

[Sardar Swaran Singh]

the year 1957-58 in substitution of the one laid on the Table on the 8th September, 1959. [See Appendix II, annexure No. 121].

12.03 hrs.

MESSAGE FROM RAJYA SABHA

Secretary: Sir, I have to report the following message received from the Secretary of Rajya Sabha:—

"In accordance with the provisions of rule 125 of the Rules of Procedure and Conduct of Business in the Rajya Sabha, I am directed to inform the Lok Sabha that the Rajya Sabha, at its sitting held on the 7th December, 1959, passed, in accordance with the provisions of article 368 of the Constitution of India, without any amendment, the Constitution (Eighth Amendment) Bill, 1959, which was passed by the Lok Sabha at its sitting held on the 1st December, 1959."

12.03½ hrs.

COMMITTEE ON PRIVATE MEMBERS' BILLS AND RESOLUTIONS

FIFTY-THIRD REPORT

Sardar Hukam Singh (Bhatinda): Sir, I beg to present the Fifty-third Report of the Committee on Private Members' Bills and Resolutions.

12.03½ hrs.

MANIPUR LAND REVENUE AND LAND REFORMS BILL*

The Minister of Home Affairs (Shri G. B. Pant): Sir, I beg to move for

leave to introduce a Bill to consolidate and amend the law relating to land revenue in the Union territory of Manipur and to provide for certain measures of land reforms.

Mr. Speaker: The question is:

"That leave be granted to introduce a Bill to consolidate and amend the law relating to land revenue in the Union territory of Manipur and to provide for certain measures of land reforms."

The motion was adopted.

Shri G. B. Pant: Sir, I introduce the Bill.

12.04 hrs.

DOWRY PROHIBITION BILL—contd.

Mr. Speaker: Before we take up further clause-by-clause consideration of the Bill to prohibit giving or taking of dowry, as reported by the Joint Committee, I have to inform the House that in a division held on the Dowry Prohibition Bill, 1959 on the 8th December, 1959, there was an error in the announcement of figures of the Division. The House has already taken a decision and this error has absolutely no effect on it. However, I consider that the correct position should be on record. The facts are as follows:—

The House will recollect that before I announced the result of the division on amendment No. 4 by Shri P. R. Patel to clause 3 of the Bill, Pandit Thakur Das Bhargava stated that his vote had not been recorded and that he wanted to vote for the 'Ayes'. Accordingly I added his one vote to the figure for the 'Ayes', thus bringing the total to 40.

*Published in the Gazette of India Extraordinary Part II—Section 2, dated 9-12-1959.

†Introduced with the recommendation of the President.

Subsequently Shri S. V. Ramaswamy stated that he wrongly pressed the button for 'Ayes' and that his vote should be counted for 'Noes'. His one vote was accordingly added to the figures for the 'Noes', but suitable deduction was not made from the 'Ayes', with the result that I announced the figures for the 'Ayes' as 41 which is incorrect. The correct figures for the 'Ayes', should be 39*.

Now, so far as the clause-by-clause consideration is concerned, I understand that yesterday the hon. Minister withdrew the amendment that he proposed.

The Minister of Law (Shri A. K. Sen): I did not. I only said that the Government would be prepared to withdraw it in case some other alternative would be found more acceptable. I also said that the Government was not committed to the amendment as such, because this is not a Bill in which our minds are firmly fixed on any particular provision.

Mr. Speaker: I am really surprised. I cannot go on changing from time to time. The Government must have a view of its own.

Shri C. D. Pande (Naini Tal): The Government has no view on this.

Mr. Speaker: There is no good changing the motion now after he has moved it. Very well, when I put the motion to vote let him not vote for it. If he wants to withdraw it, let him say so and I will put it to the House. We have been going on extending the time for this by one hour, two hours and so on. I am not going to allow any further discussion on this motion. I will put the amendment moved by Government to the vote of the House.

Shri A. K. Sen: Let it be put in the amended form.

Mr. Speaker: All right, I will put the Government's amendment as amended to the vote of the House.

Shri Braj Raj Singh (Ferozabad): What is that amendment?

Mr. Speaker: Hon. Members must have been present in this House. I cannot go on repeating it to hon. Members who never cared to be here.

श्रीमती उमा नेहरू (सीतापुर) :
श्रीमान् जी, कल जब हमारे सामने गवर्नमेंट की तरफ से अमेंडमेंट आया, तो हम को ऐसा मालूम हुआ कि गवर्नमेंट ने अपना माइंड मेक-अप नहीं किया है। मुझे सिर्फ यह कहना है कि गवर्नमेंट को अपना माइंड मेक-अप करना चाहिए। उस अमेंडमेंट को हम सब ने मन्जूर किया और उस को सपोर्ट किया, लेकिन आखिरी वक्त पर हम को कहा गया कि यह अमेंडमेंट हम विद्रु कर रहे हैं। मैं समझती हूँ कि यह ठीक नहीं है और उसी अमेंडमेंट को पेश होना चाहिए, जैसा कि वह लाये थे।

Shri A. K. Sen: We have not withdrawn it. I do not know if the hon. Member was present on the last occasion. What was stated was that the original clause was better than the amendment.

Shri C. D. Pande: No.

Shri A. K. Sen: It was said by many—not on this side but by some Members from the opposite side.

Shrimati Uma Nehru: By some, not all.

Shri A. K. Sen: I was saying that some of the Members.....

Shri C. D. Pande: They are not the only Members; we are also Members.

Shri A. K. Sen: I am not saying that you are not Members. I only said that some of the hon. Members opposite said that the original clause was better than the amendment. Then I said that so far as the Government was concerned it was not committed either to the amendment or to the original clause and it would be happy

*See debates, dated 8th December, 1959.

[Shri A. K. Sen]

if either of them would be accepted. Some discussion followed after that, but I agree with you, Sir, that having moved an amendment we should stick to it. I would like to say that the Government's view is that we should have a vote on the amendment put forward by the Government (*Inter-ruptions*).

Shri Surendranath Dwivedy (Kendrapara): Sir, he actually withdrew the amendment. Then the Deputy-Speaker suggested that since we were taking up the same only today he may move a motion for withdrawal today.

Sardar Hukam Singh (Bhatinda): On the first day, Sir, we took up the clause-by-clause consideration and discussion started on clause 2 as it was there in the report of the Joint Committee. There were amendments also moved to that. The Government brought an amendment to that clause and substituted a fresh clause for clause 2. Then the hon. Member wanted time to look into that amendment because that was something very different from the original clause. So I took up clause 3 and said that the amendment, the substitute clause, might be circulated to all the Members so that they might have time to study it before we continued discussion on that clause. When we had finished that clause, then we took up the amendments to clause 2 that had been moved earlier to the original clause. I was rather inclined to rule it out because we had the substitute clause and not the original one. But, when all the discussion had taken place, at the last moment, when I was going to put it to the vote of the House, the Law Minister desired that he may be allowed to withdraw that substitute clause and revert to the clause as it originally stood in the report of the Joint Committee. I rather advised him that it would not be proper that he should withdraw it then, and that by today the Government might make up their minds and be clear about it and

decide what they wanted to do. That is why it has come up for consideration today. When the Law Minister desired that he might be allowed to withdraw the amendment and report to the original clause, there was a furore in the House. Many hon. Members rose and said that the clause as it stood in the report of the Joint Committee had already been discussed and asked how the hon. Law Minister could withdraw and so on. So, I advised the Law Minister to consider the matter, and then took up the next business on the agenda. Therefore, it is today that the question has to be taken up. Of course, the hon. Speaker may now take it up.

Shri C. D. Pande: In view of the fact that this House gave wide support to the Bill,—

Shri Braj Raj Singh: The hon. Member never gave any amendment.

Shri C. D. Pande: I may have differed; that is not the point. The House gave wide support to the Bill. The amendment which was there was later on dropped by the Law Minister. If that amendment is not there, the entire Bill becomes very oppressive and it may be difficult to operate it also. Therefore, it will be advisable for the Law Minister to get a decision of the Cabinet. If anything is passed now, unthoughtfully, it might have had repercussions, and so, this question may be taken up in the next session.

Mr. Speaker: There is no question of taking it up in the next session. I know that Shri Narayanankutty Menon spoke extensively on this Explanation. The day before yesterday the amendment was not before the house. The hon. Deputy-Speaker rightly adjourned consideration of the clause. By yesterday all the copies had been circulated, and on the basis of the amendment, discussion proceeded. But when the question was being put to the vote of the House, the Law Minister seems to have said

that he would like to withdraw the amendment. But he was given time by the Deputy-Speaker and the question has come up today. The Law Minister has not said that he would withdraw; he would leave it to the vote of the House. Hon. Members on all sides are free to exercise their vote as they like. The Government does not press any particular person. The Law Minister is willing to abide by the decision of the House.

Pandit Thakur Das Bhargava (Hissar): No amendment was moved by the Law Minister. But he moved an amendment to the amendment moved by the hon. Deputy Law Minister. First, the hon. Deputy Minister put in an amendment to which the hon. Law Minister moved an amendment. So, we must know what is the amended amendment first.

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

Mr. Speaker: I shall now read amendment No. 82 moved by Shri Hajarnavis, the Deputy Minister of Law, to which the hon. Law Minister, Shri A. K. Sen, now desires to move certain amendments. I shall read amendment No. 82 and also the portions which are now sought to be amended.

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 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;

Now, the Law Minister wants to omit the words "on behalf of either party" from sub-clause (b). The amendment continues as follows:

"at or before or after the marriage as consideration for the betrothal or 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."

Now, the hon. Minister wants to omit the words "betrothal or". The amendment continues as follows:

"*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, which by custom or usage are made at the time of a marriage by any person to either party to the marriage shall not be deemed to be dowry within the meaning of this section, unless they are made as consideration for the betrothal or marriage of the said parties."

Now, the Law Minister wants to omit the words "which by custom or usage are made at the time of a marriage by any person to either party to the marriage" and the words "betrothal or" from *Explanation I.* The amendment ends with the following:

"*Explanation II.*—The expression "valuable security" has the same meaning as in section 30 of the Indian Penal Code."

So, there are four amendments to amendment No. 82. In order to avoid any difficulties or misunderstandings, I will take up these four amendments, one by one, and put them to the vote. After that, the substitute clause, as amended, will be put to the vote.

Shri Narayanankutty Menon (Mukandapuram): Yesterday, when amendments were moved to the clauses, the particular amendment about the omission of "betrothal or" was never discussed by the House.

Shri A. K. Sen: It was discussed *in extenso*.

Mr. Speaker: I remember it. I was present here when the question of betrothal and the pros and cons of it were discussed. The matter was discussed, and there is no good saying now that this question was not discussed.

As I said, I will put these amendments one by one to the vote.

Amendment made:

That in the amendment moved by Shri R. M. Hajarnavis, printed as No. 82 in List No. 14 of amendments,—

In line 9,—

omit "on behalf of either party" (85).

[Shri A. K. Sen].

Mr. Speaker: Now, I come to the omission of the words "betrothal or".

Shrimati Renu Chakravartty (Basirhat): "Betrothal" is now being cut out?

Mr. Speaker: Yes. Hon. Members may vote for or against it with open eyes.

Amendment made:

That in the amendment moved by Shri R. M. Hajarnavis, printed as No. 82 in List No. 14 of amendments,—

In line 11,—

omit "betrothal or" (86).

[Shri A. K. Sen].

Mr. Speaker: I now come to the omission of the words—

"which by custom or usage are made at the time of a marriage by any person to either party to the marriage."

