

Shri Jawaharlal Nehru: Yes, Sir.

Mr. Speaker: We shall now proceed with the further discussion of the Hindu Marriage Bill.

HINDU MARRIAGE BILL—Contd.

Pandit K. C. Sharma: I very attentively listened to the long speech of my friend, Shri Chatterjee and I also consulted the authorities on the Law. My humble submission is that there is no gainsaying the fact that ours is one of the most glorious civilisations and that it has been for a long-cherished period of continuity throughout. But here the story ends. If you go to the Japanese, if you go to the Chinese, or if you go to the Egyptians, they will say "We directly descended from the Sun God, we are the choicest people, we are the most ancient civilized people and others are simply barbarians".

[SHRI BARMAN in the Chair]

I would remind you that George III wrote to the Emperor of China that he was sending his Ambassador asking for certain manufactured goods to be sold in China, and the reply was "I the son of God, do not condescend; you cannot have this sort of desire from me". Later on, poor people of China had to eat the opium at cannon's mouth. This sort of play is good to glorify oneself but it does not take us any far. However great satisfaction Hindu culture or civilization could give to you, you cannot escape the fact that it is petrified today. It requires no more proof than Shri N. C. Chatterjee's own statement when he said: I come from an area where Ramakrishna was born, where another great man was born. It is just like *Pidram Sultan Bood*—saying 'my father was a king and I must be respected'. That is the criterion to show that that man remains static and refuses to see the fact. It is a closed mind. It is a deadly state of affairs. If a person glorifies a civilization as coming down from the Sun it is something which is not very creditable in the latter half of the 20th century.

Having said that, I submit further that the criterion of continuous and living culture and the dead petrified culture is different. All the cultures in the world had started with classes; that is one of the stages of life. This Hindu culture was a living culture so far as it confined itself to the classes—to the man who was learned, a Brahmin, the man who was strong and protected the other people, the warrior and others worked in different fields of activity. But the moment you brought it to the fixation of caste—I use the word *fixation* you cannot get beyond a certain stage. It means that culture is petrified and static; it has no life. Therefore to hug to it is hugging to the dead body. There is no use of quoting scriptures and talking from old books.

One word about religion. I beg to submit that marriage institution is a sociological problem and it has very little to do with the religious development. Marriage problem is something which does not go beyond ethical conception. In society, you move about, work well, serve your neighbours and work with cosmic forces working with the people, sociological forces and then you see far beyond the social compass and there the light of divinity comes. It has very little to do how the marriage is performed—whether round the sacred fire, whether with the vedic mantras or whether by touching hands and so on. So long as a man and a woman behave well and do their social duties, religion is not touched because the way of divinity comes after the way among the men has been settled. If you do not play your part among the fellow beings and do not do your duty towards the other beings, then the light to God is dim. You cannot see the light to God until you have moved about in the society and had done the work. Therefore, the religious path or the light of divinity is dim not on account of the marriage performed in this way or that way.

Now, there is this fundamental question. My respectful submission is

that Hindu law, as it stands at present is no law at all. I am reading from Mulla, an accepted authority. Judicial decision is a source of law....

Shri Nand Lal Sharma (Sikar): Is it Mulla?

Shri Pataskar: He is not worse than Mayne.

Fandit K. C. Sharma: Mulla says: "Judicial decisions on Hindu law though sometimes loosely spoken as a source of law are not strictly sources of law. Almost all the important points of Hindu Law are now to be found in the law reports and to this extent it may be said that the decisions on Hindu law had superseded the commentaries. The decisions of the Privy Council are binding on all the courts of British India including the High Courts". Do you think that your sacred law descending from Manu and other *rishis* has to be enunciated and confined by the decision of the Privy Council? Can you depend upon this source as the source of Hindu Law for the administration of justice on Hindu Law? I do not say what should be the law. My humble submission is that if for nothing else, for the pride of being a nation we need a law. I have no quarrel with those who say that there should be no Hindu law whatsoever. Let there be an Indian law. But if there is something like Hindu law, it must be new law and for the convenience of the common people it must be codified. Why should we depend upon authorities written long ago and not understood in the present context of things? Have a codified law, whatever may be the law. The law must be easily understandable; it must meet the needs of the time. It must satisfy the needs of social and economic conditions and the receptivity of the people.

The old law was once good enough. You must understand that when Manu gave you the law, there was what you call 'muscle civilization'. It does not hold in what is called nuclear energy civilization. It was good when for millions of years, the muscle civilization had its sway. By 'muscle' I mean

working with hand, with bullocks and animal power. Now that era is past. The whole conception, the way of thinking, etc. had changed. Man has changed. Psychologists say that a man can change in seven years. Don't you change in millions of years? What sort of people you are if you cannot change in millions of years? An ordinary human being can change his entire being within seven years. That is psychology. If people cannot change in millions of years, then I am sorry for the fate of that people. So, this law as it is, is no law; it is now, on the other hand, a bad law. I say, as it is at present it is bad law. I will read only two paras from this book. The first page of this book and of every book on Hindu law, starts like this: 'Hindus are divided into four castes, Brahmins, Kshatriyas, Vaishyas and Shudras.....' Do you like this sort of a law in this age? It is outmoded. It has no utility rather it has no sense whatsoever if a law is to divide people into castes and adjudicate that this man is a Shudra and this man is a Brahmin and being a Brahmin he has this right and being a Shudra he has this disability.

Yesterday, you were talking about untouchability. Today you are talking about this law as being a permanent source of your inspiration and a permanent source of adjudicating upon the ways of your life and adjudging many good things of life. How can these two things be adjusted side by side? When you go against untouchability, you said yesterday: 'I hold it is inhuman, it must go'. But when you uphold this damn foolery of Hindu law, dividing people into four castes, there is no sense in your saying that untouchability is inhuman, it is barbarous, it must go.....

Shri Nand Lal Sharma: On a point of order: Is this parliamentary? Let the Chair decide. He said 'damn foolery of Hindu law'.

Mr. Chairman: Whatever might be the meaning of the word or the propriety of it, I think it is not unparliamentary in the technical sense of the term.

Pandit K. C. Sharma: I am sorry. I never injured any gentleman's sentiments, and if I have injured, I am double sorry. I say it is not a tenable proposition.

Now, Shri N. C. Chatterjee has talked about divorce. I read the law about marriage as it stands, "Divorce is not known to the general Hindu law. The reason is that marriage from a Hindu point of view creates an indissoluble tie between the husband and the wife. Neither party consenting to a marriage can divorce the other unless divorce is allowed by custom. Change of religion and caste is not obtained as a dissolution of marriage nor is the adultery of either party, nor even the fact that the wife has deserted her husband and become a prostitute." I do put it to what is called common sense test. Is it a good law? Is it a law according to the criterion of what the American jurists say, "due process of law"? One of the criteria was that a law must appeal to the civilised conscience of man. Otherwise it would be a tyranny of the majority. Against the tyranny of the majority the American jurists said that law must be tested by the due process of law. What was due process of law? That was the conception of the English jurists also. The English jurists said, "The Law of the land". It meant 'the law' that could appeal to the civilised conscience of the people, and that was taken up by the American jurists and Manu also upholds it. What is the law that must ultimately appeal to the civilised conscience of man? And this civilised conscience of the people has itself brought in many a great revolution in human thought, in the human way of living and in human faith and worship. What did Martin Luther say? He said the acts and practices of the Bishops at Rome were not christian. "It is simply sacrilege." Then he declared, "Here do I stand and I cannot do otherwise and say that it is not the word of God but the word of adultery, the act of corruption" and the man suffered, and the entire faith of the Christian world was changed. What did Dayanand say? He said that the

code of conduct should appeal to reason. Therefore, the fundamental test of a good law is the test of reason. Law is considered by Aristotle 'the highest reason seated in the breast of man'. Do you think what Shri Chatterjee says, is a reasonable attitude? Does it testify, does it stand to common sense that a woman becomes a prostitute and she regains her position as a wife? Who is the husband who would put up with it? I want Shri N. C. Chatterjee to face this situation. Can he stand this situation? If he cannot stand this situation with all the big burden of the great books on his back, then how can he expect others to stand the situation? Therefore, law as it is, has to be viewed.

I submit that I have all respect for the great *rishis*. I am a born Brahmin; I am born as a Brahmin and I am bred, trained as such and am nourished in that family and I am deeply inhered in it. Do you think it is an easy job to do away with old traditions? I respect the very picture of my grandfather whom they called 'Pandit'. I have the word 'Pandit' before my name. My own friends said, "why do you like to have it"? Well, I see no reason why I should not have it. I feel respectable.

An Hon. Member: The Prime Minister also had "Pandit" before his name.

Shri Kanavade Patil (Ahmednagar North): The criticism made by the hon. Member against Shri N. C. Chatterjee is not a very fair and proper criticism.

Pandit K. C. Sharma: So, I respectfully submit that despite all these fine sentiments and the traditional tie that binds me, I say that situations and conditions are obtaining where we must move forward. We must have a law and we must codify it. Whatever it is, it is a different thing.

Therefore, my first submission is that there is no such thing as Hindu law based on the sacred books as many of our hon. friends think. The law as it exists is simply the decisions of the Privy Council, and for an in-

dependent sovereign people, with a claim to a great civilisation, it is not a creditable thing to take those decisions as the basis for the administration of justice.

