

13.53 hrs.

MEDICAL TERMINATION OF PREGNANCY BILL

THE MINISTER OF STATE IN THE MINISTRY OF HEALTH AND FAMILY PLANNING (SHRI D. P. CHATTOPADHYAYA) : On behalf of Shri Uma Shankar Dikshit I beg to move :

“That the Bill to provide for the termination of certain pregnancies by registered medical practitioners and for matters connected therewith or incidental thereto, as passed by Rajya Sabha, be taken into consideration.”

By way of introduction of the Bill, I should like to say a few words. Historically speaking this Bill means not much ; it is only to liberalise some of the restrictions under section 312 of the IPC where it has been provided that termination of pregnancy relief would be available only to pregnant women in case it is necessary to save their life. This condition that this would be allowed—the benefit of termination of pregnancy—only in order to save their life seemed to the people for a long time rather restrictive. In order to relax the restriction we are bringing forward this law which has already been passed by the Rajya Sabha. It was thoroughly processed by Parliamentarians and social workers and some jurists, taking into consideration the views of other experts, medical and non-medical, in and through the Shantilal Shah Committee. Incorporating the recommendations of the Shantilal Shah Committee, the Bill was drafted and introduced in the Rajya Sabha on 17th November, 1969. At that stage it was observed by some Members of the other House that the Bill needed further study both in depth and detail. So, it was referred to a Joint Committee on 24th December, 1969.

The Joint Committee held as many as 19 sittings, and several modifications were suggested by it. All those modifications have been, in a different way, incorporated in the Bill now presented for the consideration of this hon. House.

The recommendations, broadly speaking, are five. First, it has been suggested that unless and until the rules and regulations incidental

to the Clauses of this Bill are framed, this legislation should not be brought into force. So, even if this Bill is passed, it will not be brought into force forthwith.

Secondly, the definition of the “guardian” whose consent would be necessary for terminating the pregnancy of the ward under his control has been further liberalised. Formerly the definition was in terms of both care of person and property of the minor. Now, care of property has been deleted, and it is only in terms of care of person.

Thirdly, to ensure the safety of the life of the pregnant women, the definition of the medical practitioners authorised to undertake this sort of delicate and risky operation has been restricted. Any and every medical practitioner will not be allowed. It has been suggested by the Joint Committee that only registered medical practitioners should be allowed, and registered medical practitioners means more than what meets the eye in the first instance ; It means medical men who have the necessary training and experience.

Fourthly, it has been suggested by the Joint Committee that if the pregnancy is within the twelfth week, the opinion of one doctor would be deemed sufficient for undertaking the operation, but if it is between the twelfth week and the twentieth week, the opinions of two doctors would be necessary, although the actual operation could be undertaken by one doctor, i. e. , a surgeon.

In the fifth instance it has been suggested that in an emergency case of saving life, the condition of having the opinion of two doctors could be relaxed as also superior qualification and experience, because in some parts of the country highly qualified medical practitioners necessary for undertaking this type of operation may not be readily available. This is the history through which this Bill has been processed and given the form in which it has been presented before this House.

14 hrs.

The objects for which this Bill has been introduced may be categorised under three heads—humanitarian, health and eugenic. With the passage of time all over the world, there was a cry that unwanted pregnancy

should be allowed to be terminated. That is, women who, under circumstantial pressure, are impregnated should be allowed to have the benefit of termination of pregnancy. This is the cry heard all over. With change of time, in India also, we have experienced such a demand for a pretty long time.

SHRI K. N. TIWARY (Bettiah) : Who demanded it ?

SHRI D. P. CHATTOPADHYAYA : Many sections of people. It is mentioned in the Joint Committee's report that the opinions of different people and different organisations have been taken into consideration.

So far as the humanitarian aspect is concerned, during partition, for example, many women were victims of forcible sexual acts, resulting in unwanted pregnancy. We could not do anything legally to those unfortunate women at that time. Apart from that, the figures available unmistakably show that on an average 6.5 million people undergo termination of pregnancy. This is an unmistakable pointer to the necessity of having such a law. This staggering figure of 6.5 million indicates that we should have had a law of this nature long ago. Of these 6.5 million cases, only 2.5 million are natural. The rest are induced. In spite of the absence of such a law, today we have this staggering figure of 4 million induced abortions. Of course, I cannot claim that the figure is based on accurate study, but even then it is staggering and it shows that not only we should have, but we ought to have had such a law. The figure is just a pointer to the necessity that we are already living with the problem, and let us make legal and moral what has been done surreptitiously all these years.

SHRI ZULFIQUAR ALI KHAN (Ram-pur) : Ladies who undergo abortions illegally would not like other people to know that they had an abortion. Then how did the Minister get this figure ?

SHRI D. P. CHATTOPADHYAYA : It is from the sample survey and extrapolation of statistics. I do not claim that this is an exact figure but it is an approximate pointer to the problem.

Apart from the humanitarian ground, there

is also the health ground because sometimes due to the failure of the conventional contraceptives some women become pregnant. We should be sympathetic to them. As the law stands at present, they cannot terminate that unwanted pregnancy. So, that objective is also kept in view while drafting this law.

Thirdly, there is the eugenic consideration. Because, in some cases women run the risk of having crippled children. A mother who has reasonable grounds to believe that she will bear crippled children should have the benefit of termination of that pregnancy.

So, on these three grounds, humanitarian, health and eugenic, we thought that some legal relief should be made available to the women. This Bill may be viewed from two points of view, apart from a third point of view.

Broadly speaking, it has been welcomed by the members. I had the privilege of piloting the Bill in the Upper House and I have found that it received due welcome from all quarters. Even in the Joint Committee, I am glad to report, out of the 26 members as many as 22 accorded a hearty welcome to this Bill. I have no doubt that this enlightened House with its progressive outlook also would extend its whole-hearted support to the Bill.

Before I formally place the Bill before the House, I would like to say that there are two sets of arguments. One set consists of the view that this Bill is too conservative and the other is, which is the opposite, that it is too liberal. Those who say that it is too conservative are more radical in their outlook. But the success of otherwise of this Bill depends upon the social attitudes of the people. We have many laws which were out of tune with social realities which did not work. As early as perhaps 1854 we had a Widow Remarriage Act. It was a dead piece of legislation, not practised because although it was put on the statute book, people did not accept it. So the simple point is that if we say something radical, if we bring about a more radical law not consistent with the demands of the people, while it goes on the people, while it goes on the book of statutes it does not go home to the people to be practised and followed.

SHRI B. P. MAURYA (Hapur) : It should give some protection to unmarried mothers also.

SHRI D. P. GHATTOPADHYAYA : That sort of protection that these unfortunate ladies are demanding for is also provided in this law.

While we are very much of the opinion that we should have a radical law, we must be realistic enough to see that the law must be in tune with the need of the people. For example perhaps in 1955 at the instance of the United Nations we had a law passed in this House and the other House prohibiting prostitution. What has happened to that? It is again a dead law. It has not gone to the heart. So I say, Sir, the question is not one of my having radical views or of some hon. Members having radical views but the point is, if the social milieu is not ready to accept the radical law it is no use shouting our progressive views on the floor of the House. The question is one of larger issue affecting the people at large outside the House. So, I say, if it is not too liberal it is liberal but, as I said at the beginning, the main objective of bringing about this piece of legislation is to remove some of the restrictions enjoined by Section 312 of Indian Penal Code. Its objective is liberal. Just now I heard some of the hon. Members saying it is not radical enough. I say that it is not very conservative. Many of the apprehensions expressed in the form of interventions that it is conservative emanate from the fact that those Members have not gone through the Bill thoroughly. I hope they will go through the Bill thoroughly and they will find many of the things they expect from the Bill are already there in the Bill. With these words I commend this measure for the consideration of this House.

MR. DEPUTY SPEAKER : Motion moved :

"That the Bill to provide for the termination of certain pregnancies by registered medical practitioners and for matters connected therewith or incidental thereto, as passed by Rajya Sabha, be taken into consideration."

I find that one and a half hours have been allotted for this Bill.

SHRI R. V. BADE (Khargone) : I request that the time may be extended by one hour.

MR. DEPUTY SPEAKER : I cannot accept a notion off-hand in that way. The time has been fixed by the Business Advisory Committee. I find the Bill is creating lot of interest. But have received many names. I think we should fix 10 minutes for each. Even we may exceed time.

SHRI S. M. BANERJEE : Sir, do you think pregnancy can be terminated within 10 minutes.

MR. DEPUTY SPEAKER : With modern techniques it can be done. Shri Bhattacharyya.

SHRI S. P. BHATTACHARYYA (Uluberia) : Sir, I support this Bill from the point of view of humanity. It will save the humanity from biological and natural barriers. There are various social barriers in our society for which our unwanted children and mothers suffer. This Act will free them and get them proper human dignity. For this, I do support this Bill. People in our country are deep in superstitions. So, Government must see how they could be really helped and their dignity saved. That is the main difficulty that Government must overcome, without harming their life or their prestige or anything.

Lastly, we must utilise this for our research and development. Our Minister must know that J. B. S. Haldane, a noted biologist, in his book wrote how these things can be of great benefit for the development of our research and medical science. This must be taken into consideration. For this our medical units must be properly developed so that we can really help our people and our medical science can do the utmost help.

With these words, I support the Bill.

श्रीमती सावित्री श्याम (आंवला) :
उपाध्यक्ष महोदय, मैं वर्तमान बिल का, जिसको माननीय मन्त्री जी ने बड़ी ताकत के साथ, बड़ी फोर्स के साथ इस सदन में प्रस्तुत किया है, हृदय से स्वागत करती हूँ। लेकिन साथ ही मैं उनसे पूछना चाहती हूँ कि इस बिल के अन्दर से एम्ज एण्ड आब्जैक्ट्स को क्यों हटा दिया गया, क्यों सरकार ने इस बात का हेजीटेशन किया कि एम्ज एण्ड आब्जैक्ट्स इस के अन्दर नहीं हैं। उपाध्यक्ष महोदय, एक तरफ हमें वास्त-

विकना का सामना करना पड़ना है और दूसरी तरफ हम रियेलिटीज से दूर भागना चाहते हैं, ये दोनों बातें साथ नहीं चल सकती हैं। इस बिल के अन्दर इस बात की घोषणा नहीं की गई है कि इसका सम्बन्ध फॅमिली प्रोग्राम से भी है। लेकिन मैं कह सकती हूँ कि परिवार नियोजन से इसका पूरा पूरा सम्बन्ध है और सम्बन्ध होना चाहिये। वैसे तो इस बिल का सम्बन्ध बहुत से पहलुओं से हो सकता है, नैतिकता से, मानवीयता से, समाज से और अर्थ से, लेकिन सबसे अधिक महत्व मैं वास्तविकता को देना चाहती हूँ। क्या यह वास्तविकता नहीं है—जैसा मन्त्री जी ने अभी कहा—उसी देश में नहीं, दूसरे देशों की अगर हम बात करें तो कह सकते हैं कि वेस्टर्न बहुत एडवांस्ड है, लेकिन हमारे ही देश के अन्दर, माननीय मन्त्री जी ने जो फिगर्स दी है, वे बहुत कम हैं, इतिहास के पन्ने को उलट कर देखें, आज से नहीं जैनरेशन में जैनरेशन को देखें, मरियों से सदियों को देखें, कितना उन मासूम बच्चों और महिलाओं को अघात होता है, जो दुर्भाग्य से या गल्ती से या जबर्दस्ती प्रेगनेन्सी का शिकार हो जाती हैं। उस बिल के जरिये उन महिलाओं को उन क्वैम के हाथों या उन नर्सज के हाथों से बचाने का प्रयास किया गया है, जो उनको मृत्यु का भागी बना देती हैं। जिनके हाथों में फंस कर, मर्जी से या बिना मर्जी से, उनको मौत का सामना करना पड़ना है—यही प्रयत्न इस बिल में किया गया है।

इस बिल के मैकशन 3, सब-क्लाज 2 में जो एक्सप्लेनेशन दिया गया है, मैं नहीं समझती कि इसकी क्या आवश्यकता थी।

“Where any pregnancy occurs as a result of failure of any device or method used by any married woman or her husband for the purpose of limiting the number of children, the anguish caused by such unwanted pregnancy may be presumed to constitute a grave injury to the mental health of the pregnant woman.”

