

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

That in the fourth part of the motion, after "the Speaker may make" insert "subject to the approval of the House"

*The motion was negatived*

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

"That the Bill further to amend the Constitution of India be referred to a Joint Committee of the Houses consisting of 51 members; 34 from this House, namely, Shri U. Srinivasa Malliah, Shri H. V. Pataskar, Shri A. M. Thomas, Shri R. Venkataraman, Shri S. R. Rane, Shri B. G. Mehta, Shri Basantha Kumar Das, Dr. Ram Subhag Singh, Pandit Algu Rai Shastri, Shri Dev Kanta Barooah, Shri S. Nijalingappa, Shri S. K. Patil, Shri Shriman Narayan, Shri G. S. Altekar, Shri G. B. Khedkar, Shri Radha Charan Sharma, Shri Gurmukh Singh Musafir, Shri Ram Pratap Garg, Shri Bhawanji A. Khimji, Shri P. Ramaswamy, Shri B. N. Datar, Shri Anandchand, Shri Frank Anthony, Shri P. T. Punnoose, Shri K. K. Basu, Shri J. B. Kripalani, Shri Asoka Mehta, Shri Sarangadhar Das, Shri N. C. Chatterjee, Shri Jaipal Singh, Dr. Lanka Sundaram, Shri Tek Chand, Dr. N. M. Jaisoorya, and Shrimati Tarkeshwari Sinha,

and 17 members from Rajya Sabha,

that in order to constitute a sitting of the Joint Committee the quorum shall be one-third of the total number members of the Joint Committee;

that the Committee shall make a report to this House by the 14th May, 1956;

that in other respects the Rules of Procedure of this House relating to Parliamentary Committees will apply with such variations and modifications as the Speaker may make; and

that this House recommends to Rajya Sabha that Rajya Sabha do join the said Joint Committee and communicate to this House the names of members to be appointed by Rajya Sabha to the Joint Committee."

*The motion was adopted*

## HINDU SUCCESSION BILL—contd.

**Mr. Deputy-Speaker:** We have to take up the next item on the agenda.

The House will now take up further consideration of the motion moved by Shri Pataskar on the 12th December 1955,

"That the Bill to amend and codify the law relating to intestate succession among Hindus, as passed by Rajya Sabha, be taken into consideration."

There are 35 hours available for the disposal of this Bill. Shri Pataskar has already finished his speech.

**Shri S. S. More:** (Sholapur): Has he to say anything by way of refreshing our memory?

**Mr. Deputy-Speaker:** That would be refreshed when we listen to other Members.

**श्रीमती शिवराजवती नेहरू** (जिला लखनऊ मध्य) : माननीय उपाध्यक्ष महोदय, प्रस्तावित बिल में.....

**Mr. Deputy-Speaker:** The hon. Member will excuse me. There are certain amendments also that are to be taken up. Shri V. G. Deshpande.

**Shri V. G. Deshpande** (Guna): I want to move it.

**The Minister of Legal Affairs: (Shri Pataskar):** I think under the rules, that amendment cannot be moved.

**Mr. Deputy-Speaker:** I will come to that. There are other amendments also. Pandit Thakur Das Bhargava.

**Pandit Thakur Das Bhargava** (Gurgaon): I have forgotten what the previous amendments were. I have today given notice of some amendments.

**Mr. Deputy-Speaker:** I am talking of those amendments.

**Pandit Thakur Das Bhargava:** I propose to move all the amendments, 21, 22 and 23. May I move them?

**Mr. Deputy-Speaker:** I only wanted to know his intention. Let us hear the hon. Minister. He has objections to their admissibility.

**Shri Pataskar:** This Bill originated in the Rajya Sabha.

[Shri Pataskar]

It was referred to a Joint Committee. After the Joint Committee submitted its report, that Bill has been passed by the House in which it was originated. The rules that we apply to the motions to be made in a Bill at this stage are those commencing from rule 151 which relate to Bills originating in the Council and transmitted to the House. The first rule is, when a Bill originating in the Council has been passed by the Council and is transmitted to the House, the Bill shall, as soon as may be, laid on the Table. All this must have been gone through. Rule 153 relates to the motion for consideration.

Then, the main rule is 155 which reads:

"Any member may (if the Bill has not already been referred to a Joint Committee of both the Houses, but not otherwise) move as an amendment that the Bill be referred to a Select Committee and, if such a motion is carried, the Bill shall be referred to a Select Committee, and the rules regarding Select Committees on Bills originating in the House shall then apply."

In fact, under rules 151 and onwards relating to Bills originating in the Council and transmitted to this House, only certain motions could be moved. One of the rules, rule 155 relating to the appointment of Select Committee specifically states "if the Bill has not already been referred to a Joint Committee of both the Houses, but not otherwise". If the Bill had not been referred to a Joint Committee and passed by that House, there could be a motion that this Bill be referred to a Select Committee. Otherwise, all these motions, which are more or less of a dilatory character, are out of order.

Shri Deshpande's amendment reads :

"That the Bill be referred to the Joint Committee with instructions to omit all references affecting the Mitakshara Joint Family property and to redraft the Bill accordingly."

He wants that the Bill should be referred back to the Joint Committee. There is no provision in the rules with respect to any such motion being made in respect of a Bill which has been passed by the other House and then has come before this House in the form and at the stage in which it has come.

Then, with regard to the amendments of my friend Pandit Thakur Das Bhargava, I think they were received only at 11-35 this morning. So far as I am concerned, they are only dilatory motions, and I would really be reluctant that in this case notice should be waived and they should be allowed to be moved, but that is a technical matter.