Shri Sinhasan Singh (Gorakhpur): Sir, if these words are taken out....

Mr. Speaker: No more arguments, please. Hon. Members must make up their minds to vote one way or the other. (*Interruption*).

Shrimati Renu Chakravartty: I want to know whether it will be

in order not to put the amendment of Shri P. R. Patel first. It is on the same point. I am afraid we are proceeding in a way that is rather bad. Let us see what could be done about the amendment of Shri P. R. Patel. This is terrible.

Mr. Speaker: Many things are terrible. What can be done? Explanation I reads as follows:

"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, which by custom or usage are made at the time of a marriage by any person to either party to the marriage, shall not be deemed to be dowry within the meaning of this section, unless they are made as consideration for the betrothal or marriage of the said parties."

In this, the following words are omitted:

"which by custom or usage are made at the time of a marriage by any person to either party to the marriage".

and "betrothal or".

Amendment made:

That in the amendment moved by Shri R. M. Hajarnavis, printed as No. 82 in List No. 14 of amendments,—

In lines 19 to 21,—

omit "which by custom or usage are made at the time of a marriage by any person to either party to the marriage". (87).

[Shri A. K. Sen].

Amendment made:

That in the amendment moved by Shri R. M. Hajarnavis, printed as No. 82 in List No. 14 of amendments,—

In line 24,—

omit "betrothal or". (88).

[Shri A. K. Sen].

Shri P. R. Patel (Mehsana): My amendment No. 3 may be put to the House.

Mr. Speaker: It seeks to add one more explanation:

“Page 1, after line 18, add—

“*Explanation II.*—If the value of the property or valuable security exceeds two thousand rupees, the court may presume that it was given or agreed to be given as ‘dowry’.”

Shri A. K. Sen: I have said that I will not accept it.

Pandit Thakur Das Bhargava: Many amendments have been moved to this clause—and some are substitute amendments—before this amendment came to the House. What happens to those amendments? They must take precedence over this. There are other amendments of mine which are more important than this one. They should be put to vote, but they will not be put to vote because this is a substitute amendment.

Mr. Speaker: Let me dispose of Shri Patel’s amendment. There are two explanations in this substitute clause 2; he wants to add one more explanation. There will be consequentially some minor change in amendment No. 3 as originally moved by him. I shall put it in the changed form, bearing No. 89.

Pandit Thakur Das Bhargava: This has not even been debated.

Shri A. K. Sen: It was debated and I replied to it. I said that the law of evidence should not be tampered with very lightly. If in the course of the working of the Act, there is any difficulty, we will consider it later.

Mr. Speaker: The question is:

That in the amendment moved by Shri R. M. Hajarnavis, printed as No. 82 in List No. 14 of amendments,—

after Explanation II, the following further Explanation be added, namely:—

“*Explanation III.*—If the value of the property or valuable security exceeds two thousand rupees, the court may presume that it was given or agreed to be given as “dowry”.” (89).

The motion was negatived.

Shri Jadhav (Malegaon): My amendment No. 49 may be disposed of.

Mr. Speaker: His amendment says:

“Page 1,—

after line 18, add—

“*Explanation II.*—Customary presentation of Mangalsutram and clothes to the bride or bridegroom worth one hundred rupees shall not be treated as dowry”.

(49).

We have adopted the other amendment. If the hon. Member presses this, even the court would be inclined to say that these customary presents may be excluded. By a definite negative vote, even the Mangalsutram will be taken away. If the House votes against it, it will be limiting it to that extent and the hon. Member will be defeating the purpose he has in view. I leave it to him.

Shri Jadhav: I withdraw it.

Mr. Speaker: Does the hon. Member have the leave of the House to withdraw his amendment?

Some Hon. Members: Yes.

The amendment was, by leave, withdrawn

Mr. Speaker: After this substitute motion, as amended, is passed any

[Mr. Speaker]

other amendments covered by this would not be brought up. But if there are any amendments inconsistent with this, I will try to put them as amendments to this. Now, I will put this substitute amendment moved by the hon. Deputy Law Minister, as amended by the four amendments accepted by the House just now.

The question is:

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 of either party to a marriage or by any other person, to either party to the

Division No. 8]

AYES

Abdul Lateef, Shri
Abdul Salam, Shri
Achar, Shri
Agadi, Shri
Alva, Shri Joachim
Aney, Dr. M. S.
Anjanappa, Shri
Arumugam, Shri R. S.
Ayyakannu, Shri
Balakrishnan, Shri
Banerjee, Shri P. B.
Bangshi Thakur, Shri
Basappa, Shri
Bhakt Darshan, Shri
Bhargava, Pandit M. B.
Bhargava, Pandit Thakur Das
Bhattacharya, Shri C. K.
Bidari, Shri
Bist, Shri J. B. S.
Brahm Prakash, Ch.
Brajewar Prasad, Shri
Chandak, Shri
Chandramani Kalo, Shri
Chaturvedi, Shri
Choudhry, Shri C. L.
Chuni Lal, Shri
Damani, Shri

Das, Shri K. K.
Deb, Shri N. M.
Desai, Shri Morarji
Dublish, Shri
Eacharan, Shri V.
Gaekwad, Shri Fatesinhrao
Gandhi, Shri M. M.
Ganpati Ram, Shri
Ghosh, Shri M. K.
Gounder, Shri K. Periaswami
Guha, Shri A. C.
Gupta, Shri C. L.
Gupta, Shri Ram Krishan
Harvani, Shri Ansar
Hansda, Shri Subodh
Heda, Shri
Jain, Shri A. P.
Jain, Shri M. C.
Jangde, Shri
Jena, Shri K. C.
Jinachandran, Shri
Jogendra Sen, Shri
Jyotishi, Pandit J. P.
Kasliwal, Shri
Kedaria, Shri C. M.
Khadiwala, Shri
Khan, Shri Osman Ali

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 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 this section, unless they are made as consideration for the marriage of the said parties.

Explanation II.—The expression “valuable security” has the same meaning as in section 30 of the Indian Penal Code.’ (82).

The Lok Sabha divided.

[12-30 hrs.]

Khan, Shri Sadath Ali
Khedkar, Dr. G. R.
Khimji, Shri
Kistaiya, Shri
Krishna, Shri M. R.
Kureel, Shri B. N.
Laxmi Bai, Shrimati
Mafida Ahmed, Shrimati
Mahadeo Prasad, Shri
Malhotra, Shri Inder J.
Malavyyiya, Shri K. D.
Malvia, Shri K. B.
Maniyangadan, Shri
Manjula Devi, Shrimati
Mathur, Shri Harish Chandra
Mehdi, Shri S. A.
Mehta, Shri J. R.
Mehta, Shrimati Krishna
Melkote, Dr.
Menon, Shri Krishna
Mishra, Shri Bibhuti
Mishra, Shri L. N.
Mishra, Shri M. P.
Mishra, Shri S. N.
Misra, Shri B. D.
Misra, Shri R. D.
Misra, Shri R. R.

Mohideen, Shri Gulam
 Mohideen, Shri
 Mowaria, Shri
 Muzaffir, Ghani G. S.
 Munglukrishnan, Shri
 Naidu, Shri Govindarajulu
 Nair, Shri C. K.
 Nair, Shri Kuttikrishnan
 Naidurgan, Shri
 Nanjappa, Shri
 Narasimhan, Shri
 Nankar, Shri P. S.
 Nogi, Shri Net Ram
 Nohra, Shri Jawaharlal
 Nohra, Shrimati Uma
 Noori, Shri
 Ombur Lal, Shri
 Palihondhuri, Shrimati Ja
 Pandu, Shri C. D.
 Pandey, Shri K. N.
 Pannambur, Shri
 Panna Lal, Shri
 Pasi, Shri N. N.
 Pappi, Shri P. R.
 Pappi, Shri Rajeshwar
 Patil, Shri S. K.
 Pattabhi Ramana, Shri C. R.
 Pillai, Shri Thanu
 Rajiah, Shri
 Ram Garib, Shri
 Ram Saran, Shri
 Ramaswami Thirthe, Swami
 Ramswamy, Shri K. S.
 Ramswamy, Shri P.

Ramjee, Shri S. M.
 Rama, Shri Hem
 Chakravarty, Shrimati Renu
 Dambit, Shri P. S.
 Deb, Shri Dasratha
 Dharmalingam, Shri
 Ehsa, Shri Muhammad
 Ghose, Shri Hiral
 George, Shri
 Gupta, Shri Sadhan
 Halder, Shri
 Jadhav, Shri
 Kadiyan, Shri
 Maitra, Shri

Shri Yajnik (Ahmedabad): My vote has not been recorded by the machine, because I find there is no light.

Mr. Speaker: Is he for or against the motion?

Shri Yajnik: Against.

Mr. Speaker: All right, I will add one to the 'Noes'.

Ramoti, Shri S. N. 7
 Ramchand Das, Shri
 Rampura, Shri M.
 Rana, Shri
 Rangappa, Shri
 Rao, Shri Thirumala
 Reddy, Shri Bali
 Reddy, Shri R. L.
 Reddy, Shri Ramakrishna
 Reddy, Shri Rani
 Ray, Shri Bhadravath
 Sahu, Shri Bhagabati
 Sahu, Shri Ramachwar
 Saigal, Sardar A. S.
 Samanta, Shri S. C.
 Sankarapandian, Shri
 Sarbadi, Shri Ajit Singh
 Satyabhama Devi, Shrimati
 Satta, Shri
 Sen, Shri A. K.
 Shah, Shrimati Jayabon
 Shakuntala Devi, Shrimati
 Shankaraya, Shri
 Sharma, Shri R. C.
 Shastri, Shri Prakash Vir
 Shivaramappa, Shri
 Shree Narayan Das, Shri
 Siddaramappa, Shri
 Siddiq, Shri
 Singh, Sardar Hukam
 Singh, Sardar Jogendra
 Singh, Sardar Swatan
 Singh, Shri Babunath
 Singh, Shri Bahadur

Singh, Shri Bhrat
 Singh, Shri D. P.
 Singh, Shri Dalit
 Singh, Shri K. N.
 Singh, Shri Kaila
 Singh, Shri M. N.
 Singh, Shri Rajivnath
 Shikha, Shri Anirudh
 Shikha, Shri Jindan
 Shikha, Shri K. P.
 Shikha, Shri Satya Narayan
 Shikha, Shri Satyendra Narayan
 Shikha, Shrimati Tarakeswari
 Sontak, Shri Nardoo
 Souvrao, Shri
 Soora, Shri
 Subbarayan, Dr. P.
 Subramanyam, Shri T.
 Sumat Prasad, Shri
 Sunder Lal, Shri
 Syed Mahmud, Dr.
 Tahir, Shri Mohammed
 Tariq, Shri A. M.
 Thammiah, Shri
 Tiwari, Shri R. S.
 Tiwary, Pandit D. N.
 Usha, Shri
 Upadhyay, Pandit Manohar
 Upadhyaya, Shri Shiva Das
 Varma, Shri B. B.
 Venkateswari, Kumari M
 Venkotesubrahah, Shri
 Vyasa, Shri Radhaji
 Wadayar, Shri

NOES

Macha, Qazi
 Memon, Shri Naraya: outt.
 Mohan Swarup, Shri
 Munisamy, Shri N. R.
 Nathwan, Shri
 Nayar, Shri V. P.
 Pandey, Shri Sarju
 Panigrahi, Shri
 Parvathi Krishnan, Shrimati
 Patil, Shri U. L.
 Pradhan, Shri B. C.
 Punnoose, Shri
 Rai, Shri Khushwar

Rao, Shri T. B. Vikral
 Ray, Shrimati Renuka
 Baboo, Shri S. L.
 Sakunika, Shri Balasub
 Sharma, Pandit K. C.
 Singh, Shri Bal Raj
 Sitahon Singh, Shri
 Siva Rai, Shri
 Yanganani, Shri
 Thakore, Shri M. B.
 Verma, Shri Ramji
 Yadav, Shri
 Yajnik, Shri

Shri U. L. Patil (Dhulia): My vote has also not been recorded. I am against it.

