

Committee of the National Cadet Corps for a term of one year."

*The motion was adopted.*

**Mr. Speaker:** I have to inform Members that the following dates have been fixed for receiving nominations and withdrawal of candidatures, and for holding an election, if necessary, in connection with the Central Advisory Committee of the National Cadet Corps, namely:—

*Date for nomination:* 18th December, 1953 (Friday) (*Interruptions.*)

Members will be obliging the Chair by not talking so loudly.

*Date for withdrawal:* 19th December, 1953 (Saturday.)

*Date for election:* 23rd December, 1953 (Wednesday.)

The nominations for the Committee and the withdrawal of candidatures will be received in the Parliamentary Notice Office upto 4 P.M. on the dates mentioned for the purpose.

The election which will be conducted by means of the single transferable vote, will be held in Committee Room No. 62, First Floor, Parliament House between the hours 2-30 and 5 P.M.

**PRISONERS (ATTENDANCE IN COURTS) BILL**

**The Deputy Minister of Home Affairs (Shri Datar):** I beg to move for leave to introduce a Bill to provide for the attendance of prisoners in courts and for obtaining their evidence therein.

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

"That leave be granted to introduce a Bill to provide for the attendance of prisoners in courts and for obtaining their evidence therein."

*The motion was adopted.*

**Shri Datar:** I introduce the Bill.

**SPECIAL MARRIAGE BILL**

**Mr. Speaker:** The House will now proceed with the further consideration of the following motion moved by Shri C. C. Biswas on the 14th December, 1953, namely:—

"That this House concurs in the recommendation of the Council of States that the House do join in the Joint Committee of the Houses on the Bill to provide a special form of marriage in certain cases, and for the registration of such and certain other marriages and resolves that the following members of the House of the People be nominated to serve on the said Joint Committee namely Shri Hari Vinayak Pataskar, Shrimati Indira A. Maydeo, Shri Narhar Vishnu Gadgil, Pandit Balkrishna Sharma, Shri Nardeo Satak, Shri Ram Saran, Shri Muhammed Khuda Bukhsh, Shrimati Sushama Sen, Shri Awadeshwar Prasad Sinha, Dr. Hari Mohan, Shri Dodda Thimmaiah, Shri G. R. Damodaran, Shri C. P. Mathew, Shri T. N. Vishwanatha Reddy, Shri Tek Chand, Shrimati Subhadra Joshi, Shrimati B. Khongmen, Shri B. N. Mishra, Shri N. Somana, Shri Purnendu Sekhar Naskar, Shri B. Pocker Saheb, Her Highness Rajmata Kamalendu Mati Shah, Shrimati Sucheta Kripalani, Shrimati Renu Chakravarty, Dr. A. Krishnaswami, Shri M. R. Krishna, Shri B. Ramachandra Reddi, Shri P. N. Rajabhoj, Shri K. A. Damodara Menon, Shri Tridib Kumar Chaudhuri"

The House will also take up further consideration of the amendments moved by Dr. Lanka Sundaram, Shri Nemi Chandra Kasliwal and Shri S. V. Ramaswamy.

**Shri D. C. Sharma (Hoshiarpur):** Mr. Speaker, Sir, I said yesterday that

[Shri D. C. Sharma]

this is a very useful piece of legislation and that some sections of the House had been unduly alarmed by it. When one looks through this Bill, one comes to the conclusion that at best it is an enabling measure. It has no air of compulsion about it. It is permissive; it is not mandatory.

[MR. DEPUTY-SPEAKER in the Chair]

From that point of view, it does not interfere with any one's religion, with any one's customs, with any kind of ceremonies if a person wants to preserve them at all costs. Still it has been said that it goes against Hindu society and that it goes against so many other things.

Sir, an hon. Member yesterday gave a definition of a Hindu, and I felt very happy to listen to it. I felt that that definition would be applicable to any person professing any religion so long as he was a good man. That was the definition which was given. I think that that definition could apply to all persons of all creeds and castes and all denominations and I think that is the beauty of Hinduism. Hinduism is a catholic religion. It is an all-embracing religion. It is not an exclusive religion. When you have a religion which is all-inclusive, you imply that it would give you freedom of choice in many ways. I believe that in the matter of marriage, which affects almost every person in this world, this freedom of choice is something which is highly desirable. At the same time, I do not believe that this Bill goes against the injunctions of the Vedas and Sastras to which reference was made. I am not a Pandit in any sense of the term. But I believe that all scriptures of the Hindu religion enjoin on us one thing. Their message is one and that is that all human beings should be able to live happily in this world. Happiness is perhaps one of the biggest things aimed at by religion. I believe that this form of marriage will promote the happiness of many persons and there-

fore, one should not bring in Sastras in order to penalise those persons who want this kind of marriage.

I should say that this is a Bill which is an amendment of an old Bill. The world is moving and moving rather fast. The march of time is inexorable. I believe that if such a Bill could be passed in the world of 1872, there is no reason why this Bill should not be passed in 1953, to apply to Indians in other parts of the world also, so that people may not say that Hindu society has been a static society, that it has been stuck up, that it has not made progress, etc. There are new social strains and pressures visible in the society even in this matter. On account of these stresses and strains which are new, we require new measures. After all, there was an old measure. This is a measure which seeks to amend an old measure. I do not think that all the exaggerated alarms that were raised yesterday are justified in point of fact. What does this Bill say? This Bill says that there should be a contractual form of marriage. I do not know much about Sastras. But, I have some slight knowledge of Hindu history and Indian history. I can say that we had so many kinds of marriages. What was the kind of marriage that the revered Shri Ramachandra celebrated? It was one form of marriage, swayamvara, of which we know nothing these days. What was the kind of marriage that king Dusshyanta celebrated with Sakuntala? That was another kind of marriage. There are so many kinds of marriages enumerated in our sastras. All these marriages are there because our social circumstances needed them. I do not see any reason why this kind of contractual form of marriage which is a need brought about by the new social circumstances should be a taboo and should be frowned upon. Democracy means freedom of choice. We can choose in marriage anybody we like. I think this Bill gives us that freedom of choice. This is a

freedom which cannot be denied to men and women. It cannot be denied to persons when they receive high education, when they are brought up in a democratic atmosphere, and when they are taught that they should love freedom. If they can have political freedom and freedom in other spheres of life, I do not see why they should not have freedom in the choice of their partners. I think this is only an extension of the liberty which we have granted in so many spheres of life. I think this principle is already there. It is only being legalised here so that there may not be any untoward consequences. Under the old Bill of 1872, one had to forswear religion before he could marry under that Act. According to this Bill, one need not forswear religion. I think this Bill is a more wise document and one which is helpful to the preservation of our religion and consolidation of our religion. Therefore I think that those people who think that this is a blow aimed at our religious susceptibilities, are talking of something which is not here. This Bill is very good in that provision has been made so far as extra-territoriality is concerned. I believe that this will take us a long way in the direction of social reform which is very much needed.

At the same time, I would like to make a few suggestions for the consideration of the Law Minister. I think that a Bill should be brought dealing with foreign marriages. I do not say that it should be on the model of the Foreign Marriage Act in England or other countries. A Bill should be brought here to meet the need of the times. Those persons who suffer from certain kinds of diseases—in this we may take the advice of our health experts—should be prevented from contracting marriages and punished if there is a breach. The age of consent should be 21 years. I remember listening to a debate on the floor of the House when it was said that the age of consent should be raised. I think our social circumstances demand that it should be done.

I think that there should be no attempt made to disintegrate our joint family system. It is said that if a person is married under this Act, it will have the effect of severing him from the joint family.

3 P.M.

I think this should not be done because, when all is said and done, the joint family system has done a lot of good to our country, and we should not aim at anything which tries to undo it. At the same time, I should say that so far as the issues of these marriages are concerned, their religion should be determined by the father and if that is not possible, some other steps should be taken so that this matter is not left in doubt.

I should also suggest that the parents of those children who are married under this Act should not be allowed to adopt another child, because that will mean a kind of blow at the joint family.

So far as the prohibited area is concerned, I think this Bill has gone quite far, but I would suggest that so far as the prohibition within the limits of relationship is concerned, the question should be gone into very carefully and very thoroughly. It is no use bringing in legislation on that point which does not have validity according to our religious and customary sanctions and also scientific sanctions.

These are the suggestions I wish to bring to the notice of the Law Minister. I hope I will be able to give some more suggestions when the Bill is taken up for Clause by Clause consideration. I welcome this Bill, and I think most of the people in the country welcome this Bill which is a very progressive measure.

श्रीमती जया नेहरू (जिला सीतापुर व जिला खेरी—पश्चिम) : जनाब डिप्टी स्पीकर साहब, बहुत इन्तजार के बाद यह बिल हमारे सामने पेश प्राया है, मैं सरकार को इस

## [श्रीमती उमा नेहरू]

पर बधाई देती हूँ। लेकिन इस बिल को देखने के बाद हम कुछ सोच में पड़ गये हैं, क्योंकि इस बिल में जो चीजें हम चाहते थे वह नहीं बल्कि कहीं नहीं, कहीं पुरानी, अजीब तरह का बिल बन कर कुछ खिचड़ी सा यह मालूम देता है। लेकिन मैं समझती हूँ कि जो कमेटी इस बिल को देखने के वास्ते मुकर्रर हुई है, वह इस को देखेगी और इसको दुस्त करेगी। इस में कई कमियाँ दिखाई देती हैं। जब इस बिल को पढ़ें तो इस के अन्दर एक तरफ तो शादी रजिस्ट्रेशन की दिखाई देती है और दूसरी तरफ वह शादी भी है जैसी कि अभी होती है। मैं समझती हूँ कि इसके अन्दर जो शादी की रस्में बताई गई हैं उस में जहाँ १८ क्लाज से २३ क्लाज तक का हिस्सा है, उस को बहुत गौर से पढ़ने के बाद ऐसा मालूम होता है कि उस को इस में होना ही नहीं चाहिये था। १८ से २३ क्लाज तक को इस में से निकाल देना चाहिये। इस के ऊपर विचार करना है कि अगर रजिस्ट्रेशन से भी शादी होती है तो कोई भी व्यक्ति हिन्दू ज्वाइंट फ़ैमिली से अलग न होने पावे। मैं समझती हूँ कि इस पर विचार कर के जो सिलेक्ट कमेटी है वह इस को मंजूर करेगी।

स्पेशल मैरिज बिल पर कल से मैंने बराबर सब व्याख्यान सुने। मैं उन पर कोई वाद-विवाद नहीं करना चाहती, क्योंकि मैं जानती हूँ कि जो भी मेरे भाई यहां हैं, जिन को यह बिल मंजूर नहीं है, जिन के गले से यह बिल नहीं उतरता है, उन को मैं समझ सकती हूँ। जब नये स्थालात आते हैं तो पुरानी चीजें बड़ी मुश्किल से छूटती हैं। इसलिये उन के प्रति जरा भी मुझे गुस्सा नहीं आता। लेकिन असल में समाज को आगे जाना है समाज को तरक्की करनी है और कोई भी समाज तरक्की नहीं कर सकता अगर उस के आगे बढ़ने में कोई गुंजाइश न हो। इसलिये सब चीजें देख

कर हमारा फर्ज है कि समय के अनुसार हम इस को बदलें। इस बदलने के बारे में मैं इतना ही कहूंगी कि गो हमारे सामने यह आप का स्पेशल मैरिज बिल आया उस रोज डाउरी बिल आया, यह सब चीजें आईं, लेकिन हम देखते हैं कि जो असल में हमारे समाज की जड़ है, वह हमारे सामने नहीं आई है। हिन्दू कोड बिल आता तो यह सब मुसीबतें नहीं आतीं, सब चीजों के लिये मैदान साफ हो जाता और हम आगे बढ़ते। लेकिन कुछ नहीं होने से हम इसी पर अब आगे बढ़ रहे हैं।

जैसा, मैं ने अभी कहा, इस बिल के १८ से २३ तक के संकशन जो हैं इन को निकाल देना चाहिये। इन संकशन को रख कर हम अपने लोगों को एक तरह से पीनैलाइज कर रहे हैं। उन को हिन्दू फील्ड से अलग निकाल देना हमें अच्छा भी नहीं लगता है, क्योंकि इस से तो ऐसा मालूम पड़ता है कि जैसे ईसाइयों की तरह जिस रोज हमारे बच्चे ने विवाह किया, जिस रोज लड़के या लड़की शादी रजिस्ट्रेशन से करते हैं, तो उसी वक्त वह खानदान से अलग हो जाते हैं, उस में इनहेरिटेस नहीं होता। यह सारी चीजें हो जाती हैं, वह ज्वाइंट फ़ैमिली से अलग हो जाते हैं। इस को दुस्त करना बहुत जरूरी है। हम चाहते यह हैं कि ज्यादातर जो हमारी शादियाँ हों वे रजिस्ट्रेशन से हों। मैं आप को यह भी बता दू कि हम यह चाहते हैं कि समाज को दुस्त करने के लिये, समाज को जिन्दा रखने के लिये, जो भी हमारे यहां शादियाँ हों, जो भी पुरुषों की शादी हो, वह एक ही शादी हो, दूसरी शादी न होने पाये। अगर दूसरी शादी हो तो उस वक्त हो जब कि पहली स्त्री से कानूनी तरीके से अलग हों जाय। एक स्त्री के ऊपर दूसरी स्त्री का साना महा गुना और पाप होता है। मैं समझती हूँ कि इस

रजिस्ट्रेशन से हम जो बीमारी पुरुषों में है उस को बन्द कर देंगे ।

असल बात तो यह है कि इस बिल में जो भी कुछ तबदीली लान के लिये कोशिश की गई है उस से जो स्त्रियों की स्थिति है, उस में इन सब तबदीलियां होने के बाद भी जो स्थिति होगी, उस में, मैं समझती हूँ बहुत ही सुपरफीशियल तबदीली होगी । जो आज स्त्रियों की बेसिक स्थिति है वह वैसी ही है जो मनुजी के वक्त में थी । मैं यहां यह भी कहना चाहती हूँ कि मैं तो मनुजी की बहुत रैस्पेक्ट करती हूँ । मैं तो समझती हूँ कि अगर मनुजी आज जिन्दा होते तो हमारी समाज बिल्कुल दूसरे तरीके की होती ।