There is an amendment of Pandit Thakur Das Bhargava which reads :

"That the Bill be circulated for eliciting opinion thereon."

I do not think any such motion is contemplated by the rules which have been made with respect to such Bills. In fact, so far as this Bill is concerned, it had been originally circulated for public opinion, then it was considered by a Joint Committee of both the Houses, all those stages have been gone through.

**Pandit Thakur Das Bhargava:** (Gurgaon) : May I know if this Bill was sent to the country for eliciting public opinion? for aught I know this Bill was never sent out.

**Shri Pataskar:** That is not correct.

Amendment No. 22 of Pandit Thakur Das Bhargava reads :

"That the Bill be recommitted to the Select Committee to reconsider and report upon the original Bill with directions to exclude matters and properties which were expressly excluded by the Bill."

This again is another dilatory motion saying that the Bill be recommitted to the Select Committee. I do not think that is also contemplated and justified by the rules to which I have already referred.

His third amendment reads :

"That the Bill be referred to a Select Committee consisting of *(the names of persons to be mentioned at the time of making the motion)* with instructions to report upon the original Bill by the end of August, 1956."

I think this is clearly barred even under rule 155 because it could be moved only if the Bill had not been referred to a Joint Committee. Rule 155 is clear enough.

Apart from this, I would like to submit these are all what we may call dilatory motions. In this connection, I

would invite your attention to Rule 323 which reads :

"(2) If the Speaker is of opinion that a motion for re-circulation of a Bill to elicit further opinion thereon is in the nature of a dilatory motion in abuse of the rules of the House inasmuch as the original circulation was adequate or comprehensive or that no circumstance has arisen since the previous circulation to warrant the re-circulation of the Bill, he may forthwith put the question thereon from the Chair or decline to propose the question.

"(3) If the Speaker is of opinion that a motion for re-committal of a Bill to a Select Committee of the House or a Joint Committee of the Houses or circulation or re-circulation of the Bill after the Select Committee of the House or the Joint Committee of the Houses has reported thereon, is in the nature of a dilatory motion in abuse of the rules of the House inasmuch as the Select Committee of the House or the Joint Committee of the Houses as the case may be has dealt with the Bill in a proper manner or that no unforeseen or new circumstance has arisen since the Bill emerged from such committee, he may forthwith put the question thereon from the Chair or decline to propose the question."

I would further submit that looking to the stages through which this Bill has passed all these are dilatory motions which are intended only to prevent the passage of this long-due measure. In any case I am opposed to any such motion being made at this stage.

**Shri V. G. Deshpande:** May I make a submission?

**Pandit Thakur Das Bhargava:** May I know the rule that the hon. Minister is quoting?

**Shri Pataskar:** My primary objection is that there is a special procedure with respect to Bills originating in the other House, and all these motions are out of order.

**Pandit Thakur Das Bhargava:** I want to know the rule quoted.

**Mr. Deputy-Speaker:** Rules 155 and 323.

**Shri V. G. Deshpande:** I want to make only one submission, but in the beginning I want to clear one misunderstanding. We have not moved these motions with a view to delay the passing of this Bill. When the report of the Joint Committee came, the Minister of Legal Affairs himself admitted in the Rajya Sabha that there were many defects in the drafting of the Bill and therefore, at his suggestion, many amendments were made in the Rajya Sabha. We have found that in the Rajya Sabha itself so many inconsistencies came out. I would only quote one instance. That is . . . . .

**Mr. Deputy-Speaker :** One thing I should point out to the hon. Member. The question is whether it is admissible at this stage for us to refer it to a Select Committee when already the Rajya Sabha had referred it to a Joint Committee and it has now come to us after having been passed by the Rajya Sabha. The hon. Member might argue on the lines that have been indicated. Under Rule 155 we are not permitted to again refer . . . . .

**Shri V. G. Deshpande :** That also I will cover. I just wanted to make it clear that it is not delaying tactics that we are adopting. I will only point out one instance and then come to the point.

There is a proviso under clause 6 of the Bill, reading :

"Provided that, if the deceased had left him surviving a female relative specified in class I of the Schedule or a male relative specified in that class . . . ."

This was an amendment because originally there was only "female relative". That was amended and we provided for "a male relative specified in that class". But, in the *Explanation* they forgot to make that change, and it reads :

" . . . and the female relative shall be entitled to have her share in the coparcenary property . . . ."

That means, even after this amendment, a relative who claims inheritance through a female relative is not likely to inherit. Such inconsistencies still remain.

The motive with which I have given the amendment is not to delay this Bill, but I want that a Bill of this nature, even if it departs fundamentally from

[Shri V. G. Deshpande]

the old laws, should be at least specific and precise and not lead to litigation. I think no section of the House would desire that the Bill should be passed whatever may be its defects, whatever litigation it may lead to.

So far as Rule 155 is concerned, I have to make only one submission, and that is that the original Bill which the Rajya Sabha had sent to us is not this Bill, because the original Bill had specifically provided that *Mitakshara* property would be excluded from the purview of this law, but the Select Committee took it upon itself to make laws and regulations which I think has made confusion worse confounded. Therefore, this Bill is fundamentally different from the original Bill, and therefore, all the rules which apply to Bills originating in the other House would not apply here. We are not going to accept a Bill which has been hurriedly drafted, in which provisions have been made and amended and which will have to be amended again. Let the House sit in a committee or let it be referred back to the Joint Committee. Let the drafting be made proper and the wording be precise. In view of this intention and considering the situation that has arisen, I think the Speaker may regard this Bill as an altogether different Bill and give the ruling in my favour.

