

[Shri M. C. Shah]

Andhra), as they now stand amended.

- (iii) Amendments to the Subsidiary agreements between the Reserve Bank of India and the Governments of Madhya Bharat and Travancore-Cochin, with effect from the 1st April, 1953.
- (iv) Subsidiary agreements between the Reserve Bank of India and the Governments of Madhya Bharat and Travancore-Cochin, as they now stand amended.

[Placed in Library. See No. S-210/53.]

STATEMENT *re* SUPPLEMENTARY DEMANDS FOR GRANTS FOR 1953-54 (P.E.P.S.U.)

Shri M. C. Shah: I beg to present a statement showing Supplementary Demands for Grants for expenditure of the Patiala and East Punjab States Union for the year 1953-54.

[Placed in Library. See No. S-211/53.]

SUPPLEMENTARY STATEMENT OF EXPENDITURE FOR 1953-54

Shri M. C. Shah: I beg to present a Supplementary statement of expenditure of the Central Government (excluding Railways) for the year 1953-54.

[Placed in Library. See No. S-212/53.]

SPECIAL MARRIAGE BILL—*contd.*

Mr. Deputy-Speaker: Now the motion on the Special Marriage Bill.

Dr. Lanka Sundaram (Visakhapatnam): Sir, with your permission I desire to draw your attention and also the attention of the hon. Members to the manner in which the order of business as laid down in the Order Paper is being frequently altered. You will not have failed to notice,

Sir, that during the past 48 hours as many as three changes were made in the order of business at the instance of Government, incapacitating hon. Members from properly exercising their rights of discussion of the items involved. There can be no doubt, Mr. Deputy Speaker, that the House will not do its duty to the country by delaying all the legislative and other business brought by the Government. I feel that by such changes hon. Members will not be able to participate fully in the debates. I will appeal to you, Sir, that at least in future such frequent changes are not made.

Shrimati Renu Chakravartty (Basirhat): Since the original resolution was withheld by Maulana Abul Kalam Azad, the same resolution has been circulated to us. Naturally, there was no time to put forward any amendment up to this time. Therefore I did come to you, Sir, with an amendment. This resolution has been already presented to the House and it is being taken up now. Therefore, I would like to know what is the procedure; what should we do; whether our amendments are likely to be allowed to be moved or will be debarred.

The Prime Minister and Leader of the House (Shri Jawaharlal Nehru): So far as this resolution is concerned, the matter was postponed till today. There is no question of withholding or changing or varying anything. It is coming up again for consideration. Unfortunately, I was not here during the last two days and I have not been intimately acquainted with the changes. Obviously, on some matters changes became essential because of something that happened in the House. For instance, this particular matter, this motion about the Special Marriage Bill was postponed and something else had to be shifted. After that there was the resolution in the name of the Home Minister for a discussion of the Report of the Commissioner for Scheduled Castes and

Scheduled Tribes. At the desire of the Members of this House it was postponed again for two days. It was not Government's desire to postpone it at all. Many Members of this House, especially those belonging to the Scheduled castes wanted to postpone it. Government acceded to their wish in this matter. The natural consequence was that other matters on the agenda paper had to be taken up. So, really to some extent, Government has been compelled by circumstances. They had no desire either to postpone the first matter or the second matter. Inevitably, Sir, when previous matters are postponed others come up for discussion.

Shri V. G. Deshpande (Guna): Previously, two Bills when they were being discussed were postponed indefinitely. Last time when the Ancient Monuments Bill was being discussed, I was on my legs when the discussion closed for the day. I did not know when it came up again some 8 or 10 days later. Yesterday we were discussing the Minimum Wages Bill, and today we find that we do not know when that Bill will come up again. Thus the Bills are being postponed in this manner.

Mr. Deputy-Speaker: So far as yesterday's work is concerned, the two Bills had been included in the agenda. As the hon. Leader of the House has suggested, they had to be taken up owing to the previous resolutions being postponed with the consent of all parties in the House, to accommodate them, so that they may come to some conclusion or come prepared with the matter better.

Now, regarding the amendment sought to be moved today. There is no change in the old resolution. The matter was only put off and was not withdrawn and it is now coming up in the usual course. Unless the Government is willing to accept the amendment, I am not willing to waive notice.

Shri K. K. Basu (Diamond Harbour): May I know when the Minimum Wages Bill will be taken up again. As hon. Mr. Deshpande said, let us be sure about the other items as to when they would come up. Will it come up at least immediately after this resolution.

Shrimati Renu Chakravartty: May I point out another thing, Sir? When certain things were postponed, Government had recognised that there were some flaws and that there was some reason for postponing them. We naturally thought that the Government party would consult us. We had not brought in amendments, at least my party had not brought in amendments. We did not know what was going to happen. We thought that the Government would consult us. But, now we find that the same thing has come up after postponement. Naturally, I think it would be right on the part of Government and yourself to accept that our amendments be moved, so that they may be before the House and they may be considered.

مجلسٹر آف ایجوکیشن ایڈز نیچرل

دسورسز ایڈز سائنٹیفک رسرچ (مولانا

آزاد): جناب میر نے اس دن جو

تحریر کی تھی وہ صرف یہ تھی کہ

اس وقت یہ معاملہ ملٹوی کہا جائے

اور ۱۶ تاریخ کو پڑھیں ہو - اگر آئیڈیل

لہدی ممبر نے کچھ اور نقشہ ایسے سامنے

دکھا ہو تو اس کی ذمہ داری مجھ پر

نہیں ڈالی جا سکتی -

[The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): Sir, the motion that I made that day was simply to the effect that the issue might be put off for the present and that it should come up on the 16th. If the hon. lady Member had some other plan in view I cannot be held responsible for that.]

Shrimati Renu Chakravarty: Postponement means that there is something wrong somewhere.

Mr. Deputy-Speaker: The hon. Member is taking a curious exception to the procedure. On that day, I was here and the hon. Speaker was in the Chair. The resolution was moved and every amendment was allowed to be moved and then a discussion took place. Nobody prevented the hon. Member or any Member of her party from tabling amendments which she wants to move today. There is no change that has taken place except that for the purpose of consideration this has been adjourned from that day to this day. I cannot reopen it now, and offer opportunities for the hon. Members who have already spoken to offer their remarks with respect to these amendments. Therefore I am not going to allow the hon. lady Member to move any amendment. There was no doubt or misapprehension regarding the procedure. There is nothing new which is brought in now which necessitates an amendment.

We will now proceed with the discussion of the matter. Has the hon. Minister got to make any submission?

The Minister of Home Affairs and States (Dr. Katju) rose—

Shri S. S. More (Sholapur): Are we discussing any point of order, Sir?

Mr. Deputy-Speaker: I am asking the hon. Minister whether he has anything to say.

Shri S. S. More: Will it not be better if some of us are allowed to press our points of order?

Mr. Deputy-Speaker: Let us hear the hon. Minister. The other day the hon. Minister said that this matter may be adjourned for the purpose of considering the matters that were placed before the House at that stage.

Dr. Lanka Sundaram: Sir, the other day Mr. Chatterjee was on his legs.

Mr. Deputy-Speaker: The hon. Minister had not made any speech.

If he wants he may make any submission at this stage because it was postponed.

An Hon. Member: Sir, the hon. Law Minister is not here.

Shri Jawaharlal Nehru: Sir, my colleague the Law Minister is in the other House. He cannot come here because he is in charge of a Bill in the Council of States and he is actually piloting it. He has asked his colleague the Home Minister to be in charge. He might be coming in the course of the day.

Mr. Deputy-Speaker: Does the hon. Minister want to speak now?

Dr. Lanka Sundaram: May I raise a point of order, Sir?

Dr. Katju: My hon. friends who desire to intervene in the debate may do so.

Mr. Deputy-Speaker: I wanted to know whether he wants to say anything. As a matter of fact, Mr. Chatterjee was on his legs and was in possession of the House.

Dr. Katju: I thought that Mr. Chatterjee had finished.

Dr. Lanka Sundaram: The Parliamentary Bulletin says that he was on his legs.

Dr. N. B. Khare (Gwalior): It is announced in the Parliamentary bulletin. It appears that the hon. Minister does not read those bulletins.

Shri P. N. Rajabhoj (Sholapur—Reserved—Scheduled Castes): On a point of order, Sir. पहले शेड्यूल्ड कास्ट्स और शेड्यूल्ड ट्राइबल रिपोर्ट पर डिस्कशन होने वाला था, लेकिन यह नहीं हुआ, हालांकि भाज के लिये प्रामिज किया था। इस के बाद आप ने मि० चैटर्जी को खड़ा कर दिया है। मैं हर वक्त खड़ा होता हूँ, लेकिन आप मेरी बात नहीं सुनते। मैं चाहता हूँ

कि चूँकि आज नेहरू जी भी बैठे हुए हैं इसलिये इस को ले लिया जाय और इस पर बहस हो ।

Mr. Deputy-Speaker: Order, order. So far as the hon. Member's point is concerned, the manner or order in which the business will be taken up is in the order paper. If there is any objection, I suggest it might go to the Business Advisory Committee. Now, as it has been mentioned in the order paper, we will go according to the order paper.

श्री पी० एन० राजभोज : यह कैसे होता है मैं यह पूछना चाहता हूँ । मुझे बोलने का, डिप्टी स्पीकर महोदय, समय मिलना चाहिये ।

उपाध्यक्ष महोदय : अभी नहीं मिल सकता ।

श्री पी० एन० राजभोज : इस के लिये पूरा एक दिन मिलना चाहिये । यह टाइम आप को नहीं लेना चाहिये । मुझे इस का जवाब मिलना चाहिये ।

Mr. Deputy-Speaker: Mr. N. C. Chatterjee.

Shri N. C. Chatterjee (Hooghly): Mr. Deputy-Speaker, I ought to remind the House that I was discussing the legality of the motion moved by the Law Minister. If you look at the order paper, the motion seems to be, on the face of it, very innocuous—

“That this House concurs in the recommendation of the Council of States that the House do join in the Joint Committee of the Houses on the Bill to provide a special form of marriage in certain cases....”

Unfortunately for this House, the entire Resolution passed by the Council of States was not placed before the Members. That ought to have been done and it leads to misapprehension. I ought to remind the hon. House that in that recommendation or

decision of the Council of States, the Resolution runs as follows:—

“That the Bill to provide a special form of marriage be referred to a Joint Committee of the Houses consisting of 45 Members....”

Then it says that they will nominate 15 Members from the Council of States and that 30 Members should be nominated by the House of the People. Then it says that in order to constitute a sitting of the Joint Committee, the quorum shall be one-third of the total number of Members of the Joint Committee. What is most objectionable and what I maintain is repugnant to our Rules is the next clause which says that “in all other respects, the Rules of Procedure of the Council of States relating to Select Committees shall apply with such variations and modifications as the Chairman may decide.” That means that not the Rules of Procedure of this House with regard to Select Committees, but the Rules of Procedure framed by the other House shall apply. Not only that. The Chairman of the other House shall have complete power to alter, modify, vary or amend in any way those Rules of Procedure. That, I maintain, is not proper and it is treating this House with scant courtesy, which ought not to be accepted.

You know, Sir, that under rule 60 of the Rules of the Council of States, the chairman of the Select Committee shall be appointed by the Chairman of the Council from amongst the members of that Committee. Now, that is against our Rules. When we had a Joint Committee before, our Speaker appointed the chairman. That is very important, because very important functions, powers and duties are assigned to the chairman. He has got to deal with points of procedure, points of order, points of privilege; not only that; in case of doubt or dispute, the matter has got to be referred to somebody. Under our Rules, the Speaker has got the final authority in this matter. That power of the

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Speaker is being taken away in this manner by a side-wind "that in other respects, the Rules of Procedure of the Council relating to Select Committees shall apply". That is not proper. In the case of important Bills, you have got to send for members and the question of production of witnesses, production of documents, etc. is there and in all these matters there may be differences and disputes and those things have got to be decided by somebody. Under our Rules, the sole authority is the Speaker. The Speaker, therefore, has been placed on a special pedestal, and I think the House will be stultifying itself and stultifying the position of the Speaker if we accept this motion without any amendment.

Really, Sir, proper rules ought to have been framed and those rules ought to have been placed before the House. After the House has debated, after the House has considered them and after the House has approved of them, you could think of passing a Resolution like this. Look at our Rule 74. It is not merely a question of technicality. I am emphasising that Rule 74 of our Rules of Procedure says "Motions after introduction of Bills". If and when a Bill is introduced in the House, then a motion can be moved for a reference to a Select Committee of the House or reference to a Joint Committee of the two Houses. There is no Bill, there has been no introduction, there has been no consideration, there has been no opportunity of discussing whether the introduction should be allowed or not, and still, by some kind of curious procedure, we have been asked to consent to a Joint Committee. This is clearly repugnant to our Rule 74, the condition precedent being introduction of the Bill in this House. If necessary, the House, at that stage, has got the right to throw it out. Once it is accepted, then only this motion is relevant. I am submitting that this is clearly repugnant to that Rule and it is not a question of technicality, but it is a question of the privilege of

each and every Member of the House. These Rules have been framed under powers given by the Constitution and they have statutory force under the Articles of the Constitution. They are as much part of the Constitution as the Articles themselves. Under the Rules, there are safeguards for each and every Member. These rules, are framed for the purpose of ensuring the powers and privileges of the House but also for protecting all the Members of the House from the vicissitudes of party politics, that is, they shall not be subjected to play of party whips or domination of one party, over another. This is to safeguard the interests and privileges of each and every Member. Therefore they should not be cast to the winds in a light-hearted manner. What will be the position of the Select Committee, if formed before introduction? The Bill is not before the House, the Bill is not on the order paper and the Bill is not introduced, and therefore there is no chance of considering the principle of the Bill. At the same time you are sending some Members to the Joint Committee of the other House. Does it mean that you are committed to the principle of the Bill? Does it mean that we have got to accept the principle of the Bill? I am not going deliberately into the question of merits or demerits of the Bill now. There may be Members who have been saying that this point of order is good or quite correct, but they may be supporting the Bill on merits. Some may be opposing the Bill on merits. Let us not confuse the merits with the question of procedure, with the question of the legality of the Joint Select Committee. What I am saying is that it will not be right to consider this Motion. In Australia they can do something like that. With regard to England, the procedure is different—and I read out one passage—and I have further considered the matter. According to the latest edition of May's Parliamentary Practice, the practice is not to nominate any members if the House of Lords wants to have a Joint Committee. What the

House of Lords does is this. They first of all send a message to the other House and inform them that they desire to have a Joint Committee appointed and they desire the concurrence of the House of Commons. If the House of Commons concurs in that Resolution, then they send a message to that effect to the House of Lords, and then the House of Lords appoint a Committee of certain members and send a message to the House of Commons and requests the House of Commons to appoint a number of members to join the Committee appointed by the House of Lords. I also told you, Sir, that on this point in England it is regarded as discourtesy to the House of Commons if the House of Lords appointed a list of members and forwarded the names.

It will not be quite right to refer to May's Parliamentary Practice, because in England, so far as I know, there is no rule corresponding to our rule 74. There is no rule there which says that the introduction of the Bill is the condition precedent to the entertainment of a motion to refer the Bill to the Select Committee. That is not there. Then, Sir, in England, there are provisions to the effect that the procedure of a Joint Committee may follow the procedure of the Committee of the House of Lords, but that is not our procedure. That is not our practice. Why should we blindly follow English procedure and practice when our Constitution has deliberately placed the House of the People on a higher pedestal, when the Speaker has been given special powers and privileges which have not been given to the Speaker of the House of Commons?

Then, Sir, if we accept the hon. Mr. Biswas' motion, we accept another portion of the recommendation to the Council of States. The Council of States resolution is that the Bill shall be reported to the Council of States. So, the report of the Joint Committee goes to the Council of States. In England, Sir, it is entirely a different procedure. It goes to both the Houses. I think, Sir, it is only right that the leader of the House—I am glad that

he is here today—should have taken into confidence the Rules Committee, sat down with them, discussed the matter, framed the rules, and got them passed by both the Houses. Then, we could have a Committee like this, but it is entirely irregular and unconstitutional at this stage.