श्री गाडगोल (पूना मध्य) : वह इधर होते, अपोजीशन में नहीं होते ।

श्रीमती उमा नहकू : मैं समझती हूँ कि समाज की आज जो हालत है मनुजी उस के अपोजीशन में होते और वह भागे बड़े होते ।

मैं आप को यह भी बताना चाहती हूँ कि मेरे भाई कुछ मुझे बार बार बताते हैं कि हिन्दू धर्म में क्या है । वैदिक जमाने में क्या है । वैदिक जमाने का इतिहास तो बड़ा लम्बा चौड़ा है । लेकिन वैदिक जमाने के पहले स्त्री बिल्कुल आजाद थी, उतनी ही आजाद थी जितना कि मर्द आजाद होता है, स्त्री भी उसी तरीके से चलती थी जैसे मर्द चलता था, कोई भेद स्त्री और पुरुष की आजादी में नहीं था । लेकिन आप जानते हैं कि इस का इतिहास बड़ा दुःखदायी है । आप जानते हैं कि जिस वक्त यह प्राइवेट प्रापर्टी की चर्चा हुई, जब मनुष्य ने, प्राइवेट प्रापर्टी हासिल की, उसी वक्त से स्त्री भी नीचे गिरी । इसी कारण उस का गिरना इतना ज्यादा हुआ कि आज समाज में हासल

यह है कि स्त्री को कोई कहीं जगह नहीं किसी कानून में उसे जगह नहीं दिखाई देती है । कुछ लोग मुझ से कल से मिलने आये । वे मुझे समझाने लगे कि इस वक्त भी कितना अच्छा कानून है कि हिन्दू धर्म में स्त्री जब छोटी सी होती है, कन्या होती है, तो उस का रक्षक पिता होता है, जब वह बढ़ती है तो पति होता है और बुढ़ावस्था में उस का रक्षक पुत्र होता है । इस कदर स्त्री को हर चीज में हर अवस्था में महफूज रखा गया है । संग संग मेरे सामने धर्म का जिक्र यहां भी किया और बाहिर भी होता है । लेकिन मुझे तो इन धर्म के ठेकेदारों से यह कहना है कि यह जो धर्म के ठेकेदार हम को धर्म बताते हैं, इन का पहला धर्म यह है कि स्त्री को इन तमाम बन्धनों से आजाद करें । यही धर्म का मूल है ।

आज हम को वे लोग धर्म बतानाते हैं जिस में हम लोग जकड़े रहें, या और भी हम ज्यादा जकड़े जायें, खैर यह तो एक बहुत लम्बा चौड़ा इतिहास है । इस समय में और अधिक न कह कर इतना ही कहूंगी कि चूंकि यह बिल सिलैक्ट कमेटी के सुपुर्व किया जा रहा है, इसलिये मैं सिलैक्ट कमेटी के मੈम्बर्सों से कहूंगी और अपने ला मिनिस्टर साहब से कहूंगी कि इस बिल को बहुत ही सरल और सहज बिल बनाया जाय और इस बात का ध्यान रखा जाय कि यह बिल इतना मुश्किल न होवे जिस में भागे चल कर दिक्कतें पैदा हों और विवाह पद्धति में जमाने के अनुसार और समय को देखते हुए परिवर्तन करना है । इस बिल को एक प्रैक्टिकल, ईजी और साइंटिफिक बिल बनायें, ताकि भागे चल कर हमारे सामने कोई मुश्किलें अथवा दिक्कतें न आवें । बस मैं इतना ही कह कर अपना भाषण समाप्त करती हूँ ।

Mr. Deputy-Speaker: Let me make one suggestion. I find a number of

[Mr. Deputy-Speaker]

hon. Members are desirous of participating in this discussion. It has been the practice of this House that that hon. Member whose name is included in the list of Members of the Select Committee has not been allowed to participate in the discussion. The number of members of the Select Committee is so large that I am not able to find out, when many hon. Members stand up, who are members of the Select Committee and who are not. I therefore leave it to them not to try to catch my eye. Those who are members of the Select Committee may not stand up.

**Shri Gadgil:** May I say something, Sir? Even if the Member happens to be included in the Select Committee it is possible that he may have some good points on which it is necessary to know the reactions of the House. If you make a hard and fast rule—of course the House is competent to do that—it will not be conducive for the purposes of having a good and all-pervading discussion. I am, therefore, suggesting that in suitable cases exception may be made. I want to speak.

**Mr. Deputy-Speaker:** Suitable cases will always be borne in mind. But, whenever an hon. Member is a member of the Select Committee, he will, when he wants to address the House, kindly inform me that he is a member of the Select Committee, and say that notwithstanding that he wants to speak.

**Shri Gadgil:** That is what I have done.

**Mr. Deputy-Speaker:** Shrimati Maydeo.

**Shri S. S. More (Sholapur):** She is a member of the Select Committee, Sir.

**Mr. Deputy-Speaker:** Is she?

**Shrimati Maydeo (Poona South):** Mr. Deputy Speaker, Sir, although I am welcoming this tiny bit of legislation, which is part of the Hindu Code Bill, I am not satisfied because.....

**The Minister of Law and Minority Affairs (Shri Biswas):** It is not a part of the Hindu Code Bill at all.

**Shrimati Maydeo:** In the name of civil marriage, it was a part of the Hindu Code Bill. There is only a little change. There are some reforms made and because it is made applicable to all, it is little different. It was also included in the Hindu Code Bill in the name of civil marriage and so we were waiting for all the other sections, the Hindu Marriage, Divorce and Inheritance Bill and also on Succession. We would have welcomed them first. But, even otherwise, we are satisfied that at least a beginning has been made.

There are some clauses which are welcome to society; but there are many other clauses also which need changes and amendments. As there is not much time, I will confine myself only to a few. I would like to point out that in clause 7(2), the number of days has been changed from 14 to 30. But, I would like to say that where the consent of the parents of both the parties has already been obtained, the limit of 30 days should be changed to 14 days, because in many cases it is necessary that the marriage should be celebrated earlier. Therefore, when the consent of the parents has been obtained, there should not be this condition that 30 days should lapse after the notice is given.

Then there is clause 18 to which my hon. friend Mrs. Uma Nehru referred. I do not understand why the couple marrying under the Special Marriage Act should be treated as step-children and why they should be asked, by law, to sever from the joint family. As social workers who are very devoted to Harijan uplift, we, who are for social legislation, used to ask boys and girls to marry under the Special Marriage Act to get all the advantages of the law, so long as no monogamy law or divorce law was brought into our country. Many young boys and girls listened to me. Why should they be asked to sever themselves from the family? Even after their marriage,

they are as dear to us as they were before. Why should it be supposed as if they are dead to their parents. Why should the parents also be allowed to take another son in adoption as if the son who has married under the Special Marriage Act is dead to them? I do not understand why such a treatment should be given to couples marrying under the Special Marriage Act. They should be allowed all the facilities and they should be allowed to stay in their families and with their parents. One should not be asked to sever his connection with the family or even be debarred from the right of adoption. There is every possibility of a couple marrying under the Special Marriage Act not getting an issue at all. Why should they be debarred from adopting a child to satisfy their love for children? So, I think that these clauses 18 to 21 are not necessary at all, and they should be deleted.

One other point which I came across and with which I am surprised is in the schedule, page 8. When the notice is to be given, it is said that the bridegroom should say that he is unmarried, widower or divorcee and in the case of the bride, it is stated, that she should call herself a spinster. Why should she be treated so harshly under law? The meaning of the word 'spinster' is not very happy. That means an elderly woman who is unmarried. But then a bride can be a very pretty young girl of 18 years. Why should she call herself a spinster? I feel that this word 'spinster' should be changed into 'unmarried'.

There are many other clauses also which need changes, but I keep them for the Select Committee.

Thank you, Sir, for giving me an opportunity.

Mr. Deputy-Speaker: I will call only non-Select Committee members. Shri Raghbir Sahal.

Shri U. M. Trivedi (Chittor): Is the speaker always to be from the right side?

Mr. Deputy-Speaker: Anyhow, I have begun there and let it go that way.

Shri Raghbir Sahal (Etah Distt.—North East cum Budaun Distt.—East): I rise, Sir, to give my whole-hearted support to this Bill. I was rather amazed yesterday when two hon. Members of this House belonging to the Opposition Benches raised an alarm in violent speeches opposing the Bill. I thought if any outsider had heard those speeches, he might have come to the conclusion that perhaps a very novel, unique and unheard of principle was being introduced by the Indian Government in this legislation. There was nothing of that kind in this Bill. As has been pointed out by some hon. Members, this Bill is not a new Bill at all; it is only a re-hash of a Bill that was enacted in the year 1872, something like 81 years back, and since then, that piece of legislation is there on the statute book. The only point that can now arise in the consideration of the Bill is why, if a legislation of this kind existed since 1872, bring a new Bill. There is a sound and a very good reason for it. The reason is that since then, society has changed, times have changed, many new features have arisen and we have to take note of public opinion and all that, and therefore, some changes had to be made in the old Bill. This Bill has been placed now with certain changes here and there.

Sir, with your permission, I beg to point out that the most important changes that have been introduced in this Bill, as compared with the 1872 legislation, are—

(1) That this Bill is made applicable to all the citizens of India, irrespective of their religion;

(2) That it is made applicable to the citizens of India outside, or in other words, it will have extra-territorial jurisdiction;

(3) That the age limit for marriage has been fixed at 18; formerly, in the 1872 legislation, the age limit fixed for a girl was only 14; and

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(4) That this Bill provides for the legislation of those marriages also which had been performed either before or after the passing of the Bill under some other form or under some other law.

Now the question arises—does this Bill come into conflict with any of the notions of Hindu religion, and is it such that unnecessary fuss should be created in regard to the passage of the Bill? As pointed out by me, the 1872 legislation was passed and it has been in existence all this time. Never did public opinion demand the abrogation of that Act and it does not now behove any people in the country to raise a voice of protest against the Bill at all. Moreover, there is one point that is to be considered in this connection. Before bringing this Bill, it was perhaps necessary for the Government to have placed those figures before us as to how far the whole legislation of 1872 was availed of by the public. I may point out that I wrote a letter to the Director-General of Registration of Marriages in this connection and I wanted to elicit information as to how many marriages, since the passage of the 1872 Act, have been registered under that Act. I am sorry to say that no such information was forthcoming. That information would have given us some clue as to how far the 1872 legislation was popular in this country.

One very good feature of the Bill is that it is only a permissive Bill. There is nothing of a mandatory nature in it. It is not an obligatory Bill; it is not an obligatory legislation; anybody who likes to make use of the provisions of the Bill is at liberty to do so, and one who does not like it, is at liberty not to avail of it. There should be no occasion for the opposition of the Bill. The reason why I welcome the Bill is that it provides a simple method of marriage, a method which will be inexpensive. Only the other day, when the Dowry Bill introduced by our revered sister Shrimati Uma Nehru

in the House, was under consideration, the point was elaborated that the marriages of these days are very very expensive, and in that connection our hon. Law Minister pointed out that it was the intention of the Government to bring a Bill restricting expenses in marriages. I don't know when that Bill would be forthcoming but till then, the passage of this Bill will have a very salutary effect, because it provides a very simple and inexpensive form of marriage.

Having said this, I would like now to point out that there are certain defects also in the Bill. I hope the hon. Law Minister will take note of them because he is the man who will pilot the Bill through the Select Committee and, after it has emerged from the Select Committee, through both the Council of States and this House. For instance, Sir, in clause 4, the age limit has been fixed at 18 for those who enter into a marriage alliance under this provision. I wish to point out that these are days when notions and ideas have undergone a very great change. The limit of 18 years is not proper. To my mind, it appears that at least 21 should have been fixed both for the girl as well as for the boy.

**An Hon. Member:** A boy of 21 !

**Shri Raghur Sahai:** The second suggestion that I wish to make is that under the Bill, it is obligatory that whenever a boy and a girl intend to marry under the provisions of this Bill they have to give notice. There is no provision here with regard to giving information to the parents of the boy or the girl. If both of them happen to be in a foreign country—suppose a young boy has been sent from India and a young girl has also been sent from India, to carry on their education in England—and if they fall in love with each other and decide to marry.....

**Mr. Deputy-Speaker:** It is already late.

**Shri Raghur Sahai:** I will bring my remarks to a close very soon. I wish that in such cases the notice should go to the parents of the boy and the girl



in India, so that, if necessary, the parents could raise objection with regard to the age of the boy and the girl or with regard to the prohibited relationship or with regard to any other relevant matter. That has not been provided in this Bill.

Then, Sir, as has been pointed out by other learned friends, when a marriage has been performed under the provisions of this Bill, why these persons should be deprived of the right of adoption? Why should there be a severance of their connection from the joint family? These are also points that should be considered by the Joint Select Committee.

One other point that I wish to make is that in clause 14, it is provided that "any marriage solemnized, whether before or after the commencement of this Act other than a marriage solemnized under Special Marriage Act," may be registered "under this Part by a Marriage Officer in India." Sir, I for one, cannot understand the utility of this provision. It has been said in the 'notes on clauses' under this clause that it provides for the registration under this Act of marriages solemnized in other forms, so as to enable the parties thereto to avail themselves of the benefits of this Act. What are those benefits? One of them is that he would not have the right of adoption. The other is that he would sever his connection from the joint family. Now, Sir, I submit that this is no benefit at all, it is a positive loss, so to say. When a marriage has already taken place, who is going to get it registered again under this Bill for the sake of these two negative benefits—I cannot possibly understand. These are no positive benefits. These are positive losses. Therefore, it will be well on the part of the Select Committee to take these points into consideration.

**Shri N. C. Chatterjee (Hooghly):** Mr. Deputy-Speaker, Sir, the hon. lady Member from the communist bench said yesterday that she welcomes this

Bill because it is based on progress. Progress towards what, Sir? Progress towards uplift, progress towards cohesion, or progress towards social disintegration and dismemberment of the Hindu coparcenership? Is that a desirable consummation? You are setting at naught, Sir, the fundamental principle of Hindu marriage which is, that it is a sacrament. Its cardinal principle is that it is an indissoluble union. Are you not going to lay an axe at the very root, the very fundamental concept, of Indian marriage which has ruled our society for at least 5,000 years? Will that be a progress ahead, or are you merely imitating the western countries?