**Mr. Deputy-Speaker :** Can the hon. Member help the Chair in showing sympathy to the hon. Member by pointing out some rule which might help.

**Shri S. S. More :** *rose—*

**Mr. Deputy-Speaker :** Let us hear Pandit Thakur Das Bhargava.

**Pandit Thakur Das Bhargava :** So far as the rules go and so far as the general principle of the concurrence of both the Houses goes, the correct rule seems to me to be that even when the other House has passed a Bill or even deliberated upon it, it is open to this House to see that a Select Committee is appointed again. If the other House has just passed a Bill, that does not take away the power of this House to appoint a Select Committee. I remember that in regard to another Bill which was passed by the Rajya Sabha and transmitted to this House, namely the Railway Stores (Unlawful Possession) Bill, a Select Committee was appointed subsequently of which you were the Chairman.

That Bill was passed by the Rajya Sabha. But we appointed a Select Committee when it came up in this House, and then ultimately we passed that Bill.

My humble submission is that in regard to this Bill, the circumstances are quite special, in so far as clause 5 of the original Bill ran thus :

*“Act not to apply to certain properties:—This Act shall not apply to—*

(i) any joint family property or any interest therein which devolves by survivorship on the surviving members of a coparcenary in accordance with the law for the time being in force relating to devolution of property by survivorship among Hindus;

(ii) any property succession to which is regulated by the Indian Succession Act, 1925 (XXXIX of 1925) by reason of the provisions contained in section 21 of the Special Marriage Act, 1954 (43 of 1954);

(iii) any property succession to which is regulated by the Madras Marumakkattayam Act, 1932.....”.

Then, the various Acts are given there.

The clause further went on to say :

“(iv) any estate which descends to a single heir by a customary rule of succession or by the terms of any grant or enactment.”.

To start with, as the motion for reference of the Bill to the Joint Committee was under discussion here, one of the provisions of the Bill was this clause 5. When the Minister wanted to say something in regard to the original Bill, and changes which he could make in the select committee the Deputy-Speaker then in the Chair said that it was difficult to say whether it would be possible for the Joint Committee to depart from the accepted principles in regard to the proceedings of a Joint Committee. When we sent the Bill to the Joint Committee, it was the original Bill that was placed before this House. And we were given to understand that so far as joint family properties and other properties mentioned in clause 5 were concerned, they would not be touched by this Bill, they would not be considered, and that no matter relating to the properties referred to in clause 5 would be considered by the Joint Committee.

Ultimately, it so happened that the report of the Joint Committee was placed before the other House, and this House was not in a position to take exception to any of the provisions. As a matter of fact, in my opinion, when the Deputy-Speaker indicated this from the Chair, it meant that no property could be included, which came under clause 5 in the Joint Committee. Now what happens in a Joint Committee or a Select Committee? As you are aware, the members of the public have got the right to make representation to the Select Committee.

**Mr. Deputy-Speaker :** I would request the hon. Member not to deal in detail with what the Joint Committee did or with what principles they had departed from. We have only to overcome the rule that has been pointed out. After the Bill has been passed by the other House and transmitted here, can we refer it again to a Joint Committee or a Select Committee?

**Pandit Thakur Das Bhargava :** May I know what the number of that rule is? I have not been able to find it out.

**Mr. Deputy-Speaker :** It is Rule 155.

**Pandit Thakur Das Bhargava :** Rule 155 reads :

"Any member may (if the Bill has not already been referred to a Joint Committee of both the Houses but not otherwise) move as an amendment that the Bill be referred to a Select Committee. . . ."

This rule applies only to cases, that is, ordinary cases, where a Select Committee or a Joint Committee has not functioned. But I want to know the position and rule which lays down the procedure to be followed in respect of a Bill on which the Joint Committee has reported. This rule only makes an incidental motion. I have yet to find a rule which lays down that procedure. After the Joint Committee has reported, and the other House has taken a decision, what are the rights of this House? They are not the subject-matter of Rule 155. That rule only says by way of generalisation what can be done in respect of Bills which do not come under this definition. It does not speak of Bills which come under this definition. I want to know of a rule which lays down what the rights of this House are after the other House has passed a certain

Bill. Since my hon. friend has not quoted anything to the contrary, I think, the principle that should be adopted is that this House is an independent House. As a matter of fact, we are not bound by anything which the other House does; though we are sister Houses, and we respect their opinions, all the same, this House has got an independent existence, and it has the right to give an independent opinion, and come to any judgment which it chooses to care. In regard to every Bill that comes up here, it comes as if it had been reported by a Select Committee. Otherwise, there is no other difference. To say on this basis that we shall not be allowed to have our own Select Committee or to say that we do not like the Bill because it transgresses the limits of the original Bill, or that we cannot make any motions of this kind, would mean that you are really tampering with the liberties of this House, and with the rights of this House. It is the prerogative of this House to come to an independent judgment in respect of all matters which have been the subject-matter of discussion in the other House, and we can adopt an independent course. Supposing the other House passes a Bill, are we bound to pass it? As a matter of fact, we can reject the Bill and we can adopt any other course open to us? But we are not in that mood now.