Mr. Speaker: I will add one more to "Noes".

Dr. Syed Mahmud (Gopalganj): I want to vote for Ayes.

Mr. Speaker: All right.

Shri Joachim Alva (Kanara): I pressed the button for 'Ayes'. But it did not work. I am for Ayes.

Mr. Speaker: All right. He begins to laugh before he explains the position. He has recorded his vote. The difficulty is that he has voted for Ayes, whereas it is recorded as Noes.

Shri Joachim Alva: No, Sir. It has not been recorded at all.

Shri S. M. Banerjee (Kanpur): If somebody votes for Ayes, it will only be recorded as Ayes by the machine.

Mr. Speaker: Now he says it has not been recorded at all.

The Parliamentary Secretary to the Minister of External Affairs (Shri Sadath Ali Khan): My vote, which is for Ayes, has not been recorded.

Shri P. Ramaswamy (Mahbubnagar-Reserved—Sch. Castes): My vote which is for Ayes, has not been recorded.

Mr. Speaker: The final result of the division is as follows:

Ayes 183; Noes 40.

The motion was adopted.

Mr. Speaker: So, the substitute motion, as amended, is passed.

Shrimati Renu Chakravarty: Now, in view of the adoption of this motion, the whole object of the Bill has been nullified. So, as a protest, we withdraw from the House.

12:34 hrs.

(Shrimati Renu Chakravarty and some other hon. Members then left the House).

Mr. Speaker: The question is:

"That clause 2, as amended, stand part of the Bill".

The motion was adopted.

Clause 2, as amended, was added to the Bill.

Clause 4.—(Penalty for demanding dowry).

Pandit Thakur Das Bhargava: I beg to move:

Page 2,—

for lines 8 and 9 substitute—

"with fine which may amount to five times of the value of such demanded dowry or two thousand rupees whichever sum is higher and shall also be liable to imprisonment for a period of three months." (21).

Mr. Speaker: Does the hon. Minister accept amendment No. 21?

Shri A. K. Sen: No.

Mr. Speaker: The question is: Page 2,—

for lines 8 and 9 substitute—

"with fine which may amount to five times of the value of such demanded dowry or two thousand rupees whichever sum is higher and shall also be liable to imprisonment for a period of three months." (21).

The motion was negatived.

Mr. Speaker: The question is:

"That clause 4 stand part of the Bill".

The motion was adopted.

Clause 4 was added to the Bill.

Clause 5 was added to the Bill.

Clause 6.—(Dowry to be for the benefit of the wife or her heirs)

Shri Nathwani (Sorath): I beg to move:

(i) Page 2, line 25,—

for "and also" substitute "or" (43).

(ii) Page 2, line 25,—

after "rupees" insert "or with both" (44).

Shri Bhakt Darshan (Garhwal): I beg to move:

(i) Page 2, line 12,—

after "woman" insert "or the man" (29).

(ii) Page 2, line 13,—
add at the end—
“or the man, as the case may be”
(30).

(iii) Page 2, line 18,—
after “woman” insert “or the
man” (31).

(iv) Page 2, line 19,—
after “she” insert “or he, as the
case may be” (32).

(v) Page 2, line 21,—
add at the end—
“or the man” (33).

(vi) Page 2, lines 24 and 25,—
omit “imprisonment which may
extend to six months, and
also with” (34).

श्री भक्त दर्शन : अध्यक्ष महोदय, इस विधेयक की धारा ६ में मैं ने जो संशोधन प्रस्तावित किए हैं, उनका एक ही उद्देश्य है। इस समय दहेज की प्रथा के अनुसार कन्या की शादी के साथ मैं जो रुपया मिलता है और उसके सम्बन्ध में जो सुविधा दी गई है वही सुविधा उस प्रथा के बारे में भी दी जानी चाहिए जो कि आज भी देश के बहुत से भागों में प्रचलित है ताकि कन्या का शुल्क लेने वाले को जो रुपया मिले वह रुपया भी उनको वापस दे दिया जाए।

कल माननीय विधि मंत्री महोदय ने कहा था कि हमारे देश में बहुत से पिछड़े हुए भाग हैं या बहुत सी जन-जातियां ऐसी हैं जिन में कन्याओं का मूल्य लिया जाता है। मैं उस क्षेत्र का यहां पर प्रतिनिधित्व करता हूं जहां कि यह प्रथा बहुत बड़े पैमाने पर رایज है। हमारे इलाके में और आम तौर पर सब पर्वतीय इलाकों में, राजस्थान में और बहुत से इसी तरह के इलाकों में आज भी कन्या की शादी करने से पहले कन्या के साथ दहेज नहीं दिया जाता है, बल्कि कन्या का मूल्य लिया जाता है। यह अपराध जवन्य तथा नुषिक है, और इसकी जितनी कड़ी से निन्दा की जाय उतनी ही कम है।

मैं चाहता हूं कि विधि मंत्री महोदय मेरी बात को ज़रा ध्यान से सुनें। इस धारा में यह कहा गया है कि डावरी में जो रुपया मिलेगा वह उनको वापस कर दिया जाएगा। जहां तक मेरे संशोधनों का ताल्लुक है, उनका उद्देश्य केवल मात्र यही है कि अगर लड़की की कीमत का रुपया लड़की का पिता ले लेता है तो उसे भी उसको अनिवार्य रूप से वापस करना होगा। यह बहुत ही वाजिब सी चीज है और मैं समझता हूं कि माननीय मंत्री महोदय इसको स्वीकार कर

एक माननीय सदस्य : माननीय मंत्री जी आपकी बात को सुन भी नहीं रहे हैं।

Mr. Speaker: He is speaking with respect to amendment Nos. 29 to 34.

Shri A. K. Sen: That is why I am having a little consultation.

Mr. Speaker: The hon. Minister is engaged with the amendments moved by the hon. Member. The hon. Minister is attending actively to the amendments moved by him.

Shri A. K. Sen: The hon. Member should not grudge my consulting our officers when I am dealing with the amendments.

श्री भक्त दर्शन : माननीय मंत्री जी ने अभी जो बात कही है उससे मैं आशा करता हूं कि वह मेरे संशोधनों को स्वीकार कर लेंगे।

मैं जिस बात पर जोर दे रहा हूं वह यह है कि जहां पर कन्याओं के साथ मैं दहेज लेने की प्रथा का इतना विरोध हमारी बहुत सी महिला सदस्याओं ने किया और इसके बारे में कोई दो रायें नहीं हो सकती है, वहां पर उस प्रथा की उतनी भर्त्सना और मज़हमत नहीं की गई जो कि हमारे देश के बहुत से भागों में प्रचलित है। मैं इस तरह के कई किस्से आपको बतला सकता हूं। यहां पर भाषणकर्त्रियों ने स्वर्णलताओं और स्वर्णकुमारियों के बारे में कहा कि उन्होंने आत्महत्यायें की हैं, लेकिन बहुत से स्वर्णकुमार

[श्री भक्त दर्शन]

हैं जिन को अपने विवाह के लिए कर्ष लेना पड़ा और उस कर्ष को बुकाने में ही उनका सारा जीवन बीत गया। इस वास्ते में कहना चाहता हूँ कि यदि माननीय विधि मंत्री महोदय मेरे उद्देश्य से सहमत हैं तो जो सुविधा इस समय लड़कियों की शादी के लिए बड़ेज के रूप में दी जा रही है, वही अगर लड़की की कीमत की बसूली में हो जाए और वह उनको वापिस कर दिया जाए तो अच्छा रहेगा अतः उनको इन संशोधनों को स्वीकार करने में कोई दिक्कत नहीं होनी चाहिए।

शंक्ति ठाकुर दास भार्यवः अध्यक्ष महोदय, यह जो संशोधन मेरे दोस्त ने पेश किया है मेरी नाकिस राय में यह दफ़ा ६ के अन्दर भी आता है कि कोई रकम जो कन्या की बिक्री के वास्ते शुल्क के तौर पर दी जाती है वह डावरी की तारीफ में आ जाती है। दफ़ा ६ में यह कहा गया है कि कोई भी डावरी हो जो किसी शास्त्र को भी दी जाए, वह अगर लड़की को नहीं मिलती है तो यह लेने वाले का कर्ष है कि वह उसको जरूर वापिस कर दे। अगर लड़कियों की कीमत मां बाप ले लें तो उनका कर्ष है कि एक साल के अन्दर उस चीज को वापिस कर दें और अगर वापिस नहीं करेंगे तो इस बिल की प्राविज्ज, हाबी होंगी। आज जो यह रकम बची हुई है, बिहार इत्यादि इलाकों में यह और भी बराब है, शुल्क लेने की, बाइब प्राइस लेने की। यह बिल्कुल नाजायज है। इसलिए मैं समझता हूँ कि अगर मानरेबल मिनिस्टर साहब की राय में यह चीज दफ़ा ६ में नहीं आती है, तो इन संशोधनों को मंजूर कर लिया जाना चाहिए और इसमें इनको शामिल करने की कोशिश करनी चाहिए। मेरी नाकिस राय में यह दफ़ा ६ के अन्दर आ जाती है और यह गैर-बकरी एमेंडमेंट है।

Shri Nathwani: I hope the hon. Minister is accepting my amendments.

Mr. Speaker: What are his amendments?

Shri Nathwani: My amendments were accepted by the Law Minister in respect of clause 3.

Mr. Speaker: He did not move his amendments.

Shri Nathwani: I have moved my amendments. When clause 6 was taken up, I said, I move my amendments Nos. 43 and 44.

Shri A. K. Sen: We have already accepted them.

Shri Nathwani: That is what I am saying.

Mr. Speaker: That is to clause 3.

Shri A. K. Sen: Let us not go into what I have accepted yesterday.

Shri Nathwani: The same as we have accepted in another previous clause.

Mr. Speaker: There are two sets of amendments. One is moved by Shri Nathwani, numbers 43 and 44 for the penal portion, for "and also" substitute "or", that is about imprisonment and fine, being imprisonment or fine and later on, addition of "or with both", giving ample discretion to the magistrate to impose one or the other or both. That is accepted in relation to clause 3. These are similar to those amendments.

The question is:

Page 2, line 25, for "and also" substitute "or" (43).

Page 2, line 25 after "rupees" insert "or with both" (44).

The motion was adopted.

Mr. Speaker: Then, amendments numbers 29 to 34. The purport of these amendments moved by Shri Bhakt Darshan is this. The clause says that when money is given on behalf of the bride, to whomsoever it may be given, it shall be transferred to the female partner. He wants to add the male partner also.

Shri Bhakt Darshan: Before the vote is taken, may I hear the view of the hon. Law Minister?

Mr. Speaker: The hon. Minister is against it. He is afraid the whole purpose of this Bill will be defeated.

Shri Bhakt Darshan: What is the reason?

Shri A. K. Sen: We shall have to enter into a discussion of the whole thing.

Mr. Speaker: The whole thing is there. I shall now put amendments numbers 29, 30, 31, 32, 33 and 34 to the vote of the House.

The amendments Nos. 29, 30, 31, 32, 33 and 34 were put and negatived

Mr. Speaker: The question is:

"That clause 6, as amended, stand part of the Bill."

