

**Mr. Deputy-Speaker:** I shall now put the amendment to vote.

The question is:

Page 2,—

after line 39, insert,—

'4A. After section 16 of the principal Act, the following section shall be inserted, namely:—

"16A. The Central Government may in cases where it has acquired property under section 12 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 at any time by notification published in the Official Gazette cancel such acquisition and order the restoration or the transfer of the property to such person as is deemed by it to be entitled to the property on such terms and conditions as it considers just and equitable."

*The motion was negatived.*

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

"That clause 5 stand part of the Bill."

*The motion was adopted.*

Clause 5 was added to the Bill.

Clause 6 was added to the Bill.

#### Clause 7

**Mr. Deputy-Speaker:** Now, we come to clause 7.

**The Deputy Minister of Rehabilitation (Shri P. S. Naskar):** We are withdrawing it.

**Mr. Deputy-Speaker:** That shall have to be done by putting it to vote and the House rejecting it.

The question is:

"That clause 7 stand part of the Bill."

*The motion was negatived.*

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

"That clauses 8 and 9 stand part of the Bill."

*The motion was adopted.*

Clauses 8 and 9 were added to the Bill.

#### Clause 1 (Short Title)

*Amendment made:*

Page 1, line 4, for '1959' substitute '1960'.

[Shri P. S. Naskar]

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

"That clause 1, as amended, stand part of the Bill."

*The motion was adopted.*

Clause 1, as amended, was added to the Bill.

#### Enacting Formula

*Amendment made:*

Page 1, line 1, for 'Tenth Year' substitute 'Eleventh Year'.

[Shri P. S. Naskar]

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

"That the Enacting Formula, as amended, stand part of the Bill."

*The motion was adopted.*

*The Enacting Formula, as amended, was added to the Bill.*

*The Long Title was added to the Bill.*

**Shri Mehr Chand Khanna:** 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.*

14.19 hrs.

DOWRY PROHIBITION BILL—Contd.

**The Minister of Law (Shri A. K. Sen):** I beg to move:

"That the following amendments made by Rajya Sabha in the Bill to prohibit the giving or taking of dowry, be taken into consideration:—

'Clause 2

(1) That at page 1, at the end of line 9, after the word 'given'

the words 'either directly or indirectly' be inserted.

- (2) That at page 2, lines 1 to 6 be deleted.

Clause 4

- (3) That at page 2, clause 4 be deleted."

Now, Sir, so far as the first amendment is concerned, it is really consequential. It is merely change in drafting language. Even the original Bill included the expression "anything given directly or indirectly". So far as the Government is concerned, as this amendment makes it more clear by use of specific language, we accept the amendment.

**Mr. Deputy-Speaker:** It was rejected.

**Shri A. K. Sen:** It was rejected only on the ground that it was a surplusage. In fact I told the House—I think you will remember—that the word 'given' would include 'anything given indirectly'. I think the House accepted my interpretation and thought that it would be surplusage to add the words 'either directly or indirectly'. The Rajya Sabha Members felt that even if it is surplusage, it should be mentioned. In this case, as you know, there was no whip. We have not been issuing any whip and the amendment adding the words "whether directly or indirectly" has been accepted by Rajya Sabha. Instead of trying to precipitate a joint sitting, I think, we might as well accept it.

**Shri Shree Narayan Das (Darbhanga):** We have had no joint session since we started.

**Shri A. K. Sen:** We will have a joint sitting at 5 o'clock today!

Now, Sir, so far as the second amendment is concerned, if hon. Members would be good enough to turn to page 2, they will find that it is really the deletion of the explanation which was introduced. I think the hon. lady Member, Shrimati Renu Chakravartty would be glad about it. I think our other colleagues of the fairer sex would be very glad to find that this

explanation has been deleted by the Rajya Sabha. In fact, I can tell the hon. Members of this House that the Government more or less supported the deletion. Government means I personally, because, in this case, as I said, there has been no whip. Personally I thought that even though our interpretation remains, namely, that 'unless a thing is really paid in consideration of marriage', there cannot be anything to prevent either a father or mother to give anything to a daughter, by way of pure gift which is not tainted with the vice of being made a dowry. But, if that is stated in the explanation as it is stated here, it might leave the door open to people trying to bring about gifts, ostensibly as gifts, but which really arise by way of consideration for bringing about a marriage. That is why, Sir, the Members of the Rajya Sabha felt that if the interpretation that the Government gave with regard to the definition of dowry was correct, then, this explanation should not be there. In fact, the introduction of this explanation would have the effect of encouraging transactions ostensibly disguised as gifts but possibly not really gifts. So, this House would be at liberty to accept the amendment made by the Rajya Sabha. So far as I am concerned, I shall be quite happy if the amendments of the Rajya Sabha were accepted.