My second submission is that, as those decisions stand now, they do not make a common sense or reasonable law. Now, there is a point that law should be uniformly made under article 14 of the Constitution. I think it is a far-fetched idea, because if it is construed in the way in which Shri N. C. Chatterjee and Shri V. G. Deshpande have construed then it would mean that a different sort of right has to be conferred on the people. That is to say, if a person is given free treatment at a hospital, every man must go to the hospital and must have a right for being treated free, whether he needs the treatment or not! A man who gets the treatment is a man who is sick and not the man who is healthy. Therefore, article 14 does not say that every citizen, whether he needs a certain remedy or he does not need a certain remedy, should be given the remedy. It does not say that he must be given aid whether he needs State help or not. You are giving so much aid for the refugees. Every citizen cannot claim that aid. It is a particular situation that requires a particular action on behalf of the State. The situation here is that of a rotten, unacceptable Hindu law. Therefore, Hindu law must be renewed and codified. Any other community that does not stand in that situation cannot claim that right. I also agree that there is a policy to have a unified law. What is the way to do it? This Bill is a way towards that, and this is a step towards that unified law.

We have already a Special Marriage Act in which every citizen of India can have himself married and have certain rights and liabilities. There was a suggestion by Shri Chatterjee that there should be an amendment in the Special Marriage Act and the marriage of the Hindus can be registered under the Special Mar-

riage Act at the instance of a party and then automatically the right of divorce will accrue. I beg to submit that both the parties must give consent. That is the provision there. Now, if you amend the provision to the effect that even under reasonable circumstances, if one party applies for it, the marriage can be registered and changed into marriage under Special Marriage Act, it is an impossible position. Why? Because the emphasis in the Special Marriage Act is on the contractual aspect of the marriage.

Shri R. K. Chaudhuri (Gauhati): Even if he does not consent, divorce is best!

1 P.M.

Pandit K. C. Sharma: That cannot be done. The Special Marriage Act has emphasised on the contractual aspect of marriage. There was much argument that every marriage in every faith, in every society all over the world is both sacramental and contractual. Why sacramental? Because one life unites with the other life and wants a unified life, that is the family life, so evolved and so helpful in the way to divinity. 'That is the sacramental part of every marriage system in the world. What is the contractual part? The contractual part means this: the man has to earn the bread. He is the worker. He is the active partner. He is the protector. The woman is to manage the home. This has been the system, the marriage system in the world. Therefore, they have to contract that the man must earn the bread, must maintain the wife, and the wife, because she has to bear the fruit of his manhood must surrender her person to the husband and must obey the husband. These are the two things in every system of marriage. The only difference is you recite the *slokas* or *mantras* from the Hindu scripture, or you read the *ayats* from the Koran or other very sacred books. The language is different, but the substance is the same. Every marriage in every society is both sacramental and contractual. It is sacramental

[Pandit K. C. Sharma]

because in the beginning of culture and civilisation, perhaps when the world was not pleasant enough, man thought of God, and he thought of the mountains, the rivers and everything else in terms of divinity. Then it was thought that this was just a way to divinity, and so he thought, let us get the light from God and go towards that. So, marriage being an important stage in one's life, it was a *samskara*. *Samskara* was just a stage of life; it was not something of God or divinity. For instance, to be a genuine Brahman, a Brahman wears his *janev*, but where does the God reside? Does God reside in the different threads of that *janev*?

Mr. Chairman: The subject is so vast that just one Member can go on for the whole day. May I ask the sense of the House whether a time-limit could not be fixed?

Shri Venkataraman (Tanjore): Fifteen minutes for an hon. Member.

Shri Pataskar: Yes, fifteen minutes for an hon. Member.

Pandit K. C. Sharma: But that should not apply to me. I shall just conclude.

Shri E. K. Chaudhuri: It should not apply to him.

Pandit K. C. Sharma: I was submitting that every marriage is both sacramental and contractual. That is the position of Hindu marriage also. In fact I had objected to the insertion of that chapter in the Special Marriage Act, which provided for registration of a sacramental marriage. And I still hold that that is a bad law. The conception of a Hindu marriage law is that marriage is more of a sacramental nature rather than of a contractual nature. Turning this sacramental marriage into a contractual one is bad enough. But even taking it as a contractual one, both parties have to agree. A contract has two parties. No law can permit that simply because one party applies for registration, therefore registration would be permissible. If it permits,

then it would be a bad law. It would be unconstitutional, and it would be against the conception of the law of contracts. Therefore, such a law is an impossibility.

Mr. Chairman: The hon. Member has taken almost 20 minutes by now. He should conclude now.

Pandit K. C. Sharma: I shall make just a few suggestions and then conclude.

This Bill is defective in two things, that is, with regard to having no marital obligations, and alimony. I want that the obligations of marital relations should be laid down in this Bill. Those obligations are that the husband has certain obligations towards the wife—and they should be legal rights—namely that the wife has the right to maintenance, and secondly that the wife should have certain obligations towards the husband, that is, the husband should have the right to the person, of the woman, and the husband.....

Shri E. K. Chaudhuri: Why are you recalling that fact so often?

Pandit K. C. Sharma: It is an important fact. What for were you married then?

Sardar Hukam Singh (Kapurthala—Bhatinda): When did you know that he was married?

Pandit K. C. Sharma: I am sorry. My point is that this is an important thing.

I also submit that the provision relating to alimony from the wife should be deleted. The conception of marriage as it is that the man is to support his wife, not the wife to support the husband. Equality is a thing which people read in books, but it is nowhere in the world. Man is different from woman, and by his very constitution, and by the long history of his working in the matter of marital relations, he is expected to work for the wife and not *vice versa*. If there is any man who expects his wife to

support him, I would say that he is not a manly man.

Sardar Hukam Singh: It applies to Shri R. K. Chaudhuri?

Pandit K. C. Sharma: Some of my friends here are anxious about the preservation of the Hindu law, about the purity of marriage, and they feel that something of the traditional form should exist. I entirely agree but provision of divorce is a necessity under the present conditions, and you cannot escape it. You can make it stricter if you like, and you may not make it easy. For the marriage bonds should not be broken easily and the happiness of the home is a thing which is a blessing for the husband, the wife, as well as for their children; our society has lived long under such conditions also. So, we can allow for divorce, but we can make it strict at the same time.

Shri Khardekar (Kolhapur cum-Satara): I welcome this Bill, and wish to give it my very strong support. I feel very happy that my hon. friend Shri Pataskar is the final and the determining cause of this Bill, and with whatever weight I have—and you know I have a fairly considerable weight—I shall help him to push it through. I wanted my hon. friend Shri N. C. Chatterjee to be here, so that I could reply to some of the points raised by him. I shall postpone it for some time; if he comes I shall talk about them or I shall speak about them during the clause by clause consideration. I want particularly to speak on the point raised by him about the sacramental part of marriage.

I hope you will give me sufficient time, because I have been seriously thinking of marriage, not my marriage but the Hindu marriage.

Sardar Hukam Singh: You are not married yet?

Shri Khardekar: Besides, being unmarried, I am the best qualified to speak on marriage; I alone can take a

detached, objective and philosophical view of marriage. Those who are entangled and enmeshed in the matrimonial turmoil are not likely to take a very dispassionate view. It is the spectator who sees, understands and appreciates the game far better.

Shri M. S. Gurupadaswamy (Mysore): Game of whom?

Shri Khardekar: Game of life, and also any other game.

Shri Algu Raj Shastri (Azamgarh Distt.—East cum Ballia Distt.—West): Of which he has had no practical experience at any time.

Shri Khardekar: I am talking about marriage. About other things you can see me in the lobby.

Those who are happily married cannot possibly think of, and are bound to object to, divorce. For instance, those who are rich think that the poor deserve their poverty. Those who have children think that the people who have no children rightly deserve that sort of thing. It is not necessarily their fault. A barren soil or a lifeless seed cannot yield any crop.

Coming to this particular point and talking seriously, I think we have to consider two attitudes, which are dangerous in point of marriage, the attitude as represented by the ultra-modern, represented by, you may say, the Americans, particularly in Hollywood, and the other, the ancient reactionary attitude of Shri N. C. Chatterjee, Deshpande and company and the Jan Sanghwalas.

An Hon. Member: What about the Ram Rajya Parishad?

Shri Khardekar: I wish to say something about it later on. There is a very great difference between the other two organisations and that of my hon. friend Shri Nand Lal Sharma; unlike his likes, he is very sincere about everything.

Consider America's attitude to life, to marriage and to divorce. This age is the age of machines, and man has made the machine, but the machine has devoured man. Ask a typical American where his home is. He feels

[Shri Khardekar]

baffled. He tries to scratch his head and then he says, well, I am living in such and such a suite in a hotel on the hundredth floor in a New York sky-scraper. If you consider his daily life, you will find that he gets into his Ford car early in the morning, goes to his office, does very hard work there, earns a lot of money, goes to a place of entertainment to soothe his racked nerves, eats, drinks, dances, listens to exotic Negroid jazz music, and returns home at night mentally tired and morally famished.

