

**Shri S. M. Banerjee:** In this particular case, has anybody been arrested?

**Shri Shah Nawaz Khan:** In this particular case so far no arrests have been made. But in the previous case, two arrests have been made.

श्री खुशबख्त राय (खेरी) : क्या मैं इसके बारे में कुछ इनफार्मेशन हासिल कर सकता हूँ? मैंने इसके बारे में एडजोर्नमेंट मोगन भी दिया था। समाचारपत्रों में यह खबर छपी थी कि इस मामले में कुछ विदेशियों का हाथ है। क्या इसके बारे में आप कुछ सूचना दे सकेंगे?

श्री शाहनवाज खाँ : इसके बारे में अभी मुझे कोई खास जानकारी नहीं है।

**Shri S. M. Banerjee:** Previously in regard to the adjournment motion of Shri Vajpayee, he did say that this was an act of sabotage done by some Pakistani. It was suspected to be so. I want to know whether that was true.

**Mr. Speaker:** Did he say Pakistani?

**Shri Shah Nawaz Khan:** We never said that it was a Pakistani. We said that it was suspected to be an act of sabotage by somebody outside our borders.

श्री बलजीत सिंह (कागडा—रक्षित—अनुसूचित जातियाँ) : प्रेम में यह खबर आई थी कि एक काले रंग की कार यह बम फटने से पहले वहाँ गई और जल्दी ही वहाँ से वापस चली गई। क्या कोई इनक्वायरी की गई है कि किस की वह कार थी?

श्री शाहनवाज खाँ : पुलिस छानबीन कर रही है। उसके बारे में मुझे कोई जानकारी नहीं है।

12.05 hrs.

## DOWRY PROHIBITION BILL—contd.

**Mr. Speaker:** The House will now resume clause-by-clause consideration of the Bill to prohibit giving or taking of dowry as reported by the Joint Committee. Five hours were allotted and there is no time left now. On clause 3 we have already taken 1 hour and 36 minutes.

**Shrimati Rehu Chakravartty (Basirhat):** Actually we have held over clause 2. That is the most debatable clause and the official amendment has just been circulated.

**Mr. Speaker:** We are in the middle of clause 3 now. We shall finish it and then come to clause 2. I shall extend the time by one hour. Is it enough?

**Some Hon. Members:** Two hours.

**Mr. Speaker:** The time may be extended but I think we can finish within an hour or at the most an hour and a half.

**The Minister of Law (Shri A. K. Sen):** An hour should be enough.

**Mr. Speaker:** I will allow an hour. If at the end of that time, hon. Members feel that more time is necessary, some hon. Member may move for extension of time.

**Shri Raghubir Sahai (Budaun):** Clause 2 which has been held over is a very important clause. It is the crux of the whole thing and so the discussion should not be limited to one hour only.

**Mr. Speaker:** If it is possible to finish within one hour, we shall do so. I do not want to hustle anyone. If an hour more is required, the time will be extended with the consent of the House. I find that on clause 2 a number of hon. Members have given

notices of amendments and only one hon. Member spoke. On clause 3, as many as eleven hon. Members have already spoken. Now, let us finish clause 3. The hon. Minister.

**The Deputy Minister of Law (Shri Hajarnavis):** Mr. Speaker Sir, there are only two things about which there was a difference of opinion in the House whether the giver of dowry should also be liable for punishment and whether a person found guilty of the offence should be visited compulsorily by a sentence of imprisonment.

Now, so far as the giver is concerned, I have already indicated that we will abide by the decision of the House as to whether the giver of the dowry should also be penalised. We ourselves have come with the provision that both of them should be held guilty, but, as I indicated in my opening speech here, that is a matter which may be left to the vote of the House.

So far as alternative punishment is concerned, we are inclined to the view that the discretion may better be vested in the Magistrate, who can always give a punishment appropriate to the actual nature of the offence. There may be extenuating circumstances, the offence may be technical, the dowry may be a small amount which the court regards technically coming within the definition of dowry but may be insignificant. Therefore, it is not a proper case where the court should be compelled to give a sentence of imprisonment and we should fetter its discretion. On this question we are inclined to the view that the original proposal should stand. I would, therefore, accept Shri Nathwani's amendments Nos. . . .

**Mr. Speaker:** Is Shri Nathwani here?

**Shri Nathwani (Sorath):** Yes.

**Mr. Speaker:** What are his amendments?

**Shri Nathwani:** My amendments are Nos. 40, 41 and 42.

**Shri Hajarnavis:** I am accepting amendments Nos. 41 and 42.

**Shrimati Renu Chakravartty:** Is the hon. Deputy Minister accepting certain amendments?

**Mr. Speaker:** Yes.

**Shrimati Renu Chakravartty:** He is accepting all the amendments. Then, what was the use of sending it to a Joint Committee?

**श्री भक्त वरदान (गढ़वाल) :** एमेंडमेंट नम्बर ४ को ही क्यों स्वीकार नहीं कर लेते जो कि पृ. २० पटेल साहब की है ?

**Shri Hajarnavis:** We are only restoring the provision as it was in the original Bill.

**Mr. Speaker:** Shall I put amendments Nos. 41 and 42 first?

**Shri P. R. Patel (Mehsana):** Sir, I request that amendment No. 4 may be put first because the provision here penalises the giver also and I want to take out the word "gives". That has been indirectly accepted by the hon. Minister.

**Shri Hajarnavis:** I have not accepted it.

**Shri P. R. Patel:** Not so directly, but indirectly.

**Shri A. K. Sen:** Sir, we have not accepted it, let me make it quite clear. I personally feel that if our Bill is a healthy measure the giver and the taker are both equally guilty. It may be a question of punishment which may be left to the court.

**Mr. Speaker:** It is only a question of "or" or "both" so far as imprisonment and fine are concerned. It is left to the discretion of the magistrate. I shall put the amendments now.

**Shrimati Renu Chakravartty:** In one minute the whole thing is undone.

**Shri A. K. Sen:** Let the House decide.

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

Page 2, line 3,—

for "and also" substitute "or" (41).

Page 2, line 4,—

after "rupees" insert "or with both" (42)

Those in favour will please say 'Aye'.

Several Hon. Members: 'Aye'.

**Mr. Speaker:** Those against will please say 'No'.

Some Hon. Members: 'No'.

**Mr. Speaker:** I think the 'Ayes' have it.

Some Hon. Members: The Noes have it. We want a division.

**Mr. Speaker:** All right. Those against will rise in their seats.

**Shrimati Renu Chakravartty:** It has to be announced, Sir; you have to ring the bell.

**Mr. Speaker:** I am not bound to ring the bell. The hon. Member may kindly see the rules. I can ask Members to rise in their seats.

**Shrimati Renu Chakravartty:** I think before you count, the bell should be rung and after that you may do what you like.

**Mr. Speaker:** If only I allow a division I need ring the bell; if I do not allow a division the bell need not be rung. If hon. Members are indifferent, let them be indifferent; why should not they be anxious to continue here? Anyway, I will abide by the rules, whatever they are. Let me see the rules.

**Shrimati Renu Chakravartty:** Is it the rule that when we ask for a division we need not be given a division? I am not quite clear about it.

**Mr. Speaker:** Very well; let the lobbies be cleared. After that, I may or may not allow a division, I may ask hon. Members to rise in their seats.

**Shrimati Renu Chakravartty:** As long as you record the votes, it is all right.

**Mr. Speaker:** Order, order. I shall now put both amendments together to the vote of the House—they mean the same thing. They read as follows:

Page 2, line 3,—

for "and also" substitute "or" (41).

Page 2, line 4,—

after "rupees" insert "or with both" (42)

For the benefit of those hon. Members who were not here when I put these amendments to vote I shall explain the whole thing. Clause 3 relates to the punishment for giving and taking dowry. The original clause makes both imprisonment and fine compulsory. The amendments by Shri Nathwani, which have been accepted by Government, are that in place of "and also" the word "or" may be substituted and in the end after "rupees" insert "or with both", leaving the discretion to the magistrate to impose both if necessary.

**Shri A. K. Sen:** I may add, Sir, that it is the same as the original clause as introduced in this House.

**Shri Braj Raj Singh (Firozabad):** That is in contravention of the recommendations of the Joint Committee.

**Mr. Speaker:** It also may be noted that the Joint Committee omitted this clause, but now Shri Nathwani wants

to restore it here and it has the approval of the Government. Now, I shall put the amendments once again.

The question is:

Page 2, line 3,—

for "and also" substitute "or" (41)

Page 2, line 4,—

after "rupees" insert "or with both" (42)

*The Lok Sabha divided.*

**Mr. Speaker:** Has any hon. Member got any correction to make?

**Shri P. R. Patel:** I am for Ayes. But my machine is not working.

**Mr. Speaker:** I will add one to the Ayes

**Shri N. R. Muniswamy (Vellore):** I am for Ayes. I could not vote because my machine was not functioning.

Division No. 6]

### AYES

Abdul Lateef, Shri  
Abdul Rashid, Bakshi  
Abdul Salam, Shri  
Achar, Shri  
Ajit Singh, Shri  
Aney, Dr. M.S.  
Anjanappa, Shri  
Arumugam, Shri R.S.  
Ayyakannu, Shri  
Balakrishnan, Shri  
Basappa, Shri  
Basumatari, Shri  
Bhagavati, Shri  
Bhakt Darshan, Shri  
Bharucha, Shri Naushir  
Bhatkar, Shri  
Bhattacharya, Shri K.C.  
Bisai, Shri J.B.S.  
Biswas, Shri Bholanath  
Boroach, Shri P. C.  
Brij Narayan 'Brijesh', Pandit  
Chandremani Kalo, Shri

Chaturvedi, Shri  
Deb, Shri N.M.  
Dwivedi, Shri M.L.  
Eacharan, Shri V.  
Ganapathy, Shri  
Gandhi, Shri Peroze  
Gundhi, Shri M.M.  
Ganpati Ram, Shri  
Ghodasur, Shri Patehamb  
Ghosh, Shri M.K.  
Gounder, Shri K. Periaswami  
Gobind Das, Sethi  
Gupta, Shri Ram Krishan  
Hajarnavis, Shri  
Heda, Shri  
Jaggiyan Ram, Shri  
Jain, Shri A.P.  
Jena, Shri K.C.  
Jinachandran, Shri  
Jogendra Sen, Shri  
Joshi, Shri A.G.  
Jyotishi, Pandit J.P.

Karmarkar, Shri  
Kastliwal, Shri  
Keshava, Shri  
Keskar, Dr.  
Khan, Shri Osman Ali  
Khan, Shri Sadath Ali  
Khedkar, Dr. G.B.  
Kileadar, Shri R.S.  
Krishna, Shri M.R.  
Laxmi Bai, Shrimati  
Mafida Ahmed, Shrimati  
Maiti, Shri N.B.  
Malhotra, Shri Inder J.  
Malvia, Shri K.B.  
Maniyangadan, Shri  
Mathur, Shri Harish Chandra  
Mathur, Shri M.D.  
Mehdi, Shri S.A.  
Mehta, Shrimati Krishna  
Mishra, Shri L.N.  
Misra, Shri R.R.  
Mohideen, Shri Gulam

**Mr. Speaker:** I will add one to the Ayes.

पंडित बाबूलाल तिवारी (निमाड़-  
खण्डवा) : मशीन काम नहीं करती है ।

प्रध्यक्ष महोदय : आइज या नोइज ।

पंडित बाबूलाल तिवारी : आइज ।

श्रीमती लक्ष्मिबाई देवी (नवादा) :  
मैं आटज में हूँ ।

**Mr. Speaker:** All right. I will add one to the Ayes. Now, the result of the Division is, Ayes 153; Noes 23.

**Shri A. K. Sen:** The Noes should be 22, Sir. The lady Member over there voted for Ayes but it was recorded as Noes.

**Mr. Speaker:** All right. Now, the Ayes have 153; the Noes have 22. The result\* is:

Ayes 153; Noes 22.

[12. 20 hrs.

\*The result of the division applies to amendments No. 41 and 42 separately.