Now, Sir, so far as the deletion of Clause 4 is concerned, I would like to say this. Here, there is a mere demand which is not actually followed by the receipt of dowry. In other words, merely because a man demands dowry, it is not followed up by actual agreement of marriage and actual giving and taking of dowry and therefore mere demand should not really be made penal. Various arguments were advanced in the Rajya Sabha in this respect. In fact, most of the lady Members of the other House were very insistent that mere demand should not be made penal. They felt that in a society like ours, especially in the rural areas, private feuds result in one party not accepting the daughter of the other. These feuds are very common. It was felt that if mere

[Shri A. K. Sen]

demand was made penal, a man whose daughter has not been accepted by the other, but marriage is done to somebody else's daughter, would not hesitate to go and lay a complaint in a court of law saying that his daughter has not been accepted because the dowry that was demanded was not paid. There will be thousands of cases of such harassing complaints without really bringing about any substantial results or benefits strong enough to outweigh the mischief which might result in a society like ours, especially in our rural areas, from such harassing complaints. It would be true that if mere demand is made penal, that would lead the door open to hundreds of harassing complaints by unsuccessful parents of daughters whose daughters are not actually selected as brides.

**Mr. Deputy-Speaker:** But would it not be the situation that only if a demand remains unmet, then alone complaints would be brought or disclosures made?

**Shri A. K. Sen:** Then it has resulted in the actual giving and taking of dowry. It would be penal.

**Pandit Thakur Das Bhargava (Hissar):** Prevention is better than cure.

**Shri A. K. Sen:** What I meant was the actual taking of the dowry in consideration of selecting a bride for a bridegroom. If neither the bride is selected, nor the dowry is taken, but merely a demand had preceded, it was felt by Members of the Rajya Sabha that that should not be made penal. In fact, it would not result in the corresponding benefit. I personally agree, Sir, that what we really ought to penalise is the actual giving and taking of dowry.

**Dr. M. S. Aney (Nagpur):** Demand is not dowry.

**Shri A. K. Sen:** It is said that demand is not dowry. Well, there is difference of opinion.

**Mr. Deputy-Speaker:** It is not dowry that is punished, it is the giving of the dowry that is punished.

**Shri A. K. Sen:** Exactly, Sir. I don't think we can make that difference at all. It is a demand by a man for dowry which is really vicious. It is pernicious and I do not think there is anybody in the House or outside or any section of public opinion, which would plead for such a demand being made. But what is said is that even those who voted in favour of the amendment for deletion of Clause 4 never supported the demand on principle but what was stated was that if mere demand is made penal, then, it would lead to harassment. It has been said that it would lead to harassing complaints. You really ought to stop the actual taking or giving of dowry. If the man has not really succeeded in his demand, he has failed.

**Dr. Sushila Nayar (Jhansi):** Having given it, nobody is willing to tell. Anybody who has given dowry will not have the courage to go and complain.

**Shri A. K. Sen:** Am I to accept that suggestion that because nobody is going to complain I should not make penal the giving or taking of dowry?

**Dr. Sushila Nayar:** Parents can refuse the demand for dowry.

**Shri A. K. Sen:** I am only placing the views and you can accept it or reject it. So far as Government is concerned, we have no views in this matter.

**Shri Braj Raj Singh (Ferozabad):** Under the rules you have to say that the House agrees with it.

**Shri A. K. Sen:** Well, if the House agrees with it, the House will know.

**Shri Braj Raj Singh:** You cannot say you have no view. You have to say that the House agrees with it.

**Shri A. K. Sen:** I said the Government have no view. I did not say that I have no view. I have very strong views in this matter and possibly, and

sometimes strongly, I have expressed my views, as I did it on the last occasion, when I met Pandit Thakur Das Bhargava's criticism about this Bill. It was pointed out that nobody will give evidence or will complain when he has given dowry. That shows the difficulty which I expressed at the very beginning in the way of prosecuting people who give dowries and others who take dowries. Therefore, Sir, I laid very strong stress on Clause 6, which, according to me, is the core of the Bill. It is the strongest portion of the Bill where it says that whoever gives something by way of dowry, the amount given, whether in kind or in cash, has to be held in trust for the bride. I conceive, with the limited experience that I had at the Bar, that from the moment all the cash and other things are paid as dowry, even the bridegroom will give evidence in a court of law to enforce the rights of the bride when he finds that the amounts given by the father-in-law are going to be shared with father and other brothers and the heirs of the father.