Then, Sir, I am told that there is some analogy for this in the Australian Constitution. I have considered it very carefully. In Australia, in every message proposing to the House of Representatives the appointment of a Joint Committee, the Senate will state the number of senators to be appointed. It will first appoint a Committee, then the number of senators is fixed and they are appointed, the quorum is fixed and the time and place of the first meeting is given, and the Senate will then take up the matter. But what I am pointing out is this, that our constitutional set-up is entirely different. If we look at our Constitution, there is a special provision under article 108...

Mr. Deputy-Speaker: I am afraid all this was said the other day.

Shri N. C. Chatterjee: I am only pointing out this, that there is no provision in the Australian Constitution corresponding to article 108. Article 108 clearly says that in the joint session, the Speaker shall preside. There is no such provision in the Australian Parliament. There is no such provision in the British Constitution either. We are governed by our Constitution which is a paramount, organic law and it is binding on all of us, and so long as that law is there, we should not circumvent it. That shows that even when a Joint Committee is appointed and all the 750 Members of both the Houses sit together, even then, the Speaker is dominant. His is the main voice determining everything. Therefore, Sir, I should request the Leader of the House seriously to consider whether the Government should not accept the position candidly—that there has been a misconception of the entire procedure, an irregularity has been committed and

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there should be no repetition of such a motion like this. The rules in respect of Joint Committees should be framed without delay and they should be placed before the House for approval and it should be made clear that—even if it is forced down by a majority, or a party whip—in no event does it mean the adoption of the principles of the Bill. The introduction stage must come before this House, and this House shall have the right to discuss the report. It is in a peculiar position in which we are now placed. The other House will have the right to discuss, not we. They will have the right to amend or throw it out, not this House. And then later on, some day it will be presented, and then only we could take cognizance of it. I submit that this is entirely irregular and is repugnant to our rules and the spirit of our Constitution.

Mr. Deputy-Speaker: A point of order was raised, so far as this matter was concerned, by Dr. Lanka Sundaram. After that point of order, Mr. Chatterjee has spoken now. So far as that matter is concerned, we have spent a lot of time. I would allow hon. Members to speak, but I would like to limit the time within which they must confine their points. Then, after the point of order is disposed of, the House may consider what more has to be done with respect to the motion. Now, so far as the point of order is concerned, are we discussing the motion as a whole?

Dr. Lanka Sundaram: If you will look into the records of the proceedings, you will see that the hon. Speaker ruled that mine is a motion seeking to substitute the motion of the hon. Law Minister, and he permitted a debate on this, on procedural, constitutional basis, keeping aside the merits of the Bill. That is the position—not a point of order. We are not discussing a point of order.

Mr. Deputy-Speaker: Then, so far as the competency of this House to go into this matter of appointing a Committee is concerned—that point

will be discussed: and the merits, if any, will be discussed later. So far as that matter is concerned, I will allow ten minutes for each hon. Member.

Shri S. S. More: Within the time allotted, I will very hurriedly advance my points on the question that has been raised. I may state the point of order straightaway. In spite of my great sympathy for the principles embodied in the original Bill, with which I whole-heartedly and entirely agree, my point is this. The real point is not regarding the merits of the particular measure, but the procedure that we are following in order to give sanction or approval of this House. May I submit that by moving this particular resolution, the Law Minister in charge, and the Council of States, by passing that particular resolution, have committed a serious mistake or have made a serious inroad on the exclusive powers of the President himself. This is a point, Sir, which will cover entirely a new ground. May I refer you to article 108 of the Constitution? It is the President, Sir, who can decide when the Joint Committee of both Houses can meet and under what circumstances. It is also the sole prerogative of the President to frame the necessary rules for such a joint sitting. I refer you now to article 118(3).

Mr. Deputy-Speaker: This is not a joint sitting of the Houses.

Shri S. S. More: Sir, under article 118, each House can decide the rules of procedure. Under sub-article (2), when the House has not decided any rules of procedure, during the period of transition, the gap has to be covered, and the Speaker of this House is empowered to frame certain rules by modification, adaptations, etc., of the original rules that applied to the provisional Parliament, and the Chairman of the Council of States is also equally empowered to make necessary adaptations and modifications. Now, beyond

that we go. I shall read sub-article (3) of article 118:

"The President, after consultation with the Chairman of the Council of States and the Speaker of the House of the People, may make rules as to the procedure with respect to joint sittings of, and communications between, the two Houses."

Now, as far as the Constitution is concerned, it is absolutely silent regarding the constitution of joint committees by both the Houses. For instance, take the standing orders. The Standing Orders of the House of Commons—Order No. 38, lays down that when a Bill originates in the House of Commons, the House of Commons, along with the other motions, can move that the Bill be referred to a joint committee of both the Houses. But that procedure is the product of conventions. They deal with those matters on the basis of a long tradition and usage and slowly, by practice, it becomes the beacon-light for the future generation. But as far as we are concerned, we are at the very beginning of our democracy, and as far as usage is concerned, our slate is absolutely blank.

An Hon. Member: Clean.

Shri S. S. More: Yes, clean. I accept the correction. The real question is, the powers, privileges, of the Houses of Parliament as prescribed in article 105 of our Constitution are modelled according to those obtaining in the United Kingdom. In framing our pattern of the Constitution, as a matter of fact, the constitution-makers were more influenced by the particular form of parliamentary democracy which was prevailing in the United Kingdom. On certain occasions, they deviated from that procedure where it could not be applicable to us, but as a matter of fact, the practices prevailing in the British Parliament, in the United Kingdom, have become the basis and foundation of our parliamentary constitution and structure. So, can we go to the Parliamentary precedents, as adopted in the

United Kingdom, where we have not followed those provisions in our Constitution? But the object with which they framed our Constitution—article 105—was that whenever there is no mention of any rules, powers, privileges, etc., those powers, privileges, etc., as they obtain in the House of Commons shall be the powers and privileges of the Members of this House.

3 P.M.

I do not wish to cover the same ground which has been covered by my hon. friend Mr. Chatterjee, but I wish to point out that as far as Joint Select Committees are concerned the procedure is entirely different. Take for instance the suggestion made in the Resolution passed by the other House that the total membership of the Committee will be forty-five of which thirty would be from this House. Now, what is going to be the quorum? As far as we are concerned, we have framed rules of procedure of Select Committees appointed by us under sub-clause (2) of Article 118. But these rules do not give us any power to control the proceedings of a Joint Committee. Neither the Speaker of this House nor the Chairman of the other House was competent to frame such rules. Such rules, if framed, will have application to the other House and no Speaker can legislate for the Council of States; nor can the Chairman of the Council of States, howsoever eminent may he be, legislate for this House. Therefore, the President comes in. So, this conflict has to be resolved under Article 118, clause (3).

Sir, I am not approaching this problem from the point of view of superiority of this House or of the other House. I do not consider that they are on an equal footing. But there are many who contend that they have equal status. Accepting that logic, certain precedences have come to this House. Take for instance a joint sitting of the two Houses. The Constitution does not leave it to the President to decide who shall preside over

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such sitting. He can frame rules regarding other matters. But it is definitely laid down that at a joint session of the two Houses, the Speaker shall preside. Then again, in regard to money Bills, the Speaker has the unchallengeable right to certify whether a Bill is money Bill or not and his decision shall be final. A Chairman of the Council of States, though he may disagree with the decision of the Speaker cannot challenge it.

Spinning out my argument from Article 118 (3), my contention is that when it refers to joint sittings it refers to the joint sittings of the parent body; *ipso facto*, it also refers to the joint committees which are the creatures of the two Houses. It is only natural that all of us have a sense of dignity. It is a human weakness for us to feel that we are superior. The Members of the other House may reciprocate the same feeling. Who then is to sit in judgment? We are not competent to decide on our own superiority; nor are they competent to say that they are superior in this particular matter. When our senses of superiority come into conflict, then some machinery has to be devised for resolving this conflict. I submit it is the function and privilege of the President to sit in judgment over both Houses and say: here are the limits of your jurisdiction, here they end, and the jurisdiction of the other House begins. So, I rely on this Article 118.

Sir, our Constitution—I do not mean any disrespect to it—was patterned on so many things. In our effort to borrow from different countries, certain lacunae have been left in the whole Constitution; some crevices are there which will have to be filled in by subsequent amendments. This is one of the lacunae left in the Constitution itself. On the principle of interpretation of statutes, I feel that while regarding the parent bodies certain provision has been made in the Constitution and power has been given to the President, regarding the children of the parent bodies the same

practice ought to prevail to hold the scales even.

Now, what the other House has done is this. They have appointed a Committee to which they have nominated members. Not only that, they have also laid down procedures for the Joint Committee. Now the Members of this House are amenable to the rules framed by the Speaker. The other House has no right to frame rules for us.

On account of the short time available at my disposal, all that I wish to point out is that Article 118 is the deciding article in this matter and it is to the President that we should refer this dispute. As a matter of fact, he will consult the Speaker of the House; he will also consult the Chairman of the other House and evolve a procedure which will be suitable to our temperament. We need not go after precedents from England, because the practices there are the products of a peculiar national tradition and of a long struggle. As long as we have not passed through those struggles, we cannot imbibe the spirit in which their practices have been modelled and arrive at a conclusion. Therefore, I say, this is not a matter which is within the domain of this House or of the other; it pertains to a sphere which is kept exclusively within the prerogative of the President, as laid down in Article 118(3).

Shrimati Renu Chakravartty: I should in the very beginning point out that the occasion on which this constitutional crisis has come about is in connection with a very important Bill. The history of that Bill has been that its progress has been stalled for years almost. Even after this Parliament came into being, in the Upper House when this measure came up there were certain Members who tried to stall it by raising certain issues as to whether the Upper House could debate a measure which involved some financial commitments. Therefore, Sir, it

is in this background that this entire question has to be viewed.

There is no doubt, Sir, that there are certain constitutional difficulties. And it is just here that I cannot appreciate the attitude adopted by the Leader of the House or the Deputy Leader of the House. It was definite that there were certain constitutional difficulties for which the matter was postponed. Yet, they could not call all the other parties in this House, tell us quite frankly: "This is our attitude, these are the reasons why we have done it, we want your opinion." I do not think the Leader of the House was prepared for that. That would have helped them in many ways to find some sort of a solution to get out of this constitutional difficulty without exaggerating the rights of either House to such an extent as to stall this progressive legislation. Therefore, I feel that all this trouble has arisen on account of the attitude taken by the majority party in this House. We have seen how the work of this House is being carried on, how excuses have been made that some Members of this House wanted the postponement of some discussion and the agenda is chopped and changed. It is stated that at the request of certain Scheduled Caste members this was done, but it is a patent fact that where the ruling party has such a huge majority the opinion of its Scheduled Caste members would prevail and it was quite possible to ascertain their opinion. In that case it is but natural that we should have been given timely notice. Again and again we have been put in this position. We come to this House prepared for some Bills; suddenly some other Bills are brought forward and we cannot properly discuss them. That was what happened yesterday too.

Therefore, if we have to function properly as a House, both sides of the House have to be taken into confidence and certain exchange of opinion has to be made. That was why my party did not put certain amendments on the first day. We wanted to hear many of our friends here and watch

how they were going to argue the case. When we found that Government themselves were abandoning the issue, we thought that some sort of a round table conference would take place. Many of us are anxious that this Bill should go through. We do not want a progressive measure of this type to be stalled for a minute longer on account of some constitutional or procedural difficulties.

But when we found the motion on the Order Paper which came to us last night, naturally we rushed together, discussed the matter with all the seriousness at our command and came to certain conclusions. We do feel very strongly that the majority party has been at fault in not drawing up rules of procedure for joint select committees. It is their duty to see that the legislative machinery work properly. At the same time, out of fear that this Bill might be shelved as it has been shelved again and again, we thought that we might propose a compromise, a compromise only once. We want to make it clear that it should not be treated as a precedent but for this once; because there is a history behind this Bill, we would welcome some sort of rules which would guide the proceedings of the joint select committee composed of Members of both Houses. The question of the two Houses is not of our doing. We do not stand pledged to a bicameral legislature. But you have brought it into being. When Parliament consists of two Houses it is only right that we should co-operate with each other and find out how we could act together in the interests of the people.

Because there are certain defects in the way legislation has gone through, in the way the rules of procedure have been drawn up, we thought that at least for this once we would suggest a sort of compromise that this Joint Committee should function according to rules drawn up in accord between the Chairman of the Council of States and the Speaker of this House....

Dr. Lanka Sundaram: No.

Shrimati Benu Chakravartty: Let me proceed. You had your say. We heard you in patience, and I think I have every right to put forward my point.

Therefore I also suggest that the presiding officer of the Joint Committee should be agreed upon by the Chairman and the Speaker, because both the Speaker and the Chairman have come into existence with the support of the ruling party. They can agree, and after all they could draft these rules.

It is only in this way we feel that we will be, in this one instance, able to get through this Bill. Otherwise what is the consequence? If today we have to draw up the rules of procedure, it will take a couple of days. After that it has to be discussed in this House, and then it has to be discussed by the Upper House. The sum total of it will be that the entire question will be shelved again this session. And it will not come in the next session which is heavily booked for budget discussions. This is the sum total. Therefore all that we very categorically state is that the entire situation has been brought about because of the failure of the Government and because of the Leader and the Deputy Leader. We feel in the circumstances some sort of compromise should have been brought forward instead of just bringing the same resolution as was postponed at the instance of the Deputy Leader. With these few words I would like to put our position before the House.

Shri U. M. Trivedi (Chittor): Sir, on a point of information. I would like to put one question before the Prime Minister speaks. The question is only this much. Does this motion mean that we Members of the House of the People are precluded from expressing our opinion whatsoever for the benefit of those of our Members who will go into the Select Committee, and are we to sit as mummies?

Mr. Deputy-Speaker: On the merits of the Special Marriage Bill?

Shri U. M. Trivedi: Yes.

Mr. Deputy-Speaker: We were discussing the procedure first.

Shri Jawaharlal Nehru: Mr. Deputy-Speaker, I am full of admiration of the vigour and animation, devoid of all sense, that can be put forward by the hon. Member opposite. I admire her vigour in this matter and the enthusiasm she shows but, as often for a wrong cause.

I really have been trying very hard to understand wherein I or my colleague have erred in this matter. The hon. Member referred to a grave constitutional crisis and to something happening and something not happening. What has happened? I say the resolution that has been put forward is simple, logical, absolutely correct. (*Interruption*). We have also, apart from our poor knowledge of law, legal advice. I cannot of course take up the legal niceties of lawyers. But I do submit to this House that if they consider this matter coolly they will see that there is absolutely no desire to by-pass anybody or not to consult anybody. Members opposite or any one. But it never struck me that there was a bit of a doubt about it. Maybe I was wrong, maybe I am limited in outlook or I did not think of it. But it did not strike us that there was the slightest doubt about this. And therefore we put up a simple resolution.

There is no doubt about it if I may say so, that a joint select committee is provided for in our Rules, Constitution, etc.

Some Hon. Members: No.

Mr. Deputy-Speaker: Order, order. There is a reference to joint select committee.

Shri Jawaharlal Nehru: There are references all over the place. I do not mean to say that a joint committee can be imposed on either House. Of course not. But provision is made

for a joint select committee. If so, no interpretation which puts an end to that provision, which makes it impossible of being held can be a correct interpretation.

A Bill can originate in this House or in the other House. And if a joint select committee is to be had, then in the House in which it originates—in that House—steps must be taken for the joint select committee. It is then open to the other House to agree or not to agree. That is obvious. But the House in which the Bill originates remains seized of that Bill; the other House is not seized of it except in so far as it agrees or does not agree to send Members to that joint select committee.