Sir, when I was a student in the University of London 30 years back, I used to go to the Courts in London, and I found that besides fashionable leaders like Sir John Simon, most of the lucrative practice was in the patents and trade-marks cases. The patents and trade-mark practitioners had the most paying practice. After I retired from the bench, when I went there in 1949, I found that the most lucrative practice was the divorce court practice. As a matter of fact, this will be a lawyer's paradise; as a lawyer, one should welcome this wonderful measure sponsored by the hon. Law Minister. He has done some good at least to this profession, to which he belongs. Are you not introducing all the filth, all the degradation, all the ignominy and all that goes with it, in introducing this kind of legislative measure? Will that be a desirable consummation? Why did you want independence? The lady Member said there are men who still cling to the medieval outlook of life; and that is they are opposing this Bill. Shri Aurobindo cannot be accused of having a medieval outlook of life. He was the greatest fighter from India's emancipation, and was one of the greatest prophets that this country has produced. He said India can best develop herself and serve humanity by being herself, and following the law of her own nature, her *swabhava* and *swadharma*. Are you, by passing this

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legislation, following India's *Swa-dharma*, India's tradition? Are you going to fulfil India's destiny according to India's tradition, according to India's norm? We must keep our own culture, our equilibrium, our spiritual poise, our *dharma*, that is, the essence of our being, our inborn nature, and we have to assimilate it and re-create our country, our Indian society, on its old, own moorings.

Sir, great writers and thinkers have said—Dr. Radhakrishnan, in his great lectures in the Oxford University has said—great civilizations have perished, but the civilization of India still lives. Assyria and Babylon have vanished; the great civilizations of Rome and Carthage are mere legends but India lives. Our civilization is still a dynamic force. Throughout millenium, millions and millions of people have cherished and lived for that civilization. Why do we live in that way? We live because we cherish and adhere to certain eternal truths. Those eternal truths are not to be lightly set aside. Are you not setting aside some of these cardinal truths? Are you not setting at naught some of the fundamental norms of life and society? I ask you to consider that. India lives, Hindu civilization lives, because you are rooted to certain traditions and norms and customs relating to marriage and adoption and succession. They should never be made a plaything of politics. Invaders came, Alexander came, Mohammed Gori came, Mahmud of Ghazni came, barbarians came: we have resisted or absorbed most of them, and we also assimilated some of them, but also at the same time, we taught them these eternal truths and they have adopted them, and they were very proud of them. What I am saying, Sir, is this: that if you discard those truths, if we discard those eternal principles, then you are really retarding progress and our self-development, that strange alchemy,—the self-development through which India has lived and by means

of which India has subdued and vanquished all her invaders, all her enemies.

Now, I submit, Sir, that before you make divorce cheap, before you open the floodgates of all those kinds of divorce litigation which disfigure other countries and other civilizations, we must pause and consider. This is the country of Sita, Savitri and Damayanti; in the sanctity and purity and chastity of our womanhood, India's soul has been dedicated.

**Shri Gadgil:** Is there anything about chastity in this Bill?

**Shri N. C. Chatterjee:** Mr. Gadgil seems to laugh at it. But I would ask him seriously to consider: are we going to ennoble womanhood by making divorce cheap, or are you going to discard the glory of our womanhood?

**Dr. N. B. Khare (Gwalior):** He wants freedom of cohabitation.

**Shri N. C. Chatterjee:** As a matter of fact,.....

**Mr. Deputy-Speaker:** As far as possible, words which are not quite decent need not be used in the House. No doubt such words may be justified by some other meaning, that two people can live together, but equally, the other meaning does not look so decent, and it is also capable of argument. I request that hon. Members may not use such words in their natural instinct to be humorous, and avoid such words.

**Shri N. C. Chatterjee:** Our concept, Sir, is one of indissoluble fellowship between man and woman, and marriage is not an end in itself. Will you snap that sacramental tie, reduce it to a contractual relationship and, more or less, a commercial bargain? I resent this remark of my hon. friend who said that she will have contract based on love. No, Sir. Go to the western countries. What has happened? There has been so much disruption and disintegration of family life, so much degradation by the so-called freedom, the loosening of the marital tie, loosening of family affection. What has

happened there is really the women-folk have not progressed, no progress in the real sense at all. It has been one of degradation. For man, it is different: to disrupt a family life and be divorced—that is one thing for a man who is absorbed in his work, in his occupation and in his vocation. But what about the woman? You completely disintegrate her life and consign her to a life of loneliness and misery, especially in a country like ours where ninety per cent. of the womenfolk are ignorant. You place them at the mercy of men.

What is the kind of legislation you are having. Sir, I am submitting that clause 14 is fundamentally an improper piece of legislation. It says:

"Any marriage solemnized, whether before or after the commencement of this Act, . . . may be registered under this Part by a Marriage Officer in India" if certain conditions are fulfilled.

What right has this Parliament, Sir, to play with the sacramental marriages, which were entered into, 20 years back, 30 years back or 40 years back. Men and women entered into a tie.

**Shri Gadgil:** It is not obligatory: it is permissible.

**Shri N. C. Chatterjee:** I know. But Mr. Gadgil ought to know that our women are illiterate and helpless. It will be very easy to get a consent and it will be very easy to keep them at the mercy of menfolk. You can easily get a registration; they do not realise the implication of it.

**Shri Gadgil:** The experience is the other way about.

**Shri N. C. Chatterjee:** It may be so in Maharashtra or elsewhere.....

**Shri S. S. More:** What is it in Bengal?

**Shri N. C. Chatterjee:** What I point out is this. Sir, is it right, is it fair, Sir, to millions of people who have entered into matrimonial relationship under Hindu law, knowing fully the implications thereof, having children,

governed under a peculiar system of succession, having rights and liabilities, etc.? Under Mitakshara immediately they are born they are members of a coparcenary. By virtue of their birth they have certain rights as coparceners. What right have you to say that under a retrospective piece of legislation, you will bring them within the ambit of this Act? You can legislate for fashionable ladies, or westernised women, or progressive ladies, if you like, and say men and women who do not want Hindu marriages under the sacramental law, under the Vedic law, under the Brahma form of marriage, can do whatever they like. But what right have you to say that marriages which were entered into two decades back, or thirty years back, will be brought within this law. I do not think, Sir, it is right. This kind of retroactive legislation, in spite of the paramountcy and sovereignty of Parliament, is most undesirable. You ought not to do it. We know you call it permissive. But it makes the flood-gates open and thereby you will encourage such marriages. It will not be right, Sir, on our part to play with sacramental marriages.

Throughout the millenium of Indian history what has happened? India has survived. India's civilization has survived: it has survived the cataclysm of politics; it has survived hundreds of invaders and conquerors, because we did not allow even princes, or legislatures, or any political party or even a Minister, however, influential he may be to play with our social system. Our law of marriage was kept intact. I do not say it never changed. It changed from time to time, because Hinduism is an organic growth. Therefore Hindu law developed from stage to stage. The law as it is administered today is not the same law as it was in the days of Manu. But, Sir, that was a gradual development, as a result of progressive social consciousness. Don't try to tamper with that.

If I may say so, Sir, codification is not always desirable. Napoleon did it in France, but when it was tried in Germany it led to terrible difficulties.

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As a matter of fact, the unification of Germany was to a large extent impeded by premature codification, premature imitation of other systems of law. That is a point to be seriously considered. Savigny pointed out the dangers of codification. Don't think codification is the *summum bonum*. You are not merely codifying. You are introducing certain provisions which disrupt coparceners, which disrupt sacramental marriages, which lead to the fragmentation of the cardinal principle of indissolubility of marriage. Is that a desirable consummation? Could you do it lightheartedly.

The hon. the Law Minister says it is not a part of the Hindu Code. But aren't you bringing in part of the Hindu Code by the side-door, in a camouflaged manner? Aren't you copying some portions of the Hindu Code in this Bill? I have been elected, Sir, to this House by a constituency where the main issue was the Hindu Code. The distinguished lady who opposed me was one of the biggest supporters of the Hindu Code. My election, Sir, is a repudiation by my constituency of this Bill. There are very few electoral contests where the issue came out so prominently.

**Shri V. G. Deshpande (Guna):** Our Law Minister was not elected at all!

**Shri N. C. Chatterjee:** He is a Member of the Council of States and is in an advantageous position that way. He has not to go through the test of facing the electorate.

Then again, look at clause 18. Under the garb of giving something to the women, or something to the progressive men, clause 18 has been drafted as follows:

"Effect of marriage on member of undivided family: The marriage solemnized under this Act of any member of an undivided family who professes the Hindu, Buddhist, Sikh or Jaina religion shall be deemed to effect his severance from such family."

**Shri S. S. More:** That clause ought to go.

**Shri Biswas:** This provision had been there since the Act of 1872.

**Shri N. C. Chatterjee:** Because it was in the Act of 1872 it must be in the Act of 1953! Therefore, what was there in the Code of Manu should be consistently here in the law of Mr. C. C. Biswas.

What are you doing here? What has marriage to do with coparcenary? If you are really sincere in going ahead, if you believe in progress, if you are champions of emancipation of women, why do you disrupt coparcenary? Sir, according to this Bill, if it is enacted, a Hindu can marry a Hindu, a Brahmin can marry a Brahmin, a Muslim can marry a Muslim, a Christian can marry a Christian.....

**Mr. Deputy-Speaker:** A Hindu can marry a Christian also.

**Shri N. C. Chatterjee:** Supposing a Hindu marries a Hindu, a Brahmin marries a Brahmin, what crime has he committed, whereby there should be disruption of coparcenary? You are throwing them immediately out.

**Shri Gadgil:** Break this nexus between religion and property.

**Shri N. C. Chatterjee:** What I am pointing out is this: this Bill is not well-conceived; it is ill-conceived. The real design is simply to destroy coparcenary, destroy sacramental marriages, destroy the Vedic conception of indissolubility of marriage.

Then under clause 20 no person who has his marriage solemnized under this Act shall have a right of adoption. Supposing a Hindu boy marries a Hindu girl. Then under this 'progressive' Bill why take away the right of adoption? What crime have they committed that you take away from them the inherent right of a Hindu.

Now you have also brought in the Divorce Act and there you say the old Act of 1869 shall apply. You are repealing the Act of 1872 and trying to

make it more progressive, but you are thinking of the Divorce Act of 1869.

**The Minister of Home Affairs and States (Dr. Katju):** Shall we say of 1953?

**Shri N. C. Chatterjee:** What I am pointing out is this. If you really want to fulfil the obligation which you took upon yourself by the Constitution, of having a proper civil code for all, produce that civil code: let us discuss it; let us see what it is. Let us analyse it and tackle it on its merits. Otherwise, do not go in this piecemeal fashion with so-called progressive measures, taking away coparcenary rights and disrupting the old Mitakshara family. It will lead to terrible difficulties. You know that hundreds and hundreds and thousands and thousands of firms and business concerns are run by Mitakshara coparceners. Assuming that anybody avails of this the result would be automatic disruption of those joint family businesses leading to the upsetting of the entire economic life of the nation. I do not think that is proper.

You know Mr. J. D. Mayne, the greatest authority on Hindu Law, has said it is an impossible task really to codify Hindu Law in a manner which will satisfy all sections. He said: I defy anybody to do it. Some attempt was made. It was not satisfactory. But what is more important is this. The growth of our common law of the Hindus was arrested under the British regime. The British Judges tried to be more conservative than Manu. They did not recognise customs and usages which came under the auspices of great commentators who reflected really the growing consciousness of the nation in different regional groups. That was stopped. In independent India that factor has gone. Our judges should not be living under that condition. They know Parasara, Manu and Yagnavalkya. They can recognise the customs. They know the people. They can see that the organic growth of Hindu law is not retarded and full play is allowed for the development of common law which is the reflex of the national will.

**Shri Gadgil:** Mr. Deputy-Speaker, as I listened to my friend Mr. Chatterjee I felt that whatever was said when the Abolition of Sati Act was passed, when the Removal of Caste Disabilities Act was passed, when the Widow Remarriage Act was passed, when the Child Marriage Restraint Act was passed and when the Hindu Marriage Act of 1949 was passed, the same line of argument even now was being adopted that the Hindu culture and Hindu civilisation are in danger.

**Shri S. S. More:** That shows their consistency.

**Shri V. G. Deshpande:** And your inconsistency.

**Shri Gadgil:** Well, consistency is the virtue of a wellknown animal. I need not refer to it. We are living, as has been well recognised by Mr. Chatterjee, in the year 1953 and we are living under a Constitution where certain principles are guaranteed to individuals, liberty of speech, liberty of association which in my opinion includes the right of every person to choose his or her partner as he or she desires. Marriage is a joint enterprise.

**Shri Syamnandan Sahaya (Muzaffarpur Central):** Limited concern.

**Shri Gadgil:** With us it is limited. I do not know what it is with you.

Marriage is a joint enterprise where the partners share their ambitions and achievements, their sorrows and joys and those delicacies which nature desires them to enjoy and not to express. Nor can we by any act permit this noble conception being sabotaged. I think we owe it to the Constitution and the principles guaranteed therein that there must be full freedom for marriage and it should not be restricted by all such restrictions as are contemplated in those sections to which a reference was made by Shrimati Uma Nehru as also by Mr. Chatterjee. If that freedom is to be full, then the nexus between religion and property must be broken. Why should a man be prevented from marrying a girl of his choice because certain consequences

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in the matter of inheritance or succession will follow?

**Shri V. G. Deshpande:** Why should you restrict?

**Dr. N. B. Khare:** For full freedom there should be no marriage.

**Shri Gadgil:** I am glad. If Dr. Khare who is ex-President of the Hindu Mahasabha thinks that there should be no institution of marriage, I think many will agree. But so far as I am able to see the well expressed sense and quite good sense of the House, everybody is agreed that there must be the institution of marriage.

**Shri V. G. Deshpande:** And restrictions also.

**Shri Gadgil:** Whatever restrictions we may like to impose must be reasonable restrictions and not restrictions that will prevent the expansion of the personality of this spouse or that spouse.

