

[Shri D. C. Sharma]

As I said last time, he is suffering from an occupational disease. That disease is that our Ministers do not always try to see the viewpoint of the persons who want a change. They show some kind of allergy to change. He does not want a change. What can I do? It is a pity that that day the House was very thin and some of my lawyer friends, like Shri Trivedi, did not take part in the discussion. They would have expounded this Bill much better than I was able to do and supported me that day. But I was left alone to fight this battle of legal reform. I am not a lawyer myself, but I have sat at the feet of lawyers like Shri Datar, Dr. Ancy and others. It is they who told me that this law needs reform. But my friend says that what was good in 1860 is good today in 1962. What is this law? Is this law an archaeological monument, a fossil, which is a part of those remains which we have dug up at Harappa and other places. I want law to be a living thing.

**Shri C. K. Bhattacharya** (Raiganj): Is it the opinion of the hon. Member that everything old is bad?

**Shri D. C. Sharma**: I cannot say that, because people think I am myself growing old. But this is not old; this is ancient. A thing which is one hundred years old is not old, but ancient. I want to plead with the hon. Minister, who is so compassionate to persons who commit breaches of trust, that he should enhance the punishment and make it deterrent. But he does not do it. I feel myself all alone in this House and nobody supported me that day. The Home Minister does not think there is need for any change. But I know a day will come when this code will be changed. I think somebody will take it upon himself, saying there was somebody who wanted to make a change in this law, but it was the Minister of Home Affairs who stood in the way. I know that day is going

to come. I know the verdict of history is going to be in my favour. With these words, I withdraw the Bill.

**Mr. Deputy-Speaker**: Does the hon. Member have the leave of the House to withdraw the Bill?

**Some Hon. Members**: Yes.

*The Bill was, by leave, withdrawn.*

14.55½ hrs.

\*CONSTITUTION (AMENDMENT)  
BILL

(Amendment of the Eighth Schedule)

**Shri U. M. Trivedi**: I beg to move  
*rose—*

**Mr. Deputy-Speaker**: You were not here when I called you. I am allowing it as an exceptional case.

**Shri U. M. Trivedi**: I beg to move: for leave to introduce a Bill further to amend the Constitution of India.

**Mr. Deputy-Speaker**: The question is:

"That leave be granted to introduce a Bill further to amend the Constitution of India."

*The motion was adopted.*

**Shri U. M. Trivedi**: I introduce the Bill.

14.56 hrs.

HINDU SUCCESSION (AMENDMENT) BILL

(Insertion of new Section 23A)

**Shri J. B. S. Bist** (Almora): I beg to move:

"That the Bill further to amend the Hindu Succession Act, 1956 be circulated for the purpose of eliciting opinion thereon by the 31st December, 1962."

The amendment proposed is:

"After section 23 of the Hindu Succession Act, 1956, the following new section shall be inserted, namely:—

"23A. No transfer of property by female owner shall be valid within two years of the opening of succession in her favour unless it be for consideration, the onus of proof of which shall be on the transferee."

It has been observed that male co-successor or male relations of female owner take advantage of the emotional nature of the female owner and get property transferred to themselves without consideration by way of gift or otherwise. The female successor has no appreciation of the act. There is no denying the fact that when property devolves on any person, the death which brings about this succession naturally affects the emotional nature of the person, specially so of females. Feminine nature is naturally more impressionable, particularly under sorrow.

Every one knows that before the Hindu Succession Act, 1956 came into force, the Hindu woman had very limited right in property. She only enjoyed life interest in the property and after her death, the property passed on to the reversioner. With such limited right there were always relations, and people interested who have influenced her emotion and there have been cases where the property has been sold for a song, sometimes gratis, though the deed might have said something. There has been a lot of litigation on the subject and a reference to law reports will show how massive it was. Even at that time, with all the restriction, when she had only a life interest, steps were taken to advance money on the ground that it was a legal necessity, so that the property may come out of the family itself. There have been

15 hrs.

these cases. There have been different decisions of the High Court in

which all these facts have come to light. Now, with the Hindu female coming in possession as owner when succession is opened up—as I have remarked, it opens up only after the death of some person—the chances of interested persons approaching the female and working on her emotional feelings is greater, because now she enjoys full rights and whatever she does or whatever transfers she makes has at present no legal remedy.

My amendment of the Act proposed in this Bill will give protection to the female Hindu and give her time to appreciate the property. Two years is not a very long time, but it is necessary, so that she should be able to get in touch with the property, know its value, know how beneficial it is, and how much its price would be. This will allow her time also, even if she wants to make a free transfer, to come to a decision after mature consideration.

I might here say that succession affects a huge mass of Hindu females in the rural areas. They are not only simple but they are at present uneducated. In these circumstances, it is easier to play upon their sentiments.

Sir, in this Bill, it will be noticed that though two years are provided it does not prevent a genuine transfer, and as the onus of proof would now lie upon the transferee the transferee will think twice before he does anything amiss and will have to look for witnesses who are reliable and whose testimony can stand the scrutiny of the courts.

I submit, Sir, this is a simple Bill. It explains itself and there is no need for me to go into a longer discourse. I feel that this Bill is necessary in the interest of the female owner who is now enjoying a new right. There have been cases which have come to light in which property has been parted of as a gift and wherever money has been paid it was nothing compared to the value of the property.

[Shri J. B. S. Bist]

I do hope the hon. Minister will consider what I have said and he would be pleased to accept my motion for circulation of this Bill to elicit public opinion. We shall be in a position then to know what reactions there are and what in fact the opinion of the public is.

**Mr. Deputy-Speaker:** Motion moved:

"That the Bill further to amend the Hindu Succession Act, 1956 be circulated for the purpose of eliciting opinion thereon by the 31st December, 1962."

**Shri D. C. Sharma:** (Gurdasur): Mr. Deputy-Speaker, Sir, my hon. friend Shri J. B. S. Bist is doing a very laudable service to the cause of social welfare of our country. He is doing something in the field of social legislation which I am sure some sociologists will take note of, I believe, Sir, that our Parliament will not be fulfilling its duty if it does not undertake social legislation. The difficulty is this, that we have so many problems, political and financial, that it is not always that our Government can apply its mind to this very exciting field of social legislation. I know they have to think of law and order and other things. Therefore, social legislation, by and large, remains neglected in our country.

If you look at the Private Members' Bills you will find that most of them deal with social measures, measures of social welfare. I think that is very much to the credit of the Members of Parliament in India. This shows their awareness for social problems. Some time back, I think I saw an article in which the legislative activities of Lok Sabha were referred to especially in the field of social legislation. A few pages were devoted to the government's efforts in that direction. But mostly the credit went to private members, as they are called in the

legislative terminology. It is they who have been sponsoring these pieces of social legislation. But the Government has been performing its duty very admirably and very consistently. There could be no two opinions about this. Whenever any private member brings forward a Bill which can affect the welfare of the people—men, women or children—the Government has always come forward and said that they are themselves doing it and that they will be bringing forward a comprehensive piece of legislation, or that they will be doing something about it in one or two years or in five years. They have always, in such cases, exhorted the private member to withdraw the Bill. This is the good work that the Government has been doing all these days. The poor private member has no such protection as to withstand the pressure of the Government, and therefore he chooses to withdraw the Bill.

