

13.25 hrs

*The Lok Sabha then adjourned for Lunch  
till twenty-five minutes Past Fourteen  
of the Clock.*

*The Lok Sabha re-assembled after Lunch  
at twenty five minutes past Fourteen  
of the Clock.*

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

BUSINESS ADVISORY COMMITTEE

[*English*]

**Eighteenth Report**

The MINISTER OF PARLIAMEN-  
TARY AFFAIRS AND TOURISM (SHRI  
H.K.L. BHAGAT) : I beg to move :

“That this House do agree with  
the Eighteenth Report of the Business  
Advisory Committee presented to the  
House on the 21st February, 1986.”

MR. DEPUTY SPEAKER : The  
question is :

“That this House do agree with  
the Eighteenth Report of the Business  
Advisory Committee presented to the  
House on the 21st February, 1986.”

*The motion was adopted.*

14.27 hrs.

MUSLIM WOMEN (PROTECTION OF  
RIGHTS ON DIVORCE) BILL\*

[*English*]

MR. DEPUTY-SPEAKER : Shri A.K.  
Sen.

(*Interruptions*)

MR. DEPUTY-SPEAKER : Let him  
move the Bill first. Then you can object.

THE MINISTER OF LAW AND  
JUSTICE (SHRI A.K. SEN) : Under Rule  
372, I have to move first. Then, if it is  
opposed, the Deputy-Speaker would be  
kind enough to give you a chance to make  
a statement and then it is for me to make  
a reply.

PROF. MADHU DANDAVATE  
(Rajapur) : That is a very 'sane' attitude !

SHRI A.K. SEN : I beg to move for  
leave to introduce a Bill to protect the  
rights of Muslim women who have been  
divorced by, or who have obtained divorce  
from their husbands and to provide for  
matters connected therewith or incidental  
thereto.

SHRI C. MADHAV REDDI (Adilabad) :  
The point which I want to raise is this....  
(*Interruptions*) I am not opposing the  
introduction of the Bill.

(*Interruptions*)

MR. DEPUTY-SPEAKER : I will call  
those members who are opposing the Bill  
one by one and they may make their state-  
ments. Shri Mool Chand Daga....He is  
absent. Shri Saifuddin Chowdhary. Please  
make a brief statement.

SHRI SAIFUDDIN CHOWDHARY  
(Katwa) : I oppose the introduction of  
this Bill. This is a black Bill. The heading  
of this Bill is misleading. It says that the  
Bill is to protect the rights of Muslim  
women. Actually, the Bill is meant for  
deprivation of their rights. The very  
heading is a misnomer. This is not at all  
in accordance with the teachings of Koran.  
On that count, I do not want to go into  
detail again because on an earlier occasion  
when the Private Member's Bill was being  
discussed in the House I made my views  
clear and I stand by them.

This very Bill violates the Preamble of  
our Constitution wherein we had resolved  
that we shall strive to constitute India  
into a secular country.

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\* Published in Gazette of India Extraordinary Part II, section 2, dated 25.2.1986.

Now this Bill is the result of that event when a very good judgment was given by the highest court in the country, on which certain sections of people from the Muslim community demanded certain things which I cannot call secular. I may call them fundamentalists, but now I believe that they are happy to be called fundamentalists. They think that they have something fundamental.

The whole thing is very wrong, it is detrimental to our country and it is an affront to the woman community.

*(Interruptions)*

It is derogatory and detrimental to the Muslims. And this is going back on what we have achieved in our country till now. I believe if those great men of our country who fought for the rights of women and for social reforms were here today, they would have jointly opposed this Bill. What had been achieved by such great personalities like Ram Mohan Roy and Maulana Azad will now be demolished completely.

Now I say this with force that the whole Muslim community is not represented by those people who advocate this Bill. I have great respect for Shri Ansari, Shri Banatwalla and Shri Sait. But here, I have a memorandum with me signed by more than a hundred reputed Muslim men and women.

**SHRI EBRAHIM SULEMAN SAIT (Manjeri) :** Actors and dancers !

**SHRI SAIFUDDIN CHOWDHARY :** May be they are dancers. But there is secular dance. But you are dancing to the tune of somebody who I say are enemies of our country. I would also like to read out some names....

*(Interruptions)*

**MR. DEPUTY-SPEAKER :** No, No. It is not necessary.

*(Interruptions)*

**SHRI SAIFUDDIN CHOWDHARY :** Mr. Deputy-Speaker, I want to read out these names, because it is a very-very important Bill.

**MR. DEPUTY-SPEAKER :** No. No. You can circulate it.

**SHRI SAIFUDDIN CHOWDHARY :** But anyway, everybody should procure a copy each. Salim Ali, is he not a Muslim ? Qwaz Ahmed Abbas, is he not a Muslim ? Then how you decided ? I say they are secular. You are not heeding to them. The other view may be in majority for the time being. Why should a secular Government not surrender to them ? This Bill violates Article 14 of the Constitution. It says :

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

But this Bill clearly takes away the protection of law from muslim women who are very much the citizens of this country. It contravenes Article 15(i) of the Constitution, which says :

“States shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.”

This Bill is obviously doing the same thing. It discriminates against a particular section. How they are doing it ? Because they are muslims.

**MR. DEPUTY-SPEAKER :** Shri Chowdhary, please be very brief.

**SHRI SAIFUDDIN CHOWDHARY :** So there is a clear case of discrimination. I am speaking on the constitutional grounds....

*(Interruptions)*

**MR. DEPUTY-SPEAKER :** According to rules, you have to make a brief statement.

**SHRI SAIFUDDIN CHOWDHARY :** Now, Sir, it also violates Article 44 of the Directive Principles. So, many years ago, we said that we shall endeavour to have a uniform civil code. But, this Government is demolishing what we have already achieved. I do not want to take

much time. So many good things seem apparently to have been there. The family will look after. The Wakf Boards, look after, no doubt, when the husbands throw out their wives. They naturally go back to their family and family looks after. But what provision has been made to take the husbands to task who tyrannically and in a perverted ill-manner with such an easy way throw out their wives. Are we thinking of the women folk of our country to whom you can just say 'Talaq' and they are talaqed? They are divorced. Is this a civil law? I just don't support it. When you are talking of going to the 21st Century, where are you going upto?

Now, you say the father will look after them. In this way, if the law is made which will encourage that kind of Talaq, the women folk will be in misery, in destitution and all that.

Now, Sir, I remind they will go back to their parents. They won't kill them. No doubt. You don't know that how much money is required to marry away a daughter. They will sell away their properties for the sake of dowry. You have said that dowry will not be there. But in every marriage, the father sells his property and gives money as dowry. What will happen to that? How much they can spend? That I want to know. I remind you that what kind of psychology will come. I don't want that to happen. But in the Seventh Century Arabia, they used to bury their daughters alive. They didn't like daughters to be born. If any single torture increases to the women-folk in our country as a result of this Bill, what will happen. If any more divorces take place, then I will blame you, the whole country will blame you—this Government.

If tyrannical divorces increase, then I will blame this Government.