मैं मन्त्री महोदय से चाहती हूँ कि वे इस हाउस

की बनावें कि यदि एनी डिवाइस आर मैथड यूज्ड बाई दि मैरीड वीमेन फॉर हो जाय तो किस तरह से मेन्टल, दिमागी और शारीरिक हेल्थ को कोई नुकसान पहुंचने वाला है? ऐसी बात नहीं है। इसलिए मैं माफ माफ कहती हूँ कि इसका सम्बन्ध फॅमिली प्लानिंग से है और उस चीज को साफ माफ शब्दों में सामने आना चाहिए। किसी भी लो को एक मंशा होनी है। वह कानून लोगों पर लागू होता है इसलिए शिख लोगों पर वह कानून लागू होता है उनके सामने भी कोई स्पष्ट तस्वीर सामने होनी चाहिए कि यह कानून किम लिए है, क्या कारण है, क्या इम्प्लीकेशन होंगे और क्यों लागू करना चाहिए। इसलिए मैं कहती हूँ कि इस एक्सप्लेनेशन की मैं कोई जरूरत नहीं समझती बल्कि सरकार को स्पष्ट तौर पर कहना चाहिए कि जहां और कारण है वहां एक कारण यह भी है कि उस देश में परिवार नियोजन को सफल बनाना चाहते हैं।

जहां तक परिवार नियोजन का सम्बन्ध है, पिछले तीन सालों में 93.3 करोड़ रुपया दस पर खर्च किया गया है लेकिन उसका रिजल्ट क्या हुआ? सरकारी आंकड़ों में भले ही कुछ दिया हो लेकिन मैं समझती हूँ कि फॅमिली प्लानिंग प्रोग्राम में बहुत हद तक सफलता नहीं मिली है। हमारे देश में लूप चले लेकिन कहां तक सफल रहे? स्टर्लाइजेशन का प्रोग्राम चला लेकिन वह भी असफल हुआ। तरह तरह की फिल्म चलाई गई, एक्सपेरिमेंट्स हुए लेकिन उनमें भी सफलता प्राप्ति नहीं हुई। हां, आजकल जो निरोध का प्रोग्राम है, निःसंदेह कुछ लोग ऐसा कहते हैं कि वह सफल हो रहा है। तो फिर इस देश में फॅमिली प्लानिंग प्रोग्राम को सफल बनाने की आवश्यकता है या नहीं—सबसे बड़ी सोचने की बात यह है। यदि आवश्यकता है तो फिर जिस तरह से और जैसे भी हो उसको करना चाहिए और सफल बनाना चाहिए। जो लोगों के सोचने का तरीका है उसमें नैतिकता पर भी बड़े बड़े भाषण दिए जा सकते हैं लेकिन जो चीज

[श्रीमती सावित्री श्याम]

सामने है, जो ग्वायलिटी है, उससे दूर भाग कर अभी आगे नहीं बढ़ सकते हैं और न हमें कोई सफलता ही मिल सकती है।

एक बात मैं आल इंडिया रेडियो के सम्बन्ध में भी कहना चाहती हूँ। आल इंडिया रेडियो पर जहाँ दुबिया भर के प्रोग्राम को टाइम मिलता है वहाँ फेमिली प्लानिंग प्रोग्राम के लिए जितना टाइम मिलना चाहिए वह नहीं मिल पा रहा है। आज रेडियो की आवाज घर घर में पहुँच रही है लेकिन रेडियो के माध्यम से घर घर में यह आवाज नहीं पहुँचाई जाती है कि फेमिली प्लानिंग का कैसे सफल बनाना चाहिए, क्या क्या तरीके अपनाना चाहिए। क्या आज इस बात की जरूरत नहीं है? मैं आपके माध्यम से कहना चाहती हूँ कि इस बिल को आप तभी सफल बना पायेंगे जब कि आप इस बिल के लिए सभी मिनिस्ट्रीज का कोऑर्डिनेशन लेंगे। जा एलाइड डिपार्टमेंट्स हैं उनका सहयोग जब आप लेंगे तभी आपको इसमें सफलता मिल सकेगी।

(व्यवधान)

उपाध्यक्ष महोदय, इंडियन पीनल कोड में एबार्शन एक क्राइम है और उसके लिए सजा का प्राविधान है। इसको डिलीट करना चाहिए। और इस बिल में जा आपन यह स्कोप बना दिया है, मेटल हेल्थ आर स्वास्थ्य, इन सब बातों की आड लेकर, मैं समझती हूँ इसकी कोई जरूरत नहीं थी। सबसे ज्यादा जरूरत थी पीनल कोड की उन क्लॉजेज को खत्म करने की। इस बिल से मैं समझती हूँ कोई फायदा निकलने वाला नहीं है।... (व्यवधान) . इंडियन पीनल कोड की शायद 312 से 316 तक जो क्लॉजेज हैं, मैंने उनको पढ़ा है, जब तक वह समाप्त नहीं होगी तब तक निश्चित है कि इस बिल में कोई मशा पूरा होने वाला नहीं है। इसमें आपने थोड़ा सा लीगलाइजेशन कर दिया है कि इन दशाओं में हो जाये तो उस सजा से बचा जा सकता है अन्यथा सजा मिलेगी। तो मेहर-

बानी करके इंडियन पीनल कोड की उन दशाओं को दुरुस्त कराने की कृपा कीजिए तभी इसका इम्प्लीमेंटेशन हो सकेगा।

एक बात मैं और कहना चाहती हूँ। केन्द्र द्वारा पाम किए गए सारे कानून राज्य सरकारों की मर्जी पर छोड़ दिए जाते हैं। हमने देखा कि इम्मारल ट्रीफिक एक्ट तथा दूसरे एक्ट्स पाम हुए लेकिन किमी भी ऐसे एक्ट का पूरी तरह से इम्प्लीमेंटेशन करने के लिए राज्य सरकारें तैयार नहीं हैं। इन एक्ट्स के इम्प्लीमेंटेशन के लिये केन्द्र से राज्य सरकारों को पैसा जाता है, फंड एल्लोवेशन और इम्मारल ट्रीफिक एक्ट के इम्प्लीमेंटेशन के लिए केन्द्र में पैसा गया, हमारे यू० पी० में भी गया लेकिन वह पैसा लैप्स हुआ। इस दिशा में राज्य सरकारें बिल्कुल भी अग्रसर नहीं हैं। राज्य सरकारें इस प्रकार का कोई कार्य करना नहीं चाहती जिसके कारण वह कन्ट्रोवर्सी में पड़े, जिसके कारण उनको वोट न मिले या जिसके कारण वे जनता में अत-पापुलर हो जायें। तो मैं जानना चाहती हूँ कि इन बातों के लिए आपके पास क्या सेफगाइड्स हैं? यह सही है कि इस बिल के जर्जिंग में आपने कुछ नेफगाइड्स बताई हैं उन मासूम बच्चियों और महिलाओं को क्वैक्स क हाथों से बचाने की लेकिन वह अनवान्टेड बच्चे जिनका डम दुनिया में कोई नहीं होता, जोकि नानियों में और सड़का पर मिलते हैं जिनको कोई पालन वाला नहीं, समटन वाला नहीं, जिनका समाज में कोई आदर नहीं और जिनको सक्सेशन में कोई राइट नहीं परन्तु मैं कहना चाहती हूँ कि अनवान्टेड कोई नहीं होता, बिना मर्जी के कोई नहीं होता और हर मा के अन्दर यह भावना निहित होती है कि उसका बच्चा जिये और समाज से उसको कानूनी हक मिले। ऐसे अनवान्टेड बच्चे अपने आप नहीं आते बल्कि किसी आदमी के ऐक्शन से ही आते हैं इसलिए मैं चाहती हूँ ऐसे मा बाप के ऐक्शन को भी लीगलाइज किया जाना चाहिए। क्योंकि आज

ऐसे बच्चों के लिए कोई स्थान नहीं है। ऐसे बच्चों के लिए आपने क्या सेफगार्ड्स की है? आपने उनकी क्या बचन की है? आपने उन बच्चों की कोई रक्षा नहीं की है बल्कि उनको समाप्त किया है—न प्रिगनेन्सी रहेगी और न बच्चे पैदा होंगे। मैं तो चाहती थी कि एक ऐसा क्लाइ होता कि एमे अनवान्टेड चिल्ड्रेन जिनको नाजायज बच्चा करार दिया जाता है उनकी सेफगार्ड रहेगी, सक्सेशन में उनको भी राइट मिलेगा और समाज उनको लीगलाइज करेगा।

मैं यहां पर नाम भेशन नहीं करना चाहती लेकिन मैं जानती हूँ कि एक आई० ए० एस० आफिसर है जो कि अनाथालय में पला था, जो कि एक अनवान्टेड चाइल्ड था लेकिन आज तक उसकी शादी नहीं हुई है। .. (व्यवधान) .. हम लोग समाज सुधारक और प्रगतिशील बनना चाहते हैं लेकिन जब हमारे सामने प्रगतिशील बनने का मौका आता है तो हम दो कदम पीछे हट जाते हैं। इसलिए मैं चाहती हूँ कि इस बिल को आप बिल्कुल स्पष्ट रूप में सामने रखें कि क्या इसकी वास्तविकता है? अनमैरीड मदर का इसके अन्दर क्या स्थान होगा। .. (व्यवधान) .. इसीलिए मैं कहती हूँ कि इसमें बहुत एम्बिगुइटी है, इसमें बिल्कुल स्पष्ट नहीं है कि अगर एक अनमैरीड मदर या एक विडो स्त्री प्रिगनेन्सी टर्मिनेट करवाती है तो इस बिल के अन्दर उसका क्या स्थान होगा, कौन करेगा और कहा करेगा .. (व्यवधान) .. यह बातें इस बिल में बिल्कुल स्पष्ट नहीं हैं। .. (व्यवधान) .. मैं जानती हूँ कि राज्य सभा की कमेटी ने यह बिल किया और वहां पर इस पर बहस हुई। वहां पर जो एविडेंसेज दी गई उनको भी मैं ने देखा है। महिलाओं की एविडेंसेज को भी मैंने देखा है लेकिन मैं समझती हूँ चाहे समाज के डर से या नैतिकता के डर से या मानवता के डर से या फिर चाहे कुछ भी उसका कारण रहा हो—सभी ने कहा है कि यह नहीं होना चाहिए, इसको लीगलाइज नहीं करना चाहिए। ...

