will affect your religious liberties, but we want that something which has been practised in an enlightened manner so far should not be taken away now under the excuse that certain other communities are not as yet forced to do so.

Rajkumari Amrit Kaur: I am all in favour of registration of marriages, and I am glad that the Indian Christian community has always kept a record of marriages. But the point is this, namely whether it should be

made obligatory on the part of a pastor to give to the collector or the registrar information to the effect that such and such a marriage has taken place, and if he fails to submit the information, he should be penalised for that. Would you accept a provision such as is given in the Hindu Marriage Act, that the Hindu Marriage Register shall at all reasonable times be open for inspection? Then, the onus may be on the registrar to see the books of the Christian church concerned and register the marriages, but there will be no question of penalty on a pastor who may be in a village, and for whom it may be difficult always to go to the registrar and furnish the information.

Mr. Chairman: I think that we can discuss this point amongst ourselves. It is not necessary for the pastor to go to the registrar personally; all that is necessary is that he can send it by post to the registrar. That is all that is required.

Rajkumari Amrit Kaur: Many of our bodies are not even literate. I am afraid you do not realise what difficulties you will be putting in the way of those people.

Mr. Chairman: Even then, this question of licensing cannot go, when it has already been there.

Rajkumari Amrit Kaur: Licensing must go.

Pastor O'Neill J. Wilson: It was imposed upon us by the British Government which was an alien government, but we want to be free at least now under our own Government.

Mr. Chairman: I can understand your argument against licensing. But if that means that not only will you not agree to licensing, but you will not even post the registrar particulars of the marriages solemnised in your church, for the information of the State, and you will not fill up the form sent to you by Government for this purpose and send it to them, then some of us at least will find it very difficult to accept it.

Rajkumari Amrit Kaur: There are many places where there are no post offices even.

Shri G. G. Swell: In my area, we have pastors located in places where there are no post offices at all.

Shri P. R. Patel: Do you have any rules etc. prescribed in your church for marriages?

Pastor O'Neill J. Wilson: Yes.

Shri P. R. Patel: If that is so, then where is the harm if Government prescribe certain rules for the ceremonies etc.? If Government prescribes some rules for registration etc. how does it come in the way of your religious rights or in your having faith in Christ?

Pastor O'Neill J. Wilson: I may point out that there is no objection to giving information to the Government registrar of marriages; that cannot hamper or affect our religious rights. But the point is this. At present, we are already maintaining a register, and that register is kept by our church secretary; our church is a congregational church, and the secretary's post is an elective post, and the congregation elects the secretary for one year. In our church, we have got full democracy, and the record is maintained to the fullest extent. If the registrar wants to see the record, he can see it at any time, and we can submit the information to the registrar also, on demand. But if Government are going to lay down the rules in regard to marriages, then that will not be fair, and that would amount to interfering in our religious practices. That will be particularly so when the five-man committee contemplated in the Bill comes to consider the question of what would be a place of worship.

Pastor A. C. Thomas: May we also make our submissions on these points? With regard to marriage, certain precepts are given in the Bible. When the church or the body of people who worship wants to stick to the word of

God, then there will be no difficulty whatsoever.

So far as the prohibited degrees of relationship for marriage are concerned, they are also given very clearly in the Bible. When the church or the individual worshippers want to stick to the word of God, there will be no difficulty whatsoever. But when they go back on those things and they want to institute various other traditions then only there will be trouble . . .

Mr. Chairman: I have not understood your point.

Pastor A. C. Thomas: There is the word of God, which is authority for us. It is very clearly given in the Bible.

Mr. Chairman: I would like you to be more specific. Everybody is urging that the word of God is to be accepted. And we have had evidence from all denominations of churches, and they all claim that they are interpreting the word of God. When we legislate we have to be very clear that we do not go into the interpretations at this stage, but we would like to formulate the clauses in such a way that they will be in consonance with the practices of the various churches, as far as possible. Therefore, please do not raise the question of the word of God, because each one has a different interpretation about it. Some people say that the *Leviticus* contains the word of God, while some others say that that was the Mosaic law, but the New Testament had changed many of the Mosaic laws and given new interpretations and so on. We do not want to go into all that.