With these words, Sir, I strongly oppose this Bill and I hope and I request that some sense will prevail still if you withdraw this Bill or do something that will not take away the rights of the muslim women of our country.

**SHRI INDRAJIT GUPTA (Basirhat) :**  
This is, of course, a very sensitive matter,

which concerns not only the largest minority community that we have in this country, but also concerns all the citizens of this country, whatever religious denominations they may belong to.

We have always been of the view that there should be no attempt by the State to impose on any religious community, something which that community considers to be a violation of its personal laws. Whatever my personal views on that subject may be, we are against possible imposition of something which members of that community consider to be a violation of their personal law, or divine law or whatever it is.

There should be some movement for reform, for amendment, which should come primarily from that community itself. Until that happens, any attempt to impose something against the will of that community is bound to lead to all sorts of difficulties and conflicts which we should try to avoid.

All this hullabaloo has begun with Section 125 of the Criminal Procedure Code. But I want to ask whether Section 125 compels any woman—of course it is a Section which does not refer to a particular community—or does it force, or compel any woman of Muslim or of any other community to go to a court if she does not want to? If she does not want to go to the court, Section 125 does not compel her to go. A woman may say: 'I prefer to be governed by the *Shariat*. I am not going to go to a court. I prefer to go to the court of the Kazi, rather than go to the Supreme Court.' How can you compel her to go to a court? So, what is there in Section 125—Mr. Banatwalla, of course, wanted by his Bill that explicitly the Muslims must be excluded from Section 125. Why? Anyway, now the Government is not, of course, trying to have that, *i.e.* specific exclusion from Section 125, because that would not stand the test of a legal challenge at all. So, they have taken to another device, by bringing this new Bill. My objection to this Bill is on 2 or 3 grounds, which I will briefly indicate. I am not going into the merits of this Bill just now.

My contention is that the Parliament of India cannot be, and should not be asked to give its support to a piece of legislation which runs counter, firstly to Articles 14 and 15(1) of the Constitution, and which runs counter to Article 44 of the Constitution. There are many things in this country which we have not been able to do, or sometimes which we have omitted to do, in keeping with those Articles. There are many things in the Directive Principles of State Policy which we have not been able to fulfil, or sometimes we have omitted to bother about. But this is something different. Here, a legislation is being brought which asks the Parliament of India to lend its support to something which runs positively counter to these provisions of the Constitution.

We may not always be able immediately to have a Common Civil Code. There are difficulties. I understand that. But the Constitution says that that should be the direction in which the State should move; not the opposite direction. It may take a long time to reach the Common Code. There may be many difficulties and obstacles. But this Bill asks you to reverse, turn round, and not move towards a uniform Civil Code, but to go backwards. And we are asked to vote for this Bill in this Parliament.

I say that Articles 14 and 15(1) are fundamental rights which are given to every citizen of this country. Therefore, we cannot be asked to do something which is lawless. For that matter, in the year 1937, long before we had the Constitution, long before the country became independent, there was a statute which has not been repealed yet by Mr. Sen. He has not come before Parliament asking for a repeal of the Application of the Shariat Act, 1937. It is still on the Statute Book, passed by the British in their time. What does the Application of Shariat Act of 1937 say? It should satisfy Mr. Banatwalla and everybody else of his way of thinking. If I may just read Section 2 of that Act, it says: The application of Personal Law to Muslims says as follows:

“Notwithstanding any custom or usage to the contrary, in all ques-

tions (save questions relating to agricultural land) regarding intestate succession, special property of females, including personal property inherited or obtained under contract or gift or any other provision of Personal Law, marriage, dissolution of marriage, including talaq, ulla, zihar, lian, khula and mubaraat, maintenance, dower, guardianship, gifts, trusts and trust properties, and wakfs (other than charities and charitable institutions and charitable and religious endowments) the rule of decision in cases where the parties are Muslims shall be the Muslim Personal Law (Shariat).”

This was passed nearly 50 years ago, nearly half a century ago, when the country was enslaved by the foreign rules, when there was no Constitution in our country, and this has not been repealed to this day. This Act is still in force. So, either by this being in force or by virtue of Section 125 of the Cr. P. C., it does not compel any woman to go to a court if she does not want to go. You will kindly remember that even Shah Bano was not divorced by her husband in the beginning; in the beginning, he simply drove her out of the house; he only chose to divorce her when she went to the court; when she went for maintenance and relief to the court, then he gave her divorce. This shows what the actual state of affairs is. Therefore, I am not, at the moment, going into the whole question of what it means for the right of women of the Muslim community as we all know and I know very well also and I have a Muslim wife for the benefit of those people who do not know; let them know now. I wish I could have brought her here; she could also tell you a few things. (*Interruptions*).

THE MINISTER OF STATE IN THE  
MINISTRY OF ENVIRONMENT AND  
FORESTS (SHRI Z.R. ANSARI): You  
will not be covered by that law.

SHRI INDRAJIT GUPTA: No, it  
will not be covered by that law. We are  
talking about interpretation of the Divine  
Law. You interpret it. She also interprets  
it. Anyway, forget it.

PROF. MADHU DANDAVATE: He  
is in favour of her protection.



**SHRI INDRAJIT GUPTA :** I am objecting most strongly now to what they are doing. If you leave things as they are, well, that is one thing. Let the *status-quo* remain as it is. Shariat is there; it cannot be changed just now. The Divine Law is there. Section 125 is there which does not compel any woman to go to the court. She can be prevented from going to the court also if somebody wants to prevent her. It is one thing. But here what the government is doing? It is taking some portion out of the Shariat and incorporating it in a piece of legislation which is to be passed by Parliament. This is something which is really too much. We are not going to vote in favour of provisions of the Personal Law. Why should we? Why should any of these Muslims who have issued a statement today? Are they not Muslims? Mr. such and such whom I respect very much is the President of the Muslim League and says they are dancers and actors. Let first Islam make a statement that those people who are actors and dancers are not entitled to call themselves Muslims. The majority of the Muslim community in this country are poor people. How many very big capitalists, land-lords and multi-millionaire are there among the Muslim community in this country? Hardly a handful. The overwhelming majority is of poor people. And then Section 125 was meant specifically to prevent indigence and penury among women of poor families who have no means of maintenance. But here what is being done? These articles of the Divine Law, the Personal Law are being incorporated into an Act. The liability of the husband which is limited in the Personal Law is to be limited exactly in the same way in this Bill only for the period of "iddat" and in the case of children for two years. After that, he is free; he has got no liability at all. After that, what is the family of the woman? The same poor people. Can you imagine who live in those poor areas of our country? Their family is going to be burdened with the liability of supporting that woman or looking after that woman; and if that cannot be done, then what is the great remedy proposed now? The court may make an order asking the State Wakf Board to maintain her. Most of the State Wakf Boards I

know are bankrupt or semi-bankrupt; they have no money.

And I do not want that a woman should have to run after the State Wakfs Board. Why should she? Even that much is not there that any order given by the State Wakfs Board should be enforced through the Court so that she can go to the Court with proper dignity and respect. She cannot run after the Wakfs Board which may or may not pay her and makes her go round and round in circles.

