

Mr. Deputy-Speaker: The question is:

"That this House agrees with the Fifty-sixth Report of the Committee on Private Members' Bills and Resolutions presented to the House on the 25th July, 1956."

The motion was adopted.

SADHUS AND SANYASIS REGISTRATION AND LICENSING BILL*

Shri Radha Raman (Delhi City): I beg to move for leave to introduce a Bill to provide for the registration and licensing of Sadhus and Sanyasis in India.

Mr. Deputy-Speaker: The question is:

"That leave be granted to introduce a Bill to provide for the registration and licensing of Sadhus and Sanyasis in India."

The motion was adopted.

Shri Radha Raman: I introduce the Bill.

INDIAN ADOPTION OF CHILDREN BILL

Mr. Deputy-Speaker: The House will now resume further discussion of the motion moved by Shrimati Jayashri Raiji on the 18th May, 1956:

"That the Bill to provide an adoption procedure to safeguard the interests of adopted children and the rights of their natural and adoptive parents, be taken into consideration."

Out of the two hours allotted for the discussion of the Bill one hour and 35 minutes were taken up on the 18th May, 1956 and 25 minutes are still available.

Shri M. D. Joshi may now continue his speech, but I may remind

the hon. Member that the hon. Minister has to reply and then the hon. Mover has to give a reply. Therefore, all these stages have to be gone through within 25 minutes. He will condense his remarks as much as possible.

Shri M. D. Joshi (Ratnagiri South): Last time when I was on my legs I pointed out certain inconsistencies in the Statement of Objects and Reasons. I do not want to go into that question again because my time is very limited, but I shall now turn to the object proper of the hon. Mover of the Bill.

What is the object? The object is humanitarian. It is not facilitating the satisfaction of parents or people who have no children, satisfaction such as Hindu childless parents had when they adopted children, but the satisfaction of having helped a poor child or an indigent child or a child without any means of livelihood or which was uncared for. That is the moral and higher motive which has actuated the Mover to bring this Bill.

Under the Hindu law, childless parents only—childless parents is a misnomer—childless people only can adopt, but under this Bill people who have got children can adopt. Under the Bill people of any religion can adopt children of any religion. Persons of any sex can be adopted. So, this Bill is very wide in its scope. Then, if the parents of the child which is proposed to be adopted are alive, their consent will be necessary. Then, if the child is above the age of ten, its own consent will be necessary. And further on it contemplates adoption through the intervention of the court. If the court passes a decree allowing the adoption, then the adoption will take place. A child over 18 years of age cannot be adopted. That means a major person cannot be adopted. All this is with the best of motives and I think the Bill should be assented to by Government. I do not know what the attitude of the

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Minister of Legal Affairs will be. However, I request him to look to the motive that has actuated the Mover to bring forward this Bill.

However, I find some difficulties facing me. The first difficulty will be: what religion will the adopted child have? Suppose the adoptive father is a Hindu and the adopted child is a Muslim, then there will be the question of conversion. Some people will say conversion does not matter, because it is the welfare of the child that we are concerned with and not conversion, because the child may belong to any religion. That is all very well, but when it comes to introducing a measure of social reforms, and certainly this is a measure of great social reforms, all factors have to be taken into consideration, and this will be one of the stumbling blocks in the path of this Bill.

I should like the Bill to have another provision like the one contained in article 21 of the draft Bill prepared by the Hindu Law Committee. They restricted the right of the adopting parents to dispose of their property in the event of a specific agreement to that effect. Supposing people adopt a child and then leave it penniless, there is no sense in adopting the child, in giving the child a family name, in educating it and leaving it without any means of subsistence or livelihood. Therefore, there should be some such provision. Of course, that would not limit the right of the parents who adopt a child to dispose of their property as they like. Therefore, I think if some such provision has been incorporated in the Bill, it would have been better.

I do not want to dilate more on this subject because the time is limited, but considering the humanitarian motives that have actuated the Mover in bringing forward this Bill, I request the Minister of Legal Affairs to accept it.

The Minister of Legal Affairs (Shri Pataskar): I have no doubt whatso-

ever that the Bill has been brought forward with the most laudable of motives. The only question is whether in the first place the Bill is necessary and in the next place whether really it is a Bill which will apply to all communities.