I know what is going to happen to this Bill which has been sponsored by Shri Bist. The same thing will happen as it happened to my Bill also. This morning, Sir, when I was sitting here one Deputy Minister came to my seat and asked: "What has been the fate of your Bills all these years?" I said: "you know it. Why do you ask me?" I said that there had been one uniform fate for all these Bills, and that was that I had to withdraw them. That has been the fate, a very cruel and unkindly fate; a fate which I think no enemy of mine should have. But this has been the case with me. I know this will be the case with my hon. friend Shri Bist also. I speak, first of all, because I am interested in social reform and, secondly, because I have a fellow-feeling for all those private Members who like me make futile efforts to change the course of law, to change the social laws in this country, and who knock in vain at the iron gates of the Ministries in Delhi—I do not say they knock their heads against those gates made of steel because in that case they will cease to

exist. They surely do their best to change the course of law but they fail. Shri Bist is doing something which is psychological; he is doing something that is going to make for the stability of society. He is going to do something which will help the cause of women. When a foreign journalist met our Prime Minister, he asked: you all talk of what you did in the way of dams and other things, but we do not know what work your government has done in the field of social legislation affecting women. Very few people are aware of the Hindu Code Bill. Now Shri Bist is doing something to safeguard the interests of women. His approach in this matter is a very noble approach.

Throughout the ages our mothers, sisters and daughters have been very emotional, there is no doubt about it. If they were not very emotional, I do not know where we would be. But while this emotion should have its play in the field of human relationship, in the field of human sentiments, I do not think it should have any play when we come to property and other things, because clever people will take advantage of it. And the difficulty is, as we are progressing, unfortunately, the number of clever people is increasing in India and the Ministers are not aware of it. Clever people take advantage of the nobility of women, the goodness of women, the guilelessness of women, the desire of women not to hurt anybody. Women are the noblest pieces created by God. Clever persons play upon their feelings and make them part with the property.

Our women know how to bring up their children, how to look after their brothers and sisters, how to help their parents, but they do not know how to own property or how to keep it, because the sense of property has come to our women very late. There was a time when our women could not own any property and they owned property only in exceptional cases. Free India has made women owners of property

like men. We have introduced an element of parity between men and women, so far as ownership of property is concerned. But the difficulty is that these women, if I may use that word—I am very sorry, I make use of that word; but no other word occurs to me at the moment—these women who are my sisters and mothers are duped by clever persons, and this is done with the help of some lawyers and other persons, and they are made to part with the property, which Shri Bist wants to prevent.

**Shri Raghunath Singh** (Varanasi): Professors are also involved in it.

**Shri D. C. Sharma:** All professors are good persons, noble persons, as good as women in this world.

I was submitting very respectfully that if women by succession own any property, she should not be allowed to part with her property under the malign influence of anybody at least for a period of two years. I think this is a very good provision. If this provision is not there, the rights that we have given to women, so far as property is concerned, will be a right only in name, not a right which they will be able to enjoy.

Nobody can take exception to this Bill or say anything against the Bill. It can very well be asked: why should we circulate it? But if we circulate it, what harm is it going to do? Let the whole of India know what we are going to do? I say that Shri Bist is a very conscientious reformer and he wants to gauge the opinion of India before he is able to push this Bill through. I know what the opinion of India is. The whole of India will agree to this Bill. I am sure, all the bodies which are run by women will welcome this Bill. After all, it is meant for women; not for men. I also know that people of goodwill will welcome this Bill. Therefore, I support this Bill and I hope the hon. Minister will agree to its circulation and not act as the hangman of these Bills. With these words, I support the Bill of Shri Bist.

**Mr. Deputy-Speaker:** The time allotted for this Bill is one hour.

**श्री रघुनाथ सिंह :** उमाध्यक्ष महोदय, मैं माननीय सदस्य, श्री बिष्ट के इस प्रस्ताव का समर्थन करता हूँ कि हिंदू सक्सेशन (अमेंडमेंट) बिल को लोगों को राय जानने के लिये भेजा जाये। हिन्दू ला में संशोधन पहली बार १९३१ में किया गया, जब कि स्त्रियों को अधिकार दिया गया। उसके बाद हमेशा यह प्रयास होता रहा कि स्त्रियों को जहां तक अधिकार दिये जायें, वहां तक अचञ्चा है। लेकिन वास्तविकता यह है कि हमारे समाज का ढांचा कुछ ऐसा है कि स्त्रियों को जो अधिकार दिये गए, उनमें स्त्रियों को ज्यादा फायदा नहीं रहा है। हम प्रायः देवते हैं कि पुरुष के देहान्त के बाद जब स्त्री को उत्तराधिकार प्राप्त होता है, तो, यदि वह मां हुई, तो उसे बच्चों के हित में, या अपने और किसी सम्बन्धी के हित में हिब्बानामा, गिफ्ट, उसमें लिखा लिया जाता है, या उस पर जोर देकर या जबरदस्ती हिब्बानामा लिखा लिया जाता। ख़ास तौर पर देहान्त में यह होता है कि रिफ़ाइज्ड आफ़ राइड्स में यह इन्दरराज होता है कि अमक आदमी का अमक खेत है। फ़र्न कोजिए कि वहां पर किसी व्यक्ति का देहान्त हो गया और उसकी सम्पत्ति में उसकी स्त्री का कुछ हक़ हुआ, तो जो दूसरे उत्तराधिकारी होते हैं, जो मेल सक्सेसर्स होते हैं, वे इस बात की कोशिश करते हैं कि रिफ़ाइज्ड आफ़ राइड्स में उनका नाम लिखा जाये।

आज हमारे समाज की परिस्थिति यह है कि स्त्री घर में रहती है और उस को बाहर का कोई ज्ञान नहीं होता है। इसका फल यह है कि अधिकार होते हुए भी वह उसका उपयोग नहीं कर सकती। इसलिए इस बिल में यह व्यवस्था की गई है कि उत्तराधिकार मिलने के दो साल तक कोई स्त्री उस प्रापर्टी को ट्रांसफ़र न कर सके। उस दो साल को अवधि में उसको कुछ ज्ञान भी हो सकता है कि मेरे पास क्या जायदाद है, क्या प्रापर्टी है।

ख़ास तौर से आजकल देहान्त में जो जर्मानदार या अचञ्चा काश्तकार है, पर्दा-सिस्टम को वजह से उसके घर को स्त्रियों को इस बात का ज्ञान नहीं है कि उनका पांच, छः, सात बीघे का खेत कहां पर है। अगर दो बरस का समय मिल जाये, तो वह स्त्री स्वयं या किसी नौकर के द्वारा समझ सकती है कि मेरे पास कितनी सम्पत्ति है और उसका प्रबन्ध कैसे हो सकता है।

इन थोड़े से शब्दों के साथ मैं इस बिल का स्वागत करता हूँ और मैं आशा करता हूँ कि जब यह बिल राय जानने के लिये भेजा जायगा तो सारे हिन्दुस्तान में इसका समर्थन होगा तथा आज हमारे समाज का जो अभिगाप हो गया है, उसमें मुक्ति मिल जायगी।

15-20 hrs.

**Shri Gauri Shanker (Fatehpur):** Mr. Deputy-Speaker, Sir, I congratulate Shri Bist on his bringing forward this Bill. Just now our senior hon. Member, Shri Sharma was mentioning about the lot of these private Members' Bills. I can, as a Member of the Opposition, at least give so much of assurance that whenever there are genuine demands and genuine contents in certain particular private Members' Bills, we are always all at the disposal of hon. Members of the ruling Party to support them and they should not feel sorry for that. They are required to muster courage. So much with regard to the lot of the Private Members' Bills.

Then, I stand to support the Bill. Women have been given full rights of succession. Now they are full owners. But there is a very great risk, as has just now been pointed out by our senior hon. Member, Shri Raghunath Singh. We find in so many cases in the rural area that as soon as succession opens, the womenfolk are very easily allured on some sentimental ground or on the basis of some emotional things. They very easily fall in the hands of some reversioners this

side or that side with the result that certain hasty transactions in the shape of gift deed or other kinds of transfer deeds take place and the moment the deeds are executed, you see the lot of that particular woman. She is deprived of her property and the reversioner who gets that gift deed executed in his favour is not coming forth to supply her even with food or clothing. She is put in a very miserable lot. If you just go to the rural areas, you will find hundreds of such cases where ladies who have transferred their belongings are now begging at this door or that door. That is the lot of the womenfolk. This would give a very great safeguard to them. If at least two years' period is given, during that period she can be in a position to understand the actual circumstances in which she was allured to make the transfer.