Morarka, Shri  
 Muniswamy, Shri N.R.  
 Murmu, Shri Paika  
 Muthukrishnan, Shri  
 Najdu, Shri Govindasajulu  
 Nair, Shri Kuttikrishnan  
 Nanjappa, Shri  
 Narasimhan, Shri  
 Naskar, Shri P.S.  
 Nathwani, Shri  
 Nayar, Dr. Sushila  
 Negi, Shri Nek Ram  
 Nehru, Shrimati Uma  
 Neewi, Shri  
 Pande, Shri C.D.  
 Pandey, Shri K.N.  
 Pangarkar, Shri  
 Patel, Shri N.N.  
 Patel, Shri P.R.  
 Patel, Shri Rajeshwar  
 Patel, Sushri Maniben  
 Pattabhi Raman, Shri C.R.  
 Prabhakar, Shri Naval  
 Raghubir Sahai, Shri  
 Raj Bahadur, Shri  
 Rajiah, Shri  
 Ram Garib, Shri  
 Ram Saran, Shri  
 Ram Shankar Lal, Shri  
 Ramananda Tirtha, Swami

Ramaswamy, Shri S.V.  
 Ramaswamy, Shri K.S.  
 Ramaswamy, Shri P.  
 Ramdhan Das, Shri  
 Rane, Shri  
 Rangarao, Shri  
 Rao, Shri Thirumala  
 Reddy, Shri Bali  
 Reddy, Shri Ramakrishna  
 Reddy, Shri Viswanatha  
 Roy, Shri Bishwanath  
 Sahu, Shri Bhagabat  
 Sahu, Shri Rameshwar  
 Samanta, Shri S. C.  
 Samantsinhar, Dr.  
 Sankarapandian, Shri  
 Sarhadi, Shri Ajit Singh  
 Satyabhama Devi, Shrimati  
 Selku, Shri  
 Sen, Shri A.K.  
 Shah, Shri Manabendra  
 Shah, Shrimati Jayaben  
 Shankaraiya, Shri  
 Sharma, Shri R.C.  
 Shivananjappa, Shri  
 Shree Narayan Das, Shri  
 Siddananjappa, Shri  
 Siddiah, Shri  
 Singh, Dr. Ram Subbag

Singh, Sardar Jogendra  
 Singh, Shri D.P.  
 Singh, Shri Daljit  
 Singh, Shri Dinesh  
 Singh, Shri K.N.  
 Singh, Shri Kamal  
 Singh, Shri Raghunath  
 Singhji, Shri Kerni  
 Sinha, Shri Anrudh  
 Sinha, Shri K.P.  
 Sinha, Shri Satyendra Narayan  
 Sinha, Shrimati Tarkeshwari  
 Snatak, Shri Nardeo  
 Somani, Shri  
 Sonavane, Shri  
 Subbarayan, Dr. P.  
 Sugandhi, Shri

Syed Mahmud, Dr.  
 Tariq, Shri A.M.  
 Tewari, Shri Dwarikanath  
 Thimmaiah, Shri  
 Thota, Shri A. M.  
 Tiwari, Pandit Babu Lal  
 Tiwari, Shri R.S.  
 Uike, Shri  
 Vedakumari, Kumari M  
 Vyasa, Shri Radhelal  
 Wodeyar, Shri

## NOES

Banerjee, Shri S.M.  
 Chakravarty, Shrimati Renu  
 Daulta, Shri P.S.  
 Dharmalingam, Shri  
 Elias, Shri Muhammed  
 Ghose, Shri Subiman  
 alder, Shri

Jadhav, Shri  
 Kadiyan, Shri  
 Matin, Qazi,  
 Menon, Shri Narayanannutt  
 Panigrahi, Shri  
 Parvathi Krishnan, Shrimati  
 Prodhon, Shri B.C.  
 Rai, Shri Khushwaqt

Ramam, Shri  
 Rao, Shri T.B. Vittal  
 Sampath, Shri  
 Singh, Shri Braj Raj  
 Tangamani, Shri  
 Vezma, Shri Ramji  
 Warrior, Shri

## The motion was adopted.

**Mr. Speaker:** What are the other amendments?

**Shri Nathwani (Sorath):** I had amendment No. 40.

**Shri P. R. Patel:** I moved amendment No. 4 which is to the same effect.

**Mr. Speaker:** Order, order. Hon. Members will resume their seats and follow the discussion in the House. The amendment reads:

Page 2, line 1, omit "gives or" (4).

The object of this amendment is not to penalise the person who gives dowry.

Let the lobbies be cleared.

**Shri Nathwani:** I would request you to explain that the Government have left the decision to this House regarding this amendment.

**Shri A. K. Sen:** I made it quite clear that the Government was against this amendment. Naturally, they have left it to the House, but the Government is of the view that if the giver of the dowry is completely exonerated, the Bill will be shorn of most of its value.

**Shrimati Benu Chakravarty:** Is this the way we discuss on the floor of this House—whether the Government has a free whip or not? It is up to the House to decide the issue. Why should Shri Nathwani make this point here?

**Shri Nathwani:** I wish to point out that in his reply to the discussion on clause 3, the hon. Deputy Minister did not say specifically to that effect, but said that he would leave the decision to the House. If I am incorrect, I may be corrected.

**Mr. Speaker:** Hon. Members will kindly appreciate the scope of my statement. I am entitled to place the amendment before the House for the benefit of hon. Members who were not here. Beyond that, I am not going to be the agent of the Government or of any hon. Member of this House, or of the Opposition also. Therefore, except explaining the nature of the amendment I am not going to say which hon. Member is in favour or is against it. I am not going to repeat what I said just a little earlier.

**Shri Jhunjhunwala (Bhagalpur):** What is the amendment?

**Mr. Speaker:** I will again put the amendment to the House. The question is:

page 2, line 1, omit "gives or"  
(4)

Under this clause, clause 3, both the giver and the taker of the dowry are penalised. But the amendment is that those who give may be excluded and that they may not be punished.

*The Lok Sabha divided.*

**Shri P. S. Daulta (Jhajjar):** My vote may be added for Noes.

**Mr. Speaker:** Has it been recorded for Ayes?

**Shri P. S. Daulta:** No. I have voted for Noes, but it is not recorded.

**Mr. Speaker:** I will add 1 to the Noes.

**Pandit Thakur Das Bhargava:** I wanted to vote for Ayes, but my vote is not recorded at all.

**Mr. Speaker:** I will add 1 to the Ayes.

**Shri M. M. Gandhi (Panchmahals):** My vote may be added to the Noes.

**The Deputy Minister of Railways (Shri S. V. Ramaswamy):** I pressed the wrong button. My vote is for Noes and not for Ayes.

**Mr. Speaker:** So, I will subtract 1 from Ayes and add 1 to the Noes.

**Shri P. Ramaswamy (Mahbubnagar—Reserved—Sch. Castes):** We are six Members on this bench and the machine is not working. We are all for Noes.

**Mr. Speaker:** Let them stand in their seats.

Sarvashri P. Ramaswamy, Ramakrishna Reddy (Hindupur), Bali Reddy (Markapur), Rajiah (Nalgonda—Reserved—Sch. Castes), Anjanappa (Nellore—Reserved—Sch. Castes) and K. V. Padalu (Gulugonda—Reserved—Sch. Tribes) rose—

**Mr. Speaker:** I will add 6 to the Noes. The result of the division is as follows:

Ayes \*41; Noes 141.

\*The figure was corrected as 39, vide Debates dated 9-12-59.

AYES

Abdul Salam, Shri  
Acher, Shri  
Aney, Dr. M. S.  
Bhakti Darsana, Shri  
Bhargava, Pandit Thakur Das  
Bharucha, Shri Nausikar  
Bhawas, Shri Bholanath  
Das Gupta, Shri B.  
Ghodesar Shri Feteheinh  
Jain, Shri A. P.  
Jhungnawala, Shri  
Mathur, Shri Harish Chandra  
Mathur, Shri M. D.  
Malin, Qazi  
Mitra, Shri R. R.  
Mohideen, Shri Gulam

Morarka, S. Shri  
Nathwani, Shri  
Nayar, Dr. Sushila  
Nerwi, Shri  
pande, Shri C. D.  
Patel, Shri P. R.  
Pillai, Shri Thiru  
Ram Shankar Lal, Shri  
Rangarao, Shri  
Roy, Shri Bishwanath  
Sahu, Shri Bhagabat  
Saryabhama Devi, Shrimati  
Shah, Shri Manabendra  
Shree Narayan Das, Shri

Shukla, Shri Vidya Charan  
Singh, Shri Kamal  
Singhji, Shri Karni  
Sinha, Shri K. P.  
Somani, Shri  
Sonavane, Shri  
Sugandhi, Shri  
Tiwari, Pandit Babu  
Wodeyar, Shri

NOES

Abdul Lateef, Shri  
Abdul Rashid, Bakshi  
Ajit Singh, Shri  
Anjanappa, Shri  
Arumugam, Shri R. S.  
Ayyakannu, Shri  
Balakrishnan, Shri  
Baserjee, Shri S. M.  
Banerjee, Shri P. B.  
Basappa, Shri  
Basumatari, Shri  
Bhagavati, Shri  
Bhatkar, Shri  
Bhattacharya, Shri G. K.  
Blat, Shri J. B. S.  
Borouah, Shri P. C.  
Brahm Prakash, Ch  
Chakravarty, Shrimati Renu  
Chendramani Kalo, Shri  
Chaturvedi, Shri  
Daulta, Shri P. S.  
Deb, Shri N. M.  
Dharmalingam, Shri  
Dube, Shri Mulchand  
Dwivedi, Shri M. L.  
Eucharan, Shri V.  
Elias, Shri Muhammed  
Ganapathy, Shri  
Gandhi, Shri M. M.  
Ganpati Ram, Shri  
Ghose, Shri Subiman  
Ghosh, Shri M. K.  
Gounder, Shri K. Periaswami  
Govind Das, Seth  
Gupta, Shri Ram Krishan  
Hajarnavis, Shri  
Haldar, Shri  
Hathi, Shri  
Hazari, Shri J. N.  
Heda, Shri  
Jadhav, Shri  
Jena, Shri K. C.  
Jinachandran, Shri  
Jondra Sen, Shri

Joshi, Shri A. C.  
Jyotishi, Pandit J. P.  
Karmarkar, Shri  
Kastilwal, Shri  
Khan, Shri Osman Ali  
Khan, Shri Sadath Ali  
Khedkar, Dr. G. B.  
Kiledar, Shri R. S.  
Kodiyar, Shri  
Laxmi Bai, Shrimati  
Malida Ahmed, Shrimati  
Mahasankar, Shri  
Maiti, Shri N. B.  
Mahadeo Prasad, Shri  
Malhotra, Shri Inder J.  
Malviya, Shri K. B.  
Maniyangan, Shri  
Manjula Devi, Shrimati  
Mehdi, Shri S. A.  
Mehta, Shrimati Krishna  
Menon, Shri Narayanankutty  
Misra, Shri B. D.  
Muzum, Shri Paika  
Musafir, Ginni, G. S.  
Muthukrishnan, Shri  
Nadar, Shri Thanulingam  
Nair, Shri Kuttikrishnan  
Naldurgkar, Shri  
Nanjappa, Shri  
Narasimhan, Shri  
Naskar, Shri P. S.  
Nayar, Shri V. P.  
Nega, Shri Neck Ram  
Nehru, Shrimati Uma  
Onkar Lal, Shri  
Padalu, Shri K. V.  
Pandey, Shri K. N.  
Pangarkar, Shri  
Panigrahi, Shri  
Parvathi Krishnan, Shrimati  
Patel, Shri N. N.  
Patel, Sushri Maniben  
Pattabhi Raman, Shri C. R.  
Prabhakar, Shri Neval

Prodhan, Shri B. C.  
Raghuramiah, Shri  
Raj, Shri Khushwaqt  
Raj Bahadur, Shri  
Rajiah, Shri  
Ram Satna, Shri  
Ramam, Shri  
Ramananda Tirtha, Swami  
Ramaswamy, Shri S. V.  
Ramaswamy, Shri K. S.  
Ramaswamy, Shri P.  
Ramdhani Das, Shri  
Rane, Shri  
Rao, Shri T. B. Vittal  
Rao, Shri Thirumala  
Reddy, Shri Bali  
Reddy, Shri Ramakrishna  
Reddy, Shri Viswanatha  
Sahu, Shri Rameshwar  
Seigal, Sardar A. S.  
Semantsinhar, Dr.  
Sankarapandian, Shri  
Sarhad, Shri Ajit Singh  
Selku, Shri  
Sen, Shri A. K.  
Shankatsiya, Shri  
Sharma, Pandit K. I.  
Sharma, Shri R. C.  
Shivnanajappa, Shri  
Siddananjappa, Shri  
Siddhan, Shri  
Singh, Dr. Ram Subbag  
Singh, Sardar Jogendra  
Singh, Shri Braj Raj  
Singh, Shri D. P.  
Singh, Shri Daljit  
Singh, Shri Dinesh  
Singh, Shri K. N.  
Singh, Shri Raghu Nath  
Sinha, Shri Anirudh  
Snatak, Shri Nardeo  
Subbarayan, Dr. P.  
Subramanyam, Shri T.

Tangamani, Shri  
Tariq, Shri A. M.  
Thimmaiah, Shri

Tiwari, Shri R. S.  
Tiwari, Pandit D. N.  
Uike, Shri  
Vedakumari, Kumari M.

Verma, Shri Ramji  
Vyasa, Shri Radhelal  
Warior, Shri

*The motion was negatived*

**Mr. Speaker:** I shall now put all other amendments.

*Amendments Nos. 5, 20, 70, 25, 26, 64, 65 and 60 were put and negatived.*

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

"That clause 3, as amended, stand part of the Bill".

*The motion was adopted.*

*Clause 3, as amended, was added to the Bill.*

*Clause 2 (Definition of "dowry")—  
contd.*

**Mr. Speaker:** We will now finish clause 2.

**Pandit Thakur Das Bhargava** (Hisar): Yesterday we indicated a number of amendments. Are we allowed to speak on them?

**Mr. Speaker:** All those amendments are there. I will call the hon. Members one by one. First of all, let me ask the hon. Minister if he has moved his amendment.

**Shri Hajarnavis:** I have moved my amendment.

**Mr. Speaker:** Does he want to speak on it now?

**Shri Hajarnavis:** I should like to reply after I have heard the other hon. Members.

**Shri Aurobindo Ghosal** (Uluberia): I would like to move my amendment.

**Mr. Speaker:** I am not going to allow amendments to be moved afresh. Whoever has given the numbers of the amendments and which have been recorded, I will allow only those amendments. I will allow those hon. Members to refer to those amendments. No fresh amendments will be allowed.

**Shri Narayanankutty Menon** (Mukandapuram): I would like to speak on my amendment No. 7. Before submitting our views and the details of the amendments moved by us, we wish to oppose the amendment moved by the hon. Minister tooth and nail. Sir, the Bill was referred to a Joint Committee, of which both the hon. Minister and the hon. Deputy Minister were members. When this Bill was introduced, we were under the impression that the hon. Minister really wanted to check this pernicious system of dowry and we extended all our co-operation, in order to see that the legislation is made as foolproof as possible. But considering some of the vital amendments moved by Government, we are compelled to think that there is an ignominious surrender; some of the ideas are most reactionary and they make this piece of legislation a laughing-stock before the people, because nothing that we seek to prevent will be prevented by this legislation.