Sir, there is nothing in this which is against Hindu Law. My friend said that the Hindu society has survived. One of the fundamental principles of Hindu religion, according to him, is the conception of four *varnas*, *chatur varna*. The very fact that only one-fourth of the people can fight means that three-fourths are left out. Either we accept this as a matter of fundamental value or we do not accept it. All along the genius of Hindu law and *dharma* has been to provide good principles, enunciate them and provide for *apavada* or *apad dharma* so as to keep the *vyavahara* (व्यवहार) with the spirit of the times. Every age has a *smriti* of its own. There are those things which are really reasonable like the restrictions with respect to blood relationship, and there is nothing in this Bill which goes fundamentally against the spirit or the genius of Hindu *dharma*. I will, Sir, with your permission read the opinion of Justice Panchapakesa Ayyar. He has said:

"In the golden age the law of Manu; in the silver age the law of

Goutama; in the bronze age the law of Sankha and Likhita; and in the iron age the law of Parasara—shows this. I have known some orthodox leading Ayyars and Ayyangars object violently to their sons marrying Non-Hindu or European girls and boycotting the couples for some time and later on fondling the grand-children as if they were the progeny through Brahmin girls. Ultimately, blood tells, and views based on custom finally melt at the call of blood. Our secular state must progress. No one will be prepared in this atomic age to die for another unless he is capable of becoming a brother-in-law, and not always remain a "brother" citizen. Inter-marriageability may take time, but it will come when education becomes universal and culture becomes uniform. The questions of the religion and caste of the progeny of such mixed unions will solve themselves, as they did even in ancient India. The castes themselves may dissolve, and religion may become one of the heart instead of one of external ritual and name with the appropriate caste marks, horizontal, vertical, angular, triangular or circular as now. As the proposed marriage law is optional. I am for it, for time, the old gypsy, will not stay and put up his caravan even for one day. If we delay, hundreds of youngmen and women who love one another may have to live in adultery or fornication or illegitimate unions, and our sages always wanted to prevent it: hence their allowing unapproved marriages like *anuloma* unions and the *Rakshasa*, *paisacha*, *asura* and *Gandharva* marriages. Let us follow them, and the rule of live and let live!"

4 P.M.

Sir, there is nothing in this Bill which is against the genius of Hindu law. What this Bill does is merely to regularise what is happening plus removing certain impediments or certain

restrictions which one meets with in the provisions of the Special Marriage Act of 1872. Here under this Bill you can celebrate the marriage according to your own desires, according to any form you like, and the marriage officer will merely ask each party to say whether he or she accepts him or her as his or her lawful wife or husband. Beyond that nothing has been contemplated. What used to be the practice? The marriage would be registered under the provisions of the Special Marriage Act and the parties would come home and again have a sort of ritual, as was done in the case of my two daughters—I can speak with experience. That is not now necessary and from that point of view, it is a distinct mark of progress, a distinct progressive step.

Sir, when we have adopted an ideal of creating a casteless and a classless society in our Constitution, for one of the Directive Principles lays it down, surely then our objective having been firmly and finally defined, all those intermediate steps or programmes must be so taken that together and collectively they will have the effect of bringing that happy day much nearer. I want to ask my friend, Mr. Chatterjee, what exactly is there which is against Hindu Dharma. My regret is that it is permissive. The other day I had some discussion with my friend, the Law Minister, and I suggested to him that so far as the question of going through the form of special marriage was concerned, that was all right so far as it went. And as I said a few minutes ago, this nexus between religion and property must be broken; otherwise, the freedom that we have promised in this and in the Constitution can never be realised to the fullest possible extent. What I then suggested further was that every marriage whenever it had taken place—ten years, thirty years or forty years—should be registered not because it imposed this, that and the other; when the property provisions were removed, then it would satisfy the conscience of my friend, Shri Chatterjee. What is the purpose that I am pleading this

for? When we are having a planned economy, when we have to face the question of a terrible increase of population some thirty years hence—and the Census Commissioner has drawn a picture, a very dismal picture—we must in the matter of population also have some plan, and no plan can be evolved or worked up unless we have firm, correct—one hundred per cent. correct—data.

**Shri Syamnandan Sahaya:** Statistical marriage.

**Shri Gadgil:** All right. If we make the minimum age of marriage, say, 16, what will be the sociological consequences of that?

**Shri V. G. Deshpande:** 16 or 60?

**Shri Gadgil:** 16.

**Shri V. G. Deshpande:** I thought it was 60.

**Shri Gadgil:** Well, that is the Sanatanist conception.

The point is that we must have recorded facts, that a marriage has taken place at a particular time and that marriage now being registered for this purpose has, as a result of social consequences, so many children born, so many dead and so many living, so that we can in that relevant period of a man's and woman's life find out what would approximately be the births and hereby arrange an entire economic programme which we want to evolve. Otherwise, if we do not do it now, some years hence we will be faced with a situation which will be very difficult to get over and will be overwhelming.

Whenever there is any progressive measure, it is always the good peasants and the ignorant masses who are thrown at our face, by saying 'They do not want it'. I remember, Sir, in 1936 when my friend, Mr. B. Das moved his Bill to increase the marriageable age of girls, there was a huge opposition. We carried it through and when I went to Poona, all the Congress workers said: 'What have you done?

[Shri Gadgil]

There are the Local Boards' elections coming. We will lose, because everybody says that the Congress through Mr. Gadgil has done this, that and the other. What will happen? (*Interruption*). I said: 'Don't worry. I will go and meet them'. Mr. More knows it very well. I collected the peasants and asked them. I have been a pleader, not a very big pleader like my friend, Mr. Chatterjee.

**An Hon. Member:** He is an advocate.

**Shri Gadgil:** I found that out of 100 documents of mortgage or sale in the rural areas, about 90 per cent. contained this provision, that the money is borrowed for the purpose of observing the 'Shradh Divas' or for the purpose of daughter's marriage. I asked them: 'Look here. Don't you think that by raising marriage age from 13 to 14 or from 14 to 15, I have prevented your land being mortgaged for at least one year?' They said: "हाँ, कारु साहब, हे चांगला है।" They immediately understood the economic aspect of it, and the result was that out of 54 seats, the Congress won 48.

**Shri Syamnandan Sahaya:** What has Mr. More to say to that?

**Shri Gadgil:** He will agree with me. He was with us then.

The point is that because the people are ignorant and are not able to express, therefore, anything can be predicated as coming from them. My friend, Mr. Chatterjee.....

**Mr. Deputy-Speaker:** Does it mean that if no marriage is celebrated, then there will be no mortgage at all?

**Shri Gadgil:** No, no. The answer to your query is, Sir, that in the peasant's life these are the two important occasions when he has to run to the *sowcar*. I do not want to accuse Mr. Chatterjee by saying that his opposition originates from a desire to help the *sowcar*. I am not accusing him of that just now. But the point is

that he said that he has a mandate to oppose all social reforms.

**Shri V. G. Deshpande:** No, no.

**Shri Gadgil:** That was the specific issue so far as his election was concerned. I can with equal emphasis say that throughout in our province we openly said:

'The Hindu Code will be passed. If you want to help us, help. Otherwise, don't help'.

**Shri N. C. Chatterjee:** What happened in Allahabad?

**Shri V. G. Deshpande:** Pandit Nehru never said so.

**Shri Gadgil:** Therefore, it makes no political argument because one individual out of 500 was elected on this issue. There are dozens of us who have been elected on issues which we justify and in pursuance of these our support of this Bill is coming forth.

The point really is that there are other matters such as, what should be the religion of the children born of this sort of marriage. If we accept those provisions with respect to property, what should be the rights of children born before the registration or born of a wife who is already dead? These are the points which can be thoroughly gone into in the Select Committee. Similarly, there are certain points made by Women's Associations from Bombay and Sangli in which one of the grounds for objection should be 'suffering from venereal diseases, this that and the other'. (*Interruption*). And they also insist that before the marriage officer allows the parties to be married, each party must produce a medical certificate. That is a good suggestion.

**Shri Syamnandan Sahaya:** Only it would mean Rs. 16.

**Shri Gadgil:** It would increase the practice of Dr. Khare.

**Dr. N. B. Khare:** Oh, yes.

**Shri Gadgil:** It is a good suggestion. I think the Select Committee should certainly go into it.



**Dr. N. B. Khare:** Not only my practice, but Mrs. Gadgil's practice also.

**Shri Gadgil:** Unfortunately for me, she does not practice. The point is that in this Bill.....

**Mr. Deputy-Speaker:** Personal references, though interesting, may be avoided.

**Dr. N. B. Khare:** For all, Sir.

**Mr. Deputy-Speaker:** Mr. Gadgil did not anticipate that he would be given that.

**Shri Gadgil:** The point really is that there is nothing in this Bill which is against Hindu Dharma or the spirit of Hindu civilisation. It may be said with equal emphasis that it does not go far enough, as was said by Mrs. Nehru, that it is purely permissive, it is restrictive and it is a trifle in the background of present needs and expectations. Mr. Chatterjee wants that the whole Code should be brought. When the whole Code was brought before the House, they said: 'Oh, it is too much. Why not go bit by bit?' So, whatever you do, the line of opposition that one saw in 1837 when the Abolition of Sati Act was passed is still continuing here.

**Shri Syammandan Sahaya:** Sanatana Dharma.

**Shri Gadgil:** Fifty years hence when the institution of marriage will be abolished, if the Hindu Mahasabha survives, it will be the same.

**Shri V. G. Deshpande:** No, no. Sati Act will come.

**Shri Bhagwat Jha Azad** (Purnea cum Santal Parganas): All civilisations perished but the civilization of India lived.

डाक्टर राधाकृष्णन् के भाषण का यह उद्धरण इस सदन के सामने श्री एन० सी० चटर्जी ने रक्खा है, उन्होंने यह कहा है कि हिन्दुस्तान की सम्यता और संस्कृति आज तक

जीवित है और उन्होंने ने अन्य देशों का उदाहरण दे कर बतलाया कि उन की संस्कृति और सम्यता का आज कहीं नामो-निशान नहीं, वे मिट गयीं, मैं उन के इस उद्धरण से, उन की भाषा से और उन के इस विचार से सहमत हूँ, लेकिन मैं उन को बतलाना चाहता हूँ कि आज अगर हिन्दुस्तान की सम्यता और संस्कृति जीवित रह सकी है, तो वह उस कारण जीवित नहीं रह सकी है कि जो कारण श्री एन० सी० चटर्जी ने हमारे सामने रक्खा है, इस का कारण तो यह है कि हिन्दू संस्कृति इतनी महान और उदार है कि उस ने अपने कानून को इतना फ्लेक्सिबल और बढ़ा रक्खा जिस में समय समय पर आवश्यकतानुसार परिवर्तन होते रहे। उन्होंने ने यह भी बतलाया कि हिन्दुस्तान में पश्चिम के दरवाजों से शक, हूण, गोरी, राजनी और सिकन्दर आदि आये, मैं भी इस को मानता हूँ कि ये सारे के सारे यहां आये और चूँकि हिन्दू धर्म के दरवाजे बन्द नहीं थे और वह इतना महान और उदार था कि उस ने शक, हूण आदि विदेशियों को अपने में मिला लिया और आज वह जातियाँ कहीं देखने को भी नहीं मिलतीं और यह इसलिये संभव हो सका कि हिन्दू धर्म और हिन्दू संस्कृति ने आज तक अपने कानून को किसी सीमित दायरे में नहीं बांधा और चूँकि उस का क्षेत्र विशाल और उदार रहा, इसलिये समय समय पर जैसी जैसी परिस्थितियाँ आईं, उन के अनुसार हम ने अपने धर्म और कानून में सुधार किया।

कल हमारे एक मित्र श्री नन्दलाल शर्मा ने हिन्दू धर्म की परिभाषा की और जो परिभाषा उन्होंने ने हिन्दू की की, मैं उस से शत प्रति शत सहमत हूँ। मैं मानता हूँ कि हिन्दू वह है जो बहादुर है, हिन्दू अपने से सब बड़ों के प्रागे सिर नवाता है, और धर्म को मानता है, लेकिन मैं उन से पूछना चाहता

## [श्री भागवत झा आज़ाद]

हूँ कि आप के धर्म की परिभाषा क्या है। क्या आप के धर्म की परिभाषा यह है कि आप एक नवयुवक का एक नवयुवती से विवाह करा दें, और उस नवयुवती ने अपने पति की परछाई तक भी न देखी हो? आप माता पिता के अधिकारों के नाम पर बलपूर्वक उस अनजाने नवयुवक के साथ उस नवयुवती का विवाह करा दें और भले ही वह लड़की जन्म भर अपने कर्म को ठोकती रहे। आज भी देहातों में अनमेल विवाह होते हैं और बिना एक दूसरे को देखे हुए लड़के और लड़की को विवाह के बंधन में बांध दिया जाता है और इस का परिणाम यह होता है कि अक्सर लकी की जिन्दगी खराब हो जाती है और आज भी माता पिता के अधिकारों के नाम पर और हिन्दू संस्कृति के नाम पर एक नवयुवती का विवाह लाठी टेक कर चलने वाले वृद्ध के साथ कर दिया जाता है, अगर हिन्दू धर्म इसी को कहते हैं तो हम इसे दूर से नमस्कार करना चाहते हैं और मैं आप को बतलाऊँ कि इस कानून के अनुसार हम सिर्फ इतना करने जा रहे हैं कि एक स्त्री अपनी मरजी से अगर किसी पुरुष से विवाह करना चाहती हो या कोई पुरुष किसी स्त्री से शादी करना चाहता हो, तो वह मैरिज अफसर के सामने जा कर अपनी मैरिज को रजिस्टर करा सकते हैं। मैं नहीं समझता कि जैसे श्री एन० सी० चटर्जी ने कहा इस कानून द्वारा हम हिन्दू धर्म पर प्रहार कर रहे हैं। श्री नंद लाल शर्मा ने हिन्दू और हिन्दुत्व के नाम पर कल बहुत शोर मचाया, मैं भी उन्हीं के समान अपने को हिन्दू मानता हूँ और अपने हिन्दू होने पर और हिन्दु संस्कृति पर मुझे भी गर्व है, लेकिन इस का यह अर्थ तो नहीं हो जाता कि हम समय और परिस्थिति से आखें मूंद लें और आवश्यक सामाजिक सुधार न करें।

