

[Mr. Deputy-Speaker]

referred to a Joint Committee of the Houses, consisting of 45 members, 30 from this House, namely, Shri C. R. Pattabhi Raman, Shri M. Thirumala Rao, Shri Liladhar Kotoki, Shri Kailash Pati Sinha, Shri Mohammad Tahir, Shri Narendrabhai Nathwani, Shri K. G. Deshmukh, Shri M. Sri Ranga Rao, Shri C. D. Gautam, Shri Radha Charan Sharma, Shri P. Thamulingam Nadar, Shri T. Ganapathy, Shri K. R. Achar, Shri Hem Raj, Pandit Mukat Behari Lal Bhargava, Pandit Munishwar Dutt Upadhyay, Shri Raghurib Sahai, Shri Radha Mohan Singh, Shri Paresb Nath Kayal, Shri Ganpati Ram, Shri R. M. Hajarnavis, Shri S. C. Gupta, Shri T. C. N. Menon, Shri N. Siva Raj, Shri Khushwaqt Rai, Shri D. R. Chavan, Shri Ram Garib, Shri Braj Raj Singh, Dr. A. Krishna-swami, and Shri Asoke Sen.

and 15 from Rajya Sabha;

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

that the Committee shall make a report to this House by the end of the first week of the next session;

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

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

The motion was adopted.

14-32 hrs.

DOWRY PROHIBITION BILL

The Deputy Minister of Law (Shri Hajarnavis): Sir, I beg to move:

"That the Bill to prohibit the giving or taking of dowry, as reported by the Joint Committee, be taken into consideration."

Sir, the Bill as it has emerged from the Joint Committee is not significantly changed in the operative part.

Whereas originally the Government had taken power to apply it piecemeal to different States, the Committee suggested that it should be brought into force simultaneously in all the States. That is the change made in clause 1.

With regard to clause 2, we had some discussion whether we had covered all cases or prevented effectively the giving of dowry. The case which some hon. Members had in mind when they introduced this phrase 'whether directly or indirectly' was this. Assuming that the dowry is settled, instead of being paid to the bridegroom or to anyone on his behalf, it may be paid by the bride's party to the bride herself. Would this be covered by the definition or not? The Bill as it originally read: 'any other person on behalf of such party', I thought this expression would include the 'bride herself' as it is said 'any other person'. But in order to leave no room for doubt the Committee felt that these words should be introduced: 'whether directly or indirectly'.

In clause 3, the change that we have made is that we have said that both the punishment of imprisonment and fine may be inflicted. The original Bill proposed that it should be either imprisonment or fine. We have now said that both the punishments are to be inflicted.

There are certain drafting amendments in clause 6 and the amendment

in clause 7 is again a verbal amendment. The presidency magistrates were not previously mentioned; now they are mentioned.

The original proposal that the State Government should frame rules and that they would go before the State Legislature has been changed. The Committee felt that the rules should be framed by the Central Government and that they should be uniformly applied throughout India. Therefore, power is now given to the Central Government.

Then, I come to the most important change which the Committee had made. It is with respect to the limit of Rs. 2,000 which was contained in the original Bill. In the original Bill clause 2, defining dowry, read:

"In this Act, "dowry" means any property or valuable security given or agreed to be given, to one party to a marriage or to any other person on behalf of such party by the other party to the marriage or by any other person on behalf of such other party, either at the marriage or before or after the marriage, as consideration for the betrothal or marriage of the said parties, but does not include any presents made at the time of marriage to either party to the marriage in the form of ornaments, clothes and other articles not exceeding Rs. 2,000 in value in the aggregate".

You will see that we had excluded this out of clause 2. Assuming that the present made at the time of marriage in the form of ornaments, clothes and other articles of worth, is dowry, yet if the limit of Rs. 2,000 is not reached, then it shall be regarded as being taken out of the definition. That is to say, it was not dowry. In plain language, dowry, upto the limit of Rs. 2,000 was permissible provided it was given in the form of ornaments, clothes and other things. That was permissible under

the Bill as it was originally introduced in this House. But the Joint Committee had removed this exception so that even if the present is worth Re. 1 and is made in consideration of marriage, an offence is committed and a person is liable to be punished with imprisonment and fine. These are the changes which have been made by the Joint Committee. It is, again I say, a matter of social legislation and we are entirely in the hands of the House and we shall carry out whatever mandate the House gives us without regarding it as a party issue.

Mr. Deputy-Speaker: Motion moved:

"That the Bill to prohibit the giving or taking of dowry as reported by the Joint Committee, be taken into consideration."

Shri Nathwani (Sorath): Sir, may I ask for a clarification? If consideration is given for the betrothal but the marriage has not taken place, would that amount to an offence under this Bill?