Then, one thing more. Here the word 'consideration' has been given. I think that also should have been eliminated because sometimes when such transactions would be agreed and acted upon it would so happen, if this clause is allowed to prevail, that a reversioner who allures that particular lady can just show some sort of consideration before the Registrar which he would get back. That can be shown and it would be a *via media* to continue with that further. But, still at least there is some check with regard to gift deeds and other kinds of transfers. So, I welcome it. I think it is a very nice thing and it would give much relief to those ladies who are *pardanashin* or illiterate, who cannot follow anything and can easily fall a victim in the hands of reversioners or near relations.

Then, again there are certain cases where these ladies in other circumstances, just out of some love matter or something like that, fall a victim and manoeuvre in such a manner that they transfer the property in that manner. There would be a check also in that respect. So, if this particular Bill which has been introduced is accepted, it would give very great relief to

womenfolk, especially to those living in the rural areas.

I come from Uttar Pradesh where, unfortunately, our land law still exists and the lady finds no place in the presence of a son. In that case the widow does not succeed. But still in the interest of the general public in other States where there is no such law, I think it is a very good and a very healthy measure. I would request the hon. Mover that he should pursue this Bill and shall appeal to the House to accept it.

**Dr. M. S. Aney (Nagpur):** Sir, this Bill does not require a long speech to support. We have already passed a law some years ago conferring rights on women in the matter of succession. Woman at one time was regarded as a person not entitled to property, but those ideas are gone. Those days are gone. We have given them certain rights to inherit property. Yet, in spite of the law the position is, as has been described by Shri Bist and Shri Sharma, that somehow or other they are deprived of the benefit of that legislation. The law which this Parliament has passed is virtually observed in breach rather than being carried out. That is the position. So, it is the duty of the legislature to see whether the law which it has passed for a particular purpose is being properly carried out or not. It is our duty to see that. We find, for example, in the case of taxation measures that whenever we pass a law and Government finds that there is a tendency to evade the tax, they immediately come forward and try to bring another legislation to plug the hole. So, in the case of social legislation also, we must see to it. We pass the law here and yet in spite of those laws the reform that we intend is not being carried out by the public. The laws are being openly broken even. It is because there is not yet that real reformist spirit which is really required to carry it out.

15.27 hrs.

[SHRI MULCHAND DUBE in the Chair].

[Dr. M. S. Aney]

I think Shri Bist is doing a great service. People have not got the real reformist zeal to see that the law is carried out. There is no reformist zeal in the country which will look after the way in which the law which has been made is being administered by the Government and also accepted by the people. What they do not do is the duty of the private Members to do, if the Government of its own accord does not come forward. There is, in the Indian Government, the same tendency to avoid legislation of this nature as the British Government had. But when the Parliament have taken to this policy it is our duty to see to it. I therefore congratulate my hon. friend, Shri Bist, for having come forward with a legislation of this kind.

But there is one thing. The wording of the Bill as it is, only goes to a limited extent. It will not cover all types of cases in which women's rights are being defeated every day by the people. Therefore it would be better to accept the suggestion which has been made by my hon. friend, Shri Raghunath Singh, that we should circulate it for public opinion. We may get the benefit of this measure being examined by the people at large and also suggest how to widen the scope of this so that every kind of method by which the law is being defeated will be covered by it. For this purpose I am inclined to support the amendment of Shri Raghunath Singh.

**Shri Warior (Trichur):** Sir, I support the objects of the Bill but at the same time I doubt very much whether this will be so effective as the hon. Member wishes it to be. The reason is that this Bill originates more or less on the assumption that there are certain emotional circumstances and I doubt very much whether emotional nature or circumstance is such a transitory thing that it will go into thin air within those two years. So, I wish that it should at least have been five years' duration during

which no such transaction of alienation of property should take place.

As far as the 'consideration' clause is concerned, it is more or less a proviso and it should not have been there. I agree with the sentiment expressed elsewhere that even though this consideration might be something tangible in monetary terms or something like a property, it is doubtful whether that consideration will be quite in order. Because, many a time we have come across, in documents of a similar nature, certain considerations mentioned, but at the same time without consideration they are not given at all. There is a bogus mention of considerations.

If the aim and object is to protect the rights of women to see that these illiterate women who are not so sophisticated to understand the intricate nature of law, if that is the aim and object, then I think that all such provisos also must not be given, as we want to plug as many loopholes as possible and make it fool-proof.

In the circumstances I think that not only women but also some of the illiterate males also require these protective provisions in law. Because now-a-days, unlike as in olden times, when new legislations have come into the statute-book giving property rights and inheritance rights to males and females, all these rights must be more or less protected.

**Mr. Chairman:** It is beyond the scope of the Bill.

**Shri Warior:** That is not within the scope. This is only a suggestion for future Bills by my friend Shri Bist. As it is, I think it is upto the Government to have come with a more effective Bill with sufficient machinery to implement the aims and objects of it, so that the rights already given by legislation to our womenfolk in India, especially in the North and in the patriarchal societies—because this is not so much in the matriarchal

societies, there is the males' rights which have to be protected from encroachment by the women—might be protected. This would have been more proper, and I hope that the Home Minister—especially, half of the Ministry being also manned by a lady of eminence—will agree to this. I therefore hope that a Bill of a more effective nature, with all the necessary implementing machinery provided, will come forward in the nearest future. With these observations I support the Bill brought forward by my friend Shri Bist.

**श्री बड़े (खारगोन)** सभापति महोदय, श्री विष्ट ने जो बिल प्रस्तुत किया है मैं उसका समर्थन करता हूँ। मैं जिस क्षेत्र से आया हूँ और जहाँ जहाँ मैं बूमा हूँ, वहाँ मैंने देखा है कि जो स्त्रियाँ रहती हैं वे इतनी सीधी और भाँजी भाली हैं कि उनके रिश्तेदार, जो उनके साथ रहते हैं, उनको अपने प्रभाव में ले लेते हैं। कोर्ट्स में भी मैंने देखा है इन्हेरिटेन्स के मुकदमों में कि उनके रिश्तेदार, उनके पति, उनके भाई या उनके श्वसुर उनसे गिफ्ट डॉइस लिखवा लेते हैं लेकिन उनको इस का पता भी नहीं रहता है। जब वह महिलाएँ कार्ट में आती हैं और वकील करती हैं तब वे पूछने पर यही कहती हैं कि उन को मानूम नहीं है कि कब उन से दस्तखत ले लिया गया। जब रजिस्ट्रार आदि कमीशन पर जाते हैं तो उन को भी कुछ बतलाया नहीं जाता है और बिना उनको समझाये बुझाये उनसे दस्तखत ले लिये जाते हैं। जब इस तरह की बातें हमारे सामने आती हैं तो मानूम पड़ता है कि जो बिल श्री विष्ट लाये हैं उसकी बहुत जरूरत थी।

अभी माननीय श्री शर्मा जी ने कहा कि इस बिल का फेड वही होगा जो कि और प्राइवेट मेम्बर्स बिल्स का होता है अर्थात् यह बिधवा हो जायेगा। जो भी प्राइवेट मेम्बर्स बिल्स होते हैं वे शासन को सुझाव देने की तरह पर होते हैं ताकि शासन उनके अनुसार सुधार करे। इसलिये अगर यह बिधवा भी हो जाना