(व्यवधान) . . इसलिए मैं साफ तौर पर कहना चाहती हूँ कि इस बिल में एम्बिगुइटी है।

I have studied this Bill. They have not given the Statement of Objects and Reasons. When you are not clear in your mind, what will you say before the public? We have to go to the public. We have to make them understand the intention of the Bill. This ambiguity should go. It is not a play; it is a serious matter. I request the House, and I request the hon. Members, to support me when I ask for the clarity of the Bill. The Bill should be in tune with the times. If you want to become radical, to radical.

SHRI S. M. BANERJEE (Kanpur) : I rise to support this Bill, as it was supported by my group in Rajya Sabha also.

AN HON. MEMBER : Why should a bachelor speak?

SHRI S. M. BANERJEE : No, I am not a bachelor. I have just one child.

The point is that in the given circumstances, this Bill has to be passed, and I must congratulate Government on their bold stand in regard to this matter, because this Bill was objected to only by those who never wanted to regularise this step.

It is a very painful duty on my part to suggest that a mother or a would be mother should be deprived of a child. But what is happening to the young girls in this country? They have to play into the hands of these quacks after they are raped by some people. Either they stake their life in the hands of the quacks or they take some medicine and die or they commit suicide by throwing themselves on the railway track. This is exactly what is happening. We should in all fairness hate the sin but not the sinner. That is exactly what was taught by Christ and that was exactly what our rishis also used to say, though they were very conservative in nature.

AN HON. MEMBER : Mahatma Gandhi also said it.

SHRI S. M. BANERJEE : I accept Christ's teaching first and the only Mahatma Gandhi's.

AN HON. MEMBER : He is a Deputy Christ.

SHRI S. M. BANERJEE : Clause 3 lays down when pregnancy can be terminated by a registered medical practitioner ; the conditions under which it should be done or should not be done have all been laid down. Then, some explanations have also been given. Explanation reads thus :

“Where any pregnancy is alleged by the pregnant woman to have been caused by rape, the anguish caused by such pregnancy shall be presumed to constitute a grave injury to the mental health of the pregnant woman.”

Then, we have Explanation II which reads thus :

“Where any pregnancy occurs as a result of failure of any device or method used by any married woman or her husband for the purpose of limiting the number of children ...”

This is something surprising. This is reflection on family planning actually. Apart from this, after all, the wife or the husband does not manufacture loops. If there is any loophole in the loop, then they are not responsible. I think that this explanation is redundant. Why should it be there ? Supposing any lady says that it was because of her husband's failure or if any husband says that it is because of the wife's failure, then what is there in it, after all ? Pregnancy is pregnancy whether it is due to the failure of something or due to the success of something. Therefore, I feel that this explanation is redundant and it should be deleted from this Bill.

Clause 4 specifies the places where pregnancy can be terminated. It reads thus :

“No termination of pregnancy shall be made in accordance with this Act at any place other than—

- (a) a hospital established or maintained by Government or
- (b) a place for the time being approved for the purpose of this Act by Government.”

In the rural areas, what is going to happen? Nearly 75 per cent of our population lives in the rural areas. Where are the hospitals there and what will be done in those areas ? Again, sub-clause (b) of clause 4 says :

“A place for the time being approved for the purposes of this Act by Government!”.

Supposing pregnancy has to be terminated, then this very place can be converted into a hospital under this clause. Certainly, the other Members can be asked to go out, and any Member who wants to terminate pregnancy can do it here. I submit that it would not be provided for like that. After all, it should be an approved place with some beds or a hospital with some beds and so on. Otherwise, it will be a mobile hospital and wherever they move and wherever they see that there is a chance of terminating pregnancy, they will convert that place into a hospital. I think that second thought should be given to this by the hon. Minister. Shri D. P. Chattothyaya has been taking a lot of interest in family planning and he has done very well in this Ministry as a new Minister and I offer my congratulations to him on his fine performance.

I feel that this Bill has to be explained properly. There should be some proviso laying down the minimum requirements to be satisfied by any place which can be approved as a hospital for this purpose. Otherwise, I am afraid that ordinary doctors will utilise this opportunity and there will be further loss of life. So this should not be done.

Shrimati Savitri Shyam asked the question : what will happen to those children ? Really there should be some provision for the unwanted children.

MR. DEPUTY-SPEAKER : That is not within the scope of the Bill. This is only to prevent unwanted children.

SHRI S. M. BANERJEE : This is a general discussion. Government could not prevent it for the last 24 years. What will happen to these children ?

MR. DEPUTY-SPEAKER : A separate Bill will be necessary.

SHRI S. M. BANERJEE : My sister, Shrimati Savitri Shyam, really shocked the entire House by raising his very vital question. What will happen to these children ? Will they get a place in society ? I remember during the British time when soldiers used to be recruited, nobody asked them ‘what is the name of your

father?' He used to say 'The King is my father'. The King used to be the father of all such people who were born like this. The question really is whether they should not get a place in society. When we have abolished prostitution, what will happen to those children who were born out of the womb in that way? If they are not accepted into society, I am afraid these children will become most anti-social elements. If this affects motherhood, it will be the end of all values. So I hope this will not be done. This has been done right from the beginning but now we should correct this state of affairs. I hope this will be given thought to by the hon. Minister.

श्री हनु प्रताप सिंह (वाराणसी) : माननीय उपाध्यक्ष जी, मैं आप का हृदय में आभारी हूँ कि आप ने मुझे गर्भ की चिकित्सीय समाप्ति विधेयक, 1971 के सम्बन्ध में अपने विचार को प्रकट करने का अवसर प्रदान किया है। मैं इस का समर्थन करने को खड़ा हुआ हूँ।

श्रीमन्, मैं सबसे पहले माननीय स्वास्थ्य मंत्री जी को इस महत्वपूर्ण विधेयक को प्रस्तुत करने के लिये बधाई देना चाहता हूँ। श्रीमन्, मैं आप के माध्यम से माननीय सदन का ध्यान इस विधेयक की आवश्यकता की ओर ले जाना चाहता हूँ। यदि किसी गर्भ के बने रहने में गर्भवती स्त्री का जीवन जोखिम में पड़ जाय अथवा उसके शारीरिक एवं मानसिक स्वास्थ्य को गम्भीर रूप से क्षति का जोखिम हो और यदि ऐसे गर्भ से दुर्भाग्य से स्त्री मर गयी या गम्भीर रूप से शारीरिक अथवा मानसिक रूप से अस्वस्थ हो गई तो उसका अत्यन्त भयानक दुष्परिणाम उसके समस्त परिवार पर पड़ना है। पैदा होने वाले बच्चे के मोह में आंखों के सामने धरती पर खेलते हुए बच्चों के जीवन तथा स्वास्थ्य एवं विकास पर कुप्रभाव पड़े इसे कोई भी माननीय सदस्य उचित नहीं समझेगा।

श्रीमन्, यदि इस बात का पर्याप्त जोखिम हो कि यदि बच्चा हुआ तो वह ऐसी शारीरिक और मानसिक असमानताओं से पीड़ित होगा कि गम्भीर रूप से विकलांग हो तो उसका उत्पन्न होना और जीना उसके और उसके समस्त

परिवार के लिये एक अभिशाप ही होगा तथा वह राष्ट्र के भी हित में न होगा।

माननीय सदस्य जानते हैं कि बनासंग (रेप) द्वारा यदि गर्भ का धारण हुआ है तब उस गर्भ से उत्पन्न बालक का उस बालक और मां के जीवन पर तथा समाज के ऊपर कितना भयानक प्रभाव पड़ता है, और ऐसे गर्भ की समाप्ति सर्वथा उचित प्रतीता होती है।

श्रीमन्, भारत जैसे निर्धन देश में जहाँ अब भी करोड़ों परिवार एक समय भोजन करते हैं और बच्चों को अपनी भूखी मां के वक्षस्थल से दूध की बूंद भी नहीं मिलती यदि उम परिवार के द्वारा गर्भ निरोध के हर उपाय प्रयोग में लाने पर भी गर्भ रह गया तब उस दशा में उस परिवार के उम बच्चे और पूर्व उत्पन्न बच्चों के जीवन पर और सारे परिवार पर कैसा संकट आना है इसको वही समझ सकता है जिसको खाने को एक रोटी हो और खाने वाले दस हों।

श्रीमन्, इस विधेयक में इस बात की व्यवस्था की गई है कि गर्भ की समाप्ति तभी की जायेगी जब गर्भवती की सहमति हो, अथवा नहीं। विधेयक की यह धारा मां के अधिकारों की पूर्ण रक्षा करती है।

इस विधेयक में इस बात की भी व्यवस्था कर दी गई है कि यह काम केवल रजिस्ट्रीकृत चिकित्सा-व्यवसायी ही कर सकता है और यदि कोई अन्य व्यक्ति इस प्रकार का दुःसाहस करेगा तो उसे इस विधेयक के द्वारा दण्ड दिया जायेगा, कोई भी ऐसा व्यक्ति जो चिकित्सा का रजिस्ट्रीकृत व्यक्ति नहीं है इस कार्य को करने का उस को अधिकार नहीं होगा।

मैं आप के माध्यम से इस विधेयक के सम्बन्ध में एक सुझाव देना चाहता हूँ। प्रस्तुत विधेयक की धारा (3) की उपधारा (2) (क) में 12 सप्ताह तक के गर्भ के स्थान पर आठ सप्ताह कर दिया जाय क्योंकि आठ सप्ताह में गर्भ का होना साधारणतया निश्चयप्राय हो जाता

[श्री रुद्र प्रताप सिंह]

है, और उसके पश्चात् गर्भपात की स्थिति में उमकी मा के शरीर और मस्तिष्क दोनों पर कुप्रभाव होता है।

चूँकि भारत की दण्ड संहिता में यह विधेयक सम्बन्ध रखता है और यह दण्ड संहिता जम्मू और काश्मीर पर लागू नहीं है इस कारण से इस विधेयक को जम्मू और काश्मीर पर लागू किया जाता सम्भव नहीं है। मैं सरकार से इस बात का अनुरोध करना चाहता हूँ कि ऐसी व्यवस्था की जाय जिससे हमारी दण्ड संहिता जम्मू और काश्मीर पर भी लागू हो सके और इस में जम्मू और काश्मीर को जनता भी पूरा लाभ उठा सके। जम्मू और काश्मीर भारत का अविभाज्य अंग है और भारत का अंग होने के नाते वहाँ का जनता का गर्भपात सम्बन्धी विधेयक का पूर्ण लाभ भिन्न ही चाहिये।

यह विधेयक समाजवाद और प्रगति के मार्ग पर एक और महत्वपूर्ण कदम है। मुझे बहुत से माननीय सदस्याओं से उनके सम्बन्ध में वार्तालाप करने का अवसर मिला है। मैं उनसे, और विशेषकर जनसभ के भाव्यों से, रहता चाहता हूँ कि उन्हें भयभीत होने का आवश्यकता नहीं है क्योंकि हम नेता के साथ समाजवाद और प्रगति के मार्ग पर आगे बढ़ रहे हैं।

अभी तो इन्तदाये इस्क है, रोता है क्या,
आगे आगे देखिये होता है क्या।

इन शब्दों के साथ मैं इस विधेयक का समर्थन करता हूँ।

MR. DEPUTY-SPEAKER Now, we began this debate at 1.55. We have taken practically 50 minutes and still there are 10 hon. Members who would like to speak. Then there is the clause-by-clause consideration, the third reading, and the Minister is to reply. We ought to conclude this debate according to the time fixed at 3.25. I would, therefore, earnestly request the hon. Members to try to confine their speeches to five minutes each. I do not see there is any controversy at all. Why should we take too much time?