कल श्री वी० जी० देशपांडे ने पंडित जी के निर्वाचन क्षेत्र इलाहाबाद का जिक्र किया और कहा कि चुनाव के मौके पर पंडित जवाहरलाल नेहरू ने इलाहाबाद में यह कहा कि हिन्दू कोड बिल ईश्यू नहीं है, और शायद यह पार्लियामेंट में आयेगा ही नहीं और इसी का जिक्र करते हुए श्री नन्द लाल शर्मा ने कहा कि पंडित जी ने जब देखा कि जनता हिन्दू कोड बिल की इतनी विरोधी है, तब उन्हें यह शब्द लाचार हो कर कहने पड़े कि मुझे नहीं मालूम था कि जनता इस बिल के उतनी विरुद्ध है। मैं इस के लिये चुनौती देता हूँ अगर पंडित जी ने ऐसा कहा हो और मुझे तो याद है कि जब पंडित जी इलाहाबाद आये, तो उन के विरोधी उम्मीदवार श्री प्रभुदत्त ब्रह्मचारी जी ने यह आफर पंडित जी को दिया था कि : I will leave the contest if Panditji could give an assurance that he will not introduce the Hindu Code Bill. और पंडित जी ने उस का यह जवाब दिया था कि : All that I can assure him is that I will introduce the Hindu Code Bill. इस से साफ हो जाता है कि किस ईश्यू पर वहाँ चुनाव लड़ा गया था और उस चुनाव का जो परिणाम निकला, वह सब को ज्ञात है। आज हम पर यह आक्षेप लगाया जाता है कि हम बूट मैजिस्ट्री में होने के कारण जो चाहते हैं करा लेते हैं, लेकिन मैं अपने उन दोस्तों को चेता देना चाहता हूँ कि जो जाति और धर्म जमाने की रफ्तार के अनुसार अपने में सुधार और परिवर्तन नहीं करता है, वह जाति और धर्म भले ही अतीत में कितना महान् धर्म क्यों न रहा हो, उस का पतन अवश्य होगा और आज जो यह दलील दी जा रही है कि ऐसा कानून पास कर के हिन्दू धर्म और संस्कृति पर आघात किया जा रहा है, यह बिल्कुल

ग़लत और बेबुनियाद है। हमारे श्री एन० सी० चटर्जी और देशपांडे साहब ने कहा है कि धारा १४ के जरिये हिन्दू धर्म पर महान् आघात हो रहा है। धारा १४ में तो सिर्फ़ यह दिया है कि कोई शादी जो इस कानून के बनने के पहले या बाद में हुई हो, वह भी अगर चाहें तो अपनी शादी को मैरिज अफसर के पास जा कर इस कानून के अन्दर रजिस्टर करा सकते हैं। मैं समझता हूँ कि इस में कोई ऐसी बात नहीं है जिस का इतना विरोध किया जाय, अपनी शादी इस ऐक्ट के मातहत रजिस्टर कराने के लिये किसी पर जबरदस्ती नहीं है, यह उन की मरजी पर निर्भर करता है, यह तो एक परमिसिज लेजिस्लेशन है। और मैं समझता हूँ कि इस धारा पर आपत्ति करना उचित नहीं प्रतीत होता। इस में किसी के ऊपर जबरदस्ती नहीं है कि वह अपनी शादी को इसमें रजिस्टर अवश्य कराये, अगर उन की ऐसी इच्छा हो अथवा डाइवोर्स की जो इस में सुविधा है, उस का प्राचीन वह चाहते हों, तो वह अपनी मरजी से उस में अपने को रजिस्टर करा सकते हैं अथवा नहीं। मैं नहीं समझता कि इस धारा का क्यों विरोध किया जा रहा है, जब यह धारा किसी विवाह किये हुए दम्पती को इस के लिये मजबूर नहीं करती है कि वह इस ऐक्ट के मातहत अपनी शादी को रजिस्टर कराये और प्रोथ ले, वह कर भी सकते हैं और नहीं भी कर सकते हैं।

मैं समझता हूँ कि यद्यपि यह कानून सुधार के हेतु इस सदन के सामने लाया गया है, फिर भी मेरे विचार में यह कानून पूर्ण और पर्याप्त नहीं है और इस कानून में सन् १८७२ का जो स्पेशल मैरिज कानून था, उस की बहुत सी बुराइयाँ इस में बाकी रह गई हैं। उदाहरण के लिये मैं आप का ध्यान इस बिल की धारा १८ की ओर दिलाना चाहता हूँ जिस में यह दिया हुआ है कि इस तरह के

विवाह के उपरान्त उस शस्स का उस के परिवार से विच्छेद हो जायेगा, मैं समझता हूँ कि विच्छेद का प्रश्न आप परिवार के ऊपर ही छोड़ दें। अगर मेरा लड़का है और वह इस ऐक्ट के मातहत अपनी शादी करता है, तो उस को परिवार से अलग करने का मामला आप मुझ पर छोड़ दें कि मैं अगर चाहूँ तो उस को परिवार से अलग कर दूँ। एक तरफ तो आप उस को इस प्रकार से विवाह करने का अधिकार देते हैं और दूसरी तरफ आप उस का अधिकार छीनते हैं कि वह अपने परिवार से अलग हो जाये, उस का अपने परिवार से विच्छेद हो जाये, यह मेरी राय में उचित नहीं जंचता और इस धारा को इस विधान में नहीं रहना चाहिये था।

२०वीं धारा के अनुसार आप यह कहते हैं कि जो लोग इस ऐक्ट के अन्दर अपनी शादी करेंगे अथवा रजिस्टर करावेंगे, उनको गोद लेने का अधिकार नहीं होगा। मैं समझता हूँ कि इस प्रगतिशील विधेयक में यह सब से बड़ी अप्रगतिशील धारा है। आप क्यों किसी के गोद लेने के अधिकार को छीनते हैं? उदाहरण के लिये मैं किसी की लड़की से जो मेरा धर्म मानने वाली नहीं है, विवाह करता हूँ तो मुझे अगर कोई लड़का नहीं होता तो गोद लेने का मुझे अधिकार होना चाहिये कि मैं गोद ले सकूँ। आप उस लड़के के पिता को तो यह अधिकार देते हैं कि अगर उन के और कोई लड़का न हो, तो उस लड़के के माता या पिता को गोद लेने का अधिकार है, लेकिन उस लड़के को जिस ने इस कानून के अनुसार शादी की, एक तो आप उस को परिवार से अलग करते हैं और दूसरे उस को आप गोद लेने का अधिकार भी नहीं देते हैं, मैं समझता हूँ कि यह उचित नहीं है और इस प्रगतिशील विधेयक में यह जो १८, २०, २१ और २२ धारायें हैं, यह सारी अप्रगतिशील धारायें

[श्री भागवत झा आवाज]

हैं और इन के रहते इस विधेयक से आप कुछ भला करने के बजाय बुरा ही करेंगे। इस लिये मैं चाहता हूँ कि ये धारायें इस विधेयक में से निकाल दी जायें, इन में समुचित संशोधन हो, तभी यह विधेयक वास्तव में अच्छा और लाभकारी सिद्ध हो सकता है अन्यथा नहीं।

तलाक का जो इस में प्रावीजन किया गया है, वह में समझता हूँ कि ठीक है। आज पुरुष जाति जब पुरुषत्व के नाम पर और धर्म के नाम पर स्त्री मात्र पर अत्याचार करती है, तो स्त्री को इस दयनीय अवस्था से और अत्याचार से छटकारा पाने के लिये तलाक का अधिकार रहना चाहिये कि वह ऐसे अत्याचारी पुरुष को तलाक दे सके। मुझे वह समय स्मरण हो आता है जब सृष्टि के आदि काल में नारी शक्तिशालिनी थी और फिर धीरे धीरे किस तरह पुरुष ने अपने स्वार्थ हेतु स्त्री के हाथों में सोने की झूड़ियाँ पहनायीं, गले में जंजीर पहनाई, पैर में जंजीर डाली और कान में बुन्दे पहनाये, किस तरह धीरे धीरे उस को अपने पाश में; दासता के पाश में जकड़ता गया।

मैं बहुत जल्दी समाप्त करता हूँ। मैं समझता हूँ कि इस विधेयक की यह जो धारायें हैं, यह अच्छी नहीं हैं, इन्हें हटा देना चाहिये। इन शब्दों के साथ मैं इस विधेयक का समर्थन करता हूँ।

**Shri B. C. Das (Ganjam South):** Mr. Deputy-Speaker, Sir, I am afraid that our friends of the Hindu Maha Sabha and the Ram Rajya Parishad are engaged in a shadow fight. They are fighting the ghost of something that has no existence. They should have congratulated the Law Minister for retaining in the Bill those punitive provisions which nullify the tall claims made for the Bill. I am afraid that those friends of ours who talk of religion unfortunately do a distinct

disservice to religion. I am reminded of Tagore when he says: "Bigotry tries to keep truth safe in its hands with a grip that kills it." Our friends in the name of religion want to perpetuate injustice. By that they defame religion, they do positive disservice to religion. That is the point. Our friends of the Hindu Maha Sabha and the Ram Rajya Parishad are the persons who are discrediting religion today because they want to have a religion that will not be in keeping with the times. But my understanding of Hindu religion is that Hindu religion could grow, could survive and serve the needs of the times because it had adaptability. Our present weakness is lack of that adaptability. When we can adapt ourselves to changing conditions, we can improve, our religion can grow, our social customs can grow. Whatever is good for us we should cherish, but unfortunately, our friends want to cling to those obscurantist ideas which hinder our progress.

They should have been obliged to the Law Minister because the provisions in the Bill are such that no Hindu who wants to remain a Hindu will take advantage of this Bill. Let me go into certain of the provisions—those provisions which really will dissuade a person from taking advantage of this Bill.

We know according to the 1872 Act one had to declare that he had no faith in the Hindu, Muslim or Christian form of marriage. That declaration he had to make. But now, according to this Bill he need not make such a declaration, he need not renounce his religion, but all the rights that a Hindu can enjoy are denied to him. His rights are taken away from him by Part IV of the Bill. Just like our Constitution where we say that all people have the right to employment but that right is not enforceable in law, so also here we have the right to call ourselves Hindus, but if we take advantage of this Act, we forego some of the rights of Hindus.

First, there is Clause 18 which will force severance of the individual from the joint family. Whether you like it or not, whether your parents like it or not, you will be forced to sever from the family. That is there.

Then Clause 19 declares that such a person who will take advantage of this Bill will have no right to any religious service, religious office or management of any charitable trust. What does this mean? Does it not impose such restrictions on a person that he would be branded as an out-caste? He will cease to be a Hindu in practice. Then how can you say in the same breath that you are allowing Hindus to retain their religion and at the same time take advantage of this Act. It is blowing hot and cold in the same breath, giving the right with the one hand and taking it away with the other.

Then you have no right to adoption. You may not have children, but you cannot adopt a son. If you want "Shraddha" to be performed, it cannot be done because the law ordains that you cannot adopt a son.

Then Clause 21 says that if a person marries, his parents will have the right to adopt another son. Then, is he considered legally dead? Why this provision? Then you really do not want a Hindu to take advantage of this Act.

Unfortunately there is Clause 23 which deprives you of the personal laws of Hindu religion. How on earth, with these handicaps and hurdles can you call this Bill progressive? How can you say that this Bill enables Hindus to take advantage of it? I know this contractual marriage, this marriage by registration, is cheap and economical. It is a fact, but when one wants to adopt some economical way and save expenses in these difficult times, you impose such restrictions, you brand him as an outcaste, you segregate him from society, and that is the great drawback of this Bill. The Law Minister should have come forward

and said that we should live in 1872 even in the year 1953. In 1953, the provisions of 1872 are simply embodied in the Bill. He calls it a new Bill, a brand new Bill, but actually it is an Amending Bill, and 80 or 90 per cent. of the old Act is retained here. The mind of 1872 governs this Bill, and the draftsmen of this Bill.

This is the first bell. I want two minutes.

**Mr. Deputy-Speaker:** The first bell is the second bell.

**Shri B. C. Das:** And another thing I take serious exception to is the idea that the guardian's permission should be sought for the marriage. That shows the feudal conception of the draftsmen of this Bill. In feudal society, the head of a Hindu family was the arbiter of the destiny of all its members. Now, because a boy is below 21, he will be forced to take the permission of his guardian. We know what old people do. With their ideas of a dead past they want to govern the future of the children. I would not like Mr. Nanda Lal Sharma to govern the future of my children or the future of my country. People who live in the 18th or the 17th century have no right to determine the destiny of our children. They belong to the dead past. There they should remain.

I hope when the Select Committee goes into this Bill it will shear off all those objectionable features and modernise this Bill and present it to the House.

**Shri J. R. Mehta (Jodhpur):** Mr. Deputy-Speaker, Sir, a lot of feeling and controversy has arisen about this Bill in this House and in the country. It is difficult to eschew emotion and feeling in considering a measure of this sort, and yet I feel that it is up to this House to consider the matter dispassionately.

Let me submit, Sir, at the outset that in the world of today and also in the world of tomorrow wherein all barriers of intercourse and contact between nation and nation, born of

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distance, are fast dwindling away and when men and women of different nations are being brought into closer contact with each other in all the spheres of life, in arts, in sciences, in commerce and business, and even in war, the number of marital alliances between men and women of different nationalities or communities or races are bound, from the very nature of things, to increase, whether we will it or not. This is a fundamental point, Sir, which we should bear in mind in deciding our attitude towards this Bill.

Now, Sir, if we concede the inevitability of the increasing number of marriages of this nature, the question naturally arises—shall we refuse to recognise these marriages as valid marriages? The answer will have to be no, if only we consider what will be the effect of such a negative attitude on the progeny born of such alliances. By no canons of equity or social justice can we throw them into the streets as it were, carrying the stigma of illegitimate children, even though their parents might have maintained the highest standards of married life that any existing form of legal marriage might stipulate, with no status in life, with no right of inheritance and other rights which children born of legal wedlock could claim.

I would submit, Sir, that if we consider this Bill dispassionately, it is an improvement of the legislation of 1872 which already exists on the statute book and was enacted as early as 1872. Now, if we compare the provisions of the two measures, we shall definitely come to the conclusion that this Bill is an improvement on the Act of 1872 in so far as, according to this measure, one need not renounce his religion in order to contract the special form of marriage provided under this measure.

