



PARLIAMENTARY DEBATES

(Part I—Questions and Answers)

OFFICIAL REPORT

VOLUME IX, 1951

(7th August to 21st September, 1951)

Fourth Session

of the

PARLIAMENT OF INDIA

1951

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CORRIGENDA

In the Parliamentary Debates (Part 1—Questions and Answers) Fourth Session of Parliament,—1951,

In Volume IX,—

1. No. 7, dated the 16th August, 1951,—

कालम ३३०, पंक्ति १०, “क्या माननीय कृपा” के स्थान पर “क्या माननीय मंत्री जी कृपा” पढ़ें ।

2. No. 8, dated the 17th August, 1951,—

(i) Col. 376, line 14 from bottom for “and” read “any”.

(ii) Col. 380, delete the existing line 13 and between lines 15 and 16 insert new line “subject. The Central Tractor Organisation”.

(iii) Col. 381, for the existing line 18 from bottom substitute the new line “ture (Shri K. M. Munshi): (a) It is”.

3. No. 12, dated the 22nd August, 1951,—

کالم ۵۳۰، آخر سے سطر ۱۲،، آخر کی بجائے ,, آخر، پڑھیں۔

4. No. 13, dated the 23rd August, 1951,—

(i) कालम ६०२, पंक्ति १८ “निर्यात” के स्थान पर “निर्यात” पढ़ें ।

(ii) Col. 612 for the existing line 4 from bottom read “July-December, 1951—January-June”.

5. No. 16, dated the 28th August, 1951,—

(i) Col. 723, line 12 for the figures “-14,86” read “ 14,86”.

(ii) Col. 727, line 8 for the figures “88,87” read “88,872”.

6. No. 19, dated the 31st August, 1951,—

कालम ८५०, पंक्ति ४ “मंगी” के स्थान पर “मन्त्री” और नीचे से पंक्ति १७ “घोर के खिलाफ” के स्थान पर “और उस के खिलाफ” पढ़ें ।

7. No. 20, dated the 3rd September, 1951,—

कालम ८९१ नीचे से पंक्ति ४, “उपया” के स्थान पर “रुपया” पढ़ें.

8. No. 22, dated the 5th September, 1951,—

Col. 1014, line 15 for the figures “36,00,000” read “35,00,000”.

9. No. 24, dated the 7th September, 1951,—

(i) Col. 1115, line 8 for the words “Laid on the Table” read “House”.

(ii) Col. 1116, line 25 from bottom for “word” read “work”.

(iii) Col. 1119, transpose the existing lines 7 and 15.

10. No. 29, dated the 15th September, 1951,—

(i) Col. 1327 from bottom line 6 for “Teteorotogical” read “Meteorological”, and line 7 for “in 3 : 2” read “is 3-03”.

(ii) Col. 1336, line 2 from bottom for “convering” read “covering”.

(iii) Col. 1343, line 7 from bottom for “by” read “to”.

(v)

11. No. 30, dated the 17th September, 1951,—

Col. 1400, line 11 from bottom *for* "RECON-" *read* "Re. CON-".

12. No. 31, dated the 18th September, 1951,—

Col. 1434, line 15 *for* "miles" *read* "mills".

13. No. 32, dated the 19th September, 1951,—

(i) Col. 1505, between existing lines 23 and 24 from bottom *insert* new line "being found with money is not".

(ii) Col. 1510, line 13 from bottom *for* "July, 1951" *read* "1st July, 1951".

PARLIAMENT OF INDIA

The Speaker

The Honourable Shri G. V. Mavalankar.

The Deputy-Speaker

Shri M. Ananthasayanam Ayyangar.

Panel of Chairmen

Pandit Thakur Das Bhargava.

Shrimati G. Durgabai.

Shri Prabhu Dayal Himatsingka.

Sardar Hukam Singh.

Shri Manilal Chaturbhai Shah.

Secretary

Shri M. N. Kaul, Barrister-at-Law.

Assistants of the Secretary

Shri A. J. M. Atkinson.

Shri N. C. Nandi.

Shri D. N. Majumdar.

Shri C. V. Narayana Rao.

GOVERNMENT OF INDIA

Members of the Cabinet

- Prime Minister and Minister of External Affairs—The Honourable Shri Jawaharlal Nehru.
Minister of Education—The Honourable Maulana Abul Kalam Azad.
Minister of Home Affairs—The Honourable Shri C. Rajagopalachari.
Minister of Defence—The Honourable Sardar Baldev Singh.
Minister of Labour—The Honourable Shri Jaggivan Ram.
Minister of Health—The Honourable Rajkumari Amrit Kaur.
Minister of Law—The Honourable Dr. B. R. Ambedkar.
Minister of Works, Production and Supply—The Honourable Shri N. V. Gadgil.
Minister of States, Transport and Railways—The Honourable Shri N. Gopalaswami Ayyangar.
Minister of Commerce and Industry —The Honourable Shri Hare Krushna Mahtab.
Minister of Food and Agriculture—The Honourable Shri K. M. Munshi.
Minister of Natural Resources and Scientific Research—The Honourable Shri Sri Prakasa.
Minister of Finance—The Honourable Shri Chintaman Dwarkanath Deshmukh.

Ministers not in the Cabinet

- Minister for the purposes of agreement between the Prime Ministers of India and Pakistan of the 8th April, 1950—The Honourable Shri C. C. Biswas.
Minister of State for Transport and Railways —The Honourable Shri K. Santhanam.
Minister of State for Information and Broadcasting—The Honourable Shri R. R. Diwakar
Minister of State for Parliamentary Affairs—The Honourable Shri Satyanarayan Sinha.
Minister of State for Rehabilitation—The Honourable Shri Ajit Prasad Jain.
Minister of State for Finance—The Honourable Shri Mahabir Tyagi.
Deputy Minister of External Affairs—Dr. B. V. Keekar.
Deputy Minister of Commerce and Industry—Shri Dattatraya Parashuram Karmarkar
Deputy Minister of Defence—Major General Himatsinhji.
Deputy Minister of Works, Production and Supply—Shri S. N. Buragohain.
Deputy Minister of Food and Agriculture—Shri M. Thirumala Rao.
Deputy Minister of Communications—Shri Raj Bahadur.

THE
PARLIAMENTARY DEBATES
(Part I—Questions and Answers)
OFFICIAL REPORT

1513

1514

PARLIAMENT OF INDIA

Thursday, 20th September, 1951

*The House met at Half Past Eight
of the Clock.*

[MR. DEPUTY-SPEAKER in the Chair]

ORAL ANSWERS TO QUESTIONS

PLANE CRASH NEAR POONA

*1164. **Shri Sivan Pillay:** Will the Minister of Defence be pleased to state:

(a) whether the court of enquiry ordered to investigate into the cause of the Indian Air Force plane crash near Poona on the night of 20th August, 1951 has submitted its report; and

(b) if so, what was the cause of the accident according to the report?

The Deputy Minister of Defence (Major-General Himatsinhji): (a) No.

(b) Does not arise.

Shri Sivan Pillay: Apart from the report of the court of enquiry, is the Deputy Minister in a position to give details of the circumstances and the probable causes of the accident according to the first reports received by the Ministry?

Major-General Himatsinhji: Since the answer was prepared, we have got further information from the Air Headquarters. A court of enquiry was assembled to conduct an investigation into the cause of the accident. Its report was unfortunately delayed as proceedings had to be reopened after the enquiry was completed on fresh evidence coming to light. The report, together with its findings, is expected in the Ministry within a few days.

The only further information I can give is that in Poona on the 20th of August, 1951 a Liberator aircraft was

destroyed as it came down. It was carrying out a routine night flying sortie and all the eleven occupants, including the crew of five officers were killed. We hope to get the full report in a few days.

Shri Sivan Pillay: May I know, Sir, whether, as a rule, I.A.F. personnel, are provided with parachute equipment when they are in flying exercise?

Major-General Himatsinhji: Yes Sir. But from what I hear—this is unofficial—the aircraft caught fire and crashed suddenly; so there was no chance of using the parachutes.

Shri Sidhva: May I know what is the new evidence that the Deputy Minister said is forthcoming, on account of which the report of the Court of enquiry has been delayed?

Major-General Himatsinhji: When the complete findings come to us we will be able to answer that part of the question.

PAKISTAN SPIES

*1165. **Dr. Ram Subhag Singh:** Will the Minister of Home Affairs be pleased to state:

(a) whether it is a fact that some persons were arrested in Bihar on the suspicion of being Pakistani spies;

(b) whether some important and secret papers have been recovered from their possession; and

(c) the total number of such persons so far arrested in Bihar?

The Minister of Home Affairs (Shri Rajagopalachari): (a) to (c). Six persons were arrested in Bihar on the ground stated in the question during the period January to July, 1951. I cannot give the information asked for in (b).

Dr. Ram Subhag Singh: May I know, Sir, where these persons were arrested—in which towns?

Shri Rajagopalachari: I said six persons were arrested: one in Hajipur, district Muzafarpur; another in Daltonganj, district Palman; another in Dharbhanga, district Dharbhanga; another in Ghastila, district Singbhum and another in Chapra, district Saran.

Dr. Ram Subhag Singh: May I know whether Government is aware of the fact that two women Pakistani spies were recently arrested in Patna and that the names and car numbers of high dignitaries in the Government of Bihar, including Ministers, as well as plans of important and strategic bridges were found in their possession?

Shri Rajagopalachari: If the hon. Member is in possession of such information, he might as well communicate to me. That was not included in the question and I do not think that such matters should be stated in full in a question itself. If it is referred to me I shall enquire.

Dr. Ram Subhag Singh: May I know, Sir, whether the person arrested in Hajipur was in the guise of a Hindu and that the women spies about whom I just referred had tried to contact him, who is now lodged somewhere in Patna Jail, by enticing the guards and the police?

Shri Rajagopalachari: I am absolutely ignorant of the details given by the hon. Member. Such details as I have about the man arrested in Hajipur do not refer to any women. He was a member of the Pakistan Air Force. He belonged to that district originally and he was found moving there under suspicious circumstances and behaving in a particularly suspicious way. He is being prosecuted.

Shri Jnani Ram: May I know if the persons arrested are still under detention?

Shri Rajagopalachari: About the six persons, one is just now under prosecution; another has been detained under the Detention Act. He belongs to Nadia and was arrested in district Palman. The case of another man is under verification still. Yet another is also under verification. The sixth man's explanation has not been found convincing and the matter is under consideration.

Dr. Ram Subhag Singh: May I know, Sir, whether the recent derailment of a train at Motihari has been reported as a case of sabotage by Pakistani collaborators at the instance of Pakistani spies over there, with a view to derail the Gurkha military special; if so, has anybody been arrested there?

Shri Rajagopalachari: I would ask for notice of that question; but I may add that such things are bound to happen.

Shri S. N. Das: May I know whether the persons arrested belong to one particular community or several communities and whether their addresses have been traced out?

Shri Rajagopalachari: Pakistan and India have been divided according to communities and there is no particular point in mentioning the communities here. It may be assumed that they belong to one community. Sometimes it is possible that members of another community also may 'sell' themselves for such purposes, but that has not yet happened to our knowledge. They were arrested in different places and I have given the names of places where they were arrested. They belong to different places.

Sardar Hukam Singh: May I know whether all persons arrested were Pakistanis who came with that object to India or whether they include any Indian citizens suspected as accomplices?

Shri Rajagopalachari: One, as I said, was a Pakistani Air Force official. One belongs to Nadia in East Pakistan. Another originally belonged to Uttar Pradesh. His father belonged to Lucknow, his grandfather to Calcutta and his great grandfather to Uttar Pradesh. Another belongs to a village in the Dacca district. The sixth one belongs to a village in Bihar.

Shri B. K. Das: Are there reasons to believe that a regular spy ring is working throughout the Eastern and Western provinces?

Shri Rajagopalachari: When there is suspicion and fear between two neighbouring States, there are spies probably in both places.

Shri Jangde: May I know whether it is a fact that Pakistani nationals who are permitted to come to India

have carried on activities of a suspicious nature and if so what vigilance Government have kept on them?

Shri Rajagopalachari: We have to carry on with hope, courage, confidence and attention the normal business along side what we have to do on account of fear, scare, apprehension and caution.

Shri Soodhi: The hon. Home Minister just now stated that India and Pakistan were divided on the basis of communities. Is he aware of the fact that this is not the Government's or at least the Prime Minister's view? Is it his personal view?

Shri Rajagopalachari: There is a certain amount of confusion in the assumption behind the question. The division was on the basis of communities—not that we like it or that is our policy. There is no question arising as to the Prime Minister's opinion or mine. It is practically the same.

TELEVISION

*1166. **Shri Jnani Ram:** Will the Minister of Information and Broadcasting be pleased to state:

(a) whether an expert named Frank Ferrin visited India to examine the prospect of installing Television in India;

(b) if so, when and at whose cost; and

(c) what are the prospects of installing television in India?

The Minister of State for Rehabilitation (Shri A. P. Jain): (a) and (b). Government have no information except that Frank Ferrin Company of Hollywood has applied for travel facilities for five persons for filming short subjects in India for purposes of television.

(c) The possibilities of introducing television are under examination; the prospects of a television service, however, depend on availability of funds, equipment and technical personnel.

Shri Jnani Ram: May I know when the result of the examination will be known to the public?

Shri A. P. Jain: It is not possible to fix any definite date, but all efforts will be made to expedite it as much as possible.

Shri Jnani Ram: May I know the place where television will be installed first, if it is at all installed in India?

Shri A. P. Jain: That is all under examination.

Shri Amolakh Chand: May I know if Mr. Frank Ferrin visited India on the invitation of the Government of India or *sup motu*?

Shri A. P. Jain: Not on the invitation of the Government of India. The Company made a request and visas were issued.

HISTORY OF INDIAN FREEDOM MOVEMENT

*1167. **Shri S. N. Das:** Will the Minister of Education be pleased to refer to the reply to starred question No. 775 asked on the 8th December, 1950 and state:

(a) how far the work of preparing a History of the Indian Freedom Movement has progressed; and

(b) whether it is a fact that prizes have been instituted for each State by way of inducement for collecting and writing up of material?

The Minister of Natural Resources and Scientific Research (Shri Sri Prakasa): (a) Apart from exploration of some source materials, no material progress could be made on the Scheme for the compilation of the History of Freedom Movement in India for lack of funds.

(b) The proposal is under the examination of the Government of India.

श्री एस० एन० दास : क्या मैं जान सकता हूँ कि जो कमेटी इस काम के लिये बनायी गयी थी उस के सदस्यों में कोई परिवर्तन हुआ है या नहीं ?

[**Shri S. N. Das:** May I know whether there has been any change in the personnel of the Committee formed for this work?]

श्री श्री प्रकाश : जो एक एक्सपर्ट्स कमेटी बनायी गयी थी उस की एक बैठक २७ मार्च को यहाँ हुई थी और उन लोगों ने कुछ निर्णय किये थे। क्या माननीय सदस्य उन निर्णयों के बारे में कुछ जानना चाहते हैं ?

[**Shri Sri Prakasa:** A meeting of the Expert Committee that was appointed was held here on the 27th March where certain decisions were taken. Does the hon. Member want to know something in regard to those decisions?]

श्री एस० एन० दास : मैं जानना चाहता हूँ कि जो कमेटी बनायी गयी थी उसके सदस्यों में कोई परिवर्तन हुआ है या नहीं ?

[Shri S. N. Das: I want to know whether or not there has been any change in the personnel of that Committee.]

श्री श्री प्रकाश: जी नहीं, वही सदस्य हैं जो पहले थे ।

[Shri Sri Prakasa: No Sir; it is the same as it was before.]

Shri S. N. Das: May I know whether the various State Governments that were asked to supply material for this responded to the full satisfaction of the Committee?

Shri Sri Prakasa: I fear I am not in a position to answer that question on the basis of the papers that are before me.

Shri A. C. Guha: May I know the names of the members of the Committee?

Shri Sri Prakasa: The Experts Committee has for its Chairman Dr. Tara Chand, Secretary to the Government of India in the Ministry of Education. I fear the names of the other members are not with me.

श्री कृष्णानन्द राय : क्या मैं पूछ सकता हूँ कि इस काम के लिये कितने रुपये की आवश्यकता है जो कि सरकार को नहीं मिल रहा है और काम नहीं हो रहा है ?

[Shri Krishnanand Rai: May I know how much money does the Government require for want of which this work is held up?]

श्री श्री प्रकाश : इस वर्ष के लिये तख्तीना किया गया है कि ८८,२२० रुपये इस पर खर्च होंगे ।

[Shri Sri Prakasa: It is estimated that an expenditure of Rs. 88,220 would be incurred on this account during this year.]

श्री कृष्णानन्द राय : और यह इतना रुपया अभी नहीं मिल रहा है ?

[Shri Krishnanand Rai: And they are not yet getting this amount?]

श्री श्री प्रकाश : फायनेन्स मिनिस्ट्री ने इस के लिये एक लाख पांच हजार रुपये का प्रबन्ध किया है और उसी में से यह खर्च होगा ।

[Shri Sri Prakasa: The Ministry of Finance has provided a sum of rupees one lakh and five thousand out of which this expenditure would be met.]

Shri Sarwate: May I know what steps have been taken to secure the co-operation of the prominent leaders in the movement in the preparation of this history?