है तो भी इस का उद्देश्य पूरा हो जायेगा क्योंकि शासन को सुझाव देने के साथ साथ भारतीय जनता को भी वह इसका ज्ञान करायेगा कि हम क्या चाहते हैं और जनता क्या चाहती है। इस बिल से यह फायदा तो ही जायेगा।

बिल में लिखा हुआ है कि जो भी अपनी गिफ्ट्स को ट्रांसफर करेगा वह दो साल के लिये नाजायज हो जायेगा। मैं समझता हूँ कि यह बहुत अच्छा सुझाव है और मैं समझता हूँ कि साधारण रूप से इसे स्वीकार कर लिया जाना चाहिये। इसमें ट्रांसफर के बारे में लिखा है कि **वि घोन्स आफ प्रूफ आफ इट शैल बी ग्नान वि ट्रान्सफरी**। इसके बारे में मेरा कहना यह है कि घर में जब कोई गरीब महिला रहती है और उसके पास इन्हेरिटेन्स से प्रापटी आती है तो उसको कभी कभी उसे ट्रांसफर करना पड़ जाता है। वह गरीब होती है, उसका पुत्र मर जाता है, उसका खाबन्द मर जाता है, श्वसुर मर जाता है तब उसके सामने प्रश्न आता है, उसको चिन्ना होती है कि उसका गुजारा कैसे हो। जब इन्हेरिटेन्स से कोई प्रापटी उसके पास आती है तो वह चाहती है कि उस को बेच कर अपना गुजारा करे। इसलिये इस में जो सेल का प्राविजन रक्खा गया है वह भी बहुत अच्छा है। साथ ही पैसा प्राप्त करने के सम्बन्ध में जो प्राविजन है उसमें धोखा देकर ट्रांसफर करा लेने की प्रवृत्ति जो रहती है उसको भी सेफगार्ड किया गया है। जो उसके कंसिडरेशन का बोझा है, मुभावजा देने का जो बोझा है, जो वर्डन है, वह जो प्रापटी लेगा उसके ऊपर है। कि इस तरह से श्री विष्ट ने सर्वांगीण रूप से विचार करके इस बिल को रक्खा है इसलिये मैं इसका सहर्ष समर्थन करता हूँ।

इस बिल को संकुलित करने का जो प्रस्ताव रक्खा गया है, मैं समझता हूँ कि उस की कोई जरूरत नहीं है। अगर इस को यहीं स्वीकार कर लिया जाय और गवर्नमेंट भाश्वासन दे कि इस प्रकार का प्राविजन हिन्दू मक्तेशन ऐक्ट में कर देंगे तो मैं समझता हूँ



## [श्री बड़े]

कि साधारण जनता शासन को धन्यवाद देगी। लेकिन इस के साथ साथ जो अभी मेरे एक माननीय मित्र ने कहा कि इस को दो साल के बजाय पांच साल के लिये करना चाहिये, उस के सम्बन्ध में मेरा कहना है कि चाहे इसको दो साल के लिये किया जाय, चाहे पांच साल के लिये किया जाय या च.हे दस साल के लिये किया जाय, जब तक महिलाओं की स्थिति सुधरती नहीं है, इससे कोई लाभ नहीं होगा। जब तक उनकी शिक्षा आदि देकर ऊपर न लाया जाय तब तक उनकी स्थिति सुधरने वाली नहीं है। आप चाहे जितने समय के लिये इस बिल को रखें जब तक समाज में महिलाओं की जो स्थिति है वह सुधरती नहीं, आजकल जो वातावरण है उसके अनुरूप उनकी स्थिति ठीक नहीं होती तब तक इस बिल का कोई लाभ नहीं है। इसलिये इसको अभी दो साल के लिये रखना काफी है।

इन शब्दों के साथ मैं फिर इस बिल को सपोर्ट करता हूँ और प्रस्तावक महोदय को धन्यवाद देता हूँ।

**Shri A. N. Vidyalkar** (Hoshiarpur): Mr. Chairman, the motion is for the circulation of the Bill for the purpose of eliciting opinion on it. As has been pointed out by some of my friends, I feel that the purpose of the Bill is so laudable and the Bill is so simple that there is no need of circulation of this Bill. I do not know how my friend Shri Bist moved a motion for circulation. I am afraid that this interval would be utilised by unscrupulous people and this will invite various undesirable transactions to take place during the interval. When people know that such and such Bill is coming up, and from the proceedings of this House the people will know that the House is generally supporting the Bill, this interval would be harmful as it will induce people to enter into spurious transactions during this period. Therefore I would suggest—it is not provided in the Bill, no period is

specified here—but I would suggest that the period should be very short, it should not be very long. As Shri Bist has suggested, it should be up to December or something like that.

I think that the universal support that this Bill has received in this House will convince Shri Bist that the Bill is going to get support from the public also, even if it is circulated. There is no other motion before us, we have only one motion and that is that the Bill be circulated for eliciting opinion thereon. Therefore, even if it is circulated, I am quite sure, just as the Bill has received support in this House, it will receive support outside also. This is such an innocuous Bill that all the Members have supported it. I would request the Home Ministry to kindly accept this motion. I do not know, just as Shri D. C. Sharma has pointed out, the fate of Private Members' Bills has not been in the past very encouraging in this House. I hope that at least in this case, the appeal made by Shri D. C. Sharma would be listened to and the Government will not oppose this innocuous motion for circulation.

So far as the merits of the Bill are concerned, as I have stated, the wording, "unless it be for consideration", is not happy. I think the wording should be changed and it should be improved so that this part of the section is not mis-construed. I hope when this Bill finally comes before the House, the drafting would be improved and the defect removed. Generally, in the case of these social legislations, the difficulty is, the drafting remains defective and various loopholes are found out. Before a Bill is enacted, lawyers find out the loopholes and advise their clients and the purpose of the law is defeated. Therefore, I would like in this case, especially because it is a matter of transfer of property and various unscrupulous people will apply various devices, the drafting of the Bill should be very much improved. With these words, I support the

motion, because there is no other alternative. Otherwise, I feel that the Bill should have been moved here and passed.

With regard to the time limit, I also feel that two years time is a little bit too short. Time should be increased. When public opinion is elicited and we are armed with public opinion, I hope my hon. friend Shri J. B. S. Bist will see there is improvement. I do support the suggestion that it would be better if, after eliciting public opinion, the Government itself comes before the House with this Amending Bill. Because, I am quite convinced that the intention of the original law-makers was clear and it is only a lacuna that has been left in the original law. Otherwise, the intention of the law-makers was clear, they wanted that women should be really benefited. There was some lacuna left. We should be thankful to Shri J. B. S. Bist that he has pointed out this lacuna and tried to plug the loophole.

With these words, I support the motion.

**श्री सिंहासन सिंह (गोरखपुर) :** सभापति जी, इस विधेयक को लाने का जो उद्देश्य बताया गया है वह पढ़ने में सुन्दर लगता है लेकिन इस पर महिला सदस्याओं ने अपने विचार प्रकट नहीं किये हैं। शायद मंत्रिणी महोदया इस का जवाब देते वक्त महिलाओं का दृष्टिकोण उपस्थित कर देंगी।

सदन के जिन सदस्यों ने इस पर विचार में भाग लिया उन्होंने इसका समर्थन किया है लेकिन मैं इस विधेयक का दूसरा पक्ष भी इस सदन के सामने रखना चाहता हूँ। हर एक विषय के दो पक्ष होते हैं और केवल एक ही पक्ष को देखने से उसके बारे में सही राय कायम नहीं की जा सकती। यदि इस विधेयक को स्वीकार कर लिया गया तो जिस उद्देश्य से हिन्दू उत्तराधिकार अधिनियम पास किया गया था उसमें बाधा उपस्थित हो जायेगी।