But, having conceded that to this extent, this measure is an improvement on the existing law, let us look to the other side and let us take into

account the objections which have been raised and which can be raised in respect of the provisions of this Bill. At this stage, I do not propose to take a very long time of this hon. House by going into the subject in detail, but, I will just try to enumerate in brief a few points for the consideration of the Select Committee, which, I am sure will bring its wise judgment to bear on it when they consider it.

In my humble opinion, Sir, this Bill is open to the following objections. Firstly, it is objectionable so far as it seeks to bring marriages already solemnised in other forms within the purview of this Act. I refer to section 14, Sir. This, in other words, tantamounts to allowing people to repudiate the duties and obligations they have already undertaken upon themselves. The very idea of repudiating one's duties and obligations, particularly when they have been undertaken solemnly, should be repugnant to all civilised canons of decency and public behaviour. I respectfully ask the hon. Members to consider, irrespective of party, how many of them who have solemnised marriages under the existing law would themselves like the idea of having their own marriages re-registered under this law. I would request them, if they were inclined to answer my question in the affirmative, to consult their worthy spouses before they can announce a decision.

Another objection, Sir, to which this Bill is open is that it provides for a compulsory severance from the family of the person who contracts a marriage under this Bill, in case he is a Hindu, Buddhist, Sikh or Jain in religion. As hon. Members must know, Sir, all sections of this House have failed to appreciate the wisdom of this clause. I submit, Sir, that this is a provision which makes an inroad on the Hindu personal law by the backdoor.

Similarly, Sir, the provisions of the Bill so far as they deny to the persons

whose marriages are solemnised under this Act the right of adoption or in so far as they allow the father of such a person to adopt another son, seem to be open to serious objections. Paradoxical as it may seem, these provisions as also the provision of section 18 are equally offensive to both the orthodox as well as the so-called reformist opinion. As hon. Members must have noticed, both these provisions have been opposed by both the orthodox and the reformist opinion.

**Mr. Deputy-Speaker:** The hon Member must finish soon.

**Shri J. R. Mehta:** I hope, Sir, the few observations that I have made will be taken due note of by the Select Committee when they bring their wise judgment to bear on the provisions of this Bill.

**Shri U. M. Trivedi:** Mr. Deputy-Speaker, Sir, so far as this measure goes, it is merely a picture of bad drafting and bad conception. In 1872, we had the Special Marriage Act and that Act has been in force for nearly 81 years now. Have we obtained any statistics to show that the purpose for which that Act was passed has been served or has it become infructuous, or a necessity so great has arisen as to change the law in the language in which it is desired to be changed.

**Shri Velayudhan** (Quilon *cum* Mavelikkara—Reserved—Sch. Castes): The Bill was circulated.

**Shri U. M. Trivedi:** It might have been circulated, but it does not matter. Please don't disturb.

The Bill has been brought before the House without proper thought. In 1872, when this Act was brought into force and when this question of prohibited degree was put down, we had before us a picture only of the British. Not necessarily the old debates, but the reports that are there bear this view that the conception was entirely British and that the conception was that of the Christians. Unfortunately, we have no law of incest in India. Why is this law of

incest absent? Because, we people live a particular mode of life where it is inconceivable to enter into marriages which can be called incestuous. The prohibited degree therein was only as it has been put down here in this Bill *viz.* that the two parties are said to be within the degrees of prohibited relationship if one is a lineal descendant of the other or was the wife or husband of a lineal ascendant or descendant of the other, or if the two are brother and sister, uncle and niece, aunt and nephew or the children of two brothers or of two sisters. Now, Sir, this is exactly what the law of incest says in England. There, if you enter into such a marriage, under the Punishment of Incest Act, a man and woman are equally liable to be punished to not less than 3 years' penal servitude and to a servitude not exceeding 7 years. We have not got such a law. We had a particular conception of incest and what was that? Under the Hindu law, we had this conception of not marrying up to 7 degrees on the paternal side and 5 degrees on the maternal side. That is covering the exact proposition of incest so far as we are concerned. Incest correctly defined is not what is conceived by certain people, but I will just give you the definition.

'Incest is illicit sexual relationship between persons within the degree of consanguinity excluded from such relationship by socially determined regulations.'

What are our socially determined regulations? They had put down 7 degrees on the paternal side and 5 degrees on the maternal side. It is at this you are hitting. Sir, I bring it to your notice that on the one hand—Kaka Sahib Gadgil is not here; he was waxing very eloquent on the question of freedom for marriages and in the enjoyment of freedom, everyone was to concentrate on marriages. Do you think by providing for more and more marriages we will be able to drive out all the potential enemies of our country? Is it the

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freedom of marriage that is the only freedom that we are to enjoy in this country? It was a very hollow argument and we must concede this point that wherever we have got such marriages which are performed in a sort of endogamous manner, that is to say, which are of the same type as are obtainable amongst the Semitic people, amongst the Arabic people, etc., they result in growth of fertility and it is such marriages which bring more and more children; it is such marriages which ruin our country and it is in the interest of the country to see that these things are looked into in this new law. If you want to enact this law, it is to look at it on this basis. Simply because some of us have come on the Jan Sangh ticket, some on the P.S.P. ticket, some from the Hindu Mahasabha, and so on, and speak on this Bill, some people have developed the idea that we are all out-moded persons, to whom every enactment means retrogression of a particular type or demoralisation of a particular type and to them it is not retrogression but progression if we follow everything that is British, everything that is Russian—it is such people who should mind their business first and should look into the Bill to find out whether the law that you are going to enact in this Parliament is a law of really progressive nature or whether it is merely a retrograde measure. Some people say "Why do you care for those who are going out of your society? You are not concerned with them." I say we are certainly concerned with them. Who will be the seceders? Our own children. Are we not going to be careful about them? For the benefit of whom, for the good of whom are they going? Is posterity going to come here and talk about itself or plead for them? It is surely our duty that we should at this stage raise our voice about what is going to happen to them.

Again you have provided in this law that those who are already married can again come and get their marriage legalised under this Bill. Why

is it? Is it not a mockery of the Hindu law of marriage. We are adopting a particular method of marriage; we are married already and we are in a married state. How many Hindu wives are there who are going to enter into this form of marriage again. In persuasion of her husband's orders or for any reason the lady may be forced to give her signature, but what would she know? Would she know why she is signing and what it means? She would not know for what particular reason the husband is getting her to sign. Difficulties of this kind would arise. Suppose a boy is obstinate and desires to have a particular mode of marriage and everybody objects to his getting married under the Hindu Law in that way. Then he enters into this form of marriage. He is immediately deprived of his paternity and his children are also deprived. It is not necessary that a truant's son is going to be a truant. A bad man's son may be a good boy. Why deprive the grandson of his right to the paternity? What sin has that boy done? Why do you want to leave away a boy like this? You have certainly not applied your mind to this Bill. You want to please those who are communists? You want to please also those who are communalists? Whom do you want to please by this Bill, you cannot make up your mind one way or the other? You cannot make up your mind as a firm legislator. What is required for a firm legislation is that you must first find out what are the principles, ordinary principles, in enacting a particular law. Whenever you are going to inflict a sort of punishment or have some sort of inhibitions imposed upon the subject, as wise legislators you must always find out whether or not there is a great clamour for providing such a law. Who has clamoured now? How many women's societies or associations have clamoured for it? How far did they represent? You will take down the list of the lady members who are members of these associations and you will see that they do not represent more than 11073 women in



the whole of India. Are we going to make a law and decide for them—17 crores of ladies are to be governed by these 11073?

**Mr. Deputy-Speaker:** How did the hon. Member calculate correct to the last digit?

**Kumari Annie Mascarene** (Trivandrum): He may have excluded most of us from this list.

**An Hon. Member:** Included.

**Shri U. M. Trivedi:** The objectionable practice should be productive not merely of evils, but of evils so great as to counterbalance the suffering, direct and indirect, which the infliction of any inhibition necessarily involves. That is one fundamental thing that must be looked into. "And even if an inhibition is found to satisfy intrinsic conditions of illegality, the law-giver should not prohibit it until he has ascertained to what extent it is reprobated by the current feelings of the community."

It is most desirable, Sir, to know from whom they have obtained these opinions. They have avoided sending out this Bill for opinion to those persons who may put objections. I do not want to criticise it. I do not know how very nicely it has been manoeuvred that only those whose views are very well known as in favour of the Bill, are the persons who are put down in the Select Committee. Similarly it must have been manoeuvred and the Bill must have been sent out to only such persons from whom only favourable opinion could be expected.

**Shri Syamnandan Sahaya:** Have the wives of the Members of Parliament been asked?

**Shri U. M. Trivedi:** No, Sir. Whether it is fair or not fair, the hon. Minister for Parliamentary Affairs knows all about it. We have got eminent lawyers here who can legislate nicely, who can give opinions nicely. Mr. More might have been put down in the Select Committee list, but I do not want to give names here,

because that would be individualising; all such persons have been avoided here. To those who go against the wishes of the Government, these Bills were not sent and their opinions were not asked for. This thing has happened in the case of this particular Bill. Why this divorce act business here? At one stroke what you have done is this—I do not know if the party has manoeuvred—you have brought in the problem of divorce. This Bill again speaks of a man being dragged in for bigamy. I am not for bigamy yet at the same time, I say that the time has not yet come for you to impose your own reformist views by legislation on the question of monogamy. Here is a penal provision. Under that penal provision, you can sentence a man to five years' rigorous imprisonment. You want to impose it by the back door. Without doing that in a proper manner through placing it before this House, you have introduced this by the back door. You should not do it and you should avoid it.

Then, Sir, you have a most insulting phrase in this Bill. How many Hindu women are there who would insult their menfolk or their husbands by addressing them in the second person singular? I haven't heard of this. That poor man is made to say, "I take thee to be my lawful wife," and the woman is made to say, "I take thee to be my lawful husband." Why should this be done? The whole conception of this Bill is wrong. You have not studied the culture of India, and you have not applied your mind at all to this particular proposition before you. I therefore say, Sir, that it is wrong. Some friends were eloquent, and my learned and hon. friend Mr. Jha has also talked about love affairs in his harangue, but it is most irrelevant. We are merely concerned with the law before us and to see how it is applied and what are the implications behind it. We have to study this. There is no great hurry about it. You can take it from me that it is true that some of you have been actuated

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by reformist feelings—the reformist feelings are always there. Men like Kaka Sahib Gadgil however are always calculative and every problem to them is in rupees, annas and pies. They say, rupees, annas and pies, and nothing else.

**Mr. Deputy-Speaker:** The expression “thee” is used before marriage.

**Some Hon. Members:** After marriage?

**Mr. Deputy-Speaker:** After marriage, “Thou.”

**Shri U. M. Trivedi:** One friend said that we stand in the way of love marriages. What have love marriages got to do with this Special Marriage Bill? We have 500 Members here. Out of them, 480 are Hindus. How many of them are prepared to say that their marriages are not good marriages, and that they are not very happy, that because their marriages had not been by love but were settled by their parents, they are not happy? Who amongst us here can come and say like that? I say we are very happy with the way in which we are carrying on and the way in which we were married. On the contrary, these love marriages of America and Britain end in a clamour for divorce, because I say, they are not proper marriages.

**An Hon. Member:** Are you married or not?

**Shri U. M. Trivedi:** I am married, and happily too.

Therefore, Sir, before we pass this measure, all these factors should be taken into consideration and we should put off this Bill as long as we can.

**The Minister of Parliamentary Affairs (Shri Satya Narayan Sinha):** I beg to move:

“That the question be now put.”

**Shri V. G. Deshpande:** Mr. Deputy-Speaker, Sir, before we send up this resolution after concurrence....

**An Hon. Member:** Hindi, Hindi.

**श्री बी० जी० देशपांडे :** यह जो सहमति के लिये प्रस्ताव रक्खा गया है, उसमें प्रवर समिति के लिये जिन सदस्यों के नाम दिये गये हैं उन की अनुमति नहीं ची गई थी। इतना ही नहीं कि जो ग्रुप लीडर्स थे उन से पूछा नहीं गया बल्कि उन्होंने ने जिन नामों की सिफारिश की थी उसके विरुद्ध दूसरे नाम दिये गये हैं। मैं समझता हूँ कि यह प्रोसीजर नहीं कायम किया जा सकता है।

**Mr. Deputy-Speaker:** It does not arise.

**Shri Raghavachari (Penukonda):** Sir, a point of order. The Business Advisory Committee had approved that two and a half days or three days should be taken for this Bill. The matter was brought before this House and the whole House was told that those days are scheduled for this Bill. Now, all of a sudden, a closure motion is applied, when many people still wish to express their views on the matter.

**Shri M. S. Gurupadaswamy (Mysore):** Especially when our party has not been called.

**Mr. Deputy-Speaker:** I am informed that the Business Advisory Committee originally fixed two days for this matter and thought that the entire matter will be discussed here, the opinion of the House taken, and the views of this House communicated to the other House. That opinion will be conclusive even after it returns, there would be no further discussion on the consideration. That was the original intention, and under that impression that time was fixed. Now, the casual opinion of the hon. Members here is that this House is not bound by what happens. Once again, after it comes back, if it is a new Bill sent by that House, the whole consideration will take place, and once again all hon. Members can take part in it. That is the change that has been effected. If they do not want to go behind it, we can only sit for two more hours, and even then according to the Business

Advisory Committee, we have to conclude the discussion today at 6-30. Under the altered circumstances, I leave it now to the House—whether they want to continue, till 6-30, with this Bill.

**Shri N. C. Chatterjee:** I am afraid you have been misinformed. I was a member of that Committee and we discussed this matter on the footing that there will be no commitment as a result of the discussion. On that basis, Sir, we arrived at that time-table: one day for procedure, and the rest for discussion on the merits, knowing full well that there would not be a decisive vote on that basis. On that basis, we fixed the time. I appeal to you to give us a little more time so that the other hon. Members may have a chance to speak.