Shri Sri Prakasa: The Experts Committee that met on March 27 decided to get into contact with such persons as have played an important part in the struggle for freedom. What they have done in this connection, I regret, I am not in a position to state.

Shri S. N. Das: What is the total expenditure so far incurred on this account?

Shri Sri Prakasa: No expenditure has so far been incurred, so far as I can find out.

डाक्टर राम सुभाग सिंह : अभी अभी मंत्री जी ने कहा फायनेन्स मिनिटर ने एक लाख रुपये का प्रबन्ध किया है । तो क्या मैं पूछ सकता हूँ कि क्या उस एक लाख रुपये में यह पुस्तक नहीं लिखी जा सकती, यदि नहीं तो यह रुपया किसी दूसरे व्यक्ति को क्यों नहीं दिया जाता ?

[Dr. Ram Subhag Singh: The hon. Minister stated just now that the Ministry of Finance had provided one lac of rupees. May I ask whether the book is not going to be completed with the help of that amount and, in that case, why is this amount not made over to someone else?]

श्री श्री प्रकाश : जो योजना बनायी गयी है वह काफी लम्बी चौड़ी है । स्वतन्त्रता संग्राम को उन्होंने तीन खण्डों में विभाजित किया है । प्रथम खण्ड में सन् १८५८ तक, दूसरा खण्ड है सन् १८५८ से लेकर सन् १९१७ तक, और तीसरा खण्ड है सन् १९१७ से लेकर सन् १९४७ तक । जैसा कि माननीय सदस्य जानते हैं हम लोगों में इतिहास

की तरफ बहुत ज्यादा दिलचस्पी नहीं रहती, यही कारण है कि जितनी जल्दी जल्दी और जिस प्रकार से यह काम होना चाहिये, वैसा नहीं हो रहा है।

[Shri Sri Prakasa: The scheme that has been formulated is a detailed one. They have divided the struggle for freedom into three parts. The first part covers the period upto 1858; the second, from 1858 to 1917; and the third, from 1917 to 1947. As the hon. Member is aware, we usually show little interest in history and that is why this work is not progressing with proper speed and in the manner in which it ought to have progressed.]

श्री अमोलक चन्द : अभी आपने यह प्रकट किया कि इस सम्बन्ध में कोई रुपये का व्यय नहीं हुआ, तो क्या मैं शिक्षा मंत्री जी से जान सकता हूँ कि इस विषय में कोई कार्रवाई भी नहीं हुई है ?

[Shri Amolakh Chand: In view of the fact that he just stated that no expenditure had so far been incurred on that account, may I enquire of the hon. Minister of Education whether no action has been taken in that connection either.]

श्री श्री प्रकाश : जैसा कि माननीय सदस्य जानते हैं, मैं शिक्षा मंत्री नहीं हूँ, परन्तु मैं उन की तरफ से इन प्रश्नों का उत्तर दे रहा हूँ और यह सब पत्र भी मुझे कल रात को मिले जिस से कि मैं किसी से सलाह भी नहीं कर सका और रात भर इन को बोटता रहा।

[Shri Sri Prakasa: As the hon. Member knows, I am not the Minister of Education; I am only replying to these questions on his behalf. As I got all these papers only last night, I could not even consult anyone but simply kept on applying the mind to them.]

Shri Sidhva: Then why did you take it?

श्री श्री प्रकाश : जहाँ तक इन पत्रों से मालूम पड़ता है अभी तक इस सम्बन्ध में कोई कार्रवाई नहीं हुई है, सिवाय इस के कि एक्सपर्ट कमेटी की एक बैठक हुई थी

और उन लोगों ने इधर उधर कुछ पत्र व्यवहार किया है। मैं आशा करता हूँ, जैसे कि माननीय सदस्य भी आशा करते होंगे, कि यह कार्रवाई जल्दी की जायगी।

[Shri Sri Prakasa: From the information given in these papers no action in this connection seems to have been taken as yet except for the fact that the Expert Committee met once and some correspondence was done by them. However, I hope—as the hon. Members do—that this work should be expedited.]

TAXATION ENQUIRY COMMITTEE

*1168. **Shri S. N. Das:** Will the Minister of Finance be pleased to state:

(a) whether Government have come to any final conclusion regarding the appointment of a Taxation Enquiry Committee; and

(b) if so, what the decision in that regard is?

The Minister of Finance (Shri C. D. Deshmukh): (a) and (b). Government have decided that it will not be advantageous to appoint a Taxation Enquiry Committee until after the Finance Commission, shortly to be constituted, has made some progress with the investigation of the matters referred to them and after more basic data have become available in regard to national income.

Shri A. C. Guha: May I know when the Finance Commission will begin to work?

Shri C. D. Deshmukh: About the middle of next month we hope to be able to announce the constitution.

BHAKRA DIVERSION TUNNELS

*1169. **Shri Lakshmanan:** (a) Will the Minister of Natural Resources and Scientific Research be pleased to state whether any damage has been caused to the Bhakra diversion tunnels as a result of the heavy floods in the Sutlej in the month of August, 1951?

(b) If so, what is the extent of the damage caused?

(c) Has any machinery installed in the tunnel been rendered unfit by the flood?

The Minister of Natural Resources and Scientific Research (Shri Sri Prakasa): (a) and (b). Damage to the extent of about Rupees one lakh and eighty thousand was suffered on account of the floods. Out

of this Rs. 80,000 is in loss of materials and Rs. 1,00,000 in repairs to works and submerged machinery.

(c) No, Sir; but the machinery submerged under water would require opening, cleaning and refitting. Bulk of the machinery has already been put in working order.

Shri Lakshmanan: May I know the total discharge in cusecs that these two tunnels together are estimated to carry?

Shri Sri Prakasa: Does the hon. Member want to know what will be the amount of water which will be carried when the two tunnels are completed?

Shri Lakshmanan: Yes, Sir.

Shri Sri Prakasa: That scarcely arises out of this question. In any case I have not got the facts with me here.

Shri B. K. Das: May I know what time will it take to recondition these tunnels.

Shri Sri Prakasa: Both the tunnels have been de-watered and we have already started the work.

Shri Lakshmanan: May I know whether any foreign experts are on the staff of this construction work and whether there is any intention of inviting any under the Point Four Programme?

Shri Sri Prakasa: No. At the present moment we have no foreign experts here. The Punjab Government wanted to requisition the services of one American Engineer, but that has not materialized.

श्री इट : क्या माननीय मंत्री जी बतलायेंगे कि यह पानी के कारण नालियां जो बन्द हो गई हैं, उस से भाखरा डाम का जो प्रोग्राम है, उस में कोई बाधा आवेगी ?

[**Shri Bhatt:** Will the hon. Minister kindly state whether any obstacle is likely to come in the way of the progress of the Bhakra Dam Project as a result of the tunnels having been blocked up by floods?]

श्री श्री प्रकाश : नहीं, बहुत ज्यादा नुकसान भी नहीं हुआ और जैसा कि मैं ने प्रारंभिक प्रश्न के उत्तर में कहा है, अब काम पूरी तौर से जारी है ।

[**Shri Sri Prakasa:** No, Sir, the damage is not very heavy and the work, as I said in reply to a previous question, is already going on in full swing.]

Dr. Deshmukh: May I know if there was any inquiry made into the affair so as to satisfy the Government that there was no negligence?

Shri Sri Prakasa: I do not think any inquiry is called for because the river rose in sudden flood and the waters came through these tunnels. We cannot obviously enquire from the river itself as to why it overflowed.

Shri A. C. Guha: May I know if Government has taken any steps to avoid recurrence of such things happening in future?

Shri Sri Prakasa: No, Sir. We have no truck with nature and if any flood comes again, we shall have to face it.

INDUSTRIAL TRIBUNALS

*1170. **Shri A. C. Guha:** Will the Minister of Finance be pleased to state:

(a) whether industrial tribunals set up by the Government have made any recommendations about dividend limitation;

(b) whether there has been any proposal before Government for limitations of dividends;

(c) if so, to what extent; and

(d) what steps have been taken on such recommendations or reports?

The Minister of Finance (Shri C. D. Deshmukh): (a) and (b). No, Sir.

(c) and (d). Do not arise.

Shri A. C. Guha: Is it not true that some industrial tribunals have recommended that a dividend of 6 per cent. on capital and 2 per cent. on reserved fund should be paid?

Shri C. D. Deshmukh: There is no recommendation to that effect. It is possible that what the hon. Member is referring to is some basis for a particular award that they may have given.

Shri A. C. Guha: Have the Government any idea of putting any control on dividends?

Shri C. D. Deshmukh: Not at the moment, Sir. We have not proceeded further than the recommendation of the Planning Commission which is a recommendation to private industry to adopt a limitation of dividends on a voluntary basis.

Shri A. C. Guha: Have the Government taken any steps so that the industrialists may put that voluntary freeze on dividends which the Planning Commission recommended.

Shri C. D. Deshmukh: I think that this has been taken up in some of the Advisory Councils or Development Councils that have been constituted by the Commerce and Industry Ministry on the advice of the Planning Commission. This point cropped up there.

DEPOSITS WITH RESERVE BANK

*1171. **Shri A. C. Guha:** Will the Minister of Finance be pleased to state:

(a) whether it is a fact that the Reserve Bank has with it deposits from scheduled banks much in excess of statutory requirements; and

(b) if so, whether Government have considered the question of better utilisation of the money now held as idle deposit with the Reserve Bank?

The Minister of Finance (Shri C. D. Deshmukh): (a) Yes Sir, some of the scheduled banks are keeping balances with the Reserve Bank in excess of the statutory requirements.

(b) The purport of the question is not very clear. In view of the fact that the statutory balances with the Reserve Bank are withdrawable on demand by scheduled banks, the question of utilising exclusively the excess balances does not arise. Moreover, these deposits cannot be called idle deposits as they are represented on the assets side of the statement of affairs of the Reserve Bank of India by items like cash, other loans and advances, bills purchased and discounted, investments, etc. These deposits serve the object of centralising a part of the cash reserves of the banking system of the country for the purpose of regulating the credit and monetary mechanism of the country.

Shri A. C. Guha: May I know what is the total amount that the Scheduled Banks have to keep with the Reserve Bank and what is the amount that is now with the Reserve Bank?

Shri C. D. Deshmukh: The hon. Member can refer to the law on the question as regards the first part and to the weekly bulletin which is issued by the Reserve Bank for the second part. I have not got a copy of it here.

Shri A. C. Guha: The Act will only give the ratio. But what is the total on that ratio to be kept with the Reserve Bank?

Shri C. D. Deshmukh: The law does not prescribe any amount at all. I thought that the hon. Member had really the ratio in mind. Obviously no amount can be prescribed.

Shri A. C. Guha: What is the total excess that the Reserve Bank has?

Shri C. D. Deshmukh: As I explained the ratio is to be found in the Act and as regards the amount, it is in the bulletin.

Shri A. C. Guha: What is the actual excess that the Reserve Bank has with it?

Shri C. D. Deshmukh: That is a matter of calculation from time to time in regard to the distribution of the deposit between demand deposits and time deposits; it varies from week to week and it is not a fixed figure.

Dr. Deshmukh: May I know if it is a fact that the money market at the present moment is very tight and whether these excess balances being held has any relationship with it?

Shri C. D. Deshmukh: I do not think it is correct to say that the money market is tight at the moment. Money is coming back, the bank advances are falling sharply and the cash with the Reserve Bank is increasing. If the hon. Member glances at any recent return, he will be convinced that his question is based on a wrong assumption.

Dr. Deshmukh: I refer specially to the money being available for commercial and industrial purposes.

Mr. Deputy-Speaker: The hon. Minister is of a different opinion.

Mr. Deputy-Speaker: Next question No. 1176, standing in the name of Rajkumari Amrit Kaur.

The Minister of Law (Dr. Ambedkar): I am sorry, I will read the answer.

Mr. Deputy-Speaker: I suggested yesterday if hon. Ministers are answering for other Ministers, I should know whom I have to call.

Dr. Ambedkar: I am so sorry.

The Minister of Natural Resources and Scientific Research (Shri Sri Prakasa): It is the duty of the Ministry that transfers the questions to inform the Chair. The unfortunate man to whom the questions have been transferred should not be expected to carry the added burden of giving intimation.

Mr. Deputy-Speaker: I would like to know as otherwise I would not be able to call the right person.

LEPERS

*1176. **Dr. Deshmukh:** (a) Will the Minister of Health be pleased to refer to the answer given to starred question No. 1326 asked on the 8th April 1948, regarding lepers and leper-asylums in India and state whether Dr. Dharmendra who was deputed to U.S.A., U.K., South America and the Philippines has since returned?

(b) If so, what is the result of his tour?

(c) What work is he doing at present?

(d) Has the treatment of the lepers undergone any radical change since his return and if so, in what way?

(e) What steps have been taken for the establishment of a Central Teaching and Research Institute for Leprosy?

(f) Has a permanent cure as well as an effective preventive against leprosy now been discovered?

(g) If so, to what extent are the people of India benefiting from this?

The Minister of Law (Dr. Ambedkar): (a) Yes, on the 12th November, 1948.

(b) During his tour he studied anti-leprosy work carried on in the various countries he visited.

(c) He is at present the head of the Leprosy Research Department at the Calcutta School of Tropical Medicine. His activities include research, teaching and clinical work. He is also the Editor of the Journal "Leprosy in India" published by the Hind Kusht Nivaran Sangh.

(d) With the introduction of sulphone treatment for leprosy of the duration of treatment has been shortened.

(e) The Central Leprosy Institute Committee recommended the location of the institute in Madras State, by taking over and expanding the Lady Willingdon Leprosy Sanatorium at Tirumani, and the Silver Jubilee Children's Clinic, Saidapet, both in Chingleput District Madras State, on certain financial conditions being satisfied by the Government of Madras. The Madras Government did not, however, agree to the conditions. The question of locating the institute in Orissa is now under consideration.

(f) No. It is too early to assess the value of sulphone treatment.

(g) Does not arise.

Dr. Deshmukh: May I know what are the reasons why Orissa is being chosen and why Madhya Pradesh has not been chosen? Is it not a fact, Sir, that the largest number of leprosy homes are situated in Madhya Pradesh?

Dr. Ambedkar: I do not suppose that the Madhya Pradesh Government ever expressed any desire to the Central Government that that State might also be considered for the purpose of the location of the Institute.

Dr. Deshmukh: Is there any proposal before the Central Government to give any financial assistance to the asylums for lepers?

Dr. Ambedkar: I suppose wherever possible they would give assistance.

Mr. Deputy-Speaker: I can say generally when one hon. Minister answers for another Minister, with respect to supplementary questions that the hon. Member has to ask, he need not go far out of the exact question. He might try to limit and reserve these questions. I do not mean to say that they are irrelevant; they do arise but the hon. Minister cannot be expected to answer them.

Dr. Deshmukh: When another Minister answering questions for some one else happens to be a habitual affair, what are we to do, Sir?

Mr. Deputy-Speaker: Next question.

श्री जंगड़े: One question, Sir. क्या माननीय मंत्री बतलायेंगे कि डाक्टर धर्मेन्द्र जो कि यू० एस० ए०, यू० के०, साउथ अमरीका और फिलिपाईन्स भेजे गये थे लेपर्स की स्टडी करने के लिये उनके लिये कितना व्यय किया गया ?

[**Shri Jangde:** One question, Sir. Will the hon. Minister kindly state what expenditure was incurred on the tour of Dr. Dharmendra who was deputed to U.S.A., U.K., South America and Philippines to study the work being carried on there in connection with leprosy?]

Dr. Ambedkar: From the information that is at my disposal here, I find that to meet the cost of the attendance of Dr. Dharmendra at the International Leprosy Conference in Cuba and his study tour abroad, the Government of India sanctioned a sum of Rs. 17,350 to the British Empire Leprosy Relief Association. Dr.

Dharmendra's pay for the period of his deputation was however met by the Indian Council of Medical Research.

Dr. Deshmukh: Has the cost of the treatment of a patient been calculated so far as this new treatment is concerned? Is it very costly?

Dr. Ambedkar: I am unable to answer this question now. I should like to have notice.

SCHOLARSHIPS TO SCHEDULED CASTES AND SCHEDULED TRIBES IN WEST BENGAL

*1177. **Shri S. C. Samanta:** Will the Minister of Education be pleased to state:

(a) how many students belonging to the Scheduled Castes and Scheduled Tribes in the State of West Bengal have been granted Central scholarships this year;

(b) how many amongst them are new-comers; and

(c) how many applications for scholarships were received this year?

The Minister of Natural Resources and Scientific Research (Shri Sri Prakasa): (a) to (c). The hon. Member's attention is drawn to the statement placed on the Table of the House.

The statement, I find, is a very short one and with your permission I shall read it.

(a) Scheduled Castes	91
Scheduled Tribes.	17
(b) Scheduled Castes.	21
Scheduled Tribes.	12
(c) Scheduled Castes	... 373
Scheduled Tribes.	24

श्री एस० सी० सामन्त : क्या मैं माननीय मंत्री से जान सकता हूँ कि उन विद्यार्थियों को कितनी छात्र वृत्ति दी गई है ?

[**Shri S. C. Samanta:** May I know from the hon. Minister what amount has been given to such students as scholarship?]

