

12.11 hrs.

## BUSINESS OF THE HOUSE

**The Minister of Parliamentary Affairs (Shri Satya Narayan Sinha):** With your permission, Sir, I rise to announce that Government Business in this House for the week commencing 18th April, 1960, will consist of:

- (1) Consideration of any item of Government Business carried over from today's Order Paper.
- (2) Submission to the vote of the House of the outstanding Demands for Grants.
- (3) Consideration and passing of the following Bills:—

The Bombay Reorganisation Bill, 1960, as reported by the Joint Committee.

The Finance Bill, 1960.

12.11½ hrs.

## DEMANDS FOR GRANTS—contd.

## MINISTRY OF FINANCE—contd.

**Mr. Speaker:** The House will now resume further discussion and voting on the Demands for Grants under the control of the Ministry of Finance.

Shri C. K. Bhattacharya was in possession of the House. He may speak.

**Shri C. K. Bhattacharya (West Dinajpur):** I rise to plead the cause of the Hindu joint families of Bengal who are being ground down under the steam-roller of the income-tax law and administration. This is happening by an unwarranted extension to these families of an expression used in the Act, namely Hindu undivided families. That expression does not actually apply to the joint families of Bengal, but what is happening in the administration of the law is that they are extending the application of that expression to the Bengal Hindu joint families, and they are being made to suffer by a very unjustifiable assessment.

The Income-tax Act uses this expression under section 23 and authorises assessment of a Hindu undivided family as one unit. This particular expression is nowhere defined in the Act, but is left to be understood from the general law. For the purpose of applying the Income-tax Act to a Hindu undivided family, the main question to be considered is what constitutes such a family, and what kind of income and property belong to such a family as distinguished from the individuals who compose that family.

Under the general law, the main feature of a Hindu undivided family is that it is a coparcenary or tenancy in common, but this coparcenary or tenancy in common arises by law amongst certain relatives of stated degrees under the Hindu law. Such a coparcenary exists only among the Hindu families under the Mitakshara school and does not exist in the families under the Dayabhaga school which obtains in Bengal. In parts of India other than Bengal, the Hindu undivided families are governed by the Mitakshara law, and they come under this particular expression used in the Income-tax Act. That law does not operate in Bengal, and so, the joint families of Bengal ought not to be brought under this expression and assessed in that way. The expression ought to be limited only to the Mitakshara school, and not extended to the families coming under the Dayabhaga school.

The two characteristics of the coparcenary as found in the Mitakshara school are firstly, right by birth, and secondly, right by survivorship. The foundation of the coparcenary is laid on the birth of the son. That is the starting point. If any of the coparceners passes away, his share in the joint family property does not go only to his issue, but passes on to all the coparceners, thus augmenting their shares to that extent. Both these characteristics are absent in the joint families of Bengal who are governed by the Dayabhaga school as I have stated. A son by birth has no interest, he takes no interest, and the interest of a Dayabhaga owner in the joint property