Shri Hajarnavis: The hon. Member, if I may say so, is more competent on the question of interpretation than myself. If I may hazard an opinion, I think it is covered.

Shri Nathwani: I have some doubt.

Mr. Deputy-Speaker: The hon. Member can have his turn and then express his doubts.

Shri Hajarnavis: I think it is covered because the words used are: 'either at the marriage or before or after the marriage'. So, it is my personal opinion that it comes within this definition.

Mr. Deputy-Speaker: We have got five hours in all for this Bill. Should we divide it between the general discussion and the clause-by-clause consideration?

Shri Nanshir Bharucha (East Khandesh): Four hours and two hours.

Pandit, Thakar Das Bhargava (Hissar): Three hours and two hours. There are many amendments, Sir, which are of substance.

Mr. Deputy-Speaker: We might keep it at three hours and two hours. We have got only five hours; four and two will make six.

An Hon. Member: He has also included the one hour which is in your discretion.

Shri V. P. Nayar: (Quilon): Now a days we have got a right to anticipate your discretion.

Mr. Deputy-Speaker: It would not remain a discretion if it is to be counted as a matter of course.

Shri Narayanankutty Menon (Mukandapuram): Mr. Deputy-Speaker, Sir, we welcome the principle underlying the legislation even though we are not quite sure, when we pass this Bill, whether the pernicious system with all its social evils and implications could be avoided by the mere passage of this legislation. When a support is given to this type of legislation it cannot be with a wish and absolute confidence that we will be able to overcome the obstacles that are found in the society, which have crept into the social thinking for many many years and which are really the inheritance of the past. One can support this Bill only in one sense, as sometime back Swami Vivekananda said: "I am a socialist not because I think socialism is a perfect system, but I think half a loaf of bread is far better than no loaf at all." Otherwise, looking into the provisions of the Bill itself will convince anyone that apart from the laudable sentiments that are underlined in the form of a statute in each clause, we will not be able to accomplish much by the enforcement of this Bill itself.

The root problem of all the social evils, Sir, as the House will understand, in the Indian society had a direct bearing to the economic cir-

cumstances that prevailed in each period and only when economic and social environmental changes did happen on the horizon of society the social habits also automatically began to change even though with much difficulty.

We feel today that the system of dowry, from the experience of many, is a pernicious system. Because of the existence of this system a lot of troubles and also heart-rending episodes appeared in each and every family. Still the question of giving and taking dowry is taken as a matter of fact and as granted in every society, in spite of the fact that everybody could speak that the system of dowry is pernicious and is an anti-social evil.

Without going into the intricate details of the definition of "dowry" and also the various ways by which the Bill provides to prevent the system of dowry, I would first make an honest appeal to the Government that the Government should not be satisfied that they have introduced and passed a legislation whereby dowry could be prevented, but along with that unless the Government realise the responsibility that the mere passage and enforcement even of this legislation will not even touch the fringe of the problem, the real trouble and also the real problem lies in the economic circumstances, it will not be possible for us to say that we have achieved something very great towards social legislation.

When the Bill was introduced and also when the Bill was generally discussed in the House—even now—from some quarters some criticism was made. I read recently one of the Bombay journals writing about the Joint Committee. The journal characterised the Bill as has been recommended by the Joint Committee under the headline "Social reforms running amuck". Quite a reasonable type of criticism you will find when you read the whole article and what are the difficulties which the parents

will have to confront with when this legislation is imposed. For example, those critics point out that when the Joint Committee took away the exception of Rs. 2000 in ornaments and other materials, if a father-in-law gives a coat to his son-in-law at the time of his daughter's marriage that father-in-law could be hauled up before a court of law and the Magistrate because of the other clauses will be left with no alternative but to pass a sentence of imprisonment on the father-in-law. Likewise, many a difficulty and also outrage upon the well settled conscience of certain sections of society may come because of the passing of this legislation.

The only answer could be that a society and also a nation transforms itself with tremendous speed into a new era and a new type of society, and in such a transition period such a sort of anachronism, difficulties and even outrages upon the conscience are inevitable. When our country is passing through such a stage both on the economic and political and also social field such revolutionary changes will certainly come, and unless the people are moulded in such a way as to accommodate those changes and take the shock of those changes it will not be possible to answer those criticisms.

When this piece of legislation is criticised as being revolutionary, being too impractical, almost impossible to be implemented, a question naturally arises whether the fundamental question of dowry being a pernicious social evil remains there. And, what do you suggest today to get rid of this system, this really social evil? No satisfactory answer comes, apart from the criticism that sentiments expressed in the garb of legislation will not meet the problem. But, as long as no reasonable answer comes from those quarters, how to prevent this evil? Let us be satisfied with at least this legislation which is one step forward, which expresses the earnest desire of the country to check this pernicious system.