श्री श्री प्रकाश : तीन सौ साठ रुपये से सात सौ साठ रुपये तक सालाना छात्र वृत्ति दी जाती है ।

[**Shri Sri Prakasa:** The scholarship given to them varies from Rs. 360 to Rs. 780 per annum.]

श्री एस० सी० सामन्त : क्या इस छात्र वृत्ति के अलावा उन को फीस बगैरह भी दी जाती है ?

[**Shri S. C. Samanta:** Apart from this scholarship, are they also paid any amount towards their fees etc. ?]

श्री श्री प्रकाश : छात्र वृत्ति के अलावा उन को फीस भी दी जाती है ।

[**Shri Sri Prakasa:** Besides the scholarship, their fees are also paid.]

श्री एस० सी० सामन्त : शेड्यूल्ड कास्ट के विद्यार्थियों की छात्र वृत्ति के लिये ३७३ अप्लीकेन्ट्स थे किन्तु केवल ९१ को यह छात्र वृत्ति दी जा रही है, तो क्या मैं जान सकता हूँ कि बाकी को वान्ट आफ़ फण्डस् की बजह से या कोई उन में डिस्क्वालिफिकेशन होने की वजह से उन को यह छात्र वृत्ति नहीं दी गई ।

[**Shri S. C. Samanta:** In view of the fact that of the 373 applicants belonging to the Scheduled Castes only 91 are granted this scholarship, may I know if the rest were deprived of the scholarship for want of funds or for the reason that they suffered from some disqualifications?]

श्री श्री प्रकाश : बात यह है कि आबादी की बुनियाद पर यह वृत्तियाँ दी जाती हैं और पश्चिमी बंगाल में पहले से बहुत ज्यादा वृत्तियाँ दी जा चुकी हैं, जितनी उन की आबादी है, उस के अनुपात से जितनी उन्हें दी जानी चाहिये थीं, उस से ज्यादा दी जा चुकी हैं । वास्तव में दस साल उन में से पच्चीस वृत्तियाँ ले लेनी चाहिये थीं, लेकिन पश्चिमी बंगाल की खास हालत को देखते हुये इस साल भी कुछ वृत्तियाँ दी गई हैं ।

[**Shri Sri Prakasa:** These scholarships are granted on the basis of population and already a very large number of scholarships have been granted to students from West Bengal so much so that the number has exceeded what it ought to have been in proportion to the population. In fact, twenty-five of those scholarships

should have been withdrawn this year but in view of the special circumstances obtaining in West Bengal certain scholarships have been granted to them this year as well.]

श्री जांगड़े : क्या माननीय मंत्री बतलायेंगे कि आया यह बात सच है कि उन विद्यार्थियों को जिन को एक साल के लिये छात्र वृत्ति दी जाती है, उन के परीक्षा में पास होने या फ़ेल होने के पहले उन की छात्र वृत्तियाँ रोक दी जाती हैं और यदि फ़ेल हुये तो उन को छात्र वृत्ति नहीं दी जाती ?

[**Shri Jangde:** Will the hon. Minister kindly state whether it is a fact that such scholarship as is granted for one year only is held up pending the result of the examination and if the student concerned fails, the scholarship is not paid?]

श्री श्री प्रकाश : जहाँ तक मैं जानता हूँ, ऐसी बात नहीं है, क्योंकि यदि माननीय सदस्य आंकड़ों को देखेंगे तो उन को मालूम होगा कि दरखास्तें नई वृत्तियों के लिये भी आती हैं और पुरानी वृत्तियों के जारी रखने के लिये भी आती हैं।

[**Shri Sri Prakasa:** Not that I know. The hon. Member if he only cares to go through the figures will see that the applications are received not only for new scholarships but also for the continuance of the old ones.]

श्री जांगड़े : माननीय मंत्री ने मेरे प्रश्न का मतलब नहीं समझा। मैं ने कह कि वह विद्यार्थी जिन को एक साल के लिये क्योंकि कि हर साल उनको रैन्यु करानी पड़ती है जो छात्र वृत्ति की रकम दी जाती है, तो क्या सालाना परीक्षा होने के पहले छात्र वृत्ति का हर महीने का जो इन्स्टालमेण्ट होता है, वह रोक दिया जाता है और यदि परीक्षा में फ़ेल हुए, तो क्या उस छै महीने का स्कालरशिप उन को नहीं दिया जायगा।

[**Shri Jangde:** The hon. Minister did not understand me. What I mean to say is whether that instalment of the scholarship which is given in the

later half of the year before the commencement of examination is, in the case of those students who are granted such scholarships for the period of only one year—for they have got to renew them every year,—held up before the annual examination pending the result of the examination and if the student concerned fails he is deprived of the instalment for those six months?]

श्री श्री प्रकाश : मुझे अफ़सोस है कि मैं इस प्रश्न का उत्तर इन पत्रों के आधार पर नहीं दे सकता।

[**Shri Sri Prakasa:** I am afraid I cannot reply to this question from the information given in these papers.]

PANCHET HILL DAM

*1178. **Shri Kshudiram Mahata:** Will the Minister of Natural Resources and Scientific Research be pleased to refer to the answer given to my starred question No. 4304 asked on the 19th May, 1951 and state what are the special difficulties in the case of the Panchet Hill Dam for its scheduled progress?

The Minister of Natural Resources and Scientific Research (Shri Sri Prakasa): The special difficulties in the case of Panchet Hill are that there exists a series of faults on the right bank. These have been thoroughly investigated and geological reports will be completed by 1st November, 1951. These faults require engineers with special experience to handle the project. It is expected that the construction of this project will start in October, 1952, subject to the availability of funds.

Shri Krishnanand Rai: May I know what sum has already been spent on this dam?

Shri Sri Prakasa: The Project is estimated to cost 14.03 crores. I fear I cannot say at the present moment what amount has already been spent on this particular project.

Shri B. K. Das: The hon. Minister stated that by the end of October, the investigations will be over. What is the reason why the work will be taken up only next October?

Shri Sri Prakasa: As I have tried to explain, there are various special difficulties in connection with the survey of Panchet Hill. The survey will take some time; the faults will have to be removed; special Engineers will have to be consulted as to how these faults

could be removed. Then, we can expect to take up the work in hand in a year's time.

Shri Amolakh Chand: In view of the special difficulties and the cost which may be involved and the time involved, would not the Government like to drop the project?

Shri Sri Prakasa: No, Sir. They would not like to drop the scheme, because the welfare of West Bengal very much depends upon it.

Shri A. C. Guha: The hon. Minister stated that the estimated cost of the project is 14.03 crores. May I know what sum the Government has up to now sanctioned for this project?

Shri Sri Prakasa: The Government loan—it is not exactly a grant—is for the whole project of D.V.C. for this particular portion of the project a sum of Rs. 14.03 crores is expected to be spent. I may inform hon. Members that the Government, through the kindness of the Finance Minister, has granted a sum of Rs. 4 crores more for this year. That is how we expect to take up the work of Maithon and Panchet Hill.

Shri Krishnanand Rai: May I know whether the preliminary survey that this dam could be constructed on this site was made by a foreign expert or by an Indian expert?

Shri Sri Prakasa: This was part of the original scheme and the primal Engineer was, I believe, a European; but later on, the work was done by our own Engineers.

Shri Krishnanand Rai: May I know the name of the European Engineer?

Shri Sri Prakasa: I think his name was Voarduin.

Shri A. C. Guha: Has this sum of 4 crores been sanctioned only for Panchet Hill or for both Maithon and Panchet Hill?

Shri Sri Prakasa: This particular sum is for Panchet Hill.

Shri A. C. Guha: When will this work be undertaken? Do Government expect that this work will be taken up in the next dry season?

Shri Sri Prakasa: As I said, it is expected to be taken up in October, 1952.

Mr. Deputy-Speaker: The hon. Minister has already said that. Next question. Question 1179 has been

transferred to the Minister of Commerce and Industry to be answered on the 26th. Next question.

CANTEEN STORES DEPARTMENT

*1182. **Shri Sidhva:** Will the Minister of Defence be pleased to state whether it is proposed to entrust the retail selling of articles to Armed Forces to the Canteen Stores Department of the Government of India, who are at present managing wholesale supplies only and if so, why?

The Deputy Minister of Defence (Major-General Himatsinhji): Yes, Sir. The object is to eliminate gradually the present canteen contractor system with a view to:

- (i) avoiding the middleman's profit and providing canteen goods at cheaper prices;
- (ii) ensuring more efficient canteen services to the troops; and
- (iii) providing additional amenities to the troops from the increased profits that would accrue to the Canteen Stores Department.

Shri Sidhva: Has the scheme been finalised? When is it going to be put in operation?

Major-General Himatsinhji: The scheme has been discussed and is to be brought into operation gradually, as I stated in my answer.

Shri Sidhva: Gradually? When will it start?

Major-General Himatsinhji: Very soon. The position is that we have something like 450 contractors of whom about 200 are displaced persons. We do not want to affect their business straightaway. Therefore, it will take a year or two for these people to be replaced so that they could find alternative employment. The others who may not be affected financially or otherwise may be replaced immediately.

Mr. Deputy-Speaker: Next question.

STUDY OF MILITARY SCIENCE

*1183. **Shri Raj Kanwar:** Will the Minister of Defence be pleased to state:

- (a) whether the attention of Government has been drawn to an article published on pages 4 and 15 of the 'people', dated the 1st September, 1951, under the caption "Study of Military Science in Universities—Supreme need of the Hour";

(b) if so, which of the Universities in India have courses for the study of Military Science; and

(c) what steps Government propose to take in order to stimulate the study of Military Science in Universities, colleges and other public institutions?

The Deputy Minister of Defence (Major-General Himatsinhji): (a) Yes.

(b) As far as I am aware such a course exists in Madras, Allahabad, Agra and Lucknow Universities.

(c) Government do not propose to take any steps.

Shri Raj Kanwar: Do Government propose to appoint an expert committee to go into the whole question of the study of military science in the universities and to make recommendations in that behalf?

Major-General Himatsinhji: Sir, so far the steps taken by Government are these. The Education Ministry has approached most of the universities in India out of which 14 have replied. The other replies are awaited. The Government of India had also approached outside nations and asked them what syllabus on military science is being taught and how it is carried on in their universities, and we are awaiting their replies also. When all the replies are received further consideration of this question will take place.

श्री जंगड़े : क्या माननीय सुरक्षा मंत्री बतलायेंगे कि लखनऊ और मद्रास जैसे विश्वविद्यालयों में जो सैनिक विज्ञान की शिक्षा दी जाती है उस के लिये केन्द्रीय सरकार कितनी सहायता देती है ?

[**Shri Jangde:** Will the hon. Minister of Defence kindly state what help do the Central Government give to the study of Military Science carried on in universities like those of Lucknow and Madras?]

Major-General Himatsinhji: The education in Military Science that is given in universities is through the National Cadet Corps. The Defence Department as such is not responsible for education in Military Science. The help given to these National Cadet Corps is by way of loan of the training staff and other equipment and arms.

Shri T. N. Singh: May I know whether in the preparation of the syllabus

for the Military Science in these universities, our military experts have been consulted?

Major-General Himatsinhji: Negotiations have been in progress. The N.C.C. instructors are generally of the ranks of Majors and Lt. Colonels; but we consider that they are not senior enough to teach Military Science as the subject requires higher studies. They require officers who have, for instance, passed the staff college; but we have not enough staff college trained officers to be loaned to the universities at present.

Shri Amolakh Chand: Sir, out of the 14 universities that have replied, may I know whether they all accepted the scheme or whether any of them opposed it?

Major-General Himatsinhji: It is not a question of accepting the scheme. The Government of India asked for their advice and some of them think that it is suitable and four of them have adopted the scheme. Others do not think it is advisable at present. Some have suggested the name 'Military Education' instead of 'Military Science'. I must point out that this is not a military training. They are really academic subjects included in the curriculum of the university. This does not make these students eligible to become officers, just because they are studying Military Science. It is the same as some hon. gentlemen here taking great interest in military subjects—e.g., hon. Shri Sidhva and others asking a lot of questions on Defence does not make them fit to be officers any more than these students.

Shri T. N. Singh: Do Government consider the qualifications gained as a result of this training in any way applicable to army recruitment here?

Major-General Himatsinhji: I do not see the object of this question. Those students who take up study of Military Science will be over-age for applying to the Academy by the time they finish their degree course unless they have joined the N.C.C. and have graduated and have obtained the "C" certificate in which case they are eligible to apply to the Military Academy up to the age of 24, and then they will actually have to do only one year in the Academy.

Rev. D'Souza: Has any of these 4 universities accepted Military Science as an optional subject covering the entire range of the optional subject or is it only a question of taking one or

two papers in this subject along with the other papers?

Major-General Himatsinhji: The 4 universities that I have referred to are considering the question of including this subject as an optional subject in the university curriculum.

UNESCO PUBLIC LIBRARIES MANIFESTO

*1184. **Shri S. N. Das:** (a) Will the Minister of Education be pleased to state what are the important features of the U.N.E.S.C.O. Public Libraries Manifesto, the policy enunciated in which the Delhi Public Library (a Pilot Library in Delhi) is expected to carry out?

(b) What are the latest activities in which the Delhi Public Library is engaged at present?

(c) In what way does this Library differ from any other library in India?

(d) Is there any proposal to start a Centre for training of Library Organisers in this Library?

The Minister of Natural Resources and Scientific Research (Shri Sri Prakasa): (a) and (b). A Statement is laid on the Table of the House. [See Appendix VII, annexure No. 26.]

(c) The Delhi Public Library differs from an ordinary Library in that:

- (i) it provides free service to all members of the Community particularly to neo-literates; and
- (ii) it provides much-needed assistance in programmes of fundamental education and literacy campaigns.

(d) No.

Shri S. N. Das: May I know whether this library board has been duly constituted?

Shri Sri Prakasa: Yes, Sir, the board has been duly constituted by a Resolution dated the 20th August, 1951.

Shri S. N. Das: Sir, the Government Resolution says that certain representatives of certain organisations, the Government and certain bodies would be there on the Board. I want to know whether these various organisations or the Government have selected their representatives on this Board?

Shri Sri Prakasa: That is so.

Shri S. N. Das: In what way is the financial responsibility of running this library shared by the local municipality, the Government and the U.N.E.S.C.O.?

Shri Sri Prakasa: The municipality is contributing Rs. 25,000 and the Ministry is making a grant of Rs. 1,07,700/-.

Shri Sidhva: May I know whether this library is open to the public free, or is there any subscription and if so whether there are classes of subscribers and also free classes?

Shri Sri Prakasa: The library will be absolutely free. There are no classes of subscribers.

श्री कृष्णानन्द राय : इन पुस्तकालयों में किस प्रकार की पुस्तकें रक्खी जायें क्या इस के बारे में यूनेस्को की कोई निश्चित नीति है ?

[**Shri Krishnanand Rai:** Is there any definite policy of the U.N.E.S.C.O. with regard to the kinds of books to be kept in these libraries?]

श्री श्री प्रकाश : जहां तक मुझे मालूम है यूनेस्को ने कोई शर्तें नहीं लगाई हैं, और हर प्रकार की किताबें इस लाइब्रेरी में रक्खी जायेंगी ।

[**Shri Sri Prakasa:** So far as I know the U.N.E.S.C.O. has not imposed any conditions, and books of all kinds are to be provided in this library.]

Shri S. N. Das: From the statement given here, it appears that this library has been established to serve as a model for other libraries in the country. May I know what steps have the Government taken so far to allow those interested in the library movement to know about the activities of this library and the way in which it works?

Shri Sri Prakasa: Sir, the model itself is not yet completed. So the question of those libraries for which it will stand as a model, does not arise.

HARTAL OF REFUGEE STALL HOLDERS

*1185. **Shri Jnani Ram:** Will the Minister of Health be pleased to state:

(a) whether the refugee stall holders of Irwin Road and Panchkuin Road, New Delhi are observing hartal since the 27th August, 1951;

(b) if so the reasons for the same; and

(c) whether any enquiry has been ordered in the matter?

The Minister of Law (Dr. Ambedkar): (a) The stallholders observed hartal for 3 days from the 27th to 29th August, 1951.

(b) Although there had been disputes between the New Delhi Municipal Committee and the stallholders for some time, it is understood that the immediate cause of the hartal was the launching of prosecutions by the Committee against a number of stallholders for contravening municipal byelaws.

(c) The question of an enquiry does not arise.

Shri Jnani Ram: May I know whether the grievances of the stallholders have now been removed?

Dr. Ambedkar: There are hardly any grievances. From the papers that were handed over to me, it seems to me that the dispute is purely of a legal character. The municipality holds that they are licencees while the stallholders claim that they are lessees. The municipality says that since they are licencees, the municipality is entitled to remove them without any notice, while the stallholders say that they are lessees and they must be governed by the terms of their leases. It is purely a legal dispute which can only be adjudicated by some court or judicial authority.

Shri Sidhva: Do these stallholders pay rent under certain agreements to the effect that they will be known as licencees?

Dr. Ambedkar: So far as I could understand—and I speak subject to correction—there have been no leases. These people have been allowed to just sit and squat and do their business for the time being. But they say that they have been squatting so long that their licences have now matured into leases.