My hon. friend has referred to Rule 323. I am very sorry that he should have referred to it, for these motions are far from being any dilatory motions. I am bound by the vote of the House. At the same time, my own feeling is that in this Hindu Succession Bill, you are legislating for the whole of India, and especially, you are departing from the basic principles of the succession law, as we have been understanding it for thousands of years. When you are doing that, it is but natural, I think, that the country should be consulted. So far as the present Bill is concerned, the country has not been consulted at all, on the contrary, the country has been lulled into sleep by the provision in the original Bill to the effect that it will not apply to joint family properties. The country knew that the Bill was to the effect that joint family properties would not be touched. Now, the Minister comes forward here and wants to enact a Bill on which the country has not given its opinion. Therefore, it is absolutely necessary, if we are to stick to our rights that you must show how these motions are barred. The

[Pandit Thakur Das Bhargava]

burden is on you to show that the motion is barred. The burden is not on me to show that I have no right to move these motions.

My humble submission is that the question is one concerning the rights of this House, and I am bound to say that the Chair is bound to look at the question from a standpoint which is different from that adopted by the Minister. Further, it is not only a question of the rights of this House only; it is a question of the rights of the other House also. What is the use of having two Houses, if they cannot exercise all the powers that have devolved on them independently in respect of these Bills?

Even taking into account the fact that the Bill had been referred to a Joint Committee, I would submit that that has not bound any of the Houses to any principle at all. Even supposing that the principle has been accepted, and we are bound by it, what is it to which we are bound? We were bound only to the provisions of the original Bill. As long as that original Bill was there, no Select Committee, and no Joint Committee could alter it in this way, and it was beyond the province of the Joint Committee to have gone beyond what was contained in original clause 5.

Taking all these standpoints into consideration, I would submit that unless and until the Members of this House and the country are allowed to make representations to the House, and they know fully well that the basic principles are being changed, and the exemptions given under clause 5 are not being allowed to stand now, it will not be fair if we are debarred from moving these motions. I would therefore request that you may kindly allow me to move these motions.

**Shri S. S. More:** At the outset, I must make it specifically clear that I was a Member of the Joint Committee, and I do believe that the Joint Committee, has not transgressed any of the provisions regarding which complaints have been lodged by the two hon. Members.

All the same, I am academically interested in the rights of this House. As far as Rule 155 is concerned, it only lays down whether if a Bill had been referred to a Joint Committee, we could make a motion here referring the Bill to a Select Committee, and that rule debars us from making any such motion.

But my hon. friend **Shri V. G. Deshpande** has proposed an amendment which says that the Bill be referred to the same Joint Committee.

**Pandit Thakur Das Bhargava:** I have also done the same thing.

**Shri S. S. More:** Unfortunately, the hon. Member's amendments have not been circulated.

If the amendment is to the effect that the Bill be referred back to the same Joint Committee, then I would rely on the rule which has been quoted by my hon. friend the Minister of Legal Affairs namely Rule 323 (3) which says:

"If the Speaker is of opinion that a motion for recommitment of a Bill to a Select Committee of the House or a Joint Committee of the Houses or circulation or re-circulation of the Bill after the Select Committee of the House or the Joint Committee of the Houses has reported thereon, is in the nature of a dilatory motion in abuse of the rules of the House inasmuch as the Select Committee of the House or the Joint Committee of the Houses as the case may be has dealt with the Bill in a proper manner or that no unforeseen or new circumstance has arisen since the Bill emerged from such committee, he may forthwith put the question thereon from the Chair or decline to propose the question."

If we analyse this particular rule, it means that Members are quite competent to move a motion that the Bill be referred back or recommitted to the Joint Committee or the Select Committee which had originally reported. That rule also prescribes certain considerations which the Speaker has to take into account before he either accepts the motion as a valid one, or rejects it as being dilatory. I am arguing on the point that the special procedure laid down in Rule 323, on which the Minister has relied, also controls the special procedure in Rule 155. Therefore, a motion that the Bill be recommitted to the Joint Committee or committed to a Select Committee is not *ipso facto* void. The Speaker may come to the conclusion that it is dilatory that is another matter. He has to apply his mind to that. But the motion *ab initio* is not void.

**Shri Sadhan Gupta** (Calcutta South-East) : Mr. Deputy-Speaker, Sir, regarding the admissibility of Pandit Thakur Das Bhargava's amendments, I think Rule 155 fairly covers the case. Rule 155 as far as I have been able to understand it, refers to any Bill of any description which has been referred to a Joint Committee and which has been sent from the Rajya Sabha. If that is so, this Bill was referred to a Joint Committee and it has been sent to us by the Rajya Sabha after the Joint Committee has reported and the Rajya Sabha has considered and passed the Bill.

You will remember that this Bill was initiated in the Rajya Sabha. Pandit Thakur Das Bhargava relies on an observation of the Deputy-Speaker. I remember that observation; that was not a ruling. He was expressing a certain view. As far as I remember, there was no point of order or anything of that kind raised. He was just giving expression to a view in the course of certain discussions that the Joint Committee might not be competent to make a change in the provisions relating to exclusion of joint family property. I take it to be only an expression of view and not a ruling by the Deputy-Speaker after consideration of the whole thing. But even if it was a ruling, the point is that the Joint Committee was set up at the initiative of the other House. The Joint Committee, under the rules, was governed by the procedure of the other House and it was the Chairman of the other House who was the competent authority to decide upon the functions of the Joint Committee and the competence of the Joint Committee.

Now, apparently, no objection was raised and the Joint Committee thought itself competent to make this change. When it came back to the Rajya Sabha, no objection was made, and therefore, we might presume that according to everyone concerned in that House, including the Chairman, the Joint Committee was quite competent to do so. They proceeded on the assumption that the Joint Committee was quite competent to include joint family property which devolved by way of survivorship.