Now, I am not going deeply into that matter. I do not wish to take time which other Members might. My colleague the Law Minister or the Home Minister will deal with it. I intervened because there is so much being said about rules being framed and the rest. Well, certainly have rules framed. But, hon. Members must see that there are certain rules already and, as it happens, the rules of the Council of States and the rules of this House are, practically speaking, identical in regard to select committees

Shri S. S. More: But not joint select committees.

Shri Jawaharlal Nehru: There are no rules for joint select committees. But a joint select committee is also a select committee. By adding the word "joint" it does not become anything other than a select committee. The only question that might arise in this matter—the rest is perfectly clear, the rules are there—is who should be the chairman of that committee.

Shrimati Renu Chakravartty: The rules are not there.

Shri Jawaharlal Nehru: Rules are there for select committees. They are identical rules. If there is a joint select committee the only question that might arise is who should be its chairman.

Shri S. S. More: Sir, the Leader of the House says that there are rules. Suppose the joint select committee functions with fifteen Members from the Council of States and thirty Members from this House, what about the quorum? What constitutes the quorum? Will there be a separate quorum for each group?

Mr. Deputy-Speaker: All this was said. Let the Prime Minister go on.

Shri Jawaharlal Nehru: Sir, obviously it functions as a single committee, not as two groups meeting with separate quorums. Let us have the most detailed rules, comma, full-stop, semi-colon and all that. I have no objection. (*Interruption*). There is a certain confusion due to the fact that hon. Members have not really looked into the matter and they have been led away by the specious logic of an able lawyer like Mr. Chatterjee. I might say he argued the case in which I am sure there was nothing to believe. But he is an able lawyer and he can put forward a case....

Dr. N. B. Khare: The Prime Minister himself is an able lawyer. Why does he not answer it?

An Hon. Member: He is not the Law Minister.

Shri Jawaharlal Nehru: I submit that there can be, obviously, a joint select committee under the Constitution and the Rules. In order to have a Joint Select Committee, only that House in which a Bill is introduced can take the initiative. Obviously, the other House cannot, because it has nothing before it to take the initiative. That House, whichever it may be, takes the initiative and says: we should like to have a Joint Select Committee. That House then approaches the other House and says, we will be very glad if you are good enough to join the Select Committee, or put it as you like. The other House may agree or may not agree. But, the originating House is seized of the Bill; the other House is not seized of the Bill at all till it finally comes, passed by the other House.

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Therefore, all this argument is rather pointless, because the other House is not seized of the Bill. It is wrong to say, if I may submit my opinion, that by agreeing to the other House...

Dr. N. B. Khare: How can you marry without there being a bride?

Mr. Deputy-Speaker: Let there be no interruption. Let us be more serious about this matter. So much of discussion has taken place. Let this matter be decided.

Shri Jawaharlal Nehru: The hon. Member's intervention on this occasion at least is rather helpful. I do not know whether he wants that the bride should have two husbands or the husband should have two wives. We object to both, I may tell him.

Dr. N. B. Khare: As many wives as he can provide.

Shri Jawaharlal Nehru: It is obvious therefore that the Joint Select Committee can neither have two fathers nor two mothers. It must deal with one House. The Members of the other House are invited to help, to co-operate in the fullest measure, in fact, not only to co-operate, but dominate the scene, because of their number. That is a different matter. So that, you cannot have a Joint Select Committee except when it is responsible to the House which is seized of the Bill, because the other House is not seized of the Bill at all, except when it finally comes up. It is a matter of convenience. The two might consider together so as to save time, and get the best judgment out of a number of selected people from both the Houses, from the report.

Therefore, I do submit, if I may repeat, that there can be a Joint Select Committee under our Constitution: there is no doubt about it. Secondly, the House where the Bill is originated, requests the other House to participate. The other House may or may not participate. Nobody can force any House to participate. But, if it participates, it participates by sending Members, still on the assumption that

the other House is seized of the Bill. It participates without committing itself to the general principles of the Bill, because, they have not been discussed in the other House. How can you say that they have committed themselves without discussing? That is a perfectly legitimate argument. Therefore, when you consider a Bill in a Joint Select Committee, the report should be to the particular House which is seized of the Bill. They do not report to the other House.

Shri S. S. More: What is your authority for this particular statement?

Shri Jawaharlal Nehru: Which statement?

Shri S. S. More: That the report of the Joint Select Committee will be submitted to that House: is there any procedural authority?

Mr. Deputy-Speaker: That is the motion.

Shri Jawaharlal Nehru: The authority is, if I may say so in all humility, commonsense.

Shri S. S. More: No, Sir. I am sorry; in the U.K. they have a lot of commonsense in the matter of procedure.

Mr. Deputy-Speaker: This kind of interruption does not help any one. The hon. Prime Minister has been saying that the Bill originated in the other House, that it is open to them to appoint a Select Committee or a Joint Select Committee, that they are seized of the Bill, that it is open to this House to consent or not, that if it consents, it will be naturally subject to the jurisdiction of that House and the report has to be sent to that House. All this, he has been saying categorically.

Shri Jawaharlal Nehru: It can only report to the House which is discussing the Bill. It cannot send the report to the House which has not considered the Bill even in the initial stages. It has no meaning.

The only matter which is not clear in this matter, although I think there is no doubt about it, is as to who should be the chairman of the Committee.

Shrimati Sucheta Kripalani (New Delhi): That is the least part.

Shri Jawaharlal Nehru: I do submit that there can be only two ways of having a chairman. One is for the initiating House, whether the Speaker or the Chairman, to appoint a chairman or in the alternative, one may have the convention of the chairman being elected by the Committee itself. It is a possibility. The hon. Member Shri N. C. Chatterjee referred to the Australian procedure. Why he quoted from Australia, I do not know. I know nothing about the Australian Constitution; nor has anybody been influenced by it. Nor do we go to Australia for precedents. Even according to our own Constitution, we have been referring to the procedure in the British Parliament. That procedure is more or less the same as I have detailed just now. That is, either House can initiate and the other House may or may not accept. They nominate equal number of Members. That is neither here nor there. There, the Joint Select Committee selects the chairman. That is a possible procedure which one may have. I think it would be rather odd for one House to be seized of the Bill and be dealing with it and for the Chairman or Speaker of the other House to assume the responsibility and burden of appointing the chairman and issuing instructions, when that House is not seized of the Bill. You will be putting him in an embarrassing position. Of course, it may be desirable that whether it is the Speaker or the Chairman, in regard to a Joint Select Committee, he may consult the head of the other House in appointing the chairman. I think that was possibly the intention. I am not quite sure, of the proposed amendment of the hon. Member opposite. It would be quite feasible and proper. But, it would not be right to tell them to do so. It

is a matter of convention that the one may consult the other and appoint the chairman. As a matter of fact, there is no harm at all in that. If I may put this case before the House, if this House desires to have a Joint Select Committee, we send a request to the Council of States that we should like some of their Members to join the Committee and they accept it. Well, our Speaker then naturally appoints the chairman. There is nothing to prevent our Speaker from choosing the chairman from the other House. In fact, there is a case in which he chose the chairman from the Members of the other House. We have had two Joint Select Committees already. In both these cases, the initiative was taken by this House. This is the first occasion when the initiative is being taken by the other House. There appears to be no reason why the same convention should not apply to the other House. It should be open to the Chairman of the Council of States, if he so chooses, if he likes, after consultation with the Speaker or without it, to choose one of the Members recommended by this House for the Joint Select Committee as chairman. I quite agree that it would be desirable for all these things to be put down in black and white, for our guidance, for the guidance of both the Houses, to prevent any misunderstanding or dispute arising. That should be done. That is a matter really for the Speaker and the Chairman. I think in some matters they have done so. Actually, for instance, in the matter of a Joint Session, they have consulted and framed certain rules and the President has issued them. That can be easily done, if there is any doubt. I do wish to assure the House,—if I may say so, the hon. Member opposite has rather hurt me by accusing me in this particular matter—I may be guilty in other matters—of ignoring the Members of the Opposition—this is not a party matter. Obviously, it has nothing to do with our party or any party. This is a matter of both the Houses. We do not deal with this matter in any party sense at all. We want to maintain the prestige of this House and the

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other House too. They are parts of the structure of Parliament. I do submit that we should find ways and means of the closest co-operation between the two Houses and not try to interpret rules and frame rules which might lead possibly to friction. Each House, within the terms laid down in our Constitution, is independent. If there is a sense of hostility between the two Houses, both suffer as Parliament is an organic whole.

Therefore, I do submit that our approach should be a friendly approach, consistently with the Constitution of course. There is no question of our going beyond that. But in this particular moment at no moment did it strike me that there was any doubt about this interpretation. We discussed it. We consulted our lawyers. They said it is perfectly clear and therefore we put forward a simple Resolution—an identical resolution, if I may remind the House, such as was adopted in this House twice. We have had two Joint Select Committees, and nobody raised any objection then. Now, this Resolution is quite identical, excepting that this Resolution emanates from there, and the other two emanated from the House of the People. We are just following a convention that has been laid down. Nobody objected then. It came as a great surprise to me that objection was taken here. What I am pointing out is it is absolutely no intention of mine to ignore any opinion.

And then, day before yesterday, when this matter came up, the moment I came back it was over then; I was told that this Resolution had been postponed for two days. My colleague had said so. Nobody even then suggested that there was going to be any change in the Resolution or anything else.

Dr. Lanka Sundaram: May I ask for a clarification from the Leader of the House on two very important points? I will state them very briefly.

The Leader of the House just now said about a Rule being framed. I dare say he is aware of the fact that the other House sent its draft Rule 80-A—exactly the rule which it wants to make now. And you were, Sir, the Chairman of the Rules Committee, and you know what exactly happened. Will he re-commit it to the Rules Committee now? There is still time.

And the second point is, once a new Rule is framed, then this motion can be taken up. I am not trying to indulge in dilatory tactics. It is a matter of merits because the entire gamut was gone through by the Rules Committee.

Shri Jawaharlal Nehru: The hon. Member referred to certain draft Rules sent by the Rules Committee of the Council of States to the Rules Committee of this House. They were accepted subject to three or four points that this Rules Committee raised. As a matter of fact there was only one point raised—others were, for instance, saying that this will not apply to financial Bills. Of course, another point was about quorums. There should not be separate quorums. Certainly, we should not have separate quorums. That is to say, the sole point of difference,—I won't say difference because the matter was not considered; it was a draft put forward and a draft reply; nobody has had time to consider the matter further—really the only point for further consideration for the moment is the question of the chairman. There is no other question at all, because the Rules for normal Select Committees apply, and as I have said the Rules are identical—the House of the People Rules and the Council of States Rules. There can be no dispute about identical rules, but the question of the chairman certainly is there, and I have submitted what I have to say about the chairman.

I will just repeat that we have followed in this matter the identical procedure that has been followed in this House when a Joint Select Committee was formed. Twice it has been

done, and on one of these occasions, while this House initiated this procedure, our Speaker actually appointed a Member of the Council of States, whose name came from the other House, as chairman of that Committee. So, it was really surprising that when we follow what we have already done there should be so much misunderstanding or feeling that this is something new, that a grave constitutional crisis has been created.

Mr. Deputy-Speaker: In view of the statement clarifying matters raised on one side or the other, is it necessary to pursue this matter?

Shri S. S. More: It has only been mystified.

Shrimati Renu Chakravartty: May I ask one question? On one occasion he says that there is necessity for certain rules to be set down. On the other hand, he says there is no necessity because the Rules are identical. Therefore, are we to have a set of Rules, or will we be just guided by certain conventions from time to time?

Mr. Deputy-Speaker: He has said the existing rules are enough.

Shri Jawaharlal Nehru: I have said about one particular matter, about the chairman, there is no rule. In regard to other matters there is no difficulty at all, but it is a good thing for this matter to be considered by the Speaker and the Chairman, so that formally things may be put down, and there might be no misunderstanding. I say "identical" after referring to that Rule and this Rule and other papers that people have referred to. Let us have it all together. It is desirable to put it down, but at the present moment there is no difficulty. I would have liked the Rules to be there, of course, now, but I do not think there is any major difficulty in going ahead now. Later, let them be put down, and I will certainly request the Speaker and the Chairman to meet and settle this—or their Rules Committees as the case may be.

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But there is no difficulty, and I am anxious more particularly in the matter of this Bill that there should be no further delay. Really, if I may confess, we suggested this Joint Committee some time back because we thought that will save time. Some times the so-called shortest cut takes a longer time, because if we had not suggested this, this would probably have been passed by the Council of States by this time and this Bill would have come up here, but because of these objections raised and other things, it has been hanging there and it is hanging here, and I am not sure it is the shortest way of dealing with matters in the future.

Shri G. S. Singh (Bharatpur-Sawai Madhopur): May I ask for one clarification?

Mr. Deputy-Speaker: I will ask one or two representatives to speak.

Shri G. S. Singh: May I ask one point of clarification from the Prime Minister? I am not a lawyer. He said that this House is not seized of the contents of the Bill, therefore the Members are not seized of the contents of the Bill. The Members who will go to the Joint Select Committee are supposed to express the opinion of the House. How will they be able to express the opinion of the House, if they are not seized of the contents of the Bill?

Mr. Deputy-Speaker: We will go to the other portion. I will call one or two representatives, Mrs. Sucheta Kripalani and one or two others to speak with respect to this matter. If further clarification is necessary.

Shrimati Sucheta Kripalani: I do not think I have to assure you that we are as anxious as the Leader of the House to see that the Bill is passed as expeditiously as possible. We equally support and accept the principles of the Bill. At the same time, we are really not against the Joint Select Committee as such, but our objection

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is about the procedure that has been adopted. I am afraid the explanation that the hon. Leader of the House has given does not clarify the position any more for us. It may be true that we are lacking in commonsense, but with the sense we have we are not able to get any further clarification from the statement of the Leader of the House.

I think a constitutional impropriety has been committed in the procedure that was adopted and it is not the Members of the Opposition alone who took this view. It was more than obvious on the 14th that there was unanimous opinion about this. The speeches were first initiated from the Congress ranks. I do not know what the opinion of the Congress Members would be today after they have had a discussion in the Party and after they have received a whip. But I feel that when such a large number of Members hold that a constitutional impropriety has been committed, it shows that there is some lacuna or flaw in the position as it exists.

Then the hon. Leader of the House has said that the matter is simple, there are no difficulties. The only difficulty is about the chairman. To my mind that is the least part of the difficulty. There are two difficulties which are disturbing me. Number one is that we have not accepted the principle of the Bill, how do we go into the Select Committee? The procedure laid down in the Constitution in passing a Bill is that first we accept the principle, then it goes to the Select Committee, then it comes for detailed consideration; then the third reading. How do we square the procedure when adopted with the procedure laid down? We are not seized of the Bill, but we go to the Select Committee for discussion.

The second difficulty to my mind is that the Select Committee will report to the Council. The Council of States will bring in necessary amendments, will pass it and after that the Bill will come to us. Then, after we

have sat in the Select Committee, after we have finished the second stage of discussion, we come back to the first stage of discussion. I am not a lawyer. As I said, Members of the Opposition cannot boast of their brains, but we fail to understand this strange procedure. We feel there is some great procedural flaw in the methods we are trying to adopt

I would also draw your attention to the fact that Constitutions are not only written down. Constitutions are evolved from day to day, they are build up by tradition. Therefore, it is very necessary that we should be meticulously careful in regard to procedural matters. We cannot brush aside procedural matter as something not of great importance. It is of very great importance to see what decisions we take today, how we proceed, so that in future it becomes a matter of guidance. Therefore, I would like to emphasize the fact that in spite of the arguments put forward by the hon. Leader of the House, we feel that a constitutional impropriety is there, as has been ably placed before the House by Shri N. C. Chatterjee. It is a matter of surprise that the rules have not yet been framed. Article 118 (3) of the Constitution reads:

"The President, after consultation with the Chairman of the Council of States and the Speaker of the House of the People, may make rules as to the procedure with respect to joint sittings, of, and communications between, the two Houses."