Now, his wife waiting for him, leaves the home—that is the hotel—and when they meet next they meet in a divorce court. Any reason is sufficient for a divorce. One complaint that was held up was that because the husband had not cut off the toe nails which gave extreme mental anguish to the wife. Then, if there are children and if you ask the children: "Where is your daddy?" they will say rather surprised: "Our daddy? Do you mean the gentleman who meets us on Sunday morning?" The children meet the daddy on Sunday morning if the daddy is not a golfer. There is something to be proud of our joint family system. But, I had a conversation with a friend of mine the other day. There happened to be one business man from Bombay. When I was in this mood of praising the joint family system, he said: "Reserve your judgement. I wish to tell you my experience of the joint family system". He said: "My father with 5 brothers—that is 6 in all—started their life. They married and so there were 6 plus 6 making it 12. Then when the children and grandchildren are there, the number is 142." Now, with this prolific, procreative and creative capacity or faculty and the extraordinary fecundity if two or three generations are allowed to pass, we will get figures of gigantic mathematical proportions. Therefore, joint family system is good provided it does not degenerate into a tribe or something more. Now, in this Bill we are having marriage and divorce but

from the title the word 'divorce' has been deleted. That is a good thing because death and life may be inseparable but marriage and divorce are not inseparable. Divorce is a necessity in some cases only; that is what we ought to consider.

But, going back to Americans, as this is an age of machine, age of speed, age of short novels, shorter stories, shorter skirts, shorter speeches,—15 minutes, 10 minutes and 5 minutes—therefore, we have very quick marriages and quicker divorces. Now, I will tell you just a short story which I have read. A newly wedded couple went to their flat and surveying the flat the wife said: "Darling, things seem to be very familiar" and after some time they discovered that it was a union but it was a re-union, and a very happy re-union; they had been married previously.

Maxim Gorky talking to some peasants in Russia was extolling the achievements of science. He said: "Now we can fly like birds in the air and swim like fishes in water". Then one poor farmer got up, interrupted him and said: "But, Sir, we do not know how to walk like human beings on earth, we have lost the art of living".

Now, looking to the Americans we find money, more money, power, more power by sacrifice of family life, mind and soul. The conceit of wealth, the arrogance of power make the Americans speak as they do not only through their nose but through their hat. This is the ultra-modern trend that will lead to A. Huxley's "brave new world". I strongly recommend the "brave new world" to you. If the scientific progress goes on in this manner, if you ask a brave young man of the future about his father and mother, these words have no meaning for him. He will be the product of artificial insemination and other things. If you talk of Kalidas and Shakespeare they are anachronisms. If you ask their own names they do not know their names. They are

known by some signs or mathematical terms like *alpha*, *beta* and so on. According to D. H. Lawrence, "man is like a tree uprooted. We have got to fix him back in nature again".

The next or the other danger comes, as I said, from the Hindu Mahasabha, Jan Sangh and allied organisations. Now, let us consider their attitude towards life. I do not know whether I will get time to talk about sacramental marriage at some other time when the clauses are taken up. Let me postpone that because I do want Shri N. C. Chatterjee to be present. I am absolutely sure that I will be able to convince him. I do certainly believe that marriage is a sacrament. I would not need to bring volumes to interpret what sacrament is, but from life and from experience I can do that. Use just the common sense and common intelligence that we have.

Why I am not considering Ram Rajya Parishad as this particular organisation is not a political organisation. I am rather inclined to suspect the motives of political organisations with small following, whenever they speak. I may be wrong here. Now, before I proceed I want to tell one thing. I do not know if I should be personal—personal with regard to myself; I will not be personal with regard to anybody-else.

This early morning I dreamt a dream and morning dream is supposed to come true. You can believe me, Sir, I want to jot down certain points. There was no piece of paper and there was only this envelope and I started writing.

Shri N. C. Chatterjee really welcomes all these measures that he condemns here—that is the Constitution Amendment Bill, the Hindu Marriage Bill and so on. Why? For his own reasons, obviously. In spite of the apparent indignation and the thundering resounding condemnation he welcomes them, and there is now and then a sprinkling of agreeable laughter. His laughter and his thundering is almost like the smile of Mona Lisa

very enigmatic. But, I will try to interpret that. We have heard from him that the Constitution Amendment Bill is against the poor, and the great five champions, even more important than the five Pandavas who voted against that Bill—Shri N. C. Chatterjee, Shri V. G. Deshpande, Shri U. M. Trivedi, Shri Tulsidas and Shri G. D. Somani—are the champions of the poor. With regard to the Hindu Marriage Bill and other two Bills, he says that at least 90 per cent of the people, an overwhelming majority, are against these measures. Now, in my dream only Shri N. C. Chatterjee was the hero. All were admiring his eloquence. You know, Sir, that what he says mainly is: "no mandate from the people; no referendum; people have not been consulted;" this has to be kept going and within about 1½ years or 2 years we are going to have the next elections and more than 90 per cent of the people are opposed tooth and nail to these Bills. Well, my dream was that power like a ripe fruit—I could see an actually ripe fruit—falling into the lap of my friend Shri N. C. Chatterjee. Then of course, the Hindu Mahasabha and the Jan Sangh will form the Government. Shri N. C. Chatterjee naturally will be the Prime Minister. But, that being the Hindu Mahasabha Government it will be Ram Rajya and the Prime Minister will not be required to stay long engaged in Government work. He will take only Rs. 100 or so, but he will spend about 5 to 6 hours in the Supreme Court. Then the brilliant barrister Shri U. M. Trivedi will be the Minister for Law. This brilliant barrister went to Kashmir to defend India's greatest son Syama Prasad Mukerjee. I do not know if the story is true; it may be wrong. But when the client saw the lawyer, the client got a shock. I do not mean it was the cause of the tragedy.

Shri R. K. Chaudhari: Do you recall his memory in this spirit of levity? It is most undesirable.

Mr. Chairman: These personal reflections should be avoided.

Shri Khardekar: My hon. friend Shri Deshpande will be the Minister for War. He will be called Sir Senapati with the title of Zunzar Rao, The P. M. being the reservoir and the repository of Hindu culture and civilization—I won't use any names—and the greatest constitutional lawyer,—this was my dream, so please excuse me for any exaggerations—will start amending the Constitution so as to do away with all the mischief done by this Congress Government, and certain new fundamental rights will be added. The first of them will be that all Hindu women will have the wonderful and the glorious right of burning themselves on the funeral pyre of their husbands. The second fundamental right would be that the cow will be declared a divine being.

Shri V. G. Deshpande (Guna): Do not laugh. He is seriously saying.

Shri Khardekar: And all Indians, including Muslims, Christians and so on will be compelled to worship the cow. But the cow, being a diety, will not be offered any food or fodder. The cow will die by starvation. Better, because in heaven there would be far greater spiritual life for the cow. The foreign policy will be, to quote Shri Deshpande, "the enemy of our enemy will be our friend". We will have alliances. Of course communalism will be fostered. War will be declared, and the result will be that India and the world probably may be destroyed. But they will be very happy, because being very virtuous people they will have a very important position in the other world. I have been serious.....

Mr. Chairman: I am not asking about that, but I thought you have come to an end. You have taken much time already.

Shri Khardekar: There should be something of equality. I also came through an election, probably with a few thousand more votes than some Members—I do not want to name any persons—but every time they have a monopoly of the time and I do not know what crime I have committed.

Mr. Chairman: Let me explain. So far as Mr. Chatterjee is concerned, apart from the fact of his eminence, he was expounding a view which was contrary to the express provision of this Bill, and therefore whatever view he could expound to this House was given the largest possible time. But so far as the other views are concerned, I do not think matters about one's dreaming and so on can be continued for any length of time. I have already given twenty minutes to the hon. Member.

Shri Khardekar: I will come to the serious portion and give a direct answer to the arguments used by my learned friend Mr. Chatterjee. I have no volumes before me nor his knowledge on the subject, but I may directly speak on the question of sacrament. I agree that marriage, particularly Hindu marriage, is a sacrament. (*An Hon. Member:* All marriages are like that). But the meaning of the word "sacrament" has to be considered. Sacrament has two aspects, the internal and the external. The inner grace, spirituality, the union of minds, that is the inner and most important part. Even Mr. Chatterjee read one of the quotations "I take thy hand yearning happiness and so on". It is a sort of understanding, a willing acceptance of the other. And then the external or the outward aspect, that is the ritual and the ceremony. You will agree with me, Sir, and everybody must agree that the internal grace and spirituality and the union of minds is certainly the more important and the essential part of a sacrament.

I wish to ask one or two questions. A greedy father gives his young daughter in marriage to a very old man (*An Hon. Member:* But wealthy) yes for money, without the consent of the young daughter. Is this sort of marriage to be called a sacrament? I think it is not. I say it is a sacrilege, a prostitution practised not by the poor girl but by the old man.

An Hon. Member: Do not use that word.

Shri V. G. Deshpande: Are such marriages not provided by this Bill? Have they not provided for marriages between an old man and a young girl?

श्री अलगू राव शस्त्री: यस्य ना दास्यति पिता,
स ना भर्ता भविष्यति।

The Minister of Defence Organisation (Shri Tyagi): Not in consideration of money.

Shri V. G. Deshpande: If it is invalid, he has nowhere said it.

Mr. Chairman: I think he may come to an end now.