Therefore, we in this House cannot discuss the competency of the Joint Committee. Then the question arises—Pandit Thakur Das Bhargava has pertinently raised the point—whether our House will forfeit its privilege of referring the matter to a Select Committee if the Joint Committee, for example,

did something wrong. Must our House be deprived of its privileges? But this question is not relevant at all because we knew that we were joining a Joint Committee where the rules of our House did not apply, where the rules of the other House applied and where the Chairman of the other House was the competent authority to decide. Therefore we were concurring with the motion for joining a Joint Committee with the full knowledge that we would have to abide by whatever that Joint Committee decided regarding procedure. That Committee has reported to the Rajya Sabha and the Rajya Sabha has passed the Bill and sent it to us. If we do not agree with some aspect of the Bill, it is up to us to reject it. I could understand a straightforward opposition, say, at the consideration stage, or, if Pandit Thakur Das Bhargava, does not like the inclusion of joint family property, opposition to the appropriate clause. In that way, our House can assert its rights in the matter of any particular provision. But as regards reference to a Select Committee, that has already been covered by the rule, and as we agreed to join the Joint Committee with the full knowledge of what we were doing, I think that question cannot be re-opened again.

Secondly, I would also urge upon you to treat this motion as dilatory.

**Mr. Deputy-Speaker** : The hon. Member shall be brief.

**Shri Sadhan Gupta** : Not that this matter has come up for the first time. There was a very strong argument, I remember, when the motion was discussed for the inclusion of joint family property, and the House was divided on the issue. Therefore, it is not that this has come to us as a surprise. Hence, if that is going to be challenged, it should not be challenged by reference to a Select Committee which will delay matters. After all, it is a Bill which vitally concerns our sisters. So, if it has to be challenged let there be an open frank challenge on the floor of the House. Let it be decided by a vote.

I do not know what the motions tabled by Pandit Thakur Das Bhargava are. If you would kindly tell me what they are—because I have not got notice of them—I would be able to formulate my point of view, because I have under the rules a right to object to an amendment if it has not come within 24 hours notice. It is not merely a question of

[Shri Sadhan Gupta]

the Government waiving notice of amendment; it is a question of every Member waiving notice of amendment.

**Mr. Deputy-Speaker:** That is the Speaker's right.

**Shri Sadhan Gupta:** I think the relevant rule is that if any Member objects, the Speaker will not put it. You may kindly check up the rule.

**Mr. Deputy-Speaker:** Let me know what else the hon. Member has to say.

**Shri Sadhan Gupta:** I want to know what are the amendments of Pandit Thakur Das Bhargava in order to decide whether to object or not to object.

**Mr. Deputy-Speaker:** He has already said that—reference to Select Committee and circulation.

**Shri Sadhan Gupta:** As regards reference to Select Committee and circulation, I would definitely object and would ask you to look into the rules because my impression is that if any hon. Member objects, the Speaker will not put it.

**Mr. Deputy-Speaker:** Now, we have got these amendments, and, as has been explained by Shri V. G. Deshpande, his objection is that some changes have been made by the Joint Committee and the Bill is not the same as was referred to us in the first instance. I believe this is no cause for again sending it to a Select Committee. The other House has passed the Bill and now it is before us. Shri V. G. Deshpande could not tell me of any rule under which we could appoint another Committee or recommit it to the Joint Committee. I am reinforced in this decision by a previous ruling of the Chair on the 3rd December, 1953. There the Chair observed :

"I have got notice of some amendments. Shri Matthen says that the Bill, as passed by the Council of States, be circulated for the purpose of eliciting public opinion thereon. I do not find any provision in the rules for a Bill as passed by the other House, to be circulated and the only motion that can be moved is for reference to a Select Committee."

"...The provision as to what can be done is contained in Rule 146 (now it is 155). Any member may, if the Bill has not already been referred to a Select Committee

of a Council or a Joint Committee of both Houses, but not otherwise, move as amendment, that the Bill be referred to a select committee, and, if such a motion is carried, the Bill shall be referred to a select committee and the Rules regarding select committees on Bills originating in the House shall then apply."

So, that is very clear.

So far as the observation that there had been some irregularity the other day, that has also been challenged by Shri More who said that there was no irregularity committed.

Then, there are amendments by Pandit Thakur Das Bhargava, he has argued in detail as to whether we, as an independent and sovereign House, cannot take that up even if the other House has considered it. Certainly, we are an independent House and of sovereign authority, but, we have also certain limitations. There is the Constitution, in the first instance. Then, there are other laws we have passed. There are the Rules that we have framed. We can move about freely, but, within those limits. And, when the Rules are clear, when it has already been referred to a Joint/Select Committee and the other House has passed it, we have only to proceed under Rule 155 and not against it.

Shri More has said that we have to see the provisions of Rule 323 (3). I have to see whether the motions now made are in the nature of dilatory motions. If I hold that they are dilatory, then, I must disallow them. But, if I hold they are not of that nature, then there is a case under Rule 323 (3) that such a motion can be allowed.

But, when I look to the whole history of this Bill, how it has been discussed for so long a time, I find that at this late stage, such a motion should be considered as dilatory. Such motions have already been made many a time on this Bill and it is not necessary that we should again accept such a motion.