**Shri Satya Narayan Sinha:** I do not think that the recommendations of the Business Advisory Committee in the case of other Bills were strictly followed. In all cases of legislation, the House has always exceeded the time-limit. For instance the Business Advisory Committee decided that these four Bills, namely, the Manipur Court Fees Bill, the Telegraph Wires (Unlawful Possessions) Amendment Bill, the Indian Patents and Designs (Amendment) Bill and the Reserve Bank Bill, which were brought the other day, should be put through within two hours, but we have taken two days for those four Bills. In fact, the House took two days—more than two days—for those four Bills. So, I might say, with all respect, that whenever it suits some hon. Members, the Business Advisory Committee's recommendations are brought in, and not otherwise. The Committee's recommendation should be followed strictly in all cases. I would have certainly raised this point, even otherwise, apart from the point, you have made, regarding the discussion of the principles of the Bill when it comes back from the Joint Committee.

**Shrimati Renu Chakravarty (Basirhat):** Mr. Sinha was saying that four

Bills were discussed. Now, we have been given two extra Bills which were not there when we discussed this Bill at the Committee. I would like to have a categorical assurance from him that he is not going to change the time-table, as far as the Preventive Detention Act is concerned.

**Shri Satya Narayan Sinha:** The Prime Minister has made the point very clear. We want this closure to be applied now to this discussion, because we want to give more time for the Preventive Detention Act. Of course it is open to the House to decide on this. If the House does not accept the closure but wants to discuss it the whole day, we may not have sufficient time for the Preventive Detention Act. We have to adjourn by the 24th. We cannot find time more than one full day for the Preventive Detention Act. That matter must be made clear to the House. We have no objection to continue the whole thing till 6-30, but in that case, there is every likelihood of the House not getting more time for the Preventive Detention Act.

**Shrimati Renu Chakravarty:** How can you bring in new Bills now? Instead of keeping to the time-table, you have brought in two other Bills.

**Shri Satya Narayan Sinha:** I hope the hon. Member will realize that this is so important: 80 or 90 Members are going to be unseated.

**Shri V. G. Deshpande:** That is not for the Congress only: there are other Members also.

**Shri Satya Narayan Sinha:** These are unforeseen things. We never could foresee that this contingency would arise. It is because of some judgment of the Supreme Court that we have to bring that here.

**Dr. Rama Rao (Kakinada):** The P.S.P. has not been given any chance.

**Shri M. S. Gurupadaswamy:** Again and again, it is so.

**Shri Radhesh Vyas (Ujjain):** It may be extended by half-an-hour.

**Mr. Deputy-Speaker:** I have listened to all the points that have been raised. Some hon. Members of the P. S. Party are on the Joint Committee: I will now put the question.

**Shri M. S. Gurupadaswamy:** We have not been given any chance.

**Shri Raghavachari rose—**

**Mr. Deputy-Speaker:** If I had been informed earlier, as the Members of the Communist Party had done and had given their names, it would have been well. The Independents also gave a particular name and I called them also. Just when I was thinking of applying the closure, a short time before this, Mr. Gurupadaswamy told me that his party has not been called. I request all the Members to be alert.

The question is:

"That the question be now put."

*The motion was adopted.*

5 P.M.

**Shri K. K. Basu** (Diamond Harbour): I understand there was a direction of the Business Advisory Committee....

**Mr. Deputy-Speaker:** All that has been said.

**Shri K. K. Basu:** But what is going to be done, let us know.

**Mr. Deputy-Speaker:** It is always open to the House to come to any conclusion it likes regarding the time table. The matter has been fully explained by the hon. Minister of Parliamentary Affairs and in view of the changed situation, the House has agreed to apply closure. The hon. Law Minister.

**Shri Biswas:** Sir, as a matter of fact when day before yesterday I moved this Motion, I had not had the chance of uttering a single word beyond moving it. Points of order sprang up on all sides and I was hushed into silence. But I am glad that the merits of the Bill have been

discussed on the floor of the House yesterday and today and most of the points which required clarification have been referred to by hon. Members in the course of the debate. I would, therefore, only stress one or two points which have possibly been overlooked by hon. members.

Sir, this Bill is a permissive measure; there is no compulsion that any Hindu or anyone following any other religion shall be bound to marry under this Act. If he marries under this Act, then certain consequences follow. What those consequences are have been set out in the Bill. In this respect, Sir, this Bill reproduces most of the provisions which you find in the Act of 1872. But the fundamental difference between the Act of 1872 and the present measure is this.

The Act of 1872, as we all know, was passed at the instance of followers of Brahma Samaj, founded by Raja Ram Mohan Roy. The point that was raised was whether the forms of marriage which they devised and which were different from the orthodox forms as laid down in the Hindu scriptures, could be regarded as valid marriages. They took the opinion of the then Advocate-General Mr. Cowie. Mr. Cowie gave the opinion that as the sanctity of custom could not be invoked in favour of this form of marriage which the Brahmos introduced, the marriage was invalid. That led to petitions to Government by members of this community. The result was the Act of 1872. The Government said: "Look here, if that be so, let the Bill be passed, but as you are objecting to follow the Hindu customs or Hindu law or Hindu religion, the parties to the marriage have to give a declaration that they are not Hindus. The scope of this was extended to other religions also, like the Sikhs, Jains, etc."

Things went on. But although there was provision in the Act for declarations and declarations were signed by the parties, in most other respects

they continued to follow Hindu observances. The declarations themselves in most cases were false. The matter, therefore, went up to the Privy Council. The Privy Council gave the opinion that departure from orthodox forms of Hinduism will not make a person a non-Hindu. Fortified with that, parties went on marrying under the Act, but claiming succession under the Hindu law.

In 1923 Sir Hari Singh Gour said: "What is this? You are perpetuating a law which forces people knowingly to make false declaration! They have got to say—we are not Hindus; we are not Muslims." What he did was to introduce an amendment by which the necessity of making such a declaration was done away with. In other words, people who belonged to these religions could marry under that Act. They had not to forswear their religion. They would adhere to their religion and still they would be entitled to marry. Of course, that was an optional measure: whether they should marry under the Act of 1872 or not, that was entirely for them to decide. But if they married under that Act certain consequences followed. The main consequences were, it was to be a monogamous marriage. If the man or woman had a spouse living they could not marry under this Act. If they married they would be subject to divorce—the law of divorce would apply. These fundamental changes were made in the Act of 1872 and things remained there.

Sir, the merit of this Bill is this. Some of my friends may call it a demerit, but I claim it to be a merit, because it gives effect to the Directive Principles of the Constitution. One of the Directive Principles is that we should aim at a uniform code. This I claim is the first step in that direction. We are now providing that it is not necessary that the parties to the marriage must both be Hindus or Muslims, or followers of the same religion. It should be possible, if this Act is passed, for any two persons, one a Hindu and another a Muslim, to marry. This represents

an advance upon the existing law and that is the main direction in which this measure differs from the existing law of 1872.

It has been asked: why not introduce an amending Bill, a short Bill amending certain sections of that Act? Government's main objective was to emphasise this fundamental change which they were making, and this could be achieved more by bringing forward an independent Bill. Certain other changes have also been introduced. Take for instance, the question of marriages celebrated outside India. Now, under this measure if both parties are Indian citizens, it should be possible for them to solemnize the marriage before a Consular or Ambassadorial officer. There are certain other respects also in which some changes have been made. One important change is this. It should be open to anyone who was married in any other form under their personal law to apply that that marriage may be registered under the provisions of this measure.

**Shrimati Sushama Sen (Bhagalpur South):** It is not compulsory.

**Shri Biswas:** It shall be open to him. I do not mean to say everyone will do it. Those who follow the lead of my hon. friend Mr. Chatterjee will not probably do it. So far as he is concerned, it is too late for him to try. But it will be open to persons of any religion whose marriage has been solemnised under some other law to apply for the registration of their marriage under this Act. If that is done, it will automatically attract the provisions of this Act. In other words rights of monogamy, divorce, etc., will be acquired by these persons.

**Shri V. G. Deshpande:** Will the Law Minister do it?

**Shri N. C. Chatterjee:** The Law Minister is a widower.

**Shri Biswas:** You can leave it to the Law Minister to find his chance. My friends need not be so anxious

[Shri Biswas]

about the Law Minister. He can take care of himself.

Then, Sir, while introducing these changes we have incorporated in this Bill all the other provisions of the existing Act of 1872. The main reason was this. That Act was passed in 1872. It is now 1953. Much water has flowed down the Ganges. That is why at an earlier stage I moved a motion for circulation. The object was to find the reactions of the public as regards the other provisions of the Act—in what respects the public want any change in the other provisions. That is why you find sections 18 and so on. If my hon. friends will refer to the statement of objects and reasons they will find it clearly stated which of the clauses are a reproduction of the existing law. It is made perfectly clear. It is not as if we are concealing or smuggling something without drawing attention to the fact. We have purposely incorporated the provisions of the existing Act in respect of many matters, the object being to test public reaction. And now the matter will go before the Joint Select Committee. It will be open to the Joint Select Committee to consider all these points which have been raised by hon. Members on the floor of this House. Similar questions had been raised on the floor of the other House. And there also I said that these are matters which could be easily thrashed out. Government is not committed so far as these other points are concerned.

**Shri Syamnandan Sahaya:** It is only committed to the point of divorce.

**Shri Biswas:** Committed to the general principles. But so far as details are concerned, for instance as regards the question whether in the case of Hindus marrying under this Act it will effect severance from the family, that is a question on which I had my own doubts.

**Shri N. C. Chatterjee:** What about the applicability of the Indian Succession Act?

**Shri Biswas:** As a matter of fact this was specifically referred to, survivorship, Succession Act—whether this will apply to Hindus or that will apply, and so on. We have to consider those questions. We are fully aware of them. But these are matters of detail. In order to serve as a basis of discussion in the Select Committee we have just reproduced in this Bill those provisions. We were actuated by the consideration that this Act has been in force for so many years. Statistics are not available and I did not try to collect statistics. But it does not matter. It was not necessary that we should show that there was a demand for a change by say, fifty per cent. of India's population. When the original Act of 1872 was passed it was at the instance of a few members of the Brahma Samaj—not that there was a general demand from the Hindu community.

There is another point to which I should like to refer. Some friends were under the impression that this Bill is aimed at Hindu religion or Hindu law. Well, when you come to deal with the Hindu Law of marriage and divorce, you may raise those objections. No doubt a Hindu can marry a Muslim or a Christian or anybody else under this Act. But it is not a Bill for regulating marriages between Hindus. That will come later. And then of course you can deliver your broadsides that this is against the spirit and letter of the Hindu religion. If I can satisfy you, well and good. If I cannot, of course you will carry your opposition. But that is not a question which we have to deal with in connection with this Bill.

This is a permissive measure which will apply to all communities. Sir, I shall not waste the time of the House by discussing the questions of detail which have been raised. I give this assurance that all these points will be fully considered in the Joint Select Committee. Sir, that is all that I have to say.

**Shri Mulchand Dube** (Farrukhabad Dist.—North): Sir, on a point of information. Suppose a member of a joint Hindu family is married under the Brahma form of marriage and later on the marriage is registered under this Act. May I know whether that registration by itself will result in the severance of the family or not?

**Mr. Deputy-Speaker:** Solemnising is necessary, not registration. He will look into the Act. Anyhow it is a question of interpretation which can be considered leisurely.

**Shri Raghavachari:** Sir, before you put the motion to vote may I make a submission? It was left to the House to decide about the irregularity or the unconstitutional way the joint select committee is asked to be formed; and there is also the principle of the Bill. There are these two things involved.

**Mr. Deputy-Speaker:** The principle of the Bill is not decided now.

**Shri Raghavachari:** So, it is the question of the constitutional position whether the Joint Select Committee can be accepted or not?

**Shri Satya Narayan Sinha:** That question has been decided.

**Mr. Deputy-Speaker:** The Resolution. So far as that matter is concerned, I am not putting the constitutional aspect apart from any other. This has been made clear. There is no commitment of this House. This resolution is a resolution placed before the House asking this House to send some Members—to associate them with the deliberations of the Joint Select Committee. But that does not involve any commitment of this House so far as the principle of the Bill is concerned. With respect to all the others, legality, illegality etc., they are covered by this.

**Shri Raghavachari:** So it is only the legality or illegality of this resolution that is covered now?

**Mr. Deputy-Speaker:** He is putting it the other way. I am saying that so far as the principle of the Bill is

concerned the House is not committed, but whatever else there is covered. He wants me to say that it is only the legality that is put before the House and the rest are open. I am not going to adopt that course. I will only put the motion before the House. I will first take up the amendment of Dr. Lanka Sundaram.

**Shri Raghavachari rose—**

**Mr. Deputy-Speaker:** I have heard. That is my ruling. This House is not committed to the principle of the Bill.

**Shri Raghavachari:** With your permission may I say this, Sir? My point was, if this House is not committed to the principle of the Bill and if the matter of legality was discussed over a number of hours, then on the question of legality Members must be free to oppose, apart from the question of the principles involved in the Bill.

**Mr. Deputy-Speaker:** If this is accepted, legality goes to the wall!

**Dr. Lanka Sundaram** (Visakhapatnam): Our anxiety to declare that our vote, whatever it is, has nothing to do with the merits of the Bill.

**Mr. Deputy-Speaker:** This House is not committed to the principle of the Bill. It is open to it to reconsider the question of the principle of the Bill when the motion for consideration comes up. It can throw out the motion and say that the House is not agreeable to the principles of the Bill or to its being enacted into law.

**Shri N. C. Chatterjee:** Without prejudice.

**Mr. Deputy-Speaker:** So, I shall now put the amendments to the vote of the House before I put the motion itself. The first is Dr. Lanka Sundaram's amendment.

**Dr. Lanka Sundaram:** Sir, in the light of the statement of the Prime Minister I beg leave of the House to withdraw my amendment.

*The amendment was, by leave,  
withdrawn.*

**Mr. Deputy-Speaker:** Shri Kasliwal.

**Shri Kasliwal (Kotah-Jhalawar):** Sir, I beg leave of the House to withdraw my amendment.

*The amendment was, by leave, withdrawn.*

**Shri S. V. Ramaswamy (Salem):** I beg leave of the House to withdraw my amendment.

*The amendment was, by leave, withdrawn.*

**Mr. Deputy-Speaker:** Now I will put the original motion to the vote of the House. The question is ....

**Dr. Lanka Sundaram:** But objection has been taken to the names put in there. The first is that the consent has not been taken, and secondly the names suggested by the parties have not been put in.