Several Hon. Members: No, they are not squatters.

Mr. Deputy-Speaker: Hon Members cannot be educated in law. They probably want to know the difference between a licence and a lease.

Shri Sidhva: My question was whether they pay rents?

Mr. Deputy-Speaker: I am not going to allow opinions on legal questions.

Shri Sarangdhar Das: Besides the legal aspect of this matter have there been any complaints about the non-availability of water and lack of sanitary arrangements in the places where the stalls have been built?

Mr. Deputy-Speaker: It does not arise out of this question. Was it for want of these amenities that the strike was started?

Shri Sarangdhar Das: This was also a part of their grievances.

Dr. Ambedkar: So far as I know only because of the prosecutions launched by the Municipal Committee did the strike take place.

Shri Dwivedi: Since the questions are over for the day, would you, Sir, take up questions which were not answered yesterday?

Several Hon. Members: Questions of yesterday!

Mr. Deputy-Speaker: I shall now call those Members who were absent earlier during Question-hour to put their questions.

STAFF CARS AT HIRAKUD

***1180. Shri Sarangdhar Das** (on behalf of **Shri A. Joseph**): (a) Will the Minister of **Natural Resources and Scientific Research** be pleased to state the number of staff cars allotted for the staff at Hirakud Dam?

(b) Is there any stock register for entering those parts of these cars for repair and new parts bought from the market?

(c) Is there a register for entering the mileage of these cars and the cost of petrol?

The Minister of Natural Resources and Scientific Research (Shri Sri Prakasa): (a) 16 Land Rovers and 13 Jeeps are allotted to the officers of the project for the purpose of inspecting works. In addition there is one staff car or use of distinguished guests and visitors.

(b) Yes, Sir.

(c) Yes, Sir. All details regarding mileage, cost of petrol and lubricants and normal maintenance charges are recorded in the log books of the vehicles.

Shri Sarangdhar Das: Have there been occasions on which the officers and staff have had to pay any sums of money as charges for the private use of these cars?

Shri Sri Prakasa: If the hon. Member has information on the subject I shall be glad to have it. I may add that a ceiling for petrol consumption is fixed and the officers can use only that much of petrol even on official work and if they use more petrol they have to pay for it themselves.

Shri Sondhi: What are the qualifications for a distinguished visitor so as to be entitled to the use of the staff car?

Shri Sri Prakasa: The hon. Member himself is certainly a distinguished visitor and I am only a visitor; he can draw the difference from that.

Shri Sondhi: I am not concerned with myself.....

Shri Sarangdhar Das: If a log book is maintained regarding the mileage it must be recorded there whether the cars are being used for private purposes and whether any charges are paid for it.

Mr. Deputy-Speaker: The Minister has not at present got any information.

Shri Sri Prakasa: I have not got any detailed information on the subject. The log book will certainly show the use to which the car has been put.

RESIDENTIAL QUARTERS AT HIRAKUD

*1181. **Shri Sarangdhar Das** (on behalf of **Shri A. Joseph**): (a) Will the Minister of Natural Resources and Scientific Research be pleased to state the amount sanctioned for the construction of residential quarters for the employees at Hirakud Dam Project?

(b) What is the number of quarters constructed and still under construction?

(c) What is the difference of cost between Sindri employees' quarters and Dhanbad labourers' quarters and the quarters of employees of Hirakud Dam Project?

(d) Is it a fact that without obtaining financial sanction Hirakud authorities bought furniture for these quarters?

The Minister of Natural Resources and Scientific Research (Shri Sri Prakasa): (a) Rs. 38 lakhs.

(b) The number of quarters constructed so far is as under:

(i) For Officers	58
(ii) For other staff	1496
TOTAL	1554

The number of those under construction is:

(i) For Officers	7
(ii) For other staff	700
TOTAL	707

(c) Presuming that the hon. Member desires to compare the costs of labourers' quarters in the three places, a statement giving the information is laid on the Table of the House.

(d) No, Sir. All furniture for residential quarters has been purchased against duly sanctioned estimates and let out on hire to residents.

STATEMENT

The cost of Construction of Employees' Quarters at Sindri and Hirakud and the Labourers Quarters at Dhanbad.

(1) 'M' type unmarried labourers (one living room)	Rs.	2,000
(2) 'L' type married labourers (two living rooms)	Rs.	4,110
Labourers' Quarters at Dhanbad— (two living rooms)	Rs.	4,850
Cost of Labourers' quarters at Hirakud— (One living room) Pucca	Rs.	2,500
Do. Kucha	Rs.	900

Shri Sarangdhar Das: May I know if any furniture was purchased in Delhi and transported to Sambalpur?

Shri Sri Prakasa: I have no information. It is just possible furniture may have been purchased wherever it was available.

Shri Sarangdhar Das: Is the Minister aware that furniture is available in Orissa as also in the nearby city of Calcutta?

Mr. Deputy-Speaker: He may intimate all that to the Minister; he is not expected to know all the details.

Shri Shiva Rao: May I know whether the hon. Minister has in his Secretariat the rates for building in different places like Hirakud, Sindhri and the Damodar Valley?

Shri Sri Prakasa: Yes, Sir. For example in Sindhri the approximate cost per sq. ft. of plinth area is from Rs. 8 to 8/12. in Dhanbad Rs. 8 to 9, in Hirakud pucca Rs. 7 and kutchha Rs. 2/8 per sq. ft. of plinth area.

Shri Shiva Rao: In calculating these costs have they taken into account the overhead charges?

Shri Sri Prakasa: I should think so.

Shri Sidhva: The hon. Minister said that the furniture was purchased in

Delhi and transferred to the places where required.....

Mr. Deputy-Speaker: He did not say so. He only said that it might have been purchased.

Shri Sidhya: May I know whether similar furniture was not available at a nearby place?

Mr. Deputy-Speaker: He does not either admit or deny.

Shri Sidhya: Will he make enquiries from where it was purchased?

Shri Sri Prakasa: If the hon. Member is keen I shall make the necessary enquiries. It is just possible that the furniture available in the forests of Orissa might not have been suitable for the engineers who have been uprooted from Lahore.

Shrimati Durgabai: Will the Minister enquire also about another fact that the furniture was first sent to Orissa from Delhi and it was again sent back to the Punjab for the Bakra-Nangal project via Delhi?

Shri Sri Prakasa: I do not know but every thing is possible in a Government!

Shri Sarangdhar Das: With reference to the Minister's statement during the budget session that the contractors' labour is ill-housed and ill-treated, may I know if there has been any improvement in housing the contractors' labour?

Shri Sri Prakasa: I fear I cannot give an exact answer.

WRITTEN ANSWERS TO QUESTIONS

HYDRO-ELECTRIC PLANT FOR HIRAKUD PROJECT

*1173. **Shri S. N. Sinha:** (a) Will the Minister of Natural Resources and Scientific Research be pleased to state what is the total generating capacity of the hydro-electrical plant and equipment hitherto ordered for the Hirakud Project?

(b) Is there sufficient demand for the power that will be generated?

(c) If not, how will the extra-power be utilised?

The Minister of Natural Resources and Scientific Research (Shri Sri Prakasa): (a) 1,23,000 k.w.

(b) Yes, Sir.

(c) Does not arise.

HYDRO-ELECTRICITY AT HIRAKUD

*1174. **Shri S. N. Sinha:** (a) Will the Minister of Natural Resources and Scientific Research be pleased to state how much hydro-electricity is proposed to be generated at Power House No. 2 of the Hirakud?

(b) Will the subsidiary dam which is under construction in this connection supply enough water for running the power station to capacity even during the dry season?

The Minister of Natural Resources and Scientific Research (Shri Sri Prakasa): (a) 72,000 k.w.

(b) No, Sir. The storage for the dry season will be at the main dam, the subsidiary dam will hold only a balancing reservoir.

MAITHON AND PANCHET DAMS

*1175. **Shri S. N. Sinha:** Will the Minister of Natural Resources and Scientific Research be pleased to state:

(a) whether it is a fact that flood control and irrigation under the Damodar Valley Project depend mainly on the Maithon and the Panchet Hill dams;

(b) what is the present position with regard to these two dams and the barrage and irrigation project; and

(c) when their construction is to start?—

The Minister of Natural Resources and Scientific Research (Shri Sri Prakasa): (a) Yes, Sir.

(b) The preliminary investigations have been completed and designs and detailed project reports have been prepared.

(c) Construction will start on funds being made available by the Central Government, which will be on receipt of firm proposals regarding the action which the Government of West Bengal intend taking in respect of levying adequate betterment fee and water rates to enable them to service the loan which is being given from the Centre.

DISPLACED GOVERNMENT SERVANTS FROM SIND AND N.W.F.P.

284. **Shri Sidhya:** Will the Minister of Home Affairs be pleased to state:

(a) whether the attention of Government has been drawn to the Ministry of Home Affairs Memorandum No. 5/19/51 CS., dated the 21st August, 1951 regarding allocation of vacancies of Assistants to the 'Test' and 'Non-test' categories;

(b) whether it is a fact that only 87 vacancies have been allotted to displaced Government servants from Sind and N.W.F.P.;

(c) how many posts of Assistants were vacated by migration of Muslims to Pakistan;

(d) how many permanent displaced Government servants from Sind and N.W.F.P. were holding posts of Assistants in the Government of India on 1st August, 1951;

(e) how many permanent displaced Government servants remain to be confirmed as Assistants after accounting for 87 vacancies;

(f) whether it is a fact that out of the displaced Government servants a large number has put in more than 20 years of service in Pakistan; and

(g) whether it is the intention of Government that these persons should retire as temporary Assistants?

The Minister of Home Affairs (Shri Rajagopalachari): (a) and (b). There are not less than 800 vacancies for which the displaced Government servants possessing prescribed qualifications are eligible to compete with others. 87 vacancies have been allotted to displaced Government servants out of an estimated number of 270 vacancies available for the Non-Test category.

(c) The information is not readily available. But it is not Government policy that all vacancies arising out of migration of muslim employees should be earmarked for Sind and North West Frontier Province Government servants who have come away to India, irrespective of the legitimate claims of permanent employees for promotion or of temporary employees for confirmation. Government have been finding it difficult to hold the scales even in this respect without giving rise to accusations of injustice on the part of one or the other.

(d) The information as on the 1st August, 1951 is not readily available, but on the 1st July, 1949 the number of such Assistant was 374.

(e) Apart from the 87 vacancies referred to, some permanent displaced Government servants are likely to be confirmed in the grade of Assistants as a result of the two Tests held by the Union Public Service Commission and also in the higher grades direct on the recommendation of the Commission. The number of such officers who remain unconfirmed as Assistants can, therefore, be calculated only after all the confirmation refer-

red to have been made in pursuance of the Central Secretariat Service (Re-organisation and Re-inforcement) Scheme.

(f) There are persons with various lengths of service in Pakistan including some over 20 years among the displaced Government servants now employed under the Government of India.

(g) It is the intention of Government that all reasonable opportunities for absorption in a permanent capacity should be provided for displaced Government servants consistently with fair and equitable treatment of other employees of Government whose claims based on length of service are also entitled to consideration. The Government will review the position after the initial constitution of the Central Secretariat Service (Re-organisation and Re-inforcement) Scheme is completed.

CENTRAL SECRETARIAT RE-ORGANISATION SCHEME

285. Shri Sidhva: Will the Minister of Home Affairs be pleased to state:

(a) the total number of officers included in each of the lists published upto 31st July, 1951, under the Central Secretariat (Re-organisation) Scheme;

(b) out of these officers how many are Provincial displaced Government servants from (i) Sind and (ii) N.W.F.P.;

(c) what is the percentage of the total number shown in (b) with reference to (i) the total number shown in (a); and (ii) the total number of officers who held supervisory posts of non-technical but administrative or ministerial character in (i) Sind and (ii) N.W.F.P., and are now employed under the Government of India;

(d) what are the reasons on account of which a vast majority of Provincial displaced Government servants, although holding supervisory and high posts in Sind and N.W.F.P., have not been considered under this Scheme; and

(e) whether it is the intention of Government to review the cases of those Provincial displaced Government servants from Sind and N.W.F.P. which were not considered at all or if considered were either rejected or under-ranked with reference to their status in Pakistan?

The Minister of Home Affairs (Shri Rajagopalachari): (a) and (b). Seven lists have been published so far including one (i.e. List IV) which

contains names of officers not considered suitable for the Central Secretariat Service.

The details are as follows:

(1) Lists	(2) Total No. in the List	(3) No. of Displaced Government servants	
		(i) from Sind	(ii) from NWFP
I.	94	Nil	1
II.	40	2	Nil
III.	170	3	2
V.	118	Nil	Nil
VI.	151	Nil	1
VII.	200	3	Nil
	773	8	4
IV.	62	6	1

(c) (i) about 1.6 per cent. and

(ii) the number of such officers is not readily available.

(d) Displaced Provincial Government servants employed in the Secretariat and the Attached Offices who fulfilled certain qualifications prescribed or who were recommended by the Ministries concerned as specially deserving consideration were in fact considered for confirmation in the Central Secretariat Service. Full lists for all the Grades of the Service have not yet been received from the Union Public Service Commission. It is, therefore, not possible to say at this state how many of the displaced Provincial Government servants will be confirmed as a result of these gradings. It is not the practice for the Commission to communicate to Government the reasons for their selections or rejections.

(e) Government do not propose to consider for the Central Secretariat Service fresh cases which have not already been sent to the Special Recruitment Board/Union Public Service Commission. As regards the gradings published they should be regarded as final.

FINANCIAL INTEGRATION OF STATES

287. Shri Dwivedi: Will the Minister of Finance be pleased to state:

(a) the sum of money which accrued to the Government of India as a result of financial integration of States in total and State-wise;

(b) the sources from which it has been derived;

(c) the head under which it is kept;

(d) how it will be utilised; and

(e) whether Government propose to lay on the table of the House a copy of the report of the financial integration of each State?

The Minister of Finance (Shri C. D. Deshmukh): (a) to (d). Presumably, the hon. Member is referring to the outstanding assets and liabilities as on the date of the Federal Financial Integration. The figures have not yet been finalised.

(e) Copies of the Indian States Finances Enquiry Committee's Report together with copies of the Federal Financial Integration Agreements entered into with Part B States had been distributed to the Members of the Parliament and are also available in the Library of the House.

Thursday, September 20, 1951



PARLIAMENTARY DEBATES

(Part II—Proceedings other than Questions and Answers)

OFFICIAL REPORT

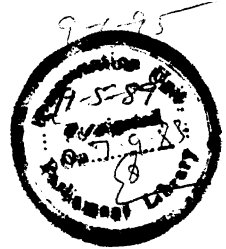
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THE
PARLIAMENTARY DEBATES
(Part II—Proceedings other than Questions and Answers)
OFFICIAL REPORT

2899

2900

PARLIAMENT OF INDIA

Thursday, 20th September, 1951

*The House met at Half Past Eight
of the Clock.*

[MR. DEPUTY-SPEAKER in the Chair]

QUESTIONS AND ANSWERS

(See Part I)

9-30 A.M.

PAPERS LAID ON THE TABLE

**DELIMITATION OF COUNCIL COSTITUEN-
CIES ORDERS, 1951.**

The Minister of Law (Dr. Ambedkar): I beg to lay on the Table under sub-section (3), of section 13 of the Representation of the People Act, 1950, the following Orders made by the President on the 19th September, 1951:

- (1) The Delimitation of Council Constituencies (Bihar) Order, 1951
- (2) The Delimitation of Council Constituencies (Bombay) Order, 1951.
- (3) The Delimitation of Council Constituencies (Madras) Order, 1951.
- (4) The Delimitation of Council Constituencies (Punjab) Order, 1951.
- (5) The Delimitation of Council Constituencies (Uttar Pradesh) Order, 1951.
- (6) The Delimitation of Council Constituencies (West Bengal) Orders, 1951.

.325 PSD

(7) The Delimitation of Council Constituencies (Mysore) Order, 1951.

[Placed in Library. See No. P-213/51.]

Shri Sidhva (Madhya Pradesh): May I know whether these Orders are laid for twenty days and whether those twenty days will be counted in the manner followed in the previous instance?

Dr. Ambedkar: Yes, that is a fact.

Shri Sidhva: What will be the last date?

Mr. Deputy-Speaker: Tenth October is the last date. The day on which the papers are laid on the Table is excluded. So, excluding the 20th September we have ten days in this month and ten days in October.

Shri Sidhva: Tenth October is a holiday. What will be the position then?

Mr. Deputy-Speaker: I am not in a position to give any particular suggestion at this stage. I can only refer to section 13, sub-section (3):

“Every Order made under section 6, section 9, section 11 or section 12 shall be laid before Parliament as soon as may be after it is made, and shall be subject to such modifications as Parliament may make on a motion made within twenty days from the date on which the Order is laid.”

Not only notice but the motion itself has to be made within twenty days. That is what the statute says. How far the intervening of particular holidays can affect this matter, I am not in a position to say now. Hon. Members will decide for themselves.

Shri Sidhva: Instead of leaving it to hon. Members I would request you to decide it.

The Minister of Education (Maulana Azad): Twenty days means twenty days, not twenty working days.

Shri Sidhva: Last time the holidays were included.