Along with that, apart from the Parliament passing this Act, there is a responsibility on the political parties in this country and also the social organisations in this country to mould public opinion; to educate the public about this evil and how we are going to overcome this evil. The public must be told why we have got to overcome this evil and how we have to do it.

Today we are really in the transformation period and we have to cope with certain difficulties and also inconveniences. Unless these organisations take upon their shoulders this responsibility of educating the public and preparing them to accommodate these difficulties it will be impossible, either by the Presidency Magistrate or the First Class Magistrate or even the Police, to implement this piece of legislation and it will be a mockery that the sovereign Parliament has passed a piece of legislation which has gone into the statute-book and the system of dowry still remains, dowry continues to be given and continues to be taken.

I am reminded, Sir, of a Bill that was introduced in the Kerala Legislature prohibiting dowry almost on the same grounds. The social system in that State is a bit different because no sanctity is attached to dowry. For long long years there is no historical tradition nor religious sanction behind giving of dowry or stridhan. It is merely a question of property succession and the law of succession for a large number of years was moulded in such a way in a particular community that the women of that particular community did not have the right of succession and they had only the right of getting dowry when they got married. Mainly headed by the Congress party in that legislature, almost a tirade was started against the Dowry Prohibition Bill and it was said that it was an attempt at unwarranted interference in the family life and also the personal freedom of the people of that State. When in

[Shri Narayanankutty Menon]

one part of the country today responsible organisations take up a stand and say that the prevention of the evil of dowry is an unwarranted interference in the personal affairs of the people, how can this Government say that "we are passing a legislation and we are going to prevent the social evil throughout India"?

I would request the Minister to realise that this will be an impossibility. Do not let the Bill boil down to mockery by just making it remain on the Statute Book alone. The measure, if passed, must be implemented, and it should not be said, tomorrow and for long years to come, that this evil of dowry continues as a social practice with almost public sanction.

We have passed many pieces of social legislation and we have congratulated ourselves on the fact that we have been marching fast and forward. Let me refer to the attempt that has been made, by legislation, almost to banish prostitution from this country. It will do good for the hon. Minister to review how far we have been successful in that measure. I am pointing out this particular factor because legislation alone will not solve these social problems. These social problems have got a background. Hundreds and hundreds of years ago our people inherited certain conceptions about social behaviour, and unless we take a strident step and point out the economic disadvantages of the social evils and make a change in the social and economic environment simultaneously with this measure, social legislation will certainly remain on the Statute Book only and there will be no effect.

Today in Calcutta the provisions of the Immoral Traffic Act have been severely enforced but not one prostitute has been removed from the streets of Calcutta. This evil continues in Calcutta and also in Bombay and other big cities.

An Hon. Member: Underground.

Shri Narayanankutty Menon: As hon. Member says, it is correct to say that in some places this practice has gone underground. But in some places it still continues as a challenge to the Statute Book and the police. Why does it happen? The hon. Minister will understand that large numbers of prostitutes in big cities earn their livelihood through this profession alone. But he will realise that all of a sudden the law swoops on them, and the police prohibits the practice and imposes a blanket ban on this profession without making any changes in society whereby those people could live and make a decent livelihood. It may be quite agreed that it is impossible for us to enforce this piece of legislation. Therefore, it should be the earnest attempt of the Government to see that when this Bill is passed social and economic changes are also brought about in its wake simultaneously, so that this legislation will be effective and have a tendency to prick. Unless such changes are accompanied, this measure will not be a success at all.

Then again, I have got my serious doubts about the intentions of the Central Government. Maybe the Bill will be passed here and after it is passed by the other House it may get the assent of the President and then a notification will be issued by the Central Government. The Bill then becomes law. But I do not think that the Law Minister intends to enforce this Bill, because unless this Bill is accompanied by far-reaching changes in the law of succession, in many States it will be impossible to enforce this measure at all. There will be complete anarchy as far as the right to property is concerned in respect of many communities. For instance, when such a Bill was introduced in the State of Kerala, I pointed out to the Law Minister there that the Christian community there has got a separate law of succession. Suppose, today, this Bill is passed and is enforced by a notification by the

Central Government, what will happen to the large number of Christian families in the Kerala State. In Kerala, the giving and taking of dowry, if prohibited, will result in difficulties. When a girl is given in marriage, according to the Succession Act, that girl has no right of succession to the family properties, and therefore, ultimately, the family property will be the exclusive privilege of the male members of the family.

Shri Maniyangadan (Kottayam): Only for *stridhan* there is a bar. Otherwise, there is no bar. The provision in the Christian Succession Act is that if *stridhan* is paid at the time of marriage, the girl will have no right over the maternal property.

Shri Narayanankutty Menon: I did not use the word *stridhan*.