Shri Khardekar: There will not be divorce, because they say that marriage is a sacrament. Their interpretation is that once a marriage, always a marriage; those whom God has united, let no man put asunder; marriages are made in Heaven. Sir, I do not want to be frivolous, but I do not know if there is a sort of marriage bureau opened somewhere in Heaven and I would like to know the address so that the application of my President, Shri Gidwani I may find out. To make God the marriage agent is profanation and blasphemy. What has God to do with marriage, divorce and all the other things? Religion, to my mind, is a relation between the individual and the universal, between the individual spirit and the universal spiritual force, and religion establishes a harmony in yourself and in your surroundings. These people who have been going with their propaganda, in my humble opinion, have harmed Hindu society and damned Hindu religion. Through superstition they have fettered the Hindu mind. They have created caste system, untouchability, generated communal hatred, even sacrificed saints. And Gandhiji was the last victim.

There are many things that I would have liked to say but I will say them some other time.

Shri Dabhi (Kaira North): I could not understand why our hon. friends. Mr. Chatterjee and other Sanatanist friends, were so anxious for the

enactment of a unified Code for the whole of India. It can be well understood if any person who did not believe in caste and community insisted that the sooner such a unified Code is enacted the better. But I cannot understand why those friends who want to continue castes and communities were insisting and are insisting upon one unified Code throughout India. They know that even if such a Code were to be passed by this Parliament it would contain, especially, the clauses regarding divorce. We must understand that the clause especially with regard to divorce would be allowed even in that Code. There is no doubt about that. Therefore I want to ask the Sanatanist friends: are they prepared to accept the clauses regarding divorce in this Code if it were to come before the House? I would like some of them who speak after me to say, if such a Bill is brought forward, whether they will support at least these divorce clauses.

Another point was sought to be made out by Mr. Chatterjee that if a vote were to be taken on that issue, namely, on this Hindu Code Bill, then perhaps the Government will be defeated on that issue. We have been flooded with a number of pamphlets by our Sanatanist friends during the last few days. In one of them they have accepted the position that the majority of the people in India, at least 80 per cent. of the people, have got marriage by customary law. That means that 80 per cent. of the people of this country, apart from the so-called higher classes, have their divorce by custom. This very fact shows that no man with common sense will say that if we fight the election on this issue 80 per cent. of the people who have up to this time supported the Congress and among whom this customary divorce still prevails would oppose this Bill. I do not think there is any possibility as my friends think. As my friend Mr. Khardekar said there must be some other intention political or otherwise.

As I just now said we have been flooded with a number of pamphlets

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and so I want to answer some of the arguments made in these pamphlets, especially because those spacious arguments might mislead the unwary and ignorant outside the House.

Mr. Chatterjee has said that Hindu *shastras* are against this divorce. I do not want to enter into any controversy whether marriage is a sacrament or a contract. As my friend, Mr. Sharma, said, it is, in my opinion, both a sacrament and a contract because man consists of both body and soul and as he is not merely of body alone or soul alone, therefore, both these elements, sacrament and contract enter into a Hindu marriage. There is no doubt that according to the Hindu *shastras* the ideal condition is the life-long partnership between the husband and the wife. But, there are certain circumstances in which, even the Hindu *shastras* have laid down that there can be a re-marriage of not only men but women also.

While speaking on this Bill, Shri Pataskar quoted the verse from Parashar Smriti.

नष्टं मृतं प्रव्रजितं क्लीबं च पतितं पतां ।
पंचरचत्वासु नारीणां पतिरन्यो विधायते ॥

From this sloka, it is absolutely clear that under certain circumstances a woman was allowed to remarry. They cannot deny this; they cannot deny that this is in the *shastra*, but they want to explain this away, saying that this applied only to those women who were not married. That is, it applies to women before marriage, before the *Saptapadi* is complete. *Saptapadi* is considered to complete the marriage. Marriage is considered complete when the seventh step is taken. Before that a man or a woman is not considered as a husband or a wife. If that would have been the position, in the verse it would have been stated otherwise. Instead of the word *Narinam* the word used would have been *Kanyayam*. He would have used the words 'var' and 'kanya' instead of the words 'Nari' and 'Pati'.

Shri Nand Lal Sharma: The word 'kanya' is used.

Shri Dabhi: Do you mean to say that between the time of betrothal and the actual marriage he has become *patita* or *kliba*? According to the interpretation of this commentator, the man was all right at the time of betrothal but before marriage took place he became a *kliba*. I go further and say this verse is not only there in Parasar Smriti but it is also in the Narada Smriti. My friend Mr. Chatterjee was referring to Mahamahopadhyaya Kane and said that he was a great scholar of Hindu religion. I want to quote from his very book, from the very book from which Shri Chatterjee quoted. This is what is contained in the *History of Dharma Shastra*. The verse of Parashar Smriti is to be found in the Narada Smriti also. Further the Narda Smriti says:

अष्टां वर्षाण्युद्दिक्षेस बृहन्मी प्रोषितं पतिम् ।
अप्रसूता तु चत्वारि परतोदन्व्यं समाश्रयेत् ॥

If a husband of a woman who has got children is not found, she has to wait for eight years; if she has got no children, she has to wait only for four years. This very fact shows that it has not got the meaning they attach to it. Parasar Smriti also says the same thing. (*Interruption*) The husband has not to wait. Our *sanatani* friends always think that there is absolute liberty for the husband. You will see from Devala that a husband may be forsaken by his wife, "if he be an abandoned sinner or a heretical mendicant or impotent or degraded or afflicted with phthisis or if he has been long absent in a foreign country".

Therefore, you will see that our *sanatani* friends try to explain away things. But the above facts show that under certain circumstances, divorce was also indirectly allowed.

I do not think the framers of the Bill think that they were following the Hindu *shastras*. But, my claim is that

the circumstances under which divorce is allowed in this Bill are all practically the same as those which have been allowed by our *shastras*. I would not admit that because *shastras* say that we must allow divorce. Even if the *shastras* have not allowed this divorce, under the present circumstances we should have some provision for divorce. I challenge my *sanatani* friends to show that divorce is not allowed under certain circumstances in the *shastras*.

Shri Nand Lal Sharma: That challenge is accepted.

Shri Dabhi: It will be seen that these three Smritis, the Parasara, Narada and Devala Smritis allow divorce under certain circumstances.

Shri Tyagi: In Sanskrit and not in English.

Shri Dabhi: Another argument that has been advanced by our *sanatani* friends is if divorce is allowed then it would bring thousands of people, men and women, to the courts for divorce.

Then, they have given certain figures in that pamphlet. In Bombay we have the Bombay Hindu Divorce Act of 1947. The *Sanatani* friends wanted to find out how the Act was working and they asked the High Court to allow them to inspect the records. What do we find? During these 3 years, 1950, 1951 and 1952, there were 140 divorce cases.

Shri V. G. Deshpande: That is in the High Court. In the lower courts, it is 800 per district. This number 140 is in the High Court only.

An Hon. Member: Arya Samajists are also opposed to divorce.

Shrimati Jayashri: (Bombay Suburban): I have been told in reply to a question that 5356 applications had been filed.

Shri Dabhi: The population of the Bombay State is 360 lakhs. The proportion of divorce cases at the rate of 20 applications a year comes to .0001.

Shri V. G. Deshpande: If we take the Supreme Court, it will be still less.

Shri Dabhi: For a population of 360 lakhs, during three years, 50 suits for divorce were filed in a year. From these records, they want to make out that the women have been harmed.

In page 2 of the memorandum, they say:

"Secondly, customary divorce is an event of comparatively rare occurrence. Its incidence among the Sudras is neither due to the individualistic tendencies among men nor is it due to the emancipation of women. The family as a social institution is no more disrupted or is tending to break among the Sudras than among the regenerate classes of the Hindus."

What this pamphlet says is that in spite of the fact that for hundreds of years, in 80 per cent. of the population customary divorce prevails, still, there is not much divorce. This means that in spite of the fact that divorce was allowed by custom, heavens have not fallen and even according to the *sanatanis*, there are not many cases of divorce among these people. I do not understand why, if, in certain circumstances, divorce is allowed among the higher castes, there will be a plethora of divorce cases. From the very pamphlet, it is clear that under no circumstances, the fear which has been expressed by the *sanatani* friends is likely to be realised.

Then, this pamphlet says:

".....there were 94 cases in which simple desertion or desertion coupled with cruelty, or desertion coupled with the keeping of concubine, was stated as a ground for divorce. In almost all the cases in which desertion by either husband or wife was stated, the decree was made *ex parte*."

They say that in certain cases the Bombay Hindu Divorce Act was misused to the disadvantage of women. They say that 94 cases out of 140 in

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which the cause of divorce was cruelty and desertion were decided *ex parte*. From this they jumped to the conclusion that there was collusion between the husband and the wife, and the wife was compelled to have divorce. It is not a case of men deserting women only; women also desert men. They could not find anything from the records. Because the cases were decided *ex parte*, it does not mean that there was collusion. An *ex parte* defendant who knows that he has no case, would not attend the court. From this report, they want to make out that if there had not been divorce, these women could not have been compelled to seek divorce, and they would have been content with their husbands. The pamphlet wants to suggest that the women would like to stay with their husbands even if their husbands marry several times. I would put it to the women, would they like to have a co-wife in the house? They want to make out that there was no other course except to take to divorce. This is a very misleading statement. Under the Bombay Divorce Act as well as under this Act, there is no necessity to take to divorce. There is judicial separation. In case of desertion and cruelty, there is judicial separation. They believe that our Hindu women do not like divorce. Where is the question of compelling them to take to divorce? Judicial separation is allowed. It is quite misleading to say that in Bombay, the women were compelled to take divorce. There is nothing on record to show this. Merely it is their imagination to say that those women were compelled to take divorce. There is nothing to show that the working of this Bill has put the women to any disadvantage.