The amendment that has been moved by Government today will legalise dowry wherever dowry has been paid by custom. In India today dowry has become a custom as far as the people are concerned and in exercise of the right of this custom, bridegrooms and their fathers are demanding dowry. We wanted to prevent that evil custom, but the Government's amendment tantamounts to legalising dowry where that dowry has been paid by custom. This will completely nullify the entire provisions of the Bill.

If the hon. Minister is serious about this amendment and if he is to be honest to himself, to his party and to the House, I would request him to withdraw the entire Bill and tell the House that the Government is not prepared to bring forward a measure like that and implement it. But there is no way of going back from



[Shri Narayanankutty Menon]

the amendments moved and adopted in the Joint Committee. The Joint Committee deliberated over this Bill for days and days together. There was ample time for Government to push forward these viewpoints before the Committee. The hon. Minister who represented the Government on the Joint Committee agreed with this particular definition and we are only supporting the definition almost unanimously recommended by the Joint Committee. After deliberating for so many days in the Joint Committee, I fail to understand what made the hon. Minister go back and move this amendment. Is it because the hon. mover of the motion commending the Bill to the Joint Committee all on a sudden decided to change his viewpoint about the pernicious system of dowry or has he realised that the legislation is too hard as far as certain sections of his party are concerned? If that is so, let him tell so honestly, so that this hon. House, which gives so much weight to the recommendation of the Joint Committee may realise that Government have gone back upon their own promise and declaration, as far as the introduction of the Bill is concerned. Therefore, I make an honest appeal to the hon. Minister that if he is really serious about checking this pernicious system of dowry, if he attaches even one per cent of value to his own declaration, which he made both on the floor of the House and outside, he should withdraw this amendment and allow the Bill to be passed as it is, or if he now realises that the time has not come for the Congress Party to pass this legislation, let him withdraw the entire legislation and come forward with another consolidated piece of legislation to check this pernicious system of dowry. Otherwise, I say with all seriousness that if this House passes a legislation like this, people outside will think...

**Shri A. K. Sen:** Perhaps I may state it at this stage that this was only a suggestion and the Govern-

ment is not committed to pressing this amendment. There were a lot of apprehensions about the scope of the definition. So, I may make it quite clear at the very outset that we are not committed to this amendment. It is only for consideration of the House and if the House is really against the amendment, we shall not press it.

**Shri Narayanankutty Menon:** I am glad.

**Mr. Speaker:** For the benefit of hon. Members I may state that yesterday Shrimati Renu Chakravarty stated that the original clause does not cover the case of a practice prevailing in Bengal of the father being obliged to give so much of gold to the daughter. The words used in the clause are:

"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".

The hon. Member said that if it is forced from the parent itself "other party" does not come into the question. Therefore, some provision should be made. I thought this has been made for that.

**Shri A. K. Sen:** Exactly.

**Mr. Speaker:** If this explanation is not there, it would mean that even the parent cannot give anything. Now, it is the custom in some places to give some ornaments etc. at the time of the marriage. The idea of the Government evidently is to make the position quite clear. I do not think the Government wanted to go back. In fact, this is in pursuance of the suggestion made by the hon. Members. Of course, if the language does not carry out the intention, the hon. Minister will have to look into it.

**Shri A. K. Sen:** As the hon. Member, Shrimati Renu Chakravarty, pointed out, there are certain States

where certain customary presents are absolutely obligatory at the time of marriage; for instance, the *mangal-sutra* in Maharashtra and *Loha* and *sanka* in Bengal. There are many other presents which are customary and which should be given as part of the religious ceremony. The whole purpose of this amendment is to cover those cases.

**Pandit Thakur Das Bhargava:** May I ask one question? Is the Law Minister, or the Deputy Law Minister bound by the amendment or not? As a matter of fact, when the Bill was brought here, when it was referred to the Joint Committee, the hon. Law Minister was pleased to state that *stridhan* is not included in dowry. So far as the voluntary gifts are concerned, the hon. Deputy Minister said the same thing. Now understand what is the real of the hon. Law Minister, and was saying that they withdraw the Bill as the of the Joint Committee can not ly supported. I think that is the mark.

**Mr. Speaker:** The hon. Member will have an opportunity to have his say.

**Shri Narayanankutty Menon:** I did not say that there is anything technically wrong in referring it back to the Joint Committee. If this explanation is accepted, if it is added to the clause, the difficulty, first of all, will be of proving whether the presents made, or property handed over, was in consideration of the marriage. As it is a subjective satisfaction whether it is "in consideration of the marriage", there is already a difficulty in defining "dowry" and also bringing home the guilt of the particular accused, as "in consideration of the marriage" entirely depends upon the mental condition of the accused; that is, whether he thinks that property has been given in consideration of the marriage. Suppose he comes forward and says "this is in consideration for my love and affection".

**Mr. Speaker:** Let us come to an extreme case, the exchange of rings, which is the tradition in almost all parts of the country. One party gives it to the other party, and it is for the purpose of the marriage. Without the explanation, even that will become an offence.

**Shrimati Renu Chakravartty:** There is an amendment by Shri Jadhav on this point.

**Shri Narayanankutty Menon:** We want to make it clear what our view is on the Government amendment.

**Mr. Speaker:** I believe the intention is to restrict and avoid anything being given by way of extortion, at the same time, excluding other smaller ones which, by custom and habit, will form a necessary part of the marriage ceremony. So, it is only the language of the explanation that has to be considered.

**Shri Narayanankutty Menon:** If that is the intention, and if it is possible by incorporating this explanation to carry out that intention, there is no objection to that. But what I am pointing out is that there is a danger inherent in the explanation itself, because even dowry which has been paid or given at the time of the marriage will be legalised by this explanation. Because, already the inherent danger of not being able to prove whether it was a consideration for the marriage or not is there. The position is complicated even as it is. By the addition of this explanation the position becomes more complicated, because there is the use of the word "custom" and it is difficult to prove what is sanctioned by custom. Therefore, my submission is that if this explanation is added to the clause, it would be impossible to bring anybody to book for the offence of giving dowry.

**Shri C. E. Pattabhi Raman (Kumbakonam):** May I explain the position?

**Mr. Speaker:** I will give the hon. Member another opportunity. By this cross explanation hon. Members will lose the benefit of impressing the House. People will take it as some objection, intervention or obstruction and will not pay heed to what the hon. Member says, however interesting or good it might be.

**Shri Narayanankutty Menon:** In respect of this clause, as recommended by the Joint Committee, we have suggested another amendment, and I should like hon. Members to consider amendment No. 7. As far as amendment No. 7 is concerned, what would be the difficulty in defining "dowry" and what would be the inherent danger as far as that definition is concerned? If the intention is to prohibit the giving of dowry, at the same time legalising certain customs of giving presents alone, even then by definition it could be done, instead of adding an explanatory clause, which is a long and complicated one which is full of danger to both those are giving and receiving dowry. Therefore, I appeal to the hon. Minister that in order to carry out the intention of the Bill, which factor itself is a very complicated, difficult and composite one, to accept my amendment, which is so simple in character, in order to lessen the difficulties of the prosecution in a particular case. I hope that when the hon. Minister explained that the Government does not stand committed to the amendment moved by the hon. Minister, and the intention of the Government is only not to penalise certain custom which is existing in West Bengal...

**Shri A. K. Sen:** Not in Bengal alone but all over the country; I never said West Bengal.

**Shri Narayanankutty Menon:** Then the matter is so clear. If the custom prevalent all over the country of paying presents at the time of the marriage by those who are related are to be legalised, we fail to understand

what is the definition of dowry. It is said that what is going to be prevented is the extortion of money; that means, making it a term of the contract. If my son wants to marry and you pay that money, there is absolutely no difference at all between paying that particular amount to the bridegroom at that time or some other time, or making a differentiation between dowry and gift.

I have pointed out how the Joint Committee deleted the exemption clause of Rs. 2,000. I find from the minutes that there was deliberation in the Joint Committee and the members of the Joint Committee were not agreeable for presents up to a value of Rs. 2,000 to be exempted from the penal provisions of the Bill. What was the intention of the Joint Committee? The intention was very clear; the Joint Committee was not prepared even to allow gifts or presents which were provided in the original Bill as moved by the hon. Minister on the floor of this House, namely, up to a value of Rs. 2,000. The intention was quite clear: if the exemption was there of presents worth Rs. 2,000, in almost all middle-class families the system of dowry will continue.

So, in consonance with the recommendations of the Joint Committee in deleting the clause about presents worth Rs. 2,000, this explanation will not stand. This explanation, as moved by the hon. Minister, is an indirect way of restoring the exemption clause which has been rejected by the joint Committee, and that is why I say that this is legalising a custom which has already been rejected by the Joint Committee, by their rejecting the exemption clause of Rs. 2,000. Therefore, I would submit that if we pass this legislation as it is, some way or the other, at least in some direction the giving and taking of dowry is prevented. But if we in this House itself provide 'loopholes' in order that anybody who asks dowry, or who takes dowry can escape, there is no

point in passing this Bill. Therefore, if the intention of the Government is, as explained by the hon. Minister, to see that this pernicious system of dowry is removed, then this explanation will not help them and this will give a blanket moratorium to pay dowry, to get dowry and to ask for dowry. Therefore, this explanation is very much dangerous. A better explanation in which the view of the Joint Committee will be reflected including their rejection of the Rs 2000 exemption should be accepted by the Government. I do not think that any feasible argument could be put forward or difficulties could be put forward whereby the other provisions of the Bill will be defeated by giving a simpler explanation of that point.

**Shri Nathwani:** I have moved two amendments to clause 2. Before I come to that, I would like to deal with the amendment moved by the hon. Minister. As regards the explanation, difficulty is caused by the use of the words custom or usage. Whereas the hon. Minister was pleased to say that the intention is to cover those cases where something is given which is considered as auspicious, and not something which is extorted by one party from the other. But, as the words stand, custom or usage will include the custom of dowry also. In one breath he says that dowry is a custom though an evil one and when used in the explanation, he wants to restrict it to presents given at the time of marriage which are considered very auspicious and which are not objected to by anybody and which are within their means. For instance, in my part, there is a custom of giving something, some ornaments known as *mangal sutra*, nose ring and ear ring, which do not cost much and which everybody accepts that no hardship is involved. It is considered part of religious ceremony. But when we look at the Explanation as it stands, even if we read it in the sense in which it is sought to be read by the

Mover, it is superfluous. It says something which is covered by the main part, that is unless it is given as consideration. If presents which are customary or given in accordance with usage mean only those which are not in the nature of extortion, which are not given by way consideration, the same provision is made by the substantive or main part. I do not see any justification for adding the Explanation. Therefore, just for the sake of a change, I would support what my hon. friend Shri Narayanankutty Menon has just now said, It is likely otherwise to cause confusion. Therefore, the Explanation is not necessary at all. It will lead to confusion and it may stifle or defeat the whole purpose of the Bill. Custom or usage may be interpreted or construed as dowry which is also customary, which also obtains as a practice in many parts.

Then, I come to my two amendments. They are small ones but they are important: amendment Nos. 39 and 48. First I will deal with amendment No. 48. In clause 2 it is stated when any property is given by either party to the other party or to some other person on behalf of that other party. I am objecting to the use of the words "on behalf of the other party". Suppose the father of the girl gives a sum of money, say Rs 10,000 to the father of the bridegroom. The father of the bridegroom receives it on his own. He does not receive it on behalf of the bridegroom.

**Mr. Speaker:** Is this an amendment to the amendment?

**Shri Nathwani:** It is an amendment to the original clause 2. In the amendment itself, you will see that the same words occur

**Mr. Speaker:** I agree. Now that the Government has got this amendment, any amendment to this amendment will be all right.

**Shri Nathwani:** If you look at clause 2 (b), it says:

"by the parents of either party to a marriage or by any other person, to either party to the marriage or to any other person on behalf of either party;"

The expression "on behalf of either party" occurs also in the amendment. I am objecting to the use of the words "on behalf of either party". If moneys are given by one party or on behalf of one party to the other party or to any other person, then it should be made punishable. Then, it should be treated as dowry. You need not say that the other person, namely the father or parent or guardian of the bridegroom receiving it must receive it on behalf of the bridegroom. I am taking this illustration to make clear my point of view.

**Mr. Speaker:** The word 'bridegroom or spouse' is not used in the Government amendment. By one party to a marriage to the other party—it only means the bride and the bridegroom.

**Shri Nathwani:** It may be either the bride or the bridegroom. Suppose the father of the bride or the bridegroom receives the money. The second point is, he should receive it on behalf of the bride or the bridegroom.

**Mr. Speaker:** What else is it?

**Shri Nathwani:** He may receive on his own account. He keeps it with himself

**Mr. Speaker:** There is no such case. If the boy refuses to marry? It is as if this man is going to marry.

**Shri Nathwani:** It is not always the boy who receives the money.

**Mr. Speaker:** It is in consideration of the boy marrying the girl. It is not on account of the old man appearing on the stage.

**Shri Nathwani:** Amendment refers to money given either to the bridegroom or the bride or to some other person on his behalf. Therefore, whatever is given is held in trust by the recipient for the bride or the bridegroom. That is what the section requires. Here, in practice, the father or the guardian receives it for himself in consideration of his son agreeing to marry the other party. That is the force of my contention. Suppose the section stands as it is and a prosecution is launched. X is the father. If you try to follow my argument perhaps, my point of view may become clear. I take a concrete case. Suppose the father of the bridegroom received Rs. 20,000 before he allows his son to agree or his son agrees to the marriage. The prosecution is launched. The father would say that the section requires that he should receive on behalf of his son. The money is in my hands for himself. The section says, it should be received by him on behalf of bridegroom. Nothing doing. He has not received on his behalf. Bridegroom does not claim it. I do not say that I have received it on behalf of his son. He has no claim to anything from this. He is receiving it on my own.