उस अधिनियम में बहुत दिनों तक सोच विचार करने के बाद स्त्री को उसके पति के मर जाने पर अन्य सम्बन्धियों के साथ साथ समान अधिकार दिया गया था लेकिन आज इस विधेयक द्वारा उस अधिकार पर रोक लगाने का प्रयत्न किया जा रहा है कि वह अपनी जायदाद को दो बरस तक न बेचे और बेचे भी तो दाम ले के बेचे, हिवा नहीं कर सकती, दान नहीं कर सकती। तो इस प्रकार उनके अधिकार पर रोक लगायी जा रही है।

मैं जानना चाहता हूँ कि जब से हिन्दू उत्तराधिकार अधिनियम पास हुआ तब से अब तक उसका कितना दुरुपयोग हुआ। इसके न कोई आंकड़े विश्व साहब ने दिये हैं और न इनका कोई संकलन किया गया है। मैं जानना चाहता हूँ कि कितनी औरतों ने इस कानून का दुरुपयोग किया या उनसे उसका दुरुपयोग कराया गया और बाद में उन्होंने तकलीफ उठायी क्योंकि घोखे में आकर या भाव में आकर उन्होंने वैसा कर दिया।

ऐसा भी हो सकता है कि आज किसी स्त्री को अपनी लड़की की शादी करने की आवश्यकता है, पति मर गया है। लड़की भी जायदाद की अधिकारिणी है और मां भी है लेकिन वे शादी के लिए रुपया नहीं जुटा पा रही हैं। अगर इस विधेयक को स्वीकार कर लिया गया तो दो साल तक वे जायदाद को बेच कर रुपये का प्रबन्ध नहीं कर सकेंगी और दो बरस तक लड़की की शादी नहीं हो सकेगी। अगर यह कानून पाम हो जायेगा तो उसकी शादी में रुकावट पड़ सकती है।

इसी विषय में मेरी एक महिला सदस्या से बात हुई। उन्होंने कहा कि हमारे अधिकार पर क्यों रोक लगायी जा रही है। क्यों यह सोचा जा रहा है कि हम भाव में आकर अपना नुकसान कर लेंगी। उन्होंने कहा कि जो अधिकार हमको मिला है उस पर रोक नहीं लगायी जानी चाहिए। ऐसी सूरत में

### [श्री सिंहासन सिंह]

में सदन के सदस्यों के सामने विधेयक का यह पक्ष उपस्थित करते हुए इसका विरोध करता हूँ। ऐसा नहीं होना चाहिए कि जो अधिकार महिलाओं को मिला हुआ है उस पर रोक लगायी जाये। उसका उपयोग करने का उनको पूरा अधिकार होना चाहिए।

देहातों के बारे में कहा जाता है कि वहाँ इसका दुरुपयोग हो सकता है। लेकिन आज देहातों में भी मरदों की तरह औरतें भी पढ़ रहीं हैं और परदा भी समाप्त हो रहा है। और परदे के रहने हुए भी उनको यह अधिकार दिया गया था।

अभी शर्मा जी ने कहा कि सदस्यों को अपने बिलों को अक्सर वापस ही लेने की नौबत आती है। वह नौबत आवे या न आवे लेकिन मैं समझता हूँ कि इस विधेयक की अभी जरूरत नहीं थी। अभी पांच मात साल हुए कि हम ने हिन्दू उत्तराधिकार कानून पाम किया है और जब तक यह न मालूम हो कि इसका दुरुपयोग किया गया है तब तक इस अधिकार पर रोक लगाना उचित नहीं होगा। इस विषय पर महिला सदस्याओं को विशेष रूप से गार करना चाहिए और हमको जानना चाहिए कि महिलाओं की इस बारे में क्या प्रतिक्रिया है, वे इस अधिकार पर रोक लगाने के पक्ष में हैं या नहीं। अगर वे चाहती हों कि इस पर रोक लगायी जाये तब तो इस विधेयक को स्वीकार किया जाये अन्यथा नहीं। मेरा विचार है कि इसको जनता की राय जानने के लिए बाहर भेजने के बजाये पहले इसको सदन की महिला सदस्याओं के सुपुर्द करना चाहिए कि वह इस पर अपनी राय दें कि इस प्रकार का मंशोधन उत्तराधिकार कानून में होना चाहिए या नहीं। अगर वह चाहें तो यह मंशोधन किया जाये। तो इसको मंशुलेट करने के बजाये हम सदन की महिला सदस्याओं की राय क्यों न ले लें और फिर मंत्रियों जो भी महिलाओं के दृष्टिकोण को उपस्थित कर सकते हैं।

मेरे विचार से इस प्रकार के कानून को पास करने से महिलाओं के अधिकार का हनन होगा जो कि नहीं होना चाहिए। जो अधिकार उनको मिला है उसका उपयोग करने का उनको पूरा अवसर होना चाहिए। इस का दुरुपयोग हो सकता है तो सदुपयोग भी हो सकता है, लेकिन अगर इस पर रोक लगा दी गयी तो इसका सदुपयोग भी नहीं हो सकेगा।

**Shrimati Sarojini Mahishi (Dharmwar North):** At the outset, let me congratulate the hon. Member who has brought forward this amendment to the Hindu Succession Bill. I am glad to know that many Members, even including the Members of the Opposition, were kind enough to speak in favour of the proposed amendment. Not only did they speak in favour of the amendment, but they also went to the extent of saying that the period should be extended to five years, and some of them even went to the extent of saying that it should be even as long as they live, and so on. But the one thing that I could understand from all the speeches is that all of them are in favour of a Bill such as this.

This amendment reflects to a great extent upon this social condition in which our women are. The legal disabilities, and the social position in which they are staying, all these are being reflected, if we read this Bill.

However much we may boast of our ancient culture and our Vedic heritage, we find that after a period, there was a time when women were under a number of legal disabilities. During the period of the Vedas, a girl was considered as equal to a boy from the point of view of succeeding to the property also. The saying was:

“पुत्रेण दृहिता समा”

A daughter was considered as having equal rights along with the boy. But in course of time, with the advent of

the great law-makers like the great writers of the *Grihyasutras*, and thereafter, the *Smṛiti* writers, like Guatama, Apstamba and Vasishtha we find that the legal disabilities went on increasing, as far as the women were concerned. It was stated that unless the women was married according to one of the first four categories mentioned in the eight types of marriages, she could not have absolution or *moksha*, or she could not have the *samskaras* in the *Gotra* of her husband. It was stated that:

“ब्राह्मो देवस्तथैवार्पो प्राजापत्यस्तथा सुरः  
गान्धर्वो राक्षसश्चैव पैशाचाश्चष्टभोधमः ॥”

These were the eight types of marriages, and a lady who married only according to one of the four types of marriages could get absolution and not one who married according to one of the four categories mentioned in the latter half of the sloka.

Therefore, in this way, we find that greater disabilities in the field of marriage, in the field of succession and in the field of education etc., were placed upon the ladies. To a certain extent, I must say that they were considered as one amongst the different commodities that a man could possess and boast of. However much we may boast of our Upanishadic culture which is represented by Gargi, Maitreyi and such other *Brahmavadini* scholars, thereafter, when we come to the subsequent period, we find that the law-makers were rather unkind to the women. Even though today, the hon. Mover and all the other Members are speaking so kindly about women, the ancient law-makers were to a certain extent unkind to women. On account of the political situations that arose in the country or on account of other circumstances, I do not quite know, women were placed under a greater number of legal disabilities and social disabilities also.

We find, for example, Yajnavalkya saying that a lady could not possess

any property except that of limited *streedhana*.

He has said that:

“भ्रातृमातृपितुर्दत्तमध्यग्नि उपाहृतम् ।  
अधिवेद्यनिकाद्यं च स्त्रीधनं परिकीर्तितम् ॥”

Only that little property or right which is given to her by the father or mother or by brothers, and that which is given to her during the procession at the time of marriage or that little property which is given to her while sitting before the sacred fire, would be left to her, but even that property could be taken away by the husband in times of difficulty.