Shri Maniyangadan: I was speaking about the provisions in the Christian Succession Act.

Shri V. P. Nayar: What is the difference between the two?

Shri Maniyangadan: I am on the question of difference, but I wanted to point out.....

Shri Narayanankutty Menon: There is no difference at all.

Shri Maniyangadan: Under the present law, dowry should not be paid. My hon. friend said that if a girl in the Christian family gets married, she will have no right over the property and she gets no dowry because of the Act. I was disputing that and I am saying that it is not correct. The Christian Succession Act provides that if dowry or *stridhan* is paid—I am not disputing about the word dowry or *stridhan*, whatever it be—then the girl becomes disentitled to the property of her father.

Shri Narayanankutty Menon: If you analyse the law of succession also, you will find the real difficulties in

regard to this measure. When the debate took place in the Kerala Assembly when the Dowry Prohibition Bill was introduced, simultaneously, an amendment to the Christian Succession Act was also introduced. It was almost agreed on all sides that unless the law relating to succession, as far as Christians were concerned, was amended, the Dowry Prohibition would hit the Christian community in a different way. Therefore, simultaneously when the Bill is introduced there should be changes made in the law of succession also, because apart from the Christian community, there will be other communities also which will be affected by this change. So, when the Government wants to enforce this measure, unless the law of succession is also changed, this measure will have far-reaching repercussions among many a community. As long as the law of succession remains unchanged, the passing of this Bill will have far-reaching consequences. I think the Government do not intend to make amendments to the law of succession. But this Bill could have been moulded in a different way. Each State Government may be given the power to notify the date of coming into force of this measure. In that case, the States could take the circumstances into consideration and decide as to the date on which the Bill should become law.

Apart from all these difficulties, I beg to point out only two important provisions of this Bill which require change. One is, the offences under this Bill could have been easily made cognizable. The other day, when a private Member's Bill was discussed in the House, the hon. Home Minister accepted the fact that in cases of social legislation, if it is left to the parties to go to court and file a complaint, there would be a great danger of collusion. The private Member's Bill was accepted by the hon. Home Minister. I fail to understand what the Government's difficulty will be, in this case, to accept an

[Shri Narayanankutty Menon]

amendment, namely, any offence committed under this Act shall be made a cognizable offence.

One of the Members of the Joint Committee has suggested, even anticipating a criticism, that the party shall not be thrown open to harassment by petty police officials and in a Minute of Dissent has pointed out that provision may be made to the effect that only an officer above the rank of District Superintendent of Police shall take cognizance of this offence and shall file a complaint.

Mr. Deputy-Speaker: Is the hon. Member likely to finish within two or three minutes?

Shri Narayanankutty Menon: About five to seven minutes.

Mr. Deputy-Speaker: There are a large number of Members who want to speak.

Shri Harish Chandra Mathur (Pali): Why not tomorrow?

15 hrs.

Shri Narayanankutty Menon: I will take five minutes tomorrow.

Mr. Deputy-Speaker: Within 5 minutes he will have to condense his remarks tomorrow.

Shri Narayanankutty Menon: Yes, Sir; I will take only 5 minutes.

15-01 hrs.

MOTION RE: SETTING UP OF P. & T. BOARD

Shri V. P. Nayar (Quilon): I want to raise a point of order.

Mr. Deputy-Speaker: There is no motion before the House now.

Shri V. P. Nayar: If the point of order is held in my favour, the motion need not be moved.

Mr. Deputy-Speaker: Unless the House is in possession of the motion, there is no point of order.

Shri Harish Chandra Mathur (Pali): I beg to move:

"That this House takes note of the statement regarding the setting up of P. & T. Board made by the Minister of Transport and Communications in the House on the 11th September, 1959".

Shri V. P. Nayar: Can I raise the point of order now? The motion has been formally made.

Mr. Deputy-Speaker: That will be accompanied by a speech and the motion will be placed before the House. Then he can raise his point of order.

Shri Harish Chandra Mathur: Mr. Deputy-Speaker, Sir, I hope you and the Members of the House are aware that there has been a persistent demand both on the floor of this House as well as outside for a complete re-organisation of the administrative machinery of the P. & T. Department. For a long time—for almost thirty years—this point has been agitated. In fact, two points have been made out. One was for the formation of an autonomous board for various reasons. Another point, which has always been raised, is about the separation of the posts from the telegraphs. At long last, it fell to the lot of my hon. friend to come to this House and lay a statement declaring the formation of this autonomous board, or what he calls an autonomous board.

The Minister of Transport and Communications (Dr. P. Subbarayan): If I may interrupt the hon. Member, I never called it an autonomous board. To make the working of the system easy, this Board has been constituted.

Shri Harish Chandra Mathur: I said "so-called autonomous board" because it is neither an autonomous