Shri R. K. Chaudhuri: I wish my hon. friend Shrimati Subhadra Joshi were here when I speak. There are some people, in the Press at least, who call me a women-hater. That is not true. I am an admirer of women. But, when speeches like the one de-

livered by Shrimati Subhadra Joshi the other day, are made by respectable ladies, I have a great temptation to call myself a women-hater. I know that there are two Members of this House who are fond of driving jeep cars. One has taken the responsibility of defending our country and the other has assumed the martial spirit here in order to protect the rights of women.

Some Hon. Members: Who is that?

Shri R. K. Chaudhuri: I am not going to mention names. They know themselves.

I cannot understand why this Marriage Bill should have created so much excitement in the minds of some people who had gone to the length of saying that Hindu marriage and customs were nothing but prostitution. On the other hand, another sober, serious and respectable man, as he claims to be, born a Brahmin, so frequently remembers, as a result of the influence of the Hindu code which has been propounded by Shri Pataskar, that the body of a woman is meant for man. If he had recalled it in his own mind, I would not have minded. But why should he speak out so frequently about that aspect of marriage and about no other aspect of marriage? That is beyond my comprehension.

Shri Pataskar: For whom was it meant? I have not said anything like that.

Shri Satyendra Narayan Sinha (Gaya West): Not you.

Shri Jhunjhunwala (Bhagalpur Central): He meant Shri Sharma.

Shri R. K. Chaudhuri: I am not naming anybody. The House knows who has spoken in what strain. As I understand jurisprudence, it is only in order to prevent commission of crimes which have become unrestrainable, which cannot be checked, that you frame legislation, in order to penalise such crimes. I ask the hon. Minister, what has happened to the country that

it has become necessary to bring forward legislation of this kind. In all humility, I ask him to show to us why this legislation for dissolution of marriage and prevention of polygamy has become necessary now. He has himself stated in his speech the other day that polygamy is on its last legs, that monogamy is the principle which actuates Indian life, which really dominates Indian life. It is only in rare instances that polygamy comes into existence. Having admitted that, what was the utility of bringing this legislation in this House? Only in order to wound the religious feelings of the Hindus and nothing else. No other explanation is possible. If polygamy is on its last legs, what was the necessity of having a legislation of this sort at all? My hon. friend, the Minister, has not given any explanation to that. He has said merely that the time has now come to have such a sort of legislation. Why? What time? Certainly time has come for us—him and me—to have a legislation prohibiting polygamy because our days are done. What other explanation has he given in his speech to say that the time has now come for having this? What reason is there for us to say, to the great dissatisfaction of the younger section, that the time has now come and we must stop it now?

Shri Pataskar: I shall explain when replying.

Shri R. K. Chaudhuri: Now, my hon. friend has said that in order to give expression to the views of some people this legislation has to be there. Why? Is it to remove a blot on Indian nationality that this has to be done? Are you thinking of the Indian nation as a whole or are you thinking of Hindus only in bringing this legislation? If you are thinking of Indians as a whole, why do you not give the benefit of this law to the Muslims? Why do you not give the benefit of this law to the tribal people? Why do you say that this law would not be applicable to them? Do you not want to uplift the tribal people?

Shrimati Khongmen (Autonomous Distts.—Reserved—Sch. Tribes): They have better laws.

Shri R. K. Chaudhuri: I am reading from his speech. He says that the tribal people have their own customs and this would not apply to them.

Shrimati Khongmen: It need not. Because theirs are better than yours.

Shri R. K. Chaudhuri: My question is this. Even if it is not necessary for them, it is not necessary for you. Look around the House, look at the Treasury Benches, which is, unfortunately, empty now. How many widowers are there? Why don't they marry? It is because of the economic condition.....

Shri Tyagi: Is it a compulsory qualification?

Shri R. K. Chaudhuri: I am saying that even well-to-do widowers also do not want to marry.

Shri Algu Rai Shastri: There are other reasons.

Shri R. K. Chaudhuri: They are bachelors.

The Parliamentary Secretary to the Minister of Education (Dr. M. M. Das): Woman haters!

Shri R. K. Chaudhuri: They have become confirmed bachelors. There are Ministers who are bachelors, who do not marry. This is the state of society where people are so much obsessed with a sense of economy that they do not marry, even though they may feel the sore necessity for it. I repeat even though they may feel the sore necessity for it, they do not marry on account of certain other circumstances. This is the position in the educated class. There was one time when in our Treasury Benches, almost 75 per cent. were widowers and they did not marry. This being the condition of life in this country, why should you bring in unnecessarily this legislation? In order to wound the religious feelings of some people.

Shri Algu Rai Shastri: It should be withdrawn.

[Shri R. K. Chaudhuri]

Shri R. K. Chaudhuri: It will not injure the interest of the country at all if it is withdrawn. Rather, it will bring peace in the country. I can say it with all the emphasis that I can command that but for the fact that our Prime Minister has given support to this Bill, this Bill would not have lasted a single moment. I know—whatever they may say—that the majority of the Members of this House do not see the utility of this Bill at this stage.

Dr. M. M. Das: Question.

Some Hon. Members: No, no.

Shri R. K. Chaudhuri: I stand corrected. I challenge them, did any one of them, except perhaps one or two, put before the country that they were going to support the Hindu Code, during election time?

Some Hon. Members: Yes, yes.

Shri R. K. Chaudhuri: I hope they will send me their names and I will go and worship them. If they will kindly send me their names, I will go and worship them and proclaim their goodness everywhere. I know that it was not an issue in the elections, even in the case of communist Members.

Shrimati Renu Chakravartty (Basirhat): You know nothing about it. You may not have done it.

Shri R. K. Chaudhuri: I do not dispute the fact that this august House has the fullest right to enact any legislation which it thinks necessary in the best interests of the country. I do not dispute that. The question is, whether you will enforce it. The question is, whether you feel that the electorate is behind your back, whether you really feel that you will be able to face the music when it becomes necessary again to do so. I submit, with due respect, that this legislation has not the backing of the people behind it. (Interruptions) For whom are you legislating?

Shri M. S. Gurupadaswamy: Homo sapiens.

Shri R. K. Chaudhuri: Do the masses, do the women of the country, excepting a few, excepting a very few, who call themselves educated in the bold western style, want this? Do they really want this legislation? If the progressive section of the ladies want it, are their desires not satisfied by the provisions of the Special Marriage Act which is already in force? Even though the marriage might have taken place under *sanatana dharma*, they can register their names under the Special Marriage Act and with consent they can effect divorce quickly. Why then do you want to outrage the feelings of the Hindus—such of them as are still there—by giving this Bill the name 'Hindu' Marriage Bill? This Bill is as good as the Special Marriage Act. The Special Marriage Act can satisfy the aspirations of the educated women of this country. What is the necessity of giving it rather a Hindu name? You are ashamed to be Hindu. You do not like the caste system. You do not like that marriage should be indissoluble. You do not like many things of Hindus. But, still, why do you want to glorify yourselves by saying that you are having this Hindu Marriage Bill?

Shri Algu Rai Shastri: They want to enjoy the goodwill of that name.

Shri R. K. Chaudhuri: I know that is the fact. In America I am told even those persons who do not profess the Hindu religion, call themselves Hindus, because the term 'Indian' may lead to the idea that they belong to the Red Indian tribe. Therefore, although they may not be Hindus, they call themselves Hindus.

We are having a law which is most un-Hindu in character. It is against the fundamental principles of Hinduism. Still you call it 'Hindu', because you can glorify yourselves with the name 'Hindu'. That is the reason why you are calling it the Hindu Marriage Bill. Calling it anything else you like, call it the Special Marriage Act or the Marriage Act only

Why do you want to give for this Bill the appearance of the Hindu community? Have it by all means, but make it more liberal. You can say that marriage can take place with the consent of the guardian.....

Mr. Chairman: The hon. Member's time is up. He has already taken more than twelve minutes. I want to accommodate two other Members.

Shri Algu Rai Shastri: Give him five minutes more, Sir.

2 P.M.

Shri R. K. Chaudhuri: I do not grudge it if the educated women want it. But they can have it under the Special Marriage Act. Marriage can take place without the consent of the guardian if it is *sui juris*. There is no necessity of blessings by a brahmin; there is no necessity of a *hawan* or anything of the kind. There is no necessity for offering reasons of cruelty or neglect. Mere consent would do. If the husband and wife are so minded, they can divorce each other and go tomorrow and marry anybody they like. What is there left? Why do you call it a Marriage Act? What is there left of marriage amongst Hindus? You have allowed the Hindus to register themselves under the Special Marriage Act and enjoy all the privileges of daily breaking away from their married life and getting new spouses. I appeal to the educated and progressive-minded men and women of the country that since they are having what they want, why should they unnecessarily wound the religious feelings of the Hindus by having a legislation of this kind. I am sure they will get it so long as our Prime Minister wants it I have told him previously that the entire credit for this legislation will be put on his head because it is his will and we must respect him and we want him for other reasons of a more vital nature. I know that these social legislations do not count for anything. When the Child Marriage Restraint Act was passed, although marriage in the month of June would not be pro-

pitious, everyone was anxious to have the marriage performed of the child of seven or nine years even in this capital city of Delhi where all the mighty Government people live. This social legislation will not count much but it will only give a fillip to some persons who want to say anything against the Government.