Therefore, the great law-givers went to the extent of saying that she could not possess much property at all. Katyayana, one of the *Smṛiti* writers went to the extent of saying that a lady could not possess more than one thousand annas, which also she should utilise for purchasing utensils, for the sake of the cattle in the house etc. I do not wish to linger any longer on this subject because the House may get itself absorbed with those ideas also.

Until the year 1937, we find practically no legislation in favour of women. Until the Gains of Learning Act was passed, a lady could not possess even that little money earned by her on account of skill or on account of her skilled work or anything of that kind; I think that even after that, she could not have that money all for herself. Until 1937 when the Hindu Women's Right to Property Act was passed, we find that neither the widow nor the woman could get the property and dispose of it. I make a distinction here between the term 'widow' and the term 'woman', because the 1937 Act refers to 'woman' which really means only the 'widow'; it was the widow that got the property, and not the woman; all women did not get the property but only the widows were entitled to get a limited share or a life-interest in the property. That life-interest also was governed by a

[Shrimati Sarojini Mahishi]

number of restrictions. Of course, during her life-time, she could utilise the proceeds of that property but even during that period, she could utilise them only for certain purposes. Otherwise, the reversioners would jump upon her and say that the property was not being properly utilised. She could not sell off the property.

After a period of 20 years practically we find that the Hindu law was being codified. I do not know how many great events, and revolutionary events had to take place in our social history in order to get a piece of legislation in favour of women who formed nearly half of mankind.

Even after a period of twenty years, we found that when the Hindu law was being codified, a large number of women and men were gathering outside the Parliament, holding black flags and demonstrating that they were not in favour of the codification of the Hindu law, and especially in favour of giving property to the daughters. But, in spite of that, we find that the Bill has been passed, and not only that, an amendment is also being brought forward to the original Act.

In this connection, I may quote the words of Justice Gajendragadkar. When people made a representation to him that women were illiterate, that women were uneducated, and that they should not be given property because they did not know how to manage property, Justice Gajendragadkar was kind enough to remark that there were many men who had been fortunate enough to be the adopted sons of great fathers; illiterate men were also there who were fortunate enough to be the adopted sons of rich fathers, and they were enjoying the property, and not only that, they were supposed to be capable of managing the property also.

When that is the case with regard to men, why should it not be so even

with regard to women who are capable, who are managing the household, and who are capable of managing property also? They may be illiterate; they may be uneducated, but they may have the capacity to manage, or if they have not got that capacity, they will cultivate that capacity of managing property.

In parts of South India, we find that where the matriarchal system of family is prevailing, we find that women are enjoying, so to say, a predominant place, and men are lamenting. But I think that there also, uniformity of law will be brought about.

After 1937, this was the piece of legislation that was introduced. Now, no doubt, social legislation is greatly needed in our country. But before such social legislation was introduced, great social reformers like Raja Ram Mohan Roy, Lok Manya Tilak, Ishwar Chandra Vidyasagar and others tried to create public opinion and educate public opinion, and then they tried to bring about legislation.

Now also, legislation is being brought forward for eliciting public opinion, and so this legislation is also being utilised as a supplement for educating the public. Therefore, it is in time that the hon. Member has brought forward this particular amending Bill. And this Bill is to the effect that no transfer of property by a female owner—it is restricted to the female owner—who after the 1956 Hindu Succession Act has come into force, has been made a full owner of the property that she has been able to claim, shall be valid within two years of the opening of succession in her favour unless it be for consideration. So, the clause 'unless it be for consideration' is also there; of course, 'consideration' always implies adequate consideration. So, there is no restriction on the capacity of the woman to enjoy the property or to dispose of

the property as she likes. But this provision is intended to protect women who without proper knowledge transfer the property. Of course, ignorance of law is no excuse, no doubt, but in the case of women, to a certain extent, this concession will have to be continued. If, without knowing the result of what she is doing, a woman enters into any such contract for the transfer of property, the onus of proving that it was purchased for adequate consideration falls upon the transferee of the property. So, I feel that this amendment has been brought forward in right time. Without this amendment, that particular section of the Hindu Succession Act would not be serving the full purpose for which it was brought into force. To a great extent, this will go to help the womenfolk. Until the time when our social values change, until our women become educated, capable of knowing their own rights and also whether they are in their favour or otherwise, I think that this concession should be given to women.

I congratulate the hon. Member who has brought forward this Bill, once again.

श्री कुं० कृ० वर्मा (मुल्तानपुर)

आदरणीय अधिष्ठाता महोदय, इस बिल के सर्कुलेशन के लिए जो मोशन इस माननीय सदन में उपस्थित किया गया है, चूंकि उसके अलावा दूसरा कोई मोशन इस हाउस के सामने नहीं है, इसलिए उमी पर लोगों को गौर करना है।

जहां तक इस बिल के उद्देश्य का सम्बन्ध है, इस सदन के अधिकतर माननीय सदस्यगण उस के समर्थन में हैं। यह सही है कि जब हम कोई ट्रांसफर का ऐसा अधिकार देते हैं, जिससे हमारी माताओं और बहनों को शुरू में कोई जायदाद मिलती है, तो ऐसा न हो कि वे अपने अधिकार का दुरुपयोग करें और जो उन को जायदाद मिलती है, उससे बे बंचित हो जाएं, इस की व्यवस्था हमें करनी चाहिए। इस

सम्बन्ध में अगर यह वाद-विवाद छोड़ा जाता है कि सब लोगों को समान अधिकार मिलना चाहिए और हमारी माताओं तथा बहनों को यह नहीं समझना चाहिए कि वे पुरुषों से किसी प्रकार कम हैं, उन की योग्यता कम है, तो मेरी समझ में यह मुनासिब नहीं है। मैं निवेदन करना चाहता हूँ कि यहां पर पुरुष और स्त्री जितने सदस्यगण हैं, वे सब अपने अपने क्षेत्रों में धूमते और काम करते हैं। वे अपने दिल से पूछें कि क्या यह बात सही नहीं है कि हमारी बहुत सी मातायें-बहनें ऐसी हैं, जो शिक्षा न होने के कारण, जायदाद को अच्छी तरह से इस्तेमाल करने का तजुर्बा न होने के कारण, घरों में ही रहने के कारण और बहुत से अन्य कारणों से अपनी जायदाद की रक्षा इतनी नहीं कर सकती, जितनी कि पुरुष कर सकते हैं।

किन्तु इस सम्बन्ध में मैं तो यह कहूंगा कि सर्कुलेशन के लिए जो बिल जा रहा है, वह उस शकल में नहीं आया, जिस शकल में वह वाकई आना चाहिए। जसा कि मेरे पूर्ववक्ता ने कहा है, यह व्यवस्था सिर्फ स्त्रियों तक ही महदूद नहीं रहनी चाहिए, बल्कि जितने और डिसेबलड पर्सन्स हैं, उनको भी इसमें शामिल करना चाहिए। डिसेबिलिटी के क्या माने होते हैं, इस की परिभाषा अलग से एक क्लॉज में करनी पड़ेगी। मैं समझता हूँ कि बहुत से पुरुष भी ऐसे होते हैं, जो अशिक्षित हैं, जिन को काफी शिक्षा नहीं मिली है, जिन को गंवार कहा जाता है, जो सिर्फ अंगूठा लगाते हैं और यह बात अच्छी तरह से नहीं समझते हैं कि जायदाद की ट्रांसफर से क्या क्या नतीजे होते हैं। मेरे विचार में अगर वे लोग भी इस बिल में लाये जाते हैं, तो कोई हर्ज नहीं होगा। यानी इस बिल के उद्देश्य को और तीसीअ कर दिया जाय, एनलार्ज कर दिया जाय, ताकि उन डिसेबलड पर्सन्स को वह रक्षा और प्रोटेक्शन मिल जाय, जो कि हम स्त्रियों को देना चाहते हैं। अगर ऐसी