Therefore, I told this House and also the Upper House that I place the strongest reliance, as the merit of this Bill, on clause 6 rather than on the penal section.

**An Hon. Member:** That clause also contains a penal provision.

**Shri A. K. Sen:** Yes, it does. Nevertheless, it is to be enforced only by a civil suit or civil action. That is a very strong provision which will give a definite right to the bride to the property which otherwise would have been taken away from her and she would not have got it herself. It is in the interest of the bridegroom too, which will enable this right to be enforced in a court of law by both together. If it is a civil action, even the giver of the dowry will come and give evidence saying that actually it is the daughter who is entitled to it. But if he has to send the bridegroom and his father to jail in a criminal prosecution, he may not give evidence. That was why when it was suggested

that action in pursuance of clause 6 should also be coupled compulsorily with criminal action, I had opposed it.

**Pandit Thakur Das Bhargava:** He will himself have to go to jail if he makes such a statement.

**Shri A. K. Sen:** No, somebody has to prefer a complaint.

**Pandit Thakur Das Bhargava:** His statement will be a confession.

**Shri A. K. Sen:** He will not prefer a complaint. The son may.

I have myself seen suits being filed against the father by the daughter-in-law. The son has come and given evidence for the daughter-in-law. I myself conducted such cases. If it is civil action, both the daughter-in-law and the son and others will come and give evidence against the father. But if it is criminal action, they will not. That is the difficulty.

Therefore, the civil right given in clause 6 to the bride will, in my own estimate, result in a proper enforcement of the benefits we are conferring on the daughter-in-law, the bride, in consideration of whose marriage the dowry has been given.

So, as I said, we should not place very blind reliance on the penal section, because I myself reminded the House of the difficulties of a penal action, penalising the giver or the taker of a dowry. We should never forget the difficulties in a penal action. But as regards civil action under clause 6 for enforcement of the right given in that clause to the daughter-in-law, the bride, there will be no difficulty in getting evidence. Such suits are even now quite frequent, when the bride says that it was not a dowry but it was a gift.

**Dr. Sushila Nayar:** Is not clause 6 a contradiction of clause 3? Clause 3 makes the giving and taking of dowry an offence.

**Shri A. K. Sen:** Perhaps Dr. Nayar is a better lawyer than myself. If she thinks so, I bow to her better judgment. But I think it is not a contradiction.

**Dr. Sushila Nayar:** There is no meaning in being sarcastic. The hon. Minister may explain it. I do not claim to be a lawyer.

**Shri A. K. Sen:** When she said it, she expressed her opinion.

**Dr. Sushila Nayar:** I was asking: 'Is it not a contradiction?'

**Shri A. K. Sen:** I thought she said: 'It is a contradiction'. I do not think it is a contradiction.

**Dr. Sushila Nayar:** I said: 'Is it not a contradiction?'

**Shri A. K. Sen:** Then I am sorry.

But if it was asked for the purpose of clarification, it is not a contradiction, because as I explained originally, it is meant to reinforce the condemnation of the act of giving or taking dowry, of all transactions of dowry, namely, that if notwithstanding the prohibition, one gives and takes dowry, the dowry is to be held in trust for the bride. I say this because once the law is broken, the man may be sent to jail, but what will happen to the property? Somebody must own the property. We want to give the property to the taker of the dowry, the father or his son. Therefore, the law says that notwithstanding the fact that it has been given as a dowry, it must be held in trust for the bride. That, in my submission, is a right which the bride has not up till now possessed, a right which can be enforced through civil action during which process evidence will be forthcoming even from the daughter-in-law's side, from her husband and from her other relations.

Therefore, I told the Members of this House and of the other House that we should place stronger reliance on civil action. If the daughter in each case takes the dowry and the father or his other sons take no share in the dowry, then it will be a better preventive than criminal action, because really nobody in our society would like to send a father-in-law to jail; no father would like to send to jail a person to whose son his daughter has been married. That is a difficulty inherent not only in our social system but in all social systems.

Therefore, I was pleading that we should not place too much reliance on the penal sections, because of the difficulties of getting conviction. At the same time, as I said, we should also not try to make everything penal which will leave the door open to harassing complaints, which might introduce an element of disturbance in our social system, which will not be welcomed by anyone. We know even as it is how unsuccessful brides' fathers try to harass fathers of bridegrooms who select other people's daughters.

