## PREVENTION OF CORRUPTION (AMENDMENT) BILL

**The Minister of Home Affairs (Pandit G. B. Pant):** I beg to move for leave to introduce a Bill further to amend the Prevention of Corruption Act, 1947, and to make a consequential amendment in the Criminal Law Amendment Act, 1952.

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

"That leave be granted to introduce a Bill further to amend the Prevention of Corruption Act, 1947, and to make a consequential amendment in the Criminal Law Amendment Act, 1952."

*The motion was adopted.*

**Pandit G. B. Pant:** I introduce the Bill.

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## CHARATERED ACCOUNTANTS (AMENDMENT) BILL

**The Minister of Revenue and Civil Expenditure (Shri M. C. Shah):** I beg to move for leave to introduce a Bill further to amend the Chartered Accountants Act, 1949.

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

"That leave be granted to introduce a Bill further to amend the Chartered Accountants Act, 1949."

*The motion was adopted.*

**Shri M. C. Shah:** I introduce the Bill.

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## HINDU SUCCESSION BILL

**Mr. Speaker:** The House will now proceed with the further consideration of the following motion moved by Shri Pataskar on the 5th May, 1955:

"That this House concurs in the recommendation of Rajya Sabha that the House do join the Joint Committee of the Houses on the Bill to amend and codify the law relating to intestate succession among Hindus made in the motion adopted by Rajya Sabha at its sitting held on the 25th March, 1955 and communicated to this House on the 28th March, 1955 and resolves that the following Members of Lok Sabha be nominated to serve on the said Joint Committee, namely, Shri Hari Vinayak Pataskar, Shri Satyendra Narayan Sinha, Pandit Dwarkanath Tiwary, Shrimati Tarkeshwari Sinha, Shrimati Uma Nehru, Shri Raghubar Dayal Misra, Shri Bulaqi Ram Varma, Shri Birakisor Ray, Dr. Pashupati Mandal, Shrimati Jayashri Raiji, Choudhary Raghubir Singh, Shri C. R. Basappa, Shri Rayasam Seshagiri Rao, Shri M. Muthukrishnan, Shri Khub Chand Sodhia, Shri Vaijnath Mahodaya, Dr. Devrao Namdevrao Pathrikar Kamble, Shri Dev Kanta Borooah, Sardar Iqbal Singh, Shri Bheekha Bhai, Shri M. L. Dwivedi, Shri Radha Raman, Shri Shankar Shantaram More, Shrimati Sucheta Kripalani, Shrimati Renu Chakravartty, Shri S. V. L. Narasimham, Shri Vishnu Ghanashyam Deshpande, Shri Girraj Saran Singh, Shri K. A. Damodara Menon and Shri Choithram Partabrai Gidwani."

The House is aware that this motion has remained part-discussed, part-discussed is legal phraseology; it was almost wholly discussed, only a little part remaining. Already 38 Members have taken part in the discussion and the time taken so far is 10 hours and 2 minutes on the 5th and 7th May, 1955. Therefore, if the House agrees, the discussion may conclude today at about 3 P.M. or so, when I shall call upon the Minister to reply to that debate.

I shall now call upon Shri Khushi Ram Sharma who was on his legs to continue his speech.

**The Minister in the Ministry of Law (Shri Pataskar):** There is a small amendment. The date fixed originally for the submission of the report by the Joint Committee was 1st August, 1955. I would like to move the following amendment:

[Shri Pataskar]

That at the end of the motion the following be added:

"This House further recommends to the Rajya Sabha that the said Joint Committee be instructed to report on or before the 9th September, 1955."

**Mr. Speaker:** Amendment moved:

That at the end of the motion the following be added:

"This House further recommends to the Rajya Sabha that the said Joint Committee be instructed to report on or before the 9th September, 1955."

**Pandit Thakur Das Bhargava** (Gurgaon): I have got an amendment to this amendment, namely that the date 9th September be substituted by the date 9th December.

I beg to move:

That in the amendment proposed by Shri Pataskar, *for* "the 9th September, 1955" *substitute* "the 9th December, 1955".

If you will allow me, I will give the reasons for this amendment.

**Mr. Speaker:** I will first allow Shri Khusi Ram Sharma to continue his speech.

**The Minister of Parliamentary Affairs (Shri Satya Narayan Sinha):** Government wants that the discussion on Goa should be taken up tomorrow from 2-30 P.M. to 5 P.M. 2½ hours will be allotted to this discussion.

**Mr. Speaker:** I have no objection.

**Shri V. G. Deshpande** (Guna): 2½ hours will not be sufficient.

**Mr. Speaker:** How much time does he want?

**Shri V. G. Deshpande:** Five hours, that is, one full day.

**Mr. Speaker:** I do not know what can be discussed for five hours. Let it be provisionally 2½ hours. As the discussion proceeds, if more time is really needed, we shall see about it. For the present, let it be 2½ hours. It is the probable limit; we may exceed it by half an hour or so.

Shri Khusi Ram Sharma will now continue his speech.

श्री के० आर० शर्मा (जिला मेरठ परिवत) : अध्यक्ष महोदय, आज इस बात पर तो मैं समझता हूं कि सभी सहमत होंगे कि स्त्रियों को और अधिक अधिकार दिये जायं, लेकिन इस बात पर बहुत तीव्र मतभेद हैं कि उनको क्या अधिकार दिये जायें और किस तरह के स्त्रियों को सम्पत्ति में अधिकार दिये जायें ।

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

इसलिए जो मौजूदा कानून हैं, उसमें परिवर्तन करते समय हमको इस मसले पर बहुत गम्भीर विचार करना चाहिए। इस विधेयक के सम्बन्ध में और आम तौर से सामाजिक कानूनों के सम्बन्ध में मुझ को यह कहना हैं कि हमारे धर्म शास्त्रकारों ने जो समाज की व्यवस्था बनाई थी वह हजारों वर्ष से हमारे समाज को सुदृढ बनाये हुए हैं और बहुत से बाहरी हमलों के बाद भी उन नियमों के कारण हमारा समाज बहुत अच्छे ढंग से चलता रहा हैं । अब जो मौजूदा समय में कुछ परिवर्तन करने की आवश्यकता हुई हैं वह सब के दिमाग में हैं और सभी लोग यह चाहते हैं कि स्त्रियों को कुछ अधिकार दिये जायें लेकिन इस सम्बन्ध में कदम बहुत ही सोच समझ कर उठाना चाहिए । मैं यह समझता हूं कि हमारे धर्म शास्त्रकार बड़े बुद्धिमान् थे, उन्होंने जो समाज की व्यवस्था बनाई थी वह बड़ी अच्छी थी और उदाहरण के रूप में मैं यह बतलाना चाहता हूं कि जो ज्वाइंट फैमिली सिस्टम हमारे यहां बनाया गया वह बहुत ही अच्छा था और उसमें बेकारी के खिलाफ एक इंश्योरेंस जैसी चीज थी और सूखे, लंगड़े, अपाहिज और विधवाओं इत्यादि के लिए उसमें बड़ा सहारा था । अब कुछ लोग सोचते हैं कि उस ज्वाइंट हिन्दू फैमिली सिस्टम को खत्म कर दिया जाये । जब हमारे विधि मंत्री जी ने

कुछ इधर संकेत किया था तो मुझ को बड़ा आश्चर्य हुआ और मैं ने यह समझा कि उनके विचार भी उधर ही चल रहे हैं और शायद वह इस बात के लिए रजामंद हैं कि यह बिल हालांकि ज्वाइंट हिन्दू फैमिली को लागू नहीं होता है, लेकिन यदि इसके वास्ते इधर इंसिस्ट किया जाये तो वह इस बात के लिए भी तैयार हो जायेंगे कि वह ज्वाइंट हिन्दू फैमिली को लागू कर दिया जाय । मैं उनके इस विचार का घोर विरोध करता हूं ।

इसके अलावा एक दूसरी बात जो कि विशेषतः इस बिल में हैं, स्त्रियों को अधिकार देने की, लड़के के बराबर लड़की को भी अधिकार देने की बात को लेकर हम देखते हैं कि जनता के विचारों में बहुत काफी उथलपुथल मचती है जब कि इस विधेयक में जो धाराएं इस सम्बन्ध में रक्खी गयी हैं, वे उनके सामने आती हैं । इस सम्बन्ध में भी हमारे जो शास्त्रकार थे उन्होंने बहुत ही सोच समझ कर नियम बनाये थे । स्त्रियां प्रकृति से ही स्वाभावतः कुछ प्रकार की सम्पत्तियों की रक्षा करने और उनको ठीक ठीक चलाने के लिए नाकाबिल हैं, और इसीलिए समाज में ऐसे नियम रक्खे गये थे कि कुछ प्रकार की सम्पत्तियों में उनको अधिकार न हो, लेकिन यदि आजकल के जमाने को देखते हुए और अधिक अधिकार उनको देने आवश्यक प्रतीत हों तो वह ऐसे ढंग से उनको दिये जायें जिससे कि सम्पत्ति छिन्न भिन्न न हो ।

**श्री एम० चिथंबी** (चित्तौड़) : यहां तक आवाज नहीं आ रही है, कृपया जरा जोर से बोलिए ।

**श्री के० आर० शर्मा** : मेरा इस सम्बन्ध में जो सुझाव है, वह बाद में रक्खूंगा, लेकिन मैं कहना चाहता हूं कि हमारे धर्म शास्त्रकारों ने बड़ी बुद्धिमानी से समाज की व्यवस्था बनाई थी और उसमें परिवर्तन बहुत सोच समझ कर करना चाहिए । यह मैं जरूर मानता हूं कि समय के अनुकूल कुछ परिवर्तन करने आवश्यक हैं । स्त्रियों की जो मांग हैं सम्पत्ति में अधिकारों के लिए वह अवश्य किसी न किसी अंश में हमको माननी पड़ेगी । हमारे मित्र पंडित नन्द लाल शर्मा जो यह कहते हैं कि हमको हिन्दू ला में परिवर्तन करने का अधिकार नहीं हैं, इस बात को मैं मानने के लिए तैयार नहीं हूं और हमारे आत्माभिमान को ठेस पहुंचती है जब कि वे यह कहते हैं कि केवल मनु और याज्ञवल्क्य को अधिकार था कि वह समाज के नियम बना सकें और हमको जो यहां ७५० के करीब लेजिस्लेटर्स इकट्ठा हुए हैं, हमको यह अधिकार नहीं हैं और न हम में वह काबिलियत हैं । मैं यह समझता हूं कि वह लोग बड़ी काबिलियत के आदमी थे, लेकिन जैसे उन लोगों को समाज के नियम बनाने और उन में परिवर्तन करने का अधिकार था उसी तरह से जो हम यहां पर ७५० लेजिस्लेटर्स इकट्ठे हुए हैं, सामूहिक रूप से हमें भी वह अधिकार हैं ।

**श्री नंद लाल शर्मा** (सीकर) : उन को भी परिवर्तन करने का अधिकार नहीं था ।

**श्री के० आर० शर्मा** : मैं मानता हूं कि उन को परिवर्तन का अधिकार था, और उसी तरह से हम को भी, सामूहिक रूप से जो यहां ७५० लेजिस्लेटर्स हैं, उन को भी, अधिकार हैं । खैर, यह अपने अपने विचार की बात हैं ।

**श्री नंद लाल शर्मा** : माननीय सदस्य परिवर्तन का कोई प्रमाण दे सकते हैं ?

**श्री के० आर० शर्मा** : प्रत्यक्षं किं प्रमाणम् । इस के लिये प्रमाण की कोई आवश्यकता नहीं दिखाई देती । यह तो एक बिल्कुल स्पष्ट बात हैं ।

तो जहां मैं यह कहता हूं वहां मैं यह भी कहता हूं कि हमारे कुछ ऐसे साथी हैं जो कि समाज सुधार की सड़क पर हवाई जहाज ले कर दौड़ना चाहते हैं और वह हमारे समाज की एक बिल्कुल नई रचना एक दम से कर देना चाहते हैं । उन में से बहुत से ऐसे लोग हैं जो कि यह समझते हैं कि जो पुरानी चीजें बनी हुई थीं

[श्री के० आर० शर्मा]

वह अब बिल्कुल बेकार हो गई और नये ढंग से एक समाज की रचना होनी चाहिये। जब वह लोग यह देखते हैं कि इस सदन में शायद उन की बात न मानी जाय तो उन के पास एक अणु शस्त्र है जिस का प्रयोग वह अक्सर करते हैं और वह अणु शस्त्र है हमारे प्रधान मंत्री के व्यक्तित्व का। बात बात पर वह प्रधान मंत्री जी को यहां बुला कर उन का भाषण करा देते हैं और इस का नतीजा यह होता है कि हम लोगों में से बहुत से सदस्यों को खामोश हो जाना पड़ता है। जब प्रधान मंत्री जी का यहां भाषण होता है तो हमारी वही हालत होती है जैसी कि बर्नार्ड शा की हुई थी जब उन की भेंट महात्मा गांधी से हुई थी। जब राउंड टेबल कान्फरेन्स के जमाने में महात्मा गांधी इंग्लैंड गये थे तो बर्नार्ड शा की उन से भेंट हुई। जब उस भेंट के बाद बर्नार्ड शा बाहर निकले तो एक पत्रकार ने उन से पूछा :

"You have met Mr. Gandhi. What sort of man is he?"

बर्नार्ड शा ने यह कहा :

"I have not yet recovered from the shock. Is Mr. Gandhi a man? No. He is a phenomenon."

तो यही दशा हमारी होती है जब पंडित जी का भाषण यहां पर होता है। पंडित जी ने हमारे देश का नाम ऊंचा किया है और हमारी उन पर बड़ी श्रद्धा है। छोटी छोटी बातों में हम उन को नाराज नहीं करना चाहते हैं। इस लिये हम लोग खामोश हो जाते हैं, लेकिन मैं उन अपने साथियों से यह प्रार्थना करना चाहता हूं कि जिन ख्यालात को जो लोग हैं उन को पूरा मौका दिया जाय अपने ख्यालात जाहिर करने का और उन पर अमल करने का। प्रधान मंत्री जी से मैं यह निवेदन करूंगा कि वह आज दुनिया के राजनीतिज्ञों में सब से बड़े हैं, लेकिन उन का यह स्थान इस लिये नहीं है, उन्होंने यह स्थान इसलिये नहीं ग्रहण किया है कि वह आइजनहोवर या मार्शल बुल्गानिन की नकल करते हैं। बल्कि वह इस लिये हैं कि वह भारतीय संस्कृति और भारत की परम्परा के प्रतीक हैं। इस लिये मैं उन से और जो हमारे दूसरे द्रुतगामी साथी हैं उन सब से यह निवेदन करता हूं कि वे समाज सुधार के मसले पर कम्यूनिस्ट तरीकों को इस्तेमाल न करें। जब मैं इस कम्यूनिस्ट शब्द का इस्तेमाल करता हूं तो मेरा मतलब यह है कि कम्यूनिस्टों का तरीका यह है कि जो पुरानी व्यवस्था है उसको खत्म कर के वह एक बिल्कुल नई व्यवस्था बनाना चाहते हैं। वह पहले प्रलय करना चाहते हैं और फिर नई सृष्टि बनाना चाहते हैं। तो मैं अपने साथियों से यह कहना चाहता हूं कि वह ऐसे तरीके इस्तेमाल न करें। इसी तरह से जो हमारे हवा के घोड़े पर सवार साथी हैं उन में से एक महिला सदस्या हैं जो कि दिल्ली की प्रमुख कार्यकर्त्री हैं। उन्होंने इस विधेयक के सम्बन्ध में और पहले जो हिन्दू विवाह का कानून पेश हुआ था उस पर अपनी स्पीच देते हुए पुरुषों पर बड़े आक्षेप किये थे, और वास्तव में जब कभी वह इस सदन में बोलती हैं तो ऐसा मालूम होता है मानो पुरुषों और स्त्रियों में एक युद्धावस्था या 'स्टेट आफ वार' जारी है। मैं नहीं समझता कि किस तजुर्बे के कारण वह पुरुषों के साथ ऐसा सुलूक करती हैं। एक महिला सदस्या इस सदन में माता की हैसियत से बोला करती हैं, आज मैं एक पति की हैसियत से इस सदन में कुछ कहना चाहता हूं।

पुरुष बेचारे की एक अजीब दशा है। अब से करीब २५ वर्ष हुए, मैं ने, एक चांद अखबार निकलता है, उस में एक तस्वीर देखी थी। उस तस्वीर में था कि एक समुद्र में नौका पड़ी है वह जीवन नौका थी और उस नौका में स्त्री और पुरुष की तस्वीर बनी हुई थी। यानी पति और पत्नी की तस्वीर थी। पति के हाथ में नौका की पतवार थी और उस पुरुष की नाक में नाथ पड़ी हुई थी जिस को नोज रिंग कहते हैं। वह नाथ स्त्री के हाथ में थी। पुरुष नाव को खे रहा

था और नाथ स्त्री के हाथ में थी। तस्वीर में लिखा हुआ था :

"यद्यपि जीवनतरी के तुम्हीं खिवैया नाथ,
झुके तदपि खेवें चलो, नाथ हमारे हाथ।"

तो यह दशा पुरुष की है। स्त्री के हाथ में उस की नकेल है और बड़े झुक झुका कर पुरुष को चलना पड़ता है। पुरुष सारे दिन मेहनत कर के आता है और श्रीमती जी घर में पल्ला पसारे बैठी रहती हैं, वह अपनी गाढ़ी कमाई को पत्नी के हवाले कर देता है। पुरुष आकाश में उड़ता है, किस लिये ? इस लिये कि श्रीमती जी के लिये साड़ी बनवाये, पुरुष जमीन के नीचे खानों में काम करता है, इस लिये कि श्रीमती जी के लिये आभूषण लावे, पुरुष समुद्र की तह में जाता है, किस लिये ? इस लिये कि श्रीमती जी को आ कर सजावे। यह दशा बेचारे पुरुष की है। बहर हाल उस को देखने से ऐसा मालूम होता है कि पुरुष को तो विधाता के विधान में केवल इस लिये बनाया गया है कि वह तमाम दिन और तमाम जिन्दगी मेहनत कर के कमाता रहे और एक निठल्ली की जमात को खिलाता रहे। ऐसी भयानक दशा पुरुषों की है, मैं नहीं समझता कि हमारी मित्र सुभद्रा जी यहां पर इस भवन में जो कहा करती हैं, वह किस आधार पर कहती हैं। मैं समझता हूं कि वह भारत की स्त्रियों का प्रतिनिधित्व इस मामले में नहीं करतीं।

अब जहां तक इस कानून का सम्बन्ध है, इस में बहुत सी चीजें हैं। लेकिन जो हिस्सा दिया जा रहा है लड़की को जायदाद में उस के सम्बन्ध में मुझे निवेदन करना है कि यह बात तो मानी जानी चाहिये कि लड़की को कुछ हिस्सा मिले। लेकिन जो पिता की जायदाद में लड़की को हिस्सा मिले उस के बारे में मेरी यह राय है कि उस में एब्सोल्यूट एस्टेट न होनी चाहिये, बल्कि लिमिटेड एस्टेट होनी चाहिये और वह लिमिटेड एस्टेट उस वक्त खत्म हो जाय जब कि उस की शादी हो जाय या जब कि उस की मृत्यु हो और पति की जायदाद में उस को एरी ओनरशिप मिलनी चाहिये। यह इसके सम्बन्ध में मेरा सुझाव है और मैं ज्वायंट कमेटी से निवेदन करूंगा कि वह इस पर गम्भीरता-पूर्वक विचार करें।

मैं इस सदन से यह भी निवेदन करना चाहता हूं कि जो यह बात चल रही है कि इस विधेयक को ज्वायंट फैमिली पर भी लागू किया जाए, इस का मैं घोर विरोध करता हूं और सदन से यह प्रार्थना करता हूं कि ऐसा कोई सुझाव ज्वायंट कमेटी को न दिया जाये।

**Shri Gadgil** (Poona Central): I welcome this Bill because it is in step with the progressive ideas which are now influencing our society. The socialistic pattern, if I understand it correctly, consists of three equalities: political, social and economic. And this deals with the second equality, namely, social equality, inasmuch as it attempts to remove some of the inequalities existing in social institutions, and in particular, in the institution of inheritance.