Ycs. Shri J. M. Gowder.

*SHRI J. M. GOWDER (Nilgiris) : Mr. Deputy Speaker, Sir, the Medical Termination of Pregnancy Bill seeks to give legal protection to certain kinds of abortion. Though it is a belated measure, I would like to commend it to the approval of the House. I would like also to pay my humble compliments to the hon. Deputy Minister who has shown rare courage in piloting such a social reform Bill. Of all the Ministers in the Council of Ministers, the Deputy Minister of Health and Family Planning has exhibited admirable courage in seeking the approval of the House of such an laudable legislation.

Sir, we have been spending crores of rupees on Family Planning programmes because of our unwarranted hesitancy in legalising abortion. We have so far been highly conservative in adopting such a law. Excepting in Ireland, in almost all the Western countries, there is a leading support to abortion. Even in Ireland, where the sale of contraceptives and the practice of family planning methods are prohibited, the people are so imbued with the idea of having a limited family that whenever they go out they equip themselves with contraceptives and such other family planning devices. If one is asked at the Customs Clearance Centre the woman replies that she is already having a loop insertion, and she has nothing else to declare to the Customs. Nowadays the people themselves feel the urgency and the necessity of having a small family. In our country also the Government have now filled the vacuum by bringing forward this Bill.

Sir, all of us are unanimously of the view that the prime aim of the Government is to concentrate their energies in economic activities to raise the standard of our people. The people have themselves voluntarily accepted family planning programmes enabling the Government to invigorate our sagging economy. You know, Sir, that in the absence of such a law legalising abortion we come across many suicide cases reported in the daily papers and instead of showing sympathy such cases are also being ridiculed. It is only proper that whoever is not willing to continue with pregnancy

* The original speech was delivered in Tamil

should be allowed to have abortion done and it should not be a criminal offence.

Under this Bill, powers have been delegated to the Government to frame rules. Section 6 (1) (a) of this Bill states that such rules may provide for the experience of training or both which a registered medical practitioner shall have if he intends to terminate any pregnancy under this Act. I would like to sound a note of caution here. In the rules it must be ensured that such a medical practitioner has at least ten years of experience in the field; otherwise, any novice from a Medical College getting himself engaged in this work may create many awkward and dangerous situations. I would request the Government to take note of this possibility and frame appropriate rules with a view to safeguarding the interests of people going in for abortion.

As I stated earlier, I have no doubt in my mind about the utility of this measure in our population control efforts. I am proud to state here that Tamil Nadu stands in the forefront of successful implementation of family planning programmes, even at the cost of losing two Lok Sabha seats. This Bill is very necessary and I am sure it will lead to fruitful results. The Government have to bear in mind the widespread illiteracy in our country and the predominance of rural population. It may happen that the rural people may feel shy and even frightened to go in for abortion. The Government must encourage them by regular radio broadcasts and by continuous and clear advertisements and propaganda pamphlets about the efficacy of having abortions wherever they are necessary so that the rural people shed their inhibitions.

With these words, I support this Bill.

श्री नवल किशोर सिंह (मुजफ्फरपुर) : उपाध्यक्ष महोदय, बड़ी अच्छी बात होती कि इस विधेयक का सम्बन्ध उन दो समस्याओं से होता जिनका यहाँ जिक्र किया गया है। एक तो यह कि जो मातायें किसी भी कारण से बच्चा नहीं चाहती हैं, उनको इस बात की आजादी रहती कि वे अपने को स्वतंत्र करा सकें। अगर आज जो विधेयक हम पारित कर रहे हैं उसके अनुसार कोई माता चाहे कि वह गर्भ से अपने को मुक्त कर ले तो उसे इनमें दिये हुये कारणों

से कोई एक कारण देना होगा। हम इस बात से पूरी तरह अवगत हैं कि ऐसी भी मातायें हैं जो किन्हीं न किन्हीं कारणों से, मानसिक, आर्थिक या सामाजिक, चाहती हैं कि वह गर्भ से मुक्त हों। हम इस विधेयक को पास कर के उनको कोई सुविधा नहीं दे रहे हैं। उनको कोई न कोई गलतबयानी करने को हम बाध्य कर रहे हैं। यानी या तो वह कहेंगी कि उनके साथ रेप हुआ है, यदि वे कर सकें, या वे किसी को घूस देकर इस बात की घोषणा करायेंगी कि इसका उनके स्वास्थ्य पर बड़ा हानिकारक असर पड़ने वाला है।

दूसरी बात यह है जो माननीय सदस्या श्रीमती सावित्री श्याम कह रही थीं कि हम इस में छिप कर यह बात कह रहे हैं कि हमारा इरादा है कि फैमली प्लानिंग प्रोग्राम में यह सहायक है। मेरा ख्याल है अगर हम स्पष्ट रूप से इसको इसमें रख देते और कह देते कि विधेयक का उद्देश्य यह है कि हम इसको माताओं पर छोड़ते हैं और अगर वे चाहें तो ऐसा कर सकती हैं तो यह बहुत अच्छी बात होती। लेकिन मैं मंत्री महोदय की विवशता को समझता हूँ। भारतीय संस्कृति और सभ्यता के जिस संदर्भ में, जिस पृष्ठभूमि में उनको काम करना है, उसमें थोड़ी कठिनाई उनको हो सकती है। लेकिन यह सदन उनका समर्थन करने के लिए तैयार रहेगा अगर कभी वह इस तरह का संशोधन इस सदन में लायेंगे, ऐसा मैं मानता हूँ।

दो तीन बातें और संक्षेप में हैं मैं कहना चाहता हूँ। सिलेक्ट कमेटी ने इसमें एक दो बातें जोड़ दी है जो पहले वाले ओरिजनल बिल में नहीं थी। कौन सर्जन हो पहले इसमें इतना ही था कि हूज नेम हैज बीन एंटर्ड इन ए स्टेट मैडिकल रजिस्टर। अब सिलेक्ट कमेटी ने इस में ये शब्द और जोड़ दिये हैं : and who has such experience or training in gynaecology and obstetrics as may be prescribed by rules made under this Act एम० बी० बी० एस्० कोर्स में फाइनल यीअर में इंटरनीशिप करनी पड़ती है। एम० बी० बी० एस्० पास करने वाले

[श्री नवल किशोर सिंह]

को चार प्रमुख विभागों में तीन-तीन महीने की इटर्नीशिप करनी पड़ती है। उसमें गैनीकोलोजी और आइस्टट्रिक्स की तीन महीने का प्रशिक्षण होता ही है अब कोई कोर्ट इसके माने यह ले सकती है कि विशेष प्रशिक्षण प्राप्त व्यक्ति कहा और कितने मिलेंगे? जिनमें स्पेशल ट्रेनिंग ली हो और जो एम० आर० सी० ओ० जी० हो, वही इसको करेगा तो आप क्या करेंगे। जो रूढ़ आप बनायेंगे व उसमें उसको मुद्धार नहीं कर सकते हैं। सर्वाइवेंट लैजिस्लेशन इस लैजिस्लेशन के अर्थ को बदल नहीं सकता है। मरे ह्यूल में किमी जमाने में कभी कोई बठिनाई या दिक्कत हो सकती है, इसलिए कि आप ने इस में यहाँ जोड़ दिया है। मन्त्री महोदय चाहें और उनके पास समय हो तो इसको भी वह मोच लें।

एक और आपत्ति है। सिलेक्ट कमेटी ने क्लाज 3, 2 (बी) (1) में इजरी के आगे ग्रेव शब्द लगा दिया है। इजरी ही क्या काफी नहीं था? इजरी टु हर फिजिकल आर मैटल हेल्थ ही काफी नहीं था, जो आपने ग्रेव शब्द और जोड़ दिया है? यही शब्द इजरी काफी होना चाहिए एवार्शन परमिट करने के लिए। ग्रेव शब्द जो है यह मेडीकल आफिसर्स के लिए बिल्कुल इटर्प्रेसेशन की बान है। किसी एक परिस्थिति में एक डाक्टर कह सकता है कि इट बिल काज इजरी और दूसरा कह सकता है कि नहीं, इट बिल काज ग्रेव इजरी। वैसी अवस्था में आप क्या करेंगे? ग्रेव शब्द लगाये जाने की बेरे ह्यूल में कोई जरूरत नहीं थी।

जहाँ तक एक्सप्लेनेशन 2 और सब सेक्शन 3 का सवाल है यहाँ दो लाइसेंस डाक्टरों की बात कही गई है। यह भी कहा गया है कि डाक्टर यह निर्णय करें कि माता को मानसिक यत्रणा होगी या नहीं। अब इसको डाक्टर कैसे कहेंगे। वह तो माता ही कह सकती है कि मुझे मानसिक यत्रणा होगी या नहीं होगी। यह कोई डाक्टर नहीं कह सकता

है। उसी तरह से किसी प्रेगनेंट विवेंज एक्चुअल आर रीजनबली फोरसीएबल एन-बिरनमेंट, यह निर्णय डाक्टर कैसे करेंगे। मैं समझता हूँ कि अगर डाक्टर लोगों को ऐसे असम्भव काम करने को कहा जायगा तो कर्नो वे दे लेकिन किस तरह से करेंगे यह भारतीय समाज में हेम अच्छी तरह में जानते हैं। दोनों बिल्कुल घूसखोरी वा रास्ता खोल देगे और अन्त में सरकार को महसूस होगा कि उससे भूल हो गई है। मन्त्री महोदय के पास समय बहुत कम है। अगर वह इन चीजों पर विचार भी करना चाहें तो शायद उनके पास ऐसा करने के लिए समय नहीं है। लेकिन अगर वह समझते हैं कि यह बातें उचित हैं, समीचीन हैं तो शायद कभी आगे विचार करने का मौका मिलेगा।

डा० लक्ष्मी नारायण पांडे (मदसौर) : प्रस्तुत विधेयक बहुचर्चित है। इस पर काफी चर्चा राज्य सभा और लोक सभा की संयुक्त समिति में हुई है और वहाँ अपना मत और विमत भी व्यक्त किया गया है। इस विधेयक को देखने से पता लगता है कि स्वयं विधेयक का उद्देश्य अपने आप में अस्पष्ट है। विधेयक प्राचात्य देशों की पद्धति का अनुकरण मात्र है। हमारे देश के चरित्र, साम्प्रतिक मान्यताओं एवं आचार के विरुद्ध है। माननीय सदस्यों ने कहा है कि ऐसा परिवार नियोजन वाले खड या धारा को जोड़ने की बजह से हुआ है। मैं नहीं समझता हूँ कि सरकार स्वयं अपने मन से यह स्वीकार करने के लिए आगे आई है कि हमारे परिवार नियोजन के कार्य में हमको सर्वथा असफलता मिली है, हम उसमें एक और कड़ी जोड़ देना चाहते हैं फिर चाहे द्यूबकटोमी हो या, वेस्कटोमी हो या और दूसरी औषधियों के उपाय परिवार नियोजन हेतु किये जाते रहे हों। उन सब के बावजूद यदि कोई प्रयोग सफल न हुआ हो तो जो इस में प्रावधान है उसका प्रयोग भी किया जा सकता है। प्रकारान्तर में इस विधेयक के द्वारा आप