I was trying to explain the views of the Rajya Sabha because the hon. Member who moved the amendment is not here. I tried to put his point of view saying that we should not in our anxiety to penalise the action of giving or taking dowry, while giving the benefit of all dowry to the daughter, penalise a mere demand which has not resulted in the actual transaction being completed.

**Shri Shree Narayan Das:** It is an attempt to commit an offence.

**Shri A. K. Sen:** That is right. It is not really an offence in the sense that a mere demand should lead to prosecution. That is the whole purpose, as was explained on the floor of this House and of the other House, of the deletion of clause 4. As I said, whether you make the demand penal or not, whether you make the actual giving or taking of dowry penal or not, prosecution will be very difficult. Suppose a man goes and lays a complaint against a person for merely demanding it and says that his daughter was not married because the demand was not met by him. It will be very difficult for him to prove it, because the defendant may say that he is disgruntled because his daughter was not taken.

**Pandit Thakur Das Bhargava:** Will not the demand constitute abetment of taking or giving dowry?

**Shri A. K. Sen:** Mere demand would be an attempt. It is not a question of abetment. Abetment is abet-

ment by somebody assisting the actual offender. But in this case, the actual offender is demanding. It will be more similar to an attempt to commit an offence.

**Pandit Thakur Das Bhargava:** In the attempt, the last thing must not appear. Asking for a dowry is certainly a demand for the giving of dowry.

**Shri A. K. Sen:** Juristically?

**Pandit Thakur Das Bhargava:** Yes. Therefore, it will come within the purview of section 3.

**Shri A. K. Sen:** I do not think so. I am very sorry I cannot agree with Pandit Thakur Das Bhargava.

**Mr. Deputy-Speaker:** He means that once the commission of a thing is a crime, an attempt automatically must be an offence under the Penal Code. This demand would be an attempt because so far as he is concerned, he has done whatever was in his power and whatever he could do. If it is frustrated and does not come off completely, it is not his fault. He has made the demand.

**Shri A. K. Sen:** Since a penal provision has to be construed very very strictly, specially when a new crime is committed, if the mere giving and taking—physical giving and taking—are made offences and the demand is not made an offence, I do not think there will be a different interpretation. But if the courts interpret it differently, it will be an offence. What the hon. Members felt was that the mere demand should not be made penal specifically under clause 4 of the Bill.

**Pandit Thakur Das Bhargava:** The demand is not in the nature of a public notice. It will be supplemented by importunities and entreaties and putting pressure upon the person to give the dowry. That will be nothing but abetment.

**Shri A. K. Sen:** Thakur Dasji says that even if we delete clause 4, the

attempt would be an offence. Well, if it is, it is. I do not think it will be.

**Shri Nathwani (Sorath):** We want to know how it will be an offence because an attempt is not made punishable otherwise.

**Mr. Deputy-Speaker:** An attempt is not to be made punishable specifically. If there is an offence, the attempt of it is also punishable.

**Shri Nathwani:** Under which law?

**Mr. Deputy-Speaker:** Under the Penal Code.

**Shri Nathwani:** The Penal Code makes attempts of only those offences which are punishable under the Penal Code itself and not of those which are offences under other enactments.

**Shri A. K. Sen:** I personally feel that what Shri Nathwani says is correct. I have not got the Penal Code here. That is why we have made an attempt also an offence. Otherwise, it would not have been necessary.

**Pandit Thakur Das Bhargava:** Section 3—abetment is there.

**Shri A. K. Sen:** Abetments and attempts are quite different.

**Shri D. C. Sharma (Gurdaspur):** Sir, when the hon. Minister was piloting this Bill here he was very eloquent about clause 4; and, therefore, we all voted for clause 4. When he went to the other House he was for the deletion of clause 4. So far, he has not made it quite clear as to what made him delete this clause 4 about which he was so keen on the floor of this House. I have not been able to follow him quite.

**Mr. Deputy-Speaker:** He has said that he is not very keen on any thing particularly. Because this House wanted it he was of that opinion. But when he went to the other House it was of the other opinion and he agreed to that.

**Shri D. C. Sharma:** If he is not keen on anything, then, the Bill will never be passed.

**Mr. Deputy-Speaker:** There is a decision of the other House and that has to be considered now.

**Shri A. K. Sen:** I was very much surprised at Prof. Sharma telling me that I was very eloquent either in retaining clause 4, or otherwise. I was for it because this was a Bill introduced by Government. At the same time, I do not think there was any amendment in this House for the deletion of clause 4.