I admit that this is a revolutionary measure and one must not belittle it. The Hindu society has been having a system of inheritance in which the women were either excluded, or, whenever they got it, they get a sort of limited interest. Very recently some changes have been made by which the daughters are getting some estate absolutely.

Having said that, I want to bring to the notice of the hon. Minister in charge of the Bill that already, so far as rural agricultural properties are concerned, fragmentation is the order of the day. Anyway, in the State of Bombay, nearly 80 per cent. holdings are less than five acres in area, and if further partitions are allowed, not only among the sons but among the daughters, the holdings will considerably go down, and the result will be further fragmentation. That result is, I should say, uneconomic and not consistent with our ideals in the economic sphere. I, therefore, want the Government to do something in that way, so that

[Shri Gadgil.]

wherever there is any economic holdings so far as agricultural property is concerned, it will not be subject to partition. It may be sold either by public auction or between the claimants themselves or a right of pre-emption may be given to brothers against sisters.

**Shri S. S. More** (Sholapur): Why not to the sister against the brother?

**Shri Gadgil:** Well, I first said it should be first sold by public auction in which term everybody is included not excluding the sister. So, there it ends.

So far as urban property is concerned, if a small house in any of the moderately sized towns is to be partitioned, it becomes absolutely impossible to partition it with nothing like claim to convenience. We have already on the statute-book an Act called the Impartible Estates Act. I am not sure whether that Act will apply to such cases. If it applies, well and good.

**Shri S. S. More:** There is also the Indian Partition Act.

**Shri Gadgil:** Whether it is the Impartible Estates Act or the Indian Partition Act, whatever is desired to be done is that the resulting accommodation should not be too small, below the standard accepted by the Planning Commission. Now, everything can be referred to the Planning Commission including this. I am therefore suggesting that these results should be avoided.

Then there is another point.

**Mr. Deputy-Speaker:** Is there not already the Indian Partition Act?

**Shri Gadgil:** Yes. I referred to that. Under the Indian Partition Act, if the property has to be auctioned between the claimants, that can be done—or in any other way. The point is that there should not be sub-standard accommodation left as a result of this partition. That is the point I wanted to make.

**Mr. Deputy-Speaker:** The hon. Member wants that to be extended to agricultural land also, fixing the minimum?

**Shri S. S. More:** Different States have different laws regarding land, fixing the minimum.

**Shri Gadgil:** So far as agricultural holding is concerned—that is, with respect to agricultural property, laws exist. Now, so far as accommodation—residential accommodation—is concerned, there is no law except general standards enunciated, but there is a standard in the Jail Manual that no person should have less than 96 square feet. I think most of us have had that experience. I do not know whether what is available in the jail should not be available in a free life.

**Shri S. S. More:** The jail provision is on a very generous scale.

**Mr. Deputy-Speaker:** Sixteen ounces of rice are given.

**Shri Gadgil:** I do not think it is generous. That same standard has been adopted in many other countries. The point I was making was that as a result of partition, there should not be sub-standard accommodation. That is the only point I wanted to urge.

Now, so far as the heirs are concerned, I have no quarrel, and I agree that there should be no difference between married and unmarried daughter.

There is only one point. I am suggesting for consideration whether the widow of a pre-deceased son or widow of a pre-deceased son's son should have absolute estate. As a daughter she may get. That is a thing to which she is perfectly entitled. But, if property has any connection either with the family or with blood, then, if she re-married after getting the inheritance, both these things are departed from. After all, property is a rallying point for all the best in man, for good emotions. At the same time, if I were to borrow an expression from Marxism, it is a pandora of troubles. So, if a daughter inherits, well and good. She is part and parcel of the family and one's own being as the Sanskrit *Shastrakars* say. It is all right. She should inherit absolutely. But, if a daughter-in-law or a widow of a pre-deceased son or

a widow of a pre-deceased son's son inherits, I have no objection, but if she re-marries immediately after the inheritance falls due, then it is for us to consider whether she should be given that property absolutely, or whether she should enjoy that property and will away if she does not re-marry during her lifetime. The property in a sense is absolute; in another sense the only limitation is that if she re-marries the property reverts back. I do not know whether this idea will be acceptable to the whole House. But I have propounded two ideas round which inheritance should move: one, blood relationship; the other, family tradition. If these two ideas are accepted, then I submit that this is a matter which should be considered.

I had some discussion with my esteemed friend, Shri More, who has vast experience in this matter. He did not agree immediately. I am not dogmatic about it, but I suggest that this be considered. The widow succeeds to property, and next day she remarries. She may succeed again and next day enter into another marriage. I have no quarrel if she marries as many times as her spirit prompts her, but the point is not that. I give property to my daughter because she is part of my life, my blood, my family tradition and so on. But one who goes outside and who is, so to say, least loyal by the very fact that she re-marries.....

**Shri S. S. More:** How can you say that?

**Shri Gadgil:** This is my opinion. When you express yours, I shall certainly hear with great attention.

**Shri S. S. More:** Will not such a provision be a clog on re-marriage?

1 P.M.

**Shri Gadgil:** It will not be because so long as she is there, she keeps the income. If she dies without re-marriage, she should have the right to will away her estate. That is absolutely certain. Or if she dies intestate, then that property should be considered absolute property of hers for the purpose of succession to her property. But if during the lifetime she marries, it is for the House to consider whether that is consistent with the two principles which are generally behind the entire idea of this order of succession.

**Shri Barman** (North Bengal—Reserved—Sch. Castes):*

**Mr. Deputy-Speaker:** I am afraid the hon. Member has already spoken once. He has forgotten that. I am sorry I called him. I expect hon. Members who have already spoken not to speak again and not to have a second chance.

**Shri Barman:** I am sorry.

**Mr. Deputy-Speaker:** The Chair may not remember it, but the hon. Member must remember it himself more than myself. Sometimes, hon. Members forget that they have spoken already and once again they speak.

I am sorry. The whole speech will go out of the record.

**Shri S. V. Ramaswamy** (Salem): I wholeheartedly support this measure. Only I find that it is somewhat halting and does not go the full way it ought to go. Some months back, I was thinking a bit on conservative lines, and I was thinking that joint family property as far as possible should be excluded from the scope of this Bill; and I was in fact thinking that clause 5(i) was really the correct approach. But subsequently I have had a series of discussions and personal talks with judicial officers, and I feel now a convert to the view that clause 5(i) should go. I feel now that the whole of the joint family property must be opened up for the property being given to the daughters also. I feel fortified in this view by a number of opinions expressed by judges recently and also earlier in connection with this Bill.

I wish to place before this House the view, for instance, of the Chief Justice of the Madras High Court, which is very apt and crisp. He says:

"I welcome the Bill so far as it goes. It does not apply to joint

*Expunged as ordered by the Chair.

[Shri S. V. Ramaswamy]

family property. The intention evidently is not to take the drastic step of abolishing the joint family system. Such a step should, however, be boldly taken sooner or later as the two common sources of litigation in this country are the joint family system and the limited nature of a woman's estate. Though it is true that disruption of joint family status has become very easy to accomplish the matter of division of family properties is highly complicated and almost always involves vexed questions as to what are family properties and what are self-acquired properties."

Another judge of the same High Court has also given the same view. Mr. Justice Ramaswami Goundar says in regard to clause 5(i) as follows:

"This should be deleted. In my view, the joint family system has outlived its usefulness, and the sooner it is done away with, the better for our society. It has become the breeding-ground of wasteful litigations; and the present day managers of the joint families, who have fallen from those high standards, only waste the family properties or swindle as much as they can. I submit there can be no real reform of Hindu law or society without the abolition of the joint family system."

Earlier also, so eminent a person as Shri S. Srinivasa Iyengar, who was formerly President of the Indian National Congress, had expressed his views somewhat strongly on this question. I wish to place before this House his views also. The relevant portion is this:

"We should substitute for it (i.e. *mitakshara* law) a property law, similar to, but not identical with, the *dayabhaga* system. The least that ought to be done is to abolish coparcenary property with its incident of survivorship, and to completely obliterate the son's right by birth. The father should be at liberty to dispose of his properties, and during his lifetime, the son should not be entitled to claim a partition. The brothers should inherit the paternal estate in equal shares which should, on their deaths, go to their respective heirs."

Continuing, he had further stated:

"The Legislature should lay down only one mode of succession and the rules of inheritance should be the same, whether the family is divided or undivided and whether the property is joint or separate. In other words, the *dayabhaga* joint family system should be made universal in India and the glittering doctrine of the son's right by birth and the anomalous, antiquated and unjust doctrine of survivorship discarded. The present attenuated rules governing a *mitakshara* coparcenary do not protect the joint family in the enjoyment of its property but operate only as a hindrance to its economic efficiency. Righ by birth and survivorship, and the restrictions imposed by them on the power of alienation and the deprivation of the right of succession of those who are nearer and dearer to a deceased male member than a coparcener are all outworn indicia of the ancient type of family which has become almost extinct."

I am glad that the late Shri S. Srinivasa Iyengar had put it so strongly as that, and he being such an eminent authority on Hindu law, I believe that we should accept that proposition and delete clause 5(i).

**Mr. Deputy-Speaker:** What is the alternative source of security for the boy who is brought into existence?

**Shri S. V. Ramaswamy:** I am coming to that.

**Mr. Deputy-Speaker:** Is it the privilege of the father to bring into existence a boy and then leave him to the winds?

**Shri S. V. Ramaswamy:** He brings also the daughter into existence.

**Mr. Deputy-Speaker:** What about the son? We shall come to the daughter later.

**Shri S. V. Ramaswamy:** In my humble opinion, the son should not have any more claim than the daughter, and being born to the same father they are equally entitled to the property. That is what I am saying.

**Mr. Deputy-Speaker:** Is the hon. Member willing to give the daughter a right by birth?

**Shri S. V. Ramaswamy:** When you abolish the joint family and coparcenery, the very conception of the right to property by birth and survivorship goes and this question does not arise.

**Mr. Deputy-Speaker:** On the other hand, if the daughter also has a right by birth, every child is entitled to maintenance.

**Shri S. V. Ramaswamy:** It is not a question of right by birth. The father has got the absolute right. After the death of the father.....

**Mr. Deputy-Speaker:** Is it not open to the father to dispose of all the property leaving the children to the winds?

**Shri S. V. Ramaswamy:** We take the father to be a reasonable man.

**Mr. Deputy-Speaker:** Many fathers have misbehaved.

**Shri S. V. Ramaswamy:** Every father has affection towards his own children. Of course, there are fathers who have been drunkards or are given to bad ways. We cannot help that. The children have got to suffer, if he is so bad. But the sons will see that he does not destroy the property.

**Mr. Deputy-Speaker:** He will be murdered?

**Shri S. V. Ramaswamy:** I am not suggesting that.

It is as a corollary to the deletion of clause 5(i) that I am suggesting that clause 10, rule 5, should also be amended. It gives half a share to the daughter. I do not see the rationale behind it. Looking at the Rau Committee Report—even the ladies have recorded evidence accepting half a share as a matter of compromise—they say:

> "The question of the quantum of the share which should be allowed to the daughter has engaged our anxious attention. The one-fourth share provided in the *smritis* seems to be too small, even as a first step; in many cases, it will not amount to much. We note that Sir Vepa Ramesam (Retired Judge of the Madras High Court) would prefer to begin with the one-fourth share and raise it later, if experience proves that the dowry evil has been effectively reduced as a result of giving the daughter the one-forth share. Most of the women witnesses consider it in quitable to deny to the daughter the same share as the son, but practically all of them accept the provision of half-a-share as a compromise."

I do not know why the ladies accepted this as a compromise. I would go the whole hog. Once you give up this idea of right by birth and by survivorship, once you have this conception, that the daughter is equally born to the father like the son, and, therefore, she must necessarily have an equal share, all these considerations go. The daughter is as much the progeny of the father as the son.

The other argument that was put forward, that if you give an equal share to the girl, there may be other concomitant evils, do not, I think, hold water. It is said that because of the right of the girl to the property, there will be fragmentation. Not at all in actual practice, what happens is this. Fragmentation does not take

[Shri S. V. Ramaswamy]

place, but the share of the sister is paid for by the brother, as we see among the Muslims. So that, in actual practice, fragmentation does not take place. But there are some minor difficulties that arise. Now, we have provided that the minimum age for marriage is sixteen. The possibility of minor girls being married, with the consent of the guardian, is there. What happens is this. Suppose the girl is sixteen. She is given an equal share. Will she be able to manage it? This is a difficulty which arises. So I would suggest that no daughter shall be entitled to claim a share until she completes the age of twenty-one. (An Hon. Member: Fifty-one). No, twenty-one. By fifty-one, she may not be alive. I won't accept that amendment.

So that would be a sufficient safeguard for protecting the interest of the daughter in the property that she may get from the father. After all, we are living in a progressive society; our girls are coming up; they are getting educated; they are getting more and more bold, and will be able to look after their own rights. We must also see as days go on that they will be able to take charge of their own property. In the meantime, till such time as they are able to look after their own property themselves, this salutary provision that the daughter shall not be entitled to her share until she reaches the age of twenty-one ought to be introduced as an amendment. I say this for this reason: by twenty-one, the girl possibly has got one or two children. The family has been set up; affection has grown not only between the two but round the children, the progeny, and the chances are that there will be less of quarrels between the husband and wife. A harmonious family will be there and the husband will not be intent upon getting at the property which the wife has got. It is possible there may be cases where the husband is cruel to the wife, is a drunkard, is a gambler and so on and so forth. There is an infinite variety in this world, but what is the percentage of such cases? We are legislating not for exceptions and aberrations. The normal run in society is to have a decent, good, harmonious family. We are legislating for that; if there are aberrations and errors, we shall correct them by other ways. Therefore, I urge that we must take courage in our hands and give the daughter her full or equal share along with the son and trust to the development and the progress that is taking place in the country by which our women-folk—I am very proud that they are coming up—will have not only a share in their own rights in property but also in the burdens of the State and society.

The other point I want to submit is this. Clause 16 is most welcome. This absolute right to women is long overdue. We all know—and you as a lawyer know—that the limited right of women has led to litigation and also so many other difficulties. It seems to me to be inequitous to limit the right of the women to her property. I am very glad that this clause has been put in there, to give absolute right to women.

Clauses 17 and 18 are also very welcome. The different types of *stridhan* the different modes of succession in different parts of the country have all led to complications, and clauses 17 and 18 seek to introduce uniformity in the matter of succession to a woman's property, and lessen the chances of litigation. I wholeheartedly support this amendment and I do hope that people in the south, who are under the *Mitakshara* system and who have been feeling somewhat apprehensive about the extension of this right of the daughter to the *Mitakshara* system, will feel that the time has come when the *Mitakshara* system must be broken up, and also see that if the *Mitakshara* system is maintained in south, it will retard progress. Already, the progress in the country—the economic progress and so many other things that have come up—has led to the break-up of the joint family system in a variety of ways. Supposing there are half a dozen sons in the family, many

of them go away to distant parts of the country or even abroad and they have no touch with the joint family. The joint family is managed by a manager who may not strictly account properly to the other members who are away. All these things take place: there is bickering, quarrel and litigation. I for one feel that if the joint family system is broken up, there will be a large reduction in litigation and the society will be in a more harmonious atmosphere. Considering all these things, I wholeheartedly welcome this Bill.

**Mr. Deputy-Speaker:** Hon. Members who are on the Joint Committee need not stand. Other Members who have already spoken may kindly recollect whether they have spoken or not.....

**Shri U. M. Trivedi:** I think I have spoken, but I want to speak on the question of the amendment which has been moved today. The amendment is that the Report may be submitted by the 9th September.

**Mr. Deputy-Speaker:** So far as that is concerned, he may vote on it. It is 9th September this year and not 9th September next year.

**Pandit Thakur Das Bhargava:** I have moved an amendment for changing the date to the 9th December.

**Mr. Deputy-Speaker:** 9th December this year. There is no special speech necessary for that.

**Shri B. K. Das** (Contai): The previous speaker referred to the question as to whether there should be one form of succession and the hon. Minister also referred to it in his speech. I do not know why he has chosen to make a departure from the previous Bill that was before us during the last Parliament. When the Hindu Code Bill was before us, Government gave a lead in this matter and they wanted that there should be one form of succession, and that would be the *dayabhaga* system. For the information of the House, I will read out the clause as it was proposed to be amended by Government—clause 87 of the Hindu Code Bill as reported by the Joint Committee.

> "Joint tenancy to be replaced generally by tenancy-in-common: Except in the cases and to the extent expressly provided in this part all persons holding, on the commencement of this Code any property jointly as members of a joint family shall be deemed to hold the property jointly as members of a joint family shall be deemed to hold the property as tenants-in-common, as if a partition had taken place between them as respects such property on such commencement and as if each one of them is holding his or her own share separately as full owner thereof.
>
> Provided that nothing in this section shall affect the right to maintenance and residence, if any, of the members of the joint family other than the persons who have become entitled to hold their shares separately, and any such right can be enforced as if this Code had not been passed."

I think this clause satisfied our objects, namely, that there should be a common form of succession. I do not find anything in the speech of the hon. Minister to justify why a departure has been made from this. There are complications, and further complications will arise if a common system of succession is not accepted. I, therefore, hope that the Select Committee will take note of this fact.

You, Sir, pointed out whether it would be hard or difficult for the maintenance of children if such a form of succession is accepted. With the experience we have in Bengal and other places where the *Dayabhaga* system is in vogue, I do not find any difficulty in having proper maintenance for children where the father belonging to the *Dayabhaga* system is in charge of them. So, the objection that the children will not be properly looked after can be easily met.

[Shri B. K. Das]

I think the hon. Minister will also give a lead in this matter. Although he has said that he has got an open mind and is completely in the hands of the Select Committee, whatever be their decision, I would still expect the Government to give a lead in this matter.

The next point to which I would like to refer is the quantum of share for the daughter that has been prescribed in the Bill. It has been prescribed as half the share of the son. One thing to be considered in this respect is this and I do not think this is a matter for compromise, but there are other considerations too.

**Shri S. V. Ramaswamy:** The report says that.

**Shri B. K. Das:** I do not know, but there is one consideration. If a daughter unfortunately becomes a widow, she will also have a share of the property of the intestate husband. Then again, there is a chance of her having *Stridhana*. In view of these considerations, the half share prescribed in the Bill may be taken as a reasonable share, at least for the present. Let us have an experience of this, and if the Bill does not work well, we may then have a change about that point.

Next, I should like to refer to the question of the abolition of the limited estate. I wholeheartedly support this measure.

As regards the fragmentation that is often spoken of as an argument against the inheritance by the daughter, I think in many States we are now having land reforms Acts and also measures have been or are being taken in that behalf. Those States will take care to see that steps are taken so that there may not be further fragmentation and also other difficulties may be overcome.

I support the Bill.