On the question of prohibited degrees of relationship or on any other point, would you urge that you interpret the word of God as such and such but the clauses in the Bill are such and such and, therefore, they go against your religious practices?

Pastor A. C. Thomas: With regard to the prohibited degree of relationship in regard to marriage, we stick to *Leviticus*, Chapter 18, verse 17. We

have been practising it and many Christians in Kerala, particularly in Travancore, for the last 19th centuries, have been living up to that and we have found wonderful results.

Mr. Chairman: By Christians, you mean only those who are not Catholics.

Pastor A. C. Thomas: Syrian Christians.

Mr. Chairman: You are only speaking on behalf of those who are not Christians. But they are also Christians. We have to legislate for them also.

Pastor A. C. Thomas: Catholics may get what is called dispensation from the Pope. We have nothing to do with them. That is why we say that they do not stick to the word of God.

Mr. Chairman: We recognise Catholics also as a community among the Christians. Therefore, when you say you abide by the Leviticus, it is better not to say "all the Christians". It is better to say that you abide by the Leviticus.

Pastor A. C. Thomas: I cited only one example. I can speak for ourselves, the Ceylon Pentecostal Mission. Our people are largely found in Kerala, Madras, South India and even in parts of North India. We stick to the Leviticus, Chapter 18, in regard to marital relationships.

Mr. Chairman: I am sure Pastor Wilson also agrees to this prohibited degree of relationship.

Pastor O'Neill J. Wilson: Yes.

Mr. Chairman: What would be the relationship which is totally abhorrent to you?

Pastor A. C. Thomas: Uncle marrying the niece or his cousins. But in certain places in India it is allowed, but not in Kerala. We have members of our church in Kerala.

Mr. Chairman: In your church in Madras State you do not permit it at all. There are cases of cousins marrying, but not uncles marrying nieces.

Cousins may marry but not uncles marrying nieces.

Rajkumari Amrit Kaur: I want to know whether you have any special form for solemnization of marriages and do you publish bans so that anybody who may object to the marriage has a right to say that one cannot marry?

Pastor A. C. Thomas: We publish the bans. If anybody objects, we can go into it and decide whether the relationship is right and then take action. But we object to divorces.

Rajkumari Amrit Kaur: Do you recognise a marriage between a Christian and a non-Christian?

Pastor A. C. Thomas: We do not. Only among the people of the same faith we marry.

Rajkumari Amrit Kaur: Would you recognise a marriage between a man of your faith and a girl of the Roman Catholic faith, if they do not belong to your community?

Pastor A. C. Thomas: No. Only among people of the same faith we marry. The most important thing is a converted man may marry a converted girl; the same boy with the same girl.

Shri A. E. T. Barrow: Suppose, in a family, the husband changes his religion. Would you recognise divorce in that case?

Pastor A. C. Thomas: No.

Shri A. E. T. Barrow: What would be the position? Suppose he refuses to live with that girl.

Pastor A. C. Thomas: If he says he does not want to live with his wife, let him go. But we naturally encourage them to live together. We do not encourage divorce.

Shri T. H. Sonavane: When you say that they belong to the same faith, it means Christianity is one faith or must the parties must belong to a certain church?

Pastor A. C. Thomas: Need not be of the same group, but they must be converted.

Shri T. H. Sonavane: You said that you would not marry a man from your church with a girl from among the Roman Catholics. Therefore, my question is, whether among the Christians themselves, if one belongs to a different denomination distinct from the other, you do not encourage marriage.

Pastor A. C. Thomas: We are not concerned about the denominations, but only about conversion.

Shri T. H. Sonavane: Where is the question of conversion among the Catholics?