**AN HON. MEMBER :** The Court will order.

**SHRI INDRAJIT GUPTA :** If the court will order, then why not under Section 125? You do not like the Court when it comes under section 125. You only like the court when it comes under Mr. Ashok Sen's new Bill. Why?

I had an open mind, because for reasons which I stated earlier I am quite sympathetic to see that the minority community is not given any kind of affront or mood to feel a grievance like that. But when I find Mr. Banatwalla—of all the people—welcoming this Bill, and other people, you see who were so strident that Muslims must be excluded from 125 and they are welcoming this Bill, naturally a suspicion arises in everybody's mind what is there in it after all, then? What is there in it? Except that the husband's liability is being got restricted as it is not there in personal law and the court to which she will go by the provisions of this law, its powers are all restricted, it is put in a strait jacket; You cannot go beyond giving liability for the period of Iddat; there is nothing new, that is there in the personal law.

**SHRI P. KOLANDAIVELU (Gobichettipalayam) :** Three months.

**SHRI INDRAJIT GUPTA :** You can give for three months, and if there are children or a child for two years—this is also in your personal law. What is the new thing? The thing about the Mehar the Dower is nothing new. That also we

know is fictitious some times. She signs away so many things at the time of the marriage. Then what remains there? Go to the family? That is also strained. I do not know whether it is in the personal law. This—I do not know why—the family is something which is not realistic at all in the conditions of the Muslim community today. And, putting it on the Wakf Boards means that the State Governments will have to share a big burden. Even if these are to work at all then the funds of the State Wakf Boards will have to be replenished by the State Governments and no doubt they have got other financial responsibilities. They cannot be burdened like this. The whole sum and substance of it is, that they, having become panicky and shaky because of the outcry which is going on in the country from the more conservative orthodox and fundamentalist section of the Muslim community. (Interruptions)

I charge this Government, they have not consulted a representative cross-section even of the Muslim community. The Prime Minister has told us whom they have consulted, Certain hand-picked people brought to them with a particular point of view only. And then came this consultation. Why? Why do you not consult other people in the Muslim community who may have a different view point. If they have a different view point they cease to be Muslims or what? So, I say that proper consultation with the Muslim community has not been done. And this thing is being passed off now as though it represents the view of all the Muslim community as a whole.

Sir, this thing should not be rushed through in this way at all. Just because there is an agitation outside, just because the Congress party has been defeated in some by-election where they have lost the Muslim vote, they are shaking in their shoes now.

PROF. MADHU DANDAVATE : They are going to lose it anyway.

SHRI INDRAJIT GUPTA : One Minister had the courage to speak and another Minister immediately spoke

against him. But officially the Government had nothing to say. They had nothing to say. What is the standpoint of the Government, we do not know. Now they have come with this Bill and it makes it quite clear.

And then, why was Mr. Arif Mohammad Khan put in this difficult position? Is he not a Muslim? (Interruptions).

I want to know, is he not a Muslim?

SHRI SOMNATH CHATTERJEE (Balpur) : Is he a dancer?

SHRI INDRAJIT GUPTA : Is he a dancer or an acrobat or what?

MR. DEPUTY-SPEAKER : Mr. Gupta, please wind up now.

SHRI INDRAJIT GUPTA : I say that proper consultation has not been done.

If the Government is hell bent on passing this Bill, they should better refer it to a select committee; let there be proper witnesses and their evidence be taken from all parts of the country. Do not rush through sensitive things like this. Because, there will be a backlash also. I may warn Shri Sen. (Interruptions) I think he should not be more secular than I am!

You may satisfy certain section or any minority community but there is a danger of backlash from somewhere else. So, what is going on in the country every day? The country is being torn to pieces! Torn to pieces! Torn to pieces by this type of conflicts! Do not do some thing which will unleash any communal backlash—communal backlash which you will not be able to control also.

Please be careful; please be cautious. Take everybody into confidence; consult everybody concerned. Do not rush through; do not stempede, because you have got a huge majority you can pass anything you like.

Therefore, I oppose the introduction of this Bill at this stage.

**SHRI AMAL DATTA** (Diamond Harbour) : Most of things which needed to be said had already been said.

It is very strange that the Government professing to uphold secular forces, has now thought it fit to bring a Bill which would put back the clock by 100 years. It is very peculiar that in countries which are predominantly Muslim, they do not allow this Shariat law. Now, if we have the Shariat law already in the statute book, let it be there. But there is no reason why a portion of it should be incorporated in the general law of the country and rushed through. It will be discriminatory towards those to whom allegedly they are going to give protection, but actually they are going to be deprived of their rights.

A lot of hullabaloo has been raised after the Supreme Court judgment on Section 125 of the Criminal Procedure Code. What we have missed is that this is not the first time that such a judgment has been handed down from the court. But for the last ten years or more, such judgments have been there. I have here a judgment of Justice Bahrul Islam while he was a puisne judge of the Assam High Court. He had quoted from the Koran. By quoting from the Koran he had been able to show that in the Koran it is permissible to give maintenance to the divorced wife. Rhymes and verses of the Koran are quoted here. Later on, this learned judge was elevated to the Supreme Court. He resigned as a judge from the Supreme Court. He has been brought by this party to Rajya Sabha to adorn it. He had given this judgment. He had derived the authority and conclusion from the Koran itself. Therefore, it shows that there is a wide difference of opinion even amongst Muslims. Some here say that those who have the opposite opinion, are not Muslims. But can they say that Mr. Bahrul Islam also is not a Muslim because he has given this opinion? The Supreme Court may have had the occasion to deal with the case of this type for the first time and, therefore, the judgment of the

Supreme Court which is binding on all the High Courts, would become law of the land.

Now, this Bill has been brought here by the ruling party to take advantage of their majority to put back the clock of progress which this country has been slowly making. Therefore, this Bill is not only discriminatory and unconstitutional but it is also against the law which we had in this country for quite some time. Because of wide divergence of opinion, it is obligatory on the part of the Government to consult everybody on this matter. The Prime Minister did promise that no Bill would be introduced without having consultations with all the parties concerned. But that has not been done. Not even the position obtaining in other Muslim countries has been brought before us. Without doing that this Bill has been brought forward.

I protest against this and I oppose the introduction of this Bill very strongly.

**SHRI MANIK SANYAL** (Jalpaiguri) : Mr. Deputy Speaker, Sir, I oppose the introduction of this Bill. This proposed legislation is a shameful betrayal of the fundamental rights of millions of Muslim women of our country. If this Bill is adopted by the House, it would lead to the enslavement of Muslim women and set back the social progress of our society by centuries. The clauses in this Bill allow the husband of the divorced woman to escape his responsibility of maintenance which is restricted only to the period of three months. By introducing the Bill, the Government has gone back on its commitment made through the Prime Minister to the women organisations and other representatives of public opinion, that a proper discussion will be held with them on all aspects of this problem before the Government takes any steps. The manner in which this Bill has been hastily introduced through the back door has deprived big sections of Muslim women from expressing their legitimate views on the question. As such, the introduction of this Bill appeases the most backward fundamentalist views and does grave injustice. I appeal to the ruling party to

rethink this matter and take the opinion of all sections affected by this problem and not to be swayed by narrow electoral and partisan considerations. Therefore, I oppose the introduction of this Bill.