**Shri Dabhi** (Kaira North): I wholeheartedly support the principle of the Bill. As the hon. Minister stated the other day, there are three main features of the Bill. The first is the introduction of the inheritance of the daughter along with the son, widow, etc.; the second is the quantum of the share to be allotted to the daughter; and the third is the abolition of the limited estate of the woman.

Taking the third feature first, I fully support the idea that if a woman is at all to get some property, she should get absolute right thereon. There cannot be any difference of opinion on this, but then, as Kaka Sahib had some doubt, I too have some doubt about this. As regards the property to be acquired by a widow, the practical difficulty is this. The Bill is intended to apply to all classes of people and we know that amongst the vast majority of the people, the custom of remarriage is there. The first point is that there is no doubt about the woman having an absolute right to the property, but the question is when a woman, for whatever reasons, goes to another family, is it then proper to give her absolute right upon the property of her former husband? Suppose a man dies, his property will go to the widow, and after a few days or months if she marries somewhere else, then is it proper or just that she should get absolute right over the property of her former husband?

**Shri S. S. More:** Does she not get the inheritance as consideration for the past services rendered and not as something promised for future action?

**Mr. Deputy-Speaker:** He need not put it so grossly as that.

**Shri Dabhi:** I am not in a position to make my decision in this matter, but I hope that both these points of view will be considered by the Select Committee.

**Mr. Deputy-Speaker:** A child does not get that right on account of any services. The moment a child is born to a man, it gets the right of inheritance.

**Shri Dabhi:** With regard to the quantum of share to be given to the daughter, once you concede that the daughter has an inherent right to succeed to some property, I do not understand why she should be given only half a share. If she has absolute right to a property as the son has, I do not see any reason or logic in saying that the daughter should only get a share equal to half that of the son. If at all we are to give any property and if at all we come to the conclusion that a daughter must succeed to her father's property along with the sons also, I see no reason why there should be any less share to the daughter than to the son.

The first point is the controversy about the introduction of daughter as a simultaneous heir. That is the main difference of opinion with regard to this point. As I have already said, I am absolutely in favour of giving inheritance rights to the daughter. But I would also bring to the notice of the House as well as the Select Committee certain difficulties. There is some truth in the saying that you cannot eat the loaf and have it too. I am in favour of complete equality between the daughters and sons on all matters. But the difficulty is that we have to decide whether it would be more practicable to give women absolute right in her husband's property or whether we should give her a right of succession to her father's property. We have to decide this way or that way. There are certain practical difficulties also.

The whole assumption of this Bill—and also the assumption of those who had spoken on this Bill—takes it for granted that in this country everybody has got so much property that it could be easily divided. I talk of the practical difficulty. If all persons who die intestate would have some houses and property worth a few lakhs of rupees, then there will be no difficulty. But in this land of ours—whatever may happen 25 years hence when the national income would be doubled or trebled—ninety per cent. of our people live in villages and they may have only one house. What can you do in this matter? I talk of only the rural area. Supposing we have got a family of five people, there may be 2 daughters and three sons or two sons and three daughters. Under these conditions, when most of our people live in the villages and have got only one house and two or three bighas of land, the average acreage per head will not be more than one acre or it will be a little more than that. The practical difficulty arises when a man dies leaving one house and a few acres of land. What will be the position then? The argument would be: 'If there are two sons or three sons, what would happen? The same thing would happen if there is a daughter also'. There also there is the practical difficulty when there are two or three sons. But the brothers—two or three—may stay together for some time. But the difficulty will arise when there are two daughters and two sons and only one house. There are not even two rooms in the houses in the villages. How can the property of a man be divided among two sons and two daughters if he dies leaving one house and 2 or 3 acres of land? How can the house be divided? The hon. Minister may cite clause 25 which states that where the immovable property devolves upon the male and female heirs, the male heir shall have the compulsory right to buy up the shares of the female heirs. But where would that man get money? How can he buy that? The father dies leaving a house and two or three acres of land. Where can the sons earn the money to buy the house? That is also a very difficult question.

Theoretically we have no objection to the daughter being given a share. But we should look to the present conditions, especially in rural areas. There may not be much difficulty in urban areas because in urban areas most people live in rented houses.

**Pandit Thakur Das Bhargava:** In cities also poor people are there.

**Shri Dabhi:** Theoretically I fully sympathise with the idea. But the

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practical difficulty is there. I may ask whether it would be possible to give a woman when she goes to her husband's house exactly the same right as is given to a son. These are all practical difficulties. On the one hand we are moved by these principles and on the other there are these practical difficulties. The moment a daughter gets married, the difficulty will arise.

**Shri Pataskar:** May I ask the hon. Member one question? Supposing the property is small and there are two sons, would he deny the right to one of them or find out some other way?

**Shri Dabhi:** I had already said it is very difficult. On the one hand there is sympathy with the principles of the Bill but on the other hand I am pointing out the difficulties. I replied to the hon. Minister's question earlier that the brothers may stay together and that they can accommodate each other. Afterwards they may do something. I am not against giving inheritance rights to females.

**Shri Pataskar:** I only wanted if the hon. Member could suggest anything.

**Shri Dabhi:** These brothers can stay together but those who come from some other family will find it difficult. I am only putting these difficulties before the House and the Joint Committee so that these points may be considered and some practical solutions might be suggested. Nobody can say in these days that a daughter is not entitled to a share; I am not against that principle. Once you give the right of succession to the daughter, she must be given full share and not half share.

**Shri H. G. Vaishnav** (Ambad): I also support this measure wholeheartedly. Much has been said about the share given to the daughter. In Rau Committee's report it is said that some compromise was made and it was decided that half of the son's share should be allotted to the daughter. Much has been said about this suggestion but I think it was a practical suggestion. It was not by way of compromise that this was made. Taking into consideration the present society and the other circumstances, that was the only practical suggestion. We know that a daughter after her marriage will certainly get a share in the property of her husband. At the same time, she is entitled by this law to a share in her father's property. The parents have to meet the marriage expenditure. While considering the share she may be entitled to get from her father's property, there will be some practical difficulty. At the time of marriage they will think as to what should be spent for her marriage. The brothers will object saying why so much should be spent for her marriage and may suggest she may get her share in the father's property—even equivalent to that of the son. And, if that is so, the father may also hesitate to spend even a reasonable amount for the marriage of his daughter. In that way it would be rather difficult to get a suitable match as per conditions that prevail in our society. As it is essential nowadays that to have a suitable match the father has to spend according to his own position and status, rather a good amount on the marriage of his daughter, a middle class person has to spend about Rs. 2,000 to even Rs. 5,000—even beyond his capacity—to have a suitable husband for his daughter. If that much is spent on the marriage alone, naturally, the question would arise that nothing should be given to the daughter by way of inheritance. Nowadays the fathers spend on marriages because they know that their daughters are not to get anything out of their property after they are given in marriage. That is why, at times he is prepared to spend even much more beyond his capacity on the marriage. Later on, if once, according to this Bill, it is decided that the daughter is to get an equal share along with the son, of course, even good parents would rather hesitate to spend large amounts over marriages of their daughters. When an equal share is to be allowed to the daughters the question would be much more acute. That

is why it was well proposed that the daughter should get half the share that the son gets. This will be equalised because the son is not to get anything from other sources. Of course, he may get something from his wife also, but, at the same time, the prospects of the daughter are much more. If she is given in a good family, she would inherit good property from her husband's family. In this way, if these two things are put together, there is no doubt that the share allowed to the daughter, which may be taken as half share to that of the son, will be thought to be reasonable and thus the question of equality and all those things will not arise. That is the only practical solution so far as the present condition of our society is concerned.

If this is done, it may not be objected, even at the time of marriage, if the father spends a good sum over the marriage of his daughter because the son, if at all he objects, can understand that his sister is to get only half the share in the property to that of his own share. Therefore, if at all some objections are raised they would not stand in the way of the father spending a good amount over the marriage of his daughter. In this way, what I submit is this: that the proposal made in this Bill that the daughters should get half the share to that of the son seems to be reasonable.

In other respects this Bill as it stands is much more advanced and certainly it is a very efficient step taken towards developing the status of women. As the fact stands at present the females in the Hindu society are deprived of the rights to property since, not only centuries, but even thousands of years and that injustice is done away with by this measure. Because of this the status of women will certainly be raised as she will have some economic backing; otherwise, nowadays, even daughters of high class families when they are given in marriage to other families, as nothing is inherited by them, are rather reduced to the position of a submissive nature. From this point of view, this Bill, specially as it gives right of inheritance to the daughter, is one which will raise the position of women in Hindu society.

In view of this and in view of all other aspects I fully support this Bill, especially that clause that the daughter should be given half the share to that of the son.

**Shri B. S. Murthy** (Eluru): Sir, I rise to support the Bill. I have to add only one point. That is, it is inequitous to think of giving only half a share to the daughter when you are trying to give equal share to brothers. The Hindu society is a peculiar society. It says something and does something else. What is this dowry system? Is it not claiming its share of the father's property? The bridegrooms go in auction and say: "Rs. 10,000, Rs. 15,000, Rs. 20,000" and so on. Once the father gives an equal share to his daughter I am sure the dowry system will have its death knell and in trying to make it half, one-fourth or one-eighth you will be trying to give a lingering life to this dowry system.

My experience in the south is this. All rich parents will go in search of bridegrooms. When a rich father is in search of a qualified husband for his daughter, naturally the father of the boy will say Rs. 20,000, Rs. 50,000 and even one lakh of rupees. Recently there was a marriage where a father had to borrow and give his daughter rupees. Almost all the middle class families in the south, as far as I know, families in the south, as far as I know, are being ruined because they have to go in search of good, eligible and attractive bridegrooms. Therefore, instead of trying to abolish this dowry system and seeing that the father's property will be equally inherited by the daughters as well as sons, why should you fight shy and say that the daughter will get only half of what the son gets?

**Mr. Deputy-Speaker:** Would the son-in-law wait until the father-in-law dies to get a share? It is problematical.

**Shri B. S. Murthy:** Is it not invariably the son-in-law who always looks after the father-in-law than the sons? I think it is the experience of most of the fathers-in-law that it is the sons-in-law who look after them than their own sons.

**An Hon. Member:** We have not heard of that.

**Shri Nand Lal Sharma:** May be prevalent in his parts.

**Shri S. S. More:** Such fortunate fathers-in-law are in a minority.

**श्री बी० जी० हंरापांडे :** जामातो वृष्णसर्पश्च ।

**श्री ब्र० एम० चिवंदी :** जामाता दशमोंगृहः ।

**Shri B. S. Murthy:** If the father-in-law is a *bad graha* there will be a *dushta graha* in the son-in-law. As long as there is love and cordiality between the father-in-law and son-in-law, naturally the son-in-law will be much more a mentor and adviser of the father-in-law than his son himself.

Now, coming back to my point, when you are trying to raise the womanhood of India, why should you, again, in this Hindu Succession Bill say that a woman is half of what the man is? Why should you reduce the position of women by saying that she is not worthy of having equal inheritance along with sons? Therefore, this question also must be looked into and seen that once you concede a right, concede it with grace. There is no use of saying that she deserves only this much and she does not deserve that much.

**Pandit Thakur Das Bhargava:** According to the Bill she is one and a half times "he" in regard to inheritance to property.

**Shri B. S. Murthy:** Let us go to the mathematics afterwards but now it is a question of economics I am speaking of. The rule follows: namely, that once the daughter begins to inherit, everywhere naturally the mother's property also will be shared by the sons. Therefore, it is not a question of the son, grandson or grand-daughter alone. The men and women will be placed on the same pedestal and they will have an equal succession and inheritance from the father as well as that the mother's property will go only to the daughter and not to the son. If the mother has more property than the the mother. It is not said anywhere father, son, as well as the daughter will always be sharers. Therefore, there is no question about the daughter getting one and a half times more than the son.

**Pandit Thakur Das Bhargava:** Is there any provision for the son-in-law corresponding to that for the daughter-in-law?

**Shri B. S. Murthy:** That is the biggest provision you are making here. Therefore, as far as my experience goes, in the South the cordiality between the sister and the brother is much more than it is among the brothers themselves.

**Sardar Hukam Singh** (Kapurthala-Bhatinda): That is so, long as she does not claim a share. Now that she becomes a share-holder, it will be different.

**Shri B. S. Murthy:** I tell you that in many cases the daughter gets ten acres or fifteen acres of the father's property at the time of the marriage. It is given in writing. But that property is not fragmented. It is still in the hands of the father or the brother or the brothers, and then she gets a certain share of produce. Now, you have raised a big bogey by saying that by the daughter inheriting a piece of land in the father's property, there will be a lot of fragmentation and after all, India is having fragmentation as a rule. This division again between the brother and the sister will not accelerate the fragmentation much more. Therefore, I think if you are willing to give, to concede the right, please be graceful and give full share along with the son to the daughter, so that

the present dowry system will be having its death-knell. If you do not want to do it, have the old system. Let the womanhood of India rise in revolt and claim more than half the share.

**Sardar Hukam Singh:** I agree with the principles, or rather, with the principle that the girl also should get a share in the property. That is the logical conclusion of all other laws that we have taken up so far as the social laws are concerned. When we have passed or are going to pass those marriage laws and providing divorce for the girl, it is necessary that she should have economic independence. Rather, I am of the opinion that the economic independence should have preceded the grant of the right to divorce, though I doubt whether only the share in the property would give her economic independence that is required of a girl when she has to exercise that right. But I differ from my friends and even the Minister of Law when you are providing this share to the girl out of the father's property. I am afraid this will create many complications and I do not agree with my friends when they advance the argument that if there was another brother then too the property shall be fragmented and they have to divide it among those brothers. It is a different question altogether. The laws that we are trying to follow are quite different from the law that we have so far as Hindus are concerned. If we take up Mohammedan Law or the Christian Law, the field of prohibited degrees is not as wide as we have in our system. Even though we have contracted that field in our new laws,—even with these reformed laws—the field of prohibited degrees is still quite a wide one and a large one. Therefore we will have to give our daughters to strangers. The girls shall not be able to marry their cousins, and therefore, they cannot be expected after marriage to live with their parents. They will have to go away to their fathers-in-law. Naturally, the son-in-law would expect or would try as soon as he has that right, to get a share on behalf of the wife that he should partition that property, get his share, sell it, and then go away because he has larger interests with his father's property and with the residence where his father lives. What are the consequences that would follow? So far as Punjab is concerned, I shudder to think of the consequences that would follow. There are peasant proprietors. Take the case of small shopkeepers, labourers and others living in the city. But if we confine ourselves to the case of those peasant proprietors who have got these small holdings, uneconomic ones ranging from two to five acres—this case was taken up by Shri Dabhi as well—what is the property beside those uneconomic holdings of about three or four acres? There is the movable property, but what is that? The peasant proprietor, the poor man, has got one cow and hardly a pair of bullocks. My friend here prompts that they have only bullocks and perhaps no cow. But there, I say that 40 or 50 per cent. of the peasants have a cow. Generally, I say that a peasant has hardly one cow or a buffalo; he has one pair of bullocks and one paid of ploughs and a few other implements. This is what he has got so far as movables are concerned. The whole family works day and night to eke out its living. They have no cash at all. It would be difficult to collect a few coins in the whole village, an ordinary village or an average village. Leave aside those exceptions that are like extremes. If the girl is married and naturally to an outsider, what would be the position? It is being provided that the brother should buy the share. The brother shall not be able to buy his share. He cannot pay his sister or his brother-in-law. He has got no money. What would be the conclusion? That property would be sold to an outsider who lives in the village and who wants to take revenge on that family. He will be an enemy of the family and he will come in and offer an amount and would be prepared to buy that property. If he gets a chance, what will be the conclusion or the consequence? There will be destruction of the family. Previously, when the Hindu Law was taken up, then too I raised my voice that I am not against the

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share being given to the girl. I do favour it but so far as the proposal is to provide a share out of the father's property, this is ruinous for the girl as well as the family itself.

**Pandit Thakur Das Bhargava:** It is simultaneous sharing.

**An Hon. Member:** Ruin to the family property as well.

2 P.M.

**Sardar Hukam Singh:** Exactly. A family will include the members as well as the property that they have. On the previous occasion, I gave a proposal. There were two more eminent persons of this House—Bakshi Tek Chand and Pandit Thakur Das Bhargava—at that time. I do not say that they agreed with me because it would be rather discourteous, but I say I agreed with them. They advanced the point, and I was of the same opinion, that the daughter should have this right to share with her husband so far as the father's property was concerned. It should be deemed as if another Member had been born to that family and she should come and share that property. We will be making provision for her without destroying our system and without bringing ruin to this family. My fears are these and I want to place them openly. So far as Punjab is concerned, though we have advanced a good deal, my fears are that there would be cases of female infanticide. Some of my friends may not agree with me, but there would be devices invented and girls would be strangled when they are born. My friends may not believe it, and they may laugh at it; but this is my conviction. So far as Punjab peasantry is concerned, again they would revert to the old system. If there are female infanticides, then we have to adopt measures to check them. In no way would this bring any benefit to the girl and in no way would we be advancing her cause. It would not bring to the girls that economic independence which we want to bring. Therefore I want to bring into prominence simply this fact, leaving aside other things, that we should ponder over this Bill and because this is going to a Select Committee, I hope that they would give their full attention to this aspect. I do not know what the practice is so far as South India is concerned. My friends have been just telling us that there are better relations and greater love and affection between the father-in-law and the son-in-law than between the father and the son. I can visualise that so far as the present system continues when the girl has no share; but when she becomes a full shareholder and wants to divide the property, then the relationship between the brother and the sister will become the same as the relation existing at present between brother and brother; and that particular affection which the brother has for the sister will be eliminated. I do not agree that the brother will continue to have the same affection for the sister; and I stress this fact again and again for the consideration of the Select Committee that this aspect of the question must be gone into.