So far as the question that some observation was made by the Speaker is concerned, I do not think it is relevant here and that should influence us. There is no ruling on that point. Therefore, I hold that so far as Rule 155 is concerned, amendments 23 and 5 are out of order and inadmissible. So far as the other motions are concerned, they are dilatory. Therefore, I disallow them.

Besides this, Pandit Thakur Das Bhargava did not give notice in time also. But, I had no intention of rejecting them on that ground—though Shri Sadhan Gupta has taken objection on that ground,—because, otherwise too, they are not admissible. Therefore, that question need not be discussed here.

I would now call upon the lady Member who began her speech.

**Shri Altekar (North Satara):** I would like to know how the time is going to be divided for the different stages, the general discussion, clause by clause discussion and the third reading. Thirty-five hours have been allotted.

**Mr. Deputy-Speaker:** I am in the hands of the House. It can divide the time as it likes. Will 20 hours and 15 hours be acceptable to the House?

**Shri S. S. More:** This Bill has already been subjected to a sufficiently long discussion and many hon. Members will have to say so many things on the clauses. Therefore, I suggest that a large allotment should be made to the clause by clause consideration rather than on the discussion of the general principles. My suggestion is, 15 hours should be given for general discussion and 20 hours for clause by clause consideration; and, we shall have to make some provision for the third reading.

**Mr. Deputy-Speaker:** That we will do.

**The Prime Minister and Minister of External Affairs (Shri Jawaharlal Nehru):** I am in entire agreement with the hon. Member opposite. In fact, I would say, a smaller allotment for general discussion would be justified. It is important that the clauses should be discussed as fully as possible instead of a vague general discussion. But, it is entirely within the competence of the House to decide.

**Pandit Thakur Das Bhargava:** May I suggest that 10 hours be allotted for general discussion and the other 25 hours divided like this, 20 hours for clauses and 5 hours for third reading?

**Mr. Deputy-Speaker:** Ten, twenty and five; are they acceptable?

**Shri Altekar:** Instead of 5 hours for the third reading, it may be 2 hours and 13 hours for general discussion.

**Mr. Deputy-Speaker:** We may not lay down rigid limitations at the present moment. The discussion may proceed and then we may decide; but we should not go beyond 15 hours, so far as the general discussion is concerned, it may be from 10 to 15 hours.

The hon. lady Member may now proceed.

**An Hon. Member:** Fifteen, fifteen and five.

**श्रीमती शिवराजबती नहृष :** मैं सन्नमती हूँ कि इस हिन्दू उत्तराधिकार विधेयक द्वारा जो कि आज हमारे समक्ष उपस्थित है, हम अपने देश में एक बहुत बड़ा कदम उठाने जा रहे हैं। इसके पहले जब यह बिल इस हाउस में आया था तब माननीय मंत्री ने अपने भाषण में हमको इस बिल की महत्ता से परिचित कराया था और यह बतलाया था कि यह कानून हमारे देश की लगभग ६ करोड़ स्त्रियों की अयोग्यता, अर्थात् डिस्टिबिलिटीज को दूर कर सकेगा और मुझे माननीय मंत्री की इस बात ने उस समय काफी प्रभावित किया था और मेरे विचार से जिस लक्ष्य को लेकर यह बिल इस सदन में लाया जा रहा है वह वास्तव में बड़ा ही महत्वपूर्ण है और प्रशंसनीय है, और वह लक्ष्य है स्त्रियों को अधिक सिक्योरिटी (सुरक्षा) देना तथा उनके स्टेटस (पद) को ऊंचा करना। इन दोनों बातों से मैं समझती हूँ कि इस सदन के और इस सदन के बाहर के किसी स्त्री अथवा पुरुष को इंकार नहीं होगा, परन्तु मुझे आपत्ति केवल इस बात में है कि इस बिल में जिस हद तक मंत्री महोदय स्त्रियों के लिए अधिकार रख रहे हैं, वह शायद आशा से बहुत ज्यादा है और स्वयं स्त्रियों ने भी कभी इतना अधिकार पाने की मांग नहीं की थी और न इतना पाने की उनको संभावना थी। बहनों ने तो केवल भाइयों से समानता का अधिकार चाहा था, अधिकता का नहीं, परन्तु माननीय मंत्री ने अपनी उदारता से बहनों को भाइयों से भी ऊंचा कर दिया और बढ़ा दिया। अब इस बिल के अनुसार बहनों को तो तीन ओर से सम्पत्ति प्राप्त होगी, माता की, पिता की और पति की परन्तु भाई केवल एक ओर से ही सम्पत्ति मिलेगी यानी पिता की। कहां तो हमारे हिन्दू समाज में अभी तक किसी ओर से स्त्रियों को कोई सम्पत्ति का अधिकार ही न था, परन्तु अब हमारी कांग्रेस सरकार हमारे साथ न्याय करके इतने अधिकार देने जा रही है कि स्वयं बहनें अबम्बे में पड़ गयीं, माता पिता, चकित रह गये और भाई चिन्तित हो गये और यह तो