Now, as is well known, it is only among the Hindus that there is adoption recognised by law. As regards Muslims and Christians, the other two major communities in our country, there is no adoption in the sense in which there is adoption among the Hindus. I know there are countries in the world which have laws covering adoption, but they are of a different nature, but by and large so far as our country is concerned, as soon as you utter the word "adoption", the conception is mostly confined to Hindus because, as you know there is a *shastraic* saying:

यद्वैवात्मा तथा पुत्रः
पुत्रस्य दुपिता समा ।

The idea of this was that having a son or a daughter was just an extension of oneself. But after our having started with that basis, considering the fact that there have been many changes in the law that applies to the Hindus, naturally, in course of time, the daughter came to be eliminated. And I had to become a Ghaznavi to bring her back into line with the son. But the idea has been there, and adoption as a procedure has a significance, so far as the sentiments are concerned, with respect to the Hindus.

But I find that this Bill lays down naturally because this is a complicated question, that:

"Provided that nothing contained in this Act shall affect the provisions of Hindu Law relating to the adoption of a son."

After having experienced the difficulties with respect to making some changes which have become a necessity in the law of the Hindus, I feel that the time is not ripe now, when

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we could have a law which will apply in this matter to communities amongst whom there is no adoption at present, whether they be Christians, Muslims or Parsis or any others.

There is one other consideration. I know that there is a craze for the child in the case of those who have no children. I know of numerous cases where there is such a craze. So, even if there be no law, there is nothing to prevent a person from bringing up a child which is not born to him or her. The person can take care of that child and rear it. So, I do not think any law is necessary, considering this point of view.

Then, I come to the question of succession. Even now, as the law stands, there is adoption amongst Hindus. But in the case of others also, I think there is absolutely no difficulty whatsoever, if a person wants to adopt or rear up a child, he may not have the legal recognition of the adoption, but he can rear up that child. If he happens to be a person who has property, he can easily will away that property or do whatever he likes with it.

While I agree to the motive which underlies this Bill, I would request the hon. Mover of this Bill to consider that instead of applying this Bill or any Bill of this nature to communities amongst whom there is no adoption prevailing it is much better that we should first have a Bill dealing with the question of adoption amongst the Hindus themselves, because that is the community where there is large-scale adoption prevailing at present; and as I stated a little while ago, it is a matter of long-standing sentiment, religious efficacy and so on. The Hindu law itself needs some amendment in this respect because the law of adoption, as has been interpreted by different courts in different parts of country, has lost uniformity. In conformity with the times, it needs certain changes. In a sense, on account of several factors, it has become rigid, and in order to

be consistent with the modern times, it does need some changes.

I can assure the hon. Mover that probably in this very session, I propose to introduce, if possible in this House, or in the other House, a Bill dealing with the question of the maintenance of orphans amongst the Hindus. After that Bill is passed and it becomes law, I think it would be time enough to consider the question of having a uniform law applicable not only to Hindus but also to other communities in the country. That is the only thing that I would like to submit. Otherwise, so far as the object underlying the Bill is concerned, there is no difference of opinion.

It may be argued that there may be a few hard cases. But I believe, even without the law, there should not be much difficulty for people to rear up children if they want. Even if there is any difficulty, I think the time for having a law of adoption applicable to all communities would be only after we have first tried to improve and codify the law of adoption amongst the Hindus. That is the basis on which we have been proceeding.

The House has accepted it. Besides, our Constitution also lays down that there shall be a uniform civil code. We are proceeding on a gradual basis. As I said earlier, in matters of this nature, it is better that we first try to codify and improve the law relating to adoption amongst the Hindus, and bring it in conformity with the changes in times, and thereafter, we can think of having such a law extended to other communities as well.

In these circumstances, I would request the hon. Mover to withdraw this Bill. Of course, the hon. lady Member has done a great social service by bringing forward this Bill before the House. Thereby, she has drawn the attention of the public to these problems which are really difficult in their nature, no doubt, and to

the cases of these unfortunate orphans. She has made a very good and close study of the subject. She has taken such pains as would not have been taken even by a good lawyer. So, I really appreciate all her efforts for promoting a cause like this which is humanitarian in its nature. At the same time, considering the fact that the time for a law of this nature is not ripe, I would request her to withdraw this Bill for the time being.

Shrimati Jayashri (Bombay—Suburban): I am thankful to all the Members who have taken part in this debate and supported this measure. I am glad that they have appreciated the humanitarian object with which this measure has been brought forward. As the Minister has already said, we have adoption laws at present for adopting Hindu children. But I find that orphans cannot be taken in adoption.

Shri Pataskar: We shall change it now.

Shrimati Jayashri: There is, however, adoption going on side by side, but there is no legal procedure behind this. My idea was that there should be some safeguards for those children who are taken in adoption.

As I said last time, I had collected opinions from many social workers, who had come across adoption procedures in relation to these children. Their opinion was that there is urgent need for a measure of this nature, because in the course of their work, they have experienced difficulties; especially the magistrates in juvenile courts, where destitute children are brought, have experienced difficulties. Unless there is some measure like this, children would be taken in adoption, but there will be no guarantee that those children will be the natural heirs of their parents. That is the most important thing that should be provided for, and that is what I have emphasised in clause 11, where.....