**Mr. Speaker:** But, it is in consideration of the marriage.

**Shri Nathwani:** Certainly in consideration. But, he does not receive on behalf of a party to the marriage.

**Mr. Speaker:** Does anybody believe that the father will be given money in consideration of the marriage and not on behalf of the son?

**Shri P. R. Patel:** It is not possible to settle a marriage. The father of the son says, you must give me Rs. 5000; not to the girl or the boy, but you must give me. What will happen? It is not on behalf of the girl or boy.

**Mr. Speaker:** Well; let the hon. Member go on.

**Shri Nathwani:** According to me, even if the hon. Minister . . .

**Shri A. K. Sen:** I think there is some substance in what Shri Nathwani says. There is a possibility of the father receiving money, not on behalf of his son or daughter, but on his own behalf, in consideration of the marriage of the two.

13 hrs.

**Shri Nathwani:** I am glad that the hon. Minister says there is some force. I will leave it at that. To me it appears that otherwise there is a lacuna which may be taken advantage of.

**Shri Subiman Ghose (Burdwan):** It is full of lacunae.

**Shri Nathwani:** We must try to cover them up as far as possible. We may argue here, that is all. It is not for anyone of us to say that certain thing must be done, or must be accepted.

Then I come to my amendment 39. Again an amendment is sought to be made with a view to cover a loophole. If you see the original clause 2 or even the amendment, you will see that the property is to be received or given by one party to a marriage to the other party to the marriage. I emphasize the words "party to the marriage". At the time of betrothal there is no marriage, that must be borne in mind. There are two stages. There may be betrothal and at a later stage there is marriage. So, a party to a betrothal does not necessarily become a party to a marriage. Marriage may take place after some time. The words "betrothal" and "marriage" occur in the clause itself, and they are used for different purposes. Suppose at the time of betrothal the bridegroom or the bride has received presents as consideration. Can you say that at that stage an offence has been committed? The marriage may take place a year hence, and under clause 7 a complaint has to be lodged within a year. If anybody were to ask my advice as a practising lawyer, then I would say...

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**Shri Narayanankutty Menon:** Don't tell it now.

**Shri Nathwani:** With a view to convince the Members about the cogency of my argument I am taking this illustration. Do not think otherwise.

**Shri Narayanankutty Menon:** If your amendment is not accepted, this will be taken.

**Shri Nathwani:** Nobody will come and consult me, don't worry about that. But suppose at the time of betrothal a gift is made, then the marriage has not taken place, and it may take place a year after the betrothal.

**Shri P. R. Patel:** After one year.

**Shri C. D. Pande (Naini Tal):** Or does not take place at all.

**Shri Nathwani:** At that stage I submit no offence has been created.

**Mr. Speaker:** Therefore, what is his suggestion?

**Shri Nathwani:** The suggestion is to add the words "betrothal or" after the words "party to a". In the Bill that was moved by Shrimati Renuka Ray both the words were there.

**Shri C. D. Pande:** May I ask him one question? In case the betrothal takes place and the money is passed on, and the marriage does not take place, is it an offence? Marriage is the main thing; not the betrothal for constituting an offence.

**Shri Morarka (Jhunjhunu):** Dowry is the main thing.

**Shri Nathwani:** Then the whole purpose will be defeated. If it is the intention that unless the marriage takes place, though the consideration is given, no offence will be deemed to have been committed, certainly the purpose would be defeated, because the marriage may take place after a year, you can defer or postpone it and circumvent the provisions of the Bill.

**Shri A. K. Sen:** That is ignoring practicalities.

**Shri Narayanankutty Menon:** All betrothal will be before 1½ years.

**Shri Nathwani:** Therefore, this is my second point.

**Shri C. K. Bhattacharya** (West Dinajpur): That would happen if they take the advice of lawyers.

**Shri Nathwani:** If the intention is that even if the marriage does not take place and at the time of betrothal some consideration is given, it should be punished, then it is better to make the intention clear.

You must bear in mind one thing. This is a penal statute. Though we have now softened the rigour of the punishment, still it would involve serious consequences, and a penal statute is always construed very strictly in favour of the accused persons, and if you leave a lacuna, the whole purpose would be defeated. I have very little doubt about that.

Now I come to a third point, a minor change, and I have moved it to satisfy my lawyer's conscience, not that of a legislator. If you see clause (b) in the proposed amendment 82, it says "by the parents of either party to a marriage or by any other person". It is a verbal change that I am suggesting. "By any other person" is wide enough to include the parents of either party, and I am pleading for the deletion of the words in the beginning "by the parents of either party to a marriage or". That would lead to elegance. I believe elegance is not the virtue only of tailors and cobblers, but it is also the virtue of a legal draftsman. That is all I have to say.

**Pandit Thakur Das Bhargava:** Clause 2 is the soul of this Bill, and unless and until this word "dowry" is rightly defined, it would help neither zealous reformers nor even those who are called reactionaries in

this House, because, after all, we must have a balance between the two views. The two views are: that dowry by itself, even ornaments etc., which are customarily given, should not be allowed to be given; that unless the parent is extortionate, no offence is committed. The hon. Minister proposed an amendment to reconcile both these views. He said that presents would not constitute dowry, but he added a qualification that the presents should not be as a consideration for marriage. It appears some objection has been taken to this also.

If, as the Law Minister said when he was referring the Bill to the Joint Committee, which he has repeated again, that *stridhan* is allowed, let us consider how it is given. It is only given at the time of marriage. It is generally given either by the father of the bridegroom or in some places by the parents of the girl. It is not given so that the marriage may take place, as a consideration. What is consideration after all?—something that one party gives to the other because of which the marriage takes place. This is not consideration for the marriage. The father of the bridegroom always gives some ornaments to the bride and that is *stridhan* for her whole life. The same is the case with the ornaments given by the parents. According to the Law Minister that is excluded. In the two Bills proposed in Bihar and Andhra also it is excluded. It is common ground, everybody agrees, and one lady Member also said that *stridhan* ought to be excluded. How can that be effectuated if the original definition stands? Even the sum of Rs. 2,000 given in the original Bill as the total amount was taken away by the Joint Committee from which it is clear that even presents are not allowed, though presents which are on the occasion of marriage, are not given as consideration. According to this definition, nothing will be allowed. The explanation of the hon. Deputy Minister that presents are allowed, unless

given as consideration for the marriage, was a good one, but it appears that some of my friends are very persistent that whatever the Joint Committee has done is sacrosanct.

After all, the motion is that the report of the Joint Committee be taken into consideration, which means that what will be binding is what this House decides, not what the Joint Committee did. If the Joint Committee did one thing, and the hon. Law Minister now proposes an amendment, what is wrong? Why should Shri Menon take exception to it and insist that no person can say a word against what the Joint Committee has done? What are we here for? We are here only to see that whatever the Joint Committee has done is according to the public opinion in this country and according to what all the Members accept. Therefore, on a matter like this there should not be such insistence, and nobody should have a right to criticise the Law Minister if he proposes an amendment to the clause.

In the proposed amendment, it is stated:

"In this Act, "dowry" means any property or valuable security given or agreed to be given—

(a) by one party to a marriage to the other party to the marriage;"

In regard to this, I had something to say at the time when the Bill was referred to the Joint Committee. I submitted that so far as the conditions of marriage between a husband and wife are concerned, they are sacrosanct and must be reserved. A husband and a wife have a right to contract between themselves whatever they like. Though among the Hindus, marriage is regarded as a sacrament, yet, at the same time, there are always conditions to a marriage. There is nothing wrong if a

husband pays something to his wife or the wife pays something to her husband.

Now, what has been done in this Bill? So far as the Muslims marriages are concerned, it is specifically provided in this Bill:

...but does not include dower or mahr in the case of persons to whom the Muslim Personal Law (Shariat) applies."

What is sacrosanct about it? So far as our Constitution goes, it enjoins on us to have a uniform civil code for the whole of India. But so far as the Muslim marriages are concerned, they are excluded from the scope of this Bill. I do not object to that. I say that as between a husband and a wife, if there is a condition to give mahr or dower, it should be allowed. I am not opposed to it not because it is their personal law, but because it is a very natural thing. After all, what is mahr or dower? It is a gift given at the time of marriage, or deferred dower; and deferred dower is what the husband is liable to give when he gives divorce to the woman. That is all. It means that gifts by the husband to the wife are allowed under the Muslim law, and they are called mahr or dower. What is wrong with it if it is applied to Hindus also? The hon. Minister was pleased to say that there are poor Muslim girls, and in their case, this should be allowed. May I submit that there are poor girls not only among Muslims but even among the Hindus, and, therefore, the question of poverty should not be brought in here? If the husband wants to pay anything to his wife, either in the shape of ornaments or anything else, what is wrong with it? Can it be called dowry? Should a wife be forced not to marry or imprisoned because that is given? If the wife agrees and accepts some ornaments, there is nothing wrong about it. I am rather surprised. I quoted a Sanskrit sloka on the last occasion to show that among Hindus also, a husband is always allowed to give whatever he likes to his wife. This



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is not called dowry. Dowry is not a thing which a husband gives to his wife or a wife gives to her husband. Dowry is what the father of the bridegroom gets in order to induce his son to marry. And it is there that we want to eliminate the element of extortion. We do not want to eliminate all sorts of gifts. We only want to see that at the time of marriage, persons do not come with bloated faces, almost in sorrow, without any happiness and without any sort of gifts. But, according to the definition in the Bill, even the food given at the time of marriage will become dowry; after all, it is a gift and it is given in consideration of marriage.

**Shri A. K. Sen:** Has the hon. Member any daughter to marry?

**Pandit Thakur Das Bhargava:** Let not the hon. Minister worry for me. So far as I am concerned, I have already given my daughter in marriage.

**Shri A. K. Sen:** I half-suspected that.

**Pandit Thakur Das Bhargava:** I may say that I gave a dowry, and the dowry was also received on behalf of the father of the bridegroom. (An Hon. Member: Shame!) That was perhaps before this Parliament came into existence, long before many of my hon. friends here were even born. I celebrated this marriage in 1927 and this happens in every marriage in North India.

Now, the point is this. Suppose a person wants to give something by way of entertainment to a party to a marriage, then, what will happen? So far as the wording in the Bill goes, even that entertainment will become a dowry; even the food given in a party on the occasion of the marriage will become a dowry. I am opposed to it. Similarly, in certain parts of the country, the giving of the *mangal-sutra* is a custom, while in other parts, the *mangalsutra* is not given but other things are given.....

**Mr. Speaker:** I think there is full agreement regarding this. Nobody wants to penalise those customary or normal gifts, but in the guise of presenting normal gifts, an extortion ought not to be made; at the same time, in the guise of making an extortion, normal gifts ought not to be denied. The difficulty is how to find the mean.

**Pandit Thakur Das Bhargava:** Therefore, the hon. Minister's amendment is a sort of balance between the two. I had also given notice of a similar amendment.

**Shri Jadhav (Malegaon):** A schedule should be prepared of the customary gifts.

**Mr. Speaker:** The courts will take into account the customs in each place and decide what is reasonable custom.

**Pandit Thakur Das Bhargava:** If you will be pleased to see my amendment, namely amendment No. 15, you will find that I had also said a similar thing. If any person wants to give dowry, and wants only to take the pretence of giving some ornaments for Rs. 10,000, then also, according to my hon. friend Shri Narayanankutty Menon, it is a sort of subterfuge to pass on dowry in the form of presents, and that should be excluded. In fact, that is excluded by the amendment of the hon. Law Minister as well as my amendment where also I have stated a similar thing. If it is given by way of consideration, as a consideration, then, it should be penalised.

**Mr. Speaker:** If the father is worth a crore of rupees, why should he not give Rs. 10,000 to his daughter? But it becomes a dangerous thing if the father is a poor man and he is forced to give Rs. 10,000 to his daughter. Now, whatever legislation may be passed, this legislation will be vetted by the Supreme Court, for it will go

up to the Supreme Court. Everywhere, there is the question of discretion to the judge as to what is extortion and what is not extortion.

**Pandit Thakur Das Bhargava:** Let us not forget what we want to penalise. If something is extorted from a person by the father of the bridegroom or by the bridegroom or by any other person on his behalf, then we must penalise that thing, not everything that is given. Therefore, I have submitted that dowry by itself is not bad. Only that part of the dowry is bad which is extorted from a person by way of dowry. Therefore, I have submitted that the reasonable financial competence of the person concerned should be taken into consideration. But if you are going to say that he cannot give at all, then, I say that that is going too far.

**Shri Subiman Ghose:** What is the demarcating line?

**Pandit Thakur Das Bhargava:** The difficulty is this, and in fact, I made this submission some time back also. The court shall have to go into the question as to the reasonable financial competence of the person concerned. The court will have to go into the question whether the present is not due as such, whether it is given according to custom or not.

Anyhow, the real difficulty arises if we cannot define consideration. What is consideration? I beg to ask the hon. Law Minister. In fact, I had asked this question at the time when the Bill was being referred to the Joint Committee also. What is consideration? And what amount should be considered as consideration? For, at the time of marriage, whatever is given is given in consideration of the marriage, not as consideration. It is given in consideration, but not as consideration. It means that if the marriage would not have been performed but for the present, then it is consideration, if, on the other hand, the marriage would have been

performed, whether the presents were given or not, then the presents are only an incidental thing, and they do not amount to consideration. This is the real difference.