**श्री हेडा** (निजामाबाद) : इस बिल का स्वागत करते हुए मैं एक चीज की ओर सदन का ध्यान आकर्षित करना चाहता हूं । लड़कों के साथ लड़कियों को भी विरासत के अन्दर बराबरी का नहीं तो कम से कम आधा अधिकार तो होना ही चाहिए, यह इस बिल के अन्दर भावना है । इस भावना से यह समझ लिया गया है कि एक तरफ हमारे समाज की लड़कियों की जो शादी होती हैं, वह बालिग उमर में होती हैं और वह ऐसा समय होता है जब कि वह अपनी भलाई और बुराई खुद देख सकती हैं और अपने पति अपने देवर या सुसराल के जो दूसरे लोग हैं श्वसुर आदि उनके हाथों में वह नहीं खेलेंगी और अपने माता, पिता के साथ और भाई या दूसरी बहिनों के साथ किसी प्रकार का अन्याय नहीं करेंगी । दूसरी तरफ यह भी समझ लिया गया है कि आज जो दहेज की प्रथा है, इस प्रकार की दहेज की प्रथा का रिवाज या तो नहीं है या तो रहेगा नहीं । इन दो चीजों की सम्भावना करने

के बाद इस बिल के अन्दर की जो बुराइयां दिखाई देती हैं, वह बुराइयां सारी नष्ट हो जाती हैं। हिन्दू समाज आज जैसा कि मौजूद है वह एक सीधा सादा समाज नहीं है, उसके अन्दर कई स्तर हैं और अलग अलग स्तरों के अन्दर अलग अलग प्रकार की परिस्थितियां मौजूद हैं। इस लिहाज से कुछ स्थान ऐसे भी हैं जहां कि दहेज की प्रथा बिल्कुल ही नहीं है, साथ ही कुछ स्थान ऐसे भी मौजूद हैं जहां कि लड़कियों की शादी काफी बड़ी उम्र में होती हैं और आजकल तो ऐसे खानदानों की संख्या कम नहीं है जहां कि लड़कियां ग्रेजुएट और ग्रेजुएट होने के बाद बल्कि कुछ हद तक कमाने का कुछ काम करने के बाद खुद अपनी मर्जी से शादी करती हैं, माता, पिता उसके अन्दर सहयोगी होते हैं, उनका परामर्श होता है लेकिन दखल नहीं होता और किसी प्रकार का दबाव नहीं होता है। इस प्रकार के हजारों और सैकड़ों खानदान आज हमें दिखाई देंगे। कोई विशेष जाति के अन्दर कोई एक विशेष बात हो, यह भी तो नहीं है क्योंकि तकरीबन् प्रत्येक जाति में अलग अलग प्रकार के स्तर निर्मित हो गये हैं। एक तरफ तो दहेज प्रथा जैसी आज है, वैसी रहेगी नहीं और दूसरी तरफ हम यह समझ लें कि लड़कियों की शादी ऐसी जल्दी नहीं होगी जिसकी वजह से वह अपने पति, श्वसुर या और किसी के हाथों में खेलें और अपने पिता की जायदाद को नुकसान पहुंचायें या उसको छिन्न भिन्न कर दें, यह दो चीजें अगर हम समझ लें तो इस के अन्दर जो बुराई दिखाई देती है वह नहीं दिखेगी।

उपाध्यक्ष महोदय, हमारा उद्देश्य क्या है? क्या हम दहेज प्रथा को नष्ट नहीं करना चाहते? क्या हम विवाह की उम्र बढ़ाना नहीं चाहते हैं? क्या हम यह नहीं चाहते कि दहेज प्रथा नष्ट हो और विवाह के समय लड़की की जो उम्र है वह काफी हो? आज जो हमें एक भयंकर बुराई इसके अन्दर दिखाई देती है वह आगे चल कर नहीं दिखाई देगी। इसके बाद हम एक दो सवालों पर आते हैं जैसे कि पहली बात तो यह है कि लड़कियों को लड़कों के समान जायदाद में पूरा हिस्सा मिलना चाहिए या उनका आधा हिस्सा होना चाहिए। एक बात तो स्पष्ट दिखाई देती है कि लड़की को भी लड़के के बराबर हिस्सा होना चाहिए लेकिन इसके अन्दर यह पेचीदगी पैदा होती है कि उसका कहां पूरा हिस्सा होना चाहिए? एक तरफ तो वह अपने पिता की जायदाद में हिस्सा हासिल करती है, दूसरी तरफ अपने ससुराल की जायदाद के अन्दर भी वह अधिकार रखती है....

**Shri B. S. Murthy:** What about the daughter-in-law bringing property?

**श्री हेडा :** बहू जो जायदाद लाती है वह खुद के लिए लाती है, पति के लिए नहीं लाती है। वैसे पुरुष और स्त्री, पति और पत्नी को अगर हम एक करते हैं तो फिर इस प्रकार के कानून बनाने की जरूरत ही नहीं है। लेकिन अगर हम इन्हें अलग अलग रखते हैं, तब हमें इस प्रकार से सोचना है। बहू जो जायदाद लायेगी वह बेटे की उसके पति की होगी, यह मेरे दोस्त की भावना है, यह भावना हमेशा सच होनी चाहिए, लेकिन आम तौर पर सच नहीं होती। इस कानून के तहत वह सच नहीं होती, यह हम समझ कर चल रहे हैं। बहरहाल मैं यह कह रहा था कि हम लड़के और लड़की के साथ अगर बराबरी का बर्ताव करने की बात करते हैं तो लड़का सिर्फ अपने बाप की जायदाद में हिस्सा हासिल करता है, अपने श्वसुर की जायदाद में उसका कोई हिस्सा नहीं है, अब मेरे दोस्त ने जो बतलाया कि पत्नी के जरिए इनडाइरेक्ट तौर पर जो पति को हिस्सा मिलेगा, मैं उसको कोई अहमियत नहीं देना चाहता। दूसरी तरफ हम लड़की को बाप की जायदाद में और ससुराल की जायदाद में हिस्सा दिलाने जा रहे हैं। इसमें मुश्किल यह है जैसा कि मैंने अभी जिक्र किया है कि हिन्दू सोसाइटी के अन्दर मुख्तलिफ प्रकार के स्तर होने से इन दो चीजों को अलाहिदा रखना पड़ रहा है। एक तरफ कुछ ऐसे उदाहरण मौजूद हैं जिनमें ऊंची उम्र में शादियां होती हैं और जाहिर है कि जब ऊंची उम्र में लड़की की शादी होती है तो वह और परिस्थिति का निर्माण करती है और जब छोटी

[श्री हेडा]

उम्र में लड़की की शादी होती है तो और परिस्थिति का निर्माण करती है और उस हालत में साफ जाहिर है कि वह अपनी भलाई और बुराई उतना नहीं देख पाती और अपने पति और श्वसुर के असर में आकर आचरण करती है। छोटी उम्र में जहां शादियां होती हैं वहां पर अगर लड़की को दोनों तरफ अधिकार दिया जाय तो मैं समझता हूं कि उसके अन्दर कुछ पेचीदगी पैदा हो सकती है। मैंने जैसे पहले अर्ज किया कि चूंकि हमारी आज की सोसाइटी में कुछ विशेषताएं मौजूद हैं जिनके कारण हमें लड़की को दोनों जगह अधिकार देना पड़ रहा है। जब दोनों तरफ अधिकार देते हैं तब यह चीज ठीक मालूम होती है कि पिता की जायदाद के अन्दर बराबर का हिस्सा देने के बजाय आधा हिस्सा दिया जाय और इस प्रकार की प्रथाएं कई समाजों के अन्दर आज मौजूद भी हैं और मैं समझता हूं कि वह ठीक तौर पर काम कर रही हैं। दूसरी चीज मेरे मित्र श्री मूर्ति साहब ने कही। उन्होंने इस का जिक्र किया कि दक्षिण के अन्दर श्वसुर और दामाद दोनों के अन्दर बड़े प्रेम के सम्बन्ध होते हैं। मैंने सोचा कि आखिर बात क्या है, तो बाद में मुझे ख्याल आया कि शायद मूर्ति साहब के सामने वह घराने हैं जहां पर कि आम तौर पर भांजा ही दामाद होता है, बहन का बेटा ही दामाद होता है बल्कि यह बात बचपन से ही तय हो कर चलती है कि मामू की लड़की ही होने वाली पत्नी है। मैं उस समाज से आता हूं जहां मामू की लड़की को बहन समझा जाता है और उस के साथ शादी करने की कल्पना नहीं की जाती।

Mr. Deputy-Speaker: I do not know if Shri B. S. Murthy has already become a father-in-law.

**श्री हेडा** : तो जब मैंने यह देखा कि मामू की लड़की के साथ शादी होती है तो मैंने यह मालूम करने की कोशिश की कि शादी के पहले उन का सम्बन्ध क्या होता है। शादी के पहले मामू की लड़की को बहन की तरह नहीं माना जाता, बल्कि उस के लिये ठीक वही शब्द तेलगू और शायद तामिल में भी और दूसरी भाषाओं में प्रयोग में लाये जाते हैं जो कि साली के लिये होते हैं और वह अपनी फूफी के बेटे के लिये ठीक वही शब्द इस्तेमाल करती हैं जिस का अर्थ जीजा का होता है। तो वहां पर भाई बहन का रिश्ता निर्माण होता ही नहीं है। वहां ऐसा ही रिश्ता निर्माण होता है जिस में ज्यादा सम्भावना होती है शादी होने की। तो भाई के साथ बहन का प्रेम होता है। दक्षिण भारत में ही नहीं उत्तर भारत में भी होने वाला दामाद प्यारा होता है। तो जहां भांजे के साथ बेटी की शादी होती है ऐसे घरानों में श्वसुर और दामाद के अन्दर प्रेम निर्माण होता है तो कोई आश्चर्य नहीं है, लेकिन सवाल यह है कि उस प्रेम को बढ़ाना है या घटाना है। अगर बढ़ाना है तो ऐसा मौका वहां नहीं आना चाहिये जिस की वजह से कोई कठिनाई आये। सरदार हुकम सिंह साहब ने और दूसरे माननीय मित्रों ने इस पर बड़े जोर के साथ चर्चा की है कि इस की वजह से जो आज हमारे हिन्दू समाज की एकानमिक व्यवस्था है उस के अन्दर बहुत बड़ी अफरा तफरी होगी और जो बड़ी बड़ी जायदादें हैं उन के छोटे छोटे टुकड़े होंगे। बात दरअसल यह होती है कि जो बीमारी होती है उस के वास्ते इलाज सोचा जाता है। जो दवा सोची जाती है अगर उस के कोई दुष्परिणाम होते हैं, तो उन के लिये भी रास्ता निकाला जाता है। जो रास्ता निकाला जाता है उस की तरफ सरदार साहब ने अभी नहीं सोचा है। मैं एक छोटी सी बात कहता हूं। मैं आज देखता हूं कि हमारे देश में आने वाले समय में इस बिल के पास हो जाने से और जो इस प्रकार की विचार धारायें चल रही हैं उन में परिवर्तन होगा। वहां जहां एक तरफ दहेज प्रथा खत्म हो जायेगी दूसरी तरफ लड़की की शादी की उम्र बढ़ती जायेगी। साथ ही साथ लड़की की शादी के समय जब हम उसे कुछ प्रेजेन्ट्स देते हैं, साड़ियां, जेवर आदि, तो उसी समय अपने दामाद से, अपनी बेटी से अपनी जायदाद के बारे में हमें जो हिस्सा करना है उस को कर करा कर और जो देना है उसे दे दिला कर उन से

लिखा लेंगे कि उन को अब किसी तरह का अधिकार नहीं रहा है, और मैं समझता हूं कि यह चीज अगर हो जाय तो कोई बुराई नहीं है।

**सरदार हुकम सिंह:** आप चाहते हैं कि आइन्दा के लिये पूरी जायदाद के हिस्से हो जायें?

**श्री हेडा:** मैं जो कह रहा हूं उसको अभी सरदार साहब ने पूरी तरह समझने की मेहरबानी नहीं की है। मैं जो कह रहा हूं वह यह है कि आज जो चीज मौजूद है, जिस में कोई बुराई नहीं है, उस का स्वरूप तकरीबन वैसा ही पड़ेगा। जो चीज खराब है, बुराई की है, उसका इलाज इस बिल के जरिये से करने की हम कोशिश कर रहे हैं। आम तौर से जो पिता फराख दिली से पेश आता है और काफी जायदाद देता है। उसके लिये कोई अड़चन पड़ने वाली नहीं है, न उसकी जायदाद के टुकड़े होने वाले हैं न उस के बेटे बेटी को ही आइन्दा किसी प्रकार की तकलीफ होने वाली है।

**पंडित ठाकुर दास भार्गव:** क्यों, २० बरस बाद क्या होगा?

**श्री हेडा:** शादी के वक्त ही सारी लिखा पढ़ी हो जायेगी, सारी बातें ठीक हो जायेंगी और किसी प्रकार की गड़बड़ी नहीं होगी। इसके अन्दर मैं जो चीज देख रहा हूं उसकी तरफ इशारा कर रहा हूं। आज होता यह है कि लड़का मौजूद है, पिता नहीं है। सवाल आता है कि वह बहन के साथ ठीक तौर पर बर्ताव नहीं करता। उसके लिये मुसीबतें होती हैं वह मुसीबतें दूर होनी चाहियें। उसके लिये जो रास्ता तय किया गया है वह रास्ता मौजूद है। तो मैं कह रहा था कि आज जो लोग अपनी बहन के साथ उचित बर्ताव नहीं करते हैं, न्यायानुकूल बर्ताव करते हैं और उनके अन्दर जो प्रेरणा होती है उस के अनुसार कार्य करते हैं। उनको किसी प्रकार का कष्ट इस बिल से होने वाला नहीं है। अलबत्ता जो लोग धन के लोभ से या और किसी कारण से ठीक प्रकार का बर्ताव अपनी बहन के साथ नहीं करते हैं उनके वास्ते इसके अन्दर इलाज करने की बात सोची गई है। तो मैं फिर से इस बात का अनुरोध करता हूं कि इस बिल के साथ यह समझ लिया गया है कि एक तरफ तो दहेज की प्रथा का नाश होगा और दूसरी तरफ शादी के समय लड़की की उम्र बढ़ती जायगी और इन दो चीजों के साथ देखने के बाद इस बिल में कोई खराबी नहीं होगी। इस की तरफ मैं संसद् का ध्यान दिला कर इस बिल का स्वागत करता हूं।

**Pandit Thakur Das Bhargava** *rose*|

**Mr. Deputy-Speaker:** Pandit Thakur Das Bhargava has already spoken.

**Pandit Thakur Das Bhargava:** I do not want to speak on the Bill. I want to speak on my amendment.

**Mr. Deputy-Speaker:** I have already told hon. Members here that so far as extension of time is concerned, we may leave it to the House to decide as they like.

**Pandit Thakur Das Bhargava:** But I must give my reasons why this extension should be allowed. I have given my amendment only for this purpose of extending the time. I must state why the extension should be given. The period is too small.

**Shri Nand Lal Sharma:** When the amendment of the hon. Minister is allowed, the amendment of the hon. Member will be disposed of.

**Pandit Thakur Das Bhargava:** Already, the amendment has been allowed. When I moved the amendment, I submitted that I should be speak on his amendment to the amendment, I have no objection. He

**Mr. Deputy-Speaker:** I told another **The Minister of Commerce (Shri** be short, he may be allowed. allowed to speak on my amendment. may speak for a few minutes. hon. Member that I won't allow. If **Karmarkar):** Since he is going to it is the desire of the House to allow Pandit Thakur Das Bhargava to

[SARDAR HUKAM SINGH *in the Chair*]

**पंडित ठाकुर दास भार्गव:** मैं इस बिल के ऊपर बोलने का कोई हकदार नहीं हूं इस लिये बिल के बारे में कोई बहस नहीं करूंगा कि आया इस बिल को क्या किया जाय, क्या न किया जाय। मैं जो अर्ज करना चाहता हूं वह यह है कि इस मुबाहसे में बहुत से मेम्बरों ने हिस्सा लिया है और मुझे यह कहने में जरा भी ताम्मुल नहीं है कि ८० फी सदी से ज्यादा लोगों ने इस बिल की मुखालिफत की है। साथ ही हमारे पूज्य टंडन जी ने इस कदर मुखालिफत की, हम को यह भी प्रेरणा की कि हम इस बिल को सेलेक्ट कमेटी में न भेजें। मैं ने अपने सारे तजुर्बे में जब से मैं हाउस में हूं कोई इतना काम्प्लिकेटेड, इतना मुश्किल बिल नहीं देखा, जितना कि यह बिल है। यह बिल लाखों-करोड़ों आदमियों की जो सोशल कंडिशन्स हैं, इन्हेरिटेंस हैं, उन के ऊपर असर रखने वाला है। इस वास्ते मैं अर्ज करना चाहता हूं कि इस हाउस के सामने दो सवाल हैं। एक सवाल तो यह कि जो दफा ५ में हमारे मिनिस्टर साहब ने कहा कि यह मिताक्षर फैमिलीज को एप्लाई नहीं करेगा। जिस वक्त पाटस्कर साहब ने इस को पेश किया, उन्होंने कहा था कि मैं सेलेक्ट कमेटी में इस को दुबारा पेश करूंगा, जिस पर हमारे डिप्टी स्पीकर साहब ने फरमाया था कि इसके ऊपर दफा ५ में दर्ज हैं और दुबारा मजीद बहस नहीं की जा सकती और इस का स्कोप नहीं बढ़ाया जा सकता। अब मैं इस समस्या में पड़ गया हूं कि डिप्टी स्पीकर साहब ने जो रूलिंग दी या इर्शाद फरमाया था अपनी राय जाहिर की, हाउस उस का पाबन्द होगा या पाटस्कर साहब ने जो इस बिल को दूसरी शक्ल देने की बात कही है उसका पाबन्द होगा। यह फैसला सेलेक्ट कमेटी करेगी या यह सभा करेगी मुझे इस से मतलब नहीं है। मेरी नाकिस राय में या चेयर या हाउस स्कोप का फैसला कर सकता है। मैं तो सिर्फ यह अर्ज करना चाहता हूं कि इस पर ९ सितम्बर तक रिपोर्ट सेलेक्ट कमेटी नहीं दे सकती अगर हाउस ने इस बिल को सेलेक्ट कमेटी के सुपुर्द कर दिया, क्योंकि पहले हमारे पास कम्पनीज बिल मौजूद है, जिस कमेटी बिल के श्री पाटस्कर साहब चेअरमैन थे। गवर्नमेंट चाहती है कि ९८ दिन तक्रीबन उसको दिये जायें इस लिये कि जब यह बिल दूसरे हाउस को जायेगा तो वहां भी इतना वक्त लगेगा। मैं जानना चाहता हूं कि कहां वक्त होगा सेलेक्ट कमेटी को मिलने का और सारे मसले को तय करने का। दूसरा सवाल यह है कि इस बिल का स्कोप बढ़ाने के बारे में कोई भी फैसला करें, लेकिन अगर गवर्नमेंट यह चाहती है कि इस बिल का स्कोप बढ़े तो वह बिल्कुल नावाजीब होगा कि सारे कंट्री को मौका न दिया जाय कि वह सेलेक्ट कमेटी के सामने अपना रेप्रेजेंटेशन करें और अपनी गवाही दें। हमारे श्री पाटस्कर साहब से जिक्र हुआ। उन की मंशा नहीं है कि जो सारे कंट्री की मर्जी है उसे स्टिइफल किया जाय, जिस के माने यह हैं कि गवाही ली जायेगी कि किस तरह से हिन्दू ज्वायंट फैमिली में किसी स्त्री को जायदाद में हक दिया जाय। अगर यह मसला रि-ओपन किया तो रेप्रेजेंटेशन्स के फ्लड गेट्स ओपन हो जायेंगे और तीन महीने में भी यह मसला तय नहीं हो सकेगा। मैं ने ९ दिसम्बर पेश किया है, लेकिन मुझे डर है कि अगर इसके अन्दर गवाही ली गई तो ९ दिसम्बर तक यह बिल दंश के अन्दर जो मुश्किल पैदा करेगा उसका हल मालूम करना मुश्किल होगा। लेकिन मैं हाइलेटरी टेक्टिक्स एंडाप्ट नहीं करना चाहता। अगर हाउस की मंशा है कि यह बिल पास हो तो मैं ऐसा नहीं चाहता कि यह बिल आवे ही नहीं क्योंकि मैं तो इस मत का हामी हूं कि औरतों को हक दे दिया जाय। मेरा और मिनिस्टर साहब का जो इख्तलाफ है वह सिर्फ मैनर का इख्तलाफ है। मैं चाहता हूं कि हमारे दंश के जीवन के अन्दर औरतों को पूरी फानेनशल आजादी हासिल हो, कम्प्लीट इन्डेपेन्डेंस हासिल हो। लेकिन तरीके मुख्तलिफ हैं। इस वास्ते मैं इस हाउस से अर्ज करना चाहता हूं कि अगर आप चाहते हैं कि यह बिल सिलेक्ट कमेटी में जाए और वहां पर इस बिल पर

अच्छी तरह सोच विचार किया जाए तो मैं अर्ज करता हूं कि यह ६ सितम्बर की तारीख को बढ़ा दिया जाए। इस तारीख के रखने से कोई फायदा नहीं होगा क्योंकि हाउस से दो तीन एडजोर्नमेंट्स लेनी पड़ेंगी। मैं मेम्बर साहिबान से अर्ज करता हूं कि इस बिल को वही अहमियत दी जाय जिसका कि वह मुस्तहिक है, यह कोई ऐसा वैसा बिल नहीं है, जिस की कि कुछ परवाह ही न की जाए, यह एक बहुत अहम बिल है। क्योंकि यह एक सोशल बिल है, इस वास्ते इसके बारे में कोई किसी किस्म का चिप भी पार्टी की तरफ से ईश्यू नहीं हुआ है। इन हालात में मैं निहायत अदब से अर्ज करना चाहता हूं और दस्तबस्ता प्रार्थना करता हूं कि अगर एन्य टंडन जी की आवाज के खिलाफ और यहां पर औरों की तरफ से इतनी आब्जीशन होने के बावजूद मेम्बर साहिबान इसको सिलैक्ट कमेटी में भेजना चाहें तो कम-से-कम इसकी मियाद के अन्दर इतनी ताँसीह जरूर कर दें जिससे कि सिलैक्ट कमेटी में इस बिल के सारे पहलुओं पर और जितने भी प्वाइंट्स आफ व्यू रखे गए हैं उनके ऊपर अच्छी तरह से डिसकशन हो सके। अगर आप इस को सिलैक्ट कमेटी के सुपुर्द नहीं करना चाहते तो एन्य टंडन जी का डायरेक्शन हम सब के सामने मौजूद है और हम अपनी कानशेंस के मुताबिक अमल कर सकते हैं। अगर इस बिल को सिलैक्ट कमेटी में भेजने का फैसला किया जाता है तो यह जो ६ सितम्बर की तारीख रखी गई है इसको जरूर एक्सटैंड कर दिया जाए।

**Shri Khardekar** (Kolhapur cum Satara): I rise to support the Bill, but the passing of this Bill should have been a condition precedent to the passing of the Marriage Bill. We are unfortunately in the habit of putting the cart before the horse, but I may say better late than never. Marital rights and any rights regarding divorce are extremely dangerous unless and until they are backed by rights to property. To a woman without economic independence or means or marketable talent, a husband is more necessary than a master to a dog.