PROF. MADHU DANDAVATE (Rajapur) : Mr. Deputy Speaker, Sir, I do not want to go into the merits of this Bill but I want to make a proposal at the introduction stage itself so that... (*Interruptions*).

AN HON. MEMBER : Why don't you allow Mr. Shahbuddin to speak ?

PROF. MADHU DANDAVATE : Don't worry. We will mind our own party, you manage yours.

SHRI Z.R. ANSARI : Rest assured that it is fully managed.

PROF. MADHU DANDAVATE : I have seen, Mr. Ansari, how two Ministers speak in two different voices. We will not do that... (*Interruptions*). While opposing the Bill at the introduction stage itself, I want to make some observations and make a proposal which should be acceptable even to the Members of the ruling party. The major point that is missed today is that there were two rounds of talks by the Prime Minister with the Leaders of the Opposition and in the last round of talks the Prime Minister had assured us that they will get the position paper prepared where they will give us the Constituent Assembly debates, the position in various Islamic countries, various interpretations of the personal law and other things brought into the Shah Bano case and will place them before us. He had said, "Once we are able to provide you this material, after ten or fifteen days we will meet again and will discuss". An assurance was given to various types of delegations who were both pro-Shah Bano case, anti-Shah Bano case. All sorts of delegations met and to all of them the Prime Minister had assured that without consulting the Opposition Leaders they would not draft and formulate the Bill. Even to the women delegations which went, the Opposition Members who went, those who are in favour of the Sup-

reme Court judgement and those who are against the Supreme Court judgement, this is what the Prime Minister had told. And the day we get those papers, we get also the draft Bill. Even it has been made quite clear by the Minister that they have not drafted the Bill on the basis of the consultations with Opposition, they have consulted some scholars. I would like to make one point very clear. We want to get the issues sorted out after this controversy but in sorting them out, I would not like the entire society to face a confrontation in which any religious community on one side will feel that actually there is an affront against them and on the other side no women should also feel that any Bill that is evolved, will do injustice to them. There will be scholars, there will be different interpretations of *Shariyat*, there will be interpretations of Islamic law, and after those discussions and discussions with the Leaders of the Opposition if the Bill is framed, in that case some sort of a consensus can be arrived at. Maulana Azad, after the partition of the country, in one of the Bombay meetings said :

[*Translation*]

We are afraid of one thing that in the first instance, there was partition of the country and then that of hearts.

[*English*]

The country has been partitioned into two but I do not want the mind and heart of the scholar to be divided into two fragments and, therefore, we will contribute our best to see that some sort of a solution is found out in which neither a religious community will feel alienated and, at the same time, no woman will feel, no divorcee will feel aggrieved. That way we can sit together and try to find out the way out and in that case a more acceptable Bill can be brought. And, that is the ground ; not the ground of merit but the ground of procedure. But if this particular counsel was listened to, I am sure, both the sides can agree. As the Prime Minister has promised, the Opposition leaders and various persons can have a discussion and



we can try to sort out the problems and bring a Bill which will unite society and will not divide society. That is why I do not want a hasty introduction of this Bill at this stage. Thank you.

THE PRIME MINISTER (SHRI RAJIV GANDHI) : May I clarify? I do not want to talk on this but I am clarifying just because Prof. Dandavate mentioned that I have promised to do certain things. I heard only the tail end. So I am sorry that I cannot talk about the first part.

PROF. MADHU DANDAVATE : Tail gives a very wrong impression, Sir !

SHRI RAJIV GANDHI : I won't ask you to repeat the first part ! I would just like to clarify, without commenting on the substantive aspect which I might do later that I had had two rounds of discussions with the opposition as a whole sitting together apart from some other talks that I had individually with people. And, after the last session, we did decide that we would collect some information which we would give to the opposition leaders who were present. Unfortunately, we got a little delayed in giving that information. I accept that mistake on our part. On the other hand, what was decided at the last opposition meeting—I remember a right—was that I was told by the opposition when everyone was present including some people from our party, that I should talk with certain Muslim groups and try to find out what is in their minds. On the basis of that, I talked with a group of Muslim leaders and they were not just obscurantist leaders ; they were people from his party, from other parties in the opposition. On the basis of those discussions and following up from those discussions, we came up with the proposed Bill. Now, I had also said that I would consult the Opposition before we came up with the Bill. I had invited the Opposition to meet me on the 19th for this Bill. It may be an error on our part that I did not say specifically that you will meet me for this Bill. But last time when we had met, we had left this open, that we will meet to discuss this Bill before the next session. Now, it was not 10 days before the next

session ; it was 2 or 3 days before the next session.

PROF. MADHU DANDAVATE : Mr. Prime Minister, on the previous day, on the 19th, when you had invited us,—even on that day your Draft Bill was already printed and it was ready. So, please do not give the impression that it was not ready.

SHRI RAJIV GANDHI : Dandavateji, please let me finish.

(Interruptions)

MR. DEPUTY-SPEAKER : Order, order. Let him finish. Then you can ask.

SHRI RAJIV GANDHI : They are getting very excited. The Draft Bill was not ready on the 19th and I am coming to the other point also. We felt it was necessary to try and introduce this Bill last Friday for various reasons which I have brought to your notice. We have had one other Bill which we brought in—well, I will not say quite in a similar manner, but in a similar rushed manner—which was the Anti-Defection Bill. It was brought in, in roughly the same type of time-frame. You cooperated at that time and we altered Clauses that you did not like. I was willing to alter Clauses in this Bill that you do not like. But you were not even talking on the substantive aspect and we never got round to that. So, the opportunity was there.

15.03 hrs.

[MR. SPEAKER *in the Chair*]

The exercise of calling the opposition was not just a facade or white-wash. We do want your opinion. We want your involvement and specially on an issue like this when everyone is involved.

SHRI NARAYAN CHAUBEY (Midnapore) : There is the Select Committee.

SHRI RAJIV GANDHI : I have not spoken about the Select Committee. I am answering a specific point that you made. Thank you.



DR. A.K. PATEL (Mehsana) : Mr. Speaker, Sir, I strongly oppose the introduction of this Bill. Actually it was the duty of hon. Lady Members of the House to oppose this Bill. Unfortunately they did not.

SHRIMATI BIBHA GHOSH GOSWAMI (Nabadwip) : I am opposing it.

(Interruptions)

DR. A.K. PATEL : I will not repeat the things told by my hon. friends. I will only say that the Bill violates Articles 44 and 37 of the Constitution. In fact, there is a directive for a common civil code. But instead of framing a common civil code, we are going back, as told by my hon. friends. I request the hon. Minister not to be in a hurry, but to think about this Bill again and send it to the Select Committee. Thank you.

[Translation]

SHRI C. JANGA REDDY (Hanamkonda) : Mr. Speaker, Sir, Several Members opposed this Bill at the introduction stage itself. Shri Patel, Shri Gupta and Shri Choudhary have stated that this is ultra Vires of the Constitution.