So far as equality of rights is concerned, you should give the same right to the Muslim girl as to the Hindu girl. A Hindu girl is also entitled to receive from her husband just as a Muslim girl is entitled to receive from her husband. So far as the husband and wife are concerned, I do not think it is right to penalise any sort of gifts whatsoever. Therefore, I have moved an amendment to the effect:

“but does not include any settlement or gift of any property from one spouse to the other”.

That is, I have stated that that should not be treated as dowry. This is absolutely fundamental, to my mind, because, otherwise, it would mean putting some restriction on the wife as well as the husband. And to whom will it go? According to clause 6, whatever is given by way of dowry, even if it is given by the wife to the husband, must go back to the wife; according to this clause, everything will go to the wife; in other words, even if the wife gives something to her husband, it shall revert back to the wife. I ask: What is wrong with it? What is wrong if a wife gives something to her husband? You are only penalising the woman under this clause. Do you want that if the husband gives to his wife something, and she accepts it, then the wife must be sent to jail, and the husband also must be sent to jail? I cannot understand what logic is there behind this. What are the zealous reformers thinking about this? Suppose, even hundred rupees are given, or even some bangles or a necklace etc. are given; and we know that our ladies love these ornaments very much; suppose a necklace is given by the husband to his wife before marriage, or after marriage, or during marriage, or at any time, then what is to happen? Do

[Pandit Thakur Das Bhargava]

you want that both of them must be sent to jail?

**An Hon. Member:** Why not?

**Pandit Thakur Das Bhargava:**

Suppose, before the marriage, a husband gives something to his wife, he would not be giving it to her as a wife; but, if at the time of marriage, he is giving it, then it is in consideration of marriage, not as consideration for marriage, but in consideration of marriage.

**Shri Subiman Ghose:** There is want of *mens rea* there.

**Pandit Thakur Das Bhargava:**

My hon. friend speaks of *mens rea*. When I submitted that reasonable financial competence should be the guiding thing, and that should be allowed, there was no *mens rea* then. *Mens rea* comes in only when a person wants to extort. But my hon. friend in his zeal wants to take away all the principles of legal jurisprudence and blow them off. My humble submission is that in all fairness, if you want to penalise what the whole House wants you to penalise, then the only way would be to put in this expression 'beyond the reasonable financial competence of the person giving'; that would be all right. Then only you are penalising extortion. Otherwise, you are penalising very ordinary things which happen everyday in life. The husband gets something or the wife gets something.

Therefore, I submit that the words 'dower or *mahr*' in clause 2 should be taken away and the general thing should be restored that any gift by the husband is not dowry. That will also cover dower or *mahr*—everything—and it will be applicable to the whole of India and to all—Hindus, Muslims and everybody else.

With regard to amendment No. 19, I submit that even the presents etc. mentioned there are not given as consideration. So those words in the clause are superfluous. Either you say that it is on account of undue influ-

ence or extortion or it is the other way.

**Mr. Speaker:** What are the amendments of the hon. Member?

**Pandit Thakur Das Bhargava:**

My amendment Nos. are 15, 16, 17, 18, 19, 67 and 68.

**Mr. Speaker:** Shri Narayanankutty Menon has already moved amendment No. 7. Shri Nathwani has moved amendments Nos. 39 and 48.

We have already exceeded the time by one hour now. I suggest that an hon. Member may move for extension of the time by one hour, to which we agreed, and then conclude the discussion. I am not going to allow more than five minutes to each hon. Member who moved his amendments.

**Shri P. R. Patel:** I have two amendments.

**Shri Narayanankutty Menon:** Being an experienced lawyer, Pandit Thakur Das Bhargava may be kind enough to tell the House what, in his opinion, will be the ingredients of the offence of giving dowry. Then it will be easy to proceed.

**Mr. Speaker:** The difficulty is that he has already spoken so long, and I may not be able to give opportunities to other hon. Members.

**Pandit Thakur Das Bhargava:**

I will finish in a minute.

Really, the offence, according to me, consists in the fact that a certain person obliges another person, the father of the bride, to part with money which he would not be willing to part with with love and affection. He wants to extort something. That is the gravamen of the offence.

To sum up, I think the entire House is agreed on two principles. One is that the payment of dowry, if it has got an element of coercion or extortion, must be penalised. We are all agreed on that. I am as anxious as my hon. friend, Shri Narayanankutty Menon, about that. At the same time,

I am also of the view that so far as customary presents or presents out of love and affection are concerned, they ought to be excluded. They should never form the basis for action. I am also clear in my mind about another thing. I think Shri Narayanankutty Menon also agrees to a certain extent regarding that. The difference between him and me is this. He agrees only in respect of auspicious presents which are required at the time of marriage. Further, he says that the present may be given as consideration but clothed in a different manner. I also say the same thing. If they are clothed in that way, then treat them as dowry. I do not mind. So we are all agreed, but yet we are fighting. I do not know why. It may be that our minds are not clear. In all the amendments I have placed before the House, this is the background in my mind. So far as the question of presents by the husband or wife are concerned, they ought to be excluded. They should be allowed to give whatever they like. As I submitted, a woman is entitled to marry any person she likes, whatever be the reason.

13:24 hrs.

[MR. DEPUTY-SPEAKER in the Chair.]

So by having a provision like this, you are really putting an obstacle in her choice. Suppose a woman wants to marry a rich man. What is wrong about it? Suppose a rich man wants to marry a girl who is not rich but otherwise, in his opinion, is the most excellent girl in the world. What obstacle should be there? Do not put any obstacles in their way. To put any obstacle is entirely wrong in principle.

Therefore, the gifts between husband and wife should be excluded. If it is excluded in the case of Muslims, it should be so in the case of Hindus also. So these amendments should not be brushed aside in the manner that my hon. friend, Shri Narayanankutty Menon, has suggest-

ed. Both the hon. Ministers have put this question before the House in a very real way. I admire them for taking the right view, but I am sorry that their views are not being accepted. On the contrary, they are being forced to accept this or that.

**Shri Raghubir Sahai:** I beg to move:

"That the time allotted by the House on the 26th November, 1959 (*vide* the Forty-fifth Report of the Business Advisory Committee) for consideration and passing of the Dowry Prohibition Bill, 1959, as reported by the Joint Committee, be extended from 5 hours to 7 hours".

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

"That the time allotted by the House on the 26th November, 1959 (*vide* the Forty-first Report of the Business Advisory Committee) for consideration and passing of the Dowry Prohibition Bill, 1959, as reported by the Joint Committee, be extended from 5 hours to 7 hours".

*The motion was adopted.*

**Shri Raghubir Sahai** rose—

**Mr. Deputy-Speaker:** Does he want to be the first speaker after the extension motion he himself moved has been accepted?

**Shri Raghubir Sahai:** I have not spoken so far.

**Mr. Deputy-Speaker:** The Speaker has put a limit for every speech. It is five minutes.

**Shri Raghubir Sahai:** That will be too small.

**Mr. Deputy-Speaker:** Then he ought to have moved for a greater extension of time.

**Shri Raghunath Sahai:** I am in your hands.

**Shri Surendranath Dwivedy (Kendrapara):** When is the discussion concluding?

**Mr. Deputy-Speaker:** We will conclude it at 2:25 P.M.

**Shri Raghunath Sahai:** My own feeling is that after the emergence of this Bill from the Joint Committee, the whole thing has become worse. It has created confusion worse confounded. In the original Bill, it was provided that presents, cash etc. given at the time of the marriage might be limited to the extent of Rs. 2,000. I think that was a very practical view. But in the Report of the Joint Committee, they have done away with that clause. The reason assigned by the Members of the Committee is that if this provision is retained, it would virtually amount to legalising dowry which is a very pernicious system. Now by taking away that clause, I think the whole thing has become vague and this evil of dowry will go underground—which no honest person would like.

I was amazed to see the vehement arguments advanced by Shrimati Renu Chakravarty who happened to be Chairman of the Joint Committee. She sponsored a Bill in this House, The Restraint of Dowry Bill, 1952. I would read out from the definition of 'Dowry' she was pleased to give there:

"'dowry' means any property transferred or agreed to be transferred as a part of the contract of any betrothal or marriage by one party to the betrothal or marriage or the father, mother, or guardian of that party to the other party to the marriage or to the father, mother or guardian of the other party, but does not include voluntary marriage gifts such as ornaments to a bride and dresses to a bridegroom, the value of

which do not exceed two hundred rupees".

Now, leave aside the extent to which she has agreed to exclude. In the light of the fact that voluntary gifts have been excluded in the definition of 'dowry' in her Bill in 1952, her present attitude is entirely inexplicable. By taking away that clause, the whole Bill has been made impractical. As Members of Parliament, we should not take such a view. We should take a practical view of the matter. I feel that human considerations and natural considerations will prevail. From the sense of the House, it appears that some presents are necessary to be given at the time of marriage and they should not be excluded. They should be voluntary. I do not agree with the amendment sponsored by the Minister; I do not think it will serve the purpose because it is again very vague and leaves everything to speculation. It is very difficult to prove usage and custom. Every thing that will be given by way of dowry will be tried to be interpreted as 'custom and usage'. In all fairness, taking all the arguments for and against the Bill in this House, it would be proper for us if we limit the presents and other things at the time of marriage to a certain valuation and the valuation that was put originally in the Bill was perhaps very fair. The amendment that has been sponsored by the hon. Minister may be accepted with this proviso that after the last word in Explanation I of his amendment, these words may be added, namely "and not exceeding in value Rs. 2,000". It would read:

".....unless they are made as consideration for the betrothal or marriage of the said parties and exceed in value Rs. 2,000."

If this amendment is accepted, perhaps the purpose in view will be served. As I said, marriage is a sacramental thing. All the pomp and show and the gaudiness associated

with marriage should be put down because in dowry all these things can be included. If we limit the consideration to the extent of Rs. 2,000 I think the purpose will be served.

**Shrimati Parvathi Krishnan** (Coimbatore): Sir, I rise to oppose the amendment that has been proposed by the hon. Deputy Minister. Yesterday, when he moved this amendment, he tried to say that he was accepting my amendment. Side by side he said he was accepting the explanation from the amendment of Pandit Bhargava. This itself shows that this amendment is basically defective because it was quite obvious that we hold diametrically opposite points of view on this question of dowry. It is absolutely impossible to combine these two points of view. In the name of custom and usage—these words are included in this explanation—anything and everything can come in. For instance, in the South, there is a condition of marriage; it is a part of dowry. Very often the parents of the bridegroom say that the bride should be given such and such ornaments. These are not ornaments that are necessarily given by the parents of the bride to her out of affection for her but are made a condition by the bridegroom's family because otherwise their social status gets affected. They say that the bride must have a pair of diamond ear-rings and so many sovereigns worth gold jewellery and so on.

**Pandit Thakur Das Bhargava**: Who gives them—the father of the bridegroom or somebody else?

**Shrimati Parvathi Krishnan**: The bride is supposed to wear all these jewellery and they are to be given by her father. But it becomes consideration of marriage..... (Interruptions).

**An Hon. Member**: *Salankar Kanya*

**Pandit Thakur Das Bhargava**: In Upper India it is not so.

**Shrimati Parvathi Krishnan**: I did not interrupt him when he spoke and I would be very grateful if he does not, when I speak. He had 25 minutes compared to my five minutes.

**Mr. Deputy-Speaker**: I shall also be grateful.

**Shrimati Parvathi Krishnan**: Apart from that, the point that he was trying to make out is this. Why should husbands be prevented from giving their wives presents at the time of marriage? Why should wives be prevented from giving husbands presents at the time of marriage? He tried to make out or build up a theory out of this. I would like to ask him this question. In our country, where usually marriages are arranged by the parents which husband or bridegroom is in a position to make any substantial present to his wife or which girl is in a position to give voluntary gifts to her husband? Marriages in our country are arranged except in the case of those who are married late and the girl has been in some job and earned some money. It is a ridiculous type of argument to bring here. Certainly after they have become husband and wife, when they are having joint income, they can exchange presents as much as they like. But this is a loop hole. The father gives it to the bridegroom and says: you give this to the bride and then it becomes a presentation of the husband to the wife. Similarly, the bridegroom's people can have an inner agreement or understand with the bride's people and ask them to say that the presentation is made to the bridegroom by the bride. This is the way in which people will use this particular explanation to evade this very important measure in every possible way. It is very easy to use this sort of argument trying to arouse sentiments of the people. We know that parents do want to see that at the time of the marriage there is a spirit of joyousness, that people should feel happy and that presents are made and so on. But this will be used in an invidious way to avoid the very spirit

[Shrimati Parvathi Krishnan]

of this measure in order to upset the whole thing. Therefore, this explanation completely nullifies the amendment that I have given. Therefore, I am absolutely unable to accept this amendment which he has moved, because I feel that it will make this Bill a dead letter even before it becomes an Act.

**Shrimati Renu Chakravartty:** Sir I just want to oppose this Explanation. I have gone into it in great detail.

**Mr. Deputy-Speaker:** One opposition was not enough?

**Shrimati Renu Chakravartty:** I just want to answer one point. This point was also before many women's organisations and you do not know for how many hours and hours the women have discussed it. I would also like to mention that the Punjab Women were one of the greatest supporters for completely banning dowry in any form. This is a very difficult thing for the women, especially for the lower income group. There is this question of custom and usage in the whole of India. We had meetings of the various women's organisations in various parts of India and if we want to enumerate the different types of customs and usages which were put forward in these meetings,—you would be surprised to learn—I do not know how many schedules you should append to explain what you mean by custom and usage. We have said that normal, small gifts given out of love and affection should not come within the purview of this Bill. Certainly people should be allowed to do that. On the other hand, by introducing the words "custom and usage" you will allow all sorts of blackmarket dowry to go through. This is something which we are very much afraid of. After considering a great deal, we thought that this definition which we have put in here covers all such bona-fide gifts. All kinds of gifts can be given if it is not in consideration of

the contract or marriage and if it is out of love and affection. It does not bar anybody from giving anything. On the other hand, if we put in this "custom and usage", it is going to be utilised in a bad way.