The motion was adopted.

Clause 6, as amended, was added to the Bill.

Clause 7.—(Cognizance of offences)

Shri P. R. Patel: I beg to move:

Page 3, after line 6, insert—

"7A. Any person convicted under any section of the Act, shall be liable to be dismissed if he or she is a servant of a Government or a local authority and if a person is not such a servant, he or she shall be deemed to have been disqualified to be a member of a local authority, State Legislature or Parliament or any statutory or non-statutory body for life time." (6).

Shri Sinhasan Singh: I have just now submitted an amendment and I seek your permission to move it that in clause (b).....

Mr. Speaker: He has just now passed on the amendment.

Shri Sinhasan Singh: I seek your permission to move it.

Mr. Speaker: No, no, unless I show it to the Law Minister.

Shri Jadhav: I beg to move:

Page 3,—

omit lines 1 to 3. (53).

Pandit Thakur Das Bhargava: I beg to move:

Page 3, line 3, add at the end—

"by an aggrieved person or social organisation recognised by the Government for the purpose". (71).

Shri Bhakt Darshan: I beg to move:

Page 3, line 2, for "on a complaint made" substitute—

"On information received from a responsible person". (37).

Shri Nathwani: I beg to move:

Page 3, for lines 1 to 3, substitute—

"(b) the Presidency Magistrate or a Magistrate of the First Class may take cognizance of any such offence—

- (i) upon receiving a complaint of facts which constitute an offence;
- (ii) upon a report in writing of such facts made by a police officer not below the rank of a deputy superintendent of police;
- (iii) upon information received from any person other than a police officer or upon his own knowledge on suspicion that such offence has been committed;" (46).

Mr. Speaker: These amendments are now before the House.

श्री जाधव : प्रथम महोदय, मेरी एमेंडमेंट इस क्लॉज में नम्बर ५३ है। चूंकि इसके साथ एमेंडमेंट ५४ जुड़ी हुई है, इस बास्ते में दोनों पर बोलने की इजाजत चाहता हूं। हम जो यह कानून बना रहे हैं, यह बहुत जरूरी है और यह समाज की एक सुनिश्चिता बन

[श्री जाधव]

सकता है। इस कानून को अगर हम अमल में लाना चाहते हैं तो यह जो गुनाह समाज के खिलाफ हो, इसको कागनिजेबल आफेंस करार दिया जाना चाहिए। अगर इसको हम कागनिजेबल आफेंस करार देते हैं, तो एक साल का जो पीरियड रखा है, इतिला देने का उसकी जरूरत नहीं रह जाएगी। इसलिए मैं चाहता हूँ कि सब-क्लाज़ (बी) जो है इसको ड्राप कर दिया जाए और इसको कागनिजेबल आफेंस बना दिया जाए और अगर यह कागनिजेबल आफेंस बन जाता है, तो सब-क्लाज़ (बी) की जरूरत ही नहीं रह जाएगी। इस वास्ते मैं अर्ज़ करता हूँ कि माननीय कानून मंत्री इसको मंजूर कर लें।

Shri P. R. Patel: Mr. Speaker, I will read out my amendment.

"Any person convicted under any section of the Act, shall be liable to be dismissed if he or she is a servant of a Government or a local authority and if a person is not such a servant, he or she shall be deemed to have been disqualified, to be a member of a local authority, state Legislature or Parliament or any statutory or non-statutory body for life time."

In accepting all these clauses, we say that it is a social evil and it must be stopped anyhow. It has been stated that those who accept or give dowry are anti-social elements. The practice of dowry has come into existence because of the social status of a man. I want to ask one thing. If a man who accepts dowry or gives dowry is convicted, do we think that he should be given or allowed to continue the social status that he has? If the man giving dowry or taking dowry is a government servant and if he is continued as a government servant, I think that he will be setting a bad example and he will be speaking to the whole nation that accepting or giving dowry is nothing wrong, because his service is not

hampered. If such a man happens to be a Member of this august House, if this august House says that this is a social evil, should such a Member continue to be a Member of the House? What I want is that such a man, if he is convicted, he should be disqualified to be a Member of the House or Legislature and he should be disqualified for his whole life time to stand in any election for the office of Member of Parliament or Legislature. I hope the hon. Minister will accept my amendment. If he wants to set an example to society and wants to say to the people that this is a social evil, whoever does it shall have no special status.

Shri Kalika Singh (Adamgarh): I wish to oppose the amendments.

Mr. Speaker: Let us dispose of the amendments.

12.50 hrs.

[PANDIT THAKUR DAS BHARGAVA
in the Chair]

श्री सिंहासन सिंह: सभापति महोदय, मैं आप की आज्ञा से दफा ७ के क्लॉज़ 'ब' में दो शब्द जोड़ना चाहता हूँ। 'फ़ैमिलेंट मेड' के बाद यह शब्द जोड़ दिया

Shri A. K. Sen: On a point of order. This amendment has not been admitted by the Speaker.

Shri Sinhasan Singh: He has allowed me to speak.

Mr. Chairman: The rule is that if an amendment is given on the very day on which we are discussing the matter, unless the Government is agreeable to it, it is not allowed. The Government is not accepting this and I am sorry it has to be disallowed.

Shri Sinhasan Singh: The Speaker asked me to move it. So, I am moving it.

Mr. Chairman: No question of it. Unless the Government agrees, I

cannot waive notice, because it has been given today.

Shri Sinhasan Singh: The Speaker allowed me. I may be allowed to speak.

Shri A. K. Sen: The hon. Speaker asked me if I was going to accept the amendment, and the officer came and told me that if only I accepted the amendment, the hon. Speaker was going to admit it. I told him that I was not going to accept the amendment.

Mr. Chairman: Therefore I have held that as the Government is not going to accept the amendment, I cannot waive notice of the amendment. Therefore the amendment is disallowed. It cannot be allowed to be moved.

Shri Sinhasan Singh: I do not know what passed between the hon. Minister and....

Mr. Chairman: No question of anything passing. The rule is that if an amendment is tabled the same day, unless the Government is agreeable to accept it, it is not allowed to be moved.

Shri Sinhasan Singh: I moved it because the hon. Speaker asked me to speak. So, I thought.....

Mr. Chairman: A person may be allowed to speak on the Bill and on the clause also, but so far as the amendment is concerned, he is not allowed.

Shri Sinhasan Singh: He should have said so. Anyway, your ruling is there binding on me and I accept it.

मैं अपना संशोधन नहीं मूव करना चाहता लेकिन पटेल साहब का जो अमंडमेंट है उस के आधार पर कहना चाहता हूँ कि अगर आप इस विधेयक को किसी भी प्रकार सक्रिय बनाना चाहते हैं तो सही तौर पर और ईमानदारी के साथ बनावें। मैं ने नोट आफ डिमेंट में भी कहा है कि जब हिन्दू

कोड पास हुआ तो उस के अन्दर दो विवाह मना किये गये लेकिन उस का कोई बहुत व्यापक परिणाम शायद न भी हुआ हो पर चूँकि सरकार ने यह कह दिया कि अगर कोई सरकारी अधिकारी एक पत्नी के रहते हुए दूसरा विवाह करेगा या पत्नी को मारे पीटेगा तो वह सर्विस से निकाला दिया जायेगा, इस लिये उस सीमा तक तो इस का परिणाम अच्छा ही हुआ। भले ही आज ही मुकदमे न चलें, लेकिन इस तरह के विवाह नहीं हो रहे हैं। वैसे ही जैसा कि पटेल साहब ने कहा है कोई क्लाइम इस तरह का होना चाहिये कि अगर कोई आदमी किसी भी तरह से दहेज के लिये कहे या मांगे तो वह सरकारी नौकरी में नहीं रहेगा, वह उस से वंचित कर दिया गया जायेगा। अगर इस तरह का आदमी कोई एम० एल० ए० या एम० पी० हो तो उसे डिस्क्वालिफाई कर दिया जायेगा, तो उस की समझ में भी यह बात आ सकती है। आप जानते हैं कि जैसे आदमी की पोजीशन बढ़ती है वैसे वैसे तिलक का रेट भी बढ़ जाता है। अगर कोई सरकारी नौकरी में आ गया तो धीरे धीरे उस का रेट भी बढ़ने लगता है। अगर वह किसी सिंफाइड जगह के लिये गा गया है तो उस की पोजीशन और बढ़ जाती है। इस लिये अगर आप इस कानून को सक्रिय बनाना चाहते हैं तो आप को पटेल साहब के अमंडमेंट को मंजूर करना चाहिये जो भी दहेज लेगा उसी पर तो यह प्रतिबन्ध लगता है, अगर नहीं लेगा तो उसे वंचित नहीं किया जायेगा। जो नहीं लेगा उसे कोई डर नहीं है। इसी तरह से जो एम० पी० या एम० एल० ए० लेगा वही डिस्क्वालिफाई होगा, दूसरे नहीं होंगे। इस लिये जो यह सुझाव है उस को रखने से आप इस कानून को कामिन्जेबल बनावें या न बनावें, समाज पर उस का अच्छा असर पड़ता है।

दूसरे मेरा यह कहना है कि जाधव साहब ने जो अमंडमेंट दिया है उस में उन्होंने कहा है कि इस चीज को कामिन्जेबल बनाया जाय। मेरा अमंडमेंट मूव नहीं हो पाया। उस में

[श्री सिंहासन सिंह]

कहा गया था कि जायदा फौजदारी की दफा १६० के अधीन मैजिस्ट्रेट का अधिकार होगा कि ऐसे अपराधियों को किसी तरह से धरने काबू में ले सकता है। पुलिस की रिपोर्ट पर ले सकता है। किसी के इस्तगाल पर ले सकता है, ऐसी कोई सूचना मिले उस पर ले सकता है या फिर स्वतः की जानकारी पर ले सकता है। मेरा यह सुझाव था, और अब भी है, कि आप इस को कामिनेबल न बनायें लेकिन अगर मैजिस्ट्रेट स्वतः अपनी जानकारी पर या किसी की सूचना पर ऐसे अपराधी को धरने काबू में ले लेते तो इस का नतीजा यह होगा कि वहेज लेने वाले को डर होगा। ६ बी के लिये भी कहा गया है कि कोई कार्रवाई मैजिस्ट्रेट नहीं कर सकता जब तक कोई इस्तगाला न करे। इस्तगाला करने के माने यह होते हैं कि वह धादमी कुल खर्च बरदास्त करने को तैयार हो तभी मुकदमा हो सकता है। इस धारा के खिलाफ मुकदमा तभी दायर हो पायेगा जब कोई धादमी धुपमनी की वजह से या किसी और वजह से अदालत में जा कर दावा भी दायर करे, बकील को भी रखे और सारा खर्च भी दे, अन्यथा इस तरह का मुकदमा कभी दायर नहीं हो सकता है। आज ऐसे समाज सुधार करने वाले व्यक्ति या संगठन बहुत कम हैं जो चन्दा इकट्ठा कर के मुकदमा दायर करें और बकीलों को रखें। अगर आप दफा १६० में इस तरह का अधिकार दे देते हैं तो शायद बहुत से धादमी होंगे कि जो जा कर मैजिस्ट्रेट को यह सूचना दे सकते हैं कि फलां जगह पर डावरी ली गई है या डावरी लेने की बात चीत हो रही है। बात चीत करना भी तो आप ने अपराध घोषित कर दिया है। अगर वह ही रही है तो सूचना मिलने पर मैजिस्ट्रेट उस धादमी को गवाह के रूप में समझ कर के मामले को धरने काबू में ले सकता है। इस तरह से समाज का सुधार हो सकता है।