Article 44 of the constitution provides for a common civil code.

[English]

“The State shall endeavour to secure for the citizens a uniform Civil code throughout the territory of India.”

[Translation]

Even after 38 years of Independence we are unable to bring about a uniform civil code in the country. We are in fact moving backwards. Instead of enacting a uniform civil code we are trying to have two Criminal Procedure Codes. This is very much against the Constitution. The Fundamental rights guaranteed under

Article 37 are being violated in this Bill. As Shri Gupta has rightly pointed out that if a woman in a divorce case seeks redressal under section 125 of the Criminal Procedure Code, Shariat can prevent her. When she is not able to get redressal from any quarter, she is forced to knock at the door of justice but now even that right is being snatched from her.

I read in today's 'Hindustan Times' that the introduction of this Bill will encourage divorce. People would very easily marry again and again and get rid of their wives.

MR. SPEAKER : We are not banning marriage.

SHRI C. JANGA REDDY : This would result in additional burden on the father and the brothers of the divorced woman.

SHRI MADHU DANDAVATE : It is a fact.

SHRI C. JANGA REDDY : Go and see in Hyderabad how people are being forced by poverty to go to Arab Countries. This is happening in Hyderabad and you should be ashamed of it. Those who are instrumental in bringing this Bill should also be ashamed of it because so many people are being sold to Arab Countries as a result of this. An old man of 50 years is marrying a young girl of 25 years and taking her away while we are mute spectators of the whole show, only because she is poor.

MR. SPEAKER : Are your intentions good ?

SHRI C. JANGA REDDY : We should understand that the burden we are going to lay on the Wakf Board will only add to the burden on Government and the society. If a woman, divorced by her husband, falls prey to prostitution it would only corrupt the society. On the other hand if she stays with her father, he will have to divorce his wife in order to support her and if she goes to her brother, his wife may desert him. In this way Government are encouraging them. Instead of a

Common Civil Code, personal laws are being encouraged in the country.

A Muslim woman will certainly knock at the doors of justice to get maintenance from her husband after divorce. Shri Banatwalla is pursuing this Bill for the last one year. Much hue and cry has been raised outside Parliament as well. If Government had wished to bring this Bill, it could have done it a year back. Two hon. Ministers of the Cabinet spoke at length about this Bill and they expressed contrary views. One said that it was against 'shariat' and the other said that it is in accordance to the spirit of 'Shariat'. The Supreme Court judgement was well intended and therefore it should have been implemented.

I would like to submit that the Government should not have brought this Bill. This is against the spirit of Constitution and breach of the Fundamental Rights. There should be no difference between the rights of a Hindu and a Muslim woman living in the same society in this respect. This Bill will once again disturb the peace in the country. I apprehend that divisive forces are at work and, therefore, I would request the hon. Prime Minister to withdraw this Bill.

[English]

SHRI SOMNATH CHATTERJEE : Mr. Speaker, Sir, it is a very sad day that this Parliament is being made a party to the proposed legislation like this which is intended to nullify the progressive judgement of the Supreme Court.

SOME HON. MEMBERS : Mr. Mool Chand Daga is here.

SHRI SOMNATH CHATTERJEE : He was made to remain out of the House when his name was called.

Sir, there is unseemly haste with which this is sought to be introduced. But for your kind decision, it would have been smuggled in on the last Friday, when without any item in the agenda, without that item in the list of business, without

any notice, a Bill of this controversial nature was sought to be introduced. I would like to know what is the great hurry in this. The hon. Prime Minister refers to a similar haste with which another Bill was passed. Is that the normal procedure for the purpose of introducing and passing Bills, specially a Bill of controversial nature like this, dealing with personal laws, when there are several different conflicting views about it ?

Uptil now, the Constitution is there and articles 14 and 15 are there. The Supreme Court has said very categorically about the right to life and right to livelihood, which are part of the fundamental rights. They are an ingredient of and is inherent in right of equality in this country. Who will take recourse to a claim for maintenance ? They are those indigent and poor women and poor divorced women. Therefore, the Supreme Court came to the rescue of a very handful section of people, namely Muslim women who were in financial difficulty. Now, this type of haste is shown in a controversial matter like this. When the question of fundamental rights is involved, a Bill is being introduced in this manner, for which no justification is being given. If you kindly see the Statement of Objects and Reasons, the only object and reason you will find is to nullify Supreme Court decision. A large number of eminent people of the Muslim community may be today described in derogatory terms by the President of the Muslim League....

PROF. MADHU DANDAVATE : One is a Member of the Planning Commission ?

SHRI SOMNATH CHATTERJEE : But writers, respected persons like Shri Salim Ali who is a Member of Parliament, Vice-Chancellor of Delhi University, the Member, Planning Commission, ex-Vice-Chairman, UGC, film actors, film script writers, poets, professors and speakers, (*Interruptions*) it is very easy to laugh at.

I would like to know from the hon. Prime Minister, is this a matter which will be decided on party lines ? Is it a matter of partisan consideration ? What is this

hurry and why don't we find anybody there? Why Mr. Arif Mohammad Khan is made to keep silent? I am sure if there is freedom of conscience....

AN HON. MEMBER : What happened to lady Members ?

SHRI SOMNATH CHATTERJEE : Let there be proper consultation. I have a list. We have no personal axe to grind here. We feel, in a matter like this, a particular decision which was welcomed by a very large section of Muslim and Indian women and Indian people, which was giving to them very minimal rights—they are not made Begums or anything like that but a minimum reasonable maintenance to be provided to them—now this mighty Government of India, with huge majority, is trying to bulldoze a legislation like this, for which even today a deputation met Mr. Speaker. They are agitating and protesting. We have got this very simple minimal right, the right to survive, not to beg, and instead of being forced to beg and to go to her relations, the husband who is responsible is being asked to pay a reasonable amount and this mighty Government of India today, with massive mandate about which we are reminded every day, is trying to bulldoze a legislation like this. It is an unconstitutional, illegal and inhuman attempt on the part of the Government to push a legislation like this. I do not know who will laugh last on this issue. Today Mr. Ansari is laughing.

SHRI Z.R. ANSARI : It is only I who will laugh last.

SHRI SOMNATH CHATTERJEE : You may think so today because you have got the blessings of the Prime Minister. When you will lose that blessing, then you will know ! I do not wish to be un-pleasant about this matter. We feel the matter of land relating to women should be treated not with any lack of seriousness. To put it very mildly, the women of this country have been at the receiving end for decades even after independence. Even when there is 36% literacy in this country, women are only 24% literates. They are suffering more. There is a Ministry on Welfare. Ministry is there for the protection and

upliftment of women ! This is the sample that we are getting and it is sought to be passed. This is the provision for the welfare of women ! I would like to know from the Law Minister. I know he is not happy. But what can he do ? I do not know whether the Prime Minister is happy. In his youthful exuberance he might have wrongly read the minds of the people. Whom have you consulted? He said that he consulted even somebody from Janata, some Muslim leaders from Janata. But has he consulted these people ? I will give the names. I believe the hon. Prime Minister has got it. If he has not got it, we shall give him. Has he consulted any of them ? Therefore, this is a matter which should not be rushed through. There is no prestige involved that you must introduce it to-day. Why do you make it a prestige issue ? Hold your band have a wider range of consultations. Even the Opposition Leaders are smarting under the justified feeling that they were not given a fully opportunity of discussion with the Prime Minister.