परिवार नियोजन की कड़ी जोड़ देना चाहते हैं। मैं नहीं समझता हूँ कि इस बिल का जो उद्देश्य है वह परिवार नियोजन के कार्यक्रम को आगे बढ़ाना है या यही इसका प्रमुख उद्देश्य है। मैं यह भी नहीं समझता हूँ कि मन्त्री महोदय यह स्वीकार करेंगे कि इसके साथ परिवार नियोजन की सफलता या असफलता जोड़ी जाएगी।

जैसा कि हमें मालूम है हमारे देश के अन्दर दुर्भाग्य से ही सही लगभग पचास साठ लाख के करीब गर्भपात हर माल होते हैं जिन्हें अनिच्छापूर्वक कराया जाता है और जिन के लिए हम अनेक परिवारों को कोसते हैं। अनेक ऐसी बहनें हैं जो अच्छे परिवार या सम्भ्रान्त परिवार की होने के बावजूद किसी कारण से इन चीजों का शिकार हो कर अपनी आत्महत्या तक कर बैठती है। कुछ ऐसे लोग भी होते हैं जो स्वेच्छा से अपने परिवार को थोड़ा मुखी बनाने के लिए या अन्य कारणों से गर्भपात की दिशा में आगे बढ़ते हैं। लेकिन हमें विचार अवश्य करना है कि क्या हमारे देश में इस प्रकार की चीजों के लिए परिस्थितियाँ अनुकूल हैं? हमारे देश की पारिवारिक मान्यताएँ, हमारी भावनाएँ तथा सांस्कृतिक आधार इसके अनुकूल हैं।

आप तो अच्छी तरह से जानते हैं कि छोटे छोटे जो आपरेशन होते हैं चाहे नसबन्दी के हों उनके लिए हमारे अस्पतालों की क्षमता कितनी होती है? बहुत कम होती है फिर वे जिन्होंने इस तरह की चीजों को करवाया है, उन में से मृत्युएँ कितनी की हुई हैं इसके आंकड़े यदि आप अभी बता सकें तो बहुत अच्छा होगा। मैं समझता हूँ कि हजारों की तादाद में ऐसे लोगों की संख्या बताई जा सकती है कि जिन की आफ्टर केअर न होने की वजह से उन्हें कई बीमारियों का शिकार होना पड़ता है, या मृत्यु हुई है।

हमारे यहां जिस प्रकार की मैडिकल फेसिलिटीज हैं, जिस प्रकार के अस्पताल हैं, जिस प्रकार से महिलाओं के आप्रेशन होते

हैं, प्रेगनेंसीज के बाद उनकी जो दशा बिगड़ती है, उसके बारे में यदि आप पहले चिन्ता करते तो ज्यादा अच्छा था। आपने इसमें कहा है कि अगर पांच मास का गर्भ हो तो उसको भी गिराया जा सकता है। यह बहुत खतरनाक और मेजर आपरेशन होता है जिस को सामान्यतया किसी ऐसे स्थान पर नहीं किया जा सकता है जो उसके अनुकूल न हो। बनर्जी साहब ने कहा है कि लक्ष्य इस विधेयक में भी बनाया गया है कि कोई स्थान जो तत्समय सरकार द्वारा इस अधिनियम प्रयोजन के लिए अनुमोदित हो, यह व्यवस्था इस में की गई है और ये शब्द रखे गए हैं। लेकिन आप की चलती फिरती गाड़ियाँ हैं जो वैसिकटोमी करती फिरती हैं और जहाँ कहीं भी देखो कैम्प लगाकर खड़ी हो जाती है। उसके दुष्परिणाम हमने देखे हैं। कितनी मानायें और बहनें इस कारण से ...

MR. DEPUTY-SPEAKER: Tubectomy and vasectomy do not come under this; they are part of family planning.

डा० लक्ष्मी नारायण पांडे : इस में फेमिनी प्लानिंग जोड़ा गया है। इसमें कहा गया है जहाँ किसी विवाहित स्त्री या उसके पति द्वारा बच्चों की संख्या सीमित रखने के प्रयोजन से उपयोग में लाई गई किसी प्रयुक्ति या व्यवस्था की असफलता के फलस्वरूप कोई गर्भ हो जाए वहाँ ऐसे अवांछित गर्भ के कारण होने वाले मनस्ताप के बारे में यह उपधारणा की जा सकेगी कि वह गर्भवती स्त्री के मानसिक स्वास्थ्य की गम्भीर धति है। हमारे यहां मैडिकल फेसिलिटीज की कमी है, डाक्टरों और अस्पतालों की कमी है और अस्पतालों में साधनों की कमी है। अगर सरकार का ध्यान उन की तरफ जाये, तो ज्यादा अच्छा होगा। साथ ही देश में चरित्र निर्माण की दिशा में जो ध्यान आपका हार्ना चाहिये वह भी नहीं है।

15 hrs.

जहाँ तक गर्भपात का सम्बन्ध है, उस का निर्णय केवल डाक्टरों के गुड फेथ-सद्भाव-

[डा० लक्ष्मी नारायण पाण्डे]

पर नहीं छोड़ देना चाहिए। आखिर सद्भाव की परिभाषा क्या होगी? हम आये-दिन देखते हैं कि डाक्टरों पर आक्षेप लगाये जाते हैं कि अमुक डाक्टर ने मनमाने तौर पर काम किया है, उस ने जान बूझ कर मार डाला है, अगर थोड़ी सी सावधानी बरती जाती, तो मृत्यु न होती, आदि। मैंने ऐसे कई प्रकरण सुने हैं उदाहरण के लिये मैं बताना चाहता हूँ कि ऐपेंडिसाइटिस के आपरेशन के दौरान आर्टरी-फारसेप भूल से मरीज के पेट के अन्दर रह गई और उसकी मृत्यु हो गई। जब शमशान भूमि में उसको जलाया गया, तो आग की गर्मी से वे उछल कर बाहर आ गयी। इस तरह की असावधानी की रोकथाम के लिए व्यवस्था की जानी चाहिए।

मुझे यह देखकर आश्चर्य होता है कि यहां पर जितने भी बिल आते हैं, उन में लिखा होता है कि वे जम्मू-काश्मीर को छोड़ कर सारे भारत में लागू होंगे। इस बारे में जो सांविधानिक बाधा है, उस को दूर करना चाहिए। जब सरकार अनेकानेक संविधान (संशोधन) विधेयक लाती हैं और उन को पारित करवाने का प्रयत्न करती हैं, तो फिर जम्मू-काश्मीर के बारे में इस सांविधानिक कठिनाई को दूर करने के लिये संविधान में संशोधन करने के मार्ग में क्या रुकावट है। जब हम जम्मू-काश्मीर को अपने देश का एक अंग मानते हैं, तो संविधान में आवश्यक संशोधन करके सब बिलों को वहां लागू करना चाहिए।

विवाहित महिलाओं और उन के पतियों को भारतीय दंड विधान की धारा 312 के अन्तर्गत गर्भपात करने के सम्बन्ध में पहले ही संरक्षण प्राप्त है। लेकिन अविवाहित महिलाओं को न तो उस धारा के अन्तर्गत और न इस बिल में कोई संरक्षण दिया गया है। अगर इस बिल में उनके संरक्षण की कोई व्यवस्था हो पाती, तो यह बिल आपके कथना-

नुसार ज्यादा उपादेय हो जाता और इस का महत्व ज्यादा बढ़ जाता।

मुझे आशा है कि मैंने मेडिकल फेलिटीज की कमी और चिकित्सा व्यवसाय के बारे में संक्षेप में जो बातें कही हैं, मन्त्री महोदय उनकी तरफ ध्यान देंगे। संयुक्त समिति के प्रतिवेदन में एक माननीय सदस्य ने मिनट आफ डिमेंट में साफ कहा है कि इस बिल को बिल्कुल परिवार-नियोजन का एक उपक्रम बनाने का प्रयत्न किया जा रहा है। यदि ऐसा है, तो इस बिल का कोई उपयोग और उपादेयता नहीं होगी। साथ ही मैं यह भी कहना चाहूंगा कि इस भौतिकवादी युग में यदि हमारी चारित्रिक एवं सांस्कृतिक मान्यताओं का भी ध्यान रखा गया होता तो अच्छा होता।

मन्त्री महोदय ने कहा है कि अभी इस बिल को लागू करने में अभी विलम्ब है, क्योंकि इसके अधीन नियम और उपनियम बनाने होंगे। मैं समझता हूँ कि इस सदन में माननीय सदस्यों ने जो विचार प्रकट किये हैं, अगर उनको ध्यान में रखते हुए नियम और उपनियम बनाये जायेंगे, तो यह बिल ज्यादा हितकारी सिद्ध होगा। अंत में पुनः उन विमति टिप्पणियों की ओर भी आपका ध्यान आकर्षित करना चाहूंगा जिनमें माननीय सदस्यों ने अपने तर्क प्रस्तुत करते हुए इस विधेयक के बारे में अपने विचार व्यक्त किये हैं।

MR. DEPUTY-SPEAKER: We should have passed this Bill by 3.25 p.m. But from the list of speakers I do not think it would be possible to do that. In view of that, what should we do?

SHRI VIKRAM CHAND MAHAJAN (Kangra): Increase the time by one hour.

MR. DEPUTY-SPEAKER: Since it is the pleasure of the House that the time should be extended. I would extend the debate up to 4 p.m., when we should complete all the stages and pass the Bill.

SHRIMATI LAKSHMIKANTHAMMA (Khammam) : Mr. Deputy Speaker, Sir, I welcome the Medical Termination of Pregnancy Bill. This Bill was long over-due and many countries in the world have already passed the Bill legalising abortion. Sir, in our epics we read that Vishwamitra and Menaka had a love-affair and a child named Shakuntla was born. The child Shakuntla was thrown in wilderness and Kanva Maharishi saw the child, took the baby and tended it with mother's affection. There was another incident. Recently we read in papers that a four month old pregnant British woman Member of Parliament called a press conference and announced that she is pregnant but refused to tell who was responsible for it and said that my morals are my private affair and her Party has agreed to give her party ticket and support her in the next elections.

15.07 hrs

[SHRI K. N. TIWARI in the Chair]

Sir, what I have been saying is neither have we Kanva Maharishi to tend to discarded children nor is our society so forward—we are politically forward but socially we are backward—so as to say like the British woman Member of Parliament that my morals are my private affair.

Sir, it is not as though only unmarried women have been seeking abortion. According to the Report either of U. N. or Health Ministry 87% to 95% of abortions are among married women due to economic, social or other causes. Sir, this is what the survey revealed. The survey was conducted in a number of institutions here and abroad. As some Members have already pointed out either you legalise abortion or leave the fate of a woman in the hands of the quacks because the medical practitioners refuse to undertake this because of fear of illegality. Then the women go to the quacks where they are treated. Somebody said even they treat their dogs very carefully but not the lives and body of a woman who goes to these quacks. So, mostly it is a play with death. Because of these quacks there is so much of mishandling of the whole thing and there is lot of bleeding. I myself know a number of instances where a woman having six to seven children because she is so nervous of getting another baby goes to these quacks and there

she gets abortion and later when she goes home there is no medical help and lot of bleeding and the mother dies leaving these six or seven children. Leave aside the baby that is to come the children that are living are made destitute.