Regarding the regulation of the amount, it was said: if I were a rich-man, why should I not pay much more? We are trying to bring about a minimum of equality, at least from outside, in these things. For instance, take the question of entertainment. I would submit to Pandit Bhargava that formerly when we were young, we have seen weddings—in Delhi we see weddings even now—2,000 people or more were fed for days on end—not for one day. It is not only the giving of "Charachoor" or some little nuts which we give in these days. We used to give feasts. Now things are not so because of the circumstances. We went to the hon. Speaker's son's wedding. We were very happy about it. I am sure he would have liked to have fed us. He fed us only on nuts and coffee. These are things, our social habits, that we are trying to change because of certain extraneous circumstances. We use the word *salankara* for the bride of the Wedding Ceremony. Generally, in a poor family the bride is brought in a simple coloured saree and a few jewels. I have also seen that in rich houses jewels worth even lakhs of rupees are given. Therefore, these words "custom and usage" combined with the word *salankara* will open the floodgates. That is why I would urge that we should try to keep it in the original form as emerging from Select Committee. It may be a bit general, but as the speaker remarked a little earlier, it will be a matter of interpretation, it will be a matter which will be taken up right up to the High Courts. I am sure anything like *mangal sutra*—we have got *loha*—or some clothes to be given to the bride etc. can be permitted. I would, therefore, suggest that Shri Jadhav's amendment may be accepted, and I would beg of the Deputy Minister not to open the floodgates by insisting

upon the explanation which he has given.

**Shri Hajarnavis:** Sir, I would like explain what I understand is the precise scope of the amendment. As the Law Minister has already given an assurance to the House, we are not insisting on this amendment being accepted, but let it be considered after we grasp what exactly it means.

Firstly, there is a definition of "dowry". In the definition of "dowry" it has always been an accepted position that wherever money has been extorted out of one party of the marriage by the other party it becomes a dowry. We also went on to say that voluntary gifts to any extent, whatever may be the reason—it may be affection, it may be because the parents feel that they are bound by custom or it may be because usage dictates it—they are not dowry. That position has not changed at any time during the consideration of the Bill; it has also not changed by this amendment.

**Shri Subiman Ghose:** What is the line of demarcation between extortion and voluntary gift?

**Shri Mulchand Dube** (Farrukhabad): Will you accept the definition in the Indian Penal Code or some other explanation as far as "extortion" is concerned?

**Shri Hajarnavis:** I use it in the sense that but for a promise to pay that sum the marriage would not come off.

**Shri Mulchand Dube:** It is not extortion then.

**Shri Hajarnavis:** I do not say it is extortion within the meaning of the definition given in the Indian Penal Code. I am only trying to explain the amendment. Except for the use of the words "either party" instead of the words "bride and bridegroom", this amendment is exactly the same as the amendment proposed by Shri-

mati Parvathi Krishnan. I do not see how she can complain if I have adopted her own suggestion.

**Shrimati Parvathi Krishnan:** I am objecting to the explanation.

**Shri Hajarnavis:** I fail to understand how Shri Narayanankutty Menon who is also a party to the amendment could have permitted himself to attribute all sorts of motives to us.

**Shrimati Parvathi Krishnan:** It is only . . .

**Mr. Deputy-Speaker:** She has already objected to the explanation; does she want to add another explanation?

**Shrimati Parvathi Krishnan:** I was not referring to the first part.

**Shri Hajarnavis:** Shri Menon is a party to the amendment that has been accepted by us except for the change of the words "bride and bridegroom". If the words "bride" and "bridegroom" are used the question would be whether it would be appropriate, where betrothal is concerned or the parties are to be proceeded against after the marriage has been performed, because the words "bride" or "bridegroom" would not apply if it is only a betrothal or to describe the parties after marriage. Therefore, our draftsman have used the words "either party". Except for that small verbal change we have accepted the amendment which was moved by Shrimati Parvathi Krishnan. Therefore, for them to say that we have some ulterior motives in accepting this amendment, I do not think is quite fair.

I now come to the explanation. The explanation appears to have caused considerable worry to some hon. Members. What does the explanation say? It says:

"For the removal of doubts, it is hereby declared that any presents made at the time of a marriage to



[Shri Hajarnavis]

either party to the marriage.....  
..... unless they are made as  
consideration for the betrothal  
or marriage of the said parties."

Therefore, any present which is made as a consideration is not governed by the explanation at all.

**Shrimati Renu Chakravartty:** But it is governed by custom and usage.

**Shri Hajarnavis:** No, it may be that the custom dictates it or the usage requires it to be done but if it is done as consideration then the explanation does not apply. If it is given as consideration then it is illegal and it comes within the meaning of this clause.

**Shrimati Renu Chakravartty:** Suppose I ask you for dowry and argue it is according to custom and it is not in consideration of marriage?

**Shri Hajarnavis:** Everybody knows that it is consideration.

**Pandit Thakur Das Bhargava:** Take away the word "custom." That does not affect it the amendment at all. Let them be satisfied.

**Shri Hajarnavis:** The moment the element of consideration comes in that payment or that transfer of property it becomes illegal whether custom or usage require it or not. Therefore I do not think we have changed the position at all. As I have said, we have all through stated—both Shrimati Renu Chakravartty and Shrimati Parvathi Krishnan also agreed—that voluntary gifts are not to be prohibited at all. If that is so, the explanation does not change that position at all. You may accept the words, you may not accept the words; the choice, as the Law Minister said, is with the House. But let us not misunderstand what the explanation means.

**Shri P. R. Patel:** Mr. Deputy-Speaker, Sir, so far as the explanation is concerned, whether it is kept or removed does not make any difference so far as the offence is concerned, because the criterion of the whole definition is consideration and the definition of consideration can be found in the Contract Act. The definition given there is, unless any amount is paid or promised to be paid as consideration of betrothal or marriage, any thing else is not covered and it is no offence. Now, whatever be the presents, starting from Re. 1 to Rs. 1 lakh, if it is not as consideration of the betrothal or marriage it is no offence. Whatever ornaments may be given, whatever jewellery may be given, it is no offence, but it is very hard to prove whether it is given as consideration or whether it is voluntary, because in a criminal case the burden of proof lies with the prosecution and the prosecution has to prove the case beyond reasonable doubt. If the man is prosecuted he would say that he has not given as consideration of the marriage or betrothal. How can the prosecution be in a position to prove that this amount was given as consideration of the betrothal or marriage? It is absolutely impossible to prove. In these matters regarding dowry it is very hard to prove.

Therefore, my submission is that the definition is very wide and it is very hard to prove the offence. I have, therefore, moved an amendment, amendment No. 3, regarding presumption. My amendment is that if the value of the property or valuable security exceeds Rs. 2000, the court may presume that it was given or agreed to be given as 'dowry'. So, I do not say that up to Rs. 2,000, there should be an exemption. Let me not be misunderstood. In the proceedings in court, you can prove it and the burden of proof lies on the prosecution. Even if there be a consideration of one rupee, that would be an offence. Suppose the prosecution is in a position to prove that properties

valued at more than Rs. 2,000 have been given, then, if this explanation is not there, the prosecution will fail. So, I want that if the property exceeds Rs. 2,000, the court may make the presumption, or may presume, that this property was given as dowry.

**Pandit Thakur Das Bhargava rose—**

**Shri P. R. Patel:** Please wait. Do not be worried. So, when the presumption is there, it will be for the accused to disprove that presumption. So, the discretion is given to the court. Taking all the circumstances into consideration, the court will decide. If the amount exceeds Rs. 2,000, the court may make the presumption that the amount given as dowry was to that extent. If you want to put a check to the evil of dowry, some presumption shall have to be drawn.

For instance, in Bombay, we have got prohibition laws. There also, under the evidence law, the prosecution must prove the case beyond reasonable doubt. So far as illicit liquor is concerned, if a man is found drunk, the presumption under the prohibition law is that the man has taken illicit liquor and then the man has to prove that it was not illicit liquor. So, the presumption could be had and you will find such presumption in other laws also. So, I would submit that unless this explanation is adopted, this Bill, if passed, shall have no effect absolutely on the system of dowry. If you want to stop dowry, let my amendment be accepted.

**Dr. M. S. Aney (Nagpur):** Mr. Deputy-Speaker, Sir, I just want to make a few observations on the language of this Bill and the amendments. When I read this Bill which is going to be enacted now, and the various amendments, I find that those who have drafted the amendments and the Bill have proceeded under the assumption that marriage is an agreement. On that point they have got no doubt in mind. Taking that stand, they have used the words "parties

to the marriage" as well as "consideration".

**Mr. Deputy-Speaker:** Order, order. When every hon. Member who wishes to speak is being allowed the opportunity, why should there be speeches by Members who are sitting?

**Dr. M. S. Aney:** It may be that a few of the large number of Members present in this House wish that marriage should be taken as a contractual agreement. But we have not up to this time by a statute ever declared that. So far as Hindus are concerned, they have regarded marriage as a sacrament; the general view taken by all the Hindus, about marriage, is that marriage is a sacrament. Probably the Christians also consider it as a sacrament. But that view does not find any reflection here in this Bill.

Having taken the view that marriage is an agreement, we find that they have used the word "parties" to the marriage. The parties are bride and bridegroom. I would like to ask the hon. Minister what is the meaning of the word "parties" to the marriage. If that word means the bride and bridegroom, why do you not use the words "bride" and "bridegroom", instead of the words "parties to the marriage"? You may use just the plain words "bride" and "bridegroom". If the bride and the bridegroom are the parties to the marriage, then you could use the words "bride" and "bridegroom". If it is nothing more than that, then in my opinion, the words "bride" and "bridegroom" should be used.

Now, I come to the word "consideration". In the Contract Act, this word has been defined. If that definition is borne in mind, it means this: in order to bring about a particular result, which is the object of the agreement, a certain kind of interest is created by one in favour of another, and that interest is called "consideration". Therefore, when we take this definition into account, we will find that what we define as dowry must be a matter which should

[Dr. M. S. Aney]

be agreed to between the two parties, and what is agreed in that way can only come under the definition of dowry. Matters which have been so agreed to—making ceremonial payment, etc., is immaterial—between the two parties form the consideration for the thing to be done. So, if dowry represents that conception of consideration, it means that thing has become the object of punishment, according to this law—whether it is in kind or it is cash or whatever it is, and that must be a thing which is agreed between the two parties before the marriage takes place. When exactly that consideration is actually passed from one party to another is immaterial. The moment it passes, it becomes a dowry. If it is not passed, nothing can be done.

Presents and other ceremonial gifts are customary things that are made generally at the time of marriage or during the marriage, and they should not come in here at all. If the marriage is to be done, it should be done according to the custom. If we do not follow the custom, it is open to them to go to the court and have a registered marriage. If they follow the proper custom or not is a matter between the two parties concerned. Whatever comes in as something extra, in addition to what has been agreed between the parties, is something different. These two things have to be separated. I take it that the explanation which has been put here—the amendment proposed by the hon. Minister—refers to these things. All the other presents, etc., are outside the purview of this measure. If this explanation refers only to those matters which have been agreed to between them there is nothing wrong in accepting it. If it does not, then we shall be confounding the word "dowry" used in the Bill. In defining dowry, it may be made perfectly clear that what has been agreed to between the parties is the only thing that is contemplated as a dowry. Otherwise, the word "consideration" has no meaning at all. If it includes

those things which have not been agreed to, then we are making the law more difficult to understand and therefore, more difficult to carry out also.

With these observations, I close.

**Shri C. K. Bhattacharya:** Mr. Deputy-Speaker, Sir, while discussing this clause and the amendments, what strikes me is this. The great defect in this Bill is that it does not penalise the payment of dowry at the proposal stage or at the demand stage. Penalisation should have been made at that stage. After the demand has been made and has been complied with, we can take it for granted that none of the relations of the girl is going to court to complain that dowry has been taken and by that all the future of the girl and her family will be doomed. That is the impracticability or unreality about this Bill.

14 hrs.

**Shri P. R. Patel:** Under clause 4, demanding dowry directly or indirectly is an offence.

**Shri C. K. Bhattacharya:** I thank the hon. Members who have enlightened me. There is no dispute about the fact that the system of dowry should go. On that point, everybody agrees. But the point is, we should not carry our enthusiasm to a point where the provision that is made for the removal of the system becomes impracticable and unreal. That is my apprehension after I have listened to some of the speeches.

Regarding this particular clause, it took my breath away when I read the Deputy Law Minister's speech, where he said that even the payment of a rupee would be penalised.

**Shri Hajarnavis:** Provided it is in consideration of the marriage.

**Shri C. K. Bhattacharya:** What other consideration will be there except celebrating the marriage?

**Shri Narayanankutty Menon:** Celebration is different from consideration.

**Shri C. K. Bhattacharya:** Nobody would pay money in a marriage for getting elected to the Parliament. It would be in consideration of the marriage. But even the payment of a rupee in consideration of the marriage will be penalised. It took my breath away, because knowing our customs as I do, I am sure that at least one rupee will have to be paid and paid in consideration of the marriage. Every father will have to pay it. This Bill relates not to marriages by registration, where as Dr. Aney said, boys and girls go to the Registrar and get married; whether any dowry passes between them, nobody will enquire. This Bill relates to cases which are called sacramental marriage or customary marriages.