The Bill was printed on the 19th It may be that they have a very big press, a very efficient press....

PROF. MADHU DANDAVATE : It was printed with retrospective effect !

SHRI SOMNATH CHATTERJEE : It was printed on 19th February, the date fixed for consultation. Therefore, I do not know how much open-ness is there in the mind of the Prime Minister and in the mind of the Government. Therefore, I appeal to the Prime Minister and the Government and also to the Party and the Members of the Party. Please don't mortgage your conscience all the time on all issues. Give your thought. I request the Law Minister. You please don't press for introduction of this Bill to-day in a hurry. Please consider it and don't a sort of sell away your conscience by way of appeasement to the obscurantists.

(Interruptions)

KUMARI MAMATA BANERJEE (Jadarpur) : What is this, Sir ? ....

(Interruptions)

SHRI SOMNATH CHATTERJEE :  
Is she supporting the Bill, Sir ?

SHRI SAIFUDDIN CHOWDHARY :  
To-day she must be protected.

SHRI SOMNATH CHATTERJEE : \*\*  
(Interruptions)

SHRI ASUTOSH LAW : This term\*\*  
is unparliamentary. I know what is the  
meaning of it. In Bengali we know what  
is the meaning.

MR. SPEAKER : Is it unparliamen-  
tary ? ...

(Interruptions)

SHRI ASUTOSH LAW : It should be  
expunged and he should apologise. He is  
talking about women and women's rights  
and how can he use such an expression  
against a woman ?

PROF. K.K. TEWARY : He is a very  
senior member of the House. He must  
withdraw that expression. He was eloquent  
about women.....

(Interruptions)

MR. SPEAKER : Order, order.

PROF. K.K. TEWARY (Buxar) : He  
is a very senior member of the House. He  
is talking so eloquently about the rights of  
women and this is the expression he is  
using for a woman here. It is very nasty  
expression.

(Interruptions)

MR. SPEAKER : Whatever is un-  
parliamentary, I will go through the records  
and expunge it. Now you please take  
your seat.

(Interruptions)

MR. SPEAKER : My dear friend, if  
there is any unparliamentary word, I will  
go through it and expunge it.

(Interruptions)

MR. SPEAKER : Listen sometimes.  
Have you got a licence to shout ?

(Interruptions)

MR. SPEAKER : I will ask you to  
withdraw from the House, if you persist  
like this. Now I did not hear anything. I  
want to know what was the word. I will  
look into it. If all of you 4 or 5 members  
speak, nothing comes to me.

(Interruptions)

MR. SPEAKER : Please sit down. I  
will go through the record and see.

PROF. K.K. TEWARY : Sir, he is  
always in the habit of speaking like this,  
using derogatory terms. He is always doing  
like this. Last time he was trounced by  
her in Jadavpur.

(Interruptions)

SHRI R.P. DAS (Krishnagar) : It is  
only a proverb. It is not unparliamentary.  
You should know the language. It is not  
derogatory.

(Interruptions)

PROF. K.K. TEWARY : I will never  
use such language for a Member of this  
House. Please show respect to this House.

(Interruptions)

MR. SPEAKER : I will look into it.

SHRI BASUDEB ACHARIA  
(Bankura) : We, the leaders of the Oppo-  
sition parties categorically told the Prime  
Minister not to hurry through this Bill,  
not to introduce this Bill. In spite of that,  
that day the Law Minister came to intro-  
duce and as we resisted, you did not  
allow the Law Minister to introduce the  
Bill. Sir, in the name of giving protection  
to Muslim women, what little right is  
there in Section 125 Cr. P. C. that is now  
being taken away by passing this Legisla-  
tion. On Friday, a delegation of Muslim  
women also met the Prime Minister. He  
assured them that before introduction of

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\*\*Expunged as ordered by the Chair.

the Bill he would consult them. He did not consult them. They met you today. They told the Speaker also about their opposition to this when they met him on Saturday or Friday. There is also intellectuals and other people who expressed against this Legislation. So, I appeal through you, to the Government not to hurry through, rush through this Bill. They should withdraw it. If they cannot, they can refer it to the Joint Select Committee so that the Joint Select Committee can take opinion of various sections of the people and the poor Muslim women who live in the villages. They could take and collect opinion of the women. So, I appeal not to hurry through this Bill.

SHRI C. MADHAV REDDI (Adilabad) : Sir, I do not want to repeat what has been already said. Only one point I would like to make *i.e.* regarding consultation. We have just heard the Prime Minister did not consult the Opposition Leaders on this point. I do not want to go into the details but one thing he must realise. On the 21st, when we met him there, we requested him to give us time. Because it was only on that day, in that meeting, the material was supplied to us, the Bill was also supplied to us. And we requested him to give us time to go through the material which was supplied to us and suggested that we could meet after a few days. Some people said, "After one week". He could have said, "All right ; you take three days". In any case he waited for five days. Who prevented him from consulting us yesterday ? If there is a will, there is a way.....

[Translation]

Had you desired to consult us, you could have consulted us yesterday, you could have consulted today as well or can consult us tomorrow. You might recollect that when you were consulting us on the Anti-Defection Bill, discussion was going on the Bill here.

[English]

The Bill was being considered and we were meeting in your room and you were consulting us.

[Translation]

If you want to consult us, you can do it right now. But our complaint is that you have no intention to consult us.

[English]

You only wanted to put up a show of consultation.

[Translation]

Recently, you evolved a new strategy. I am very sorry that you consult us 15 minutes or half an hour before when every thing is already decided. Then you invite us.

[English]

We rush up to your room.

[Translation]

Then you say that decision on these things has already been taken. When we raised this point, you said in the House—

[English]

"No, I was not consulting ; I was just informing you".

[Translation]

THE PRIME MINISTER (SHRI RAJIV GANDHI) : May I speak a few words ?

[English]

The hon. Member is very right that it is now Tuesday and the Bill has been available to Members from Friday, if I remember correctly. He is also right that I have not called the Opposition to discuss the Bill after that meeting on Friday. At the same time I would like to say that, first, this matter has been under consideration, not just in the two or three meetings we have had with the Opposition, but this



has been a matter which—I do not remember the date now—for something like ten months has been on the mind of almost every one in this country. It has not dropped out of the sky on to our laps. It has been a current issue, it has been debated in the House, it has been a live issue for a long time. And if there was anything that any of the Members of the Opposition had to suggest about the Bill, you are absolutely right, you had five days, you could have picked up the telephone and said, “I want to talk about the Bill ; can you give me time ?” and I would have given you time. But you have not bothered to do that. You are just trying to make a point here. (*Interruptions*)

I am just saying this. If I had five days to ask you, well, I had given you the paper, I had asked you for a response and you had not responded ; you also had five days to respond, you had five days in which you could phone my office and say, “Please give us time ; we want to stop this Bill immediately, we have valid points to stop it”. At no stage have you given any substantive argument.