Our friend here, I am told, is an advocate and he has brought to the notice of the House certain lacuna in the Bill. I hope, the Ministry will take note of this lacuna and see that it is amended properly.

When you legalise abortion, you should have more facilities, because a number of people may be going to hospitals for seeking help. So, you should provide more facilities.

Some argue that children are a treasure. Nobody questions it. For the mother they are more so. But what can she do? Should she bring up a child and make it suffer?

To the moralists the words of Edris Rice-Wray, Director of the Maternal Health Association Clinic, Mexico City, is the answer. He says :—

“I would like to challenge all those of good conscience to an act of imagination. Go in straight to spend 24 hours in a poor house with many children. Sleep on the floor with meagre food, cockroaches and rats around, lack of sanitary facilities and absence of privacy. Share the desperation of the mother who cannot provide enough for the child and yet carries another in her body. Do you think you can deny her the right to control her destiny?”

With these words, I support the Bill.

DR. MELKOTE (Hyderabad) : Mr. Chairman, I stand to register my name as one of the supporters of this Bill. As a person who had practised the medical profession for some years I heartily welcome it.

In the present day world the norms of conduct have been tremendously changing. Ideas that existed a few generations back do not exist today. This Bill has brought before us the necessity for a change according to the changes that the social structure is undergoing now.

The Bill envisages two things. One is to prevent an unnecessary child from coming into existence and the other is to prevent an unwanted child. There is a big difference between

[Dr. Melkote]

these two. An unnecessary child not coming is what family planning is trying to accomplish. In the event of a failure there, what is the remedy? The second is that a number of women who become pregnant do not want it. There is a social stigma. They go to a medical practitioner. The legal remedy is not there. The medical practitioner cannot terminate the pregnancy. Therefore, this Bill tries to overcome some of those defects which prevent a medical man from undertaking a remedy for the patient that comes to him.

I have been the President of a founding home and I have seen the misery of these women who come and join there. They cannot face their families and the baby. They do not want an unwanted child. Society does not care sufficiently about them.

The other aspect of the question is that according to the present day idea we are trying to control the population explosion.

Both these aspects of the question are very well taken care of in this Bill. If some hon. Members have pointed out legal flaws in this case, I am quite sure that the Minister will look into it. But many of the things that have been mentioned, for example, the place where pregnancy could be terminated and all those things, could be brought under the rules and regulations which, I understand, the Government is going to formulate. I personally feel that the Bill is most welcome in the way it has been brought here because this is a big experiment that we are making. What would be the psychological effect on the mother herself in later years? What would be the effects that may take place on account of the mental factor on the new off springs that may come up later? These are things on which the world over the biologists have been experimenting. It is too early for anybody to speak anything about it. As such, it is not merely in India but the world over such experiments are going on but many these things for which there is no remedy to-day and with which the society has been going on, we are likely to overcome them. Therefore, I give my whole-hearted support to this Bill.

Thank you, Sir.

SHRI BISWANARAYAN SHASTRI
(Lakhimpur) : I support this Bill. While

supporting the Bill, I would like to make a few observations.

This Bill provides for the termination of certain pregnancies by registered medical practitioners. There is scope for interpretation as to who will be these medical practitioners and the hon. Minister in his speech mentioned about it. I am sure when rules and regulations are framed, under the Act, they will be so framed that there will be no scope for interpretation as they like.

This Bill, I think, should not be viewed as some sort of a family planning measure, it has much more social significance than that. It reflects the attitude of the Government to the society which is changing. Therefore, the Bill has to be viewed as to how much it has a bearing on our society so far as social, moral and other aspects are concerned. What would be the attitude of the Government in such a situation to the individual or the society at a given circumstance? I am of opinion that the Government should help every individual of the society to enable him to go about such measures which will be beneficial to society and to the individual. Therefore, Government can do a lot by introducing such social measures acceptable to the people to achieve the desired goal.

Some people have objected to this Bill on the traditional grounds that it goes against Indian concept of life. I say that those who object to it have not fully understood the Indian culture. Indian culture has never permitted such things which go against the society and the welfare of the human being. Therefore, in the Mahabharata it is stated :

राजा कालस्य कारणम्

The administration or the Government can change the society and it is the King, meaning the administration, who can transform the society for the welfare of all.

In clause 3(4) (b) it has been provided :

“Save as otherwise provided in clause (a), no pregnancy shall be terminated except with the consent of the pregnant woman.”

This is all right. But so far as woman below the age of 18 is concerned, it is provided that consent of the guardian is to be obtained. Here, I would like to suggest that the consent of the-

concerned woman is to be taken into consideration. Without her consent abortion should not be performed because on the ground of doubtful age the woman may be compelled by some guardians to undergo operation for abortion. Therefore, the consent of the concerned woman and the consent of the guardian are both equally necessary in respect of a woman below the age of 18.

I would like to suggest another thing that Government should provide some facilities for such women who are destitute or who have unfortunately conceived and who will not be favourably looked upon by the society. Therefore, in the Rules and Regulations, when framed, such things may be provided that they will not find any hardship after the operation. This Bill declares the right of women over her body and therefore I support this Bill and I hope the House will accept it.

SHRIMATI MUKUL BANERJEE (New Delhi): Mr. Chairman, Sir, I support this Bill. I congratulate the State Minister for introducing this Bill.

This Bill has three clauses—on humanitarian grounds, another on health grounds and the third on eugenic grounds.

About humanitarian grounds, I wish to say that it should be a little more liberal. It has been said that only in rare cases this pregnancy can be terminated. But there may be cases where genuine mistakes are also taking place. We have seen that for economic reasons so many young girls are coming for jobs outside and they are forced to mix with the menfolk. On the one hand, we do not give them any education on sex matters and on the other they mix with the menfolk. Also, due to the Dowry System, many girls are not getting married. Every young girl cherishes the hope of having a home of her own and to be a mother. But she cannot get her hopes realised. She falls a prey of victim and of exploitation. It is due to those reasons that she becomes pregnant, not due to her fault, but to the fault of the society and also of other people. So, in such cases also this humanitarian grounds should be expanded a little more. It may be that some genuine mistakes are made. It may be that sometimes willingly also they commit some mistakes. These mistakes also should be considered and included on humanitarian grounds.

On health grounds, I do not agree with some hon. friends who said that this does not affect the failure of family planning methods. I know a genuine case. In one case one wife conceived when her first child was only 10 months old. Immediately after that, they did not like to have a baby. The husband went to a quack because his wife is not allowed under the law to have legal termination of pregnancy. So, the husband went to a quack and got medicines and ultimately the child was mutilated. Under such circumstances there is no use giving birth to a lump of mutilated living flesh. On health grounds it affects every child, every mother. Therefore, this termination of pregnancy must be allowed.

In many cases, soon after the Hindu Marriage Act was passed, many people thought that all the married women will run for divorce. But it did not happen. Considering our tradition and our society, it is not a fact that as soon as we pass this Bill, immediately all the women will run for termination of pregnancy.

The hon. Minister said that there are about 6.5 million women coming for termination of pregnancy every year. It is a conservative estimate. I know it because I have been dealing with women for 24 years. In many cases they are forced to go to quacks. Some families have to sell all their jewellery and all their money for getting them relieved from pregnancy. Considering such cases also, I support this Bill whole heartedly.

श्री राम सहाय पांडे (राजनंदगाव): सभापति जी, यह गर्भपात सम्बन्धी जो प्रस्ताव सदन में उपस्थित हुआ है मैं उसका समर्थन करता हूँ। समाज वही प्रगति कर सकता है जो आधुनिक उपादानों को स्वीकार करते हुए वर्तमान परिस्थितियों का जायजा लेने हुये आगे बढ़ता है—चाहे कितना ही इसमें कष्ट हो, चाहे कितनी ही असंस्कृति हो और चाहे कितनी ही परम्परायें टूटती हों लेकिन वस्तु-स्थिति को ओझल नहीं किया जा सकता है कम से कम समस्याओं के सन्दर्भ में।

मैं अपने सुझाव को भूल न जाऊँ इसलिए सबसे पहले सुझाव ही रखना चाहता हूँ। आपको सबसे पहले प्लानिंग कमीशन के पास

[श्री राम सहाय पाण्डे]

जा करके धनराशि स्वीकृत करानी चाहिए और उमका नाम होना चाहिए—गर्भपात योजना फड। यहा पर बहुत मे बिल्स पारित होते है परन्तु वे कार्याग्विन इसलिये नहीं हो पाते है क्योंकि उसमे पैसे की आवश्यकता होती है। तो इसलिए एक ऐमा फड होना चाहिए। और जैसी आपने अभी एक फीगर बताई कि 40 लाख महिलाओ ने गर्भपात कराया तो जब आप एक फड बना लेगे उमके बाद आपको यह करना चाहिये कि कोई भी गर्भपात कराए—चाहे वह विवाहिता हो, कुमारी हो या विधवा हो—उमको आप पुरष्कृत कीजिए, उसको सम्मान दीजिए और उसका साहम बढ़ाइये ताकि समाज के अन्दर आकर स्पष्ट रूप से वह कह सके कि हा, मैं गर्भवती हूँ और मैं गर्भपात कराना चाहती हूँ। मैं आपसे कहता हूँ कि यह जो समाज के अन्दर घुटन है, यह जो चोरी चोरी बहुत सारे काम होते है वे सब बन्द हो जायेंगे। लेकिन समाज का सम्मान धनराशि की तुला पर आका जाता है। आप कहेंगे कि बिल पास करने के बाद ताजीरात हिन्दी की दृष्टि में आप उनको सम्मान देना चाहते है तो कोई भी महिला चाहे परिवार की दृष्टि से, कोई कुमारी चाहे सेक्स की दृष्टि से और कोई विधवा .. (व्यवधान) .. अभी तो मैंने आरम्भ किया है। तो यह जो घुटन है समाज में उमको बायला-जिकल नीड या अर्ज समझ लीजिए और बड़े बड़े उपदेशो से उसको टाल दीजिए तो आपके सामने एक स्पष्ट चित्र आयेगा। आज ससार के आधुनिक देशो मे मारल फैमिक के आधार पर समाज इतना ऊपर उठ गया है कि सच्चाई से मुह नहीं मोड़ता। कोई भी काम एक्सो-ल्यूट सच नहीं है और कोई भी काम एक्सो-ल्यूट बुरा नहीं है—रिलेटिव टर्म में देखा जाये तो ... (व्यवधान) .. जो विवाह की प्रथा है वह भी एक बहुत पुराना इस्टीट्यूशन है। प्रिमिटिव सोसायटी में कोई बात ही नहीं थी, कहा किसका किससे सम्बन्ध है, कहा

गर्भ धारण हुआ यह किसी को बताने की जरूरत ही नहीं थी। लेकिन जब हमने सोसायटी को राशनलाइज किया, आर्गोनाइज किया तब कानून भी बने और तभी सारी बातें भी पैदा हुईं। इसलिए इस श्रृंखला से जो अन्दर की बातें है उनको यदि आप सम्मान के साथ, माहस के साथ और आधुनिक दृष्टि से उनारना चाहते है तो आप उनको पुरष्कृत कीजिए। मान लीजिए किसी महिला के चार बच्चे है और पाचवे का वह एबार्शन कराना चाहती है तो आप उसको पुरष्कृत कीजिए। यदि कोई कुमारी है और वह बच्चा नहीं चाहती तो उमका आप 500 रुपया दीजिए या इसी प्रकार से कोई विधवा है तो उमको हजार रुपया दीजिए। इस प्रकार से उसका वैधव्य या उमका कौमार्य समाज की दृष्टि में मडित हो जायेगा। .. (व्यवधान) .. आप उनको पुरष्कृत करके समाज की दृष्टि में ऊपर उठाइये। .. (व्यवधान) ..