This is the only reference to a joint sitting in the whole of the Constitution. One and a half year has elapsed since this Parliament came into existence, and yet we find that these rules have not been framed. I understand—if I am not wrong—that last time when a Bill was referred to a Joint Select Committee, the Members of the Upper House did raise an objection, but somehow or other, the

matter was brushed aside, and the Joint Select Committee met. So, again and again when the same constitutional difficulties are arising, it is time that we frame our rules, and put matters on a proper footing.

That is all that I want to say.

Dr. N. B. Khare: I am rather mystified by the hon. Prime Minister's exposition. If the position is so simple as that depicted by him,—I want to know from you, Sir,—why was the discussion of this motion postponed the other day? There was no need for any postponement.

Shri Sarangadhar Das (Dhenkanal-West Cuttack): May I seek a clarification from the hon. Prime Minister? The hon. Leader of the House explained that this House is not seized of the Bill yet, and yet hon. Members of this House will go on the Select Committee, and as Shrimati Sucheta Kripalani stated, it would be passed by the Council of States, with some amendments. After that, when it comes to this House, will this House be entitled, if necessary, to send it to a Select Committee of its own?

Shrimati Sucheta Kripalani: That is a good point.

Shri Jawaharlal Nehru: After a Joint Select Committee has reported, you cannot have another Committee on the Bill.

Shri Raghavachari (Penukonda): I wish to say it is most unfortunate that Government have taken up a position by introducing this motion, which is opposed to the Rules and the Constitution. The hon. Prime Minister stated that he depends upon two main grounds. The first is that precedents have already happened, this House has called upon the other House to join in a Joint Select Committee, and they have joined. The other argument that he has given is that there is a mention of Joint Select Committees in the Rules of this House as well as in those of the other House. Therefore, the precedents and the mention of Joint Select Committees in the Rules

of both the Houses are sufficient, according to him, to ignore the constitutional impropriety, and the other circumstances that have now been urged against this motion.

So far as the precedent is concerned, I would at once submit that the precedent is no doubt there. But it cannot be justified on the ground that the other House had not objected to it. It is an illegal procedure that was adopted, and the precedent cannot justify that illegal procedure. Simply because we asked them, and they agreed, and the matter has gone on, now, are we bound to accept when they ask us to join? There is no question of reciprocating the same way. It is purely a question of doing things legally and constitutionally. So, when this House has raised an objection, and hon. Members have urged many arguments in favour of that objection, I would say, it would not do simply to argue like a lawyer speciously, but you had better catch the essence of the point. It would not do to say: Is it not provided under the Rules that a Joint Select Committee can be there? It is, but it arises, only after the Bill is introduced in this House, its principle is accepted, and so on. Therefore simply to say there is mention of Joint Select Committees in the Rules is no argument. When a point arises, that a thing is not in conformity with the rules, whoever may raise the point, you cannot cavil at him, you cannot be angry with him, and you cannot call him names, but you must certainly solve the situation; and the best way of solving the situation, as the hon. Leader of the House has also conceded is first to frame the rules; and those rules can be framed. Under the Constitution, until the rules are framed, if any rules are inconsistent with one another, it will be the Rules of the Dominion of India's Legislature that will prevail. There was no such thing, because there was only one House at that time; but now the other House is also there. So, when any Rule has to be made, which is applicable to both the Houses, it is the President that can do it, after consulting the Speaker of this House

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and the Chairman of the Council. Irrespective of the authority which has to do it, and irrespective of the procedure that it has to adopt, you do not even want to respect and honour the precedent in the British Parliament, which was read out by Shri N. C. Chatterjee; and you want to ignore all these improprieties, without solving the problem. The only way out would be first to regularise the Rules, and then introduce this Bill.

As I said earlier, it is most unfortunate that a Bill on which most parties are agreed, and in regard to which most Members are anxious that it should be passed, should have been delayed so long, and as the hon. Leader of the House has stated, though there was an anxiety to gain time, still it has actually resulted in the loss of time, because a Joint Select Committee is to be appointed, and all this will necessarily take time. I would therefore suggest that the rules should be regularised as expeditiously as possible, and the proper procedure followed, rather than an irregular procedure forced on the House, mostly depending upon—I might be pardoned to say, the question of prestige also comes—the fact that we have started the thing, and we shall get through it with our majority. I think such a course is most unjust and unfair, so far as the rights of the House are concerned, more so, when it is inconsistent with the Constitution and the existing set of Rules.

Shri Frank Anthony (Nominated—Anglo-Indians): I have listened with some attention to the hon. Leader of the House and may I say that I am almost in entire agreement with him? I think that it is unnecessary and rather a waste of time for us to get into the agitated subject about who should be the chairman, or who should not be the chairman of a Joint Select Committee. The only point which has struck me is this, that while it is perfectly all right, if a Bill is initiated in the Upper House, for that House to send down a motion for a Joint Select

Committee, I do think that there should be some qualification to this particular right to send down a motion for the appointment of a Joint Select Committee. I do not think it would at all be exceptionable, if this was done, where the Bill is not of a fundamentally controversial character. What, I think, is worrying the hon. Members of the House is this, that although there may not be any intention behind this motion from the Council of States, yet, in fact, this Bill is one which is of a highly and fundamentally controversial character, and that by adopting this procedure, the effect is that this House is shortcircuited in its capacity to give full expression to its point of view. That, I think, is the point at issue. I do not think we are opposed to this principle of a Joint Select Committee. I for one am not over-agitated about who the chairman should be, but I do think it would be salutary, if we subscribe to this convention that where a Bill is of a controversial character, this procedure should be adopted, that it may be considered in a particular House first, that House may appoint its own Select Committee and then pass it, afterwards when it comes to the other House, they also appoint their own Select Committee, and in this way you get the fullest expression of opinion, and there will be no feeling among Members that there has been some attempt to shortcircuit a certain point of view which may not be held by Government. That is the only point that I wish to underline.

Sardar Hukam Singh (Kapurthala-Bhatinda): Sir, I fail to appreciate the argument that has been advanced by my hon. friend Shri Frank Anthony. We cannot have different procedures in the case of Bills which are controversial, and others which are non-controversial. Certainly we shall have to formulate a procedure that might be adopted in either case, whether the Bill that comes before us is of a controversial nature or not. When we have heard all these arguments from various hon. Members, we shall have

to admit that there is a lacuna in our Rules of Procedure.

Though a Joint Select Committee is envisaged, the procedure is not provided—what procedure they would follow when such a Committee is appointed. Therefore, we are at a loss here to clearly follow the procedure that is most apt in such cases. So far as our rules provide, unless the introduction stage is passed, we cannot discuss it, we cannot subscribe to the view that we cannot have anything to do with it. If certainly those rules are to be followed—which we have at present and have been following so far—then we cannot subscribe to the view that we should join at this stage.

Another argument has been given by the hon. the Prime Minister, that we would not be committed to the principle; we would not have been seized of this Bill at all. If that be the case, then the old English law, the English procedure that was just read out by Mr. Chatterjee, ought to have been followed. Instead of the Council of States appointing a Joint Select Committee and sending it on to us with that established fact that we should join in it, a request should have been made prior to that stage and an enquiry made whether we would agree to join that Committee if that is appointed. That would have been the apt procedure in that case. And even now there is no option. Either that procedure followed in the British Parliament should be adhered to and the Council of States should send in a request without making an appointment of the Committee and sending those names to us, or if that is not possible—now they have gone to that stage—then the only choice is that we here shall have to adhere to our rules. Those rules have to be followed and this House cannot accept any other procedure, unless subsequently the Speaker and the Chairman both meet and formulate some rules for the guidance of the Joint Select Committees that are constituted. Therefore, the only course that is left to us now is to wait for a few days—two or three days—and let the

rules be made which we can act upon. It is not a matter of ordinary significance and there is no desire on the part of any Member to adopt any dilatory methods. We do not want to retard the progress of this Bill; perhaps we might be more anxious to have it seen through than others who are supporting this Motion. But certainly we want that the procedure that is set down in our rules should be followed strictly so that such bad precedents might not be made for future.

Dr. Katju: Mr. Deputy-Speaker, after the Prime Minister's speech, there is really not much to be said. But may I clear one point at the very outset? I am not approaching this question from a purely party point of view. I have, to the best of my ability, considered it as a matter of law and constitutional procedure, keeping in view the position which this House occupies. We all know now, the particular privileges which are vested in this House. I don't propose to waste your time by referring to our exceptional position in regard to financial matters, in regard to money Bills and the responsibility of the Council of Ministers to this House. But keeping that all apart, there can be no doubt whatsoever that in the remaining legislative sphere, the position of the two Houses is equal, and the Constitution says that both of them can make their own rules and the Bills cannot be introduced at one and the same time in both Houses. They can only be introduced in one House at a time. Then, after it has passed through that House, it is transmitted to the other House and the other House, deals with it. If it concurs, then it goes to the President; if it does not concur, then the matter is at large, and then neither the Chairman of the Council of States nor the Speaker can deal with it. The Constitution then steps in. The Bill being at large, both the Houses having dealt with it separately, the Constitution says that there should be a joint sitting and we have the usual procedure.

Now the point is that the Bill being at one place for the time being,

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only that House can deal with it and that House is familiar with it. Take your own rules. I believe rule 74 says that, after introduction, as Mr. Chatterjee pointed out, one of four motions can be made—consideration, eliciting public opinion, Select Committee and Joint Select Committee. It is not then laid down as to what is the procedure to be followed when a Joint Select Committee will be appointed.

Shri Raghavachari: It is provided, Sir.

Dr. Katju: Now, I come to this. When you come to the passage of the Bill, then you transmit it to the Council of States. In the same way, when the Council of States transmits the Bill to you, then in rule 146 and the preceding rule 145, there are two clear points, clearly laid down. The Council of States may have appointed a Joint Select Committee, but when the Bill comes before us, then rule 145 says that it shall be laid on the Table and then a motion shall be made for its consideration and the principle of the Bill and its general provisions may be discussed. I wish to emphasise this because some hon. Members raised this point, namely, when we have become party to the Joint Select Committee, what about our right to discuss the general principle? Now, 145 clearly preserves that. Then you come to the second, and I emphasise rule 146 because there you will see that the right of the Council of States to appoint a Joint Select Committee is clearly recognised. It is not as if it is only the House of the People which can appoint a Joint Select Committee. You yourself recognised in your rules that a Joint Select Committee can be appointed by the Council of States. The rule is this:

“Any Member may (if the Bill has not already been referred to a Joint Select Committee of both the Houses...) move as an amendment that the Bill be referred to a Select Committee...”

Now, this clearly shows that the House was aware of this contingency.

Shri S. S. More: There is no word ‘select’ there, no Joint Select Committee. It is only ‘Joint Committee’.

Dr. Katju: This is what the rule says...

Shri S. S. More: Please read it.

Mr. Deputy-Speaker: The hon. Minister may go on. His interpretation is that it is a Joint Select Committee.

Dr. Katju: This is the rule. It is a Joint Committee. (*Interruption*).

This is just like Mr. More. interrupting for no reason whatsoever. Are you dreaming of some Joint Committee other than a Joint Select Committee?

Shri S. S. More: It is not a question of dreaming.

Dr. Katju: Well, the Council appoints a Joint Committee—a Joint Select Committee. If you go to the rules of the Council of States, the procedure is identical—the same. When a Bill is introduced there, then one of four motions may be made—consideration clause by clause, or eliciting public opinion or Select Committee or Joint Select Committee.

4 P.M.

Now my submission to you is this. It is not a question of dignity or prestige; or of our being very big people and they very small people. They are completely equal. When we appoint a Joint Select Committee and when we ask the other House to come and send us names for association with the Joint Select Committee, under our rules we clearly say that the Joint Committee is appointed by us, in this sense, namely, our Speaker appoints the chairman, and the proceedings are guided by that chairman. Please remember that under our Rules, the Joint Select Committee reports to us. Please remember further that it is open to the Minister in charge or to the Private Member in charge that he may withdraw the Bill altogether and

thus make all the labours of the Select Committee completely infructuous, because it is a Select Committee and not the House itself. The House in the open session may discard every single recommendation of the Select Committee and may go back.

Shri S. S. More: With this majority.

Dr. Katju: Supposing you take a Joint Select Committee and supposing I accept Mr. Chatterjee's argument that in a Joint Select Committee appointed by the Council of States, the chairman shall be appointed by the Speaker of this House and every single power should be given to this chairman, and so on and so forth, the report will not come here and that is quite clear. As the rule stands, the report will not come here; it will go to the Council of States. I do not know how it may be presented. It may be open to the Council of States, if they so desire to disagree with every single proposal that might have been made by our 30 representatives there. To take another line altogether, because the Bill is before them, they are possessed of the Bill, they are seized of the Bill and they pass the Bill, we will be dealing with it in a formal manner when it is transmitted to us. After passage, it is on our Table and under Rule 145, we discuss the principles and give them an order very different from theirs. I respectfully submit,—Mr. Deputy-Speaker, as I said, I am speaking as a lawyer and you may take it for whatever it is worth,—I do not appreciate all these objections. Supposing the two Houses make rules for the Joint Select Committee, it is all right, but today the position is that there are no rules. Now who is appointing the Joint Select Committee? The Joint Select Committee is being appointed by the Council of States. When we appoint a Joint Select Committee, it is our Committee and our rules which will apply. Do you mean to say that at present to a Joint Select Committee, which is appointed by us, our rules should apply, but to a Joint Select Committee appointed by them, somebody else's rules should apply?

Shri S. S. More: There should be some common rules.

Dr. Katju: I accept that, but today there are no common rules. What is to be done?

Shri S. S. More: Frame them. You did not raise this point when you appointed your Joint Select Committee last time.

Mr. Deputy-Speaker: The hon. Member will kindly address the Chair.

Dr. Katju: I am a very sensitive individual, Sir. I don't understand the great bogey raised by Mr. Chatterjee. It is arguments like Mr. Chatterjee's which really sometimes baffle or confuse one, as people say that lawyers confound reason or make the better appear the worse reason. The matter is quite clear. There is nothing to be said about it. There is the Joint Select Committee. There is a request from the other House "Will you please come?" It is open to this House to say "We will not come". It might be that we might follow the House of Commons' example that before we send a Bill, we would make a formal request "Will you kindly associate with us?"

Dr. Lanka Sundaram: Why did you not do so now?

Dr. Katju: Today the difficulty is that that procedure has not been followed. I have not been able to appreciate the reasons which have been given, as if it is a question of inferiority or superiority or something very grave is going to be done if we go and sit there. We will be 30 in number and suppose the chairman of that Committee is appointed by the Chairman of the Council of States, our number will not be affected; our nominees will be able to record their opinion; the report will go; it will be considered by the Council of States on its merits and it will come to us. Please do not forget, Mr. Deputy-Speaker, as to what is the principle underlying all this procedure. It is a time-saving device, because Rule 146, which I read already, says that when

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you are considering a Bill which has been transmitted from the Council of States, you may appoint a Select Committee of your own, provided a Joint Committee has already not been appointed in that case.

Shri Raghavachari: It is an incorrect statement. The prohibition is that even when there has been an ordinary Select Committee of the Council of States, we could not have another Select Committee.

Dr. Katju: The Rule says "(If the Bill has not already been referred to a Joint Committee of both the Houses, but not otherwise) move as an amendment that the Bill be referred to a Select Committee and, if such motion is carried, the Bill shall be referred to a Select Committee..."

Mr. Deputy-Speaker: What Shri Raghavachari refers to is that this has been deleted now. The original rule was so much modified that now even in a case where in the other House it has been referred to a Select Committee, there is a prohibition. That has been admitted. It is only in cases where there is a Joint Select Committee that there is this prohibition.

Dr. Katju: The rule, as we framed originally, went further, namely, that if the Council of States had appointed a Select Committee of their own, limited to their own members, even then we could not have appointed a Select Committee there.

Mr. Deputy-Speaker: But the power is no longer there for the Council of States. Either you appoint a Joint Select Committee or you appoint your own Select Committee.