तो मेरा सरकार से और सब से अनुरोध है कि अगर चाकई सरकार चाहती है कि

यह विधेयक किसी तरह से समाज सुधार में सहायक हो तो उस को कोई ऐसा रास्ता धरना पड़ेगा जिससे इस काम में सहायता मिल सके। यह सहायता तभी मिल सकती है जब कि सरकार के जो अधिकारी या धादमी हैं और जो प्रतिनिधि वर्ग हैं, उन पर कोई रुकावट हो और मैजिस्ट्रेटों को ऐसे मामलों में स्वतः अपनी जानकारी पर या किसी से जानकारी मिलने पर अपने अधिकार का उपयोग करने की स्वतंत्रता हो। कम्प्लेंट भी रहेगी और साथ-साथ में मैजिस्ट्रेट की जाकारी भी रहेगी तो मैं समझता हूँ कि यह कार्य धीरे-धीरे बढ़ सकता है। आपने देखा कि डावरी की डेफिनिशन के बारे में सदन में काफी वाद-विवाद हुआ। लोगों के विचार में यह धाया कि डावरी की डेफिनिशन उस तरह से रखने से डावरी और अनमानी तौर से बड़ेनी क्योंकि सादी के भवसर पर जो प्रेजेन्ट्स दी जायेंगी वह डावरी की डेफिनिशन में नहीं धायेंगी। इससे और कुछ नहीं होगा, वहेज पर झगड़ा न हो कर प्रेजेन्ट्स के लिये झगड़ा होने लगेगा। लोग कहेंगे कि तिलक में रुपया मत दो, प्रेजेन्ट्स की तरह पर दे दो।

इसलिये मेरा कहना यही है कि अगर आप किसी भी तरह से इस बुराई को रोकना चाहते हैं तो जो संशोधन किया गया है उसको रखना बहुत जरूरी है। आप इस पर विचार करें और ऐसा रास्ता निकालें जिससे सही मानों में वहेज में कोई रुकावट हो। आज हिन्दू कोड बिल इसी माने में कामयाब हो रहा है कि सरकारी धादमी उससे डरते हैं क्योंकि उसके खिलाफ काम करने से सब्सिड से निकाल दिये जाने की आशंका है। इस मामले में भी यही चीज समझ में धाने की जरूरत है

Shri C. R. Pattabhi Raman (Kumbakonam): The suggestions contained

in Shri P. R. Patel's amendment make us think seriously with regard to the object of the amendment. There is no difference of opinion at all in the view that dowry is an evil, that any payment in consideration of marriage should be checked, but in our anxiety to do away with the evil, we are likely to throw away the baby with the bath water. It must be remembered that this legislation will affect mainly Hindus, not the other religionists.

Shri Sinhasan Singh: Why?

Shri C. R. Pattabhi Raman: We have exempted for example in clause 2 dower or *mahr*.

Shri Sinhasan Singh: Dower is a different thing from dowry.

Shri C. R. Pattabhi Raman: We have said:

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

Shri Sinhasan Singh: That is quite different.

Shri C. R. Pattabhi Raman: I agree with you that dower or *mahr* is different from dowry. I am very cautious in what I am saying. An observation has been made that the offence must be made cognizable, and secondly I do not know whether the Members are aware of the nature of the present amendment. Let me read it:

"Any person convicted under any section of the Act, shall be liable to be dismissed if he or she is a servant of a Government or a local authority and if a person is not such a servant, he or she shall be deemed to have been disqualified to be a member of a local authority, State Legislature or Parliament or any statutory or non-statutory body for life time."

For life time; We are in great hurry. We do not even read the words in the amendment. For life time—do

you want that to happen? There can be a conspiracy case, you may not be directly a party to the crime yourself, but you may be involved in it, you may be an accused. Are you going to convert most marriages, Hindu marriages in particular, into funeral occasions? People will be very much afraid. Supposing a girl is betrothed and she does not want to marry the betrothed but wants to marry somebody else. The other person may out of spite file a complaint, and any one here may become an accused, and will have to defend himself; and you will have to come out of that morass and out of that mess. Do you want this to happen? Do you want a happy occasion to be marred in this manner? You have taken sufficient steps already to prevent dowry....

Shri Bimal Ghose (Barrackpore): What happens with the penalty clauses in other legislations like the company law?

13 hrs.

Shri C. R. Pattabhi Raman: That is a case where personal profit is involved, where a person does not care for the society, where a person is punished for the social evils that are involved. That is why he is being punished. That punishment is one thing; but it is quite a different thing to terrorise a family or members of a family on a festive occasion.

My hon. friend says that any complaint may be filed, and he wants to make it a cognizable offence also; further, he wants to disqualify the people concerned for lifetime. Pause over it.

I am very glad that we had some time to think about the explanation I am not saying this simply because it is a Government amendment it has been passed. What happened yesterday? And what has happened today? 38 people today turned it down because they wanted a certain explanation to go, as against 179 in favour. I am willing to grant that out of these

[Shri C. R. Pattabhi Raman]

179, a few may have gone over to the other side if it was not a Government amendment. But are we going to rush through this sort of social legislation? There are many more important things waiting on the *tapis* of the House. I am very glad that the measure has come. I am glad also that the explanation has come in. But to try to make it a cognizable offence and disqualify the people concerned for lifetime is really going too far.

Shri C. D. Pande: Why not hang the father and the mother?

Shri C. R. Pattabhi Raman: As I pointed out in the beginning, and I repeat now, we are trying to throw the baby away with the bathwater if we are going to accept this amendment.

Shri Kalika Singh: I want to oppose the amendment which seeks to provide for dismissal of government servants and to disqualify others from standing for elections etc.

The purpose of the amendment may be good, but my contention is that this is not the proper place where this sort of provision could be made. For, we have got our own election laws. There are the Municipal Acts, there are the District Board Acts, and then we have the Representation of the People Act and so many other Acts. In all these Acts, there are specific provisions where the grounds for disqualifications have been laid down. There are specific sections which lay down that in the case of offences involving moral turpitude, the persons concerned are debarred for five years or for some such time, but not for lifetime. If those sections are sought to be amended, then this amendment may be moved on that occasion, and this amendment may be considered then. But if such an amendment is going to be made in the Dowry Prohibition Bill, then why not provide for a similar thing in the Indian Penal Code as an explanation to all the sections? The Indian Penal Code is now a very big code, and there are so many offences enumerated therein; and an explanation

like this may be added to all those sections to the effect that any person convicted under those sections for those offences shall be liable to be dismissed if he is a government servant, or be debarred from standing for elections, if he is not a government servant. If that is done, then all these sections would become election laws.

Therefore, I submit that this is not the proper place for suggesting this kind of amendment. Moreover, the purpose of the amendment is not also very laudable. If a government servant is convicted, that itself is a sufficient punishment for him. For, we are only providing for fine or imprisonment here. In the election laws also, where we have enumerated the disqualifications and offences involving moral turpitude, only minor offences have been taken into consideration.

Therefore, I say that this amendment is not suitable, and it should be opposed.

Shri Braj Raj Singh: May I just ask one question of the hon. Member who spoke just now?

Shri Kalika Singh: I am not going to reply to it.

Shri Braj Raj Singh: I am entitled to ask the question with the permission of the Chair.

Mr. Chairman: The hon. Member is not disposed to reply to it. Therefore, what is the use of asking a question?

Shri Khadilkar (Ahmednagar): I rise to support the amendment moved by my hon. friend Shri P. R. Patel. I thought that it would give retrospective effect, so that those of us who have accepted dowry will also be automatically disqualified.

I am rather surprised that the Law Minister is trying to push ahead with a social legislation of this character

in our society, which is mainly a rural society.

13.05 hrs.

[SHRI C. R. PATTABHI RAMAN *in the Chair.*]

A legislation of this nature is likely to give a greater handle to the local feuds, communal feuds, caste feuds and other feuds and increase the work of litigation and provide more work for the lawyers. That is what the effect of this legislation will be on the rural society, as I see it. Therefore, I feel that Government ought to have been cautious. That is one aspect, namely that they are not cautious about legislating for those who are living in the villages and who form our rural society and caste society.

There is another aspect of this matter, and that is that in our public life, today, we find that those who legislate are immune from any moral standards. The purpose of Shri P. R. Patel's amendment is that those who legislate this Bill at least should not take any dowry in the case of the marriage of their sons or give any dowry in the case of the marriage of their daughters. Some hon. friends came forward and said that this was bad. Can everyone who is here at least give a clear moral assurance? I am not certain about it. Can any of my hon. friends here give an assurance that while contracting the marriages of their sons and daughters, they will not take any dowry? I am not sure about it. Of course, by some method, by some some subterfuge, they may avoid the law and take dowry. I do not think that this type of morality should be allowed where the leadership or where the representatives of the people are immune from the effect of this legislation. They are supposed to legislate for others, who are living their own way of life and who need to be educated. I do not think that in the social sphere, such a hasty legislation should be brought forward.

The main purpose of the legislation must be to educate, and then you can enforce the law. We have seen in our parts, and I may give an experience of my own, as to how the legislation against bigamy works. From the villages the woman goes to a doctor and gets a certificate that she is not capable of bearing any children for the husband, and at that stage, a second marriage is contracted, which is quite legal. Now, is this law? I want to ask you in all seriousness.

Therefore, I would appeal to the House and to the Minister of Law that instead of rushing through this kind of legislation as was desired by my hon. friends who staged a walk-out, the attempt should be to educate the people first. For, if we enforce a legislation of this character which the rural society or the caste society is not in a position to accept and act up to, and allow police interference, it will only give a handle to the rivalries in the villages, and interfere with the marriages. Let me give one instance; in fact, I was discussing it just a little while ago with a friend of mine. Suppose a marriage is contracted between A's daughter and B's son, and by some chance, that marriage does not take place, and that contract is ceased; in such a case, the disappointed party will definitely lodge a complaint and thus give a handle for litigation.

Shri Narayanankutty Menon: All marriages have not got disappointed parties.

Shri Khadilkar: My hon. friend is looking at society from a different angle. Let him look at it from the rural angle, from the village angle; then, he will understand all these implications.

Therefore, I would say even now that let not Government stand on prestige; let them not rush with this type of legislation. Instead of strengthening the authority of law, let them strengthen the other parts; let them strengthen the social reforms, by education. I do feel that

[Shri Khadilkar]

that will have some kind of a permanent effect. It is because Government have failed in their attempt to carry out the social reform by education, that they want to absolve themselves of that responsibility by rushing through this legislation. Therefore, I perfectly agree with my hon. friend who has moved this amendment. If you want this Bill, then make it compulsory and give it retrospective effect, if you like, and then pass it.

Shri Nathwani: I rise to commend my amendment No. 46. As the Bill stands, the court can take cognizance only on a complaint made....

Mr. Chairman: I believe amendment No. 46 has been accepted.....

Shri Nathwani: I wish it were so. If the hon. Minister is pleased to accept it, then I shall be happy.

Mr. Chairman: I find that amendment No. 46 is not in the paper before me. Anyhow, I shall find out. I am sorry. I have now got the list. He may proceed.

Shri Nathwani: The Bill provides that the court can take cognizance of the offence only on a complaint made within one year. My amendment seeks to enlarge the powers of the court to take cognizance of the offence. There are normally three ways in which the court can take cognizance. They are provided in section 190 of the Cr. P. C. I must make it clear that my amendment does not make the offence a cognizable offence.

Shri A. K. Sen: More or less, it does.