Shri Pataskar: May I say a word? I have considered that matter. In most of these cases, where destitute children are taken in adoption, the persons who come forward to take them in adoption have been found to be mostly Hindus. The new law which I propose to introduce will certainly do away with the difficulty in this regard; of course, I would have to introduce it with the consent of the House, but that is what I am proposing.

Shrimati Jayashri: I am glad the Minister has given this assurance. I hope that the Bill which he has promised to introduce will have incorporated in it all the provisions in my Bill, especially the one enabling girls also to be taken into adoption. At present, only boys are taken into adoption. If our aim is to help children, even girls also require the love of parents. I know that there is a danger that perhaps the girls might be adopted with other motives. But in the clause I have got in the Bill, safeguards are provided against that contingency. This must be done after taking into consideration all the matters and circumstances under which the child is to be adopted. Also there will be a procedure of follow-on so that after the child is adopted, some authority will be taking care of the child. In these circumstances, I think that the apprehension that the girl will be exploited will be removed.

My hon. friend, Shri M. D. Joshi, referred to the fear of conversion. I think here also the court will see that the child is given in adoption only to such parents who will be belonging to the same religion as that of the child. My Bill wants that this adoption law should be for all. It should be common law. If Mohammedans want, they can also adopt Mohammedan children by making use of this measure. The court is there to see that there will be no proselytising behind this adoption. I have said that there should be proper methods of adoption. Perhaps even now there might be adoption by other.

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people where all these measures are not there. There are chances of children being proselytised. In order to safeguard against that, I have brought forward this measure. I hope from that point of view also, the Minister will accept this measure, because it is for all citizens. But in case he wants to bring forward a piece of legislation for Hindus only, he can also think over some of the clauses I have got in my Bill and try to incorporate them in the Bill that he envisages.

I am glad that he has given an assurance. I am thankful to him for appreciating this Bill. I would have been very happy if he had accepted this Bill. It is a very non-controversial Bill. It is brought solely from the humanitarian point of view. We want to help little children who are destitute, who are neglected, who have no homes and who require the love of parents. We know that at present in our society, there are hundreds of such children. There are not enough homes for them, as I had said, and for them the right thing would be to be adopted by some parents.

Mr. Deputy-Speaker: The hon. lady Member should conclude now.

Shrimati Jayashri: I conclude by saying that I hope that some of the provisions which I have put in in my Bill may be considered for being incorporated in the measure that the Minister intends to bring forward.

Mr. Deputy-Speaker: What does the hon. Member wish to do with the Bill? That is what I want to know.

Shrimati Jayashri: Instead of withdrawing it, I request that it may be postponed.

An Hon. Member: It may be circulated.

Shrimati Jayashri: An Hon. Member says that it may be circulated.

Mr. Deputy-Speaker: That motion cannot be made now. The motion now is for consideration. If she

wants to seek the permission of the House to withdraw it, she may do so. Otherwise, I will have to put the motion to the vote of the House.

Shri Pataskar: She can withdraw it.

Shrimati Jayashri: After the assurance given by the hon. Minister, I beg leave of the House to withdraw the Bill.

The Bill was, by leave, withdrawn.

Mr. Deputy-Speaker: The next item in the list of business is the Unemployment Relief Bill. But Shri V. P. Nayar is absent. So we take up the next Bill, the Ex-Army Personnel's Litigation Bill of Dr. N. B. Khare.

Dr. N. B. Khare (Gwalior): I would request you kindly to allow me to address the House sitting. Also as the subject is very technical, I shall read from my notes very copiously.

Mr. Deputy-Speaker: In view of the condition of his health, I allow him to do so.

Shri Raghunath Singh (Banaras Distt.-Central): On a point of order. My Bill is listed as item No. 7 in the list of business. But actually discussion on my Bill was adjourned last time in April. Therefore, it should be taken up after the first Bill, just like the part-heard Resolution.

Mr. Deputy-Speaker: The rule is that when the debate on a Private Member's Bill or Resolution is adjourned *sine die*, the Member in charge of the Bill or the Mover of the Resolution as the case may be may, if he wishes to proceed with such Bill or Resolution on a subsequent day allotted for Private Members' Business, give notice and on receipt of such notice, the relevant precedence of such Bill or Resolution shall be determined by ballot. So it is not his absolute right that because it was adjourned last time, therefore, it should get precedence. It will have to be balloted again, and it has got the order that has been given to it.