### [श्रीमती शिवराजबती नेहरू]

वही मसल हुई कि या तो हंसा भोती चुगे या लंघन कर जाय। इस विधेयक के अनुसार अब एक हिन्दु ज्वाइंट फैमिली (संयुक्त परिवार) की लड़की को शादी के बाद भी अपने माता पिता की सम्पत्ति में उतना ही भाग मिलेगा जितना कि उसके एक अनडिवाइडेड (पृथक) भाई को मिलेगा। मेरे विचार से यह अनूचित होगा। हम कैसे इस बात को भूल सकते हैं कि अब भी हमारे हिन्दू समाज में माता पिता इस बात को अपना परम धार्मिक कर्तव्य समझते हैं कि वे अपनी लड़कियों की शादी करें। और हिन्दू समाज में लड़कियों की शादी पर पहले ही काफी धन व्यय कर दिया जाता है। लेकिन इतना होने के बाद भी लड़कियों को उतना ही धन देना, सम्पत्ति में उतना ही भाग देना, जितना कि एक अनडिवाइडेड भाई को, मेरे नजदीक यह न्याय के विपरीत है। मध्यम श्रेणी की जो फमिलीज (परिवार) हैं उनमें इस प्रकार का अधिकार दे कर विवाहित लड़की को, हम भाइयों को दरिद्र बना देंगे। मैंने इस बात की काफी जानकारी हासिल की है और लोगों से छानबीन की है कि हमारा हिन्दू, स्त्री समाज इस विषय में क्या विचार रखता है। मुझे मालूम हुआ है कि हमारे देश में ऐसी स्त्रियों की संख्या बहुत अधिक है जो अपने पिता की सम्पत्ति में उतना अधिकार नहीं चाहती हैं जिससे उनके भाइयों के ऊपर काफी गरीबी या कर्जा आ जाय। हम यह भी देखते हैं कि पिता का जितना भी कर्जा होता है, लें देन होता है, उसके सम्बन्ध में जो उत्तरदायित्व होता है वह लगभग पूरे का पूरा लड़के के ऊपर ही होता है लड़की पर नहीं, और शादी के बाद तो वह और भी कम हो जाता है। अपने परिवार की कठिनाइयों को दूर करने में न कभी उनका कोई भाग रहा है और न आगे ही होगा। बेशक माता पिता की सम्पत्ति में उनका भाई के साथ समानता का अधिकार हो जायेगा। मेरा यह अभिप्राय कभी भी नहीं है और न ये यह चाहती हूँ कि लड़की को पिता की सम्पत्ति में कोई अधिकार न मिले, या जिस तरह से आज लड़की पिता की सम्पत्ति से वंचित है उसी तरह से भविष्य में भी रहे, परन्तु मैं बराबरी के दावे को पसन्द नहीं करती हूँ। यदि पिता की सम्पत्ति में से भाई का भाषा भाग भी लड़की को दे दिया जाय तो उसमें मुझे कोई आपत्ति नहीं होगी। हमारे यहां मुसलमान भाइयों में भी लड़की को भाई की सम्पत्ति का तिहाई भाग दिया जाता है। यदि हमारे मंत्री महोदय ऐसा कर दें तो मैं समझती

हूँ कि इस बिल को युनिवर्सल सपोर्ट (व्यापक सहमति) प्राप्त होगा और हमारा समस्त देश इसे स्वीकार कर लेगा, जैसा कि हमारे माननीय मंत्री जी की इच्छा भी है।

मैं समझती हूँ कि आज हमारे समाज में बड़े बड़े अन्याय हैं और वे अन्याय शरीर के ऊपर फोड़ों के समान हैं, परन्तु मैं यह नहीं समझती कि उन अन्यायों को दूर करने के लिये हम एक दम से नश्वर चला दें, क्योंकि इससे तो कठोरता और जुल्म होने लगेंगे। इसलिये यह ज्यादा अच्छा होगा कि अन्याय को ठीक करने के लिये उतना ही डोज (खुराक) दिया जाय जितना कि समाज हजम कर सके। कानून में हर समय सुधार हो सकते हैं। आज का जो हमारा हिन्दू समाज है वह काफी पिछड़ा हुआ है, अगर आप उसको एक दम से लिफ्ट लगा कर ऊपर उठाना चाहें तो वह चढ़ नहीं सकता। हल्के हल्के समझा कर उसको आप अपने विचारों का बनाइये। अगर आप ऐसा करेंगे तो वह अधिक ठीक होगा। फोड़ों को ठीक करने के लिये हमें सेंकने की जरूरत होती है, लेकिन अगर एक दम से सारे शरीर को हम उबलते हुए पानी में डाल दें तो वह उखल कर खड़ा हो जायेगा और कभी भी उबर जाने का नाम नहीं लेगा। अगर आप गुनगुने पानी के टब में शरीर को रखें, फिर उसके बाद उसमें गर्म पानी मिलाते चले जायें तो चाहे पानी में से भाप भी निकलने लगे, शरीर उसको सह लेगा और कभी उसके खिलाफ नहीं जायेगा। इसलिये मैं कहती हूँ कि आप सुधार तो बड़े से बड़े कर सकते हैं पर धीरे धीरे उनमें सफलता प्राप्त की जा सकती है। इस सम्बन्ध में इतना ही सुधार इस वक्त काफी है कि बहन को भाई के भाग का आधा मिले, आगे चल कर बराबर बराबर भाग भी हो सकता है। अगर आप इस तरह से करेंगे तो इसको सारा समाज मंजूर कर लेगा।

माननीय मंत्री महोदय ने अपने भाषण में यह भी कहा था कि इस विधेयक से मिताक्षरा नियम पर चलने वाला हमारा ज्वाइंट फैमिली सिस्टम (संयुक्त परिवार पद्धति) भी बना रहेगा और साथ ही बहनों को भाइयों के बराबर ही अधिकार माता पिता की सम्पत्ति में हो जायेगा। अब, इन कानूनी मड़कों व हथकंडों को तो मैं समझती नहीं हूँ और न ही उन पर विश्वास करती हूँ। मैं यह नहीं जानती हूँ कि बहनों को बराबर का अधिकार प्राप्त हो जायगा या नहीं, परन्तु वकीलों की जरूर इससे बन