One more minute and I will sit down quietly. Why do you not call it the Dissolution Bill? That is a thing which the general populace of India resents; they do not want divorce. In order to conceal that fact, you are calling it the Hindu Marriage Bill. But it is essentially a Divorce Act, to which all Hindus are opposed. Shri Pataskar was with us in the old opposition to the Hindu Code Bill. I do not know what change has come upon him, and also on Shri C. C. Biswas, the greatest opponents of the Hindu Code Bill. Now, we are helpless without them.

Shri Pataskar: I was not opponent of the Hindu Code Bill.....

Mr. Chairman: I do not think any explanation is necessary now. The hon. Minister will have a chance to explain his position in his reply.

Shri Pataskar: I do not want any prejudicial impression to be created when some such charge is made, namely, that at one time I was the opponent of the Hindu Code. It is much better to correct it at this stage as that is an incorrect statement.

श्रीमती शिवराज बती नेहरू (जिला लखनऊ - मध्य): आज मैं बड़े हर्ष के साथ इस बिल का स्वागत करती हूँ। और आशा करती हूँ कि हिन्दू कोड बिल के सभी उद्देश्य इन विभिन्न बिलों के द्वारा पूरे हो जाएंगे। यह आश्चर्य की बात है कि आज हमारे कुछ भाई अपने देश में राजनीतिक और आर्थिक क्षेत्र में तो सुधार करने के विचार से सहमत हैं, लेकिन जब किसी सामाजिक संस्था में या किसी पुरानी रीति में कोई अन्तर करने का सवाल आता है तो वह उसमें कोई अन्तर करना नहीं चाहते। सामाजिक मामलों

[श्रीमती शिवराजवती नेहरू]

में पुराने रास्ते पर ही चलना चाहते हैं। हम समाज के सारे अंगों में एक साथ उन्नति देखना चाहते हैं। यही हम लोगों का ध्येय है और इसी कारण हमारे योग्य मंत्री जी ने अपने दश के दोनों अंग, स्त्री और पुरुषों के कल्याण के लिए यह बिल यहां प्रस्तुत किया है।

इस बड़े समाज में बहुत सुधार की आवश्यकता है और यह आवश्यकता बहुत दिनों से है। इससे किसी को इन्कार नहीं है। यदि हम पुरानी रूढ़ियों को नहीं हटाएंगे और समाज में आवश्यक परिवर्तन नहीं करेंगे तो हमारा समाज पिछड़ जाएगा।

हिन्दू धर्म के नाम पर इस बिल का विरोध करना जनता को भ्रम में डालना है। इस बात में मुझे कोई सन्देह नहीं है कि यह जो कानूनी सुधार अब होने जा रहे हैं इनका हमारे वास्तविक हिन्दू धर्म में कोई विरोध नहीं है। हमारा धर्म किसी हितकारी नियम को निषिद्ध नहीं बतलाता है। संसार में बड़े बड़े अन्याय धर्म के नाम पर हुए हैं, और इस बिल का विरोध भी इसी भावना का एक उदाहरण है।

सबसे अच्छी चीज जो मुझे इस बिल में मालूम पड़ती है वह विवाह की रीजिस्ट्री की व्यवस्था है। यह चीज आज हमारे दश के लिए निहायत आवश्यक है। आज विवाह करने में धन का इतना अधिक व्यय होता है, इतनी तकलीफ होती है अगर हिन्दू धर्म के अनुसार विवाह किया जाए। इस प्रकार का जो भार समाज पर पड़ा हुआ है वह इस व्यवस्था से हल्का हो जाएगा। इससे समाज को नजात मिलेगी। आज जो हिन्दू लड़की की शादी करना चाहते हैं उनको शादी से तीन महीने पहले से परेशानी शुरू हो जाती है, उन्हें एक बूझार सा चढ़ जाता है, हजारों तरह का सामान इकट्ठा करना पड़ता है, तरह तरह की कौशिश करनी पड़ती है, बहुत से लोगों की खुशामद करनी पड़ती है और बहुत सी कठिनाइयों का सामना करना पड़ता है। आजकल ग़कानों की समस्या है, नॉकरी की समस्या है। इस वजह से लोगों को बहुत तकलीफें उठानी पड़ती हैं। इन

सब चीजों से इस कानून की वजह से समाज को नजात मिल जाएगी। इससे हिन्दू भाषण में बहुत ज्यादा रिलीफ होगा। इसमें जो यह रीजिस्ट्री की व्यवस्था रख दी गई है इससे मां बाप को लड़की की शादी करने में बहुत सुविधा हो जाएगी। अगर किसी के पास पैसा नहीं है और वह लोगों को दावते नहीं खिला सकता है तो उसको अपनी लड़की की शादी में दिक्कत नहीं होगी।

Shri Nand Lal Sharma: I do not see there is any provision for marriage through registration in this legislation.

Mr. Chairman: Order, order. You will have your say when you get your chance.

Shri Nand Lal Sharma: Is there any provision for marriage through registration in this Bill?

Shri Tyagi: I am afraid my friend is heading for a divorce.

Mr. Chairman: Let the hon. Member proceed with her speech.

श्रीमती शिवराजवती नेहरू: मैं समझती हूँ कि इस बिल का कोई विरोध न होता अगर इसमें तलाक की बात न होती। मैं देखती हूँ कि जो लोग पुरानी संस्कृति को ठीक ठीक समझने वाले हैं वे इस तलाक की प्रथा को समयानुक्रम सुधार समझ कर इसके पक्ष में हैं। लेकिन श्री दशपांडे, इससे बहुत नाखुश हैं। उनका कहना है कि जब प्राचीन समय में हमारे भारतवर्ष में यह तलाक की प्रथा नहीं थी तो अब इसको रखने की क्या आवश्यकता हुई और उन्होंने मंत्री जी से सवाल किया है कि उन्होंने अपने व्याख्यान में यह नहीं बतलाया कि अगर इस तलाक की व्यवस्था को इस बिल में न रखा जाता तो क्या हानि होती। मैं श्री पांडे जी से कहना चाहती हूँ कि हिन्दू कोड में यह मसला आया था और इस पर सन् ५२ से विचार हो रहा है। क्या वह आज तक यह नहीं जानते कि इस कानून में तलाक को रखने की कितनी आवश्यकता है और अगर उसको इसमें नहीं रखा

जाएगा तो क्या हॉन होगी। इस मसल पर तो बहुत गरमा गरम बहस और वाद विवाद हो चुका है। फिर भी यदि आप नहीं जान पाए तो मैं आपको यह बताना चाहती हूँ कि हमारे दश में वैवाहिक जीवन सुखमय नहीं है....

श्री वी० जी० दशपांडः : सुखमय है।

श्रीमती शिवराजवती नेहरू : उसमें बड़ा रंज है उसमें स्त्रियों के आंसू हैं और उनकी आंखें हैं....

श्री टंक चन्द (अम्बाला --- शिमला) : अब आदमियों के होंगे।

श्रीमती शिवराजवती नेहरू : हां तो मैं आप को बतला रही थी कि अधिकतर परिवारों में स्त्री पुरुष जो है वह सुखी जीवन नहीं बिता रहे हैं। घर घर मटियाले चूल्हे हैं और कारण उसका यह है कि पुरुष आज भी स्त्री को अपने पैर की जूती के समान समझता है कि जब चाहा उतार कर फेंक दी और नई पहन ली। अपनी स्त्री को जब चाहे पैर की जूती के समान बदल सकता है। हमारे संविधान में स्त्रियों को समानता का अधिकार होते हुए भी समाज उसपर नहीं चल रहा है। स्त्रियों को समानता का अधिकार हालांकि हमारे संविधान से मिल गया है लेकिन उस पर अमल नहीं हो रहा है और उस का कारण वह भावना है जो हिन्दू समाज के अन्दर बैठी हुई है कि स्त्री के लिए त्याग है, संवा है, और सतीत्व धर्म का पालन करना और कर्तव्य का बन्धन व भार है....

श्री आर० के० चौधरी : इसका आपको अफसोस है?