**Mr. Deputy-Speaker:** I will put the name objected to separately.

**Shri M. S. Gurupadaswamy:** Sir, the whole procedure is wrong. No party has been consulted.

**Mr. Deputy-Speaker:** Does it mean that anybody's name has been included without taking his consent?

**Shri V. G. Deshpande:** That is exactly what we are saying, Sir.

**Shri N. C. Chatterjee:** As a matter of fact certain names were forwarded by the party. They have been excluded and others have been put in.

**Shrimati Renu Chakravartty:** Sir, this is a fact that the names were proposed without asking the leader of our party. It is only this morning we were asked whether we were going to boycott it or we shall remain. It is a very improper procedure.

**Mr. Deputy-Speaker:** There are two courses open to the House. It is not left only to one party to do anything it likes, to accept or not to accept.

**Shrimati Renu Chakravartty:** That is not the point.

**Shri H. N. Mukerjee (Calcutta North-East):** The point seems to be ....

**Mr. Deputy-Speaker:** I shall now call upon any hon. Member who has not given his consent this morning or till sometime before this. If no consent has been taken, I score out that name.

**Shrimati Renu Chakravartty:** That is not the point at all.

**Shri H. N. Mukerjee:** The point which, to my mind, is relevant in this connection is this. Members of our Party, for instance, are very willing to serve on the Select Committee when the House is pleased to refer the matter to a Select Committee. But there are certain procedural proprieties which are observed by the Government, which is the sponsor of this Bill, before the names of Members of our Party, or any other party for that matter, are included. On this occasion, what happened is that the Government did not consult any representative of our Party before including certain names and after having put those names in the Order Paper of the day, Government asked us on the telephone this morning 'Are you boycotting our Committee?' This has put us in an embarrassing situation for no tenable reason. We are very willing to assist as far as the Bill is concerned, but we do not like this kind of procedural activity on the part of the Minister for Parliamentary Affairs who is in charge of finding out names. This is our point and we do not wish, Sir, to be driven to the extremity of having to refuse our help to the Select Committee. We do not wish to refuse, but we want to register our protest against the way in which these names have been suggested and we wish the Minister for Parliamentary Affairs particularly to give us an assurance that he will always consult the parties concerned before he puts in, if he chooses, the names of any Members of such parties in any proposed Select Committees.



**Shri Ramachandra Reddi (Nellore):** Certain conventions have been set up and followed in this House and heads of parties have been asked to give names of Members who are likely or willing to serve on certain Select Committees...

**Dr. Lanka Sundaram:** And those names alone are accepted.

**Shri Ramachandra Reddi:** Unfortunately, this time that convention has been abrogated and names which had been given had been omitted and names of such persons whose consent had not been taken, had been included on this Committee. It is, therefore, very necessary that the matter should be revised again and the hon. Minister in charge of the Bill might revise the list of the Select Committee Members, so that the names of Members of all the parties whose consent has been taken may be there on the Committee.

**Shri M. S. Gurupadaswamy:** I want to remind the Minister for Parliamentary Affairs....(*Interruption*) that I wrote a letter to him some days back regarding this matter that he was not consulting us...

**An Hon. Member:** What is the point here? .

**Shri M. S. Gurupadaswamy:** ... and asking why he was putting the names of some Members of our party in Select Committees before consulting us? He wrote back and assured me that hereafter such things would not be allowed to take place. Here the names of some Members of our party have been put and they have been asked to serve on the Committee. Of course, we do not decline to serve, but the procedure is entirely wrong. It is not befitting the Minister...

**Shrimati Renu Chakravartty:** The procedure.

**Shri M. S. Gurupadaswamy:** ... and it is a disrespect shown to our party. This should not have been done and I think hereafter such procedure should not be allowed.

**Shri N. C. Chatterjee:** It should be rectified.

**Shri Satya Narayan Sinha:** May I say, Sir, that in this matter some mistake was committed. I think I ought to have consulted the leaders of the Parties concerned. But I can give an assurance here and now if it can be accepted, that in future this procedure will not be repeated.

**Shri K. K. Basu:** Not to be violated.

**Shri Satya Narayan Sinha:** The leaders of the Parties will be consulted.

I suggest even today that if any Party wants to make any change in the names of their Members, that may be made, within the number allotted to that Party. To that we will have absolutely no objection.

**Shri V. P. Nayar (Chirayinkil):** The names are all there now....

**Mr. Deputy-Speaker:** What the Minister for Parliamentary Affairs says is that if any Party wants to make a change and substitute another hon. Member, he has no objection.

**Shri Satya Narayan Sinha:** They can change.

**Mr. Deputy-Speaker:** Now it appears to me that there is no desire to change.

The question is:

"That this House concurs in the recommendation of the Council of States that the House do join in the Joint Committee of the Houses on the Bill to provide a special form of marriage in certain cases, and for the registration of such and certain other marriages and resolves that the following Members of the House of the People be nominated to serve on the said Joint Committee, namely Shri Hari Vinayak Pataskar, Shrimati Indira A. Maydeo, Shri Narhar Vishnu Gadgil, Pandit Balkrishna Sharma, Shri Nardeo Sataak, Shri Ram Saran, Shri"

[Mr. Deputy-Speaker]

Muhammed Khuda Bukhsh, Shrimati Sushama Sen, Shri Awadeshwar Prasad Sinha, Dr. Hari Mohan, Shri Dodda Thimmalah, Shri G. R. Damodaran, Shri C. P. Mathew, Shri T. N. Vishwanatha Reddy, Shri Tek Chand, Shrimati Subhadra Joshi, Shrimati B. Khongmen, Shri B. N. Mishra, Shri N. Somana, Shri Purnendu Sekhar Naskar, Shri B. Pocker

Saheb, Her Highness Rajmata Kamlendu Mati Shah, Shrimati Sucheta Kripalani, Shrimati Renu Chakravartty, Dr. A. Krishnaswami, Shri M. R. Krishna, Shri B. Ramachandra Reddi, Shri P. N. Rajabhoj, Shri K. A. Damodara Menon and Shri Tridib Kumar Chaudhuri."

The House divided: Ayes, 181; Noes, 27.

## Division No. 4 ]

## AYES

[5-25 P. M.]

Achal Singh, Seth  
Achuthan, Shri  
Agarwal, Shri S. N.  
Agarwal, Shri M. L.  
Akarpuri, Sardar  
Alagesan, Shri  
Altekar, Shri  
Anandchand, Shri  
Azad, Maulana  
Azad, Shri Bhaawat Jia  
Balasubramaniam, Shri  
Balmiki, Shri  
Barman, Shri  
Basappa, Shri  
Basu, Shri K. K.  
Bhagat, Shri B. R.  
Bhatt, Shri C.  
Bheekha Bhai, Shri  
Birbal Singh, Shri  
Borooh, Shri  
Bose, Shri P. C.  
Brajeshwar Prasad, Shri  
Buchhikotaiah, Shri  
Chakravartty, Shrimati Renu  
Chanda, Shri Anil K.  
Chandak, Shri  
Chaudhary, Shri G. L.  
Chaudhuri, Shri T. K.  
Chinaria, Shri  
Choudhuri, Shri M. Shaffee  
Dabhi, Shri  
Das, Dr. M. M.  
Das, Shri B.  
Das, Shri B. C.  
Das, Shri B. K.  
Das, Shri K. K.  
Das, Shri N. T.  
Das, Shri Ram Dhan  
Das, Shri S. N.  
Dasuratha Deb, Shri  
Datar, Shri  
Deb, Shri S. C.  
Deshpande, Shri G. H.  
Dholakia, Shri  
Dhusiya, Shri  
Dube, Shri Mulchan

Dubey, Shri R. G.  
Dutt, Shri A. K.  
Dwivedi, Shri D. P.  
Dwivedi, Shri M. L.  
Elayaperumal, Shri  
Fotedar, Pandit  
Gandhi, Shri Feroze  
Gandhi, Shri M. M.  
Gandhi, Shri V. B.  
Ganpati Ram, Shri  
Ghoah, Shri A.  
Giri, Shri V. V.  
Gounder, Shri, K. P.  
Gupta, Shri Sadhan Chandra  
Hari Mohan, Dr.  
Hazarika, Shri J. N.  
Hyder Husein, Ch.  
Ibrahim, Shri  
Iyyani, Shri E.  
Iyyunni, Shri C. R.  
Jagjivan Ram, Shri  
Jain, Shri A. P.  
Jayware, Shri  
Jayashri, Shrimati  
Jena, Shri K. C.  
Jena, Shri Niranjan  
Jethan, Shri  
Joshi, Shri Jethalal  
Joshi, Shri Krishnacharya  
Joshi, Shrimati Subhadra  
Kajrolkar, Shri  
Kakkan, Shri  
Kale, Shrimati A.  
Kasiwal, Shri  
Katham, Shri  
Katju, Dr.  
Keskar, Dr.  
Khongmen, Shrimati  
Khuda Baksh, Shri M.  
Ktrollkar, Shri  
Krishna Chandra, Shri  
Krishnamachari, Shri T. T.  
Lakshmeysa, Shri  
Lingam, Shri N. M.  
Mahodaysa, Shri  
Mahtab, Shri

Majhi Shri R. C.  
Malaviya, Shri K. D.  
Malliah, Shri U. S.  
Mandal, Dr. P.  
Masuriya Din, Shri  
Mathew, Shri  
Matthen, Shri  
Maydeo, Shrimati  
Mehta, Shri Balwant Sinha  
Mehta, Shri B. G.  
Mishra, Shri S. N.  
Mishra, Shri Lokenath  
Mishra, Shri M. P.  
Misra, Shri B. N.  
Mohiuddin, Shri  
More, Shri K. L.  
Mukerjee, Shri H. N.  
Mukne, Shri Y. M.  
Nanadas, Shri  
Naskar, Shri P. S.  
Natawadka, Shri  
Nayar, Shri V. P.  
Nehru, Shri Jawaharlal  
Nehru, Shrimati Uma  
Neswi, Shri  
Nijalingappa, Shri  
Pannalal, Shri  
Parekh, Dr. J. N.  
Parmar, Shri R. B.  
Patakar, Shri  
Patel, Shri B. K.  
Patel, Shri Rajeshwar  
Patel, Shrimati Maniben  
Patil, Shri Kanavade  
Pillai, Shri Thanu  
Prabhakar, Shri N.  
Rachiah, Shri N.  
Raghavaiah, Shri  
Raghubir Singh, Shri  
Raghubir Sahai, Shri  
Raj Bahadur, Shri  
Ram Dass, Shri  
Ram Saran, Shri  
Ram Subhag Singh, Dr.  
Ramanand Shastri, Swami  
Ramaswamy, Shri P.

## AYES—contd.

Ramaswamy, Shri S.V.  
Rane, Shri  
Rao, Dr. Rama  
Rao, Shri Vittal  
Raut, Shri Bhola  
Reddy, Shri Janardhan  
Reddy, Shri Viswanatha  
Rup Narain, Shri  
Sahu, Shri Rameshwar  
Saigal, Sardar A.S.  
Samanta, Shri S.C.  
Sanganna, Shri  
Satish Chandra, Shri  
Satyawadi, Dr.

Sen, Shrimati Sushama  
Sharma, Pandit Balkrishna  
Sharma, Shri D.C.  
Sharma, Shri K.R.  
Sharma, Shri R.C.  
Shobha Ram, Shri  
Siddananjappa, Shri  
Singh, Shri D.N.  
Singh, Shri Babunath  
Singh, Shri T.N.  
Singhal Shri, S.C.  
Sinha, Shri A.P.  
Sinha, Shri N.P.  
Sinha, Shri Satya Narayan

Sinhasan Singh, Shri  
Somana, Shri N.  
Subrahmanyam, Shri T.  
Suriya Prashed, Shri  
Telkikar, Shri  
Thomas, Shri A.M.  
Tiwary, Pandit D.N.  
Uikey, Shri  
Upadhyay, Shri S.D.  
Vaishya, Shri M.B.  
Varma, Shri Manikya L  
Varma, Shri B.R.  
Vidyalankar, Shri A.N.  
Vishwanath Prasad, Shri  
Vyasa, Shri Radhela

## NOBS

Bagdi, Shri Magan Lal  
Chatterjee, Shri N.C.  
Damodaran, Shri N. P.  
Deo, Shri R.N.S.  
Deshpande, Shri V.G.  
Gadilingaha Gowd, Shri  
Gurupadaswamy, Shri M.S.  
Hukam Singh, Sardar  
Kelappan, Shri

Missir, Shri V.  
Muniawamy, Shri  
Murthy, Shri B.S.  
Naidu, Shri N.R.  
Nathani, Shri H.R.  
Raghavachari, Shri  
Ramasami, Shri M.D.  
Randaman Singh, Shri  
Rao, Shri P. Subba

Reddi, Shri Ramachandr.  
Rishang Keishing, Shri  
Sinha, Th. Jugal Kishore  
Somani, Shri G.D.  
Sundaram, Dr. Lanka  
Swami, Shri Sivamurthi  
Swamy, Shri N.R.M.  
Tewari, Sardar R.B.S.  
Trivedi, Shri U.M.

*The motion was adopted.*

REPORT OF THE COMMISSIONER  
FOR SCHEDULED CASTES AND  
SCHEDULED TRIBES

**Mr. Deputy-Speaker:** Now, the House will proceed with the other business. So far as the next motion in the name of the Prime Minister is concerned, the whole time table for the rest of this session was announced this morning and this has been put down for the last day, that is the 24th. Therefore, this matter will stand over till the 24th when it will come up.

I shall now request the hon. Dr. Katju to move his motion.

**The Minister of Home Affairs and States (Dr. Katju):** I beg to move:

"That the Report of the Commissioner for Scheduled Castes and Tribes for the period ending the 31st December, 1952, be taken into consideration."

I do not propose, Sir, in the beginning to make a very long speech for the simple reason that I am more anxious to hear and to profit by the observations of my hon. friends who will follow me. A number of amendments have been tabled, and I imagine that many of those amendments will be moved and very many constructive and helpful suggestions will be made.

The House is aware that under the Constitution there is a Special Officer appointed by the President. I should like, at the very beginning, to pay a tribute to his hard work and the devotion with which he has worked will be shown by the very exhaustive report that he has submitted to this House—or rather submitted to the President and which is now before this House.

In all our discussions you will please recollect that leaving aside the "C" States, the administration of all affairs including affairs relating to