**Shrimati Renu Chakravartty (Basirhat):** Clause 4 was undebated.

**Shri A. K. Sen:** I do not think it was debated at all. I stand subject to correction. My recollection is that clause 4 was not at all a matter of any controversy in this House; and, therefore, there was no occasion for me to be eloquent to retain clause 4. But I may tell my hon. friend that in the other House I did not introduce any amendment for the deletion of clause 4. If I am right, I think, it was a lady Member that introduced the amendment for the deletion of clause 4. That is my recollection. (*Interruption*).

**Mr. Deputy-Speaker:** Whoever might have done it, it is not material. (*Interruption*).

**Shri A. K. Sen:** But several ladies spoke for it. Whether a lady moves it or a gentleman moves it the effect is the same. The Government did not move it. I have made it clear that the Government proposes to issue no whip for the voting on this. (*Interruption*).

**Mr. Deputy-Speaker:** The hon. Minister may be allowed to conclude his speech. This may be discussed later.

**Shri Mulchand Dube (Farrukhabad):** Sir, the speech is not before me; but, to the best of my recollection, the hon. Minister said that it was the extortion that was being made punishable. If that was the view.....

**Mr. Deputy-Speaker:** Every hon. Member should not try to tax his memory and bring back recollections unless he has got the record before him.

**Shri A. K. Sen:** If I had said that extortion is punishable I do not think there is anything wrong in it because extortion is punishable. But if I had said that only extortion is punishable I would have been wrong. I have no recollection of what I said. But if I had said that extortion only is punishable I might have made a mistake like others. So, what I am saying is this. When the Rajya Sabha has passed this amendment it is my duty to place my point of view. The majority passed the amendment proposed. So far as I am concerned, there is no question of my being neutral or otherwise because I shall vote according to my own choice. But, so far as Government is concerned, as I said, the Government has no particular views on either the retention or the deletion of clause 4.

**Shri Nathwani:** May I know what was the voting in the Upper House?

**Shri A. K. Sen:** I think a fairly substantial majority was in favour of it.

**Shri Nathwani:** I think there were 25 for the deletion and 21 for the retention; it was a very narrow majority.

**Mr. Deputy-Speaker:** It was quite a working majority—25 out of 46.

**Pandit Thakur Das Bhargava:** The whole House here and 21 there is a greater majority than 25 there.

**Mr. Deputy-Speaker:** That can be decided in a joint session.

**Shri A. K. Sen:** If the House decides not to accept this amendment for the deletion of this clause then it will have to come to a joint session of both the Houses. Even then the Government proposes not to issue any whip on this at all.

**Shri Nathwani:** Let us meet once at least.

**Shri A. K. Sen:** We are meeting this afternoon!

**Mr. Deputy-Speaker:** Order, order.

**Shri A. K. Sen:** Therefore, this is the position. We should bear in mind that since this is a first attempt at making such transactions penal we made a provision and passed it in this House. This House was of the view that even a demand should be made penal. After that it was brought with considerable force to my notice that in the rural areas it would result in many harassing complaints being lodged at the instance of unsuccessful fathers of brides. I thought that possibly we might—speaking personally again—adopt the Bill without making mere demand penal, and then see how the Bill works; and if necessary, in future to make demand also penal. (*Interruption*).

In these matters nobody should have fixed views; they should be flexible because so many considerations are involved. What are the measures available, what the financial resources are and how they are going to be employed and how these things are going to be executed and so many other considerations come into the picture before we can finally decide what should be done, what should be the final picture of the law which we intend to pass on the subject. I think that an element of caution in all such matters is not a wasteful thing or a useless thing. It may be worthwhile paying some attention to the amendment made by the Rajya Sabha and try to see whether the Bill does work or not, without penalising the mere demand. We can review the matter after some time. But, as I said, so far as Government is concerned, it has no particular view on the matter. (*Interruption*).

**Mr. Deputy-Speaker:** Order, order.

**Shri A. K. Sen:** As I said since one House has passed this deletion by a majority we should consider it. In this House there was no discussion either for the deletion or retention of this clause 4. Before the matter was debated in the Rajya Sabha we had no debate in this House, as far as I

remember, on the propriety of either retaining or otherwise of this clause. But after this debate in the Rajya Sabha, I thought, it might possibly lead to many harassing complaints in areas where private feuds are not unknown and where there are people who might take advantage of private feuds and try to give evidence for one party or the other. Therefore, since the mere demand does not result in an injury to any one except social or moral indignation one might feel against it, we may pass the law without making the mere demand penal and then review the position after some time.