The controversy between the old and new has all along been there in regard to social legislation. This century characteristically has been known as the age of revolt, and I do not see how we can get away from it. I am not totally in favour of abrogating or completely cutting off from the past, but we cannot also stop the current or the flow of life, and when adjustments all round are going on even in social matters. it becomes very necessary that we should be on par with other things.

A good deal of heat was generated, I know, on that clause relating to alimony in the Marriage Bill. First of all, I want to talk about the word. Very clearly, the dictionary meaning of this word is maintenance allowance given by the husband to the wife, but here it seems that the wife also will have to give some maintenance allowance to the husband in certain cases. This is a brutality practised against the English language. The English have done us a lot of harm, but if they have done any good to us they have done it through their English language. All these ideas of political progress freedom, democracy etc. have come to us mostly through the English language. So this is a very vile kind of misuse that we are making of the language.

As regards the substance of that particular clause, I entirely agree with my learned friend, Pandit Tharkur Das Bhargava, that it would be not only shameless, but it would be most unmanly for any man to accept maintenance allowance from his wife, and if one were to accept such an allowance, I would have to say that the age of chivalry is gone, that of economists, calculators and unmanly men has succeeded and the glory of Hind has gone and gone for ever.

[Shri Khardekar]

Of course, there may be exceptional circumstances and cases where perhaps maintenance allowance may have to be given by a wife to a husband, but we do not make laws for exceptions. We may state the exceptions so that some provision may be made by way of exceptions. We are living in the twentieth century, the age of cinemas and the age of actresses, and a cat of an actress may capture a mouse of a man and play about with him. You know the husband in such cases is known nót even by his name, but he is known as the husband of such and such actress, and then she is more a hunter and the poor thing is the hunted creature, and the game played is that of a spider weaving an alluring and attractive web, and the poor husband like a little insect or fly is caught in the net, and in such cases perhaps for a mouse of a man, but not for a real man, maintenance should be made to be given by the wife. This question is related to the share of a woman and hence important.

Then, I agree with my friend, Shri Murthy—why this half share and so on. But I am not a practical person. I think family people should be consulted whether giving half the thing is proper or not. But to me it seems a very half-hearted measure. We believe in democracy and equality, and if any preference is to be shown, I think chivalrously the preference should be in favour of the weaker sex (*An Hon. Member*: Weaker sex?) The weaker yet the better because fairer.

Beyond this I shall not say anything. Last time it was so clear that no time would be left this time, and so I came unprepared. Somebody said anybody might get a chance to speak and so I spoke.

**Shrimati Maydeo** (Poona South): I rise to congratulate our Law Minister, Shri Pataskar, on bringing this Bill so early in the House. The All-India Women's Conference also in its last session has passed a resolution congratulating the Government. I would like to read it

> "This conference congratulates the Government of India on the Hindu Intestate Succession Bill and considers it a step in the right direction. The conference, however,, strongly protests against the exclusion of Mitakshara joint family.... as it takes away from the Succession Bill the very basis of uniform code for the Hindus. It further recommends to the Joint Select Committee that sons and daughters should be given equal rights of inheritance. It further requests Government to expedite the passage of all the three bills on marriage, inheritance and guardianship during the term of the present Parliament."

I find that the Marriage Bill has already been passed, and the Hindu Succession Bill is on its way. The third bill also will come very soon. For that we would like to congratulate our Law Minister.

Then, I would like to touch on one or two points. Just now, some of our brother Members said that if a daughter is given a share in the property, then the affection between the brother and sister will be affected and there will be quarrels started even among brother and sister. But I would say that sisters will never accept such an affection from their brothers. If they only love property and not their sisters, then it would mean something which is not acceptable to their sisters.

The succession of a daughter arises only if the property is substantial or very big, and when there is a large property, the brother can share some of it with his sister. But supposing a farmer has got a very small property —only two bullocks and some bighas of land—then the brother will not

like to share some of it with his sister. And in that case, the sister also will be very sensible. This is an intestate succession Bill. That means the father has every right to will away his property to his sons or daughters. So, if his property is almost negligible, then, if he is learned, he will make a will. If he is illiterate, he might not make a will and may die intestate. In that case the daughter will not get a share, unless she goes to the court. She will not go to the court, because she would be much more sensible than her brothers, who in this House have been saying that there would be quarrels amongst brothers and sisters if the daughters were given a share in the property.

Another advantage of giving a share to the daughter would be that the dowry system which is hated by all women will disappear. The very idea of dowry is repugnant to a woman, because that is tantamount to selling away the girl to someone. So, the dowry system will gradually go away if woman is given a share in the property. This will also lead to the woman having a responsible place in the family. If the family knows that she has some share in the economic life of the family, they will pay heed to her word. She, on her part, would be prompted to contribute her share to the economic upliftment of the family.

This law would apply only to *daya bhaga* system and not to families governed by the *mitakshara*. In India almost two-thirds of the population is governed by *mitakshara* and if this measure does not apply to *mitakshara* system of joint family, it is not going to serve much useful purpose. We want the measure to be applied to the whole of the Hindu population and not merely to one-third of it. I would request the Joint Select Committee to make the necessary amendments to achieve this.

There may however be differences of opinion as to what share the daughter should be entitled to. Once the principle is conceded, it is clear that the daughter should be entitled to equal share with the brothers. Under our Constitution, women are enjoing equal rights with men and if we are going to enact laws according to the spirit of the Constitution, then the daughters should get equal share with their brothers. I am sure the Joint Select Committee will make the necessary amendments to secure this.

I would request brother Members to be more liberal, because by being liberal in their outlook, they would only be adding to the happiness of their family and not to the disruption of their families of which they are afraid.

**Shri Sadhan Gupta** (Calcutta South East): I rise to oppose the amendment moved by Pandit Thakur Das Bhargava. The reasons for my opposition are these.

This Bill, as it must be admitted by all sections of the House and people of all opinion, is a very important Bill and it is particularly important because it introduce for the first time the principle of giving rights to women, similar to those which have been given to men. They are not similar in all respects. I made my remarks on that while speaking on the Bill, but the fact remains that this is a Bill which will lead to a great improvement in the status of women. Therefore, a Bill of this kind should be passed with the utmost possible expedition.

Now we have waited very long for a measure of this kind. This has been before Parliament in the form of the Hindu Code Bill for years together and it has eluded all attempts to enact it in the form of an Act. I am entirely opposed to any further delaying by the sort of amendment proposed. I do not see why this kind of amendment should be necessary—why this extension of time should be necessary. After all there are only three questions involved in connection with the consideration of this Bill by the Select Committee: First of all, whether this Bill would be applicable to *mitakshara* joint families; secondly, what would be the share of succession of a daughter; and

(Shri Sadhan Gupta)

and thirdly whether the daughter should be given any share in succession at all. These are the three questions which would have to be considered by the Select Committee.

Pandit Thakur Das Bhargava argued that there is no time to consider this question, if it is to report by the 9th of September. I differ with him for this reason. Now, although this Bill has come for the first time before this House, the measure is not a new one. It has been before the country in the shape of the proposals of the Rau Committee: a Bill was then formulated; it was referred to a Select Committee; the Select Committee had reported on it; evidence was taken on all the provisions. So, there is not even the question of taking of evidence which normally a Select Committee has to. With these materials ready before it, all that the Select Committee has to do is to consider them and to come to its own conclusions. Ninth of September is a long enough time to come to such a conclusion.

Now what would be the result of Pandit Thakur Das Bhargava's amendment? He suggests 9th December. Ninth December would be near the end of the next session, That means the Bill would not be taken up not only during this session, but also next session and it would probably have to wait its chance during the next Budget session at the earliest. Now that is too great a delay. That is not a thing that our sisters should be asked to keep up with and I would urge this House to reject the amendment and to remove any source of delay in passing the Bill. Pandit Thakur Das Bhargava has assured us that his his intentions are not to delay the Bill. Now, I take him at his word. But he would certainly see that the effect of his proposal—whatever his intentions may be—would be to delay the Bill enormously, by a year or so.

**Shri Nand Lal Sharma** rose—

**Mr. Chairman:** I am sure the hon. Member has not spoken?

Shri Nand Lal Sharma: I am not going to speak on the Bill, but only on the amendment,

**Shri Karmakar:** That is a new technique!

**Shri Nand Lal Sharma:** I am not going to speak on the merits of the Bill.

मैं दो शब्दों में ही स्पष्ट रूप से श्री भार्गव के संशोधन का समर्थन करने के लिए खड़ा हुआ हूं और सम्भवतः मुझे खड़ा होने की आवश्यकता न होती यदि उसका विरोध हमारे कम्यूनिस्ट सदस्य के द्वारा न किया जाता। हम पहले ही जानते हैं कि हमारे कम्यूनिस्ट भाई क्यों ऐसे कार्यों में विशेष मन लगा कर काम करते हैं। उनका उद्देश्य और नियम ही यह है कि किसी न किसी प्रकार भारतीय सभ्यता और संस्कृति को उखाड़ कर फेंक दिया जाय और जहां भी उनको ऐसा अवसर मिल जाता है, वे तत्काल उसे पकड़ने की चेष्टा करते हैं।

**Mr. Chairman:** Would it not be better if the hon. Member takes up the merits of the motion?

श्री नंद लाल शर्मा: मैं उसी के बारे में निवेदन कर रहा हूं।

हमारे भाई श्री साधन गुप्त ने कहा है कि "इट इज ए वैरी इम्पार्टेन्ट मेजर"। यदि वह वस्तुतः इसको ऐसा ही समझें और इसको हिन्दू जाति के जीवन मरण का प्रश्न समझें, तो मेरा विचार है कि तब वह इस प्रकार के कानूनों को पास करने में इतनी भाग दौड़ न करें। पंडित ठाकुर दास भार्गव ने रिपोर्ट के ९ सितम्बर तक दिये जाने का जो विरोध किया है, वह बिलकुल उचित ही है। इस अवधि में सदन अपने काम में निरन्तर लगा रहेगा। कम्पनीज बिल हमारे सामने हैं। उसका भी कार्य छः मास तक चलने वाला है। यह सब रहते हुए भी हिन्दू सक्सेशन बिल पेश है। लगभग लाखों वर्षों बाद हम इसका परिवर्तन करने के लिए तैयार हो रहे हैं। सभापति महोदय ने और अन्य माननीय सदस्यों ने भी इस विधेयक के गुण दोषों पर विचार करके त्रुटियों की ओर

ध्यान दिलाया हैं और यह बतलाया हैं कि यह कितने भयंकर परिणामों से भरा हुआ हैं। इतने पर भी न सदस्यों को और न जनता को इस पर विचार करने का अवसर दिया जाता हैं। जल्दी करने से समाज के लिये भयंकर परिणाम हो सकते हैं। इसलिये मैं चाहता हूं कि जैसी कि टंडन जी की राय हैं इसको जनता के पास जनता के विचार जानने के लिये भेजा जाय, लेकिन अगर इसको कमेटी के ही सामने जाना हैं तो उसके सदस्यों को यह अवसर दिया जाय कि वे उसके सारे गुण दोषों पर विचार कर सकें।

इन शब्दों के साथ मैं इस संशोधन का समर्थन करता हूं।

**श्री हेमराज** (कांगड़ा): जो विधेयक हाउस के सामने पेश हैं, इसमें जहां तक स्त्रियों को पूर्ण हुकूक देने का सवाल हैं उस पर तो मेरा ख्याल हैं कि कोई भी खिलाफ आवाज नहीं उठावेगा। लेकिन एक सवाल उठता हैं, और वही झगड़े वाली चीज हैं। वह सवाल लड़की के हुकूक के बारे में हैं। जैसा कि पंडित ठाकुर दास जी भार्गव ने अपना ख्याल आपके सामने रखा था, सवाल यह नहीं हैं कि लड़की को हुकूक मिलने चाहियें, पर सवाल यह हैं कि उसको वह हुकूक कहां पर मिलने चाहियें। उन्होंने फरमाया हैं कि अगर उसको वह हुकूक बाप के घर में दिये जाएंगे तो उसका क्या परिणाम होगा। जिस समय आप तकरीर फरमा रहे थे तो आपने भी पंजाब के बारे में खास तौर पर फरमाया था। मैं भी वही चीज हाउस के सामने रखना चाहता हूं।

हमने देखा हैं कि गांवों में जहां पर छोटी छोटी मिल्कियतें हैं वहां इस बात पर झगड़ा नहीं होता कि पांच सौ घुमाओं जमीन हैं उसमें से १०० घुमाओं चली गई लेकिन वहां पर तो छोटी छोटी चीजों पर जैसे गड्ढे पर या गिलास पर झगड़े हो जाते हैं। जब लड़की को उसके बाप के घर में हक्क मिलेंगे तो उसका परिणाम यह होगा कि आज घरों में जो शान्ति और प्रेम हैं वह तबाह हो जायगा। हम देखते हैं कि जब दो बीघा जमीन के लिये भी झगड़ा होता हैं तो दोनों फरीक वहां ऐसे आदमी को बसाने की कोशश करते हैं कि जिससे दूसरे फरीक को शिकायत का मौका बना रहे। आज आप देश में यह चाहते हैं कि फ्रेग्मेंटेशन आफ होल्डिंग्स न हो और कंसालीडेशन आफ होल्डिंग्स हो। आप इस तरह का लैण्ड रिफार्म करना चाहते हैं। लेकिन जो विधेयक आप ला रहे हैं उसका नतीजा क्या होगा। इसका नतीजा यह होगा कि जहां आप चाहते हैं कि कंसालिडेशन आफ होल्डिंग्स हो वहां फ्रेग्मेंटेशन आफ होल्डिंग्स होगा और हर एक घर में लड़ाई होगी। मैं मिसाल के तौर पर कहता हूं कि एक लड़की ससुराल में भी हिस्सा लेगी और अपने बाप के यहां भी हिस्सा लेगी। इससे एक तरफ तो उसके ससुराल के घर में फ्रेग्मेंटेशन आफ होल्डिंग्स होगा और दूसरी तरफ उसके बाप के घर में भी फ्रेग्मेंटेशन आफ होल्डिंग्स होगा। बजाय एक जगह फ्रेग्मेंटेशन होने के दोनों जगह फ्रेग्मेंटेशन होगा। जो विधेयक इस समय हाउस के सामने पेश हैं उसका नतीजा यह होगा कि फ्रेग्मेंटेशन आफ होल्डिंग्स के लिये एक नई जगह पैदा हो जायेगी: इससे हर घर में फिसाद की जड़ पैदा हो जायेगी और घर घर में लड़ाई हो जाएगी।

अभी हम देखते हैं कि भाई भाई में झगड़ा होता हैं। लेकिन इस विधेयक से झगड़ों की एक और बिना पैदा हो जाएगी जिसका नतीजा यह होगा कि किसी भी घर में प्रेम और सुख शान्ति कायम नहीं रहेगी। इसलिये जो चीज पंडित ठाकुर दास जी भार्गव ने हाउस के सामने रखी हैं, कि उसको कहां हिस्सा मिलना चाहिये, वह बहुत ही जरूरी हैं। मैं भी सदन के सामने यह प्रार्थना करता हूं कि जिस वक्त यह बिल सिलेक्ट कमेटी में जाय तो इस पर जरूर गौर किया जाए कि लड़की को कहां हिस्सा मिलना चाहिये। इससे तो किसी को इखितलाफ नहीं कि लड़की को हिस्सा मिलना चाहिये। सब कहते हैं कि जरूर मिलना चाहिये। कितना मिलना चाहिये, यह सिलेक्ट कमेटी के गौर करने की बात हैं। लेकिन किस जगह मिलना चाहिये इस पर उसे बहुत गौर से विचार करना चाहिये।

[श्री हेम राज]

मैं सदन से प्रार्थना करूंगा कि इस बात को खास तौर से ख्याल में रखा जाय।

कुछ माननीय सदस्यों ने यह कहा, और श्री हेडा जी ने भी यह कहा, कि शादी होगी उसी वक्त हिस्से के बारे में फैसला कर लिया जाया करेगा और विरासत कर दी जाया करेगी और उसके मुताल्लिक कोई न कोई तहरीर हो जायगी। शायद आप जानते हैं कि हिन्दुस्तान में ८० फी सदी जनता अनपढ़ है। क्या आप समझते हैं कि ऐसे लोग शादी के वक्त वकीलों को अपने घर ले जाएंगे। अगर यह कानून बन गया तो गांवों में हर घर में यह एक नई बीमारी पैदा हो जाएगी। जहां शादी होने लगेगी वहां एक और विरासत का झगड़ा खड़ा कर दिया जाया करेगा। हमको कानून बनाते वक्त यह देखना चाहिये कि जो कानून हम बनाने जा रहे हैं उससे हम झगड़े तो पैदा नहीं कर देंगे। हमें तो ऐसे कानून बनाने चाहियें जिनसे कि सुख और शान्ति बढ़े न कि ऐसे कानून कि जिनसे सुख और शान्ति की जगह लड़ाई और झगड़े पैदा हो जायें। हम देखते हैं कि यह जो विधेयक पेश है इसमें जिस तरीके से लड़की को जायदाद दी जायगी, उससे सुख और शान्ति के बजाय लड़ाई झगड़े पैदा हो जाएंगे।

यह ख्याल किया जा रहा है कि ऐसा करने से लड़की को इकोनोमिक इंडिपेंडेंस मिल जाएगा। जो मैंबर आपके सामने ससुराल के घर का रखा गया है, क्या उससे लड़की को इकोनोमिक इंडिपेंडेंस नहीं मिलेगी। क्या यह जरूरी है कि अगर लड़की को उसके बाप की जायदाद में हिस्सा न दिया जाय तो उसको इकोनोमिक इंडिपेंडेंस नहीं मिलेगी। जिस वक्त उसको अपने ससुराल की जायदाद में हिस्सा मिलेगा तो उससे भी उसको इकोनोमिक इंडिपेंडेंस मिल जाएगी। यह जो आर्ग्यूमेंट दिया जाता है कि उसको बाप की जायदाद में ही हिस्सा दिया जाय, मैं समझता हूं कि यह फैलेशस है और यह काबिले गौर नहीं है।

इन अल्फाज के साथ मैं जहां इस बाकी विधेयक को सपोर्ट करता हूं वहां मैं इसके उस हिस्से को अपोज करता हूं जिसमें लड़की को बाप की जायदाद में हिस्सा देने की शर्त रखी गई है और मैं उम्मीद करता हूं कि सिलेक्ट कमेटी भी इस पर गौर करके इसमें मुनासिब तरमीम करेगी।

**पंडित डी० एन० तिवारी** (बारन दक्षिण): सभापति जी, मुझे बोलना नहीं है, केवल एक बात आपके ध्यान में लानी है। मैंने एक अमेंडमेंट दिया है, उसको ऐसे ही पेश समझा जाएगा या मुझे उसको पेश करना पड़ेगा।

**सभापति महोदय:** आपने अमेंडमेंट कब दिया है?

**पंडित डी० एन० तिवारी:** अमेंडमेंट तो मैंने परसों दिया था और वह छप भी गया है।

**सभापति महोदय:** आप उसको पेश कर दीजिये और उस पर थोड़ा अगर बोलना चाहें तो बोल भी सकते हैं।

**पंडित डी० एन० तिवारी:** मैं सिलेक्ट कमेटी में हूं, इसलिये मुझे बोलने की मुमानियत है।

**सभापति महोदय:** कोई पर्वाह नहीं, आप थोड़ा बोल सकते हैं।

**Pandit D. N. Tiwari:** I beg to move:

That at the end of the motion, the following be added:

> "This House further recommends to Rajya Sabha that the said Joint Committee be instructed to report on or before the last day of the first week of the next session".