Mr. Chairman: What he wants to know is this: suppose a girl of your faith marries a Roman Catholic. Would you recognise that as a valid marriage?

Pastor A. C. Thomas: We do not solemnize that marriage.

Mr. Chairman: The point is, a person of your faith, of your assembly, marries somebody from the Catholic church. Would you object to that? Would you recognise as a valid marriage at all?

Pastor A. C. Thomas: If they do not believe, they must be converted and they must accept it. And then we recognise the marriage.

Shri P. A. Solomon: May I ask whether a man belonging to the Ceylon Pentecostal Mission can marry a woman belonging to the Indian Pentecostal Mission according to your rules?

Pastor A. C. Thomas: Oh yes.

Mr. Chairman: You go by the word Pentecostal and put your faith in the full Gospel. What is the difference?

Pastor O'Neill J. Wilson: At the bottom we are pentecostal people. There are 3,000 to 4,000 churches in India. The Ceylon Pentecostal Mission have been working all over

India. As a matter of fact, the Pentecostal people have the full gospel and they preach the full gospel.

Mr. Chairman: You would not mind a girl from your church marrying some other from the Ceylon Pentecostal Mission?

Pastor O'Neill J. Wilson: No.

Shri P. A. Solomon: How many Pentecostal missions are functioning in our country now?

Pastor O'Neill J. Wilson: There are three or four missions, and two foreign missions: one is the Assemblies of God and the other is the Church of God. All the rest are Pentecostal missions. There are about 4,000 churches in India which are of an indigenous in nature and practice.

Shri M. C. Shah: You have said that divorce can be permitted only on the ground of fornication and not on any other ground. I would like to know whether adultery after marriage can be a ground for divorce.

Pastor O'Neill J. Wilson: The Bible tells us that after adultery a man must live separately. There is no question of re-marriage in the Bible.

Shri M. C. Shah: I talk of judicial separation. I want to know whether adultery after marriage can be a ground for judicial separation.

Pastor O'Neill J. Wilson: There is provision in the Bill for judicial separation. The Bible does not recognise and we do not recognise such things. If a man and a woman do not live together, we pray for them, we bring them to the church; we speak to them, we speak to their friends. If we cannot reconcile them, then nothing more can be done. But the position is, you have to bring people together for Jesus said, "Man and woman is one whom God has put together. Let no man put it asunder." The law has no business to put them asunder. Adam and Eve were created; they were not married; they were created one in the sight of God. They were created together.

Shri T. H. Sonavane: What are the purposes of marriage? Is it for procreation or for some union or for what purpose?

Mr. Chairman: They will give the reply "for spiritual needs, not for procreation."

Pastor O'Neill J. Wilson: When God created man and woman, he said, "Multiply". Man also longs for companionship. Alone, he cannot face the crisis of the world. I think it is an injustice to allow divorce and leave the man alone. Our Government has contributed to the world "Panchsheel," i.e. political realm coexistence. Can't we advocate panchsheel in the family life? We are breaking it by bringing in divorce. We must advocate the cause of living together of a disputed family. We are totally against divorce.

Shri T. H. Sonavane: You have said one of the purposes of marriage is multiplication. You also say that divorce should not be allowed except on fornication. Suppose after marriage it is discovered that the husband is simpotent. Would you not consider that a ground for divorce?

Pastor O'Neill J. Wilson: We can put the check before the marriage is solemnised and ask the man to produce a medical certificate that he is fit for marriage.

Shri G. G. Swell: So, you are in favour of young people being asked to produce medical certificates before getting married?

Pastor O'Neill J. Wilson: We are not in favour, but it is safe.

Shri G. G. Swell: You are not averse to medical certificate.

Pastor O'Neill J. Wilson: It is safe; it is not law.

Shri G. G. Swell: Suppose it is made law?

Pastor O'Neill J. Wilson: That law has a flaw also. You can just bribe and get any certificate.