Mr. Deputy-Speaker: I have read out the statute, section 13(3) of which says it is twenty days within which the motion has to be made. No doubt the twentieth day falls on a holiday: as to what its effect is, I am not in a position to say immediately. Anyhow, hon. Members will take sufficient care to do everything before the holidays commence.

Shri Sondhi (Punjab): I would like to know from the hon. Minister if he is aware that in one constituency in Punjab the minimum number of voters is not there, and an amendment will be necessary. I would like to know if that amended Order is still to come and when it will come because another twenty days will be necessary for that.

Dr. Ambedkar: I am not aware of what my hon. friend says, but I will look into it.

HINDU CODE—contd.

Clause 2.—(Application of Code)—
concld.

Shri Amolakh Chand (Uttar Pradesh): May I draw your attention Sir, before Pandit Malaviya resumes his speech, about a cartoon which appeared in today's *Indian News Chronicle*, about which I have sent a note to you? May I know whether that will be taken up just now or on some other date?

Hon. Members: What is the subject-matter of the cartoon?

Shri Amolakh Chand: May I with the permission of the Chair just satisfy the curiosity of hon. Members about this cartoon?

Mr. Deputy-Speaker: I have received this cartoon published in the *Indian News Chronicle*. I think it shows my likeness. It is a cartoon of a clock where both the hands are being held up by some of the hon. Members who have spoken against this Bill, but underneath the very pendulum is said to be held intact, not moving forward or backward, by a representation of myself. So long as the speaker is here that is another matter. But casting aspersions on the Chair is not only unjustified and undignified but here it is also opposed to the facts. I do not know if any hon. Member will ever raise any point that whatever might be my differences I have done anything unjust in this House.

Hon. Members: No, no.

Mr. Deputy-Speaker: Therefore, I will look into this matter. It is a very serious matter—it does not matter who-soever may be in the Chair—to cast aspersions on the Chair. The moment the House feels that the person who occupies the Chair for the time being is not doing justice, it knows what to do so far as that person is concerned. But it is not for outsiders to caricature, and it is an aspersion on the whole House. I shall look into this matter leisurely and then find out what action should be taken. However, I do not want this to interrupt the progress of this Bill.

Shri T. N. Singh (Uttar Pradesh): At the same time, whatever the action about that particular cartoon be, we do feel that the Press should not come out with anything which casts aspersions on the Chair of this august House, and it should be prevented. I feel that the matter, since it has been raised, is rather important and it should not be postponed in this fashion. I would urge that once the matter has been raised, we should certainly take it up right now and the House should express its disapproval.

Mr. Deputy-Speaker: I shall take time to consider it.

Pandit Malaviya (Uttar Pradesh): When I left off yesterday, you were good enough to ask me how much more time I would need. I respectfully expressed my inability to indicate any exact amount of time and requested you to let me proceed on the basis that I should try to take as little time as may be possible. You were good enough to more or less indicate a limit, that I should not take more than about 2½ hours more.....

Shri Sidhva (Madhya Pradesh): You said half an hour, Sir.

Pandit Malaviya: I have since heard.....

Mr. Deputy-Speaker: I can only make one observation. The hon. Member yesterday was encouraged to ask for five days on the suggestion humorously made by the hon. Law Minister.

The Minister of Law (Dr. Ambedkar): He wanted five days—I suggested five hours.

Mr. Deputy-Speaker: When I was asking how long the hon. Member was likely to take, the hon. Law Minister humorously said, five days. I was suggesting half an hour, the hon. Member was wanting more. Now what I propose doing is this.....

Pandit Malaviya: May I say.....

Mr. Deputy-Speaker: I will do sufficient justice to the hon. Member. Now how long, may I know, is the hon. Law Minister likely to take to reply?

Dr. Ambedkar: It is my intention to be brief, but I would like to cover some of the points raised, and I feel an hour or an hour and a quarter might be more than enough for me.

Mr. Deputy-Speaker: I propose calling the hon. Law Minister as soon as the hon. Member who is on his legs finishes. Even if he takes 2½ hours, there will be sufficient time if I call the hon. Law Minister at 12 o'clock.

Shrimati Durgabai (Madras): The hon. Member who is on his legs after having mentioned five hours or five minutes or whatever it may be, said that he would submit himself to the ruling of the Chair and you very kindly said that he should not require more than half an hour. After having once submitted to the ruling of the Chair, would the hon. Member be now permitted to retract?

Mr. Deputy-Speaker: I leave it to hon. Members themselves.

Pandit Malaviya: I said about another matter yesterday that when my sister makes the rules we will have to submit to many things from which fortunately we are free at the moment.

Shrimati Durgabai: This is already in the rules.

Pandit Malaviya: What I was intending to say was.....

Mr. Deputy-Speaker: Under the rules, so far as Finance Bills are concerned, I can set a limit. With respect to other Bills there is no provision for setting a time-limit on speeches.

Shrimati Durgabai: My point is that once the Chair has given its ruling.....

Mr. Deputy-Speaker: Not ruling.

Shrimati Durgabai: ...would the hon. Member be permitted to go against that ruling?

Mr. Deputy-Speaker: It is not to be interpreted to be a ruling. It is only a suggestion.

Incidentally, I forgot that I will have to put the amendments to the vote of the House. Therefore, if the hon. Member would restrict himself to two hours, thus making half an hour available for the Chair, I shall call upon the hon. Law Minister at 11-30

so that we may finish this clause and all the amendments on it before we rise for the day. The hon. Member may take two hours.

Pandit Malaviya: I am very grateful to you, Sir, for what you have said, but what I was going to say in the beginning was that whatever might have been the arrangement that we had more or less thought we had arrived at.....

Mr. Deputy-Speaker: He need not labour that point.

Pandit Malaviya: ...since then some esteemed friends for whose views and opinions most of us in this House have respect and regard have taken the view that Members of the House should take as little time as possible. As I came into the House just now, it was conveyed to me that I should finish within a matter of minutes. I know that according to the rules one should have the time which he wishes to have and it is very good of you to say that you will stick to that. It is also true that I feel very earnestly that in a matter of such vital importance where things which have come down from millennia are going to be demolished, minutes and hours should not be counted and if somebody has something to say on this issue which is obviously not utter nonsense and irrelevance, then the question of time should not arise, whether he takes one day or two days or twenty days. But I respect the wishes of elders and of our leader and what I wished to say to you was that even though you have been good enough according to the rules to give me the longer opportunity, I shall try to leave out almost all that I had to say and shall try to confine myself to a few minutes only. I say this with a deep sense of pain and injustice to me and to this cause, but I am a man, as I said, who believes in the Hindu methods of tolerance and even if an unreasonable thing is thrust on me...

Mr. Deputy-Speaker: The hon. Member will kindly resume his seat. I have been trying to avoid any impression being created that we are either hustling the Bill or unnecessarily dragging it on. I am bound to see to it that neither the one impression nor the other impression is created. We have spent sufficient time over this matter and just when we are concluding the debate and when, if a closure motion is moved, I am prepared to accept it because I am satisfied that there has been sufficient discussion on this matter and although individual Members might not have spoken, collectively all of them have spoken on all the points arising—just at this time, if the hon. Member feels aggrieved and then

[Mr. Deputy-Speaker]

makes a point that for want of time and on account of some kind of limitation and pressure he is not putting forth all his points, he would not be doing justice to any of the persons here. I would like to avoid an impression being created that we are hustling this measure. It may be that there may not be sufficient support for the one or the other opinion. After all, we have to go by the rule of the majority in this House and it is open to all persons to express and press their point of view, but let it not be said that we are hustling the measure. The hon. Member has taken two hours. If he wants, he may have two more hours and if for any reason he is not prepared to proceed further, he need not make a point out of it, lest it should create an impression that we are hustling through this matter, though really we have been going on leisurely with it. Therefore, that kind of impression ought not to be created. It is open to him to speak or not to speak for various other reasons, which are extraneous. I am only concerned with the procedure in this House and the right impression both in this House and outside that we are not hustling such an important matter as this nor are we unnecessarily trying to stretch the discussion by any kind of filibustering. Therefore, in between these two impressions, I am trying to carry through this Bill. The hon. Member need not refer to all those matters. It is his sweet will and pleasure to say what he wants to say or to refer to the further clauses or not to refer to any of them at all, or to make any comments for various reasons which he may consider fit and proper.

Pandit Malaviya: I entirely agree with the remarks that have fallen from your lips and I was not making a complaint. I was only mentioning the fact that for reasons other than those that you have stated I shall not allow myself to take all the time that I need and that I should have liked to take. That is all that I wished to submit. Incidentally, it will also probably enable several other Members of this House, who, I saw yesterday, were very keen to have an opportunity to say something, to have an opportunity to do so. I am not saying this by way of any complaint, but I was submitting to you as a matter of fact that I have to leave out practically all that I wished to say and must now come straight to one or two points.

I will leave the point I was making when we dispersed yesterday, regarding the scope of the Bill having been extended, so to say, overnight by the

new Constitution having included agricultural lands in the Concurrent List. I shall leave that also there.

I will only touch in passing on another very important aspect, namely, that the Bill which is before us now is so largely changed that it is almost unrecognisable compared to what it was when it was first introduced. There is a rule that Select Committees at the end of their reports should state that they have amended the Bill only in such measure as they think has not changed it materially and that the amended Bill does not need re-circulation or re-publication. That proves the principle that if a Bill is substantially changed in a Select Committee it should be republished and re-circulated. I submit that in matters of legislation we should observe the sanctity of the rules, because rules are framed in moments of calm and dispassionate consideration; not *vis-a-vis* any particular item or any particular point of view, but with regard to the basic fundamental needs of ensuring that legislation is passed only with due care, thought and circumspection. Such rules, therefore, have very great value and it must be an ill day for the growth of healthy parliamentary traditions and institutions in any country if we begin to make light of them to suit the conveniences of our opinions on particular issues and particular occasions. I, therefore, feel, now that the Bill is so entirely changed to as it is, that constitutionally there can be no justification at all for proceeding with it, or any part of it now as it stands without that procedure being brought into force. I will leave that point also there.

I will touch only upon one or two things more and will resume my seat. Several friends who are supporters of this Bill said that this Bill has been drawn up in accordance with the tenets of the *Smritis* and *Dharma Shastras*. If I had the time I would have quoted extracts from the various *Smritis* and *Dharma Shastras* to prove the hollowness of that claim. I cannot do that now. I will, therefore, come straight to the two vital principles which are involved in the measure that is to be taken up—one the question of the degree of *sapinda* prohibition and second the question as to whether among the Hindus a remarriage of any married woman can take place.

Texts have been quoted from some of the *Smritis* on both these points. With regard to the *sapinda* question it has been argued that the *Smritis* have from time to time laid down different principles, that while one *Smriti* has said one thing another

Smriti has said another thing and an attempt has been made to draw the inference therefrom that it was a matter not of such vital importance that it could not change, but that from time to time, reflecting the opinion and the practice of the age, the different *Smritis* have laid down different texts. I was mentioning yesterday that in the matter of these *Dharma Shastras* there are rules of interpretation which have laid down cut and clear principles and methods of approach. It is laid down that the *Dharma Shashtra* can be interpreted only by the utilisation of the rules of *Mimamsa*. Fourteen sources for determining them have to be utilized. They are all mentioned and therefore if anybody wants honestly to understand these things he must go into the depth of that matter.

Almost every one of the *Smritis* and the *Dharma Shastras* have laid down that in the *sapinda* degree of prohibition we should have seven degrees on the paternal side and five degrees on the maternal side or more. Nobody has disputed that. It has been said that it is stated only in some of the *Smritis* as five and three instead of seven and five. I believe the *Paithinasi Smriti* text is relied upon for this purpose. In the belief that Members of this House wish seriously to take the matter into consideration as to whether it is laid down in the *Smriti* that it should be five and three, I shall try to clear up that point. The *Paithinasi Smriti*.....

Mr. Deputy-Speaker: I do not think the hon. Law Minister is dogmatic about this matter.

Dr. Ambedkar: When the time comes we shall consider it.

Fandit Malaviya: I am taking this only as an instance to show how the entire provisions of the Bill are based upon a complete misconception. The text in the *Paithinasi Smriti* is:

पंचमी मातुतः परिहरेत् सप्तमीं पितुतः

So far it is clear—five degrees from the mother and seven degrees from the father. So, the *Paithinasi Smriti* also says the same so far. Then, it goes on to say:

त्रीन मातुतः पंचपितुतो वा ।

It gives another view and says three from the mother's side and five from the father's side. If I had the time I would have gone into all the other *Smritis* to disprove the statement of some friends that the *Smritis* lay down

different rules—in one case seven and five and in another case five and three and it is for us to select.

The *Mimamsa* lays down the method of interpretation of these texts. The whole basis of Hindu law rests upon the fact that the law comes from the *Shruti*. *Shrutis* are *Swatah Pramana* (स्वतः प्रमाणः) Whatever is in the *Shruti* stands proved by itself and does not need any further argument. The *Smritis* are *Pariah Parmana* परतः प्रमाणः. They do not by themselves carry that authority because they are *Shruti-mula* श्रुति मूल. They belong to the class where authority is derived from *Shrutis*. Now, it is obvious then that if the same source is to be drawn upon by all the *Smritis* the obvious objection would be—and I suppose it would be a natural objection also—that if you claim that they all emanate from one and the same source, then how can there be conflicting versions in them. We can anticipate that objection.

Mimamsa goes on to say that there may be cases where in the *Shruti* itself there is a *vikalp*, that is, where the *Shruti* itself lays down two alternatives that a thing may be of one or another.

10 A.M.

There are instances of that nature in the *Shrutis* themselves!

उदिते जुहोति । अनुदिते जुहोति ।

That is from the *Smritis*. It says a certain *yajnya* may be performed before sunrise, and it also says it may be performed after sunrise. But there is no conflict, because both are mentioned in the *Shruti*. And then according to the tenets of the *Mimamsa Shashtra* other considerations come into play. Technically it is called *Atma tushti*, and according to the principle of *Atma tushti* each one has to decide—not for the pleasure of it; *Atma tushti* does not mean pleasure; it does not mean one's whim of taking one thing today and taking another thing tomorrow, taking rice today and taking *chapatti* tomorrow. But *Atma tushti* has a fundamental religious place. According to *Atma tushti* the *Dharma* has to be selected, and once it is selected it remains permanently there, for all time. But that is so only when both the things are mentioned in the *Shruti*. The *vikalp* comes only when both the things are thus mentioned in the *Shruti*. For instance you find:

अतिरात्रे षोडशिनं गृह्णाति । नातिरात्रे षोडशिनं गृह्णाति ।

[Pandit Malaviya]

(Late at night takes one of sixteen, takes not late at night.)

Two directly conflicting things in the *Shruti*. But both being there, the *vikalp* is possible. If the *Smritis* say two different things, then if we found that there is mention of the two things in the *Shrutis*, the *vikalp* would be possible, and the claim which has been made by my hon. friend the Law Minister and others that these provisions are based upon what the *Shrutis* say, would become correct. But the available *Shrutis* are silent on the point. There is no direction about the matter. The question then arises, how then do the *Smritis* contain different rules if they have derived them from the *Shruti* sources?

Mr. Deputy-Speaker: I understand the Bill to go according to the *Shrutis* if possible and without the *Smritis* if necessary. That is what, I think, the Law Minister has in view. Therefore, notwithstanding the doubt as to whether it is three and five according to strict rules of interpretation—and they have to be made consistent; I do not think he disputes the proposition that everywhere they are trying to make it consistent so as to avoid any inconsistency—he chooses the latter view. Even if it is not borne out by the strict rules of interpretation he says that it is the correct one and should be adopted, subject of course to the approval of the House. I think that is the view of the Law Minister.

Dr. Ambedkar: Yes.

Mr. Deputy-Speaker: Therefore, there is no good labouring the point as to what the interpretation is.

Pandit Malaviya: As I said, I am not doing this necessarily to go into the interpretation of this thing. I am taking this as an example to show the approach to the matter. What I wish to say is that according to the *Mimamsa Shastra* the two texts, one saying that it should be five and seven and the second saying that it may be three and five, must be reconciled and an interpretation—an infallible, unquestionable interpretation must be there. An interpretation has to be found which is unquestionable and incontrovertible. Otherwise the *Smriti* does not remain a *Smriti*. *Paithinisi* is among the *Smritis*. If we will only look for it we will find that we have in the *Smriti Sangraha*, we have in the *Nibandhakaras* a clear interpretation of this difference which lays down, and not only lays down but proves—it will take me time if I went into it, therefore I will

not—but it is proved that this provision in the *Paithinisi* is not applicable to all people, it is not applicable to the *aurasa* and the others. In their case the seven and the five apply, and this variant of five and three can only apply to *Dattaka putras* or to *Sapatni matas*. That is how the *Mimamsa Shastra* reconciles these two.

I took this instance to show that there is a clear way of interpreting the *Shastras*. If we want to go according to the *Shastras* we must go accordingly and we will find no sanction for deviating from the seven and the five degrees of *Sapinda* prohibition for marriage.