Shri Nathwani: Why more or less? There is a difference. If we were to accept the logic or reasoning of the hon. Minister, then there will be no difference between a cognizable offence and a non-cognizable offence.

My amendment seeks to make the implementation of the provisions of the Act more effective. While speaking on the motion for taking the Bill into consideration, I explained

how in the existing circumstances in our society a man may not come forward and file a complaint and give evidence on oath. He may go to a certain extent. He may be willing to supply information to the Magistrate and the Magistrate may ask the police to investigate the offence and then he can take cognizance of the offence.

Shri Mulchand Dube (Farrukhabad): May I ask whether the information given to the Magistrate will not amount to a complaint? 'Complaint' is defined in the Criminal Procedure Code.

Shri Nathwani: No. If my hon. and learned friend is interested in knowing the position, he should carefully scan section 190 of the Code. If sub-clause (b) had not been provided here, the ordinary law would have prevailed and section 190 would have come into operation. Under that, the Magistrate or the court can take cognizance in three ways. But we are confining the jurisdiction of the court to only one way, namely, complaint. I am trying to explain that in the present circumstances, there may be a friend, relation, acquaintance or neighbour public-spirited enough to furnish the information to the Magistrate, but he may not like to go, in the first instance, and give evidence in court. As the Bill stands, he must go and file a complaint before action by the Magistrate. He may not like to go to that extent. That is the position today. But if you accept my amendment, then certainly more avenues would be available to the court to take cognizance of the offence.

Dr. M. S. Aney (Nagpur): Should the court proceed on its own on the information supplied?

Shri Nathwani: When information is sent to the court, the court immediately takes cognizance—that is, under item (c) of sub-section (1) of section 190 of the Criminal Procedure Code—or the court may send for more information from the police. It may ask the police to investigate and on

receiving a report from the police, it can take cognizance.

Therefore, I am saying that instead of restricting the powers of the court, as is done in the Bill, in the stage of society as it exists today, it is advisable to widen the powers of the court to take cognizance. There is only one little change in my amendment and that is based on what Shri Subiman Ghose has said in his Minute of Dissent. Whereas under the ordinary law, the Magistrate can ask any police officer to investigate, my amendment seeks impliedly to restrict the power of investigation to an officer not below the rank of Deputy Superintendent of Police, so that there may not be any harassment and the officer may act with tact and dignity and not, as my learned friend said, mar the mirth or the joy of the occasion, if the police were to investigate at that stage.

This is all I have to submit. If we view the problem from the point of view of more effective implementation of the law, there should be no difficulty in accepting my amendment.

Shrimati Renuka Ray (Malda): I rise to support Shri Nathwani's amendment. I am strongly of the opinion—I have said so in my Minute of Dissent—that a Bill like this can hardly be effective unless social conscience itself changes. But it is a good gesture. If it is a good gesture, we should at least make it as practical as possible. If it had been made a cognizable offence, I think that would have been the best thing. But there are many people who feel that if it is made cognizable directly in that fashion, it might be taken advantage of. I agree that there are difficulties, and in my Minute of Dissent I had suggested that no police officer below the rank of Deputy Superintendent of Police shall have power to investigate. Now I think Shri Nathwani's amendment is perhaps the best way out, and I would request the Law Minister, who has

accepted, changed and altered amendments at the last minute, to accept this amendment.

Some hon. Members have said that we do not think about rural India. I would ask them to think of the women in rural India some of whom have even had to commit suicide to save their families. There are women in rural India belonging to that section of Hindu society which has imposed dowry in this fashion. There may be other people also, but there are people who have this type of dowry in rural India as well. It is because of that that the Law Minister and the Government have brought forward this Bill and it is because of that that people have supported it on principle.

I myself feel that if the Bill is at all there, we should at least make it something that can be implemented. We have seen the functioning of the Child Marriage Restraint Act. It was not made cognizable. It is of course true that as social consciousness has changed, gradually the age of marriage is coming up. But the Child Marriage Restraint Act was not effective and even today there is a good deal of violation of the Act going on throughout, both in rural as well as in urban India. If the Dowry Bill is to go through, and if you accept Shri Nathwani's amendment, it will have at least some chance of some kind of success in the implementation of our objectives. It will at least mean that where people are harassed they will be able to go to the Magistrate to explain the position and see that some action is taken. But if it is not conceded, however noble the Bill may seem, it will remain nothing more than a gesture. It is no use deluding ourselves that we are doing something if we are not able really to do it.

We were very keen and very enthusiastic about the Child Marriage Restraint Act, when that Act was passed when we were young. We expected that the age of marriage would

[Shrimati Renuka Ray]

go up very soon and that the Act would be implemented, although it was pointed out even then by those who knew better that the chances of its success, as it had gone through, were not very bright. Today surely we are wiser after the event and being wiser, I would strongly urge that we accept at least one or two of these amendments which will make it a little effective rather than let it remain as a gesture which cannot be implemented.

I would appeal to the Law Minister even at this late moment to consider this amendment and accept it.

पंडित ठाकुर दास भार्गव : : जनाब चैयरमैन साहब, इस बिल की दफा ७ पर मैंने एक अमेंडमेंट का नोटिस दिया था. . . .

Mr. Chairman: I just now enquired and I find that we have exceeded the time limit for this Bill. But then since the amendments are being taken one after the other I am trying to rush through them. We have got the other Bill coming up.

The Deputy Minister of Law (Shri Hajarnavis): Is there any time limit for speeches in moving amendments?

Shri A. K. Sen: I thought the ruling was given yesterday that only those who have moved amendments will speak. You are calling others also who are supporting the amendments, not movers alone.

Mr. Chairman: I thought Shrimati Renuka Ray was the only exception.

Shri Braj Raj Singh: I wanted to speak.

An Hon. Member: I wanted to speak.

Shri Tyagi (Dehra Dun): There are many more important problems before the nation than dowry. I would, therefore, suggest that we finish it early.

Shri Kalika Singh: I think dowry is more important.

पंडित ठाकुर दास भार्गव : : जनाब चैयरमैन साहिब, मैंने एक ७१ नम्बर के अमेंडमेंट का नोटिस दिया था । मैं इस मौके पर उसके बारे में बोलना चाहता हूँ । यह देखने के वास्ते कि इस बिल को कैसे एम्पलीमेंट किया जाय, कैसे एफेक्टिव किया जाय और कौन जाकर कोर्ट को सूब करे, यह निहायत जरूरी सवाल है । चुनांचे हमारे आनरेबुल डिप्टी ला मिनिस्टर साहब ने जो तकरीर की और उन्होंने फरमाया कि कम्प्लेंट की सूरत में अगर कम्प्लेंट कोर्ट में जायेगी तो कोर्ट को फिर अखत्यार है कि वह जेर दफा २०२ उस शिकायत को पुलिस के पास भेज दे और पुलिस से तहकीकात करा ले । इस वास्ते इसको कौगनेजेबुल करने की जरूरत नहीं है, यह उन्होंने फरमाया था और मैं उसकी ताईद करता हूँ । दरअसल अब जो आपने अखत्यार दिया है दफा ७ में वह यह है कि कोई भी शख्स कम्प्लेंट कर सकता है और वह कम्प्लेंट जो मेरे लायक दोस्त श्री नथवानी ने बहस की है तो १६० (सी) में मजिस्ट्रेट को जाकर चुपचाप कोई शख्स कह दे उससे यह बहुत अच्छी और ज्यादा बेहतर है । जो शख्स हिम्मत नहीं रखता कि जाकर कोर्ट में कम्प्लेंट करे और ओथ पर स्टेटमेंट दे तो उसकी एनौनीमस रिपोर्ट मजिस्ट्रेट के कान में आये तो उसके ऊपर एक्शन लेना शुरू कर दे तो यह मजिस्ट्रेट के वास्ते भी खराबी है औ रउस शख्स के वास्ते भी खराबी है और साथ ही दफा १६१ में मजिस्ट्रेट को चाहिये कि उसको भेज दे किसी और मजिस्ट्रेट के पास । जेर दफा १६१ की रू से वह खुद उसमें कार्यवाही नहीं कर सकता । इस वास्ते मैं अदब से अर्ज करूंगा कि यह जो मौजूदा चीज है कि कम्प्लेंट का हर एक आदमी को हक है यह किसी कदर उससे बेटर है जो दफा १६०(सी) के अन्दर है । ताहम

मैरा जो प्रमॉडमेंट है वह बिल्कुल मुलतलिक है और मैंने यह बाह्य है कि जहां तक किसी शस्स के कम्प्लेंट करने का सवाल है तो आपकी ऐसी इजाजत देने से हर एक शस्स को हैरेसमेंट बहुत बढ़ जायेगा । चुनांचे मैंने इस वसूल को माना हुआ है । अब क्रिमिनल प्रोसीज्योर कोड में जेर दफा १६८, १६९ और १६५ वगैरह के मातहत बहुत से जरायम जो कि बड़े संगीन हैं और यहाँ तक कि फौवरी और झूठ वगैरह बोलने के लिये कानून ने प्रतिबन्ध लगाया हुआ है

Mr. Chairman: He is really opposing the amendment now.

Pandit Thakur Das Bhargava: I am supporting mine.

Mr. Chairman: He is also opposing the amendment moved by Shri Nathwani. I would request you to be as brief as possible.

पंडित ठाकुर दास भार्गव : मैं यह प्रजं कर रहा था कि जैसे कि दफा १६८ के अन्दर एक प्रतिबन्ध लगा रखा है कि एप्रोव्ड पार्टी और खसूस मैरिज के जरायम में, उसके वास्ते आम तौर पर ४६३ से ४६८ तक हमने अब भी यह किया हुआ है कि सिर्फ एप्रोव्ड पार्टी ही कोर्ट में आ सकती है ताकि यह न हो कि जनरल हैरेसमेंट लोग करना शुरू कर दें और जो दूसरे शस्स जिन के मैलिस के अगराज हैं वे जाकर झगड़ा शुरू कर दें तो यह बाई ऐन एप्रोव्ड पर्सन, मेरे प्रमॉडमेंट का पहला हिस्सा है । अपने प्रमॉडमेंट के दूसरे हिस्से में सोशल प्रार्गेनाइजेशन 'कृगनाइज्ड बाई ' गवर्नमेंट की बात मैंने रखी है और वह इसलिए कि मैंने यह देखा है कि इस जरायम के अन्दर एप्रोव्ड पार्टी बहुत कम कोर्ट में आना पसन्द करेगी और इसको देखते हुए मैंने यह तजवीज की है कि ऐसी सोशल प्रार्गेनाइजेशन जो कि रेकग्नाइज्ड बाई ही गवर्नमेंट हों और जिनकी कि अपनी कोई जाती गरज न हो उनको अधिकार दिया जाय कि वे भी

ऐसे केसेज के बारे में शिकायत कर सकें और अगर वह भी कम्प्लेंट कर सकेंगी तो इबर तो हम ऐसे श्राद्धियों को जो कि अगराज रखते हैं हैरेस करने से रोकते हैं, बंद करते हैं और दूसरी तरफ हम ऐसी सोशल प्रार्गेनाइजेशन जो कि गवर्नमेंट से रेकग्नाइज्ड हों उनको कोर्ट में ऐसी एप्रोव्ड पार्टीज के बिहाफ पर शिकायत करने का अधिकार देते हैं । ऐसी सूत्र में जनाब को मालूम है कि ५४५ दफा मौजूद है जिसके अन्दर उन कम्प्लेंट्स में सोशल प्रार्गेनाइजेशंस को सरकार खर्चा दिला सकती है अगर कोई उसका फाईन वसूल हो । इस तरीके से हम एक ऐसी तरकीब सुझा रहे हैं जिस में कोर्ट में ऐसे प्रोपर केसेज प्रायें जिनके की अन्दर किसी शस्स को सजा होनी चाहिए । इस वास्ते में अानरेबुल ला मिनिस्टर साहब की खिदमत में प्रजं कलंगा कि यह प्रमॉडमेंट मंजूर फरमायें क्योंकि यह सारी जितनी क़बाहते हैं उनको दूर करके एक रास्ता देता है । इसके अन्दर गवर्नमेंट को खुद अधिकार है कि ऐसी प्रार्गेनाइजेशन कायम भी करें और ऐसी प्रार्गेनाइजेशन को अधिकार भी दें और ऐसा करने से मुझे यकीन है कि यह बहुत एफैक्टिव बन जायगा । बाकी जो तरमीमें हैं वे सब की सब लचर है । उनके अन्दर कोई न कोई नुकस प्राया जाता है । यह एक तरकीब है और तरमीम है जिसकी कि वजह से हम यह यकीन के साथ कह सकते हैं कि यह डाउरी बिल एफैक्टिव भी एम्प्लीमेंट हो सकता है ।

Mr. Chairman: I will now put the amendments to vote.