(*Interruptions*)

PROF. MADHU DANDAVATE : It is a question of sitting round the table, evolving a consensus and sorting out the issue.

SHRI C. MADHAV REDDI : What I was trying to point out was this. The Prime Minister was right. It is only now I have learnt that he wants that the individual leader should approach him and consult him..

SHRI RAJIV GANDHI : Either individually or as a group ; I have no objection. You just have to telephone and ask my office and we will give you time.

SHRI C. MADHAV REDDI : Now I am asking, I am requesting : please consult the leaders of the Opposition before the Bill is finally considered. If you want, you can do it now itself.

PROF. MADHU DANDAVATE : Individually we may go for dinner, but

consultation must be collectively.

SHRI C. MADHAV REDDI : As I was pointing out, at the time when we were discussing the Anti-Defection Bill, we were consulted like that. What prevents you from consulting even today or tomorrow ? That is why, on this ground only, I have some objection. Otherwise, I have no objection to the introduction of the Bill at all.

MR. SPEAKER : The Minister.

THE MINISTER OF LAW AND JUSTICE (SHRI A.K. SEN) : Mr. Speaker, Sir..

SOME HON. MEMBERS : Mr. Daga also wants to speak.

MR. SPEAKER : His name is not with me.

(*Interruptions*)

SHRI RAJIV GANDHI : If the opposition, individually or collectively, has any substantive points to make on this, we will discuss the points with them and if we find them relevant we will look into them.

SHRI A.K. SEN : Mr. Speaker Sir, I must confess that I am not unhappy that the Bill we are bringing forward has provided a platform for the opposition to unite together, which is a rare occurrence.

PROF. MADHU DANDAVATE : He is provoking more and more unity !

SHRI A.K. SEN : As I said, I am very happy that I have been of some assistance for your unity. But, instead of replying to each Member separately, may I summarise the main points made on the floor of the House ? The first is unnecessary haste. I think, Shri Somnath Chatterjee said unseemly haste. There was a waiting of nine months during which the Bill of Shri Banatwalla was debated on the floor of the House.

SHRI SAIFUDDIN CHOWDHARY : That was not your Bill. That was not the Government's Bill,

SHRI A.K. SEN : If you think that you have closed your eyes and ears during these nine months. (*Interruptions*). I am entitled to presume that the House was alert and it listened to the debate which went on for days and days. And behind the scene the Prime Minister had taken care to ascertain the views of almost every section of the people.

It is true that the consultation with the Muslim leaders had a priority and was given more importance. And it must be so. When we are legislating on the personal law of a community, it is our bounden duty to give priority and importance to the views of that community. (*Interruptions*). It is the declared policy of the Government since the time of Pundit Jawaharlal Nehru that in matters of personal law the views of the community concerned must prevail and the Government will not move until a consensus had been reached in the community. That remains the policy today and the Prime Minister declared it in no uncertain terms on more than one occasion and I hope that there will be no doubt about it. That being the policy Sir, we have followed that policy truly and faithfully.

SHRI NARAYAN CHAUBEY : If you speak of the consensus among the community, then you should reintroduce the Sati system..

SHRI. A.K. SEN : Mr. Choubey is always very impatient. Choubey means a person learned in all the four Vedas. I never knew that he has become learned in Quranic law also. I am very glad that he has now turned his attention from the Vedas to the Quran. I shall learn Quran from Mr. Choubey next time.

SHRI EBRAHIM SULEMAN SAIT (Manjeri) : You cannot learn Quran from him. (*Interruptions*).

SHRI A.K. SEN : As a responsible Government must behave, the Prime Minister and the Government took great care to ascertain the view of the muslims. In this case I must congratulate the Prime Minister for the immense patience and

labour he has bestowed on the matter in spite of a very heavy schedule....

PROF. MADHU DANDAVATE : He always does it irrespective of the policy.

SHRI A.K. SEN : He took personal care in ascertaining the views of the community to which this Act is supposed to apply.

Now that the point is very clear, let us not widen the scope of the Bill. We are dealing with a very limited problem. The question of maintaining indigent divorced women.

As I have studied the law involved with the help of Muslim scholars, we apprehend that Muslim Law makes beneficent provisions not merely for widows, or divorced women, but also for all women. We are now on the subject of divorced women. The injunction is that they are not to be thrown on the streets. But nevertheless there are several stages in which that problem has to be tackled according to Islamic injunctions. The first is the period during which the woman still bears the semblance of a connection with her former husband, that is the *Iddat*. During that period, the husband must maintain her, after *iddat* if she is bearing a child of the husband, during the period during which her pregnancy continues, the same obligation is cast on the husband. After that period, if she is suckling the baby of the husband, the husband must maintain her, until the child is two years old. Now, what are we to do? Are we not to follow the injunction of the Muslim law on this matter? I am afraid we have to. Let there be no mistake about it. Our secularism does not mean that every man or woman must follow the same creed and faith in the same manner. The rich cultural heritage of this country is due to the fact that each community which has become part of our nation has contributed its own life-stream into the nation and they follow their own creed and faith in their own way without interference. That is secularism. In other words it means no inquisition, no persecution of persons in following their own faith. Each one is entitled under Article 25 and 26 to

follow his own faith and creed in his own way. It does not mean everybody must speak the same language, everybody must pray in the way as if the Shaivites and the Vaishnavites have to follow the same path or that the Shias and Sunnis have to pray in the same manner. (Interruptions) Please. Please. We have heard you enough. This is not the way to understand the pulse of a community. No spirit of tolerance or patience is exhibited by such outbursts. Please have patience. It does not appear that you have studied the matter. All the issues will be unfolded when we put the facts at the time of consideration.

Sir, we have taken a fairly long time to understand the matter and our understanding is that the features of the Bill reflect the opinion of the vast majority of the Muslims about their own law. It is quite true that about hundred or five hundred intellectuals or quite a large number of people outside that particular list feel in a different way. That must be so in a democratic country where each one is entitled to interpret his own religion including the Quran. But we have to find the consensus of the community and we have found it in a particular manner. We do not think we have found it wrongly. Now, the difficulty arises because of intolerance which is being shown by those who feel our view is incorrect. This is what the Bhagwad Gita says :

*Janami dharmam na chamev pravritti,*  
*Janami adharmam na chamev nivritti.*

I know what is virtue but I do not want to follow ; I know what is 'adharma' but I do not want to stop it. This is the very essence of intolerance.

PROF. MADHU DANDAVATE : Is that the official policy of the Congress ?

SHRI A.K. SEN : Which one ? The official policy of the Congress is to allow the voice of dissent in every way. That is the very basis of our Constitution. That spirit of tolerance which respects the opposite view, obliges us to respect the view of the Muslim community. About Section 125 of the Criminal Procedure

Code that it should not apply to the Muslim community in all its rigour, I do not think they are very wrong in their demand.