Similarly, I will take another question. A member read out with a certain amount of righteous satisfaction and vehemence that in the *Smritis* themselves we have provisions for the marriage of once-married women. The well-known *Narada Smriti* and *Parashara* text was read out by an hon. friend of mine—here he is—and he said that the *Smritis* themselves have said that a woman may be married a second time. I can see some friends feeling satisfied about it. This is a tragic matter, for this reason that the meaning of that *sloka* becomes perverted if it is interpreted to mean that it relates to a married couple. I hope Members will not think that I am talking in the air. (An Hon. Member: No, no). The line is very simple:

नष्टे मृते प्रव्रजिते, क्लीबे च पतिते पति ।

पञ्चस्वापत्सु नारीणां, पतिरन्वो विधीयते ॥

(It is allowed at disappearance, demise, reclusion, impotency and sinfulness of the husband.)

As it looks it is very simple. In the case of these and these and these 'husbands', these friends think, another husband is provided. But I wish Members of the House kindly to devote their mind to this. The simple rules of *Vyakarana* come into this question.

An hon. friend says *Vyakarna Padhao* and one may feel tempted to play the pedagogue to so distinguished a class, but I shall resist the temptation and I will only briefly explain the matter because it is a point upon which the whole edifice of the Hindu Code rests. It is that one sentence upon which everyone seems to be taking his stand. It is a very simple matter. According to the rules of grammar *Eka Vachana* in *Saptami* of *Pati* is *Patyau*. That is formed according to definite *Sutras*. I do not know if you will let me go into details to show how the words *Patyau* and *Patāu* are each formed. I am quite

sure it will be interesting, but it will take time. But every thing will become clear if we understand that.

Mr. Deputy-Speaker: What will happen to *Hari*? It is a masculine.

Pandit Malaviya: I see, Sir, you are interested and if you will permit me...

Mr. Deputy-Speaker: Then *Hari* is *Ikaranta Pullingam* and *Saptami* is *Harau* and *Pati* should be *patau*. That is my difficulty. I do not know if it is different.

Pandit Malaviya: Sir, your question is quite valid. That is it. From *Hari* it is *Harau*. So from *Pati*, it should be *Patau*. But we all know it is *Patyau*. Why? The difference is in this way. When it is *Saptami Ek Vachan Gni* comes in. Then the *Sutra Patih Samasa Eva* comes into play and the *Ghi Sangya* gets ruled out and another *Sutra au*, comes into play and it becomes *pati* plus *au*. Then by the *Sutra Ikoyanachi* the 'i' gets transformed into *ya* and *Patyau* is formed. That is in the case of the ordinary meaning of the word *Pati*, that is, husband. The rule is quite clearly laid down *Patih Samasa Eva*. Now, Sir, the question arises why instead of *Patyau* the word *Patau* has been used. It is such an obvious thing that even a blind man can see, that there is some difference, there is some purpose. The hon. Law Minister will bear me out that the normal form (*rup*) of *Pati* in *Saptami* is *Patyau*. But in this text *Patau* is used. (*Interruption*) An hon. Member says that he is extremely doubtful. I do not claim for myself his wisdom in this. But, *Panini's Ashta Dhyayi* is there and if any hon. Member can point out anything to the contrary, I will do whatever he will say.

Shri Amolakh Chand: Will the hon. Member quote the *shloka* also?

Pandit Malaviya: I am coming to that. Therefore, the word used is different from the normal word *Patyau*. Here the word is *Patau*. Now according to the rules of Sanskrit grammar...

Mr. Deputy-Speaker: It is not necessary. The hon. Member means that it is incorrect.

Pandit Malaviya: No, no. It is not incorrect. What I was going to point out was that in this case the word *Pati* is used not in the sense of *Pati* meaning husband but according to the rules of grammar—I am not saying it on my own but according to the rules of grammar *पति* can only be used where the *Achararthe* sense comes in. Then, not being in the sense of *पति* i.e. husband, the *sutra* 'पति : सप्तमि एव' which

applies normally and results in *पत्यौ* does not apply and '*Ghi*' *Sangya* 'वि संज्ञा takes place etc. and when '*Ghi*' *sangya* (वि संज्ञा) comes in then the *sutra Accha Gheh* (अच्च वे : 1) applies and the word *Pati* plus 'i' becomes *Pata* plus '*Au*'; and by the rule of *Vridhhi* it becomes *Patau* (पतौ). It is a recognized word in the Sanskrit Grammar of *Panini*; it is not mistake that it has been used here in that form; it is not by thoughtlessness that it has come in. But the word *Patau* (पतौ) instead of *Patyau* पत्यौ has a meaning and the meaning of that word *पतौ* is one who is going to be a *Pati* and not one who is a *Pati*. That is the meaning of that word. Let anybody challenge what I am stating. For thousands of years that grammar has been there and nobody has questioned it; the word *Patau* means not a husband but who is on the point of becoming a husband. This correct meaning of this *shloka* completely changes...

Prof. K. T. Shah (Bihar): *Anyau* comes in there.

Mr. Deputy-Speaker: *Patiranyo Vidheeyate* comes in. It must have been a husband.

Pandit Malaviya: I am coming to that. I am very glad you raised that question. In the *Prathama* there are only one set of *sutras* but in *Saptami* there are these two sets of *sutras* mentioned by me, one forming *patyau* and another forming *Patau* and secondly the difference had to be shown at the first place only, to clearly indicate that only where there had been a talk of marriage but no marriage in fact, that this question arose, while in the second place, it is a husband who is to be indicated. It is not merely a candidate for husbandship which has to be provided. Therefore, the second *Patiranyo Vidheeyate* is perfectly correct.

Mr. Deputy-Speaker: *Anyo* must mean what preceded also.

Pandit Malaviya: *Anyo* is again *Prathama*.

Mr. Deputy-Speaker: *Prathamanyah* also must be the husband.

Pandit Malaviya: If it had been both the same then in the first place it would have *Patyau*.

Mr. Deputy-Speaker: Whatever is intended by the provisions one must correspond with the other one.

Pandit Malaviya: How can it, Sir, when the very purpose is different. The beauty of Sanskrit language is that it expresses in a word what it takes a sentence to say in another language. That is the beauty of Sanskrit language. If a sentence says "If mango is not available, then guavas may be taken" we cannot say that mango and guava must be one and the same.

Mr. Deputy-Speaker: There cannot be a comparison between two absolutely uncorrelated matters. If *Anyo* is used that word or the other must relate to the same category. If in the one case it is not marriage, in the other case also it is not marriage. If it is marriage in one case, it is marriage in another case. Both of them are understood to be the marriage of the husband.

Pandit Malaviya: We cannot change the meaning of words.....

Shri B. K. P. Sinha (Bihar): On a point of order, Sir, I find that all these discussions are academic. The words *Pati* and *Patyau* are used in this *shloka* and not *Patau*.

Pandit Malaviya: That must be a wrong print. I am not saying it lightly. The original text is *Patau*. The very *chauda*.....

Mr. Deputy-Speaker: *Patithe Patyau* must be wrong because it should be *guru*. The prosody will come in the way of this *Pati* and *Patau* are different. Apparently it is wrong.

Pandit Malaviya: It is obvious that it cannot be *Patyau*. What I wished to submit was that this rock upon which that edifice stands does not exist at all and the meaning of the word used is not husband; it is not *Patyau* but it is only one who is on the point of becoming a husband, *Patau*. There is thus nothing in the *Shastras* to suggest that a married Hindu woman could marry again.

I do not want to take much time of the House. I had many things to say. But, in view of what I referred to, I do not wish to go against the wishes of those whose wishes and words are law for us. I, therefore, do not wish to take much more time, much though I would have liked to say many things. By these two examples I have tried to show how completely fallacious are the grounds on which the Hindu Code is proceeding.

I will conclude by mentioning one thing more. In Hindu society from time immemorial, laws have prevailed without the authority of the State, without the authority of the police, with-

out the authority of any legislature as such. There has been no governmental sanction behind the laws which have been in force. The laws were promulgated by men who had attained to perfection as nearly as man could, who were held in universal respect, who worked for the good of the people. And there was the sanction of what has been called in the *Shastras*, *Apoorva*, the unseen, that which will happen under certain circumstances; the thought that what one was doing today would have effect later on; that the human soul, the *jeeva* does not lead one life alone, but goes through a chain of births; that the actions of one life are inter-related to the actions and results of previous and future lives; that deeds of virtue and piety and righteousness bring a reward which is greater in reality than any reward of comfort or convenience which one may have in this life. A clear conception of the real value of things as distinguished from the ephemeral aspect, was always kept in mind and it is under the force of that sanction and that belief that the laws which were promulgated have always been followed. In the whole of this country, throughout its length and breadth, the law of the Hindus has been observed not because any one—for instance my esteemed friend Kaka Saheb Gadgil who is coming into the House and who talked on this Code not like the elderly responsible man that we know him to be, but like a gay youngster who just utters what comes at that moment in the mouth, or any one else—found them to be comfortable or otherwise, found them to be pleasant or irksome, but because both Kaka Saheb and Govind Malaviya and the other 300 millions like them have been steeped in the conviction and belief that what they are doing today will have repercussions hereafter, that what they go through now will bring its own reward. They have been all bred up to believe that it is not *Preya* alone which matters in life, but that it is the *Shreya* of things which must be assiduously inculcated. That has been the shape of things in this country and in this society. Let not the Government make a thoughtless and hasty mistake in demolishing that fabric upon which the respect for and the adherence to the law has prevailed. If one set of legislators, one set of wise men or wiseacres today legislate in one particular manner as they think fit, people will have ceased to worry about *Apoorva*. People will know that it is possible for them the next day to get a law made to suit their pleasure and their convenience. The moral fabric will disappear and man might go back to the old age where there was no method or system.

of marriages, where a state of things prevailed which probably, in decent society, would not be considered worth mentioning. That is the stake which is involved.

I should have liked to have dealt with the question of divorce; I should have liked to have dealt with the question of widow re-marriage; I should have liked to have dealt with the question of inter-caste marriage; I should have liked to have dealt with the question of monogamy. I hope I will have opportunities as these clauses come up to deal with each one of these at the appropriate time. It is not for reasons of orthodoxy alone that this question must be considered. It is from the point of view of the over all interest and well-being of society that we should tackle these problems. I said society. Society means the whole group of people, all the inhabitants taken together. It is formed of the units, of the individuals. But, the unit and the whole, even though they are inseparably interdependent, have their own separate entity also. The body is made up of all the limbs. But, the hand has its own existence by itself; the head has its own. The body as a whole cannot be by itself without the hands, feet legs and the head.

[SHRIMATI DURGABAI in the Chair]

But, the body is not merely the hand or the feet or the head. It is the sum total of the whole. When, therefore, we have to think of society, we have to think of the good and interest of society as a whole and if any thing is in the interest and well-being of all, then, whether it is pleasant or whether it is a little less pleasant for one individual here or one individual there, that must be adopted. When these topics come up, I hope I shall have opportunities to deal with them. I wished to say a great deal to bring out in clear perspective the issues involved, the fallacy or correctness of the approach made, and the conclusion to which we must irresistibly be driven. And right now, Madam, I should have had another advantage, that one esteemed Member of this House, in the very nature of things, being in the Chair, is now bound to be as fair to me as anybody else. But I said that I shall not take more time, and shall respect the wishes and the decisions of the esteemed Leader of this House. I will therefore close my speech, and close it with the earnest appeal that a matter of this seriousness, affecting the life of 300 million human beings should be considered as carefully and in as great a detail as may be humanly possible.

There is only one formal thing which I must do now and that is to move the amendments of which I had given notice three days ago. I beg to move:

(i) In part (a) of sub-clause (1) of clause 2, after "including" insert "Buddhists, Jains, Sikhs".

(ii) Omit part (b) of sub-clause (1) of clause 2.

After the first amendment, the clause will read as follows:

"to all Hindus, that is to say, to all persons professing the Hindu religion in any of its forms or developments, including Buddhists, Jains, Sikhs, Virashaivas or Lingayats and members of the Brahmo, the Prarthana etc. etc."

I have moved this amendment for a simple reason. I hope and pray that I am a devout Hindu—I do not know if I can make that claim—and.....

Dr. Ambedkar: After such a speech who else can make that claim?

Pandit Malaviya: And in the *Sankalpa* which we perform on all occasions, we say *Bauddhavadare*. If only I had the time, I would have tried to show that Buddhism, Jainism, Sikhism etc., while they have their own independent place and position, cannot, by any stretch of imagination, be treated as outside the pale of Hinduism. That does not mean that Hinduism lays any claim upon them or wishes in any way to restrict their complete independence and separate existence. It is not that. I am talking of the historical relation. They have all sprung out of it and have always formed part of it. Even in their religious books and procedure, even in their daily practices and daily life, there are any number of points of identical similarity which still persist. In this land there should be no need, therefore, to show them separately. My amendment does not make any difference in the result. The clause instead of coming as a separate clause comes within the previous one.

I have now only to make an appeal to the Members of this House to view this matter dispassionately. As I said, I do not deny that there are some people who feel that it will be good for society if such a law is enacted. My appeal to them is to proceed in the right manner about it. Sometime ago there was the Inter-caste Marriage Act which was passed, making inter-caste marriages among Arya Samajists valid. At that very time Dr. Bhagwan Dasji, that great learned scholar and devotee of Manu, brought before the then Central Assembly, a Bill for the

[Pandit Malaviya]

application of that clause to the whole body of Hindus. That Bill was not proceeded with, and after long and careful discussion it was dropped. Inter-caste marriages among Arya Samajists had gone on for some decades and they had carried on their movement for a long time and when the same had become common and the time came the measure was adopted. Let us take a leaf out of that book. If social reforms have to be made, nobody can object to them, if all those who are concerned should desire to have them. Let us, therefore, adopt that course, if for nothing else, so that what you do may not remain a mere dead letter on paper without any effect whatsoever.

It has also been pointed out that because now we are only taking up the parts of the Code relating to marriage and divorce, we should consider the feasibility of making an All-India All-Community Code towards that end. I am not one of those whose argument is that if monogamy is good and is to be enforced for the Hindus, it should necessarily apply to everybody. I do not say that at all. If monogamy is good, then I want it for the Hindus whether it is applied to anybody else or not. I do not want to argue that if the rule of monogamy is good for the Hindus it should not come to them unless it comes for everybody else. That is for the others to decide and if they do not want it, let them not have it but if it is good for the Hindus let it come to them. (An Hon. Member: Is it good?) It is good and I think it is the only good thing; but that, however, does not mean that we should become blind to the requirements of a good thing in itself or that we should not take other relevant facts and aspects into consideration. So far as the principle of monogamy goes I have no objection to it, nobody can have any objection to it, and I should be unhappy if anything except monogamy is found in practice anywhere...

گھائی جی - ایس - مسافر : جو
چیز اچھی ہے وہ سب کے لئے مانگیں
میں کیا حرج ہے -

[Giani G. S. Musafir (Punjab): There is no harm in asking for all a thing which is good in itself.]

Pandit Malaviya: I do not say that it should not apply to every body: it is for the Government and for the others to think about the others. They

have now brought forward a restricted measure dealing with only marriage and divorce and if they think that it is right to apply it to the whole country, let them do it. That is another consideration which the Government should certainly take into account.

श्री भट्ट : लेकिन क्या हम सदस्यगण गवर्नमेन्ट से यह कह सकते हैं कि हमारी राय है कि यह सब के लिये लागू किया जाय ?

[Shri Bhatt (Bombay): But can we Members not ask the Government that we wish it should be made applicable to all?]

Pandit Malaviya: Certainly. Many people have said it

گھائی جی - ایس - مسافر : میں
سمجھتا ہوں کہ یہ ہماری قیوتی ہے کہ
یہ مانگا جائے -

[Giani G. S. Musafir: I think it is our duty to ask for it.]

Pandit Malaviya: It is an important point which, I hope, the Government will consider.

Mr. Chairman: May I ask the hon. Member if he does not consider it desirable that we should practise it before we preach to the others and would we not then have a better or stronger case?

Pandit Malaviya: Madam, I do not want to be so impertinent as to argue with the Chair. I will only close now by repeating my appeal that Members of this House will rise to the requirements of the position of responsibility which they occupy and will deal with this measure with that sense of gravity which it deserves, so that the immemorial and hoary traditions and foundations of the life of the Hindu community may not be tampered with or destroyed in a lighthearted or profane manner.

Shri Jajoo (Madhya Bharat): Madam, the question be now put. (Interruptions).

Babu Ramnarayan Singh (Bihar): I want to speak, Madam.

Mr. Chairman: I am not deciding the issue myself. I will leave it to the House. May I know what time the hon. Law Minister will take for his reply?

Dr. Ambedkar: In view of the long speeches and the varied arguments advanced I would take about one and a quarter hours: possibly I might take even more, I do not know.

Mr. Chairman: If half an hour is taken for the amendments and the Law Minister is going to take one and a quarter hours for his reply we will have to conclude the debate by 11-30. Meanwhile if hon. Members are contented to confine their speeches to ten minutes, so that more hon. Members will be able to take part in the debate, I would like to conclude the debate precisely at 11-30.

Shri Naziruddin Ahmed (West Bengal): It was decided that the amendments will not be put to the House at all.

Pandit Malaviya: The Deputy-Speaker said that he would call upon the Law Minister at 11-30. But since we have the time, other Members may be given an opportunity to speak and if you do not think it necessary the rule about ten minutes may not be laid down.