मैंने जो अमेंडमेंट दिया है उसमें यह है कि ९ सितम्बर के बदले आगामी सेशन जो होगा उसके पहले सप्ताह के आखिरी वर्किंग डे को रिपोर्ट पेश की जाए। मैं समझता हूं कि ९ सितम्बर को शायद हम लोग इस पर पुनर्विचार नहीं कर सकते हैं। यह मामला बहुत अहम है और इस पर हम लोगों को हर प्रान्तों की बातों को जानना होगा कि कहां क्या सिस्टम है और

कहां कौन सा सिस्टम जारी हैं, उसको भी देखना हैं, इसमें टाइम लगेगा और जल्दी जल्दी इस महत्वपूर्ण बिल पर विचार करना और उसको पास करना उचित नहीं होगा। इसलिये मैं बिल की मेरिट्स और डिमेरिट्स पर नहीं बोलना चाहता। मैं चाहता हूं कि ६ सितम्बर के बदले या तो भार्गव साहब का जैसा अमेंडमेंट हैं कि ६ दिसम्बर मान लिया जाय। चूंकि भार्गव साहब के प्रस्ताव को मानने में दिक्कत होगी, उस सेशन में भी शायद यह पास नहीं हो सकेगा, इस वजह से इसको मानने में दिक्कत हो सकती हैं। मैंने जो अमेंडमेंट दिया हैं उसके मुताबिक यह आगामी सेशन में पास हो सकता हैं क्योंकि मैंने अपने संशोधन में इस पर आगामी सेशन के पहले सप्ताह के आखिरी वर्किंग डे तक रिपोर्ट पेश करने की बात कही हैं और इस तरह हमारे पास एक डेढ़ महीना बच रहेगा और उसमें हम इसको बहस करके पास कर सकते हैं। यही मेरा संशोधन हैं कि आगामी सेशन के पहले सप्ताह के आखिरी वर्किंग डे में यह रिपोर्ट पेश की जाय।

**Mr. Chairman:** Amendment moved:

That at the end of the motion, the following be added:

> "This House further recommends to Rajya Sabha that the said Joint Committee be instructed to report on or before the last day of the first week of the next session.'

**श्री तेलकीकर** (नान्देड): मुझे इस बिल पर बोलने की ख्वाहिश नहीं थी लेकिन मैंने अभी कुछ स्पीचेज गौर से सुनीं। हमारे दोस्त हेडा साहब ने फरमाया कि इसमें दिक्कत यह होगी कि लड़की को मां बाप की जायदाद में हिस्सा मिलेगा और पति की जायदाद में भी मिलेगा और यह उनकी निगाह में कुछ ठीक नहीं जंचता। इसी तरह से एक साहब ने यह फरमाया कि हम यह सिद्धान्त तो जरूर मानते हैं कि लड़की को जायदाद में हिस्सा मिलना चाहिये लेकिन उनकी दिक्कत यह हैं कि वह कितना मिलना चाहिये और कैसे मिलना चाहिये और किस की विरासत में से मिलना चाहिये, पति या पिता की जायदाद में से मिले या और किसी दूसरे की जायदाद में से हिस्सा मिले। मैं समझता हूं कि जहां लड़की पैदा हुई हैं यानी अपने बाप की विरासत में से उसको हिस्सा मिलना चाहिये। जिस तरह से लड़के को अपने बाप के खानदान में हिस्सा मिलता हैं, उसी तरह से लड़की को भी मिले तो मैं समझता हूं कि कोई दिक्कत पैदा नहीं होगी। हां फर्क किया जाय तो जरूर दिक्कत होगी लड़की को उसके बाप के खानदान से हिस्सा मिलता रहना चाहिये। उस लड़की को उसके पति के मरने के बाद अपने ससुराल से हिस्सा नहीं मिलता, बल्कि पति की जायदाद से हिस्सा मिलता हैं। वही कैफियत लड़के की भी होती हैं। लड़के को पहले बाप के खानदान से हिस्सा मिलता हैं और अगर उसकी बीवी मर जाती हैं तो उसके बाद बीवी की जायदाद का वारिस शौहर होता हैं। जिस तरह से बेटे को अपने बाप की जायदाद में हिस्सा मिलता हैं उसी तरह से अगर बेटी को हिस्सा अपने बाप की जायदाद से मिलता हैं तो क्या हर्ज हैं और मसावी तौर पर जो कैफियत लड़के की होती हैं वही लड़की की भी होती हैं, इसलिये किसी के साथ अन्याय नहीं होता। मैं समझता हूं कि लड़की को भी बाप की जायदाद में हिस्सा मिलना चाहिए और मसावी तौर पर मिलना चाहिये। यह हमेशा देखने में आया हैं कि जब कोई नई चीज सामने आती हैं तो उसकी मुखालफत होती हैं और हमने देखा कि इसके सिलसिले में भी कुछ लोगों ने मुखालफत की, साफ साफ तो नहीं की, हां घुमा फिरा कर अपने एतराजात पेश किये। टंडन जी इसके सख्त मुखालिफ पाये गये और वह तो चाहते हैं कि यह बिल ही नहीं आने पाये। यह जो इस बिल के सिलसिले में हम मुखालफत देखते हैं वह कोई नई चीज नहीं हैं, यह हमेशा देखा गया हैं कि कुछ लोग ऐसे होते हैं जो हमेशा नई चीजों की रोकथाम करने की कोशिश किया करते हैं। मैं तो समझता हूं कि जिन्दगी की अलामत बदलना हैं। और देश और समाज व्यवस्था को जमाने के साथ साथ बदलते रहना चाहिये। आज यह अमू वाकया हैं कि सारे लोग चाहे वह इस बिल के मुखालिफ हों या इस

[श्री तेलकीकर]

की ताईद में हूँ, यह जरूर कहते हैं कि यह अन्याय है कि लड़कियों को एकोनॉमिक इंडिपेंडेंस न हो और मानते हैं कि लड़कियों को अधिकार मिलना चाहिये लेकिन उस सम्बन्ध में अपनी दिक्कत जाहिर करते हैं कि उसको कहां कहां से और कितना कितना हिस्सा मिलना चाहिए।

इसके अलावा एक दूसरी बात यह कही जाती है कि लड़कियों को बाप की जायदाद में हिस्सा देने से भाई बहनों में झगड़े पैदा होंगे, मुकदमेबाजी की नौबत आयेगी और आज के दिन जो भाई बहन में प्रेम है वह कायम नहीं रह सकेगा। भाई भाई में झगड़ा और मुकदमाबाजी होना तो हम बुरा नहीं समझते लेकिन भाई बहन में यह झगड़ा खराब होगा। अगर हिस्सा छोड़ने से ही मुहब्बत कायम रह सकती है तो बजाय लड़कियों को उनके हक से महरूम करने के मैं तो कहूंगा कि लड़के ही अपने हक से दस्तबरदार हो जायें ताकि मुहब्बत कायम रख सकें। मुहब्बत के नाम पर बहन को उसके हिस्से से महरूम रखना गलत है और यह एतराज कोई वजन नहीं रखता। शुरू में जब भी कोई नया सुधार का कदम उठाया जाता है तो उसमें दिक्कत मालूम होती है और उसकी मुखालिफत भी होती है लेकिन बाद में दिक्कत कम होती जाती है और मुखालिफत भी खत्म हो जाती है। लिहाजा जिस तरह से यह चल आया है बहुत सही आया है और मैं इसकी पुरजोर ताईद करता हूं।

**Shri Patashkar:** I moved this motion on the 5th May 1955. The discussion continued on the 7th May. Thirty-six hon. Members took part in the discussion on the motion during those two days and today 16 Members have taken part in the discussion. It can, Therefore, be easily seen that the matter has been thoroughly discussed from almost every point of view. This Bill was first published in the Gazette of India for eliciting public opinion on the 26th May 1954. It was circulated for elicting public opinion thereon. We received numerous opinions and suggestions which are published in the form of papers Nos. I to IV. Subsequently, we also obtained the opinions of State Governments in the matter. I have already referred to them in detail at the time when I moved this motion. The Bill, after receipt of these opinions, was introduced in the Rajya Sabha on 22nd December 1954 and the motion to refer this Bill to a Joint Committee was moved in that House on the 22nd March 1955. The motion was discussed there and passed almost with unanimity.

The subject-matter of this Bill has been before Parliament and the public in one form or other since the year 1937. I have already referred in detail to the stages through which this matter passed during the last 18 years I am fully aware and conscious of the different and divergent views which have been expressed regarding this matter during all these years, and I am also aware of the strong feelings and sentiments, diametrically opposed to each other, which different sections entertain regarding this matter. I fully realise that the measure which I have placed before the House is a very important one. Some hon. Members seem to think that this matter is being treated rather lightly either by me or by the Government. This is, to say the last, a wrong and unwarranted impression. I can assure them that our approach to this problem is one of utmost gravity. We have given very careful earnest and prolonged consideration to all sides of the question and have taken note of all the varied objections that have been raised and the numerous suggestions which have been made during the last so many years regarding this matter. As for myself, I can assure all Members irrespective of party or sectional consideration, that I shall give my very best and careful thought to all the suggestions that have so far been made or received. Some hon. Members seem to think that we are rushing the measure with

undue haste and without proper regard to the consequences that may flow from the passing of this Bill. There are others who have become impatient on account of the delay that has already occurred due to circumstances which I have already mentioned when I moved this motion last time. I respect the sentiments and feelings on both sides. I am not actuated by any such feelings and sentiments in one side or the other in this matter. I look at the problem not from the merely sentimental point of view. I have already appealed to Members of this House when I moved the motion to consider this measure dispassionately.

3 P.M.

From the discussions which have already taken place on this matter, the necessity for a measure like this seems now to have been conceded in a large measure. This problem is a very old one and it is hanging fire for so many years past. It has now become imperative that the question must not be left undecided for any length of time. The fast-changing conditions—social economic and political—in the country require that we should decide this matter without any further delay. In a matter like this whatever we decide cannot find favour with everyone concerned; all the same, our effort must be to approach the question in a spirit of justice and fairplay to all the components of our social life. Several hon. Members in this House and some others outside have warned me to handle the matter cautiously and I can assure them that the matter is being so handled and will continue to be so handled.

Some hon. Members have chosen to suggest that this was a party measure and from that point of view those who are opposed to us on party considerations have thought it fit to suggest that we are trying to force this measure on the public on the strength of the majority which our Party has got in this House. This is not only far from truth but the charge cannot be justified for the simple reason that what is being tried to be done by this Bill is being attempted to be done since the days when Congress had nothing to do with the administration of the country and the Congress Party had no parliamentary majority. It was a private Member from Bengal—Shri Akhil Chandra Dutta—who first mooted this question of right of inheritance to a daughter in 1937 by introducing a Bill in the then Central Legislature. This matter had been under active consideration of eminent Indians who formed the Rau Committee under the Chairmanship of late Sir B. N. Rau, one of the most eminent jurists which India has produced. Congress Party as such had nothing to do with it then nor were all those people and many others who took interest in this matter were Congressmen. This charge, therefore, that the Bill has been prompted by party considerations is, as I have said, unjustified.

Then, again, some hon. Members have thought it fit to remark that those responsible for bringing this measure forward are persons who had no knowledge of the existing conditions of society in our country. I can only say that whatever justification there might have been for such a charge against a foreign government, it is wholly unmerited and fantastic as against a government which represents the majority of the elected Members of this House, which again, it must be remembered, is elected on the basis of adult franchise. I will humbly urge to those Members who have taken upon themselves the monopoly of knowing rural conditions that most of us are equally aware of those conditions and will always take them into account along with other considerations in the best interest of society as a whole. I would request them to give up this monopolistic attitude.

I was pained to listen to some hon. Members who thought that we are trying to push through this measure not because we believe in it, but because of the wish or wishes of some other persons. I strongly refute any such suggestion. It is not in the best interest of parliamentary practice

[Shri Patskar]

that Members, while discussing a grave matter of this importance, should support their views not by cogent and rational arguments but by imputing such motives to those who do not agree with them. Every one of us should always try to avoid this method. Some hon. Members have even gone to the length of threatening us that this will lead to the fall of this Government. I can inform them in all humility that in the course of carrying out our duties in which we honestly believe, we shall not be deterred by any such threats and warnings. They should better be avoided. I would once again appeal to hon. Members, to whichever party they might belong, to consider this Bill dispassionately and then come to a decision as to what we should or should not do, and that too from the sole point of view of the progress of society in all its aspects—social, political and economic. I would appeal to them to follow the golden advice of not discarding anything merely because it is old, nor refusing to make a change in the old and adopt the new because it is new. Whenever circumstances and conditions justify the change, such a change has to be accepted. This is an old and wholesome rule. We should examine every question with a fresh and unbiased mind and in a rational way. Our revered colleague, Shri Purshottamdas Tandon, has very rightly advised us to examine the question from this standard and though our conclusions may differ. I agree that that is the right approach to the solution of a question like this.

There are various general objections raised in respect of this question. I shall now deal with them.

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

The first is: Why are we legislating only for Hindus and bring forward a Bill for succession applicable only to Hindus? Why should we not have brought forward a Bill which would apply to all Indians? And the question is posed that this is not consistent with the provision in article 44 of the Constitution, which says that the State shall endeavour to secure to the citizens a uniform civil code throughout the territory of India. It is true that our ultimate aim must be —as mentioned in that article—to secure a uniform civil code throughout the territory of India. But the article itself says that that must be our endeavour and we have, therefore, to look at this question from the point of view as to whether this is or is not an endeavour in that direction. Confining ourselves to the most controversial question in this Bill of the right of succession to be given to a daughter, is it not true that, except among those classes who are included among the term 'Hindu', the rest of the people are already governed by rules of law which give inheritance to a daughter? And if in the case of these classes who do not give her such a right we bring forward a legislation to do so, I would ask Members to consider whether it is or is not an endeavour in that direction. Similar is the case with the question of abolition of what is known as the "limited estate" of a woman. This feature peculiar to the law applicable to those who come under the term "Hindu" and, therefore, to bring in legislation to remove this anomaly is most certainly an endeavour in that direction. I am sure that if we can enact a proper and suitable law regarding this right of succession amongst Hindus, removing all its anomalous features, time will not be distant when the goal of having a uniform civil code as envisaged in article 44 will be reached.

One important factor to be noted in this connection is that this Bill, like the Hindu Marriage Bill, which was recently passed, tries to include in its scope different classes of persons who have come to be described as "Hindus" and who form nearly 85 per cent. of the population of this country. If we can frame a suitable piece of legislation applicable to such a vast majority of the people, I would ask every single hon. Member to consider dispassionately whether this is or is

not an endeavour in the direction of making one, uniform civil code which might be made applicable to all the citizens of this country. There is, therefore, no force in the argument advanced on this ground by some of the hon. Members. If they are really in favour of having one law for all the citizens of this country, they should not and must not consistently with reason object to a law which strives to bring within its scope, for the time being, at least 85 per cent. of the people. We are not in any way defying the principles of the Constitution, and it would be wrong to call this a piece of communal legislation. It is only those who are observed with a very sensitive feeling of communalism who make such a charge against this piece of legislation. It only reflects their own mental attitude.

Many people have taken exception to the very title of the Bill, which is the 'Hindu Succession Bill'. This phrase is not our innovation. Different modes of succession, inheritance, etc., have become applicable as a result of numerous decisions of different courts in India to certain categories of people during the last century and more of British rule. They differ in their forms of worship which alone I regard as matters of religion. But they were put into one category under the name Hindus. They include Jains, Sikhs, Shaivaits, Vaishnavaits and so on. All these came to be described as Hindus and the law applicable to them as Hindu Law. In this legislation we have only adhered to the same nomenclature for all those categories of people who have come to be so described during the last hundred years and more. The word "Hindu" here does not signify any particular religion; it is a nomenclature, as I said, given to particular categories of people for purposes of personal law which includes law of succession and inheritance. Being a recognised terms for that purpose it is used advisedly in this piece of legislation. The word 'Hindu' does not denote any particular religion or any form of worship nor does it denote any particular community; it applies to so many diverse people.

Another general objection that was raised was: why is it necessary to change or modify the present Hindu Law which is being applied to Hindus. Now, it is well known that every system of law must be certain, simple, definite, uniform, easily understandable and clear in its expression. Let us examine whether the present law of succession as applicable to Hindus conforms to any of these principles. The present law makes a distinction between the so-called *Sudra* on the one hand and the three regenerate classes on the other. An illegitimate son of a *Sudra* can get a share in the property left by his father, while in the case of an illegitimate son of the three regenerate classes, he is entitled only to maintenance. Then, again, the word "Sudra" has not got the same connotation throughout India. A *Kayastha* is a *Sudra* in Bengal, but he is a *Kshatriya* in U.P. and Bihar and thus belongs to the regenerate class there. Some sections of Marathas are *Kshatriyas* in Bombay and therefore belong to the regenerate class, but the family of the Rajas of Tanjore (the family of the Great Shivaji) are not regarded as *Kshatriya* in Madras. Is it or is it not necessary that in the present conditions of society we must do away with all distinctions of this type which are humiliating to certain classes of people? Shall we allow one law of inheritance for *Sudras* and another for non-*Sudras* at least as in this particular case and perpetuate the distinction on the ground of caste.