इसमें स्वास्थ्य की बात भी आती है। आपने एबार्शन तो करवा दिया लेकिन उममें न्नीडिंग भी होती है, कष्ट भी होता है तो उसको कौन रखेगा, कैसे रखेगा और उसको क्या होगा—इन सब बातों का प्राविधान आपने नहीं किया है। इसलिये उसको सम्मान दीजिए, उस को अच्छी तरह रखिये, रखने का प्राविधान कीजिए। एक फड बनाइये, उस से रुपया लीजिए और इस प्रकार का एक सम्मान दीजिये। जैसे ला मे आप ने बचन दी है, इसी तरह से सामाजिक सम्मान देने के लिये, यह देखते हुए कि ससार कहा से कहा जा रहा है, और ये जो कुठाये है, वितृष्णाये है, इन को तोड़िये। आप ने जो काम किया वह ठीक है, क्योंकि आप एक निष्कर्ष पर पहुँचे कि जो काम चोरी चोरी होता है वह खुल कर के सामने आये।

प्रकृति ने स्त्री को बड़ा कोमल और असहाय बनाया है। असहाय का मतलब यह है

कि सब कुछ कष्ट उसो को भोगना पडना हे । आदमी का तो हाल यह हे कि आग लगा कर जमाओ दूर खड़ी । आदमी ता मकर नही करता । समाज की दृष्टि मे सम्मान का धोखा हे, आर्थिक दृष्टि मे पैसा का धोखा हे और समाज की स्वीकृति का धोखा हे कोई किसी का स्वाकार नहीं करता । जब ये कुठारें टूट जायेगा तो हम प्रकार को बाने नही होगी । इसलिये ये कुठारें तोड़िये ।

मान लीजिये कोई कुमारी हे, किन्ही परिस्थितियों से उसका विवाह नही हुआ, और अगर ऐसा बात हो जाय, तो उसको सम्मान दीजिये । आप व्यवस्था ही न कीजिये, बल्कि उसको पुरस्कृत कीजिये, उस की सच्चाई पर, उस के साहम पर । जैसा अभी एक माननीय सदस्या ने कहा कि हाउस आफ कामन्स की एक महिला सदस्या, जो कुमारी हे प्रेगनेंट हो गयी । हो गयी तो हो गयी, क्या बुरा हो गया । लेकिन ब्रिटेन की सोसायटी ने उसको क्या कहा ? उस को सच्चाई का प्रीमियम दिया गया । उस महिला ने कहा कि हम चुनाव लडेंगे, लोगों ने कहा कि लड़िये, हम आप को बोट देंगे । तो सच्चाई की गरिमा को स्वीकार किया गया । मान लीजिये कोई बुरा काम कर देता हे तो वह जो एक झूठा भय हे, समाज का याथा भय हे, उस भय ने यह भी हो सकता था कि अगर वह भागनीय महिला होती तो सम्भवतः आत्म घात कर लेती, मा कुण्ड में कूद जाती । लेकिन उस ब्रिटिश महिला ने साहस के साथ कहा कि मैं किसी का नाम नहीं बताना चाहती कि किस के साथ मेरा सम्बन्ध हो गया, लेकिन यह मतय हे कि मैंने गर्भ धारण किया हे, इस का सम्मान किया जाये । सच्चाई की जिम देश में गरिमा होगी उस के नीचे जितना अधेरा हे वह स्पष्ट हो जायेगा धर्म में कहते हैं : "धारणात् लक्ष्यार्थ धर्मः" । हम धारण करते हैं, उस लक्ष्य की सिद्धि में सच्चाई का अनुसरण करें, बजाय इस के कि तमाम जो धोखी

धारणायें हे, जाते हे, जो मन्वययें हे, उन के पीछे एक घुटन पैदा कर दें ।

इन शब्दों के माय मे इस बिल का समर्थन करना ही और चाहता हे कि आप अपने पास कुछ पैसा रखिये । वरना आप कहेंगे कि हमारे पास डाक्टर नही हे, एपरेटम नही हैं, मोबाइल अस्पताल नही हे ।

SHRI D. D. DESAI (Kaira) : I support the Bill. Termination of pregnancy after a few months of conception is very risky. It is known that even in the US till very recently this problem existed and risk to life was grave. Once the Bill is passed, since there is limited knowhow within the country, I would suggest that either Government seek the help of experts from the USA or obtain the assistance of the UN experts who have been able to terminate pregnancy within a few months of conception by a new process which has been found to be completely risk-free and the woman can walk out immediately. The number of pregnancies which could be terminated is large and the expense involved is considerably less. Instead of sending our people abroad, free help from the other countries may be secured and some sort of tour programme to train our doctors should be arranged.

SHRI VIKRAM CHAND MAHAJAN (Kangra) : There can be no two opinions that women in our country had always had a bad deal. Not only this ; they have always been in shackles and for the mistakes committed by men they have been made to suffer. They have paid the price in this way for ages. I must say the present Bill is a half-way house ; it does not completely deal with the situation. It is unimaginative also though I am supporting it as it is a step on the right direction, but only a step. So far as the problem is concerned, it meets it half-way.

I would put in a few propositions to show where the Bill has blundered. Look at some of the clauses of the Bill. Explanation I to clause 3 says : "Where any pregnancy is alleged by the pregnant woman to have been caused by rape, the anguish caused" etc. On that, one can say there is sense in it. But then look at the next explanation which says : Where any pregnancy occurs as a result of failure of any

[Shri Vikram Chand Mahajan]

device or method used by any married woman" etc. One can follow that because a married woman is saved by this Bill, but what about those who are not married? If you are trying to help women, why do you leave out unmarried women are women who are widows? The object of the Bill is to prevent injury or anguish or unwanted children, or,—let me add one more thing,—you want to control the population. If this was the object, how does the exclusion of unmarried women or widows justify the object? Therefore, what I would submit is, since the Bill has not yet been passed, it should include unmarried woman and widows also. Now it includes only married woman or their husbands. That is why I call it a half-way house and that it is an unimaginative Bill, because, actually, the object is to prevent mental or physical injury or the object is to control the population. But by excluding unmarried women or widows how do you justify it?

Actually, Explanations I, II and so on are meaningless. You should have put in only one sentence saying that if a woman wants to terminate pregnancy, it should be allowed. That should have been the only line and it should have been complete. These explanation, and so fourth, running to several paragraphs would not have been necessary. As it is, it is in line with the type of hypocrisy of which we are suspect, because, when you actually want to do something, you try to hedge it with a hypocritical approach. The hypocrisy is that you want to justify the Explanations, I, II, III and so on, with words such as grave injury, mental anguish, and so forth, and giving power to one officer and taking away power from another officer; leaving it to the policemen and giving advantage to some medical officer who will charge some people more; and on the ground that it will cause grave injury and so on, they may say, "Pay Rs. 100 more and we will do it," and so on.

'The object is to help women, and why don't you say that if a woman wants termination of pregnancy she should have the right? That is why I say that the Bill, as it is, is a half-way house, because you should not have excluded unmarried woman and widows.

Secondly, you have not given complete

right to women to do away with pregnancies. Therefore, I submit that it is half-way house and it is an unimaginative Bill. But in any case I am supporting it because in any case you have made an attempt and made a good beginning which you will do well to keep up. In the circumstances, I submit that you should kindly amend the Bill now, or bring in a new amendment because you are used to bring in amendments after amendments. I hope next time you will bring a Bill, it will be a complete and proper one.

*SHRI M. M. JOSEPH (Permade): Mr. Chairman, Sir, I rise to oppose this Bill which seeks to legalise abortion with all might at my command. I oppose it not only on my behalf, but on behalf of my party—Kerala Congress. Keeping in view the fact that this Bill will destroy the great human values cherished by this country for the last thousands of years and also due to the fact that this Bill will mark the end of all moral values, I view it as a grave challenge posed to the concept of greatness of human life. Therefore, I strongly oppose this measure.

Sir, the reasons stated in this Bill for the termination of pregnancy are mere childish. First it is stated that if the medical practitioner is of opinion that there is a substantial risk that if the child were born it would suffer from such physical or mental abnormalities as to be seriously handicapped. According to another provision pregnancy can be terminated if it causes grave injury to the mental health of the pregnant woman. If pregnancy occurs as a result of the failure of any family planning device or method used by the married woman, according to the bill it can be terminated. Sir, I sincerely believe that any of these provisions can be applied in any of the innumerable cases of pregnancy. It is stated that if the child is likely to be handicapped, if born, termination of pregnancy can be resorted to. In ancient Sparta there was a law according to which they could kill handicapped children. Here, the Government seeks to out do that cruelty committed by Spartans, through this Bill. Sir, I am opposing this Bill. I think I am the only man who opposes the Bill. So to oppose the Bill atleast I hope that you may give a few more minutes. Sir, I ask whether

*The original speech was delivered in Malayalam.

there were no children in the world who were not handicapped. Have not the world benefited by them? I remember Helen Kellar and Lord Byron in this context. The main aim of this Bill is birth control. What the Government is going to do is, to kill the unborn child in the womb of its mother itself without letting them see the light of the world just as we kill the rats in their holes. This is the most cruel and heinous act to kill the 'Rajeeves' and 'Sanjays' without allowing them to see the light of the world. It is stated in the Bill that if the pregnancy causes physical or mental abnormalities to the mother it can be terminated.

Does anyone of us cut off the head in order to cure the headache? Our medical science has advanced so much that it can cure any disease. When the medical science can cure any disease why should we resort to this most cruel act? A survey conducted recently in Japan reveals that 47 per cent of women who had undergone abortion are suffering out of several complications, such as inflammatory complications, tubal pregnancy, sterilisation, disturbance of menstrual cycle, perforation etc. In short women who undergo this process deteriorate mentally and an inferiority complex forms in their minds. Peace and rest disappear from their family life.

Sir, abortion is virtually murder. The moment the embryo enters the Uterus it gets life. It assumes all the movements and functions of life. If this bill is passed we will be giving green signal to plain murder and nothing else. The people who condemn the genocide in Bangladesh day in and day out are supporting such a measure which will help in killing lakhs of children for no fault of theirs. I am afraid that the Prime Minister Shrimati Indira Gandhi—the model of the great Indian motherhood—will have to carry the foul smell of the blood of lakhs of innocent children. It is painful that such a Bill should have been introduced to give legal sanction to the killing of lakhs of innocent children like Lady Macbeth, when the Prime Minister—the model of Indian motherhood—guides the destiny of this great country. Sir, I am concluding in a minute. This act strikes at the root of moral value. Recently a survey conducted in USSR revealed that 40 per cent of the college girls have undergone abortion. I with all sincerity do hope that the doctors will never follow in the footsteps of

the Hypocrats who swear in the name of radicalism and social transformation. This measure is against our great culture. In our Vedas the abortion is described as more cruel than *Brahman hatya*. Sir, I do not feel it necessary to repeat the words of Gandhiji, the Father of Nation, on the family planning. He may be shedding tears in the other world for his followers who are bringing in such a cruel measure.