Mr. Chairman: The hon. Member need not jump to any conclusion, that because a lady is in the Chair, therefore, she may not be fair to the House. I would like to respect the religious susceptibilities of the House as much as anybody else. The Deputy-Speaker has told the House that half an hour would be taken for the amendments. It is true that the hon. Minister will be called upon to reply at 11-30. There is also another traditional procedure, namely the closure motion. In view of these two facts I would like the debate to be concluded by 11-30 and not later.

Shri V. J. Gupta (Madras): What about the closure motion?

Mr. Chairman: Now that the House has agreed that the hon. Law Minister is to be called upon to reply to the debate at 11-30, there is no necessity for the motion. Agreement is always better than closure and its acceptance.

خواجه عنایت اللہ: میں نے بہت سوچنے کے بعد یہ فیصلہ کیا تھا کہ اس قانون کے متعلق میں کچھ بھی نہ بولوں۔ اسی لئے میں اس فیصلہ پر آج بھی قائم ہوں کہ ہندو نوڈ کو پاس ہونا چاہئے یا اس قانون کو ٹلا جائے

ہونا چاہئے اس کے متعلق میں کوئی بات نہیں کہوں گا۔ یہ ایک دوسری بات ہے

ایک آنریبل ممبر: ضرور کہئے -

خواجه عنایت اللہ: مجھے کہنا چاہئے لیکن میں نہیں کہنا چاہتا ہوں۔ یہ دوسری بات ہے کہ ذاتی طور پر میں جس طرح اپنی بہنوں اور بھتیہوں کے ساتھ سلوک کرتا ہوں میں چاہتا ہوں کہ ہمارے بھائی بھی اس طرح اپنی بہنوں اور بھتیہوں کے ساتھ سلوک کریں۔ مگر چونکہ اس قانون کے ساتھ ہندو نوڈ کا نام لگا دیا گیا ہے اور یہ کہا گیا ہے کہ یہ خاص ہندو مذہب کے لئے قانون بنایا جا رہا ہے۔ اس لئے میں سمجھتا ہوں کہ یہ مذہباً مبہرے لئے صحیح نہیں ہے کہ ایک مسلمان کی حیثیت سے ہندوئوں کے سوشل قانون میں جو تبدیلی رکھ کرنا چاہتے ہیں یا کر رہے ہیں اس میں دخل اندازی کروں۔

ایک آنریبل ممبر: انسان کی حیثیت سے کرنا چاہئے۔

خواجه عنایت اللہ: انسان کی ہی حیثیت سے کہ رہا ہوں۔ مگر انسانیت کے ساتھ ساتھ میں انسان ہوتے ہوئے ہندوستانی بھی ہوں اور مسلمان بھی ہوں۔ اس لئے میں چاہتا ہوں کہ اپنے خیالات اپنے مذہب کے مطابق بیان کروں۔ جو تمام امیڈمنٹس (amendments) اس قانون میں اس وقت لگے گئے ہیں انہوں نے مجھے

[خواجه عداہت اللہ]

مجبور کیا ہے کہ میں اپنے خیالات کا اظہار کروں۔ اس کے متعلق امیلڈ منٹ ہے۔ کہ اس قانون میں مسلمانوں - عیسائیوں یا اور جن لوگوں کا انکمیشن (exemption) کیا گیا ہے یعنی نکالا گیا ہے ان کو بھی شامل کیا جائے۔

श्री जे० भार० कपूर : अगर वह चाहें।

خواجه عداہت اللہ : اگر وہ چاہیں

اور اس کے علاوہ بھی جو نہیں چاہتے ہیں امیلڈ منٹ نمبر 9 میں کہا گیا ہے

"This Code applies to all Indians irrespective of their religion, caste, or creed."

اس طرح 91 میں بھی ہے اور 92 اور 93 (amendments) میں ایسی ہی باتیں ہیں۔ اور اس چیز کو پیدہ کرتے ہوئے بعض لوگوں نے اور خاص کر میرے آئیپیل دوست ڈاکٹر شیم پرساد مکرچی نے سب سے پہلے یہی بات کہی تھی کہ ہندوستان میں سیکولرزم (secularism) ایک بیماری کی طرح بڑھ رہا ہے۔ مجھے افسوس ہے کہ میرے دوست جو اتنے بڑے لائق آدمی ہیں وہ سیکولرزم کو جو بیماری نہیں بلکہ علاج ہے۔ اس علاج کو بیماری سمجھتے ہیں اور سیکولرزم کے ماتحت وہ چاہتے ہیں کہ سارے قانون ایک ہی طرح کے بنا دیئے جائیں۔ یعنی جو نئے ہمارے لئے بنیں۔ جو قانون ہندوؤں کے لئے بنیں وہی قانون مسلمانوں

کے لئے بھی بنیں۔ یہ بالکل صحیح ہے اگر وہ قانون انیمسی (economy) کا قانون ہو اگر وہ پریلیٹیکل قانون ہو۔ اگر ان قانونوں سے کسی کے کیرکٹر (character) یا ہندوستان کی سوشل لائف (social life) میں فرق پڑتا ہو تو وہ یقیناً ایک ہونا چاہئے۔ مگر سیکولرزم کے معنی یہ ہرگز نہیں کہ ایسے قانون بنائے جائیں۔ اور پرسنل (personal law) بھی ایسے بنائے جائیں جو مسلمانوں کے لئے بھی وہی اور ہندو کے لئے بھی وہی ہوں اس کے معنی تو یہ ہونے کہ مسلمانوں کو بھی وہی کہا جائے گا جو ہندوؤں کو کہا جائے گا حالانکہ پرسنل لا کے لئے یہ ضروری نہیں ہے کیونکہ ہمارے بہت سے قانون ایسے ہیں جو ہندوؤں سے تفر (differ) کرتے ہیں۔ ابھی کل میرے ایک سکھ بھائی کہہ رہے تھے کہ ہمارے قانون بھی ہندوؤں سے تفر (differ) کرتے ہیں۔ مجھے اس طرف نہیں جانا ہے۔ مگر میں صرف اس قانون کے مسلمانوں پر لاگو ہونے کے متعلق کہتا ہوں۔ ہمارے آئیپیل منسٹر گنکل صاحب نے کل اپنی اسٹیج میں کہا تھا کہ وہ ہندو دھرم کے سوشل قانون کو بدلنا چاہتے ہیں۔ اور اس کو بدلنے کے لئے انہوں نے یہ ثبوت دیا۔ اور میرے خیال میں انہوں نے یہ ثبوت کامیابی کے ساتھ دیا۔ کہ چونکہ یہ قانون بدلتا آ رہا ہے اس لئے اس کو بدلنے کا ہم؟ اختیار ہے۔ مگر انہوں

نے کہا تھا کہ اس طرح ہم کوشش کریں گے کہ آگے چل کر اس میں مسلمانوں کو بھی شامل کر لیں۔ میں ان سے ادب سے عرض کر دینا چاہتا ہوں کہ چونکہ انہوں نے یہ ثابت کر دیا ہے کہ ہندو قانون بدلتا آ رہا ہے اس لئے وہ اس کو بدل سکتے ہیں۔ لیکن میں انکو بتا دینا چاہتا ہوں کہ مسلمانوں کا قانون نہ تو ساڑھے تیرہ سو سال سے آج تک بدلا گیا ہے اور نہ آگے بدلا جائے گا۔ کیونکہ مسلمانوں کا یہ اعتقاد ہے کہ ہماری شادی بیاہ اور جائداد کی تقسیم کے قانون ہمارے اپنے بنائے ہوئے نہیں ہیں بلکہ خدا کے بنائے ہوئے ہیں جو کہ قرآن میں آئے ہیں۔ اور ان کو بدلنے کی دنیا میں کسی کو طاقت نہیں ہے۔

سردار پی۔ ایس۔ مان : کہا پنجاب کے مسلمان شریعت کا قانون مانتے ہیں یا رواج کا قانون مانتے ہیں جو کہ شریعت کے بالکل مختلف ہے۔
 خواجہ عدائت اللہ - اگر کوئی کہہ دے کہ پنجاب کے کچھ مسلمان شراب پیتے ہیں تو اس لئے سارے مسلمانوں کو شراب پینے کی اجازت دے دی جائے گی۔ اگر کوئی مسلمان برا کام کرتا ہے تو کیا سارے مسلمانوں کو برا کام کرنے کی اجازت دیدی جائے گی۔ اگر کوئی مسلمان اسلام کا قانون نہیں مانتا ہے تو میں اسکو زبردستی منوانے کے لئے تیار نہیں ہوں۔ اسکو آزادی ہے کہ وہ اپنے ضمیر کے خلاف - اپنے مذہب

کے خلاف اور اپنی سوسائٹی کے خلاف کام کرے۔ لیکن جب تک اس کا وہ کام سوسائٹی کو نقصان دہ نہیں ہوتا اس وقت تک نہ میں دخل دے سکتا ہوں اور نہ اور کوئی حکومت۔

سردار بی۔ ایس۔ مان - اسلامی قانون کے مطابق چور کو زندہ دنگور کیا جانا چاہئے یا اس کے ہاتھ کاٹ دیئے چاہئے۔ کیا کسی اسلامی ملک میں اس قانون کو مانا جاتا ہے؟

خواجہ عدائت اللہ : میرے دوست مان صاحب نے ایک بہت اچھا سوال پیش کیا ہے۔ اگر وہ باہر مجھ سے ملیں تو میں یہ ان کو اچھی طرح بتا سکتا ہوں۔ مگر اس وقت میں ہاؤس کا زیادہ وقت اس پر نہیں لینا چاہتا۔

اسلام میں کچھ قانونوں کے لئے اجازت ہے کہ ان کو کہاں تک ہم ملکی قانونوں کے ساتھ مطابقت دے سکتے ہیں۔ تو میں ان کو بتلا سکتا ہوں کہ اسلام نے کہاں تک اپنے قانونوں کو ملکی قانونوں کے ساتھ چلانے کی اجازت دی ہے اور کہاں پر یہ حکم دیدیا ہے کہ اس سے آگے نہ جاؤ۔ میں ان سے درخواست کرتا کہ اگر کسی اسلامی ملک میں چور کو اسلامی قانون کے مطابق سزا نہیں دی جاتی تو اس کے لئے ہمارے پاس اجازت ہے کہ ہم اس کو بدل سکتے ہیں۔ لیکن کچھ قانون ایسے ہیں جنکو ہم نہیں بدل سکتے

[خواجہ عفتت اللہ]

ہیں - تو میں ان دوستوں سے یہہ درخواست کروں گا
میرا بہت سا وقت تو میرے دوستوں کے انٹراپشنس (interruptions) میں چلا گیا - وہ وقت تو مجھے اور ملنا چاہیئے -

Mr. Chairman. That will not be made good.

خواجہ عفتت اللہ : تو میں یہہ عرض کر رہا تھا کہ مسلمانوں کے لئے ایک ایسا قانون بنانا جو ان کے مذہبی احکام کے کسی حد تک بھی خلاف ہو اس ہاؤس کے لئے جائز نہیں ہے - یہہ قانون میجارجٹی (majority) سے پاس کیا جا سکتا ہے - مگر میں ادب سے عرض کرنا چاہتا ہوں کہ کوئی قانون کسی کو مجبوراً نہیں ملوایا جا سکتا - میجارجٹی کو چاہیئے کہ وہ ہسکو مجبور نہ کرے - میں چاہتا ہوں کہ مسلمانوں کو اس قانون کو ماننے پر مجبور نہ کیا جائے - اکثریت کے جو اور دوسرے قانون ہیں ان کو ماننے سے کسی کو انکار نہیں ہے -

میرے کچھ دوستوں نے کہا کہ جو ہندوستان میں رہتے ہیں وہ سب ہندو ہیں - مجھے اس کا فخر ہے کہ میں بھی اِس معلی میں کہوں کہ میں ہندو ہوں - میں بھی یہی کہتا ہوں کہ ہندوستان میں رہنے والے ہندو ہیں - میں ضرور پولیٹیکل ہندو (Political Hindu)

ہوں - اور یہہ آج سے نہیں - بلکہ میں ہمیں پچیس برس سے کہہ رہا ہوں کہ میں پولیٹیکل ہندو ہوں - لیکن اسکے ساتھ ہی ساتھ میں یہہ کہنا چاہتا ہوں کہ پولیٹیکل ہندو ہوتے ہوئے بھی مذہبی طور پر مسلمان ہوں اور رہونگا -

ایک آنریمبل ممبر : (ریشیلمی)
(racially) آپ کیا ہیں -

خواجہ عفتت اللہ : میں ہندو ہوں - میرے آباؤ اجداد برہمن تھے - پور میری رگوں میں برہمنوں کا خون ہے - پوتر خون جو کہ ابھی تک ملا نہیں ہے -

تو میرے اسپیچ کا خلاصہ یہہ ہے کہ ہمارے اوپر وہ قانون نہ لادا جائے جو ہمارے مذہب اور خدائی احکام کے خلاف ہے - اور آپ کے جو سوشل یا ٹیکنک قانون ہونگے انکو بحیثیت ایک ہندوستانی ہونے کے مجھے ماننے میں کوئی انکار نہیں ہے -

(English translation of the above speech)

Khwaja Inait Ullah (Bihar): After deliberating long, I had decided not to say anything about this Bill. I stick to this very decision of not speaking on the matter even today, whether or not Hindu Code Bill be passed. Well, it is a different thing altogether...

An Hon. Member: Do speak.

Khwaja Inait Ullah: I should say, but I do not want to. It is a different thing that our brethren also should treat their sisters and daughters in the same way as I personally do. But, as the name 'Hindu Code Bill' is attached to this Bill and it is said that this legislation is being formulated particularly for those following the Hindu

religion, I feel that from the viewpoint of Religion, it is not proper for me as a Muslim to interfere in the social law of Hindus wherein they want to make, or are making changes.

An Hon. Member: It should be done as a human being.

Khwaja Inait Ullah: Yes, I am doing it as a human being, but while being a human being, I am an Indian and a Muslim also. It is, therefore, that I want to give out my impressions just in accordance with my own religion. All the amendments at hand now have compelled me to express my views. There is an amendment that all those, viz., Muslims, Christians and others, who have been exempted from the operation of this law, be also included.

Shri J. E. Kapoor (Uttar Pradesh): Only if they so desire.

Khwaja Inait Ullah: If they so desire, and also those who do not. Amendment No. 90 runs: "This Code applies to all Indians irrespective of their religion, caste, or creed." Likewise, it is also in 91, 92 and 93. Some members—my hon. friend Dr. Syama Prasad Mookerjee, especially while moving this amendment said at the very outset that "secularism" was spreading like a disease in India. I regret to say that my friend, who is so very capable, thinks secularism, which is not a disease but a cure, to be a disease and wants that all the laws under it be made uniform, i.e., the laws that are made for Hindus be also made applicable to the Muslims. This is quite correct if it (the law) is a law of economy, a political law, influencing somebody's character or the social life of India; it should then definitely be one: but secularism never means that such laws and personal laws be formulated as may be same for a Hindu and a Muslim. It means that the same will be said about Hindus as about Muslims, though it is not necessary so for a personal law as we have several laws which differ from those of Hindus. Just yesterday a Sikh colleague of mine said that their laws also differed from those of Hindus. I do not intend discussing that aspect of the matter, but I only submit about its application to Muslims.

Our hon. Minister Gadgil said in his speech yesterday that he wanted to change the social law of the Hindus, and for changing this he advanced the argument, which I think he did successfully, that since this law has been seeing changes, we are also entitled to change it. But he said furthermore that they would try in this way so that

in the days to come the Muslims may be included. To him I would like to submit humbly that they can change that law only because of the fact that the Hindu Law, as he proved, has been seeing changes. But here I want to tell him that Muslim law has neither been changed for the last 1350 years, nor shall it be changed in the days to come, since Muslims believe that their laws for marriage and division of property are not made by them but made by God and as they appear in the Holy Quran so nobody on the surface of this earth has the right to change them.

Sardar B. S. Man (Punjab): Do the Muslims of the Punjab abide by the law of *Shariat* or the law of Custom, which is entirely different from *Shariat*?

Khwaja Inait Ullah: If somebody says that the Muslims of the Punjab drink, does it mean that all Muslims will be allowed to take wine? If any Musalman does something bad, does it mean that all others will be allowed to do the same? If any Muslim does not abide by the law of Islam, I am not prepared to make him do so, forcibly. He is at liberty; he may go against his conscience, against his religion and against his society. But so long as his actions are not harmful to society, neither myself nor any Government can interfere in it.

Sardar B. S. Man: According to Islamic law a thief should be buried alive, or his hands should be cut off. Is this law observed in any Islamic country?

Khwaja Inait Ullah: My friend Mr. Man has raised a reasonable question. If he sees me outside, I shall explain to him in a convincing way. Here I do not want to take any more time of the House. In Islam there is a permission for some laws, as to what extent they can be brought in line with the laws of the country. I can say to what extent Islam has allowed its laws to be brought in line with the laws of the country, and also the limit which should not be transgressed. I would like to submit to him that, if a thief in an Islamic country is not punished according to the Islamic law, there is a permission that we can change it; but some laws are such that we cannot change. I would, therefore, like to submit to these friends...

Most of my time was taken by my friends in their interruptions. I should also get that amount of time.

Mr. Chariman: That will not be made good.