Dr. Katju: I submit, therefore, that so far as the legal or the constitutional position is concerned, the matter is quite clear. So far as the right to discuss the principles of the Bill is concerned, that right is reserved to you under our Rule 145. Of course, it is open to hon. Members to say "We will not go there." You may not give any reason whatsoever. You may

treat this Bill just like prohibition and say "We will not go there." However, I do submit that this Resolution is perfectly sound and in accordance with the existing provision. There is no defect in it and all the dust which has been raised, namely, as to who should appoint the chairman of the Committee, must be decided, so long as the joint rules have not come into force or been framed yet, by the existing rules. You appoint a chairman of your Joint Committee not because you are superior but because it is your Committee. If they appoint a Joint Committee, if they take the initiative in constituting a Joint Committee, they will appoint its chairman. This is all that I have to say. So far as the question of merits is concerned, my respectful suggestion will be now that this debate has taken so much time already, if you take a decision, Sir, that there is no force in this point of order, we may straightaway appoint our thirty members and reserve the discussion when the Bill comes back again.

Dr. Lanka Sundaram: May I draw your attention to one point, Sir? The hon. Home Minister says we should adjourn discussion of this point and nominate our people—whatever it may be. But the Speaker announced a three-day debate on this particular motion. We have not even consumed one full day for it.

Mr. Deputy-Speaker: I understood the hon. Home Minister to say that on this point, there is no real objection to the jurisdiction of this House to concur with the appointment of the Joint Committee and suggest names. His suggestion is that, according to him, if the principle is not accepted or settled here, it may straightaway be sent to the other House, and the matter may be discussed after it comes back from that House. Therefore, the time of the House will be saved. That is a suggestion made by the hon. Home Minister. If the principle is not going to be finally settled here, the acceptance of the Bill one way or

the other, is not concluded by the acceptance of this resolution. But however much, or to whatever little extent does the House want to give approval to the wishes of the several Members before it is referred to the Joint Committee or before the names are suggested, six hours have been allotted by the Business Advisory Committee, out of which about 1½ hours have already been taken away—one hour and ten minutes the other day, and the rest today. Therefore, six hours minus one and a half hours—four and a half hours still remain. I have no objection to the discussion on the general principles,—as to whether the House should concur with this and appoint Members, suggest the names of Members,—being gone into.

Dr. Lanka Sundaram: As per your direction, no more procedural or constitutional aspect will be discussed?

Mr. Deputy-Speaker: It has been concluded. Both sides have been heard. I consider that the objections that have been raised have been answered. The only point that was raised was that under the Constitution, there is a provision for a joint sitting of both the Houses, but that provision is meant for the procedure after the Bill is considered by both the Houses. It is true that the Constitution does not allow any provision for a joint committee or a joint select committee, but it is provided for in the rules. The rules can be framed by the Speaker under the Constitution. No exception has been taken to the validity of the rules as to whether they are *ultra vires* or *intra vires*. I put the question specifically the other day but objection was not taken on that score. Therefore, under the rules, there is a provision for referring it to a Joint Select Committee.

The further objection that was raised was that the question of referring it to a Joint Select Committee arises only after the Bill is considered in this House. That, to some extent, appears to be going into the jurisdiction of this House, as to whether we can

go into this matter at this stage or not. It is not a question of committing this House one way or the other, but is only a general indication of the opinion of the Members of this House. We have precedents on this matter. Already, on two prior occasions, some motions were carried by this House and sent to the other House. Precedents have to be created and conventions have to be developed in this way without prejudice to this House considering in detail the merits of the Bill later, and giving its own opinion—not concluding it by what is done today. Therefore, there is no harm in allowing this resolution to be discussed. Hon. Members may be aware that with respect to such matters on constitutional practice, where objection is taken to the jurisdiction of this House, the Chair has not taken the responsibility of deciding it by himself. He leaves it to the House. Therefore, without any more discussion on the validity of the procedure or the lacuna or otherwise,—that portion has concluded—on the merits of the motion if any hon. Member wants to say anything, I will allow time to the extent that is prescribed by the Business Advisory Committee.

Pandit Balakrishna Sharma (Kanpur-Distt. South cum Etawah Distt.—East): While discussing the motion, will the House be perfectly entitled to discuss the merits of the Bill also?

Mr. Deputy-Speaker: Oh, yes. So far as this is concerned, I will limit the time to ten minutes. In some cases, of course, I might have to extend it to 15 minutes. I will distribute the available time.

Shri P. N. Rajabhoj: I should ask you one thing: What about the Report of the Commissioner for Scheduled Castes and Scheduled Tribes?

Mr. Deputy-Speaker: That is put on the agenda as the third item. Therefore, the hon. Member will kindly wait patiently.

श्री पी० एन० राजभोज : डिप्टी स्पीकर महोदय, यह कहा गया था कि ग्राज डिसकशन होगा, इसलिये पूछता हूँ कि कब होगा ?

उपाध्यक्ष महोदय : कल हो जायगा ।

श्री पी० एन० राजभोज : अब कब होगा में पूछता हूँ ।

Mr. Deputy-Speaker: Hon. Member wants to go away from the House? The Hon. Member must sit till the end of the day and find out what will happen exactly. He should not have too many engagements. So far as this measure is concerned, it will go on till 5.30. There is another motion which will be taken up for discussion at 5-30.

Shrimati Renu Chakravartty: When we discuss this motion, we shall be discussing the principles of the Bill?

Is the procedural matter over?

Mr. Deputy-Speaker: Yes. The hon. Members can give suggestions generally on the principles of the Bill and the matter will go to the other House.

श्री बी० जी० देशपांडे : उपाध्यक्ष महोदय, विशेष विवाह विधेयक, १९५२, सदन के सामने रखने के विषय में आज सदन के नेता ने आप को बताया है कि राज्य परिषद् की इच्छा और हमारे कानून मंत्रों की इच्छा यह थी कि यह विधेयक जितनी जल्दी हो सके उतनी जल्दी स्वीकार किया जाय । मेरी समझ में नहीं आ रहा है कि यह विधेयक इतनी जल्दी इस सदन से स्वीकार कराने की क्या आवश्यकता उत्पन्न हुई । आप को पता होगा कि यह कानून १८७२ का आज तक चला आ रहा है । करीब करीब ८० साल तक यह कानून होने के पश्चात्, आज इस के लिये इतनी जल्दी क्यों हो रही है । हम यह भी देख रहे हैं कि यदि पुराने कानून को ही संशोधन कर के आप के सामने रखना चाहते हों तो उस के लिये जल्दी नहीं है । जो लोग विशेष

विवाह की विधि से अपना विवाह करना चाहते हैं उन के लिये यह १८७२ का कानून आज भी विद्यमान है । फिर उस के लिये आज यह आवश्यकता क्यों उत्पन्न हुई, उस के लिये कुछ कारण है । आप ने देखा होगा कि चार पांच वर्ष तक एक हिंदू दंड विधान, हिंदू दंड संहिता, हिन्दू कोड बिल, इस सदन के सामने आया था और आप ने यह भी देखा होगा कि सदन में उस के विरुद्ध बड़ा प्रशोभ उत्पन्न हुआ था । सदन के बाहर भी हम ने देखा था प्राइम मिनिस्टर के विरोध में जनता ने आवाज उठाई थी । पिछले निर्वाचन में जब कांग्रेस के और अन्य दलों के उम्मीदवार जनता के सम्मुख गये तब जनता ने उन को पूछा कि बताओ, हिन्दुओं के विवाह के बारे में आप क्या करने वाले हो । आप को यह भी पता होगा कि स्वयं इस सदन के नेता, इलाहाबाद में जब निर्वाचन के लिये खड़े हुए तब यह इलैक्शन का ईश्यू किया गया था और वहाँ स्वयं सदन के नेता ने बताया था कि हिन्दू कोड बिल, यह ईश्यू नहीं है, शायद पार्लियामेंट में यह आवेगा भी नहीं ।

यह होने के पश्चात् और जनता को एक प्रकार का विश्वास देने के बाद हिन्दुओं के विवाह में परिवर्तन करने का कानून यहाँ आ रहा है । वह कहते हैं कि यह अहर का डोज एक दम देने के बजाय हम उस की मात्राओं बना कर डिफरेंट डोजेज उस की दे कर यह विष देंगे । इसी कारण हिन्दू कोड बिल की जो बड़ी आपत्ति हिन्दुओं पर आने वाली है, उस आपत्ति का पहला हिस्सा कर के यह विधेयक इस सदन के सामने रखा जा रहा है । मैं आप को यह बता देना चाहता हूँ कि यह जो विधेयक है यह केवल १८७२ का जो कानून है, उसी के लिये, नहीं रखा गया है । इस विधेयक में आगे जा कर हिन्दुओं की विवाह

पद्धति पर एक बड़ा भारी आक्रमण किया गया है और मैं इस सदन का ध्यान इस बड़े आक्रमण की तरफ आकर्षित करना चाहता हूँ। वह पहला आक्रमण यह है कि आप इस की चौदहवीं धारा को पढ़ेंगे तो आप को पता लगेगा कि इस में क्या लिखा हुआ है :

Any marriage solemnized, whether before or after the commencement of this Act, other than a marriage solemnized under the Special Marriage Act, 1872 (III of 1872), or under this Act, may be registered under this Part by a Marriage Officer in India if the following conditions are fulfilled.

इस धारा का अर्थ यह है कि हिन्दू पद्धति से विवाह करने के पश्चात् भारतवर्ष में यदि कोई पति अथवा पत्नी चाहे तो रजिस्ट्रेशन ऑफिसर के सामने जा कर अपना विवाह रजिस्टर करा सकते हैं। इस विधेयक में यह भी दिया है कि इस प्रकार से अपने विवाह को रजिस्टर कराने के उपरान्त डाइवोर्स का ऐक्ट उन पर लागू होगा और मुझे यह कहने में तनिक भी संकोच नहीं है कि इस बिल के पास हो जाने से हिन्दू विवाह जिस मूल भूत आधार पर रक्खा गया है, उस पर बहुत बड़ा आक्रमण होगा। अभी तक हिन्दुओं में विवाह को एक कंट्रैक्ट मात्र नहीं समझा जाता रहा है, हम उस को जीवन का एक आवश्यक और पवित्र संस्कार मानते हैं और उस के लिये मनुस्मृति के दूसरे अध्याय के ६६वें श्लोक में यह दिया हुआ है कि जिस प्रकार से एक बालक के लिये विद्यार्थी जीवन में गुरु के घेर रहना और विद्यापार्जन करना महत्व रखता है और जिस तरह से बच्चे का उपनयन संस्कार होता है, उसी तरह का यह विवाह संस्कार है और हिन्दू मात्र इस विवाह संस्कार को एक बहुत पवित्र संस्कार मानता है और इस के सेक्रेड होने के कारण हिन्दू समझता है कि विवाह विच्छेद नहीं हो सकता। हिन्दू कोड बिल चाहता है कि

इस हिन्दू विवाह का विच्छेद हो और इस मौजूदा बिल के द्वारा बैक डोर से विवाह विच्छेद को लाया जा रहा है। इस बिल के पास हो जाने पर जो लोग अपने विवाह को रजिस्टर करा लेंगे उन के लिये डाइवोर्स का विवाह विच्छेद का मार्ग खुल जायेगा। मेरा सबसे पहला और मुख्य विरोध इस बिल से इस कारण है कि आप इस के द्वारा हिन्दुओं की प्राचीनतम और पवित्र विवाह संस्कार प्रथा पर कुठाराघात करने जा रहे हैं और उस की पवित्रता नष्ट हो कर वह एक पार्टीज के बीच कंट्रैक्ट मात्र हो कर रह जायेगा, इस में विवाह विच्छेद की अनुमति दे कर आप हिन्दू समाज को एक बड़ा नुकसान पहुंचाने जा रहे हैं।

इस बिल के समर्थकों द्वारा बहुधा यह दलील दी जाती है कि This is a permissive legislation. इस विधान के द्वारा विच्छेद की अनुमति मात्र दी गई है और यह किसी पर जबरन लादा नहीं जा रहा है, जिस की इच्छा हो उस को ग्रहण करे अथवा न करे, लेकिन मैं आप को चेतावनी देना चाहता हूँ कि ऐसा करके आप देश का बहुत बड़ा अहित करने जा रहे हैं। यह तो तर्क ठीक उसी प्रकार है जैसे आप यह कहें कि मैं कोई हर एक सदस्य से यह तो कहता नहीं हूँ कि वह हाउस को जला दे, हाँ, अगर कोई उस को जलाना चाहता हो, तो मैं उस को इस की अनुज्ञा दूंगा, जिस तरह से हनुमान ने सारी लंका को जला डाला, उसी प्रकार से यहाँ हमारे हनुमान महाराज आ गये हैं और वह उन को अनुज्ञा दे रहे हैं कि वह जा कर सब जगह नाश करें और हिन्दू समाज को छिन्न भिन्न कर दें। मेरा तो कहना है कि अगर वह इस विच्छेद की प्रथा को लाना चाहते थे, ती सीधे सीधे जैसे पहले आप हिन्दू कोड बिल लाये थे, उसी प्रकार का बिल

[श्री वी० जी० देशपांडे]

ले आते, और जनता के सम्मुख रखते कि हम हिन्दुओं के विवाह प्रथा में उत्तराधिकार के सम्बन्ध में और उन के पर्सनल ला में यह परिवर्तन करना चाहते हैं। जहाँ तक मेरा सम्बन्ध है मैं तो अपने प्राचीन धर्म ग्रन्थों और शास्त्रों के ऊपर चलता हूँ, और उन को अपना आधार मानता हूँ और शास्त्रों पर मेरा पूर्ण विश्वास है। लेकिन मैं पूछता हूँ कि आखिर आप देश में किस प्रकार की व्यवस्था निर्माण करने जा रहे हैं? कोई भी स्त्री, पुरुष रजिस्ट्रार के सामने जा कर कहे कि मैं इस को पत्नी स्वीकार करता हूँ, अथवा स्त्री कहे कि मैं इस को अपना पति स्वीकार करती हूँ, ऐसे लोगों का विवाह विच्छेद हो सकता है, यह पूरा विधेयक लाने के बजाय आप एक एक विधेयक ला रहे हैं और लोगों को बिना बताये हुए जल्दबाजी में जितनी जल्दी हो सके हिन्दुओं में आज से नहीं हजारों वर्षों से जो विवाह संस्कार की प्रथा चली आ रही है और इस बारे में जो उन के विचार हैं, उन को आप एक दम बदलने जा रहे हैं और मैं यह कहना चाहता हूँ कि इस प्रकार का आक्रमण करते समय इस लेजिस्लेशन में जिस में अनेक नये नये कानूनों का संदर्भ है, इसमें डाइवोर्स ऐक्ट का उल्लेख है, इस में रिमूवल आफ कास्ट डिसएबिलिटीज ऐक्ट और इंडियन सक्सेशन ऐक्ट का उल्लेख है, लेकिन चूंकि वह ऐक्ट हमारे सामने नहीं है, इस कारण भी मैं उस का विरोध करता हूँ। इस के अलावा मेरे विरोध करने का सब से बड़ा कारण यह है कि यह बिल देखने में तो बड़ा सीधा सादा लगता है, लेकिन वास्तव में यह बड़ी दूर तक जाने वाला है और इस के परिणाम मेरी राय में हिन्दू समाज और संस्था के लिये बहुत अलाभकारी होने वाले हैं। साथ ही मैं आज के यहाँ के नेताओं को समाज का नेता मानने

के लिये तैयार नहीं हूँ और मैं यह भलीभांति जानता हूँ कि देश की जनता इन के विचारों का इस सम्बन्ध में समर्थन नहीं करेगी। आज हजारों वर्षों से चली आ रही शास्त्रानुकूल विवाह पद्धति के स्थान पर यह एक नयी विवाह प्रथा जारी करना चाहते हैं और उन का दावा है कि यह जो विवाह प्रथा वह चलाना चाहते हैं, यह भी बड़ा अच्छा आदर्श है, ऐसा उनका मत है, जिस प्रकार से गीता में कहा है :

ये शास्त्र विधि भुत्सृग्य वर्तते कामकारतः ।

इस प्रकार से जो केवल इच्छानुकूल चलते हैं। मैं तो ऐसा नहीं मानता, लेकिन जो दो चार शतों उन्होंने दी हैं, आप उन्हीं को देखिये, शास्त्रों को छोड़ दीजिये, तो आप उन में क्या पाते हैं और मैं नहीं समझ पाता कि आखिर यह कौन सा जीवननिर्माण करना चाहते हैं? The parties have completed the age of eighteen years. यानी अगर पति १८ साल का हो और औरत ७२ साल की हो, तो भी वह विवाह इस में हो सकता है, आखिर जनता के सामने आप यह किस प्रकार का आदर्श रखने जा रहे हैं, मुझे तो कुछ पता नहीं लगता? आठ साल की लड़की का विवाह एक वृद्ध के साथ कराया जा सकता है। इंग्लैंड में भी और यहाँ भी जरठ और कुमारी के विवाह का निषेध नहीं है!