In countries where this measure is adopted there is a growing demand that this should be reconsidered. News appeared in the press that 250 MPs in British Parliament have demanded that this measure should be reconsidered. In our country where even cow slaughter is considered to be a crime, where the great Sidhartha, who advised against the killing of even a fly, was born we introduce a measure to kill lakhs of innocent children. Sir, this should not be passed. I strongly oppose this Bill. My party opposes this Bill. Not only because I am a Christian but also being a God fearing citizen who has belief in the eternal values, our great country has cherished for the last thousands of years, I strongly oppose this Bill. Thank you.

SHRI MUHAMMED SHERIFF (Periakulam): The Medical Termination of Pregnancy Bill which provides for the termination of certain pregnancies by registered medical practitioners seems to be a simple affair on the surface, but if it is passed and acted upon, it will have far-reaching effects on human society.

The provisions of the Bill make it clear that the sponsors thereof bother themselves in the least about moral principles and standards which are the defences of the structure of human society. Neither do they appear to concern themselves with the question whether any body has got the right to do away with human life in any stage of its existence. Terminating pregnancy is undoubtedly terminating a human life, whether such termination is effected in the tenth week or twenty-fifth week of pregnancy.

The tell-tale Explanation II to Clause 3 (2) runs thus:

"Where any pregnancy occurs as a result of failure of any device or method used by any married woman or her husband for the purpose of limiting the number of children, the anguish caused by such unwan-

[Shri Muhammed Sheriff]

ted pregnancy may be presumed to constitute a grave injury to the mental health of the pregnant woman."

This Explanation makes it plain that the termination of pregnancy is sought to be deliberately adopted as one of the devices for carrying out family planning.

The artificial abortion will in reality defeat the object they have for family planning and will bring in many evils and misery in its train. The age old principle of abstinence has got several good things and advantages to its credit, and one of them is that it has a sure and salutary effect of limiting the family. Instead of adopting such a principle and method, if the means provided in this Bill are adopted, it will create complications, health hazards, misery and suffering to the people of the country, not only to women but to the whole human society in the country.

This view has been put forward and stressed by eminent medical authorities who were pleased to appear before the Joint Committee on the Bill under discussion, and they have tendered weighty and valuable evidence. We cannot ignore such evidence with impunity. One of these eminent witnesses who can speak authoritatively on the subject has pointed out, among other things, that we do not even have sufficient equipment and trained personnel in our country to carry out the delicate operations contemplated by the Bill. It was insisted by the experts before the Joint Committee that such operations conducted even by specialists and experts would involve a certain amount of risk which may well lead ultimately to grave detriment to the health of the patient.

That being so, to undertake such a task with the present lack of appropriate equipment and personnel in the country will simply prove awfully more dangerous to the health and life of the people concerned. Under the circumstances, the object of the Bill cannot be attained. Success in family planning too cannot be achieved by such means.

Another very important point to be borne in mind is that the liberalisation of abortions intended by the Bill will throw gratuitous temptation and inducement before our innocent and

dear young ones, and thereby the moral fibre so necessary for nation-building will be sadly undermined. It is highly regrettable that the Government have not paid any heed to the powerful and cogent plea made in the Minutes of Dissent by several medical authorities of high ability and experience. I am convinced Sir, that this new measure will do immense harm to our nation and that it cannot, therefore, be supported.

THE MINISTER OF STATE IN THE MINISTRY OF HEALTH AND FAMILY PLANNING (SHRI D. P. CHATTOPADHYAYA) : Sir, I am grateful to the hon. members for offering their constructive suggestions. Even the two of 16 participants in the debate who have criticised it have offered their arguments in support of their views. If I am not able to refer to the points individually raised by them, it does not mean I do not attach any importance to those views: it is only because of shortage of time. I would refer to some points raised by more than one member and which I think are very important.

The first point is about the availability or otherwise of relief to unmarried mothers and widows under the Bill. A careful reading of the Bill, particularly the implications underlying the clauses, will make it abundantly clear that relief is available to unmarried mothers and widows. Clause 3 (4) says :

"No pregnancy of a woman, who has not attained the age of eighteen years, or, who having attained the age of eighteen years, is a lunatic, shall be terminated except with the consent in writing of her guardian."

It has to be read with (h) which says :

"Save as otherwise provided in clause (a), no pregnancy shall be terminated except with the consent of the pregnant woman."

So, the limitation is imposed only in respect of madness and age. A woman who is not a lunatic or a minor is supreme in deciding upon whether she will or will not terminate her unwanted pregnancy. So, the point persistently raised has been answered, if not in so many words, certainly by implication.

With reference to clause 4 (b), Mr. Banerjee expressed an apprehension whether any place, including Parliament, will be used as a place for performing the terminatory operation. I assure him it will not be. I think he will appreciate that clause 4 (b) has been inserted only having in it view that in remote rural areas, hospitals and primary health centres may not be available in all cases, although we have covered a very large area even in rural areas by primary health centres. Even where these centres are there, the sort of medical practitioner envisaged in terms of clause 3 (1) may not be available.

SHRI S. M. BANERJEE : It says .

"a place for the time being approved for the purpose of this Act by Government."

Who is going to approve it and how and in what circumstances ?

SHRI D. P. CHATTOPADHYAYA : Unless Government becomes mad or stupid, it will not allow every place, including Parliament, to be used as an operation theatre. Obviously when the rules are framed, the apprehension raised by him will be considered. Any Government worth its name has its professional people to advise which is an appropriate place from the medical point of view.

The third point is that this law has not been contemplated to be applicable to Jammu and Kashmir as well. It has been already pointed out by me that this law makes a sort of modification of section 312 of the IPC. When IPC is not extended to Jammu and Kashmir, the question of application of the modification of this section does not arise. But I can assure this House, and the hon. Members would be rather glad to know it, that an almost identical law analogous in effect is at the moment before the Legislative Assembly of Jammu and Kashmir. So, all the legal relief that will be available to the Indian womenfolk will be available to the womenfolk living in Jammu and Kashmir as well. This technicality does not make it impossible for the relief being made available to the womenfolk in Jammu and Kashmir.

It has also been asked by several hon. Members whether this Bill is designed to be a family planning measure. I do assert that it is not. It is not a circuitous measure to intro-

duce family planning by the backdoor. It is true that a Bill of this scope and importance, when enacted, might have some marginal effect. I emphasize that it is only marginal effect. It does not mean that it is primarily a measure for family planning. It is not.

An hon. Member has suggested that we might have a termination of pregnancy fund and we may approach the Planning Commission in this respect. I very much respect his eagerness to see that this law and its provisions are put to use and the benefits which accrue from the law are made available to the people. But I think the suggestion is rather unrealistic, because the acceptability or otherwise of the provisions of law does not depend primarily upon funds. Of course, money is necessary but the success of this legislation depends more on propaganda and acceptability. The social milieu and that sort of attitude is necessary for the acceptance of this law. Mere availability of funds would not go to the root of the problem. I do not think funds will even touch the fringe of the problem. We should encourage and make the people aware that there is this sort of benefit which was not hitherto available to them. So, what we need is massive propaganda.

We often forget that many laws which are otherwise progressive are not taken advantage of because they are not known to the rural folk. This law can be made successful if all of us, or the people who are known to us, tell the rural people that they can take advantage of the benefits of this Bill.

SHRI S. M. BANERJEE : This is the only law which is going to be successful.

SHRI D. P. CHATTOPADHYAYA : I doubt, unless we take appropriate measures to make the people aware that there is a law like that.

There are some other views which have also been aired. Some people argued whether marriage is an essential institution. It is a very radical question. There are some people who believe that there was a time when society was without marriage and perhaps there is going to be a time when there will be no marriage. It is a very fundamental question. It is a theoretical question. It is said that there might be a society without marriage, so why insist on consent of the husband ? Why should

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the benefit of this law not be made available to the womenfolk if there is failure of the traditional contraceptive? I say that this is a radical attitude which, though appreciable is not practicable.

Similarly, a question was raised that in the name of morality or in the name of eternal value, we should not allow this law to be used as an instrument of feticide comparable to the genocide of Bangladesh. An hon. Member said that the introduction of this Bill would entail feticide and that sort of thing. Now, I do not know what eternal value means. While we cannot neglect social values, we cannot also overlook the situation created by unwanted pregnancy, pregnancy created by pressure of circumstances, where women have fallen a victim to it circumstantially, when they are not prepared for it otherwise. So, Sir, in the name of eternal values we should not encourage a fossilised sort of attitude. Somebody has said this is a half-way house. As I have already said, unless the social milieu is prepared to accept this progressive line it is no use foisting it upon people. We do not claim it to be a very radical piece of legislation but, I think, if it is accepted and acted upon by the masses it will go a long way towards the emancipation of the women of India. With these words I urge that the Bill be approved and passed.

16 hrs.

MR. CHAIRMAN : The question is :

"That the Bill to provide for the termination of certain pregnancies by registered medical practitioners and for matters connected therewith or incidental thereto, as passed by Rajya Sabha, be taken into consideration."

The motion was adopted.

MR. CHAIRMAN : We shall take up the clauses. There are no amendments. So, I shall put all the clauses together. The question is :

"That clauses 2 to 8 stand part of the Bill"

The motion was adopted.

Clauses 2 to 8 were added to the Bill.

Clause 1, the Enacting Formula and the Title were added to the Bill

SHRI D. P. CHATTOPADHYAYA : I move :

"That the Bill be passed".

MR. CHAIRMAN : The question is :

"That the Bill be passed"

The motion was adopted.

16 03 hrs.

GUJARAT STATE LEGISLATURE
(DELEGATION OF POWERS) BILL

THE MINISTER OF STATE IN THE
MINISTRY OF HOME AFFAIRS (SHRI
K. C. PANT) : Sir, I beg to move :

"That the Bill to confer on the President the power of the Legislature of the State of Gujarat to make laws, as passed by Rajya Sabha, be taken into consideration."

The House is aware that in the proclamation dated 13th May, 1971, in relation to the State of Gujarat, the President has declared that the powers of the State Legislature shall be exercised by or under the authority of Parliament. However, in view of the otherwise busy schedule of the two Houses, it would be difficult for Parliament to deal with the various legislative measures that may be necessary in respect of the State. There would be particular difficulty in situations requiring emergent legislation. The Bill, therefore, seeks to confer on the President the power of the State Legislature to make laws in respect of the State. It has been the normal practice to undertake such legislation in relation to the States under the President's rule and the present Bill is on the usual lines. Provisions has been made for the constitution of a Consultative Committee, consisting of Members of Parliament, which will be consulted before enacting laws in respect of the State of Gujarat. Provision is also being made to empower Parliament to direct modifications in the laws made by the President, if considered necessary.

I request the honourable House to accept the legislative proposal before it.

MR. CHAIRMAN : Motion moved :

"That the Bill to confer on the President the power of the Legislature of the State of