SHRI SATYAGOPAL MISRA (Tām<sup>o</sup>luk) : What is the argument ? There is no argument.

SHRI A.K. SEN : If the hon. Member does not follow the argument, it is not my fault. An argument has to be followed and listened to.

(Interruptions)

I think Mr. Chaubey is talking about himself. He can only talk about himself. (Interruptions).

SHRI SOMNATH CHATTERJEE : Mr. Choubey says why are you committing further sins ?

SHRI A.K. SEN : This is what is called in legal language *ipsi dixit*. Mr. Chaubey is always for *ipsi dixit*. I do not expect that he will believe what we say. There we are at one. I have never convinced myself that he will believe what I am saying. We have spent a good deal of time and study on this matter and the charge that we have brought the Bill in hot haste is not correct. The next point is about not consulting the Opposition. The Prime Minister has already answered the charge. I do not think the charge is correct. They were invited and I know that the Opposition representing the Muslim community has had prolonged consultation. It may be that on the balance the Prime Minister has given more importance to the views of the community which is going to be affected by this law than those of others.

Now, about women, we have heard a lot.

AN HON. MEMBER : There is no muslim constituency in this country. You cannot reflect that you are the only person representing the muslim community.

SHRI A.K. SEN : While bringing this Bill before this House, we have never thought of any constituency or a vote,

SHRI SATYA GOPAL MISRA : Then, why are you claiming that you are speaking on behalf on muslims alone.

SHRI A.K. SEN : Who said so ? I do not think we have said so.

*(Interruptions)*

MR. SPEAKER : No running commentary please. It is a bad habit that you are developing.

SHRI A.K. SEN : All I said was that this law was meant to affect a particular community and that community's view must have predominance in our judgement and that is the way to approach this problem in a secular democracy.

Now, Sir, it is said that we have not thought about women. What we have thought of ? The whole subject is about divorced women. It is true that we have not thought of undivorced women, which is beyond the scope of the Act. We are not thinking of women in general. Of course, we are all fond of women either as mothers or as sisters or as wives or as friends, but that is not the subject matter of the Bill.

SHRI SOMNATH CHATTERJEE : I do not think that in a matter like this you should make such an observation.

SHRI SATYA GOPAL MISRA : He is speaking as if he is in a drawing room. This is Parliament which is the highest forum of the country.

SHRI A.K. SEN : There is something like a humour. If that subject is unknown to a particular Member, I can't help it. Now, Sir, the subject of compassion for women, in general, is not the subject matter of this Bill at all. We are on a limited field of divorce of women and their provision for maintenance during various periods of their life and certain contingencies which may arise, that is, when during these periods those who are charged with the duty to maintain them fail to do so, the community has to take the charge. This is according to our understanding of the Muslim law. This may be different from views of the Supreme

Court. We are not going into the merits. As quoted by the Supreme Court, as *Ayat* 241 of 'Surah Baqur' only says, that it is the duty of the virtuous men to maintain the indigent divorced women. Now, virtuous men means according to the Muslim Scholars the community and not the husband of the divorced woman. Her maintenance is a charge on the community as a whole. Therefore, we have provided that under certain circumstances the duty to maintain indigent divorced woman is on those certain members of her family and failing them on the community. I think that expresses also the spirit of compassion for women under Muslim Law. With these words, I humbly submit that the motion should be passed.

MR. SPEAKER : The question is :

"That leave be granted to introduce a Bill to protect the rights of Muslim women who have been divorced by, or have contained divorce from, their husbands and to provide for matters connected therewith or incidental thereto."

*The motion was adopted.*

SHRI C. JANGA REDDY : Then, I am walking out.

*(Shri C. Janga Reddy then left the House)*

SHRI A.K. SEN : I introduce the Bill.

15.50 hrs.

#### RAVI AND BEAS WATERS TRIBUNAL BILL

*[English]*

THE MINISTER OF WATER RESOURCES (SHRI B. SHANKARANAND) : I beg to move for leave to introduce a Bill to provide for the constitution of a Tribunal for the verification of the quantum of usage of water claimed by the farmers of Punjab, Haryana, and Rajasthan from the Ravi-Beas system as

on the 1st day of July, 1985 and the waters used for consumptive purposes and for the adjudication of the claim of Punjab and Haryana regarding the shares in their remaining waters.

**MR. SPEAKER :** The question is :

“That leave be granted to introduce a Bill to provide for the constitution of a Tribunal for the verification of the quantum of usage of water claimed by the farmers of Punjab, Haryana and Rajasthan from the Ravi-Beas system as on the 1st day of July, 1985 and the waters used for consumptive purposes and for the adjudication of the claim of Punjab and Haryana regarding the shares in their remaining waters.”

*The motion was adopted.*

**SHRI B. SHANKARANAND :** I introduce the Bill.

STATEMENT RE : RAVI AND BEAS  
WATERS TRIBUNAL ORDINANCE,  
1986

[English]

THE MINISTER OF WATER RESOURCES (SHRI B. SHANKARANAND) : I beg to lay on the Table an explanatory statement (Hindi and English versions) giving reasons for immediate legislation by the Ravi and Beas Waters Tribunal Ordinance, 1986.

15.52 hrs.

MATTERS UNDER RULE 377

[English]

(i) Demand to raise support prices of all agricultural produce by about 25 per cent.

**SHRI K. RAMACHANDRA REDDY (Hindupur) :** Mr. Speaker, Sir, agriculturists are facing a lot of hardships due to unremunerative prices for their produce.

Their backbone is broken. Whenever they have to purchase, they have to pay high prices. When they try to sell their produce they have to sell at a very low price. Present rise in prices of products like kerosene, petroleum products and fertilizers has raised the cost of inputs of agriculture to a very high degree. Comparative rise in prices of rice and wheat is nominal. Other agricultural products remain at the same level of prices. Due to the present rise in prices, the agriculturists are crippled economically. The support price given to agricultural produce is very meagre and it does not take into account the risk involved, and the sufferings of the agriculturists who have to work day in and day out. It is high time that the Central Government raises the support prices of all agricultural produce by about 25 per cent and save the agriculturists from economic disaster.

15.53 hrs.

[SHRI N. VENKATA RATNAM  
in the Chair]

(ii) Demand for developing Northern part of Kerala to attract tourist traffic.

**SHRI MULLAPPALLY RAMACHANDRAN (Cannanore) :** Sir, the State of Kerala has high tourist potential which has not been tapped at all. This is most obvious in the northern half of Kerala which is absolutely cut off from the tourist map of India.

Kerala, with its long coastal line, numerous rivers and back waters, famous tropical forests such as the Silent Valley, the green hills of Wynad with its rich forest wealth and rare species of animals, the temples and places of historical importance has much to offer to a tourist. However, the birth place of Pazhassi Raja and Kunhali Marakkar who fought against alien powers, the place where the Portuguese sailer Vasco-de-Gama first landed in India, the several forts etc. have all been ignored by the Tourist Departments both at the State level and at the Centre.

It is to be noted that the temple arts of Malabar such as *Theyyam* and *Thira* and