**Shri Sonavane (Sholapur-Reserved—Sch. Castes):** This Bill does not make any distinction between customary marriages and marriages by registration.

**Shri C. K. Bhattacharya:** I do not say that the Bill makes any distinction. I only want to point out that this Bill is relevant only to those marriages which are sacramental and customary; in effect, that will be so. Knowing our customs as I do, at least one rupee will have to be paid and paid in consideration of the marriage. I know the custom under which the hon. Minister himself was married and under which he will have to give his daughter in marriage tomorrow. When he gives away his daughter in marriage tomorrow, he will have to pay at least a rupee in consideration of the marriage, in spite of the law that is being made.

**Mr. Deputy-Speaker:** Would the hon. Member be satisfied if an exception is made in the case of one rupee?

**Shri C. K. Bhattacharya:** I drew attention to it only because the Deputy Law Minister was kind

enough to make that particular reference. Some lady Members have mentioned about *alankara*. When the Hindu father sits to give away his daughter, with all the things that he considers holy in life—fire, the holy water, the Godhood represented by *Saligram* and other things—he will have to say:

नां क र्वा सत्करा र्वापि विवृत कं पुत्रा ।  
ग्रहं सम्मदवे ।

"I give away my daughter to you properly ornamented and in the name of God". Unless he is deliberately lying before the things he considers holy, he shall have to give something to the daughter in spite of the legislation here.

**Shri Narayanankutty Menon:** Is the hon. Member aware of the original definition given for dowry in the *Manu Smriti*? *Manu* excluded everything except the presents given when the sacramental fire is burning. But after 2000 years, everything is included in that.

**Shri C. K. Bhattacharya:** I do not claim to be an epitome of all wisdom.

**Mr. Deputy-Speaker:** The greater difficulty is with me when I sit in between two pundits on both sides.

**Shri C. K. Bhattacharya:** We expect you to be a greater pundit than all of us. The custom is, when the girl is given away in marriage to the boy, the father will have to pay by custom what is called *Varadakshina* in some form at least. Even symbolically—that is why I say one rupee—something will have to be paid so that the marriage might be complete. Otherwise, it remains incomplete. He will have to say to the bridegroom in the sameway that he stated when he just gave away his daughter:

विवाहकनयां सांगनायं दक्षिणां इदं तुभ्यं  
ग्रहं ददे ।

"For the completion of the marriage ceremony, I am giving this *Dakshina* to you".

[Shri C. K. Bhattacharya]

Unless that is done, our marriage is not complete. I do not know through which form of marriage Members on the other side were married. Sir, I had the opportunity to hear our Speaker the other day delivering the Kamala lectures in the Calcutta University, expounding the social customs in Hindu marriages. I found him repeating all the things I am stating here today. I think the same custom prevailing in my part of the country also prevails in the south and in the whole of India. If the Members deny it, I shall stand by their denial. But so far as people in my part of the country are concerned, this is the custom which prevails even today. It will prevail even tomorrow. Therefore, there should be some provision in the Bill to safeguard the custom and I am glad that the hon. Law Minister has done it.

**Shrimati Manjula Devi** (Goalpara): Regarding the explanation, I am inclined to agree with my friend, Shrimati Renu Chakravartty, that in the guise of custom and usage, large sums of dowry may be taken away. So, I would like to add here in the explanation:

"Unless they are made as conditional proposals and demands in consideration for the betrothal or marriage of the said parties".

That will give a clearer definition and I hope it will be acceptable to the House.

**Shri Manabendra Shah** (Tehri Garhwal): I want to speak on my amendment No. 72. I feel that the whole approach to this Bill has been wrong. I would like to elucidate what the hon. Member, Shri Nathwani has said about this Bill not covering those cases where the bridegroom or the bride is not affected. In our community the father of the bridegroom always gets the money; the bridegroom does not come into the picture. If you go to some of the villages of my Hills, you will find that the father of the girl will always get it but not

the girl. If the women's organisations have only stated about a particular type as provided in the Bill, then I am afraid they are not an authority on this aspect.

If you have conceded voluntary gifts, there will not be any gift which will not come under the category "voluntary". No father would like his son-in-law to go and pay a fine. He will not take the responsibility of breaking a family to which he has given his daughter. Therefore, the question of compulsory gift will never arise. Even if it is compulsory, it will always be treated as voluntary.

Therefore, I cannot understand how this Bill is going to serve its purpose. In fact, it is nothing but a dead law. Therefore, the real approach should be to have a Bill where we put a ceiling on dowry. Now we have ceilings on land, wealth and other things. Why not we have a ceiling on giving dowry, whether it is compulsory or voluntary? The proposal in my amendment No. 72 is to give effect to this suggestion. I have suggested in my amendment that under no circumstances should the dowry exceed:

"(a) in the case of persons paying income-tax up to 2 per cent of their wealth; and

(b) in other cases up to five hundred rupees."

By this we would be fixing a ceiling, irrespective of whether it is a voluntary gift or under compulsion. Something like this would be a workable thing, instead of saying that compulsory gifts are prohibited and voluntary gifts can be given.

I have also omitted the *mahr* system in clause 2, because in clause I, I have proposed that certain other communities should also be exempted from the purview of this Bill. For example, if you take *Bhatnagars*, they have codified their marriage laws, and they follow them rigidly. So, I do not see why we should not give them the benefit of not being covered by

this Bill. Why should we not encourage the other communities to follow suit so that they themselves make laws for their own community, which would be beneficial for their own community, by having a clause by which we to give exemption to certain in communities? Then this social law will become workable. Therefore, I have proposed my amendment No. 83, which I hope the hon. Minister will accept.

**Shri A. K. Sen:** I must say that the amendment proposed by Shri Nathwani, that is, amendment No. 48, does seem to me to be a matter of substance. I have gone through the definition, as drafted originally, and I feel that they may be a lacuna which needs removal. Because, if we make penal only that form of dowry which is first of all paid to either of the spouses, or to someone on behalf of either of the spouses, then the second condition is that such payment is in consideration of marriage. So, what is penal is not merely what is paid in consideration of the marriage but is also dependent upon the recipient. That seems to me to be the plain interpretation of the original clause, and it may be possible to keep out of the penal provision by simply making the recipient the father or the mother of the bridegroom or the other spouse, without his being a trustee on behalf of either of the spouse. So, if the recipient is father, and not on behalf of the son, then the mischief of the Act would not hit the transaction. Therefore, I am prepared to accept, for making the Act more effective, amendment No. 48. That seems to be in consonance with the spirit of the Act, and I am free to confess that it is an improvement.

I am afraid I cannot accept his other amendment, that is, amendment No. 39, regarding adding betrothal and so on. We must first of all, look at the problem as it is and how it strikes us as an evil. Dowry is never paid as a consideration for betrothal. If it is merely betrothal, nobody will

pay, I think, Dowry is paid in consideration for the marriage. Betrothal is only a preliminary step towards marriage. I have never heard of anyone making any payment only in consideration of betrothal, and not in consideration of the marriage. It may be that the payment is made at that time or before the betrothal, but, nevertheless, the payment is in consideration of the marriage, and not the betrothal alone. It may be betrothal plus marriage. But if it is plus, the Act hits him.

I think it will become cumbersome if we try to rope in all sorts of contingencies in order to see that more people are punished. Our concern should not be to see how many people are punished. First of all, we have to see the evil and how best to remove it. As it is, the evil is of such a nature that the people who are participants in the evil act in such a way that a conviction becomes a difficult matter is a matter of reality. As the Maharaja of Tehri-Garwal has said, it is very difficult to imagine that the giver of dowry, the father, let us say, of the bride will give evidence against either his son-in-law or his father to the effect that either or both of them have committed an offence under the Act. That is a practical difficulty which I have pointed out at the beginning when the Bill came for reference to the Select Committee. That difficulty we cannot get rid of by any drafting whatsoever. That is a difficulty which is inherent in the problem itself, namely, how to bring to book the offender. This is a problem which besets all social evils, like child marriage. Which father or relative will go and lay a complaint against persons who are participants in a child marriage, knowing full well that a conviction would result in a penal punishment being meted out to the offender? Whenever a social evil comes to be penalised, this problem is inherent. Not only with regard to this evil but all social evils we have seen the difficulty of securing conviction against the offender. But that should not possibly affect our determination to legislate on a matter on

[Shri A. K. Sen]

which we are more or less agreed. We are all agreed that there is an evil; we are all agreed that the evil should be eradicated; we all are agreed that if it cannot be eradicated wholly by law, nevertheless the law is necessary, if not for anything else, at least for declaring to the whole country the social consciousness of the nation, expressed by the voice of the House. That itself has an effect in weakening the impact and the incidence of this evil.

Therefore, to my mind, all the arguments which have been addressed on the ground that the machinery for bringing the offender to book is not perfect are not very relevant, because we are all aware that such infirmity is inherent in the problem itself, and no drafting, no device which we may think of here, is going to improve the situation. It is only the consciousness of the evil and the determination to eradicate the evil, armed with the powers granted under the Act, which alone can eradicate the evil altogether. That is my submission and nothing I have heard to the contrary have convinced me otherwise. We can only think of introducing such improvements as may be necessary in order, first of all, to understand for ourselves, and for also carrying that understanding to the country as a whole, what the evil is, and how this House sought to tackle it, so that there may not be any ambiguity about the two things in the minds of the people who, I am sure, will hail this piece of legislation, as I said, if not for anything else, at least as an expression of the unanimous will of this House. I would very much appreciate if such a non-controversial measure is passed unanimously so far as the main clauses are concerned apart from the question of drafting amendments here and there. As I said, I accept the amendment of Shri Nathwani.

With regard to the Explanation, introduced in the Government amendment, I have, after hearing hon. Members, felt that the Explanation possibly may undergo a little

change. As I said, the mind of the Government on such a measure is never committed. Nor is it our desire that the House should stand committed. Because, it is a measure on which there is no controversy cutting across our minds along political lines. It is a measure on which we are all unanimously agreed. Therefore, our mind should be open until the very last to see how best we can shape for the country as perfect a piece of legislation as possible having regard to the difficulties of the situation.

It is true that I have felt the weight of the argument that if we use the word custom or usage, it might carry with it the custom and usage of dowry. It is true that in many parts of the country, some amount of dowry has almost become, if not a custom, at least sanctioned by usage. As we know, usage is a matter which does not require some ancient tradition behind it. It may be something which is of recent occurrence. Therefore, I think it will best convey our desire if we omit the three lines: "which by custom or usage are made at the time of a marriage by any person to either party to the marriage". If we leave these three lines, the intention will be clear. What we want to penalise is the thing that is extorted, not what the father willingly gives. As I say, let us not think about bringing the offender to book. Let us prevent what the evil is. There is nothing evil if the father voluntarily gives something to the daughter. Why penalise it? Who regards it as an evil? In fact, it is the most common thing. It used to be there in the olden days. The verses from our Sastras quoted by Shri C. K. Bhattacharya show that it was also regarded as a sacramental duty on the part of the father to give the bride and clothe her with ornaments which he can afford. Nobody regards it as an evil if the father or the relations voluntarily give such things to the bride as they may think it possible for them to give. In fact, that is the only way by which our women used to acquire *stridhan*. Of course, the

modern Hindu Succession Act has given women the right to property, even though that right to property may be defected by a will or by testamentary disposition or non-testamentary disposition. Therefore, the surest way in which women in olden days, or even today, acquired some property of theirs was what was given to them by the parents and their relations at the time of the marriage or before the nuptial fire or a little before that. Therefore, we do not regard it as an evil if the father or relations or friends give something absolutely voluntarily, without any inducement whatsoever for the marriage being brought about or celebrated. I agree with Pandit Thakur Das Bhargava that is not an evil. Let us be quite clear about it. What is an evil when the father voluntarily offers it as a bribe or it is extorted from him. It is not merely extortion. In many cases, we have seen that, even apart from extortion the father voluntarily offers it as a price. When I read purely as a matter of academic interest Anthropology relating to the customs and practices among primitive tribes. I found that bridegroom paid price for the bride, as in many of our tribal societies in India today. In some advanced communities, later, it became the other way about. The bride pays the bridegroom a price.

**Shri Jadhav:** Will it not be made a condition precedent by the bridegroom that he will ask the father of the bride that he should give some sort of ornaments. It will be in disguise dowry.

**Shri A. K. Sen:** I have not appreciated the point; I am sorry.

**Shri Jadhav:** Dowry may be in disguise. The bridegroom may make it a condition precedent for the marriage that the father of the bride should give such and such ornaments and should give them as any other present.

**Shri A. K. Sen:** If that is proved, if these are the facts, it will be an offence.

**Shri Narayanankutty Menon:** Apart from ornaments, you have retained cash. Will it not be permissible and within the purview of legitimate presents to give any amount, provided he is prepared to prove only usage, not custom?

**Shri A. K. Sen:** Therefore, I am leaving custom and usage.

**Shri Narayanankutty Menon:** The word 'cash' is retained. You are deleting custom and usage. Will it not be legitimate to pay any amount which depends on his capacity to pay?

**Shri A. K. Sen:** If I paid voluntarily without its being a matter of extortion or a matter of offer by me to induce the marriage, I do not see what evil there is. If I pay my daughter voluntarily Rs. 500 or 1000, I do not see how any one can regard it as an evil. It is the simplest thing.

**Shri Narayanankutty Menon:** Are you prepared to place the burden of proof on the accused in this case as in corruption cases?

**Shri A. K. Sen:** That, we might think of later on. We should not tamper with the rules of evidence very lightly. It may be that in the course of the future history of this law, it may become necessary to introduce an amendment about the law of evidence relating to the trial of such offences, that the onus may be shifted on to the accused to prove that what was given was actually voluntary. Let us not think of the procedure. Let us not cloud our minds by the fact that it is difficult to prove the offence in trying to make an offence of something which is not an offence, which is not an evil. I appreciate what the hon. Member says. The two things should be kept separate. In future, it may be found necessary to shift the onus to the recipient.