The present Hindu Law is also not uniform in its treatment of sexes. If discriminates between a man and a woman with regard to their property rights. A Hindu male has absolute power over the property inherited by him, but a Hindu woman gets only a limited interest in the property which she may inherit either from her father or husband. Again, that itself is not uniform because in the State of Bombay a daughter succeeding to property which she inherits from her father gets an absolute interest in that pro-

[Shri Pataskar]

perty; but it is not so in the other parts of India. This character of the woman's estate being limited has led to numerous complications and has been the cause of and a fruitful source of litigation. The absolute bar to the right of a woman to alienate the property inherited by her has been softened by decisions which lay down that she can do so for legal necessity. What is a legal necessity has again been a matter of ambiguity depending upon numerous circumstances; and in this matter also the decisions of the various High Courts are not uniform. For instance, it has been recognised that a Hindu widow has the right to alienate the property for any religious or charitable purpose; but the decisions of the High Courts are not uniform on this point. While the High Court of Bombay has held that a pilgrimage to Pandharpur was to further the spiritual benefit of the deceased husband of the widow, the Calcutta High Court has held that a pilgrimage to Benares was not such an act. Then again on account of the theory of the estate of a woman being a limited estate, a device had to be found to treat some category of her estate as *astridhan* estate over which she can have absolute power of disposition. This also as is well known has again become a fruitful source of costly and ruinous litigation. Is it or is it not therefore necessary that we should abolish what is known as the limited estate of a woman amongst these categories of people? Is it not necessary that we should also try to have one uniform law of succession for all these categories of people and that in the matter of inheritance we should do away with the distinction between a daughter and a son? In fact, while the hon. Shri Chatterjee thundered against us because we did not immediately introduce a uniform civil code applicable to all Indians as recommended by article 44 contained in the chapter of the Directive Principles of State Policy he seemed to show very scant regard or no regard at all for what has been laid down as one of the Fundamental Rights in our Constitution. Article 15 is not merely recommendatory, but it definitely lays down that no citizen shall on ground only of sex be subject to any disability. Can we, in view of this definite provision try to perpetuate a disability on the ground of sex which women are subject to under the present system of Hindu Law? Is it not subjecting a daughter to the disability on the ground of sex to deny her the right of inheritance to her father's property, while conceding it to her brother who inherits as son, to the exclusion of the daughter?

**Shri Nand Lal Sharma:** You are legislating on the ground of religion.

**Shri Pataskar:** Again, the present Hindu Law regarding succession and the right to property of a woman is not on a uniform basis throughout India. There is no one system of Hindu Law applicable to the whole of India. There are so many schools. The principal schools are the mitakshara and the dayabhaga. Mitakshara again has four sub-schools the Benares School, the Mithila School, the Dravid or Madras School and the Maharashtra School. This difference in Schools which is applicable to different parts of India has given rise to different and conflicting decisions of various courts. In its present state, the Hindu Law as now administered is not the law of the ancient law-givers: it is only a law which is the result of judicial decisions. Our friend, Shri Nand Lal Sharma is still under the wrong impression that the present Hindu Law is the law as laid down in the ancient *shastras*. In the first place the ancient *shastras* cover a very long period of history. The Vedic period, the period of Manu, the period of Yajnavalkya, the period of Narada, the period of Brihaspati and the periods of other ancient sages are separated from each other by centuries. Their *shastras* differ according to the different conditions prevailing in those times.....

**Shri Nand Lal Sharma:** That is your interpretation.

**Shri Pataskar:** The rules to resulate dealings between man and man as laid

down by these *Shastrakars* naturally varied from time to time according to the needs of the then society. The present Hindu Law is the law settled by judicial decisions and in most cases tried to be settled on the basis of *shastras* which had ceased to be applicable by lapse of time. The Judge who settled it decided it on the advice of *pandits*. In fact it is thus a law settled by lawyers who did not know sanskrit and by sanskritists who did not know law. In fact as far back as 1877 an eminent jurist found that judicial decision in Hindu Law took the form of deciding not what the law ought to be but what it was supposed to be according to the interpretation of some ancient texts or forgotten phrases of society unmodified by contemporaneous opinion. The continuance of this unsatisfactory state of affairs is due to the rule of a foreign Government which for historical reasons was afraid to make one uniform personal law applicable to all these people and which Government in its very nature was not interested in consolidating society in our country.

I shall not dilate on this point much, because it seems that in the course of the discussion of this matter during the last fifteen years much of the objection for codification or creating uniformity in legislation seems to have lost its strength.

I shall now turn to the criticisms regarding some of the provisions in the Bill. The history of this Bill will show that it has gone through many stages. At one stage a comprehensive Hindu Code Bill relating to all parts of personal law governing Hindus was brought before the House. That Bill was referred to the Select Committee of the House. The Select Committee considered it and submitted its report. However, it was not found possible to find time in the Provisional Parliament to get the Bill passed into law. When this first Parliament of India came to be elected and commenced its work, Government thought it advisable to divide that Bill into certain parts, have those parts separately put in the form of Bills and then place those Bills separately before Parliament for being passed.

As regards the personal laws applicable to Hindus, the marriage law was one of the most important parts. That part was put in the form of the Hindu Marriage Bill and was recently passed by Parliament. It is now the law of the land. The other important part is the part relating to succession amongst Hindus. The present Bill relates to that part.

A good deal of the criticism against the Bill is that the Bill by its provision in sub-clause (1) of clause 5 defeats the very purpose of this Bill. On the one hand, it has been argued that, if this Bill retains that clause as it is, then the Bill will apply only to a very small section of the Hindus, and as such, the object of having one uniform legislation in the matter of succession even as regards Hindus will be nullified. Shri Chatterjee and Pandit Thakur Das Bhargava and several other Members very strongly pleaded that if a daughter was to be given the right of inheritance, you must not exclude the joint family of the type mentioned in sub-clause (1) of clause 5 from the operation of this legislation. As I have already expressed in the Rajya Sabha as well as in this House. I am entirely in favour of giving the daughter the right of succession even in joint family property which devolves by survivorship. I see the force of the argument of these hon. Members, and I am sure that the matter will be considered appropriately in the Select Committee, whatever my personal feelings are.

Some Members seem to be under a wrong impression that Government had not made up its mind even at the time when this Bill was brought forward and therefore have put the provision in this form; and that Government now want to say something which is entirely opposed to what they decided at the time of the introduction of the Bill. This is far from truth. The present Bill is the Succession Bill and the main question is

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what sort of succession should be given to a daughter and in what manner and to what extent it should be given to a daughter. It would be for this House and the Select Committee appointed by the House to decide the nature, extent and the applicability to this right of succession to be given to a daughter. It would be open to them to delete sub-clause (1) of clause 5. If they decide to do so, matters will become simple, logical and progressive. As the part relating to joint family of the Hindu Code is not yet placed before the House in the form of a Bill, the present Bill contains the provision as worded in clause 5, sub-clause (1).

Another objection raised to clause 5 is that, if we want to have one uniform law for Hindus, why does the Bill provide that it shall not apply to persons governed by *marumakattayam* and other Acts mentioned in sub-clause (3). These Acts relate, as is well known, to the matriarchal system of succession that prevails in certain parts of South India. That, again, to my mind, is a matter which it would be for the House and the Select Committee to finally decide. If I were to express my opinion, I would say that if the Select Committee were to decide to give the daughter an equal share along with the son and not half a share as is mentioned in the present Bill, it would not be difficult logically to make the provisions of this Bill applicable to persons governed by the *marumakattayam* and other Acts mentioned in sub-clause (3). The reason is simple. Under these Acts, the daughter gets an equal share with the son. The way in which we decide the question of the quantum of the share to be given to a daughter will determine the question of deleting or retaining sub-clause (3). For it would be neither equitable or fair merely for the purpose of having one uniform law to deprive the daughter of a full share where she gets it under the provisions of the *marumakattayam* and other Acts. This will not be consistent with the principle of our Constitution that there shall be no discrimination on the ground of sex. Similarly, if we decide to omit sub-clause (1) of clause 5, which it would be perfectly open for the House and the Select Committee to do, a daughter will be entitled to an equal share with the son in the property left by the father, irrespective of the fact whether he belonged to a *mitakshara* joint family or a *dayabhaga* joints family or whether he was the sole owner of separate property. It would be perfectly open to the Select Committee and the House to do so. Whatever decision we arrive at will ultimately affect the legislation which we have to undertake regarding the remaining parts of the Hindu Code.

**Pandit Thakur Das Bhargava:** May I submit one thing? So far as the scope of the Bill is concerned, it is either for the Chair or for the House to decide and not the Select Committee.

**Shri Pataskar:** May I request the hon. Member to ask me question at the end and not now?

**Pandit Thakur Das Bhargava:** Sir, I am not asking questions but stating a point of fact and law.

**Shri Pataskar:** The criticism that Government does not seem to have made up its mind in this matter is neither correct nor justified. One of the principles underlying the Bill is to give the daughter the right of succession along with the son amongst Hindus. That principle clearly runs through all the provisions of this Bill. The future structure of the joint family will ultimately depend upon the decision we take regarding the right of succession to women in general.

During the course of the discussion, I was happy to find that there was unanimity on the question of removing the disabilities of women in the matter of succession and every one was anxious that they should be dealt with fairly and squarely. Everyone

has said that they want to be fair to their sisters and daughters; but it was argued that to give a share to a married daughter would create complications which will ruin the family life and lead to litigation as also to fragmentation of holdings. I shall first deal with the question of fragmentation.

At the present moment, there is no share to a daughter; yet the process of fragmentation has gone on and the problem of fragmentation is staring us in the face. The problem of prevention of fragmentation is purely an economic problem and is not one which only arises in respect of Hindus; it is a common problem. It is the result of various factors in the economic life of the country. That problem is being solved and will have to be solved on a different basis and in a different manner. The question of prescribing a minimum size of agricultural holding is being solved by different States. That question must not be mixed up with the question of giving a share to a daughter in the family. I remember, as far back as the year 1927 a Bill was introduced in the Bombay Legislative Council, as it was then called, for the purpose of prevention of fragmentation. I was a member of the Select Committee on that Bill and I had occasion to see as to how land under the ryotwari tenure in that State was desired into small bits which were uneconomic. At that time, the question of giving the daughter a share had not even arisen. I would, therefore, urge upon hon. Members not to mix up one question with the other.

Let us supporse that in a particular State the minimum size of an agricultural holding is prescribed by law, and that minimum is five acres of land. Under the law as it stands, if a person has ten acres of land and has three sons, all the three sons cannot have each of them five acres of land when they inherit to their father. Only two can get five acres each and the third will have to be compensated. The same thing will happen if the man had two sons and one daughter, and under the new law, the daughter was entitled to the same share as the son. I am aware that in the case of three sons there is a greater possibility that they may live together and may have no occasion to partition the land, but in the case of a daughter and particularly when she is married, there is hardly any possibility of her living together with her brothers. But in that case she can be given compensation for her share and we can find some solution in case of such a contingency. The just and equitable remedy is not the denial of her right on the ground of such a difficulty but to face the difficulty and as far as possible to solve it.

The other point about the disruption of the family by giving the daughter a share requires to be very carefully considered. It may be that in the new conditions as they are developing, the daughter of a family may decide to remain unmarried and in that case there is no reason why she should not inherit her father's property along with her brothers without causing any disruption in the family of her father. Similar is the case with a daughter who may have been married but who unfortunately has lost her husband. In that case also there is no reason why she should not be a co-sharer with her brothers in the father's property.

The hon. Member Shri Barman has narrated to us the case of a rich family where the brothers were rolling in luxury due to the wealth they inherited from their father, but the sister who had married an educated but not a rich person and who had the misfortune of becoming a widow, was undergoing the hardships of poverty as she was not entitled by law to any share in the large fortune left by her father. If she was entitled to a share in the property of her father, I am sure the brothers would have treated her differently. There are also not a few cases when women are discarded by their husbands after marriage. In such cases, their lot is miserable. Women undoubtedly deserve to have the right of inheritance in their

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fathers' families. Everyone will, I am sure, agree and have almost agreed, that such anomalies must be removed.

We have heard so much of the love between the brother and the sister. To some extent, it is natural but it is no good denying that as a rule the love of property seems to be stronger than the love of a sister. Sympathy for the unfortunate sister is there in plenty, but sympathy must not be mistaken for love, and in any case mere sentiment whether of sympathy or love solves no difficulties.

The main objection that is raised in respect of a share being given to a daughter is that in the case of a married daughter she would be under the influence of her husband and therefore, in spite of her wishes to the contrary, she may be used as an instrument by her husband for the purpose of creating trouble in the family of her father and disturbing the family life. This is a matter which I think deserves some consideration and thought. It does not, however, necessarily mean that a married daughter should be excluded from her natural right of inheriting her father's property along with the son. Already, a suggestion was made by some Members that the right of pre-emption in such cases should be given to the brother or other male members of the family. This is a suggestion which deserves consideration, and I think will be duly considered by the Select Committee.

We have already made provision in clause 25 that whenever there is a female heir who has got a share in the immovable property or in the business of the family, the property must not necessarily be partitioned by metes and bounds, and that she may be given only compensation in lieu thereof. There has been some objection raised with regard to the way in which this provision is worded in clause 25. I shall be in favour of making this provision more specific and clear than what it is now. I think it is worth considering if we can reasonably give the male members of the family in which a female has obtained by succession a right in the family property or business, the right of pre-emption as well as the right of buying off the share of the female heir on payment of adequate compensation to her at least in the case of a dwelling house or the business of the family. All these matters can be considered in the Select Committee and a solution found so that while giving the daughter a share along with the son, we shall avoid any possible hardships to the father's family as a whole. Every law must take into account the existing state of society, to which it is going to be made applicable and we shall certainly do so in the case of this important piece of legislation. The only thing to which I object is that we cannot and must not on account of possible difficulties sit with folded hands and give up the task of doing what is just and fair.

A suggestion was made that we should give a share to the unmarried daughter in the estate of her father but we should not give the married daughter a share in the property of her father. We should instead give her a share in the property of her husband's family. The suggestion has been made by some very responsible Members of this House and deserves consideration. I shall first try to examine the first part of this suggestion, namely, that we should give a share in the father's property only to an unmarried daughter and not give it to a married daughter. At the outset, I would like to point out that the matter is not so simple or easy as it looks. Supposing we decide to give a share only to an unmarried daughter and exclude the married daughter, what would be the result? Supposing the father dies leaving an unmarried daughter and a son, as also a married daughter. When succession opens, according to this proposal, the married daughter will be excluded from inheritance; the unmarried daughter will get her share along with the son. But it is just possible that this daughter after

having become entitled to her share of inheritance gets married as is very likely. Are we then to provide that in such a case on her marriage the share which she obtained should revert to the family of the father? To do so will only be to make her a limited owner of a new variety. Many of us are agreed that a limited estate has led to limitless complications and difficulties and is a fruitful source of expensive and ruinous litigation, and one of the objects of this Bill is to abolish the limited estate of a woman. It is just possible that between the time an unmarried daughter succeeds to her father and the time of her marriage her share might have been disposed of. It is a question as to what should happen in such a case. All these matters will have to be taken into account by the Select Commitee.

It is again wrong in principle to differentiate between a daughter and daughter merely on the ground that one is married during the lifetime of the father and the other is not. It may be argued that this distinction is justified on the ground that the father has already spent out of the family property and assets for the marriage of the married daughter but it may be that the daughter had married for love and of her own accord and no expenses have been incurred. We are all against dowry and we want to minimise marriage expenses. Under the circumstances, it is undesirable to connect marriage expenses with the share to which the daughter is entitled. In fact, the right of a daughter to be maintained by the joint family and her right to be married at the cost of the joint family are historically the remnants of her original right to a share in the property itself. For the benefit of those of my friends who would more readily rely on judicial decisions than anything else, I would mention that they will find this proposition laid down by their Lordships of the Madras High Court in the famous case of Subbayya v. Anant Ramayya in I.L.R. 53 at pages 90 and 93. It is high time that we restore to the daughter her original right and not in any manner stick to the anomalies that have arisen on account of this right being denied to her. Considered, therefore, from various aspects, to make a distinction between a married and an unmarried daughter for the purpose of inheritance is fraught with so many difficulties.

One of the arguments advanced as to why the married daughter should not be given a share was that in the Hindu society the father incurs a good deal of expenditure for the marriage of his daughter and it has been argued that in many cases this expenditure exceeds what may amount to her legitimate share in the property. It is true that at the present moment a father does spend considerable amount on the marriage of his daughter. A father, whether he is a Hindu or a non-Hindu, whether he is orthodox or a reformer, loves all his children alike —whether a son or a daughter. As a matter of fact, the father under the present circumstances is all along conscious that after his death his sons will get share in the family property or in his business, but his daughter will get nothing. He is therefore by natural instinct anxious to do his best for his daughter; and that he can do only at the time of her marriage. But does that in any way ensure for the benefit of the daughter in whose name and for whom the father spends at the time of the marriage, whether by dowry, *dahej*, or other kinds of presents and expenses? I recently had occasion to attend the marriage of the daughter of a middle-class Hindu in Delhi. When he showed me the number of articles which he was going to give to his daughter at the time of her marriage and told me the amount of money which he was going to give to the son-in-law, I felt convinced that he must have incurred debts to be able to do all that he was doing for his daughter. But in all seriousness, when I considered the matter from the other point of view as to how much of it will really be for the benefit of the daughter, I came to the conclusion that it will all be of no use to her. When she goes to the family of the

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husband, all the gold and the other articles would go into the pool of the family of her husband: the money will go to the account of the husband or the father-in-law, and the elderly male and female members of the family of her husband will distribute all these articles amongst themselves, leaving the newly married daughter-in-law all by herself, alone. You may say it would be her *stridhan* property, but I am sure, in fact it would be the *dhan* —property—of her husband's family over which she has no control. Will it not be much better if she was to get her proper share in her father's property, instead of any such money being spent in this manner for her marriage in lieu of that share? That would make her economically more independent and would increase her status even in the family of her husband. Instances have not been wanting when after such lavish expenditure on the marriage by the father, daughters have been discarded by the husbands either at their own instance or at the instance of the members of the husbands' families. In that case, the daugter even of a rich man is thrown without any resources on to the wide world.

I am therefore inclined to think that the sooner we stop this custom of dowry and the lavish expenditure on marriage the better for all concerned and the only proper way to improve the phesent state of things is to give the daughter a right to a share in her father's property. In socialties where by law the daughter has got a share in the family property, the custom of dowry is not generally prevalent. It may be that merely by the passing of this Act the system of dowry may not immediately disappear, but I am sure that in course of time and as a natural result of the economic factors and human and natural considerations, it is bound to disappear. It is a strange phenomenon that those who cry against this unwholesome practice of giving dowry also try to support continuance of the present system where the daughter is denied the right to share in her father's property.

I am aware that in rural areas a very large number of people have only got a dwelling house and a few acres of land. It is also true that if we give the doughter a share in the property, she will in most cases be not a resident of that village, but of some other place. Under the circumstances, she may not find it convenient to continue to be a common sharer with her brothers. If we allow her the unrestricted right to partition by metes and bounds the dwelling house or the small piece of land of her father, the result may not be very advantageous either to her or to her brothers. The best solution therefore to my mind would be to give the right of pre-emption to the male members of her father's family and in case a male member so desires, a right to him also to compulsorily buy off the share of the female heir. If some such provision is made, there would be no cause for any disruption of any of the families in rural areas and at the same time the daughter will not be denied the right to have a share in the estate of her father along with the son. These are, however, matters which could be discussed along with any other suggestions which may be made in the Select Committee.

My friend Shri Tek Chand had made this suggestion of pre-emption and I find it acceptable. I hope he will now be convinced that I have a receptive mind and he was not justified in saying that what he submitted would only add to the load of the waste-paper basket.