श्रीमती शिवराजवती नेहरू : स्त्री के लिए तो यह सब कुछ है लेकिन पुरुष के लिए क्या है? पुरुष के अधिकार, शक्ति, अभिमान, दुर्ष, धन, अत्याचार और अपने हर काम करने के लिए स्वतंत्रता। पुरुष हिन्दू समाज में पूर्ण स्वतंत्र हैं, जो चाहे सो करें।

श्री दशपांड जी कहते हैं कि पुरुष तलाक की प्रथा को पसन्द नहीं करते हैं लेकिन मैं उनसे पूछना चाहती हूँ कि आखिर पुरुष किस लिए

तलाक पसन्द नहीं करते। अगर एक स्त्री के रहते हुए ही वह अनेक विवाह कर सकता है, दूसरी दूसरी स्त्रियों ला सकता है और अपनी पुरानी स्त्री को हमेशा के लिए सदैव के लिए भेज सकता है, भले ही वह धूल धुल कर और तड़प तड़प कर मर जाए, उसको कोई पर्वह नहीं, वह अपनी दूसरी स्त्री को लेकर खुशी से अपना जीवन बिताता है और अपनी उस पहली दुखिया स्त्री को गुजार् का हक ही नहीं देता और उलट उस को यह व्याख्यान दिया जाता है, यह उपदेश दिया जाता है कि वह अपना पतिव्रत धर्म का पालन करे और आदर्श स्त्री महिलाओं के उनको व्याख्यान सुनाए जाते हैं। वही मसल है कि :--

जबरदस्त मार रोने न दे
उन्हीं पतियों की हमारे दशपांड साहब ने
बड़ी तारीफ की जो जीवन भर मशाल की तरह
जलती रहीं और जो अपने पतियों के मर जाने
पर पतंगा बन कर पति के साथ जल जाएं। मेरे
कहने का जब मैं कहती हूँ कि स्त्री जाति दुःखी
है इसका यह अभिप्राय न समझा जाए कि सारे
पुरुष अन्यायी होते हैं अथवा सारे दम्पति जितने
हैं वह सुखी नहीं हैं, यह बात नहीं है। एक भी
दम्पति सुखी नहीं है, ऐसा मेरा कहने का मतलब
नहीं है। किसी ने कहा है :

“न हर जन जनस्ता, न हर मर्द मर्द,
खुदा पंज अंगुशत यकसां न कर्द”

सब दुनिया में ऐसा नहीं है, यह ठीक है कि यह सब में लागू नहीं होता लेकिन अधिकतर समाज में ऐसे स्त्री, पुरुष हैं जो उस प्राचीन विवाह की रस्म से जकड़े हुए हैं, विवाह की श्रृंखलाओं में जकड़े हुए हैं और दुखमय जीवन बिता रहे हैं, ऐसे दुखी लोगों को उन के दुख और रंज से छुटकारा और राहत दिलाने के लिए इस किस्म के विधेयक की आवश्यकता थी और यह बड़े हर्ष का विषय है कि सरकार इस तरह का एक सामाजिक सुधार का बिल हाउस के सामने लाई है।

श्री दशपांड जी कहते हैं कि पुरुष तो बहु-विवाह केवल एक दया के खयाल से, उदारता के खयाल से या तो विशेष परिस्थितियों के बश

[श्रीमती शिवराजवती नेहरू]

में पढ़ कर दूसरा विवाह करते हैं, जैसे पहली स्त्री अगर पागल हो गई या कांड़ी हो गई, तो उस अवस्था में वह दूसरा विवाह कर लेते हैं, लेकिन बंचारी पहली स्त्रियों को दया करके उन को खान्ग भी दते हैं और दूसरा विवाह कर के अपना जीवन भी सुखमय बना लेते हैं। लेकिन मैं उनसे पूछना चाहती हूँ कि क्या हमारे हिन्दू समाज में ऐसे पुरुष नहीं हैं जो अपनी पहली स्त्रियों के रहते हुए भी दूसरी स्त्रियों से प्रेम नहीं करते? हमने देखा है कि चार और पांच पांच बच्चों की माताओं को अपेक्षित अवस्था में बेसहारा छोड़ कर युवतियों से दूसरा विवाह कर लेते हैं....

श्री बी० जी० दशपांडः तलाक की प्रथा रखने से ऐसा ही होगा।

श्रीमती शिवराजवती नेहरू : वास्तव में स्त्री को अपने घर से इतना प्रेम होता है और वह इतना उस से बंधी हुई होती है कि कभी वह अपने घर और बाल बच्चों को छोड़ना नहीं चाहती है जब तक कि उसको बहुत ही अधिक क्लेश और कष्ट न हो और उसका जीवन दुःख न हो जाए तब तक स्त्री कभी अपने घर को छोड़ना नहीं चाहती, लेकिन हमारे दशपांड जी का यह विचार है कि यह बिल पास होते ही सब स्त्रियां तलाक देने के वास्ते तैयार हैं और वे फॉरन अपने मर्दानों को तलाक दे देंगी....

श्री बी० जी० दशपांडः सब नहीं कोई कोई।

श्रीमती शिवराजवती नेहरू : आपने बम्बई की एक अभिनेत्री की मिसाल दी थी कि जिसने एक ठंड से शादी की....

श्री बी० जी० दशपांडः ठंड नहीं मुसलमान से शादी की।

श्रीमती शिवराजवती नेहरू : शादी के ठाई महीने बाद पन्द्रह दिन का नॉटिस देकर बिला कहे हुए ही वह उनको छोड़ कर चली गई।

श्री बी० जी० दशपांडः वह चली नहीं गई बल्कि तलाक दे दिया। युनिवर्सल तलाक मुसलमानों में है।

श्रीमती शिवराजवती नेहरू : हिन्दू, मुसलमान की बात इसमें कैसे आई।

सभापति महोदय : अब आपका समय खत्म हो रहा है, जल्दी खत्म कीजिये।

श्रीमती शिवराजवती नेहरू : मंहरवानी करके मुझे थोड़ा टाइम और दिया जाय।

सभापति महोदय : दो मिनट में आप खत्म कर दीजिये।

श्रीमती शिवराजवती नेहरू : मैं कहती हूँ कि कहां हमारी घर गृहस्थी की शरीफ बीटियां और कहां उसमें सिसनेमा की एक अभिनेत्री की बात आपने रख दी। हमारे दशपांड जी को तस्वीर का एक ही रूख दिखाई देता है। आपने यह नहीं देखा कि वह सेठ जी ने अपने घर की लक्ष्मी का तिरस्कार किया होगा और उसको रोता छोड़ करके बम्बई की एक अभिनेत्री से शादी कर ली होगी। मेरी राय में वह सेठ जी इसी योग्य थे।

Shri V. G. Deshpande: I take very strong exception, even if she is my sister, to her expressing the desire in such a frivolous manner I request her that in view of her old age and responsibility, she should withdraw the statement. (Interruptions).

Mr. Chairman: Order, order. The hon. Member may kindly continue the speech.

श्रीमती शिवराजवती नेहरू : आज के हिन्दू समाज में स्त्री की बड़ी दयनीय अवस्था है, स्त्रियों को ईसल नहीं समझा जाता है, न यह समझा जाता है कि उसके पास कोई दिमाग है या दिल है या कोई भावना है। था उसको कोई साथी की जरूरत है और न उसको प्रेम की जरूरत है। पुरुष कहते हैं कि हम इनको अपने घर में रखते हैं, खाना कपड़ा दे देते हैं और इनको क्या चाहिए।

अगर दई कौसी भयी कि अन चाहत के संग दीपक को भावे नहीं जल २ मरत पतंग जब हमारा दिल चाहता है हम किसी दूसरी

स्त्री से शादी कर लेते हैं, प्रेम कर लेते हैं, घर में जो औरत है उसकी हकीकत एक जानवर से ज्यादा नहीं समझते, जैसे जानवर के आंगे घास, पानी डाल दिया जाता है उसी तरह उस को भी खाना कपड़ा दे दिया, इससे ज्यादा उसको क्या जरूरत है। स्त्री की हैसियत हिन्दू समाज में जानवर से अधिक नहीं है, इस तरह की हमारे पुरुष समाज की भावना रही है।

चटर्जी साहब ने कल जब अपना व्याख्यान दिया तब उन्होंने यह कहा था कि हमारी सीता, सावित्री हमारे भारतीय समाज में आदर्श महिलाएं थीं, उनका बड़ा ऊंचा आदर्श था और दोनों को आज सारा भारतवर्ष पूज्य मानता है और अकेले भारतवर्ष के लोग ही नहीं बल्कि विदेशी लोग भी हैं। उन और चिकित्त हैं कि हमारे देश में ऐसे ऊंचे और महान् आदर्शों को लेकर स्त्रियां पैदा हुईं, मैं मानती हूँ कि वह बिलकुल सच कहते हैं लेकिन हमारे देश में दूसरे प्रकार की भी स्त्रियां हैं और उनकी भी उतनी ही महानता पाई जाती है, जैसे अहिल्या हैं, द्रौपदी हैं और तारा हैं।

हमारे यहां लिखा है कि उन्होंने कहे कहे शादियों की थीं। महाभारत में लिखा है :

“अहिल्या, द्रौपदी, तारा, कुंती, मन्त्रादरी तथा । पंचकन्या स्मरीन्त्यम् महापातक नाशनम् ।

लेकिन जब यहां पर बात की जाती है तो तस्वीर का एक ही रूप देखा जाता है, दूसरा रूप नहीं देखा जाता है।

जो यह कहा जाता है कि शादी जो है वह एक सैक्रामेन्ट है और उस की बातें ऐसी हैं जो कभी टूट ही नहीं सकती हैं, वह भी एक अजीब चीज है। पत्नी को मरने वाले के साथ तो बांध ही दिया जाता है, जन्म जन्मान्तर तक उस को उस पीत से नजात नहीं मिलती। हम बाज आये ऐसे धर्म से कि जिन्दगी भर की गुलामी से कभी स्वतंत्रता ही नहीं मिलती। पुराने समय में स्त्रियां अपनी पसन्द से शादी