[श्री कुं० कृ० वर्मा]

शकल में यह बिल होता, तो बहुत ही सुन्दर होता ।

मैं समझता हूँ कि यह बात सही नहीं है कि हम इस बिल के द्वारा स्त्रियों के अधिकार पर बंधन लगा रहे हैं, बल्कि उन के जो अधिकार हैं, उनको रक्षा के लिए यह व्यवस्था करने का विचार किया जा रहा है । अगर कोई पुरुष ट्रांसफर करता है, और उसका एकसी-क्यूशन साबित हो जाय, तो यह साबित करने का ओनस उस पर है कि वह बिला मुआवजा है, विवाउट कंसिड्रेशन है । लेकिन हम यहाँ पर एक और अधिकार देने जा रहे हैं कि जब कोई शरुस ट्रांसफर लेगा, तो यह साबित करने की जिम्मेदारी, ओनस, उस पर होगा कि यह ट्रांसफर विव कंसिड्रेशन है । मैं समझता हूँ कि इस से उन के अधिकार का और एन-लार्जमेंट होता है, तौसोअ होती है, न कि उन के अधिकारों पर बन्धन लगाया जा रहा है ।

अगर इस दृष्टि से देखा जाय, तो मेरी समझ में यह बिल बहुत ही लाभकर है । अगर गवर्नमेंट की तरफ से कोई बिल लाया जाता है, तो मेरा सुझाव है कि उसमें डिसेबलड पर्सन्ज को शामिल कर लिया जाय । अगर बिल को वह शकल दे दी जाती है, तो हमारे देश की हज़ारों लाखों स्त्रियों और डिसेबलड पर्सन्ज की रक्षा हो सकेगी, उन के जितने अधिकार हैं, व सुरक्षित होंगे और ऐसा नहीं होगा कि वे बेचारे अपनी जायदाद से महरूम हो जायें ।

इन शब्दों के साथ मैं इस मोशन का समर्थन करता हूँ ।

**श्री ज० ब० सिंह (घोसी) :** सभापति महोदय, मैं इस बिल की मुखालफत करने के लिए खड़ा हुआ हूँ । चूँकि एक आनरेबल मेम्बर ने कहा कि आपोजीशन के लोगों ने भी इस बिल का समर्थन किया है और उन्हें इस का दुख है, इसलिए मैं बताना चाहता हूँ कि मैं भी आपोजीशन का हूँ और उसी पार्टी का हूँ, जिस पार्टी के एक दोस्त ने इस बिल का समर्थन किया है ।

मैं इस बिल की मुखालफत इसलिए करता हूँ कि मेरी समझ में यह आर्गुमेंट, यह दलील, नहीं आती कि चूँकि हमारी औरतें अनपढ़ हैं, देहातों में रहती हैं, पदों में रहती हैं, इस लिए अगर उनको इस तरह के राइट्स, हक, रहते हैं, तो दूसरे लोग उनको बहका कर उनकी प्रापर्टी या जमीन वगैरह को अपने कब्जे में ले लेते हैं । अगर यही दलील है, तो मैं अर्ज करना चाहता हूँ कि अंग्रेज हमेशा यही दलील देते थे कि हिन्दुस्तान के लोग जाहिल हैं और इसलिए उन को आज़ादी का हक नहीं दिया जाना चाहिए । आज भी यह दलील दी जाती है कि हिन्दुस्तान के प्रजातंत्र में सब लोग शिक्षित नहीं हैं और उसका नतीजा आप चुनावों में देखते हैं कि किस तरीके से वोटों का हेर फेर होता है । अगर यह आर्गुमेंट ठीक है, तो फिर सरकार को लोगों का वोटिंग का अधिकार ले लेना चाहिए और उसको करोड़ों अशिक्षित लोगों को वोटिंग का अधिकार नहीं देना चाहिए ।

लेकिन मैं समझता हूँ कि यह दलील गलत है । आज परिस्थिति यह है कि जो लोग औरतों को बहका कर उनकी प्रापर्टी लेते हैं, एक तरफ तो सरकार उनको रोकने और उनको पनिश करने की कोशिश नहीं करती है और दूसरी तरफ वह तरह तरह का नाम लेकर औरतों को मिले थोड़े बहुत अधिकारों को भी छीनने की कोशिश कर रही है । इसलिए मैं इस बिल को अपोज कर रहा हूँ और मैं चाहता हूँ कि हर एक माननीय सदस्य को इस का विरोध करना चाहिए ।

**श्री राम सेवक यादव (बाराबंकी) :** सभापति महोदय, जो संशोधन यहाँ उपस्थित किया गया है, मैं उसका विरोध करता हूँ । यह मैं इसलिए करता हूँ कि हमारी समाज का गठन बहुत असमान ढंग से किया गया है । जहाँ तक स्त्री और पुरुष का प्रश्न है, उनमें भी बहुत बड़ी विषमता है और यह विषमता खास तौर से जायदाद के प्रश्न को ले कर

चरम सीमा तक पहुंच चुकी है। शायद उसी विषमता को दूर करने के लिए उनको जायदाद में अधिकार दिया गया था। इसको बहुत ज्यादा समय नहीं हुआ है। लेकिन आज हमारे एक माननीय सदस्य को इस बात की चिन्ता ही आई है कि जो अधिकार उनको कानून द्वारा मिले हैं, उनको किसी न किसी तरह में फिर से छीन लिया जाय। यदि इस संशोधन की भाषा को पढ़ें और जो उन्होंने चिन्ता व्यक्त की है, उस पर नज़र डालें तो यह पता चलता है कि उनका जो दृष्टिकोण है वह नाकारात्मक है। वह यह मानकर चलते हैं कि स्त्रियों में बुद्धि का अभाव है, वे अपने हित और अहित को पहचानती नहीं हैं, इसलिए उनके ऊपर जहां तक जायदाद का सम्बन्ध है, कोई न कोई प्रतिबन्ध लगाना चाहिये। यह बात बिल्कुल गलत है। जहां तक इस संशोधन का सम्बन्ध है, यदि इसको पारित कर दिया जाता है तो यह शक्ति का दुरुपयोग होगा। यदि जायदाद में स्त्रियों को हिस्सा मिलता है, तो वे उसका सदुपयोग कर सकती हैं। संशोधन को पास करने के बाद हम उन को इससे वंचित कर देंगे।

**डा० मा० श्री० अणु** : कितने समय के लिए ?

**श्री राम सेवक यादव** : कितने भी समय के लिए हो, दो साल के लिए हो।

मैं अपने बजुर्ग सदस्य से निवेदन करूंगा कि अगर किसी स्त्री को जायदाद में हिस्सा मिलता हो और वह अपने लड़के या लड़की की शादी के लिए जायदाद को बेचना चाहे तो यदि इस संशोधन को पास कर दिया जायगा तो फिर उस जायदाद को कौन लेगा ? इस संशोधन के द्वारा आप औरतों को अधिकार दे नहीं रहे हैं बल्कि उनसे अधिकारों को छीन रहे हैं। आपके सामने दुरुपयोग का ही प्रश्न है, सदुपयोग का नहीं है क्योंकि आप बुनियादी तौर पर यह मान कर चलते हैं कि औरतों में सबुद्धि नहीं है, उनमें योग्यता