Let us now examine the other part of the suggestion, namely, that a married woman should be given a share in the property of her husband's family along with the husband. Very many eminent persons and Members of this House have made this suggestion with all seriousness. This means that whenever a woman is married, she becomes a co-sharer with the

husband in his family. It is difficult to decide as to what form this share will take. Supposing the husband's family is a joint Hindu family. Will she be a member of the joint Hindu family with the right to claim a partition which, like her husband, every other male member has got? Supposing that family was a joint Hindu family governed by the *Mitakshara* rule of survivorship. Will she be entitled to the right of survivorship also? Then, again, a question will arise: what will happen to her share in the husband's property if she comes to be divorced by her husband: whether, if she were to obtain a divorce from the husband on the grounds on which she is now allowed to do so under the Hindu Marriage Act, she will still be entitled to a share in the husband's property? These are all questions which deserve to be seriously considered and analysed. I do not think it would be in the interest of the family of the husband to give the daughter-in-law a right to claim partition of the family property, nor in the very nature of things, can the right of survivorship be given to her because the right of survivorship is a corollary of the right by birth.

Then, again, it will be remembered that in the case of a divorce either by the husband or by the wife, her connection with the family of her husband will cease. In that case, what is her position? She loses all her rights in the property of the husband's family and because she was married she had already lost her rights in the property of her father. I have given very careful thought to this question and I believe that if we attempt to do any such thing as a remedy for holding on to the present system of joint family, the remedy may be found to be worse than the disease itself. I am approaching this question not with a mind locked as some members said but with quite an open mind and a clean heart to decide the question in the best interests of all concerned. There are bound to be difficulties in any solution which we may think of; but because the problem is difficult, we cannot close our eyes and allow things to drift. We must make a conjoint effort to solve this question and try to solve it in away which, while sacrificing the principles, will take note of t he present and the future state of our society.

The hon. Member Pandit Thakur Das Bhargava has made a suggestion that the married daughter should not be given a share, and he has been pressing it for a long time. I am sure he will also take into consideration the difficulties which I have already pointed out. We have passed the Hindu Marriage Act which is now the law of the land. We have removed the inequality or discrimination against the woman by abolishing polygamy and thus raised the status of the woman. We have also in that Act granted the right of divorce both to the husband and the wife under certain circumstances. The former conception was that a girl once married must remain in the family into which she is married, whether neglected or respected, whether cared for or uncared for or whether kept in the house or thrown out of the same. Now the right of divorce means that under certain circumstances she can get out of the marital tie and out of her husband's family. In that event, giving her a right in her husband's family is of no consequence, because, when she ceases to be a wife, she ceases to be a member of that family. If she had a right to share in her father's property, she would in such event have an asset on which she can fall back upon. If a son can rely upon such an asset, *viz.*, a right to succeed to the estate of his father, I do not see any reason why a daughter in her new status should not have such a right in the assets of her father. I am sure all these matters will be carefully considered in the Select Committee.

A fear is expressed by certain persons that even if we given a share to the daughter in her father's family the same will be nullified by the father making a will of his property in such a way as to deprive the daughter of

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that share. Many of us are fathers of sons or daughters or of both, and I believe that a normal father will never do any such thing and if at all he had to do it for any reason, he will surely make suitable provision for his daughter when he is going to deprive her of her share by will. I have better faith in human nature.

In my opinion, the provision contained in clause 7 of the Bill abolishing all distinction between divided sons and undivided sons and between a female heir who is married and one who is unmarried, between a female heir who is rich and a female heir who is poor, etc. is a just and right provision.

If we decide to give the same share to a daughter as we give to the son, if we decide that the property of a female heir shall be her absolute property, it may not be necessary to provide for different modes of succession in the case of female Hindus and male Hindus. The matter will naturally be considered in the Select Committee and therefore I am not offering any reply to the various suggestions which were made with respect to heirs to property.

There has also been some criticism of the details regarding the heirs. All these, I am sure, will be considered by the Select Committee. As I have already explained, at the time of making this motion, in this matter, the Bill has generally tried to follow the schemes of the former Select Committee on the Hindu Code.

Clause 19, as I already pointed out, contains a saving in respect of properties which a Hindu woman has at the time of the commencement of this law as a limited estate. I have received some representations from widows who are limited heirs and some hon. Members also have suggested that the provision of this Act may also be made applicable to them. I have every sympathy for these unfortunate limited heirs. However, when they inherited the property, they inherited the same merely as limited heirs with the right of the reversioners to succeed to that property after their death. The right of the reversioners is not merely a *spes successionis* or the chance to succeed. It is something more and it would not be desirable or just to deprive them of this right which has accrued to them. It may not also be constitutionally correct and proper to do so. Besides in a matter like this it is not right on principles of legislation to legislate retrospectively. I am deeply conscious and aware of the hardships of these limited heirs, but I tnink from the larger point of view of the interest of society, it is much better to leave matters as they are in their cases. Such a law should not and must not be retrospective in its application.

Clause 25 has been the subject of some criticism. I have already explained the object with which this provision is made. Having heard the criticism of my lawyer-friends, I think it would be desirable to put it into more simple and less involved language. I am inclined to agree that as far as possible, a law should be self-contained and it would be better to put this provision in more direct form along with the provision of the right of pre-emption already referred to, if the Select Committee agree to it.

Clause 27 has been very vehemently attacked by some Members particularly my friend Shri Tek Chand. The main idea underlying this provision is that an unchaste widow should not ordinarily inherit. A wife who has been leading an unchaste life and who is not staying with her husband in his life-time should not be allowed to be his heir after his death. But supposing there has been some lapse in this matter on the part of the wife several years before the death of the husband, and that after that the husband had condoned the same and they had led a normal happy married life,

there is no justification for such a wife being excluded from inheritance after his death.

Motive of obtaining property is a very powerful factor in human affairs and it would be very easy for a prospective heir to make charges of unchastity against the wife after the death of her husband in order to deprive her of her legitimate right to succeed. The object of the provision is to prevent this happening unless in some earlier proceedings during the life-time of the husband himself, the question of the unchastity of the wife has been decided by a court of law. The wording of this clause will be looked into carefully in view of the criticism of some hon. Members and consistently with adhering to the basic object of the section, it would be suitably improved.

I have very carefully considered the various suggestions which have been made by hon. Members of this House. I am sure they will also be considered and taken into account by the Members of the Select Committee.

The Select Committee consists of 45 Members. I can assure hon. Members that there has been no desire to exclude any particular view and I am sure the Select Committee will take into consideration all points of views. Even while drafting this legislation, we had the advantage of the report of the former Select Committee on Hindu Code Bill. Some hon. Members like Pandit Thakur Das Bhargava and yourself, Sir, were members of that Select Committee and I am sure the views of all these members will be given due consideration by the proposed Select Committee.

Sir, a good deal of criticism has been levelled against this measure on the ground that it will disrupt the joint family of the *mitakshara* type as understood now. I am aware that it may be so; but this is only the logical and rational result of a process that started with the passing of the Hindu Women's Rights to Property Act in 1937, if not earlier. The late Shri Srinivasa Iyengar rightly stated in 1938 in his preface to the Maine's Hindu Law as follows:

> "It is obvious that the age of the Legislator has now come. The latest of the enactments, namely, the Hindu Women's Rights to Property Act, 1937, has struck at the root of the *mitakshara* system of coparcenary."

Sir, I have listened with respect to the impassioned plea of many hon. Members who fear that our culture may suffer and that our rural economy may receive too severe a shock.

As regards our culture, I yield to none in my respect for the same. Our culture has been evolved through centuries past and its course has always been very progressive. Our rules of relationship between man and man have always adjusted themselves to changing circumstances. The hon. Member Shri Nand Lal Sharma, who always begins his speech with some Sanskrit quotation, has complained that the Hindu Law which has followed the ancient sastras is not accepted in this Bill. This is neither true nor correct. The ancient sastras referred to by him cover a very large period of the history of Indian society. In the Vedic period, women had almost the same rights as men and the property inherited by a woman was her absolute property. Even the *mitakshara* itself has propounded views which were just to women. In fact, Vijnaneshwar, who lived some six hundred years after Manu, recognised the progress of Indian society during the centuries after Manu and laid down rules consistent with the changed circumstances of society. Shri Nand Lal Sharma and people like him vaguely talk of ancient sastras as if they had never changed and were the same during all these hundreds of years of the progress of Indian society. The essence of our real culture lies in the fact that it has always moulded itself to changing circumstances. It has never been static. As far back as

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the second or third century, Brihaspati laid down that a son is like oneself and a daughter is like a son. Men like Shri Nand Lal Sharma have never raised their voice when certain texts came to be misinterpreted by courts of law. The hon. Member Shri N. C. Chatterjee has stated how misinterpretation of some texts has led to discrimination against women. We are trying to restore to women the rights which they once enjoyed under the then prevailing sastras. Laws cannot now be laid down by mere sastris and pundits. But, the present sastris would be true to their traditions if they give a correct lead to the public by supporting such a piece of progressive legislation and not try to mislead the public in the name of the sastras. I appeal to them to live up to the high traditions of our eminent sastrakaras like Brihaspati, Vijnaneshwar and others.

**Shri Gadgil:** To Brihaspati there is no objection.

**Shri Pataskar:** He has given rights to the women.

I would appeal to those who, to me, appear to base their objection on political grounds to desist from doing so. This is a piece of social legislation. While conceding that difference of opinion on some of the detailed provisions of a measure like this is inevitable, no political considerations which are bound to be of a transitory nature, should be allowed to enter in the consideration of a measure like this. I would have avoided even reference to this matter but for the fact that one hon. Member went to the length of giving us a warning that our Government will fall. It clearly showed that the hon. Member's opposition was not based on the merits of the Bill, but was due to his opposition to this Government on political grounds.

Many hon. Members seem to have been caught in the whirl of arguments advanced against this progressive measure. Their fears are mainly due to the natural sense of conservatism in all such matters. I assure them that we have no desire to disrupt and break society and that no efforts will be spared to attain our objective by the process of smooth evolution. The Bill when passed, with due and proper safeguards which I have already referred to and which, I am sure, will be taken into account by the Select Committee, will mark the beginning of an era of equality and progress in social matters without unduly disturbing the trend of economic life of the bulk of our people.

As regards those who have no property whether in the city or the village,—and this is a very large number—they will not in the least be affected by this legislation. A very large number of our people live in villages. Most of them, as argued by many Members,—and that too rightly—have only a small dwelling house and a few acres of land as their immovable property. As regards these, with the safeguards of the right of preemption and the right to buy off in respect of the share of a female heir, no disturbance of their present economic life will be caused. On the contrary, many of the evils such as dowry and the custom of reckless spending on marriages will gradually disappear and there will be improvement in their economic condition.

As regards the middle classes, Shri U. M Trivedi thinks that they will be sapped out of existence. I shall take the liberty to point out that no such thing will result from this legislation. Amongst the so-called middle classes, who are educated and enlightened, the joint family system has been broken up as a result of the operation of the Gains of Learning Act of 1930. The hon. Member, Shri N. C. Chatterjee may be a member of a joint family at Calcutta, but his earnings as a lawyer in Delhi will never go to the coffers of the joint

family at Calcutta and people like him will not be affected adversely by this piece of legislation. In the case of those of the middle classes who mainly depend on service and have consequently to live in distant places and have to move from place to place, no dislocation is going to be caused in their economic life by this legislation. With regard to those middle class people who are petty tradesmen in villages or in cities and whose number is very large, conditions have already so changed that if a tradesman has two sons, as soon as they are grown up, they have to separate and start different small shops. If the father has a small grocery shop, the son has to separate and start a small stationery shop or a hardware shop. They cannot continue as before to be maintained out of one old grocery shop. In their case also, this piece of legislation will produce no undesirable economic effects. On the contrary, they will benefit by the same. It is only in the case of a few capitalist houses that they might find some difficulty by the introduction of the daughter's share in the family. But, their resources are so plentiful that with the right of pre-emption and the right to buy off regarding the share of the female heir, the male members of such houses will experience no difficulty by this piece of legislation. I know their houses spend large sums money on the marriage of their daughters and sisters. This expenditure will certainly go down and it will be not only to their good, but to the good of society as a whole. These are not days when display of wealth is good for any purpose. I would like to point out to them to look to the effects already produced on their capitalistic system by the provisions of the Income-tax Act and the Estate Duty Act. The proposed Companies Act may also produce its own effect. Under the stress of these economic and social forces, I would appeal to them to consider whether it would not be to their advantage to concede the rights laid down in this Bill to their daughters, sisters and wives.

When we were discussing the Hindu Marriage Bill in this House, those very eminent persons like Shri N. C. Chatterjee who opposed that Bill particularly in regard to the provision of divorce in that Bill, very ably pleaded that this right of divorce would mean nothing to a Hindu woman as she had no economic independence. This is a Bill which in some measure promotes the cause of economic independence of women. Having passed the Marriage Bill, which is now the law of the land, I hope and trust that every one will logically support this measure.

It is significant to note that all women Members of this House and all the enlightened women outside have supported this measure and are claiming this right of equal treatment with men. It is no good jeering at them and telling them that large numbers of women outside are not with them.

Even in this matter, I am glad to note that I have not to face the same rigid opposition which my predecessors had to face when they brought forward the Hindu Code Bill. There is a change for the better and an improvement in the situation. There is now almost no direct opposition to conceding to the women the right to hold property which she may inherit as her absolute property. I am glad all hon. Members have conceded that woman must be treated on a par with men. They are also prepared to concede that an unmarried daughter should be given the right to inherit to her father.

I hope I have been able to convince...

**Some Hon. Members:** We are convinced.....

**Mr. Deputy-Speaker:** Order, order.

**Shri Pataskar:** I hope I have been able to remove the cobweb of apprehensions and fears created by a sense of conservatism, that is, a desire to resist a change. To some extent they are natural. But, it should be our duty and task to solve this question without delay.

[Shri Pataskar]

I thank the hon. Members of this House for the generally useful and constructive discussion of my motion and the co-operation extended to us. I can assure them through you, Sir, that I shall try my best to give utmost consideration to the suggestions which have been made and I would also request them to consider the suggestions and points which I have made. I believe in the general genius of our people to solve even the most difficult problems without bitterness and in a spirit of co-operation and in the best interests of the unity of our nation.

I cannot conclude my reply without referring to the tragic incident which took place in our House on 7th May, 1955, when we were almost coming to the stage of concluding the discussion of this motion by the hon. Members of this House. I very much deplore the sudden and lamentable death of Shri Chinaria almost immediately after he had offered his remarks on this motion. I have read his speech very carefully. The late Shri Chinaria in the very first sentence he uttered made it clear that he was not against giving women the right of inheritance, and he emphatically asserted that such a right must be conceded. He said:

"मैं इस बात के विरुद्ध तो नहीं हूं कि बहनों को जायदाद में हक न हो। उन्हें हक जरूर होना चाहिये, और जमाना यह बताता है कि हर वक्त होना चाहिये।"

His only fears were that the present lagislation would disturb family life. I am sure that if the suggestions made today are accepted by the Select Committee and the House, no such disturbance will be caused. I deeply feel that Shri Chinaria is no longer with us to consider how best the fears and anxieties expressed by him could be removed. I hope and trust that we will all join in fulfilling his primary desire to give property rights to our sisters but with suitable safeguards to prevent avoidable hardship to society. That would be the most fitting and appropriate manner in which we could respect his memory.

I commend this motion for the acceptance of this House.

**4 P.M.**

**Mr. Deputy-Speaker:** Some amendments have been tabled to this motion regarding extension of time. The amendment for extension of time till 9th September has been moved by Shri Pataskar himself. There are two amendments to this amendment by Pandit Thakur Das Bhargava and Pandit D. N. Tiwary. I shall put these amendments to the amendment first.

**Shri Pataskar:** So far as my amendment is concerned, it has been necessitated by the fact that the time fixed at the time the motion was passed in the Rajya Sabha was the 1st of August, and now it is not possible for the report to be presented by that time. So, I have asked for extension of time by my amendment up to the 9th September, and I think, having listened to the arguments on both sides, that we should stick to the amendment which I have moved.

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

That in the amendment proposed by Shri Pataskar, List No. 1 of amendments—

*for* "the 9th September, 1955" *substitute* "the 9th December, 1955".

*The motion was negatived.*

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

That at the end of the motion, the following be added:

"This House further recommends to Rajya Sabha that the said Joint Committee be instructed to report on or before the last day of the first week of the next session."

*The motion was negatived.*

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

That at the end of the motion the following be added:

"This House further recommends to the Rajya Sabha that the said Joint Committee be instructed to report on or before the 9th September, 1955."

*The motion was adopted.*

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

"That this House concurs in the recommendation of Rajya Sabha that the House do join in the Joint Committee of the Houses on the Bill to amend and codify the law relating to intestate succession among Hindus made in the motion adopted by Rajya Sabha at its sitting held on the 25th March, 1955 and communicated to this House on the 28th March, 1955 and resolves that the following Members of Lok Sabha be nominated to serve on the said Joint Committee, namely, Shri Hari Vinayak Pataskar, Shri Satyendra Narayan Sinha, Pandit Dwarkanath Tiwary, Shrimati Tarkeshwari Sinha, Shrimati Uma Nehru, Shri Raghubar Dayal Misra, Shri Bulaqi Ram Verma, Shri Birakisor Ray, Dr. Pashupati Mandal, Shrimati Jayashri Raiji, Chaudhary Raghubir Singh, Shri C. R. Basappa, Shri Rayasam Seshagiri Rao, Shri M. Muthukrishnan, Shri Khub Chand Sodhia, Shri Vaijnath Mahodaya, Dr. Devrao Namdevrao Pathrikar Kamble, Shri Dev Kanta Borooah, Sardar Iqbal Singh, Shri Beekha Bhai, Shri M. L. Dwivedi, Shri Radha Raman, Shri Shankar Shantaram More, Shrimati Sucheta Kripalani, Shrimati Renu Chakravartty, Shri S. V. L. Narasimham, Shri Vishnu Ghanashyam Deshpande, Shri Girraj Saran Singh, Shri K. A. Damodara Menon and Shri Choithram Partabrai Gidwani;

This House further recommends to the Rajya Sabha that the said Joint Committee be instructed to report on or before the 9th September, 1955."

Those in favour will say "aye".

**Several Hon. Members:** Aye.

**Mr. Deputy-Speaker:** Those against will say "no".

**Some Hon. Members:** No.

**Mr. Deputy-Speaker:** The "Ayes" have it.

**Shri V. G. Deshpande:** The "Noes" have it.

**Mr. Deputy-Speaker:** Hon. Members who are against this motion may kindly rise in their seats.

**Shri V. G. Deshpande** *rose*—

**Mr. Deputy-Speaker:** Only one?

**Shri V. G. Deshpande:** No, Sir. My submission is...

**Shri Gadgil:** May I raise a point of order? The bell must be rung and everybody who is outside should have an opportunity. I think that is the correct procedure.

**Mr. Deputy-Speaker:** No, no. It is not so. The position is this. As soon as any hon. Member says a division ought to be held, it is open to the Chair to accept or not to accept the demand for division. In the latter case he can ask hon. Members who are against the motion to rise in their seats. If I find that there is a good volume in favour of division, I may order division in which case I will ring the bell. The question of ringing the bell has not arisen now.

Hon. Members who are opposed to this motion will kindly rise in their seats.

Seven. Those in favour of the motion now kindly rise in their seats.

There is an overwhelming majority. So, it is carried.

*The motion, as amended, was adopted.*