

# Vote of Thanks

*S. N. Jain\**

It is my pleasant task to propose a hearty vote of thanks on behalf of the Indian Law Institute. We are grateful to Hon'ble Mr. Justice H. R. Khanna for inaugurating the present Seminar on "The Hindu Marriage Act and the Special Marriage Act". He has highlighted several problems and has provided much intellectual food for thought. He has pithily described the crux of the marriage law when he has stated that divorce is consequence of failure or fault of both the spouses, and the remedy of divorce could itself become a cause of divorce since the opportunity of release helps to weaken the marriage tie and marital stability. He has created an awareness of some of the important areas for study like the limping marriages and family courts which we had failed to take due note of. He is a great judge and an eminent jurist. As one who has pursued his several judgments, I may say that his judgments reflect deep learning and high scholarship and his consciousness that law is an instrument for serving the best interests of the society rather than a sterile dispute-solving device. It is indeed kind of him to have accepted our request to inaugurate the Seminar. We are obliged to Mr. Justice Deshpande also for delivering the Welcome Address. He is well-known for his erudite legal writing outside his judicial work. He has contributed a number of articles in the leading law journals including several articles in the *Journal of the Indian Law Institute*. Recently, he brought out a book, *Judicial Review of Legislation*, for which he deserves the compliments of the entire legal community. We are also thankful to the participants of the Seminar who have come from all over the country, some from far flung places like Kerala.

Hindu legal system is the proud possessor of what Mayne calls "the oldest pedigree of any known system of jurisprudence". Some of its old forms and texts still regulate the family lives of over fifty-five crores of people from Kashmir to Cape Comorin in the Indian Union. In spite of its antiquity and religious origin the system has been adapting itself to changing social conditions. It was in this process of liberal adaptation that *shrutis* gave way to *smritis* and the *smritis* to commentaries and digests. In British India the law settled by the commentaries and digests was off and on reform-

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ed by legislation. Just before the advent of independence, growing social consciousness in the community led to the Hindu Code movement. In the fifth year of the Republic, Parliament enacted the Hindu Marriage Act, 1955 to be applicable to the entire Indian population except the Muslims, Christians, Parsis and Jews. A law which regulates marriage and divorce among nearly 80 per cent of the citizens undoubtedly forms a very important part of the national statute book. The Law Commission of India has rightly stated that :

The significance of the Hindu Code at its revolutionary character lies in the fact that, by passing the four Acts, Parliament has emphasized that personal law is a social and secular matter and not a part of religion properly so called. These four Acts thus constitute the first decisive step in implementing the important Directive Principles enshrined in Article 44 of the Constitution.

The Hindu Marriage Act has now been in operation for about 20 years. Those who have availed of, applied or studied, the Act, have felt the necessity of its further improvement. In particular, the principles of divorce and other matrimonial remedies under the Act have, in the recent past, been the subject of lively debates. The recent Law Commission report on the subject is indicative of the need for reform in this branch of the law.

The Special Marriage Act contains the first secular law of India relating to marriage and divorce which any Indian could make use of, irrespective of his religion, caste and creed. The nation has now completed two decades of experiment with this law also. Experience has revealed lacunae in several provisions of the Act. Efforts have to be made to remove them and to turn the Act of 1954 into an ideal secular marriage law which can expedite the movement of the Indian Society—now adhering to divergent family law — towards the era of a uniform civil code.

This Seminar has been convened to elicit expert opinion on the working of both the Hindu Marriage Act as well as the Special Marriage Act. Recently, the 59th Report of the Law Commission of India — relating to these two Acts—has been published. The participants in the Seminar will no doubt express their views on this Report but they would also discuss other aspects not covered by the Report. The importance and value of the Seminar cannot, thus, be overemphasized. About 25 papers contributed by the participants will form the basis of our discussions. The different sessions will be presided over by eminent scholars.

Let me express my thanks again to Mr. Justice Khanna, Mr. Justice Deshpande and also the participants who have responded so well to our invitation and contributed learned papers. We are also thankful to you all for associating with the Seminar by your presence this evening.