## Bills and Resolutions

आयेगी और उनको लाभ होगा। हमारे माननीय मंत्री जी जो अधिकार लड़कियों को दे रहे हैं, उस का पूरा पूरा असर और जो उसका नुकसान होगा वह अनडिवाइडेड सन्स (अविभाजित बेटों) पर पड़ेगा क्योंकि उसने लड़कों को अपने पिता की सम्पत्ति का बटवारा कर लेने का पूरा पूरा प्रोत्साहन मिलता है। ऐसी सूरत में ज्वायंट फैमिली का बहुत दिनों तक कायम रह पाना मुझे असम्भव सा दिखाई देता है।

मैं माननीय मंत्री जी की इस बात से भी सहमत नहीं हूँ कि अब हिन्दू समाज में फैमिली समाज की इकाई नहीं रह गई है। अभी भी अधिकांश देशों में एक व्यक्ति समाज की इकाई या (unit) नहीं समझा जाता। आप संविधान में कुछ भी लिख दें परन्तु इस देश में आज भी ज्वायंट फैमिली के प्रति अधिक श्रद्धा और आकर्षण है आज उसी के पक्ष में जनता का सेंटिमेंट और फीलिंग है। यह नहीं है कि आज कोई यह समझता ही नहीं कि समाज के अन्दर फैमिली भी कोई चीज है।

इसके बाद एक और चीज है जिसके ऊपर मैं आपका ध्यान दिलाना चाहती हूँ और वह यह है कि यह कानून देहातों के खेतों पर और अन्य लैंड होल्डिंग्स (जोतों) पर लागू नहीं होगा।

**उपाध्यक्ष महोदय :** क्या माननीय सदस्या दो मिनट में खत्म कर सकेंगी ?

**श्रीमती शिवराजबती नेहरू :** जी हां, मैं खत्म कर दूंगी। मैं अपनी बात आज ही कह लेना चाहती हूँ क्योंकि मैं आज लखनऊ जा रही हूँ।

**उपाध्यक्ष महोदय :** अच्छा, आप दो मिनट में खत्म कर लीजिये।

**श्रीमती शिवराजबती नेहरू :** यह कानून देहातों के खेतों और लैंड होल्डिंग्स पर लागू नहीं होगा, परन्तु यह सभी जानते हैं कि हमारा देश एक ऋषि प्रधान देश है, उसकी अधिकतर जनता और जो परिवार हैं, वह खेतिहर हैं। मैं यह नहीं कहती कि उन पर यह लागू किया जाय, और न यह मेरा विचार ही है, परन्तु मेरा प्रश्न यह है कि जब हम देहात के खेतों पर और लैंड होल्डिंग्स पर इस कानून को लागू नहीं करना चाहते तो इस विधेयक से हम अपना कौन सा बड़ा लक्ष्य पूरा करने की इच्छा रखते हैं ? देश के जिन प्रान्तों में दायभाग

चलता है, वहाँ पर इस कानून की आवश्यकता नहीं है। जो मुसलमान हैं, जो ईसाई हैं, जो पारसी हैं, उनको इस कानून की आवश्यकता नहीं है। मुसलमानों में तो पहले से ही लड़की को जायदाद में हिस्सा दिया जाता है। देहातों में खेतों पर आप इस कानून को लागू नहीं करना चाहते। तो मैं पूछती हूँ कि खाली उत्तर भारत के शहरों को कुछ मुट्टी भर फैमिलीज के ऊपर यह कानून क्यों लागू किया जा रहा है। उपाध्यक्ष महोदय, यह कानून जो उत्तर भारत और मध्य भारत की जो फैमिलीज हैं उन्हीं के ऊपर ज्यादा तर आघात करेगा और यह भाई बहन में बजाय प्रेम भाव पैदा करने के उनके अन्दर एक कानूनी रिश्ता कायम करेगा। इस वास्ते मैं माननीय मंत्री जी से प्रार्थना करती हूँ कि यह विधेयक कोई अन्तिम वाक्य नहीं है। कानून में किसी समय भी फेरबदल किया जा सकता है। यदि वह इसमें इतना सुधार कर दें कि बराबरी के दावे को हटाकर बहन का भाग भाई के भाग का आधा कर दें तो यह विधेयक बिना किसी विरोध या आपत्ति के समस्त देश को सहस्र स्वीकार हो जायगा। इससे न परिवार छिन्न भिन्न होंगे, न बहन भाई के प्रेम भाव का नाता टूटेगा तथा वह लक्ष्य कि स्त्रियों को अधिक सिम्पोरिटी और स्टेटस मिले, वह भी इससे प्राप्त हो जायगा।

3 P.M.

## COMMITTEE ON PRIVATE MEMBERS' BILLS AND RESOLUTION

## FIFTY-FIRST REPORT

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

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

You have already said, Sir, that 2 hours and 29 minutes remain for Shri Gurupadaswamy's Resolution. Then comes the Resolution of Shri Bibhuti Mishra regarding ceiling on incomes of individuals. Four hours have been allotted for that. Only one minute will remain today and he will be on his legs. The other Resolution on the development of industries stands in the name of Shrimati Renu Chakravarty and two hours have been allotted for that. The next Resolution of Shri Keshavaingar for holding a session of Lok Sabha at Bangalore every year has been allotted two hours.