Shri A. K. Sen: Sir, I have not indicated my views yet on behalf of Government. It is my duty to indicate at least my views on the amendment, I shall take only a couple of minutes to say why Government find it difficult to accept the proposed amendments.

[Shri A. K. Sen]

With regard to Shri Patel's amendment, it reminds me of the attitude of the law-makers in the medieval ages and also of the 17th and 18th centuries when they thought that crime can best be met by making the law rigorous so that if the punishment is very extreme it is the best deterrent against crime. But that theory of punishment is so outmoded that it is too late for us to accept it.

Shri Tyagi: He wants to bring marriage into the public sector.

Shri A. K. Sen: We might as well say that a dowry-taker would be sentenced to death. It is only one degree more than the proposal.

Shri P. R. Patel: I do not say that. My amendment is only with regard to the law-makers, the Members of this House and the government servants who also have some hand in law-making along with us. They can implement the law we pass.

Shri Tyagi: Law-makers are Members of Parliament.

Shri A. K. Sen: I do not think that the rigour of the punishment is going to achieve what we desire. It is for the House to judge whether the rigour of it is justified by the magnitude of the evil we are going to eradicate or whether there are no other alternatives by which we can tackle the evil. As I said, the remedy is a wide social conscience and no amount of punishment can eradicate an evil unless social conscience revolts against it every time and on every occasion. It is no use repeating that. None of us claim, neither those of us who support this Bill nor those who are sceptical about the results of this Bill, none of us can claim that the law alone will eradicate the evil.

I made it perfectly clear over and over again that no social evil of this nature can be eradicated by law alone or by punishment alone. Let

us be clear about it, because there are so many difficulties that confront us inherent in the system, in the very society in which we live which make it possible for dowries to be given and taken. It is that system which has to be tackled rather than individual delinquents. The problem is a system and not individuals who are either participants or victims of that system. That is the whole problem.

To my mind the most effective purpose of this Bill is the declaration of the conscience of the people as expressed through this House. That is the greatest purpose which you can serve. I do not claim—none of us can claim—that just by-passing this law we are going to completely eradicate dowry. We are not; I am perfectly sure we are not.

An Hon. Member: Unless you try to implement it.

Shrimati Jayaben Shah (Girnar): Then why make such a vague law that people will laugh at us?

Shri A. K. Sen: I do not think it is vague law; it is law which it is difficult to implement. I felt it my duty to point out what the difficulties are. I invite the hon. Member to devise a better law which I shall certainly accept if she can assure us that it can be implemented by the very letters which are in the law itself.

Shri Tangamani (Madurai): The Joint Committee recommendations are there.

Shri A. K. Sen: Shri Tangamani probably feels that the Joint Committee recommendations are going to eradicate dowry. I have my grave doubts. Neither the Joint Committee nor anybody else can do this. Therefore, I shall welcome any law which assures the House that by its very letters it will eradicate this evil. I shall be very happy to see such a law

drafted. I do not think that by increasing the punishment we tackle the problem. Nor would making it easier to approach the court of law and set the courts in motion help the matter. We must not forget in this country there are people who file false complaints in courts just for harassment. It is an evil which is possibly as widespread as the evil of dowry.

Shri Braj Raj Singh: But they did not subsist.

Shri A. K. Sen: I hope they did not. It is the aim of law to see that they did not, to see that those who lodge false complaints are punished.

Shri Jadhav: What is the percentage of such false complaints?

Shri A. K. Sen: Nobody has taken statistics. The hon. Member will perhaps help us. But unfortunately it is a fact that just out of grudge people go and try to harass their enemies. As Shri Khadifkar has said there are cast feuds, personal feuds, village feuds and all sorts of feuds. Let us not be blind to facts. Therefore, if a person feels that a man is really guilty of the offence and is bold enough to assert the social conscience and also his individual conscience, I do not see any reason why he should not go to a magistrate and say what has happened. He will be examined by the magistrate.

Shri Nathwani: In open court?

Shri A. K. Sen: Why not? He will do it when he comes to the court; it will be an open court.

Shri Nathwani: Do you think that our social conscience has reached that stage where any member will go to the court?

Shri A. K. Sen: We should encourage that. Anonymous complaints or secret complaints by persons who are not bold enough to come to an open court are not to be encouraged . . . (Interruptions.)

Shrimati Jayaben Shah: Can anybody say that one would go to the open court and say these things? . . . (Interruptions)

Mr. Chairman: Order, order. The hon. Law Minister wants to impress that if a man is accused, he has to come out of that accusation. He wants you to see the other side also.

Shri A. K. Sen: If people are not so in this country, well, I am very sorry to hear that. In no country are people afraid to go to an open court, far less in a democratic country.

Shri Braj Raj Singh: Unfortunately in our country it is a fact.

Shri A. K. Sen: If that is so, we shall not, as law-makers, encourage that tendency which encourages a man not to go to an open court but to lay the complaints secretly. That is a situation which we, as law-makers, are not going to cover. We shall certainly need an attitude which takes a man voluntarily to a court to lay a complaint when he thinks that a crime is committed against the society.

Shri Tyagi: What about blackmailers?

Shri A. K. Sen: There is law for that. Blackmailing is an offence. Therefore, I am afraid we cannot accept any amendments.

Mr. Chairman: Are the hon. Members pressing their amendments?

Shri Bhakt Darshan: I am not pressing my amendment No. 37.

Mr. Chairman: Has the hon. Member leave of the House to withdraw his amendment No. 37?

The amendment No. 37 was, by leave, withdrawn.

Mr. Chairman: I shall put the other amendments—Nos. 6, 53, 46 and 71 to the vote of the House.

Shri Tyagi: They cannot be put together. How can they all be together as one is contradictory to the other?

Mr. Chairman: I shall put the remaining amendments to the vote of the House.

The amendments Nos. 6, 53, 46 and 71 were put and negatived.

Mr. Chairman: The question is:

"That Clause 7 stand part of the Bill".

The motion was adopted.

Clause 7 was added to the Bill.

Clause 8. — (Offences to be non-cognizable, bailable and non-compoundable)

Mr. Chairman: Now we shall take up clause 8. There are six amendments: Nos. 10, 38, 55, 77, 81 and 54.

Shri Jadhav: I am moving my amendment No. 54.

Mr. Chairman: There are other amendments: Nos. 10, etc.

Shri A. K. Sen: Let those who want to move, move their amendments.

श्री जाधव : I beg to move:—

Page 3, line 7,—

for "non-cognizable, bailable" substitute cognisable, non-bailable".

(54).

मेरा अमेन्डमेंट यह है कि यह ऑफेंस कागनिजेबिल और नान-बैलबल होना चाहिए क्योंकि मैं समझता हूँ कि अगर कोई भ्रादमी जाकर किसी का खून करता है तो उस से भी ज्यादा खतरनाक यह गुनाह समाज के लिये है कि जो भ्रादमी डाउरी मांगता है वह उस खूनी से भी समाज के लिए ज्यादा खतरनाक है। यह मैं इसलिए

कह रहा हूँ कि दक्षिण में एक ऐसा बाक्या हुआ था, जो कि मैंने यहां भी बहसाया था, कि एक कुनबे के सात भ्रादमियों ने इसलिए खुदकुशी कर ली कि वे अपने घर की एक लड़की का विवाह नहीं कर सके थे।

श्री त्यागी : बेवकूफ थे।

श्री जाधव : यह डाउरी का मांगना ऐसा गुनाह है जिसके कारण लड़कियों को खुदकुशी कर लेनी पड़ती है। यह समाज के लिए कलंक की बात है।

12.28 hrs.

[**MR. DEPUTY-SPEAKER in the Chair**]

मैं तो यह कहना चाहता हूँ कि यह डाउरी की प्रथा कुछ मध्यम वर्ग के लोगों ने और समाज के कहे जाने वाले ऊँकदारों ने चलायी है और अब देहात के लोग भी आहिस्ता आहिस्ता इसकी कापी कर रहे हैं। इसलिए मैं कहना चाहता हूँ कि यह गुनाह समाज के खिलाफ है और बहुत खतरनाक है। इसलिए इसको कागनिजेबिल करार दिया जाना चाहिए। जब यह कागनिजेबिल होगा और जब भ्रादमी को भ्रादालत के सामने आना होगा और उसको बैल भी नहीं मिलेगी तभी इस कानून का कुछ असर होने वाला है। इसलिए मैं यह कहना चाहता हूँ कि इस ऑफेंस को कागनिजेबिल होना चाहिए और नान-बैलबल भी होना चाहिए।

श्री बजराम सिंह : उपाध्यक्ष महोदय, इस बिल पर सरकार ने जितना धन दृष्टिकोण बदला है उतना किसी दूसरे कानून पर नहीं बदला होगा। सिलेक्ट कमेटी में हमने देखा कि सरकार कुछ बातों को मानने के लिए तैयार थी, पर उसके बाद जब यह बिल सदन में आया तो एक दिन के बाद दूसरे दिन सरकार धन दृष्टिकोण बदलती चली गयी।

[श्री ब्रजराज सिंह]

जहाँ तक क्लाज = का सवाल है, सरकार इस आफेंस को कागनिजेबिल इसलिए नहीं बनाना चाहती कि पुलिस इसका अच्छी तरह से इम्प्लीमेंटेशन नहीं कर सकेगी। यह दलील दी जाती है कि चूँकि पुलिस फोर्स अल्प है, इसलिए अगर इसको कागनिजेबिल बना दिया गया तो वह लोगों को नाजायज तरीके से तंग करेगी और इसको कागनिजेबिल नहीं बनाया जाता है। अगर यही दलील है तो यह सरकार की असफलता को प्रमाणित करती है। यह कहना कि सरकार के रहते हुए भी उसके नीचे के अफसर अल्प हैं और वह इसको अच्छी तरह इम्प्लीमेंट नहीं कर सकेंगे, यह दलील कभी भी मान्य नहीं होनी चाहिए।