[**Shri A. K. Sen**]

Nevertheless, we must not do anything which will make an offence a pure transaction which nobody regards as an evil.

**Shri Sinhasan Singh** (Gorakhpur): There is one small mistake, Sir. The hon. Minister said that he is accepting an amendment of **Shri Nathwani**, about the removal of the words "on behalf of such party". There is an amendment by the Government itself. There, the words are "on behalf of either party". Which is the amendment he is going to accept?

**Mr. Deputy-Speaker**: That he will tell us when he finishes. He will give something in writing.

**Shri A. K. Sen**: When I say that I accept **Shri Nathwani's** amendment, that follows.

**Shri Sinhasan Singh**: He mentioned amendment No. 48 of **Shri Nathwani**.

**Shri Nathwani**: I have given a further amendment, which is No. 85, which seeks to delete the last words in sub-clause (b): "on behalf of either party", which is similar to amendment No. 48.

**Shri N. R. Muniswamy**: That is not before the House.

**Shri A. K. Sen**: Even the acceptance of **Shri Nathwani's** amendment will have that effect.

**Shri N. R. Muniswamy**: That has nothing to do with this.

**Shri A. K. Sen**: The acceptance of **Shri Nathwani's** amendment has the effect of having our own amendment altered to that extent, namely by deleting the words "on behalf of either party" in sub-clause (b) of clause (2) of the amendment which was moved by the Deputy Law Minister yesterday.

Therefore, my submission is that we should accept the Government amendment subject to the deletion of the words "on behalf of either party" in sub-clause (b) of clause (2) and subject to the deletion of the three lines in Explanation I, "which by custom or usage are made at the time of marriage by any person to either party to the marriage". I shall put in a further amendment to that effect immediately.

**Shri Nathwani**: I have moved already about the Explanation.

**Shri A. K. Sen**: I am moving it immediately. I am sending it to you showing the changes.

**Shri Narayanankutty Menon**: But the law Minister has removed Explanation II given in amendment No. 3 of **Shri P. R. Patel**. The original Bill limited presents up to Rs. 2,000. Now the hon. Law Minister's amendment plus **Shri Patel's** amendment limit the cash.

**Shri A. K. Sen**: Cash means if it is voluntary.

**Shri Narayanankutty Menon**: And that too Rs. 2,000.

**Shri P. R. Patel**: The hon. Minister was not present at that time. What I want to say is that that up to Rs. 2,000 the prosecution will have to prove and no presumption will be made, but if the amount exceeds Rs. 2,000 then the court will presume that it is given as a dowry. I think we can put a check on dowry by this.

**Mr. Deputy-Speaker**: Has the Law Minister finished?

**Shri A. K. Sen**: Yes, I have finished.

I have put in an amendment showing the deletions which we propose in the amendment.

**Mr. Deputy-Speaker**: The Government amendment stands like this:

Page 1,—

for clause 2, substitute—

"2. Definition of "dowry".—In this Act, "dowry" means any property or valuable security given or agreed to be given—

(a) by one party to a marriage to the other party to the marriage; or

(b) by the parents or either party to a marriage or by any other person, to either party to the marriage or to any other person;

at or before or after the marriage as consideration for the marriage of the said parties, but does not include dower or *mahr* in the case of persons to whom the Muslim Personal Law (Shariat) applies.

*Explanation I.*—For the removal of doubts, it is hereby declared that any presents made at the time of marriage to either party to the marriage in the form of cash, ornaments, clothes, or other articles, shall not be deemed to be dowry within the meaning of this section, unless they are made as consideration for the betrothal....

**Shrimati Renu Chakravartty:** It is now absolutely open.

**Shri Narayanankutty Menon:** The word "cash" should be removed. You are now throwing the door wide open.

**Shri Prabhat Kar:** I think the original explanation was better.

**Shri A. K. Sen:** We cannot satisfy every one, I am sorry.

**Shrimati Renu Chakravartty:** When the original Bill came he told us it would cover whatever was given as consideration, by way of gifts and other things. Now, the whole thing, all dowry, is legalised!

**Mr. Deputy-Speaker:** I will read the Explanation again.

"For the removal of doubts....

**Shri Subiman Ghose:** The remedy is worse than the disease.

**Mr. Deputy-Speaker:** The Explanation is for the removal of doubts! I may be permitted to read it again.

*"Explanation I.*—For the removal of doubts, it is hereby declared that any presents made at the time of a marriage to either party to the marriage in the form of cash, ornaments, clothes or other articles, shall not be deemed to be dowry within the meaning of.....

**Shri Narayanankutty Menon:** May I ask the hon. Minister what dowry is now?

**Shri Bimal Ghose (Barrackpore):** No doubt remains!

**Shri Narayanankutty Menon:** Nothing is dowry according to this.

**Shrimati Parvathi Krishan:** His explanation is to drop the word "prohibition" from the title.

**Shri A. K. Sen:** I think we ought to go back to the original clause. I agree that such an outstanding change might convey a different impression to the public outside. May I move that the whole of the Explanation might go?

**Mr. Deputy-Speaker:** If it is feasible.

**Shri A. K. Sen:** The House may permit us to withdraw the amendment and we stick to the old clause.

**Pandit Thakur Das Bhargava:** As a matter of fact, that thing has not been debated in this House, the question of the limit of Rs. 2,000 was not there.

**Mr. Deputy-Speaker:** Order, order. There would be another fresh difficulty. When the old clause was substituted by this amendment, all attention was directed towards this, and the whole discussion has been going on on that basis. I intended to rule out all the amendments because they

[Mr Deputy-Speaker]

have been moved to the original clause and not to the substitute clause. Now the hon. Law Minister says he goes back to the original clause. How can I ask the hon. Members to vote for it or against it?

**Pandit Thakur Das Bhargava:** We should not be deprived of our right to move amendments.

**Mr. Deputy-Speaker:** The time allotted is over.

**Shri A. K. Sen:** We are really discussing across the table on this.

**Mr. Deputy-Speaker:** Then I can hold it over and proceed with the next Bill. Meanwhile, Government might make up its mind as to what it should do.

**Shri N. R. Muniswamy:** That is better.

**Mr. Deputy-Speaker:** Now because the time is over, if I immediately guillotine it and put the whole thing to vote, that would not be fair, I suppose.

**Shri A. K. Sen:** May I add that we really proceeded on the basis that either the original clause remains or this remains, because I made it quite clear in the morning that the Government's mind or the minds of any of the Members here were not committed either to this amendment or to the original clause?

**Mr. Deputy-Speaker:** Who should say whether the original should remain or this one? Government should come forward with a concrete thing which I can put to the House.

**Shri Surendranath Dwivedy:** Let this be held over.

**Shri A. K. Sen:** No, why? When I rose to speak in the morning when the Speaker was in the Chair, I made

it quite clear that the Government amendment was only put forward for consideration of possible alternatives because many Members had expressed apprehension regarding customary presents and so on, and as I said, neither Government nor any Member should be committed in their minds with regard to the provisions of this Bill, because, as I said, this is a non-controversial Bill and we are trying to frame as good a Bill as possible. After the discussions it appears that it is best to stick to the original clause rather than to the alternative. Therefore, with the leave of the House we shall withdraw this amendment, and the original clause may be voted upon.

**Pandit Thakur Das Bhargava:** May I submit a word at this stage? The hon. Minister has said that he will go back to the original clause, but we have not even discussed the limit of Rs. 2,000 etc. There are very many flaws in having Rs. 2,000 as the upper or the lower limit. That we have not discussed, and we will give many amendments.

**Shri A. K. Sen:** I made it quite clear in the morning that the hon. Members should be allowed to speak both on the original clause and the amendment.

**Pandit Thakur Das Bhargava:** After all, it is the will of the Chair that will prevail, not the will of the Minister or the Deputy Minister.

**Shri A. K. Sen:** I have not said any such thing.

**Pandit Thakur Das Bhargava:** We must be allowed to discuss what the hon. Minister now gives as an amendment. The hon. Deputy Minister's amendment was amended by the hon. Minister and we were discussing that. Now he does not want to stand by his amendment and wants to revert back. It means that that question

must be mooted again. Otherwise it means our amendments cannot be considered, and we have not been heard on this point, and I feel very strongly that the reversion to Rs. 2,000 is a great flaw. Twenty persons may make presents, and a person who makes a present of one rupee will also be included equally as the person who makes a present of Rs. 500.

**Mr. Deputy-Speaker:** My only difficulty is that when clause 2 was being discussed here, Government came forward with a new amendment and brought a new clause. At once, an objection was taken by the Members that because this was a new thing altogether, and they could not discuss the old clause, therefore, they should be given time. The substitute clause that was intended to be substituted in place of the clause as in the Bill was circulated, and we got time for discussion up to this hour.

Now, at the last moment, when we have discussed the amendment given by the hon. Law Minister, when I am going to put it to the vote of the House, if the hon. Law Minister wants to withdraw it and revert to old clause 2, then my difficulty would be that the hon. Members would desire that they should have a fresh opportunity to discuss that old clause. Either I can hold it over and just start with the next business, and in the meanwhile, Government may make up their mind, or, if it is clear that the original clause is to be stuck to, then too, I shall have to give an hour to the hon. Members, so that they may discuss it; and then alone I can put it to the vote of the House.

So, it shall stand over, and I shall start with the next business. And we shall take up this Bill tomorrow, and by that time Government may make up their mind as to what they propose to do.

**Shri A. K. Sen:** May I say that it may be notified immediately that we shall not press this amendment? As

I said, we are not anxious to push through any particular provision just by a majority, because there is a very big public.....

**Mr. Deputy-Speaker:** Would he stick to the original clause, or would he bring forward fresh amendments now?

**Shri A. K. Sen:** No, we shall stick to the original clause.

**Mr. Deputy-Speaker:** The original clause 2 shall be before the House for discussion

**Shri Jhunjunwala (Bhagalpur):** Then, there are other amendments which will have to be taken up.

**Shrimati Renu Chakravartty:** May I submit that amendment No. 67 which Pandit Thakur Das Bhargava has moved is in substance more or less the same as was moved in the original amendment? So, if Pandit Thakur Das Bhargava would be prepared to .....

**Mr. Deputy-Speaker:** I am not going to do that.

**Shrimati Renu Chakravartty:** He has moved it already.

**Mr. Deputy-Speaker:** I shall give an opportunity to the House again.

**Shri C. R. Pattabhi Raman (Kumbakonam):** It has not been considered.

**Shri Nathwani:** We shall consider it tomorrow.

**Mr. Deputy-Speaker:** Surely, some motion would be made and we shall have another hour allotted, and then we shall conclude.

**Shri A. K. Sen:** In the meantime, may I beg for leave to withdraw this amendment?

**Shri Nathwani:** Leave is granted.

**Shri Hajarnavis:** I also beg leave to withdraw my amendment.

**Mr. Deputy-Speaker:** The hon. Minister wants to withdraw the amendment which had been moved by Government. Has he the leave of the House? I rather thought that he might withdraw it tomorrow when this question would actually come up.

**Pandit Thakur Das Bhargava:** Withdrawal cannot be permitted even if one Member dissents to it. That amendment is now in the possession of the House, I surely dissent.

**Mr. Deputy-Speaker:** If there is objection, then I would not allow him to withdraw it. I am advising the Law Minister to beg for leave to withdraw it tomorrow.

**Shri A. K. Sen:** Very well.

**Mr. Deputy-Speaker:** So, this shall stand over, and we shall now take up the next business.

**Shri C. K. Bhattacharya:** I want one small explanation. The Law Minister has just stated that he is going back to the original clause. What is that original clause?

**Mr. Deputy-Speaker:** Whatever it is, whatever is printed in the Bill.

**Shri C. K. Bhattacharya:** Is it in the Bill as introduced or as it has emerged from the Joint Committee?

**Mr. Deputy-Speaker:** It is the original clause according to the recommendations of the Joint Committee.

Now, Shri Nanda.

**The Minister of Labour and Employment and Planning (Shri Nanda):** I beg to move that the Bill further to amend the Mines Act, 1952, be taken into consideration. . . . (Interruption).

**Mr. Deputy-Speaker:** Now, that old business is over. We are going down

to the mines now. So, there ought to be silence.

**Shrimati Renu Chakravartty:** May we know whether this Dowry Prohibition Bill will be taken up as the first thing tomorrow?

**Mr. Deputy-Speaker:** Yes, it would be taken up as the first thing tomorrow.

14.43 hrs.

#### MINES (AMENDMENT) BILL

**The Minister of Labour and Employment and Planning (Shri Nanda):** I beg to move:

"That the Bill further to amend the Mines Act, 1952, be taken into consideration."

The purpose of the Bill before the House is to amend certain provisions of the Mines Act, 1952. I should say a few words here about the Act itself. This Act regulates the conditions of work in the mines, especially in relation to the requirements of safety of the workers who work in the mines. There is corresponding legislation for workers in factories, in the Factories Act. The Mines Act has provisions with regard to hours of work, employment of women and children etc. It lays down standards with regard to matters pertaining to health, and conservancy, that is, sanitary requirements. It has also certain provisions regarding medical appliances. There is a whole chapter in this Act regarding leave with wages. The most important part of this Act, as I said earlier, concerns safety. There are certain provisions regarding safety in this Act, although the specific requirements are laid down in regulations under the Act. In the Act itself, the machinery for enforcement and the procedures for enforcement have been laid down. Arising out of that, and the other provisions, there is a chapter regarding penalties. This Bill which I have presented before the House