Shri G. G. Swell: That is a different matter; we are going into the abuses. Do you approve of it or not?

Pastor O'Neill J. Wilson: No. When the couple stand before the pastor, the pastor asks them, "Do you both know of any reason whereby you are not fit to be joined together in matrimonial relationship?". The pastor will pause for five minutes. If they say 'no', it means they are fit.

Mr. Chairman: You represent the North Indian Church and the 1872 Act has been applied to you always. I think an Act in which there are clauses for divorce. It was also promulgated by a Government which called itself Christian. What has been its effect upon your community? Has your community become immoral as a result of the existence of right of divorce on the statute-book?

Pastor O'Neill J. Wilson: The English have got their own culture. We, Indians, have got a separate culture. They introduced divorce to make things easy for them. But the Indian community would not accept divorce in any way. No doubt for 90 years, the divorce business is there. But suppose a divorcee comes to me and says "I want to remarry", I would not solemnise the marriage. But if the law of divorce is imposed upon us, I would be prosecuted for that.

Mr. Chairman: Suppose we do not have the licence and we do not have the penalty clause, suppose we give full right to your church not to solemnise such marriages. Then, would you say that he cannot go to any other church or denomination to solemnise the marriage?

Pastor O'Neill J. Wilson: He can go.

Mr. Chairman: That is, we are not inflicting anything against your conscience.

Pastor O'Neill J. Wilson: So, you want the present law of divorce as contained in the 1872 Act to remain as it is.

Mr. Chairman: It has always been there. It has not affected you obviously because you have got your Indian culture, as you said.

Pastor O'Neill J. Wilson: In Jabalpur, many people are trying for divorce. Divorce has got some evil effect on the community. I know a family where there was divorce and the children were left as vagabonds. The father is very cruel to them. In that way we are promoting delinquency in children. If divorce is introduced today, the result would be felt after 20 years. In America, out of every four marriages, one is divorced.

Mr. Chairman: We are not talking hypothetically. It has existed on the statute-book and applied to Jabalpur for almost 100 years. There have been many cases in the Hindu Community also where there has been no right of divorce, but still children have been deserted. So, desertion of children arises not out of divorce, but certain other factors. My point is divorce is a permissive clause. It has never been and will never be something which is obligatory. It is meant for extreme cases.

Pastor O'Neill J. Wilson: As for instance?

Mr. Chairman: For instance, it is much more immoral to allow a woman to be ill-treated, with the husband bringing in another woman and carrying on with her before the children; it is much more immoral than divorce. Of course, I am all in favour of reconciliation, but in such cases I think it is much more moral to allow a divorce for the sake of the children at least. There can be many cases which can be quoted. So, suppose you take away that point of licensing and the penal clause, then there is nothing in it which forces you to solemnise a marriage against your conscience.

Pastor O'Neill J. Wilson: We do not allow divorce.

Mr. Chairman: You need not. We do not force it on you.

Pastor O'Neill J. Wilson: The persons who marry like that are outside our religion.

Mr. Chairman: All that you can say is that we cannot force you to go against your tenets and your beliefs. And, there shall be nothing in this bill which will force you to do so. If such is the case, why should you object to it?

Pastor O'Neill J. Wilson: The provision in the Divorce bill is sufficient. Why should we make it more permissive and more easily available and amplify it which will give more ground for divorce? I think that will be harmful to the Christian community.

Mr. Chairman: Have you seen the particular clause in the Indian Divorce Act? It says that only cruelty is allowed. The man will have to go and do adultery in order to get it. Adultery and cruelty. There are certain grounds on which divorce is allowed.

Pastor O'Neill J. Wilson: You mean to say that it is necessary that government should impose this Divorce Bill upon us?

Mr. Chairman: It is there.

Pastor O'Neill J. Wilson: It is not such a great compulsion at present. We don't accept it at all.