कहा जाता है कि जो सब इंस्पेक्टर अफिसर हैं वह अफ्टाचार करेंगे और लोगों को परेशान करेंगे, इसलिए इसको कागनिजेबिल नहीं बनाना चाहिए, इसके लिए भी एक तरीका निकल सकता है और वह तरीका मे मित्र श्री सुबिमन घोष ने सिलेक्ट कमेटी में और सदन में भी बताया था। अगर आप समझते हैं कि छोटे पुलिस अफसर जनता को परेशान कर सकते हैं तो इस काम को डिप्टी सुपरिण्डेंट पुलिस के द्वारा कराया जा सकता है या उस से भी ऊँचे पुलिस अफसर को यह काम दिया जा सकता है। लेकिन जब तक स कानून को तोड़ने वाले के खिलाफ सरकार की तरफ से मुकद्दमा नहीं चलाया जाएगा तब तक कोई भी अदमी अदालत में जाने के लिए तैयार नहीं होगा। आखिर अगर ऐसा नहीं किया गया तो जो कानून आप बनाने जा रहे हैं इसका नतीजा क्या होगा? अगर आप इस कानून में यही चीज रखते हैं कि जो लोग प्रभावित होते हैं वही मामला चला सकते हैं तो इसका परिणाम कुछ नहीं होगा क्योंकि लड़की का वाप, जिसने अपनी लड़की की शादी की है वह तो अदालत में जाएगा नहीं क्योंकि अगर वह अदालत में जाएगा तो उसकी लड़की की जिन्दगी खराब

हो जाएगी। तो इस कानून का कोई नतीजा नहीं होगा। और कौन दूसरा अदमी ऐसा होगा जो इस काम के लिए अपना समय और पैसा बर्बाद करेगा और मामला चलाएगा? सोशल प्रारगेनाइजेशन को भी अगर कोई मदद सरकार की ओर से नहीं मिलेगी तो वह भी कैसे काम करेंगे? इसीलिये मैं निवेदन करना चाहता हूँ कि इसको कागनिजेबिल आफेंस बनाया जाये। अगर पुलिस के नीचे के अफसर इसको अच्छी तरह इम्प्लीमेंट नहीं कर सकते तो यह काम ऊँचे अफसरों को दिया जाना चाहिये। अगर ऐसा नहीं करेंगे तो इस कानून से कोई फायदा नहीं होगा और यह डाउरी प्रोहिबिशन करने वाला कानून नहीं बल्कि डाउरी को बढ़ावा देने वाला कानून हो जाएगा।

ला मिनिस्टर साहब ने बार-बार कहा है और खाडिलकर साहब ने भी कहा है कि गांवों में जातिगत और व्यक्तिगत द्वेष होते हैं। अगर इसको कागनिजेबिल किया गया या दूसरे अदमियों को इस मामले को चलाने की छूट दी गई तो ये द्वेष बढ़ सकते हैं। चूँकि शादियाँ एक ही जाति में होती हैं इसलिये जातिगत या व्यक्तिगत द्वेष को इससे बढ़ावा नहीं मिल सकता। इसलिये मेरा निवेदन है कि अगर आप इस कानून में कुछ जान डालना चाहते हैं तो इसको कागनिजेबिल बनाया जाना चाहिये। अगर इसको कागनिजेबिल नहीं बनाया जाता तो इसको पास करना और पास न करना एक ही बात होगी।

Shri Subiman Ghose (Burdwan):
I beg to move:

Page 3,—

for clause 8, substitute—

"8. Every offence under this Act shall be cognizable, bailable and compoundable with the permission of the court." (81).

I want the offence to be made cognizable.

Mr. Deputy-Speaker: Amendment No. 81 was not moved when the Chairman asked those hon. Members who wanted to move their amendments to do so.

An Hon. Member: He was not present then.

Shri Subiman Ghose: I am moving it now. Shri Jadhav has already moved his amendment that it should be made cognizable, I am only adopting it. In this respect, Sir, I fail to appreciate the attempt of the Government. They do not want to make it cognizable but they want to make it non-compoundable. They are insisting on the pound of flesh though it is not made cognizable.

Mr. Deputy-Speaker: But they are afraid if it is compoundable other parts of the dowry must be passing.

Shri Subiman Ghose: There is one thing that arises and on which I would like to have clarification. If an offence is committed, who is the person who will go to a court, and even if somebody goes to the court who will procure witnesses and who will defray the expenses? The Law Minister said that persons who have got courage of conviction will go to a law court, I, for myself, if I see that my neighbour is going to take Rs. 10,000 for marrying his son and if it is expected of me that I shall go to court with the selfless motive of reforming the society, certainly I am bound to say that I will be compelled not to oblige him. If it is expected of me and the people that they will have courage of conviction to put down the offence why will not the people expect the Law Ministers to set the example? If the Ministers take the initiative, and if when we take stock of the situation on 9th December, 1960 we find that at least 50 or more than 50 cases have come up to the court for putting down the offence, that will instil courage in the minds of the people and they will come forward with the selfless motive of putting down the offence.

Shri Tyagi: As if marriage is in the public sector.

Shri Subiman Ghose: If it is not in the public sector how are you expecting it from the public?

Shrimati Ila Palchoudhari (Nabadwip): It is the change of mind, changing of public conscience.

Shri Subiman Ghose: The hon. lady Member says: "change of mind". But law is something different.

Shri Hajarnavis: I would like to ask the hon. Member one question. He is a very able lawyer. I want to ask him, if there is not a single person prepared to give evidence, how will it help even if the offence is made cognizable?

Shri Subiman Ghose: If it is made cognizable, the police will take evidence under section 161.

Dr. M. S. Aney: People will be unwilling to go as witnesses.

Mr. Deputy-Speaker: Perhaps the argument is that some punishment at least would have been given by the police.

Shri C. E. Pattabhi Raman: They are willing to wound but afraid to strike. The very persons unwilling to go to court with an open complaint will be resorting to this.

Shri Subiman Ghose: The police can lodge the first information. If it is cognizable the police can *suo motu* lodge a complaint without waiting for information from the public.

Shri Hajarnavis: I quite agree, but they will have to give evidence. How will they get evidence before the court?

Shri Subiman Ghose: They will examine persons under section 161 of the Criminal Procedure Code and record evidence.

Mr. Deputy-Speaker: But they will have to examine persons who are prepared to give evidence.

Shri Tyagi: Will the courts be enabled to take the statements of wife and husband on oath under this? Will that be permissible if it becomes cognizable? Is it permissible for the court according to law—Sir, you know better—to ask the husband and wife to appear before the court and make a statement?

Mr. Deputy-Speaker: Legal questions are not to be put to the Chair.

Shri Subman Ghose: If the State is afraid that it will not get witnesses, how can you expect that the public will get witnesses and bear the expenses from their own pockets? The hon. lady Member was saying that there will be a social change. I know that social change is the least inoffensive thing we can speak of, but that will be a long-drawn affair. If we wait for arousing the social consciousness we shall have to wait for a long time before we can do it, before we can reform the society. Therefore, Sir, I submit that if the Law Minister wants that the law should be effective the offence should be made cognizable.

श्री भक्त दर्शन : श्रीमन्, जाधव साहब ने जो अमेन्डमेंट रखा है, जिसका कि श्री सुबिमन घोष जी ने समर्थन किया है, मैं उसका कड़े से कड़े शब्दों में विरोध करना चाहता हूँ। मैंने एक संशोधन नम्बर ३८ रखा था। मैं अभी तक नहीं समझ पाया हूँ कि जब यह समाज-सुधार का प्रश्न है, तो फिर इसको नान-कमपाउंडेबल क्यों बनाया जा रहा है। इस सम्बन्ध में घोष साहब ने अपने मिनट ऑफ डिसेंट में विचार प्रकट किये हैं। मान लीजिये कि किसी ने दहेज लिया है और किसी ने उसको कहा कि उसने गलत काम किया है और वह उसको वापस कर दे, तो इसमें क्या आपत्ति है? इसलिये इसको नान-कमपाउंडेबल क्यों बनाया गया है? अगर मंत्री महोदय इस पर प्रकाश डालें, तो बड़ी कृपा होगी।

Shri Hajarnavis: Sir, I have already replied to this aspect of the

Bill, but I might place one more consideration before the House. The police are not being given the powers not because we regard them as inefficient (*Interruption*) nor do we regard them as inherently dishonest, but it is a fundamental tenet of our conviction that as far as possible individual's right of privacy, individual's liberty, individual's right of property should not be in any way invaded except in accordance with law and that the law should make the minimum encroachment on them which is commensurate with advantage to the public. Therefore, the question that arises in this case is, would we gain anything by giving wider powers of enquiry and investigation to the police which will entail invasion of liberty of an individual? The question is, should or should not wider powers be given and would there be any corresponding gain? We have not been told that there would be any corresponding gain. The only thing is the police will get powers, and they may investigate, but the result of investigation would in most cases be infructuous, unless there are persons prepared to give evidence. Therefore, we say this power will not be given as it will fetter individual liberty without any corresponding gain to the State.

The amendments Nos. 54 and 81 were put and negatived.

Mr. Deputy-Speaker: That question is:

"That clause 8 stand part of the Bill."

The motion was adopted.

Clause 8 was added to the Bill.

Clauses 9 and 10 were added to the Bill.

Clause 1—(Short title, extent and commencement)

Shri P. B. Patel: I beg to move:

Page 1, lines 6 and 7, for "on such date as the Central Govern-

[Shri P. R. Patel]

ment", substitute "in a State on such date as the State Government with the advice of the State Legislature". (1)

Mr. Deputy-Speaker: There is no time for any speech now.

Shri P. R. Patel: I do not want to make a speech. My amendment may be accepted.

Mr. Deputy-Speaker: The question is:

Page 1, lines 6 and 7, for "on such date as the Central Government", substitute "in a State on such date as the State Government with the advice of the State Legislature". (1)

The motion was negatived.

Mr. Deputy-Speaker: The question is:

"That Clause 1 stand part of the Bill"

The motion was adopted.

Clause 1 was added to the Bill.

The Enacting Formula and the Long Title were added to the Bill.

Shri Hajarnavis: I beg to move:

"That the Bill, as amended, be passed".

Mr. Deputy-Speaker: The question is:

"That the Bill, as amended, be passed"

The motion was adopted.

An Hon. Member: The remedy is worse than the disease.

13.53 hrs.

MINES (AMENDMENT) BILL—
contd.

Mr. Deputy-Speaker: The House will now take up further consideration of the following motion moved by Shri Nanda on the 8th December, 1959, namely:

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

The amendments for reference of the Bill to a joint Committee moved by Shrimati Ila Palchoudhuri and Shri Aurobindo Ghosal and for reference of the Bill to a Select Committee moved by Shri S. C. Samanta are also before the House.

Dr. Melkote (Raichur): Yesterday, I started saying that the amending Bill to amend the Mines Act has done a service to the country and the miners. Since the passing of the comprehensive Act in 1952, it was noticed that the Act needed further amendments due to some defects. One hon. Member in the House has desired that the Bill be referred to a Select-Committee. I have not been able to understand why it should be done, for the simple reason that before bringing forward these amendments to the Act, Government has been considering the various aspects of the question for a long enough period. They have interviewed many of the miners, and in fact, the owners of mines sought an interview with the Government and they placed their views before the Government. Apart from this, a conference on the safety in mines deliberated on these problems for a prolonged period. In that conference, the three parties,—the Government, the workers and the representatives of the owners and the management participated and the whole matter had been thrashed out completely. If anything, it comes to this. The Bill, from the workers' point of view, does not go far enough. There are several things which were acceded to in the Safety in Mines Conference but they do not find a place in the Bill here. I felt that this lacuna should be remedied and the Government should even now accept some of those recommendations made by the Conference.

The present amendments are welcome for the simple reason that they try to strengthen the measures for safety, and it is particularly in this industry that the safety of the workers has to be safeguarded completely. This is an industry where, unlike others,