I place more reliance on clause 6 than on anything else in this Bill. To my mind it seems that the penal provision will not work very regularly or very effectively because of the difficulties inherent in the situation, because of the many factors which we all know. So, these are the things that I wanted to place before the House and I hope that the motion will be passed without seeking further amendment with regard to the deletion of clause 4.

**Mr. Deputy-Speaker:** Motion moved:

"That the following amendments by Rajya Sabha in the Bill to prohibit the giving or taking of dowry, be taken into consideration:—

'Clause 2

- (1) That at page 1, at the end of line 9, after the word 'given' the words 'either directly or indirectly' be inserted.
- (2) That at page 2, lines 1 to 6 be deleted.

Clause 4

- (3) That at page 2, clause 4 be deleted."

I think that enough discussion had taken place during the speech of the hon. Minister and that I may straight-away put them to the vote of the House.



**An Hon. Member:** Three hours have been allotted for this discussion.

**Shri A. K. Sen:** I submit that they should be put separately because the most controversial amendment is the deletion of clause 4.

**Shrimati Renuka Ray (Malda):** May I also add that we may have discussions also separately? They may be debated separately and voted separately.

**Mr. Deputy-Speaker:** No. That cannot be done. All these have to be taken into consideration. We can vote on them separately.

**Shri A. K. Sen:** May I submit—now that I have got the Penal Code—that what Shri Nathwani said was right. I am sorry that Pandit Thakur Das Bhargava was not quite correct.

**Mr. Deputy-Speaker:** And myself  
100.

**Shri A. K. Sen:** Yours was a query.

**डा० सुशीला नायर :** उपाध्यक्ष महोदय, यह दहेज प्रथा को रोकने वाला कानून जब मंत्री महोदय इस सदन में लाए थे, तो हम लोगों ने उन को बधाई दी थी। इस कानून में बहुत त्रुटियाँ हैं। इस कानून से, जैसा यह बना हुआ है, दहेज की कुप्रथा दूर हो जायेगी, ऐसा हम नहीं मानते, तो भी यह सही कदम है, मही दिशा में कदम है, इसलिए हम ने इस बिल का स्वागत किया था। उन्होंने ने खुद भी कहा है कि लड़की की शादी कर के लड़की के पति और ससुर को जेल में भेजे, ऐसा व्यक्ति कोई विरला ही हिन्दुस्तान में हो सकता है। ग्राम तौर पर कोई भी यह नहीं चाहेगा कि वह इस प्रकार से लड़की के पति और ससुर को जेल में भिजवा कर उस के भविष्य को दुखी करे। इस से चाहिए है कि जो मन्तव्य उन्होंने ने पहले डीबेट के समय यहाँ पर हमारे सामने रखा था, वही सही मन्तव्य था, अर्थात् शादी हो जाये, दहेज

दे दिया जाये और यह जो आफ्रेंस है, या कसूर है, वह कर दिया जाये और उस के बाद सच्चा की बात हो, वह तो कुछ होने वाली बात नजर नहीं आती। शादी टूट जाय, या शादी कर के, दहेज ले कर भी लड़की में कोई बहुत बुरा व्यवहार करे, तो शायद ऐसा केस कोई लाए, लेकिन लड़की को, चाहे घर-बार बेच कर, चाहे बरबाद हो कर दहेज दे दिया, लड़की को भेज दिया, तो पीछे वह लड़की के घर को बरबाद करने के लिए केस नहीं चलायेगा, शिकायत नहीं करेगा कि मेरी लड़की के ससुर मुझ से जबर्दस्ती दहेज ले गये या मांगा या मैं ने दिया। इस कानून में एक क्लॉज थी जिस से कि जो आशय है इस कानून का कि दहेज की प्रथा को दूर किया जाय, उस में कुछ मदद मिल सकती थी। वह क्लॉज ४ थी। इस में यह था कि जब कोई दहेज डिमांड करता है तो लड़की का पिता या लड़की स्वयं, हिम्मत हो तो, कह सकती है कि यह नहीं होगा और उस मूरत में वह अगर उस की सोशल स्पिरिट जागृत है तो जा कर शिकायत भी कर सकता है और यह भी कह सकता है कि हम ने तो रिश्ता तोड़ दिया लेकिन दूसरे किसी पिता में यह हिम्मत न हो तोड़ने की तो कम से कम दहेज मांगने वाले के कान तो खड़े हो जायें कि मांगने से कुछ नुकसान हो सकता है, हम कानून की पकड़ में आ सकते हैं। तो जो क्लॉज ४ थी जिस में दहेज मांगने के कसूर को सच्चा के काबिल माना गया था वह सब से अधिक उपयोगी, सब से अधिक मुफीद धारा दहेज की कुप्रथा को दूर करने वाली इस कानून में थी। इस से एक तो जनता को एजुकेट करने में मदद मिल सकती है, दूसरे जनता में हिम्मत आ सकती है कि हम दहेज न दें और तीसरे मांगने वाले को भी थोड़ा सा भय हो सकता है कि मैं ने मांगा तो कहीं ऐसा न हो कि उस की बजह से मैं कानून की पकड़ में आ जाऊँ। इस वास्ते अगर इस को प्राप निकाल देते हैं, इस क्लॉज ४ को