करती थीं, स्वयम्बर होता था। लेकिन आज क्या होता है ? भारतवर्ष में माता पिता स्वेच्छा से प्लेन्ड मैरिज करते हैं, बल्कि सच पूछा जाय तो यह होता है कि मां, बाप अपना भार हल्का करने के लिये, लड़की की शादी खाने कपड़े के लिये करते हैं, लड़के के घर भोजन के लिये करते हैं। हमारे तुलसीदास जी ने कहा है :

“फूल फूल फिरत हो, होत हमारे व्याह ।
तुलसी गाय बजाय के दंत काठ में पांव ।”

उस बेचारी को जिन्दगी भर के लिए बन्धन में जकड़ दिया जाता है। खाली इसी जन्म के बन्धन में नहीं, बल्कि जन्म जन्मान्तर के लिये उस को बन्धन में बांध दिया जाता है, उस से कभी नजात मिल ही नहीं सकती। ऐसी अवस्था में भला बताइये कि स्त्रियां क्या पुराने आदर्शों को ले कर स्वतंत्र हो सकती हैं ? यदि जितनी घृणित और दुःखदायी चीजें हैं वह सब अनुकरणीय हैं और उत्तम हैं, यदि सभी प्राचीन चीजें उत्तम हैं तो प्राचीन काल में ब्राह्मण का क्या कर्तव्य था ? ब्राह्मण का रूपया हाथ में लेंना पाप था, वह पैसा कमाने नहीं जाता था। ब्राह्मण का काम त्याग और तपस्या, पूजा करना, कराना, वेद रक्ष पढ़ना और पढ़ाना था। यदि आज सारे प्राचीन आदर्श हमारे साथ होते और वही सारी बातें होती तो श्री चटर्जी आज उस तरह के नहीं दिखाई देते जैसे कि वह आज हैं। वह भी कहीं किसी जंगल में या किसी आश्रम में हवन करते होते। अरे साहब, पिछले जमाने में एक कवि ने कहा था :

“कहते थे बुग जर को सखुनसंज पुराने,
उन लोगों के हमराह गये उन के जमाने,
वह फिलसफाओं, इल्मों अदब अब हैं फसाने,
बदला है नया रंग जमाने की हवा ने,
हम लोग जिधर दौलते दुनियां हैं, उधर हैं,
अल्लाह के बन्दे नहीं बस बन्दये जर हैं।”

आज हम लोगों की हालत यह है कि शायद सब प्राचीन बातों को हम ने भुला दिया है,

[श्रीमती शिवराजवती नेहरू]

लौकिक सभ्यता और स्त्रियों के सम्बन्ध में सारी प्राचीन बातें ली जम्बी हैं।

एक बात में श्री दूशपांड जी से पूछना चाहती हूँ कि आखिर वह मुसलमानों के इतने हमदर्द क्यों बनते हैं ? उन का यह कहना है कि मुसलमानों को इस कानून से क्यों वंचित कर दिया गया, कानून सब के लिये बनना चाहिये था और उन में मुसलमानों को भी लेना चाहिये था। मैं भाई साहब से यह कहना चाहती हूँ कि आखिर क्या जरूरत है कि उन के लिये कानून बनाया जाय ? उन के यहां तो आलरंडी डाइवोर्स मौजूद हैं और लड़की का बाप की सम्पत्ति में हिस्सा भी है। क्या जरूरत है कि मुसलमानों को इस में रक्खा जाय ? क्या यह कोई एलेक्शन की तैयारी है ? मगर शायद वह इस का जवाब नहीं देंगे। उन के लिये तो यही कहा जा सकता है :

“यह फितना आदमी की खाना बरबादी को क्या कम है,

हुए तुम दोस्त जिसके दुश्मन उस का आसमां क्यों हो ?”

अन्त में मैं माननीय मंत्री जी को इस बिल को लाने के लिये बहुत बहुत बधाई देती हूँ। साथ ही साथ एक बात और कहना चाहती हूँ कि बहुत से ऐसे भी हमारे भाई हैं जिन का यह विचार है कि यदि तलाक की प्रथा रहे तो जिस तरह से गुजार् का हक पुरुष स्त्री को देता है, उसी तरह से स्त्री को भी पुरुष के लिये गुजार् का हक लेना चाहिये। यह बड़ी लज्जाजनक बात है। पहली बात तो यह है कि स्त्री बेचारी के पास धन कहां से आयेगा जो कि वह पुरुषों को दे ? दूसरी बात यह है कि पुरुषों का कोई बहुत त्यागी जीवन नहीं है जो कि उस स्त्री के नाम पर बैठे रहे। वह किसी न किसी दूसरी स्त्री से अपना सम्बन्ध स्थापित कर लेगा।

श्री त्वागी : मैं ने तो मन्टनेंस देने का कोई सवाल उठाया नहीं और मेरी तो स्त्री भी नहीं है, मुझे इस मामले में क्यों घसीटा जाता है ?

श्रीमती शिवराजवती नेहरू : यानी अगर पुरुष को तलाक दिया जायेगा तो उस को भी इस बिल के अन्दर यह हक दिया गया है कि वह स्त्री से गुजारा पा सके। मैं कहती हूँ कि यह गलत है। कोई भी पुरुष इस तरह से गुजार् का हक पा सकता है। इस लिये मैं मंत्री जी से कहूंगी कि वह अपने बिल की बात पर जोर न दें और जो मर्दाने की बुराई थी उस को मारें।

Shri B. C. Das (Ganjam-South): A hue and cry is raised by the members of the Hindu Maha Sabha and certain sections of the Congress.

Shri Nand Lal Sharma: Nature is thundering above.

Shri B. C. Das: Also my friends thunder. They say that this particular legislation is a revolutionary measure. Unfortunately it is not so. It is a mild, moderate attempt at social reform with all the hesitancy and timidity characteristic of all social measures sponsored by this Government.

Shri Lokenath Mishra (Puri): Comrade! What more would you have to make it more extreme.

Shri B. C. Das: It is claimed that this social legislation has been sprung on the unwary public all of a sudden but it is not a fact. We all know that this was on the legislative anvil for a very long time and that it was discussed in the last Parliament for a fairly long period. The Rao Committee toured throughout the length and breadth of India and gathered public opinion. When the last elections were fought, this issue was also on the forefront. Our friends from the Hindu Mahasabha and the Ram Rajya Parishad and other conservatives tried to exploit public feelings by putting

forward the plea that in the next Parliament the Hindu Code Bill would be discussed. I know in my constituency my opponent who was a conservative put forward the plea that because I was a communist I would support the Hindu Code Bill and I can tell my friend Shri R. K. Chaudhuri that I frankly told my electorate: 'When I go to the Parliament I would support the Hindu Code Bill'. My opponent unfortunately failed at the polls. Fortunately those people who voice such reactionary views here are in a microscopic minority, and therefore it can be safely said that the electorate of India today is not in favour of their views.

Moreover, I would like to point out that this Hindu Code Bill could not be passed in the last Parliament because the Congress Government was browbeaten by the reactionary sections of its own ranks. One will be surprised to know that a Congress Member, Shri R. K. Chaudhuri, comes forward and says that this measure will get through this House only because the Prime Minister supports it and even though the majority of the Congress members are against it. Well, this is a challenge to the leadership of Shri Jawaharlal Nehru, I say that if such a thing is true the members of the Congress Party are nothing but dumb-driven cattle, they don't think but obey. They ought to be ashamed of themselves.

An Hon. Member: It is not so.

Shri B. C. Das: On the floor of this Parliament, I ask Mr. Chaudhuri either to repudiate his assertion or the members of the Congress Party should repudiate him.

Now, it is really very surprising that even this moderate measure is opposed by the orthodox in this country. They are obviously the orthodox of 17th century minds that oppose this measure. Not any other man, I know, will go against the measure which is only a very modest attempt and which is not going to alter social relations in any revolutionary manner. Unfor-

tunately they claim that. Heavens would fall if this legislation is enacted, and the Hindu society will go to pieces. But they conveniently forget that substantially the same measures or some provisions are in the laws that are in existence in Bombay, Madras, Saurashtra and other parts. They forget that the Hindu society has not gone to pieces in Madras or Bombay or anywhere else. They forget the fact that the cases of divorce are not very large in these States. They forget all this conveniently. With all respect to my learned friends of the Hindu Mahasabha, I would say that they are doing a great injustice to the cause of Hinduism.

Mr. Chairman: It is now 2-30 p.m. The hon. Member will continue his speech on the next occasion. We shall take up Private Members' Business now.

COMMITTEE ON PRIVATE MEMBERS' BILLS AND RESOLUTIONS

TWENTY-NINTH REPORT

Shri Altekar (North Satara): I beg to move:

"That this House agrees with the Twenty-ninth Report of the Committee on Private Members' Bills and Resolutions presented to the House on the 27th April 1955."

This Report deals with the allotment of time in connection with some three Bills that are stated there in the Report, and the classification of two Bills which have been stated there. I commend this Report for the acceptance of the House.

Mr. Chairman: The question is:

"That this House agrees with the Twenty-ninth Report of the Committee on Private Members' Bills and Resolutions presented to the House on the 27th April, 1955."

The motion was adopted.