आप जो नया हिन्दू कोड बिल लाने वाले हैं, पिछले बिल में विवाह विच्छेद और अन्य बहुत सी बातें उस में लिखी गई थीं, वह बातें आज के स्पेशल मेरेज ऐक्ट में नहीं हैं जैसे अग्रमाध्य रोग वाले (Incurable disease) में विवाह न हो। और मैं समझता हूँ कि इस तरह का बिल बड़ी जल्दबाजी में इस देश के सामने ला रहे हैं। इंग्लैंड में जब विवाह में सुधार करने का

निश्चय किया गया, तो वहाँ इस तरह की बात नहीं की गई या कही गई कि जैसा कि कुछ लोग यहां कहते हैं कि यह श्रीरतों का बिल है, वीमेन बिल, मेरी तो समझ में नहीं आता कि इस से उन का क्या मतलब है, केवल स्त्री का विवाह क्या मानी रखता है, या किसी ने कह दिया कि चूंकि इस के लिये वीमेन मेम्बर जल्दी कर रहे हैं, इसलिये जरा प्रोसीज्योर को दूर कर दिया। स्त्री पुरुष का विवाह केवल ब्यक्तिक समस्या नहीं है विवाह बंधन एक बड़ा पवित्र सम्बन्ध है, जिस का असर केवल आज की समाज पर ही नहीं बल्कि भावी समाज पर और आने वाली सन्तानों पर पड़ने वाला है। दसियों और बीसियों पीढ़ियों पर उस का परिणाम आने वाला है और इसलिये आप के लिये यह उचित नहीं है कि आप एक गुस्से या जल्दी में आकर या लोगों को डरा भयवा धमका कर इस तरह का कानून पास करा लें।

अन्त में मैं और अधिक न कह कर सिर्फ इतना कहना चाहता हूं कि सरकार को जनता की भावना और विचारों का आदर करना चाहिये। निर्वाचन के सम्बन्ध में क्या हुआ यह मैं जानता हूं और इस के लिये आज इस सदन में मैं यह चुनौती देना चाहता हूं कि यदि आप यह समझते हैं कि इस मेजर में जनता आप के पीछे है तो यह आप ती बड़ी भारी भूल है और अगर आप जनता की राय हासिल करना चाहते हैं तो इस पर आप रेफरेन्डम ले सकते हैं या इस विषय पर आप चुनाव के लिये खड़े हो सकते हैं और जनता से इस के पक्ष में मत मांग सकते हैं यह तथा और दूसरे बिल जो आप लाने जा रहे हैं जैसे सगोनों में विवाह दो पीढ़ियों में एक चचेरे भाई की लड़की और दूसरे चचेरे भाई के लड़के की शादी आप कराना चाहते हैं, यह विधेयक ले कर आप जनता के सामने निर्वाचन में जाय और अगर आप चुनाव में जीतते हैं तो मैं कहता हूं कि

आप उन बिलों को अवश्य पास कराइये लेकिन आज की अवस्था में अपनी नूट मेजारिटी के बल पर सदन में इस को न ठूँधे यही मेरी प्रार्थना है।

श्री नन्ध लाल शर्मा (सीकर): माननीय उपाध्यक्ष महोदय, मुझे बड़े खेद के साथ इस विशेष विवाह विधेयक का विरोध यहां सदन के सामने उपस्थित होने से पूर्व करना पड़ता है। मुझे विश्वास है कि स्पीकर महोदय, अध्यक्ष उपाध्यक्ष महोदय जो भी उस समय होंगे जिस समय यह विधेयक इस संसद् के सामने पुनः उपस्थित होगा, तो फिर हमें उस पर अपने विचार पेश करने की अनुमति मिलेगी। दो, एक बातें १८७२ के विशेष विवाह कानून के अनुसार हिन्दू को हिन्दू कह कर जो विवाह करने का अधिकार था, आज उस को हिन्दू कहने पर भी उस का हिन्दुत्व छीन लिया गया है। वहां विवाह यदि हिन्दू हिन्दू करता था, तो इस बिल के अनुसार आज हिन्दू की किसी भी संस्था में किसी भी धर्म में हिन्दू स्त्री हो अथवा हिन्दू पुरुष हो, विवाह करने की जो बात है, और हिन्दू कोड बिल बनाने वालों के मन में इस को बनाते समय एक भावना जरूर रही होगी कि ऐसा कानून बना कर के हिन्दू शास्त्रों को सदा के लिये समाप्त कर दिया जाय और उस दिशा में हिन्दू शास्त्रों को नष्ट करने के लिये यह स्पेशल मैरिज बिल प्रथम प्राक्क है। मैं इस को अच्छी तरह से जानता हूं कि शायद आप यह समझते हैं कि जनता को यह पता नहीं लगेगा कि हम हिन्दुओं के बारे में यहां पर कोई कानून बना रहे हैं, इसलिये वह इस स्पेशल मैरिज बिल का विरोध नहीं करेगी। लेकिन मैं आप को इस का स्मरण करवाता हूं कि जनता हर एक बात को बड़े खेद से और दुःख से अनुभव करती है और देख रही है कि आप क्या कर रहे हैं। मनु जिन को आप लोग

[श्री नन्दलाल शर्मा]

अक्सर किसी न किसी विषय में कोट करते हैं और कहते हैं :

"One of the best and greatest law-givers of the world."

वही मनु कहते हैं कि सर्वण स्त्री की सर्वण मनुष्य के द्वारा जो सन्तान उत्पन्न होती है वही द्विजाति हो सकती है। आप द्विजाति का समूल उन्मूलन कर डालने की प्रतिज्ञा ले कर के इस बिल को स्वीकृत करना चाहते हैं। कोई उपाय नहीं है। हम इस सदन में, इस संसद् में, मैं अपने घर में अपने सदस्यों को किसी प्रकार के अपराध का दोष तो देता नहीं क्योंकि उन्होंने भी वैधानिक आपत्ति खड़ी कर के इस का विरोध किया है। किसी ने अपनी स्वीकृति प्रदान नहीं की है। किन्तु एक व्यक्ति है जिन के मन में इस हिन्दू धर्म को नष्ट कर देने की इच्छा है, जिन्होंने जितने भी समाज के नियम हैं उन सब को मिटाने का निश्चय कर लिया है। वह अपनी मनमानी गवर्नमेंट के द्वारा चलाते हैं और मैं समझता हूँ कि लोकतन्त्र की हत्या करने वाला सब से बड़ा यही मार्ग है। जनता जिन बातों का निरन्तर विरोध करती है उसी को कर के एक मुट्ठी भर आदमी जो जनता को मूर्ख समझते हैं कहते हैं कि जनता कुछ नहीं समझती इसलिये हम जनता को ठुकरायें। अगर जनता गोहत्या बन्दी के लिये मांग करती है, भारत के एक कोने से दूसरे कोने तक तो एक व्यक्ति गवर्नमेंट के अन्दर खड़ा हो कर कहता है नहीं, हम गोहत्या बन्द होने नहीं देंगे। सारा देश निराश हो कर देखता है, समस्त जनता निराश हो कर देखती है कि क्या होगा। अगर यह एक व्यक्ति नहीं मानेगा तो क्या गोहत्या बन्द नहीं होगी? शुरू से बाहर की किसी भी संसद् में किसी भी पार्लियामेंट में, किसी भी देश में आठ दस वर्षों तक किसी भी कानून का विरोध नहीं किया जनता

ने, लेकिन भारत में किया गया। १९४३ से ले कर के १९५३ हो गया है जब से हिन्दू कोड बिल के पास करने का प्रयत्न ब्रिटिश गवर्नमेंट के समय से हो रहा है। सर मुल्तान अहमद ने, जो कि इस के प्रथम पिता हैं, अनन्त पिता बदले। तभी से जनता निरन्तर इस का विरोध करती है और अन्त में जैसा हमारे प्रिय मित्र देशपांडे जी ने कहा कि प्रयाग के चुनाव में हमारे प्रधान मंत्री को भी इस का स्वाद चखना पड़ा। अन्त में उन को यह कहना पड़ा कि मुझे मालूम नहीं था कि जनता इस के विरुद्ध है और प्रतिज्ञा की कि हम जनता की भावना के विरुद्ध, कोई कार्य नहीं करेंगे।

मेरे सामने स्पेशल मैरेज बिल पर आई हुई सम्मतियों का पुलिदा पड़ा है। उन को आप उठा कर के देखेंगे तो आप को पता चलेगा कि हिन्दू जाति के अन्दर से कितने लोगों के मत मांगे गये हैं। जो हिन्दू जाति के अन्दर जाति व्यवस्था मिटा देना चाहते हैं, जो हिन्दू जाति के धार्मिक सिद्धान्तों का समूल उन्मूलन कर देना चाहते हैं उन्हीं लोगों की व्यवस्था मांगी गई और राय मांगी गई। इस के अतिरिक्त उन तमाम बड़े बड़े आचार्यों, शंकराचार्यों, बल्लभाचार्यों, धर्माचार्यों, जैनाचार्यों, और सिखाचार्यों में से अथवा किसी भी धार्मिक संस्था की ओपीनियन सामने नहीं आती है। परन्तु इस पर भी मुझे खेद के साथ बधाई देनी पड़ती है अपने मुसलमान बन्धुओं को। किसी भी मुसलमान का नाम मैंने इन सारे के सारे पुलिदों में नहीं देखा जिस ने कि इस बिल का स्वागत किया हो। सभी ने मिल कर के एक शब्द से इस का विरोध किया है। मैं इस संसद् में बैठे उन महानुभावों से, जो हिन्दू धर्म की भलाई चाहते हैं, क्षमा चाहता हूँ, अगर वह वह समझते हैं कि

दूसरों के धर्म को मिटा कर अपने धर्म का भला हो जायेगा । मैं कहता हूँ कि यह विचार गलत है । लड़कियाँ तुम्हारे घर में भी हैं, और दूसरों के घर में भी हैं, और हो सकता है कि अगर हम ने कोई गलत स्टेप अख्तियार किया तो हमें ही धोखा खाना पड़े । “दूसरों के साथ अन्याय मत कर, दूसरों के अन्याय को मत सह” यह सब से बड़ा सिद्धान्त है । मैं कहता हूँ कि जनता अब चुप रहने वाली नहीं है । अगर हम हिन्दू नहीं रहेंगे, अगर हमारा हिन्दू धर्म ही आप ने मिटा दिया तो हमारे बीच में अगर दस लाख नहीं, दस करोड़ नहीं, दस अरब लोग भी आजायेंगे तो भी हमारा कोई फायदा होने वाला नहीं है क्योंकि हमारा तो घर ही मिट जायेगा । जिस हिन्दू जाति के अन्दर मनु की कीमत नहीं, वेद की कीमत नहीं, जहाँ मनु की हिन्दू जाति वाली वर्णश्रम व्यवस्था न रहेगी उस हिन्दू जाति में आप कहते हैं कि हमारी संख्या दस करोड़, बीस करोड़ या पचास करोड़ बढ़ जायेगी । लेकिन जब हमारी जाति ही न रहेगी तो संख्या का क्या प्रश्न रहेगा ?

श्री नवल प्रभाकर (बाह्य दिल्ली—रक्षित—अनुसूचित जातियाँ) हिन्दू की परिभाषा तो कर दीजिये ।

श्री नन्द लाल शर्मा : हिन्दू की परिभाषा ? सुनिये । आप को पता चल जायेगा ।

हिन्दू वह है जो दुष्ट का दमन करता है, जो धर्म से पतित को पतित कह सकता है, जो शास्त्रों के भागों, आचार्यों के भागों, भगवान के भागों सिर झुकाता है, नमन करता है, जो दुष्ट की हिंसा करता है और जो शास्त्रों का अध्ययन करता है । उपाध्यक्ष महोदय, मैं उन की जानकारी के लिये यह और बतला दूँ :

जिस की सिंघ से ले कर सिंधु पर्यन्त भारत भूमि है वह जिस की मातृ भूमि है, पुण्य भूमि

है, वही हिन्दू कहलाता है । साथ में इस का भी जानना जरूरी है । हिन्दू शब्द के लिये उन लोगों ने जिन्होंने दूसरे के बहकावे में आ कर कहा कि हमारे ग्रंथों में हिन्दू नाम ही नहीं है, उन्होंने अपने साथ भी अन्याय किया है और हिन्दू जाति के साथ भी अन्याय किया है ।

Mr. Deputy-Speaker: The hon. Member need not get distracted.

Shri Nand Lal Sharma: I thank you very much.