नहीं है, वे अपने अधिकारों का सदुपयोग नहीं कर सकती हैं और इसी भय के कारण आपने इस संशोधन को यहां प्रस्तुत किया है। अगर आपके बिल में यह चीज है तो इसको आप साफ तौर से हमारे सामने रखें। लेकिन यह एक दुहरा रुख है जो हम अपना रहे हैं। एक तरफ तो हम स्त्रियों की समानता की बात करते हैं, उनको अधिकार देने की बात करते हैं और दूसरी तरफ हम उनको अयोग्य मानते हैं और कहते हैं कि वे अपने अधिकारों का सदुपयोग नहीं कर सकती हैं। आपके इस संशोधन से तथा विचारों से यह भावना साफ साफ प्रकट होती है। जब एक माननीय सदस्य ने कहा कि हम उनके अधिकार बढ़ा रहे हैं, तो ऐसा मुझे बिल्कुल भी इस बिल से प्रतीत नहीं हुआ। यदि हमारे देश में पुरुष पढ़े लिखे हैं तो स्त्रियां भी पढ़ी लिखी हैं और अगर पुरुष बहुत अधिक तादाद में अनपढ़ हैं, तो स्त्रियां भी बहुत अधिक तादाद में अनपढ़ हैं। अनपढ़ पुरुषों के बारे में तो आप कहते हैं कि वे अपने अधिकारों का सदुपयोग कर सकते हैं, लेकिन अनपढ़ स्त्रियों के बारे में आप कहते हैं कि वे अपने अधिकारों का सदुपयोग नहीं कर सकती हैं। ऐसा कह कर इन दोनों में आप भेदभाव कर रहे हैं। हम सब जानते हैं कि स्त्रियों में बुद्धि की कमी नहीं है, योग्यता की कमी नहीं और यदि कहीं कोई कमी है तो हम लोगों की कमी है जिन के हाथ में शासन के सारे अधिकार रहे हैं और हम उनको समान अधिकार नहीं देना चाहते हैं। सारी कमी इस बात की है और उसीकी झलक इस संशोधन में मिलती है। इसलिए मैं इसका विरोध करता हूँ और इस सदन के माननीय सदस्यों से निवेदन करता हूँ कि स्त्रियों और पुरुषों में अलगाव मत करो, ये जीवन की गाड़ी के दो आवश्यक पहिए हैं, किसी को कम और किसी को ज्यादा अधिकार देने से...

**श्री काशी नाथ पांडे (हाता)** : आप किस पर बोल रहे हैं ?



श्री राम सेवक यादव : मैं इस बिल पर बोल रहा हूँ ।

श्री काशी नाथ पांडे : मालम होता है कि आपने इस बिल के परपत्र को गम्भीरता से पढ़ा नहीं है ।

श्री राम सेवक यादव : आपको मौका मिले तो आप गम्भीरता से समझा दीजियेगा ।

मैं इस संशोधन का घोर विरोध करता हूँ और पिछले चार पांच सालों में स्त्रियों को जो अधिकार मिले हैं, उनको न छीना जाए, यही मेरा निवेदन है ।

**The Deputy Minister in the Ministry of Law (Shri Bibudhendra Mishra):**

Sir, I agree with Professor Sharma that it is the private Member's Bill that accelerates the pace of social legislation. Some of the private Members' Bills have made history in the past but I do not agree with him when he says that whenever such measures are brought by a private Member, the Government stands in the way. I do not want to dwell on this point further but I would like to point out to the eminent Professor that social justice is one of the pillars on which the great edifice of Indian Constitution stands. The Government have always directed all its energy to bring forward legislation to remove the disparity that exists in society. Even the Hindu Succession Bill to which an amendment is brought forward today is on the statute book because it was brought forward by the Government. I do not want to speak more on this subject since the House will be happy to learn that the Government propose to accept the proposal for circulation of the Bill for eliciting public opinion.

Shri D. C. Sharma is not here. He will be sorry and surprised because his prophecy has failed this time. He prophesied that the Government will not accept this and that this Bill will meet with the same fate as his Bill met with today.

There is one thing which I could not follow. I do not know what purpose will be served by bringing in an amendment after section 23, as section 23A. If you will kindly see the Hindu Succession Act—section 23—you will find that this is a special provision in respect of dwelling houses. It at all it is thought proper and desirable that some amendment should be brought, that right has been given here under the law by virtue of section 14 of the Hindu Succession Act by making her an absolute owner. If that right has to be preserved, it is only fit and proper that that should come after section 14 and not after section 23, as section 23A.

Anyway, since this is coming back again to this House, after eliciting public opinion, the House will have full opportunity to discuss and debate on it, and take any decision that it may like. I need not mention anything more.

With these words, I support the proposal that the Bill be circulated for eliciting public opinion.

**Shri J. B. S. Bist (Almora):** Mr. Chairman, Sir, I thank all the hon. Members who have supported the Bill, and if three hon. Members have dissented, I am afraid that that is due to the fact that they have not gone through the Bill. If the Bill is read carefully,—I think I have understood them rightly—they will find that the woman's right has not been curtailed at all, unless I have made a terrible mistake in the language. A woman can sell at any time to any person but then the onus of proof is on the transferee. He has to prove before the court of law, when challenged, that he has paid so much money or amount for the property and that the property was worth so much. For this, there is no provision at present in the law. So, with that remark, the argument that the woman's right is curtailed, goes.

I thank the hon. Minister for having accepted the motion for circulation. I have put 31st December, 1962 for the simple reason that it may have a wide publication. As to the amendments, I

have heard the hon. Members, I have drafted the Bill in the manner I did, because I was also thinking that there are cases where even good people do not get loans now-a-days. I do understand the difficulty which my hon. friends who have dissented have expressed. But no right is taken away. That right is still there.

I submit that as far as the other points are concerned, as the hon. Minister himself has said, they can be rectified when the Bill comes back, and it may then be considered as to how they should be placed and whether more provisions or amendments should be made or not.

With these words, I thank the hon. Minister once again.

**Mr. Chairman:** The question is:

"That the Bill further to amend the Hindu Succession Act, 1956, be circulated for the purpose of eliciting opinion thereon by the 31st December, 1962."

*The motion was adopted.*

16:20 hrs.

#### UNTOUCHABILITY (OFFENCES) AMENDMENT BILL

*(Amendment of sections 3 and 4)*

**Shri Siddiah** (Chamarajanagar):  
Sir, I beg to move:

"That the Bill to amend the Untouchability (Offences) Act, 1955, be circulated for the purpose of eliciting opinion thereon by the 31st December, 1962."

Under article 17 of the Constitution, untouchability is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of untouchability shall be an offence punishable in accordance with law. This Untouchability (Offences) Act was enacted just to give effect to the provisions of article 17 and to punish the practice of untouchability. I have moved an amendment to sections 3 and 4 of the

Act. Section 3 of the Untouchability (Offences) Act restricts the religious right of a member of the Scheduled Castes belonging to a particular religion or religious denomination or section of the religious denomination from entering and offering worship in any place of public worship which is open to a member of a different religion or religious denomination or section of a religious denomination. Similarly, section 4 restricts his social rights to the use of a river, well, road, *dharamsala* and places of public resorts. The object of this Bill is to secure equal religious rights for Scheduled Castes with any Hindu and equal social rights with any member of the general public.

Section 3 is meant to punish offences regarding religious disabilities. I will read it:

"Whoever on the ground of 'untouchability' prevents any person

(a) from entering any place of public worship which is open to other persons professing the same religion or belonging to the same religious denomination or any section thereof, as such person; or

(b) from worshipping or offering prayers or performing any religious service in any place of public worship or bathing in, or using the waters of, any sacred tank, well, spring or water course, in the same manner and to the same extent as is permissible to other persons professing the same religion or belonging to the same religious denomination or any section thereof, as such person,

shall be punishable with imprisonment which may extend to six months or with fine which may extend to five hundred rupees or with both".

This means, this section divides public places of worship into three categories. The first category is, a public place of worship open to other persons professing the same religion.