आप निकाल देते हैं तो मैं समझती हूँ कि इस कानून में कोई प्राण नहीं रह जाता है, तब हम इस कानून को ही छोड़ दें, न पास करें ताकि जो इस के विरोधी हैं उन का आशय पूरा हो जाय इस धारा के निकालने से वह हो ही जायेगा। क्लॉज ४ के चले जाने से जो इस बिल का प्राण है वह चला जायेगा। लिहाजा जो क्लॉज ४ को डिमीट करने के लिए यहां सिफारिश की गई है, मैं उस का विरोध करती हूँ।

माननीय मंत्री महोदय को बहुत गर्व है अपने कानून के ज्ञान पर और वह कानून मंत्री हैं और गर्व कर भी सकते हैं। यदि वह अपने ज्ञान का इस्तेमाल करेंगे तो वह देखेंगे कि चोरी करने के प्रयत्न करने वाले को भी सजा मिल सकती है, फिर चाहे चोर चोरी करने के प्रयत्न में सफल हो या न हो। मंडर करने का जो एटैम्प्ट है उस में भी सजा मिल सकती है, फिर चाहे वह मंडर करने में सफल हो या न हो। यह होता है कि झूठा आरोप चोरी का भी लगाया जाता है और कतल का भी तो भी चोरी या कतल के प्रयत्न के लिए और किस्म की मंजूरियाँ पीनल कोड में लिखी गई हैं। हम ने यह दलील कभी नहीं दी कि क्योंकि झूठा आरोप लगाया जा सकता है लिहाजा इस आफ्रेंस के प्रयत्न को हम सजा से बरी कर दें, मजा से मुक्त कर दें। यह भी कहा गया है कि दुश्मनी के कारण से कोई दहेज मांगने की शिकायत कर के किसी को हैरास करेगा। अगर किसी ने दुश्मनी ही करनी है तो पहली बात तो यह है कि वह दुश्मन के साथ अपनी लड़की की शादी करने क्यों जायेगा, दूसरी बात यह है कि शादी के बाद भी तो वह झूठा इलजाम लगा सकता है कि इस ने डाबरी ली थी और इस तरह भी वह दुश्मनी निकाल सकता है। और तीसरी बात यह है कि खाली हैरासमेंट की, परेशान करने की जो बात कही जाती है वह ठीक नहीं क्योंकि केवल किसी की

शिकायत करने से ही तो कोई भी कोर्ट सजा नहीं देने वाली है। जिस ने शिकायत की उस को इस चीज को साबित भी करना पड़ेगा और इस को साबित करना उस के लिए कोई बहुत आसान काम नहीं होगा। इसलिए मैं समझती हूँ कि इस क्लॉज ४ को रखने से कोई बहुत ज्यादा केसिस होने वाले नहीं हैं या बहुत ज्यादा लोगों को सजा होने वाली नहीं है हैरासमेंट भी होने वाली नहीं। लोगों पर दो तरह से इस धारा का अछ्छा असर पड़ेगा, एक तो डिटेरेंट पनिसामेंट के डर की वजह से और दूसरे नैतिक दृष्टि से एक तो लड़की वाला देने से इन्कार कर सकता है। अगर अपने अन्दर सीधे इन्कार करने की हिम्मत न हो तो कह सकता है हाथ जोड़ कर, कि हम कानून की जद में आ जायेंगे, पता चल जायगा सामने वालों को और हम दोनों परेशानी में पड़ जायेंगे। मांगने वाले को भी शर्म आ सकती है और वह सोच सकता है कि अगर मांगने पर जोर दिया और अगर यह चीज कानून की जद में आ गई तो यही नहीं कि मुझे परेशान होना पड़ेगा बल्कि मेरी इज्जत आबरू भी चली जायगी। जो देहातों का माननीय मंत्री महोदय ने जिक्र किया है वहां पर आज भी इस चीज को बहुत महत्व दिया जाता है कि इज्जत आबरू बनी रहे और जेल जाने को बहुत बुरा समझा जाता है। नेशनल स्ट्रगल में लोग जेल गये, वह और बात थी लेकिन जब कोई किसी कसूर के कारण जेल जाता है तो इस को कहीं भी अछ्छा नहीं समझा जाता। इस वास्ते जेल जाने के भय से कोई भी यह काम करने वाला नहीं है। दहेज मांगने वाला नहीं है।

15 hrs.