उपाध्यक्ष महोदय, इस विशेष विवाह विधेयक में बात यह है कि ‘काजल की कोठरी में कैसेहु सधाना जाय,’ कालिल तो लगना ही है हम कितना ही बचना चाहें । जिस को ईश्वर में, धर्म में, परलोक में, समाज के मौलिक नियमों पर जिन पर समाज आधारित है, उन पर आस्था नहीं है, उस अन्याय विधान पर जिन का आधार नहीं है, वह बहरे से बन गये हैं, पत्थर कहां लुढ़केगा, इस का पता नहीं, उस रोलिंग स्टोन का कोई स्थान हमारे यहां नहीं ? इस बिल में कन्या और वर वधु दोनों की ही एज केसम्बन्ध में कुछ आप के सामने कहने के लिये खड़ा हो गया । वृद्धों के विवाह का तमाशा तो हम ने संसद् में ही देख लिया । दूसरों का सुधार करने के लिये जाते हैं लेकिन स्वयं यहां बैठ कर विवाह करते हैं । क्या कहा जाय । मैं किसी पर व्यक्तिगत आक्षेप नहीं करना चाहता । खैर मैं दूसरी बात कहता हूँ । ईश्वर का डर नहीं, धर्म का डर नहीं, ऐसा चाहते हैं कि नियमों को ही बदल डालें । हमारे यहां शास्त्रकारों ने स्पष्ट रूप से बतलाया है कि :

कन्या अपने विवाह में देखती है रूप को, माता देखती है गुण को और बाकी के सब लोग देखते हैं मिठाई को ।

निवेदन यह है कि उस के कन्या केवल चाहिये, कितने वर्ष की भी हो जाये । वहां मुख्य

[श्री नन्द लाल शर्मा]

ध्येय रूप में रहता है। इसलिये कोर्टशिप मैरिजेज में जो दोष है वह यह है कि बाहर के रूप को देखने के बाद, थोड़ी देर तक बात चीत होने के बाद, उसमें न कोई प्रेम होता है, न स्नेह होता है, केवल कामवासना के वश में घ्रा कर किसी के साथ सम्पर्क हो जाता है। फिर सम्पर्क होने के बाद दूसरे दिन जब प्रत्यक्ष होता है तो यह सब नशा उतर जाता है और वहाँ त्रिचक्षु की हानि हो जाती है। इसीलिये हमारे यहाँ कहा गया है कि माता पिता में सब प्रकार की भावना घ्रा जाती है। आज भी आप देखेंगे कि कन्या को माता पिता स्वयं केवल गर्त में गिरा देने की ही भावना रखते हैं, ऐसी बात नहीं है। जो लोग इस प्रकार का चित्र खींचा करते हैं वह केवल प्रचार भावना से और हमारे सिद्धान्तों को, निधियों को और समाज को मिटाने की भावना से ऐसा करते हैं। माता और पिता दोनों ही मिल कर इस समाज के बनाने वाले हैं एक कन्या पक्ष का है, दूसरा पुरुष पक्ष का है, एक वर पक्ष का होता है तो दूसरा बहु पक्ष का। एतावत इस में नहीं कहा जा सकता कि अमुक व्यक्ति ने ऐसा काम किया।

दूसरी बात यह है कि वर्णाश्रम धर्म को मिटा देने के अतिरिक्त इस में दूसरी जातियों में और दूसरे मतों में भी विवाह करने की छट दे दी गई है।

एक माननीय सदस्य : वह तो चाहिये।

श्री नन्द लाल शर्मा : चाहिये तो यह कि चाहे जो मनुष्य हो और चाहे जो स्त्री हो, किसी भी पुरुष और स्त्री के बीच में विवाह करने की आप को छट हो जाये, कामशील विवाह के अनुसार संसार में सब ठीक है। बस, मातृ योनि परित्यज्य, माता की छोड़ कर समस्त स्त्रियों से विवाह हो सकता है, यही ठीक है। और फिर अन्ततः यही

भावना रही तो यह होगा कि कहेंगे कि जब झुकर और कूकर अपनी माता को नहीं छोड़ते हैं तो मनुष्य क्यों छोड़े। यही भावना रही तो फिर मैं समझता हूँ कि न किसी मारेलिटी की आवश्यकता है, न किसी मारल ला की और न किसी और ला की आवश्यकता है, इस तरह आप को पीनल कोड में से भी अनेक इस प्रकार के कानून निकाल देन पड़ेंगे। (इस समय घंटी बजी)।

श्री जल्लू राय शास्त्री (जिला प्राजमगढ़,— पूर्व व जिला बलिया—पश्चिम): यह बड़ा महत्वपूर्ण प्रश्न है, इसलिये मेरी राय है कि पंडित जी को जरा बोलने दीजिये। दस मिनट और समय दिया जाय।

Mr. Deputy Speaker: There is the first Bill.

श्री नन्द लाल शर्मा : केवल यही बात नहीं कि हिन्दू धर्म शास्त्रों में

Mr. Deputy-Speaker: According to the sloka, nobody thinks of Dharma Sastra.

Dr. Suresh Chandra (Aurangabad): On a point of order, Sir, the hon. Member is using unparliamentary and indecent language. This should not be allowed.

Several Hon. Members: No, no.

Shri Nand Lal Sharma: I thank the House for not giving that verdict and for not agreeing with that.

मैं केवल दो शब्द और कह कर बैठने का प्रयत्न करूंगा। मैं यह कहना चाहता हूँ कि यह केवल हिन्दू धर्म के सिद्धान्तों के विरुद्ध है, ऐसी बात नहीं यह इस्लाम के सिद्धान्तों के विरुद्ध है। जब हम यहाँ संसद् में बैठते हैं तो सभी जातियाँ और सम्प्रदायों का ध्यान रखना हमारा कर्तव्य

हो जाता है। ऐसी परिस्थिति में जो सिद्धान्त यहूदियों के हैं, उन सिद्धान्तों के भी यह विरुद्ध है। यह रोमन कथालिकाओं के सिद्धान्तों के भी विरुद्ध है। यदि हम बाकी धर्मों का भी निरीक्षण करने लगे तो वहाँ भी ऐसे प्रतिबन्ध लगा रखे हैं कि यह उन के विरुद्ध पड़ेगा, इस तरह का अन्धेरे हिसाब इस बिल में है कि मैं तो यह समझता हूँ कि वाम मार्ग से भी यह दस गुना अधिक होगा। चाहे जो पुरुष हो, चाहे जो स्त्री हो, बस रास्ता चलते हुए साथ हो गया और रजिस्ट्रार के सामने चले गये और विवाह करा लिया। इसलिये मेरा निवेदन है कि मैं इस बिल का सिद्धान्ततः विरोध करता हूँ।

फिर यह बात कि परमिसिव है, यह भी केवल धोका देने की चीज है। जनता की आँखों में धोखा डालने की बात है जो बेचारी कानून को अच्छी तरह देख भी नहीं सकती। जब आप मानोगीमी को एनफोर्स करते हैं तो जनता के लिये कोई कंडीशन नहीं छोड़ते उसी दिन उसी के लिये आप डाइवोर्स को जबरदस्ती उस के परिणामस्वरूप ले आते हैं। एक विवाह, एक पत्नी का जो रूप हम रख दें, एक पत्नी पति का, तो उस के बाद यदि किसी कारण से कामना पूर्ण न हो तो फिर डाइवोर्स के अतिरिक्त दूसरा कोई मार्ग नहीं है। इस लिये यह कह देना कि डाइवोर्स केवल परमिसिव है यह बिल्कुल झूठी बात है और जनता के साथ अन्याय और धोखा करना है। फिर मानोगीमी का क्या रूप आता है, यह मैं केवल जब अनुकूल समय आवेगा तब कहूँगा।

इस सम्बन्ध में कहीं कहीं राम राज्य का नाम लिया जाता है कि कैसे राम ने एक पत्नीवत रखा था। हम भी कहते हैं कि एक पत्नी से बढ़ कर दूसरा आदर्श समाज के लिये कभी हो नहीं सकता, किन्तु शास्त्रों ने एक से अधिक पत्नी का निषेध किया हो, ऐसा नहीं है। जिस समय पुत्र की उत्पत्ति नहीं हो

सकती हो, कुल के चलाने में हानि होती हो तो ऐसी परिस्थितियों में स्त्री की अनुज्ञा ले कर, अनुमति ले कर, दूसरा विवाह हो सकता है। ऐसा शास्त्रकारों का मत है। मेरा विश्वास है कि यह ऐसी आज्ञा दूसरे स्थानों पर भी दी गई है।

मैं इस समय इतना ही निवेदन करूँगा कि हिन्दू जाति के दृष्टिकोण से ही नहीं, बल्कि सारे समाज के हित के दृष्टिकोण से देखा जाय तो भी यह बिल महान हानिकारक है। यह सिद्धान्त मान भी लिया जाये कि परमिसिव है तो जैसे आत्महत्या में परमिशन नहीं दी जा सकती कि जो चाहे आत्महत्या करे, जो चाहे न करे, परमिसिव कर दिया जाय, तो वह नहीं हो सकता। जैसे चोर्य और डकैती की परमिशन नहीं दी जा सकती, परमिसिव बना कर कि, जो चाहे करे, जो चाहे न करे, जैसे भ्रष्टाचार की अनुमति नहीं दी जा सकती कि जो चाहे करे, जो चाहे न करे, क्यों कि यह सब एक नियम के विरुद्ध है, उसी प्रकार इस के लिये भी परमिशन नहीं दी जा सकती। सदाचार के नियम के अनुसार इस की परमिशन देना सर्वथा अनुचित है। यह परमिशन का जो प्रारम्भ है यह भी हमारी मारेलिटि के ऊपर एक धोका देना है। इसलिये देश जाति के नाम से अपनी जनता के नाम से लोकतन्त्र के नाम से और अपने को धर्म निरपेक्ष कहने के नाम से, हम कहते हैं कि किसी भी धर्म पर आप कुठाराघात न करें नहीं तो आप को यह भी याद रहे कि जनता की प्राजाय बड़ी भयंकर है। रावण की लड़ाई भी लोगों ने लाखों वर्षों तक सही, लेकिन अन्त में उस को मारा तो आज तक यह लड़ाई याद रखी जाती है, हर साल उस का मुर्दा फूंकते हैं, मरवाते हैं और विभीषण को अमर बनाते हैं। इसी तरह दुर्योधन का भी हाल हुआ।

इन शब्दों के साथ समाप्त कर के मैं आप को धन्यवाद देता हूँ।

Shrimati Renu Chakravarty: Mr. Deputy-Speaker, Sir, I do not propose to answer the various things that have been said just now because I feel it is very difficult to answer people whose mind still remains in mediaeval times. It is even more difficult to convince anybody who thinks that he himself has the monopoly of all morality and everybody else who demands progress, immediately should be dubbed as irreligious. We support this Bill because the principles underlying this Bill is progress. The entire idea is to have a contractual form of marriage without the necessity of repudiating religion, which was necessary in the Bill of 1872. We also support it because we hope that this is the first step towards the codification of the law applying to the citizens of India.

How and when such a law will come into being I am, of course, very doubtful, because considering the time that has taken the Hindu law to be codified, I am afraid it is very difficult to believe that we shall have one system of codified law for the whole of India in the very near future. Nevertheless, it is a step in the right direction, although I would just say this, that there are many parts in this Bill which, to me, are very retrogressive. The very idea in the Bill, that of giving the right of contractual marriage without repudiating religion, that very principle has been repudiated in certain clauses of the Bill. Of that more later, Sir.

But I would like to answer one general argument which is always brought forward by people who always oppose any new progressive laws, viz., that it goes against Hindu society, that it goes against Hindu religion. The face of society changes. We regard society as dynamic, and we recognise that through the ages society has changed and the superstructure of society, i.e., the customs, have changed also. When we look at tribal society, we find that they have certain systems, and we see that

they are still in vogue in many places in India. They answer to certain conditions, certain standards of objective reality, and they have set up according to these certain standards, certain customs. When we come in later ages to feudal times, when we see that the means of production has gone into the hands of man, women automatically become subjected. We begin to see them becoming more and more akin to a commodity; they can be exchanged for money. We see such things as polygamy, dowry etc. These are things which emanated from the objective reality of society. Now, a new society has come into being when there is need for free labour power which reflects itself in the growth of ideas about individual freedom, then certainly we must come to this question about free choice of marriage. It is no use saying that it is immoral, it is not right. We believe and we stand by this fact that there should be free choice of marriage, and therefore, this contractual marriage as enunciated in this Bill we support. We do not think that just because a person marries out of his or her free choice, it becomes unholy; that the bride and the bridegroom see into the soul of each other only if they are married according to religion, and otherwise not. It is, I think, so much bunkum. Our ideas must not depend on such things. We must react to things objectively. We may not like it at all. We may dislike that our sons and daughters should marry according to their choice or they should react in such a way. We may have very strong feelings about it, but at the same time we have to recognise that new times have come, ideas have changed, and according to those ideas, we have to give legality. We are not going to allow such marriages to remain illegal. We have to think of the children that may come after them and we have to think of the happiness of those young men and women who are today reacting to certain new necessities of life. Whether we like it or not we will have to accept it and we will have to make legislation for it.

Certainly at the present stage this Bill is of a permissive character because still there are many people who are very orthodox, who believe that we must marry according to customary law. There is nothing to prevent them from doing it, but I think it is wrong to compare the idea of allowing people to marry according to the law they like, and the permissive character of whether we allow *ḍa-coity* or not. I think it is a completely different analogy and something that is brought just with the idea of confusing issues.

It is because of the modern times that this measure has come into existence. The principle behind it is modern, and therefore it must be supported. The recognition of contractual marriage which does not insist on a declaration of irreligiousness or a repudiation of religion is the only new progressive point which has been added to the law of 1872. Otherwise, it is the same old thing, the same old Act of 1872, and the same outmoded outlook remains in this Bill. At that time what were the circumstances? When the law of 1872 was passed, orthodoxy was completely entrenched, and in spite of that, new ideas had come, new ideas had been superimposed upon our society, and society was forced to make certain concessions?

The Act of 1872 was passed in mid-Victorian times when the new concepts of individual freedom had just come into our country. Therefore, what did the orthodox do? While, on the one hand they had to accept the idea of contractual marriage, at the same time they tried in every way to hedge in the people who wanted to marry according to this law by all sorts of preventive methods. In every way they tried to prohibit the people from utilising this law by victimising them in many ways. For instance, one of the most abnoxious clauses was that it asked them to deny their religion. Secondly, they considered them an outcaste by declaring their severance from the joint family property. Thirdly, they gave their parents the right to adopt according to Hindu law while

the son was living. That was an indirect method of penalising the person from getting the property of his father.

Shri Algu Raj Shastri: Either he should have the wife or the property.

Shrimati Renu Chakravartty: You will have your say no doubt. I must have my say now.

Also the men and women who married under this law had the right of adoption taken away from them. That is, they were no longer regarded as Hindus. They no longer needed the *pinda* and therefore they should not have the right to adopt. Now, this method of penalising those who go in for this form of marriage has been left intact in the Bill. Therefore, I would like to bring before this House the big contradiction between the supposed principles enunciated in bringing forward this Bill, and at the same time the retention of these particular clauses which contradict this idea of allowing contractual marriage without repudiation of religion. Those very things are repudiated by the retention of these clauses as they were in the original Act of 1872. The old Act has been bodily incorporated and the modern demands will not be satisfied by it. It is just like the analogy of the new wine in the old bottle. Pour the new wine in the old bottle, and the old bottle bursts. It is therefore that I say that this Bill will defeat itself. The principles are good, but due to the very fact that it has incorporated the very clauses which were there to victimise and penalise people utilising this form of marriage, the very purpose of the Bill will be defeated and therefore I say that this Bill is really giving with one hand and taking away with the other. That is, it is a sort of negative Bill which does not answer the needs of the times. Therefore, we demand very categorically that there should be no clause about severance from joint family property. Why should there be penalising? When we accept the fact that people are not going to lose caste or repudiate religion by marrying according to this law, why should there be this clause about severance

[Shrimati Renu Chakravartty]

from the family, and the denial of the right of being a part of the joint family? Why should there be no adoption for the people who marry under this Act. They are human beings. This right must not be taken away from them, nor must they be victimised by disinheritance by the clause that the father can adopt a son in case his own son marries according to this law. Another point which has struck me, as I went through the Bill is that this Bill is really legislation by reference.

5 P.M.

Mr. Deputy Speaker: There does not seem to be any disinheritance.

Shrimati Renu Chakravartty: There is severance from the family.

Mr. Deputy Speaker: Inheritance is there—but survivorship goes—under the Caste Disabilities Removal Act.

Shrimati Renu Chakravartty: I will not go into the details, I shall argue that point when the amendment comes up. Since there is severance, he will not have any right to anything that accumulates in the joint family. Therefore there seems to be some penalisation. Any way, I am not going into the details just now.

As I was looking through the provisions of this Bill, one thing which I noticed was that this is a piece of legislation by reference. You have always to refer back to old Acts, which had been passed in the far distant past in some cases, and in the near future, in other cases. But generally these are very old Acts to which reference has been made in the Bill. We have to refer to the Caste Disabilities Removal Act. This is a modern Act, but then we have also to refer to the Indian Divorce Act, which is already outmoded, and the Christians themselves are demanding certain amendments and changes in that Act. Yet we are incorporating in this Bill provisions with reference to the Indian Divorce Act. We have also to refer to the Indian Succession Act. When the situation has changed, and we really need a new

law, we should definitely have a law *in toto*, and not a law by reference. Legislation is not only good draftsmanship, but it must also meet the needs of the times. When there are new times which need a new Act, a new approach should have been there, and a new law should have been brought forward, and not legislation by reference.

For instance, when we have accepted that a contractual marriage does not necessitate the denial of one's religion, there can be no two opinions on the question of losing caste. Therefore, the question of the Caste Disabilities Removal Act does not arise, and the question of severance does not arise. If today, we are to apply the Indian Divorce Act, we will find that it is not only outmoded, but it will also bring us to certain difficulties. If we depend on the Indian Divorce Act, and one of the parties ceases to be a Christian, divorce may be granted. But here, there is no question of any difference between a Christian or any other caste or religion. Therefore this Bill will bring in certain anomalies. If the Indian Divorce Act applied to some marriages which were solemnised earlier, and are now registered according to the present Bill, some cases will arise where the marriages will become null and void. There will be complications about the legitimacy of the children etc. So, the entire question has to be viewed again. Why do you want to legislate by reference? Why cannot you have a new law and a new Act answering to the needs of the times?