Pastor A. C. Thomas: We base our faith on the word of God. We have found that there is 100 per cent result and there is no necessity for remarriage. We have been working on this line for the past 40 years and we have over 35,000 men in India alone. We never had one case of divorce or hitch over this, adultery and troubles like that...

Shri T. H. Sonavane: The witness has said just now that there was not a single case of divorce with them. Then, may I also understand whether there was not a single case of a married couple leading a miserable life? Had it come to your notice?

Pastor A. C. Thomas: There is no case of miserable life among our people provided they are of the same faith. Such a person who has the faith will be willing to suffer at the hands of the person who has no faith. That is how we have found it.

Shri T. H. Sonavane: Has leprosy been cured so far by faith?

Pastor A. C. Thomas: It works wonderfully. It gives 100 per cent cure. You don't find lepers among us at all. God heals. In the foreign countries divorce becomes natural. Marriage is a sport to them. Even if there be some cases like that faithful wife should help the husband.

Shri T. H. Sonavane: Faith will do the miracle, as you say. Even after having allowed time for compromise etc., if there is no compromise or anything of that sort, do you allow them to take recourse to divorce or not?

Pastor A. C. Thomas: Divorce is not necessary at all. We are against remarriage because we will be penalised we don't allow it. Bible does not permit us to remarry.

Mr. Chairman: One question by the Deputy Minister.

Shri Bibudhendra Misra: Your organisation is spread over in France also.

Pastor A. C. Thomas: In France, we have.

Shri Bibudhendra Misra: In French civil court so far as christians are concerned they allowed divorce on a number of courts. How do you allow?

Pastor O'Neill J. Wilson: We don't recognise it among us.

Shri Bibudhendra Misra: You have your organisation in France also. They allow divorce in civil courts on grounds of adultery and on grounds of cruelty. On a number of grounds they allow divorce.

Pastor A. C. Thomas: What I have found from personal experience is this. When people think that they

have faith in the word of God and they have the experience of God, there is no need for divorce at all.

Shri Bibudhendra Misra: They also have faith.

Pastor A. C. Thomas: Christianity has got to be explained first. You are participating christians in this. They are unchristian according to us. You have got to define christianity based on the word of God.

Shri Bibudhendra Misra: I am talking of part of your organisation which is there. You have said that you have faith in the Bible. How is it that the civil court allow divorce there?

Pastor A. C. Thomas: We don't hold brief for any group. We are talking of people who base their faith on the word of God. If they have such faith, their homes are sweet and nice. The people whom you are talking about, they will not be true christians. They ceased to be true christians. An explanation of christianity and church is necessary.

Shri Bibudhendra Misra: You have the same organisation. They also base their faith in the Bible.

Mr. Chairman: If your group does not want divorce, your church has no right to prevent its people from divorcing.

Pastor A. C. Thomas: Our trouble is this. In the marriage bill the licensed pastor or licensed minister will be taken to book in case he does not solemnise.

Mr. Chairman: If there is to be taken away, there is nothing for you to object. We should thank you very much for your valuable evidence. We shall certainly consider them. There are certain points which we have more or less covered and we shall certainly consider all your points.

Pastor A. C. Thomas: We are against recognition. We are against recognition of licensed minister of the church because that will involve lot of trouble.

Mr. Chairman: There are cases where the man is constantly doing cruelty and doing act of adultery....

Pastor O'Neill J. Wilson: There is the court for it.

Mr. Chairman: The clauses are so bad that cruelty is not enough. You have got to force that man to have an adultery.

Pastor O'Neill J. Wilson: Reconciliation is there. It is there.

Mr. Chairman: Reconciliation clause is put in the new bill. It is not in the old bill.

Shri U. M. Trivedi: We have been hearing too much against this divorce only on the principle of religion. Each one opposed it on the ground of religious belief. I would like to know whether there are any other grounds. It is based only on religious ground.

Mr. Chairman: Thank you very much for your valuable evidence. We shall certainly consider them.

(The witness then withdrew).