इस बात की ओर मैं आप का और मंत्री महोदय का ध्यान दिलाना चाहती हूँ। मैं ने सुना है, कानून को देखा तो नहीं है, कि फ्रांस में एडलट्रेशन के लिए, मिलावट

[डा० सुशीला नायर]

के लिए, मृत्यु दण्ड की सजा है। कहते हैं कि मृत्युदण्ड किसी को भी नहीं दिया गया है और इस का कारण यह है कि इतनी कड़ी सजा रखी गई है कि उस के भय से ही एडलट्रेशन वहां नहीं होता। न दवाओं में होता है और न ही खाने पीने की चीजों में। मैं समझती हूँ कि यह जो क्लॉज ४ में डिस्ट्रेंट पनिशमेंट की बात रखी गई थी यह बहुत सोच समझ कर रखी गई थी। मंत्री महोदय के जो ड्राफ्ट्समैन हैं, उन्होंने ने बड़े सोच समझ कर इस को रखा था और इस एक क्लॉज के जरिये इस कानून में बाकी जो कमजोरियाँ थीं, उन को दूर करने का, उन को ढकने का, उन को मेक अप करने का प्रयत्न इस बिल में किया गया था। लिहाजा इस को इस में से न निकाला जाय।

बाकी जो दूसरी दो एमेंडमेंट्स हैं उन का मैं स्वागत करती हूँ। एक तो क्लॉज २ में डायरेक्टली और इंडायरेक्टली ऐड करने की बात है वह बहुत अच्छी है, वह बहुत उपयोगी सुझाव है। इसी प्रकार से एक्सप्लेनेशन निवाल देमे का सुझाव भी उपयोगी सुझाव है। मगर क्लॉज ४ को रहना चाहिये। क्लॉज ६ का जो एक्सप्लेनेशन दिया माननीय मंत्री महोदय ने उस का मतलब यह है कि इस कानून के बावजूद कुछ लोग ऐसे होंगे जो दहेज देंगे और शायद बहुत से लोग देंगे और लेंगे, ऐसी सूरत में दहेज लेने वाले को आप सजा दे सकते हैं मगर जो लिया या दिया वह कम से कम लड़की के पास चला जाय, इतना प्राविजन वे धारा छ में रखना चाहते हैं.....

उपाध्यक्ष महोदय : क्या आप खत्म कर रही हैं या अभी बोलना चाहती हैं क्योंकि दूसरा बिजनेस हम को अब लेना है।

डा० सुशीला नायर : अभी मैं एक मिनट में खत्म कर रही हूँ।

इसलिये भी मैं समझती हूँ कि यह आवश्यक है कि धारा ४ को जैसी वह थी वैसे ही वापिस इस में रखा जाय ताकि

इस कानून का जो मुद्दा है, जो उद्देश्य है, वह पूरा हो सके।

Mr. Deputy-Speaker: This discussion will continue tomorrow.

15.02 hrs.

MOTION RE: REPORT OF PAY COMMISSION—Contd.

Mr. Deputy-Speaker: We shall now take up further consideration of the following motion moved by Shri Narayanankutty Menon on the 17th December, 1959, namely:

"That this House takes note of the Report of the Commission of Enquiry on Emoluments and Conditions of Service of Central Government employees, Government Resolution thereon and the statement made by the Finance Minister in the House on the 30th November, 1959."

Shri Harish Chandra Mathur may continue his speech. Time taken by him is ten minutes.

Shri Harish Chandra Mathur (Pali): That is lost in the vacuum. I do not know whether anyone knows what I have said.

Mr. Deputy-Speaker: The hon. Member knows it.

Shri Harish Chandra Mathur: I do not know whether I can maintain that continuity or not.

Mr. Deputy-Speaker, Sir, I had stated that the Pay Commission had to make its recommendations in a particular context. As a matter of fact, even in the terms of reference it had been enjoined upon the Pay Commission to take into consideration the historical background, the economic conditions in the country, the implications and requirements of the development of planning and also the disparities in the standards of emoluments of Central Government employees, on the one hand, and the