Then again, we have been referred to the Indian Succession Act. The provisions regarding intestate succession in the Indian Succession Act do not apply to Hindus, Muslims, Buddhists, Sikhs and Jains. I think the relevant Sections are Sections 29 and 58. This is also a question which has to be thought over. Why do you want to incorporate these provisions, and bring in additional difficulties in the way? I am not referring to the Indian Succession Act in detail, but there are other difficulties also which have not been

foreseen in the body of the Bill. For instance, what about the law guiding the inheritance of children of earlier marriages under different laws?

These are some of the points which I would like to point out. Why is it that we are asked to go back and refer to outmoded enactments which had been passed in mid-Victorian times, or even later on, but which really go against the principles of this Bill, and add to the difficulties and lacunae which will come about by the passing of this Bill. We feel that a new law should have been brought in, a completely new law which should have been viewed from the point of Science and objective reality.

Lastly,—and by no means less important—everything has to be viewed from the point of view of the children, and the welfare of a happy home life. It is the children that are most important, and so I may be allowed to make a few remarks about them as well. When we view it from the point of view of the children, we have to see that there must be a water-tight guarantee for the legitimacy and the maintenance of children born of an earlier marriage, declared invalid by this Bill. That is a thing, which must be guaranteed first, because actually there may be a few such cases. So, the question of legitimacy also should be provided for in this Bill. The economic stability of the children must also be ensured. Why should there be the question of a severance from the family? Why should the children be severed from the family? They should remain within the family, and should be entitled to all the love, advantages as well as the responsibilities of the family, as it exists today. The main point I would like to point out is that the inheritance of the children born of an earlier marriage under another law may be complicated by this severance. I feel that the law should be made very easy, and answer the needs of the times.

The question of consent also has been put in in the Bill. I think this should be deleted, because here again there are certain complications which

are likely to arise. Under the Hindu Divorce and Marriage Bill, which has been introduced, the age of consent is 16, but here it is 21; so, when there is a provision that the age of consent is 16, that should have been accepted in this Bill. Moreover, when the question of consent is there, nothing has been provided in the Bill as to who will be the guardian in the absence of the father. We know often that even when the mother is a guardian, if any body comes forward and says that he is the guardian, marriages are solemnised and we know what happens in such cases.

If a new method of marriage is to be there, people are going to marry against the orthodox methods. Let us be very clear on that point. They are going to marry against the will of such people as the previous speakers. So it is very necessary that this question of consent should not be there. Regarding objections which can be raised, I think the provision should be made in such a way that it will not lead to harassment. I shall deal with this point in detail, when the amendments are taken up.

Lastly I would like to submit that we do need a codified law, and a more progressive outlook regarding marriage as a contract, based on love, respect for each other, and the building up of a happy home for our children. It is on this basis that the entire law has to be looked upon, not from the idea of orthodoxy or that those that believe in customary law are the sole repositories of morality.

With these few words, I support the Bill in principle.

Dr. N. B. Khare: Sir, I am going to confine myself only to the proposition before the House, moved by my hon. friend the Law Minister, about this so-called special marriage. I saw quite a sudden and magic change in the attitude of this House with regard to this motion. On the 14th, when this motion was first moved before the House, I am very clear in my mind, and you will also agree with me, that the whole House, particularly the majority of the

[Dr. N. B. Khare]

Members of the majority party seemed to be against this motion, and against the idea that this motion is regular, legal or proper.

Shri A. M. Thomas (Ernakulam): You are mistaken.

Dr. N. B. Khare: Whatever that may be, that is my impression, and I have a right to place it before the house.

Pandit K. C. Sharma (Meerut Distt.—South): He has a right to be mistaken, and he is always mistaken.

Dr. N. B. Khare: I say this because I was present all throughout, and I heard the voices of no, no, sit down etc. from the Congress benches, and my hon. friend the Law Minister was hooted down; he had to sit down, and he was not even heard. That shows the attitude on the 14th. But today I find that there is a sudden and magic change in that attitude, as I said before. The House seems to be today very much agreeable to this motion and to the idea that it should be taken into consideration and perhaps passed also—I am sure it will be passed.

Shri Algu Rai Shastri: Wisdom grows.

Dr. N. B. Khare: After all, we are talking of special marriage, and I think we have developed an inordinate love for this special marriage, and love, as everybody knows, is blind, and knows no laws. After all, it is love that compels one sometimes to commit kidnapping, trespass and what not, and sometimes even breaking of the law. So to enable us to consider this motion, we can afford to break all our Rules, our Constitution, our procedure, and everything else. It is all right, and we can go ahead, for it is a very good example!

When that is being done, I must also say what has brought about this change, from the 14th to the 16th December 1953, within a period of 48 hours. One single event has brought about this change, as I read in the papers also this morning.

[SHRI PATASKAR in the Chair]

This change which I have seen today obviously and manifestly before my eyes reminds me of the old *pouranic* story of the *gopis*, the *gows*, the *Gopal* or the *Gopivallabh*.

Pandit K. C. Sharma: On a point of order, Sir. Is the hon. Member entitled to go into a discussion of the Bill or into the conduct of hon. Members of this House? He need not go into details about how others behave. Let him behave himself.

Shri Algu Rai Shastri: He is developing his argument. He should be permitted.

Dr. N. B. Khare: Sir, this reminds me of the story that whenever the *Gopis* or the *gows* used to go astray, the *madhura*, sweet music of the *Murali* of Krishna Bhagwan used to bring them to their senses and used to captivate their hearts. The same thing happened here, Sir. As soon as a certain person came here and uttered his *mantra* or his music, all the *Gopis* and *gows* had been thoroughly attracted.

Mr. Chairman: May I suggest to the hon. Member that it would be worthwhile if he refers to the provisions of the Bill?

Dr. N. B. Khare: I am referring to the Motion which is being passed. We are talking of marriage. I am for monogamy; I am not for polygamy.

Shri D. C. Sharma (Hoshiarpur): May I know, Sir, if the hon. Member thinks himself to be a *Gopi*?

Dr. N. B. Khare: If the cap fits him, he may wear it. (*Interruptions*) He has provoked me. The cap fits him. I do not dance to any body's tune.

Mr. Chairman: I would appeal to hon. Members not to provoke the hon. Member who is speaking.

Dr. N. B. Khare: Therefore, Sir, I may tell you that I am for monogamy and this Special Marriage Bill also provides for monogamy. But, Sir, I am surprised to find that in this House itself there is complete polygamy ruling

—one Gopi Vallabh and hundreds of Gopis dancing to his tune.

Shri Bhagwat Jha Azad (Purnea cum Santal Parganas): With one *Kubja*.

Pandit K. C. Sharma: I am rather surprised at the arguments of my friends both supporting this Bill as well as opposing it. It is a simple measure. In this country in the Hindu, Christian, and Mohammedan religions, marriage is predominantly governed by personal law and there are rules of conduct for the husband and wife in all these religions. Then cases had happened when marriages were to be performed and the people did not belong to these religions. So in 1872 a law was passed—the Special Marriage Act—under which certain people who did not belong to certain religions could perform their marriages, and the basis of the marriage was contractual, i.e. as human beings, the young man taking the young woman as wife and the young woman taking the young man as husband. When they took each other as husband and wife, it did not follow that they said goodbye, as Mr. Nandlal Sharma said, to everything decent in human life. That is not the question. The words 'husband' and 'wife' are significant words. They carry certain implications, a certain significance, a certain meaning behind them, and the young man and the young girl who took each other as husband and wife undertook to observe the law of decency and good conduct in society. It cannot be said that because they married beyond the Hindu, Muslim, Christian or any other religion, therefore, they said goodbye to everything that was good in those religions. That is not the point. For my friend's information, I may say that even in the Rigveda it is said:

"Ye, the young girl, go to the youngest man. Be thou mother of heroic children for the good of society."

There 'the good of the society' means the good of the race. Therefore, the emphasis is not on the performance of *yajna* as such; the emphasis is on

keeping the thread of the race alive. What is important is the progeny. Therefore, the emphasis lies with regard to the race, not with regard to religion. Even on the principle laid down in the Rigveda, in marriage the question of religion goes in the background and the question of race comes first, and it cannot be said that the race belongs only to those who believe in the Hindu religion or in any other religion. Therefore, on the basis of marriage under the Rigveda idea, a Hindu can marry a non-Hindu for the perpetuation of the race; it would be within the idea, within the concept of Rigveda marriage.

Anyhow, in 1872 a law was passed. The condition was that the couple did not belong to certain religions and they could marry and make a declaration that 'A' and 'B' did not belong to this or that religion. Now, in 1923 Sir Hari Singh Gour brought in an amendment in which he said that if both the parties belonged to the same religion,—Hindu, Sikh, Buddhist or Jain religion—they can marry, and the declaration was to be made that both the parties belonged to that religion. In the 1872 Act, the condition was that they did not belong to certain religion. After the amendment of 1923, the condition was that they belonged to the same religion. Now, in this proposed Bill, this condition, i.e. this declaration, is being done away with. The marriage under both the Acts,—i.e. under the 1872 Act as well as after the 1923 Act—was a marriage in the contractual form. The contractual form, I may again mention, is not doing away with everything ethical or decent in life. The simple difference was that the sacramental forms were done away with, that a Hindu was not required to go 7 times round the sacred fire. But it does not follow that because he has not gone round the sacred fire seven times, therefore everything that was said before the sacred fire was not in the mind of the girl or the boy. They say 'we observe the rule of piety'. When they marry, the girl and the boy do not say 'We say goodbye to everything that is pious or decent in human life'. That is not the point.

[Pandit K. C. Sharma]

In the form in which it is presented, this Bill takes away this declaration that they belong to the same religion—Hindu, Jain, Buddhist or Sikh religion. Under the proposed Bill, any Indian citizen can marry another Indian citizen, of course of the other sex.

Then, Sir, the condition prevailing up to this time was that cases were known in large numbers in which the young man in order to get the young girl would say that he is not a Muslim or he is not a Hindu, though he is a Muslim or Hindu all the while. In order to get the woman, he will make a false declaration. To do away with that necessity of making a false declaration, this Bill comes to our rescue. The only difference that it makes is that the young man or the young woman is not required to make false declarations before the Registrar. They come as man and woman belonging to this country only stating that they are 21 or such and such age and they are Indian citizens and they want to take each other as husband and wife and therefore they are married. This is the only difference; there is no other difference. Sir, law is made under economic, social conditions and intellectual receptivity. 'Intellectual' when it is used in relation to the conditions of law, includes ethical conceptions or morality. Whether it is a good law or a bad law depends on the circumstances which warrant the enactment of a proposed law. I may cite the example of a recent Bombay marriage, in which a man and a woman did not like to go even to the Registrar of Marriages, but made a certain contract, the woman stating that "these would be conditions for my living with the husband" and the husband laying down certain conditions for keeping the woman as his wife and they both agreeing that while they live as husband and wife, those are the conditions which each of them undertakes to observe. So this is a social condition. The receptivity of the people demands that we have come to a stage where such a law is a necessity and therefore it is

quite in the fitness of things that such a law be passed.

Again, there is a chapter "Registration of Marriages solemnised in other form". My friend, Mr. Deshpande, made much of it, but I may remind him that there was an amendment to the Special Marriage Act and it is already the law that if marriages are performed in any other form, husband and wife agreeing together, writing to the Registrar, can get the marriage converted into a marriage under the Special Marriage Act, and then the marriage will be considered as one performed under that Act. So, there is nothing new in it. It is already a law in existence. There is nothing new in it and when this amendment was brought, I was against it, not because it was a bad law as such, but because when the marriage has already been performed in another form, it was not a question between A and B, that is, husband and wife, but there might also be the question of A, B, C and D, that is, the husband, the wife and two children, and after the marriage has been registered as a marriage under the Special Marriage Act, then inheritance would be governed by the Succession Act. Thus, in the same family two forms of law of inheritance will come into existence—one, the law of survivorship and the other, the law of succession. That was my objection to that amendment. I am still of the opinion that registration of marriages solemnised in other forms is not a good law. For when a marriage is done in a religious form, it is both sacramental and contractual. It might be predominantly sacramental, but the element of contract is always present there, whether it is a Hindu marriage or a Muhammadan marriage or a Christian marriage. It is wrong to say that a marriage performed under the personal law is cent. per cent. a religious marriage or a sacramental marriage. They undertake certain obligations there as husband and wife, which is a form of contract, and that contract is enforceable in civil courts. Even a personal law marriage is to some extent a contractual marriage. So, this marriage under the personal

laws is sacramental as well as contractual. At the time when the marriage was performed, it should not be open under any circumstances—I am talking of the case of personal law marriages—to the parties to say “good-bye” to what they once promised. That was my objection and I still do not regard it as a good law. There is nothing of religion in it and nothing ethical is involved. Because a young man goes to the Registrar and says “I take this young lady as my wife”, does it mean that to everything decent and ethical in human life they say ‘good-bye’? There is nothing of the sort. Human life is human life. It is good and decent whether you stand by the scripture or you stand by the social virtues. A virtue is not simply because it is there in certain sacred books; it is a virtue when it is acted upon in society; scriptures are meant for social life and not meant for libraries. Therefore, to say that anything irreligious is being done is wrong and the impression created that certain sections of the House are bent upon acting in a way which is against certain tenets of religion is entirely unfounded. As I said, a law is to be passed on the conditions, economic, social and intellectual and the word ‘intellectual’ is comprehensive enough to include ethical conception. I also said that a Bombay marriage warrants the enactment of such a law because two educated persons quite decent in life, quite respected in society and doing useful work, have married in a form of contract and they live together peacefully, happily etc. Therefore, conditions obtain where such a Bill is now necessary. I again repeat it is against no religion, no ethical principles, no decencies of life. It is a perfect piece of legislation.

Mr. Chairman: I think we are nearing 5-30. At 5-30 we have to commence discussion on a matter of public importance. I think there is hardly a minute or two now.

An Hon. Member: Somebody may begin, Sir, his speech.

Shri D. C. Sharma: Mr. Chairman. Sir, I think this question is going to be a barometer of the social conscience of

those people who are going to speak on it and of those who are going to judge it. I believe, Sir, that social legislation of a progressive type is always productive of many surprising reactions. One of the reactions that it produces is a shock reaction and I was not surprised when I listened to the speech of some hon. Members on this side of the House who thought that the heavens are going to fall because this Bill has been introduced. I believe, Sir, that the heavens are not going to fall when this Bill is going to be passed. On the other hand, I believe that India will have a new social outlook on life and a new social outlook of our own. I think that this Bill will in many ways re-vitalise our home life and social life.

Shri Aigu Rai Shastri: I doubt very much.

Shri D. C. Sharma: Sir, I shall continue tomorrow.

INTERIM COMPENSATION TO DISPLACED PERSONS

Mr. Chairman: Now, we may take up the discussion of a matter of very great importance, namely, the scheme to pay interim compensation to displaced persons for their properties left in Pakistan. The hon. Member Shri Gidwani has given notice. I think that as the total time for the discussion is only one hour, 15 minutes may be given to Shri Gidwani, 15 minutes for the hon. Minister to reply and 5 minutes each to those persons who have sent in their names and who wish to take part in the debate.

Shrimati Sucheta Kripalani (New Delhi): 5 minutes is quite useless. It is such an important subject that the time should be extended beyond one hour for the discussion.

Mr. Chairman: The hon. lady Member realises that by convention that is a matter to be discussed only for a short duration. So far as the present programme is concerned, it is fixed. I think it is only a matter of urgent importance, for a short duration. Therefore, I am going to give 15 minutes to