Khwaja Inait Ullah: I was submitting that it is not a right course for this House to make for Muslims as well the law which to any extent goes against their religious commandments. This Bill can be passed with majority, but I do want to submit humbly that nobody perforce can be asked to follow a certain law. Majority should not compel us. I want that Muslims should not be compelled to agree to this law. Nobody will refuse to agree to the other laws of the majority.

Some of my friends said that all those who reside in India are Hindus. I take pride in calling myself a Hindu. I, too, say that all the inhabitants of India are Hindus. I am positively a political Hindu. Not from today but for the last twenty to twenty-five years I have been calling myself a political Hindu. Here I also want to say that apart from being a Hindu politically, I am and shall continue to be a Muslim by religion.

An Hon. Member: What are you racially?

Khwaja Inait Ullah: I am a Hindu. My forefathers were Bramins and Brahmin blood is flowing in my veins—that pure blood which has not been mixed up so far.

Well, the sum and substance of my speech is that no such law as is against the Commandments of our religion and of God, be thrust on us, but as an Indian I shall have no objections to agree to any social or economic legislations.

Kumari Padmaja Naidu (Hyderabad): I welcome this opportunity of expressing my unqualified support for the Bill. I would like at the very outset to congratulate the Government on its courage in bringing forward this measure in spite of the widespread and fierce hostility towards it that has been so sedulously instigated by the forces of reaction that still, alas! today dominate certain sections of this country. The author of this Bill does not stand in need of any words of praise from me. For, with this measure, whether this House chooses to accept or reject it, Dr. Ambedkar takes his place in the long line of social legislators who throughout the ages have laboured diligently, always in the face of opposition, often in the face of persecution, to eradicate social injustice and to enhance the sum total of human happiness.

For many years men and women throughout the length and breadth of this vast country have eagerly awaited the enactment of this Bill. They have watched with increasing alarm its decline from its original forcefulness because it was considered expedient for compromise after compromise

to be made in order to win the maximum support for it. But even in its present and mutilated form this Bill is only comprehensive measure that has ever been shaped for the liberation of Hindu women from the age-old bondage of the unequal laws to which they are still subject. I do not ignore, neither do I make the mistake of overestimating, the volume of protest from the poor, deluded women whose ignorance and superstition has been exploited (with subtle insidiousness by the vested interests of bigotry determined to defend their last bastions to the bitter end. What a tragic spectacle it is that we witness in India today of Hindu women allowing themselves to be hypnotised into denouncing the very measure that has been so carefully devised to secure for them the equality of laws to which they are entitled under the Constitution. But today it is neither as a woman nor as a Hindu that I plead for support to this Bill. I speak as an Indian, passionately jealous of the honour of India which is pledged not only to this measure but to every other form of social legislation necessary to redress grievous wrongs and to alleviate human suffering arising out of unjust laws. So long as any section of the people of this country continue to be debarred, on the grounds of sex or caste or creed, from the full enjoyment of equal rights, so long will our Constitution continue to be a hollow mockery. And what of the freedom for which a long and gallant fight was waged, a fight that was shared by thousands of sensitive Hindu women who, for the first time in their lives, left the precious sanctuary of their sheltering homes. They came to the battlefield and stood besides their brothers and faced jail and lathi charges and often enough, humiliation worse than death. If today those thousands of Hindu women who fought for the independence of India are to be denied their just rights, then our hard-earned freedom is no more than a handful of dust.

I have studied with some care the numerous speeches and statements that have been made by various hon. Members of this House, far better qualified than I can ever aspire to be to judge the technical legal implications of this Bill. I must confess that I have been a little surprised to find that with all their forensic skill and expert dialectic they have not been able to forge many weapons with which to bludgeon this Bill and none of them with sufficient validity of sanction to be lethal. We have all grown a little tired of having it proclaimed in every language, in every conceivable permutation and combination of phraseology.

of hearing it shouted day after day from the housetops and the market place and highways and by-lanes that this Bill threatens to destroy the very stuff and texture of the fabric of Hindu society. In a statement that unfortunately received nation-wide publicity in America, a very distinguished hon. Member of this House has declared that this Bill is an attack on an ancient and gentle religion that has survived for five thousand years. He announced that because now the very structure of Hindu society was threatened he intended "to fight and fight and fight against it". It passes my comprehension that anybody who is proud of calling himself a Hindu can talk or even think in such terms without realising that he is dishonouring the very religion that he claims to defend. As though any of the great religions of the world that have survived through centuries of human history could be endangered by social legislation or by any speeches or writings or other form of human endeavour. If there is any religion in the world that can be imperilled by these trivial things, then it deserves to be allowed to perish.

Speaking three days ago on the floor of this House Dr. Syama Prasad Mookerjee described in very moving terms the immemorial beauty and wisdom of the teachings of Hinduism. He spoke of its comparable flexibility—I think he used the word adaptability—that had enabled Hindu philosophy to survive through centuries of foreign invasion and alien domination resisting wave after wave of the fiercest political and religious and economic onslaught. Surely, for all time to come Dr. Mookerjee has given the final answer to the futile and foolish argument that any social legislation intended to render justice to the underprivileged can imperil an ancient religion based on the loftiest conceptions of the sanctity and indivisible unity of all life.

Another serious charge which is sought to be levelled against this Bill is that by making legal provisions for divorce it will open wide the flood gates of immorality. It has been proved conclusively by speaker after speaker that there was provision for divorce even in ancient times. We are all aware that more than 75 per cent. of the Hindus in this country have always had the benefit of an easy and simple and effective system of divorce. So, this argument seems to lack any real validity and I think it has been employed merely to indulge in what is fast becoming a national pastime in this country, that of disparaging the West and western ways. May I be permitted to express my regret at the growing

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tendency in this country to make sweeping generalisations about the morals and manners of other races in other countries? This tendency is all the more deplorable because only too often hasty judgment is founded on insufficient knowledge, usually gleaned from the sensational publicity given to the doings of a handful of neurotics and decadents such as are to be found in every country of the world. Certainly, they are to be found in every big city of India. Dr Mookerjee rightly drew our attention to a grave problem that is today troubling the psychologists of the West and that is the growing prevalence of psychoses corresponding to rise in the rate of divorce. But may I respectfully suggest to Dr. Mookerjee that if he would pause and ponder over this problem and analyse it carefully he will find that the psychoses are not the result but the root cause of much of the divorce in the West. In many western countries, particularly those that have been ravaged by the last two great World Wars, the entire equilibrium of life has been seriously disturbed. Acute economic distress, and a morbid obsession with the atom bomb and the imminence of another World War—all these cause tensions that lead to both physical and mental insecurity. These inevitably result in a certain emotional instability which must of necessity have its repercussions on family life. But the fact remains that whatever may be the abnormal conditions in some countries, whatever may be the outward variations of morals and manners in different races, fundamentally the human race is the same everywhere and even today in every country of the world the family unit continues to be the very core of human society. Normally balanced men and women value a certain grace and dignity in human relationships and they do not resort to divorce lightly. It is only when they are driven to it as the only ultimate solution of a situation that has become intolerable that they resort to divorce. And if this be true of men, it is, I think, a hundredfold more true of women. Because in this changing and unstable world, devastated by wars and revolutions and famines, where all standards of ethical values are wavering, where all national and international codes of morality are vacillating, there still remains one thing changeless and unchanging—one thing that is still today what it was at the dawn of creation and what it will be at the end of time. And that is woman's inherent consciousness of the grave responsibility that rests on her through her high destiny as the creator and guardian of the sacred flame of life. And perhaps in no other country

[Kumari Padmaja Naidu]

of the world has that consciousness flowered in such perfection of beauty as in this ancient land of ours whose annals are rich with literature and legend inspired by the high ideals of our women. So, it is a little unworthy of us that we should talk lightly and flippantly about the capacity of the Indian woman to wear her freedom with dignity. To do so is to confess to a sad lack of understanding of the very genius of our race.

Some resentment has been expressed by hon. Members who have objected to the theory that this Bill should be passed merely because the eyes of foreign countries are upon us. I am in entire agreement with them. However much we may value the goodwill of other countries we cannot and will not shape our lives and legislation to suit anybody else's standards. But there is a far more valid and urgent reason for the passing of this Bill, and that is that our national integrity, our self-respect as a people are at stake. Many of the hon. Members of this House had the high privilege of drafting the Constitution of Free India. Upon them there rests the heavy responsibility of redeeming the pledges that are embodied in it. And so the question of accepting or rejecting this Bill is the simple one of whether we affirm or deny the very fundamental principles on which our Constitution is based.

Shri Brajeshwar Prasad (Bihar): I rise to offer my unqualified support to clause 2 of the Hindu Code Bill. While doing so, I would like to point out that if this clause is passed it will mean the perpetuation of a great wrong in Hindu society—the *immoral* distinction between legitimate and illegitimate children. The clause says that it applies to any child, legitimate or illegitimate. I know that it is not possible for the State to go to the extent to which I want the Government of India to go. I want the State to abolish the distinction between legitimate and illegitimate children. The stigma of illegitimacy dwarfs the personality of the child. It is inhuman and barbarous that millions of people in this country should suffer from psychological and social handicaps throughout their lives for no fault of their own. It may be urged that the institution of marriage will be weakened if the distinction between legitimate and illegitimate children is obliterated. I submit that the Heavens will not fall if the institution of marriage is weakened in any way whatsoever.

Pandit Maitra (West Bengal): Does the hon. Member want abolition of marriage?

An Hon. Member: No, week-end marriage.

Shri Brajeshwar Prasad: The good that is done to society by marriage is great; but the harm that is done to society by illegitimacy is also very great and serious. I think that it is neither possible nor desirable for the State to strengthen the foundations of a discredited social order. I can very well conceive of a society where there is no marriage. The Platonic ideal of a community of wives and children is as valid a concept today as it was during the days of Plato. If we are sincere about our professions of secularism, if we have any faith in secularism—let us be frank with ourselves—we must try to emancipate the institutions of property and marriage from the bondage of religion. It is true that the secular ideal has not been realised in any part of the world.

It is not secularism, but Christianity that guides the institutions of marriage and property both in America and Europe. I am of opinion that the institution of marriage will not be weakened in any way if the distinction between legitimate and illegitimate children is obliterated....

Mr. Chairman: I think the hon. Member may reserve these views to the marriage Chapter.

Shri Brajeshwar Prasad: I am not expressing my views on the marriage Chapter. I am only visualising certain objections that may be raised with regard to my suggestion that the distinction between legitimate and illegitimate children should be obliterated.

Shri T. Husain (Bihar): For the sake of information, may I know if my hon. friend is against legal marriage or not?

Shri Brajeshwar Prasad: If I get an opportunity to speak on the marriage clauses, I am prepared to make the distinction clear. I do not think that the institution of marriage will be weakened if the distinction between legitimate and illegitimate children is obliterated. For, what is the basis of marriage? Why is the institution of marriage surviving? It is old age—psychological enfeeblement of the mind and heart—which is responsible for the survival of the institution of marriage. It is not for the pleasures of sex; it is not for the procreation of children that the institution of marriage exists in society. For both these objectives can be

achieved outside the bonds of matrimony. I am opposed to illegitimacy because it is an important cause of abortion, destitution, prostitution, delinquency, further illegitimacy, premature birth, still-birth, crimes, infanticide, venereal disease and cruelty to women and children.

I am not prepared to give my moral support to an article which tends to perpetuate the gravest crime that is done in our society.

Shri B. Das (Orissa): At the outset I wish to congratulate Dr. Ambedkar on behalf of myself and all those reformists who are Members of this House and reformists outside, for the bold step he has taken to codify the Hindu law. He has shown great forbearance. He has been characterised as the Manu of our age. But he has been following the precepts of Buddha and showing greater forbearance in agreeing that only the Chapters relating to marriage and divorce be taken for the time being. I support the marriage and divorce clauses of this Code.

Great speeches have been made on the floor of the House. On the side of the Bill my hon. friend Shri Gadgil made an excellent speech; so also Pandit Kunzru. On the opposite side the speeches that have to be taken notice of are the ones of Dr. Syama Prasad Mookerjee, Sardar Man and my young friend Pandit Govind Malaviya.

Dr. Mookerjee perhaps forgot the fact that the intermediate stage in the line of reformists from Buddha to Gandhiji was held by great Bengalis like Raja Ram Mohan Roy, Keshab Chander Sen and Ramakrishna Paramahansa. It is no good for the Bengali leader to cry a halt to these reforms. That is not the right way. Hinduism has been a progressive religion. The various *Smritis* and *Mimamsa*, are but a codification of Hindu law. As pointed out by my friend Shrimati Padmaja Naidu, who in her incivitable poetic way paid happy compliments to Dr. Ambedkar, our Constitution has given certain rights to women of India and Dr. Ambedkar is doing nothing more than giving effect to the intentions of the Constitution.

My hon. friend Sardar Man belongs to a great nation, the fighting nation that has saved and maintained the freedom of India. He however struck a discordant note by saying that the Sikhs are not Hindus. I had the privilege of working with many Sikh leaders. Let us, therefore, not harp on our differences on the Hindu Code Bill.

But I may say that if the Sikh opinion is sounded, now or hereafter, they would never like to remain stagnant. If and when such opinions are taken, we will find that Sikh women are for progress and advance.

As regards Pandit Govind Malaviya; I have great affection for him, because I was a lieutenant of his revered and august father, the late Pandit Madan Mohan Malaviya. My memory goes back to the thirties when we were passing the Child Marriage Restraint Act on the floor of the House. The great seer that Pandit Madan Mohan Malaviya was he saw the signs of the times and although he was sad that this House enacted the Child Marriage Restraint Act known as the Sarda Act he never opposed it in such violent language and in such words of thunder as my young friend Pandit Govind Malaviya did.

Pandit Malaviya: Because these things were not proposed then.

Shri B. Das: True. But I was only quoting my own leader and his august father that he was for advancement and progress. That is all that I wanted to submit.

Shri A. C. Shukla (Madhya Pradesh): For those who are weak. You cannot follow the highest ideal?

Shri B. Das: Those who belong to the orthodox and conservative school in India have helped us in passing the Constitution. They have helped us, though at times a little weakly, in the battle for freedom that we fought for so many years. Since 1947 we are all going forward. If "go forward" is our motto now, then nothing will stop the advancement and progress of India or any section of our community, be it Hindu, Muslim or any other. Therefore, instead of showing that strong difference with us they should settle down to the view that India must progress as a nation, and if we are the first nation in Asia and are going to be the first nation of the world, they will help us to advance and progress and not deter us in any way.

I will conclude my speech by reminding the conservative friends in this House that this advancement of the Hindu Code and marriage laws is not a new thing. We have forgotten recent reformers like Sir Hari Singh Gour or Dr. M. R. Jayakar who have made specific indents into the old traditions and customs of Hindu laws, particularly marriage laws. So it is no use our saying that Dr. Ambedkar threw a bombshell and a surprise at our conservative friends. We are progressing, and Dr. Ambedkar has done

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one thing. He has faced the whole problem and not attempted piece-meal legislation. Yet to concede to our conservative friends the House is almost agreed to pass only one part of the Hindu Code Bill.

I support the measure.

Dr. Ambedkar: I think it is an extraordinary event in the history of this Parliament and, I believe, in the history of the past Legislative Assemblies that we should have been engaged in the discussion of a single clause for not less than seven days. I do not think there is any parallel to this. But in view of the fact that many Members have raised the point that this Bill touches part of their conscience, our Prime Minister in a righteous spirit has allowed them and also the Chair the longest time that any Member might want to consume in order to express his mind on the subject. (*An Hon. Member:* Wrong). I have no complaint against that because it is much better that we should give to every individual, whether he speaks for or against, the fullest opportunity rather than create a feeling in the Members who do not see eye to eye with Government—to go home with a feeling—that they have been choked. I hope that, notwithstanding the fact that seven precious days have been spent in the discussion of this clause, when this clause is put to vote no Member will have a complaint on any such ground at all.

Babu Ramnarayan Singh: I have.

Dr. Ambedkar: The debate on this clause has as a matter of fact taken place in two parts. A part of the debate took place in the last session of Parliament, and this is a sort of a supplementary debate to the original debate. I am sorry to say that notwithstanding the fact that I have paid the closest possible attention to the speeches which have been delivered in what I call the supplementary debate it has not been possible for me to find out what new point has been raised in the course of this supplementary debate which was not raised in the original debate. The only new factor which I have discovered in the course of this supplementary debate is the speech made by my friend Dr. Syama Prasad Mookerjee and another by our friend Mr. Man. Beyond that there has been nothing more than an expansive debate on points which were probably touched upon in the original debate.

With regard to Dr. Syama Prasad Mookerjee I have a feeling that it is

not necessary to take him seriously at all. He has, it seems to me, no mind of his own.

Babu Ramnarayan Singh: Have you?

Dr. Ambedkar: I have, most certainly.

He was, as hon. Members of the House will know, a member of this Government practically for four years, during which this Bill has been placed before this House by the Government in office. I have not any recollection whatsoever, during the course of these four years when Dr. Syama Prasad Mookerjee was a member of the Government and when the Government had already sponsored this Bill and put it before the House and it was in bits being discussed by Members of the House, that there was any single occasion inside the Cabinet when Dr. Mookerjee to my knowledge expressed the slightest difference of opinion on this Bill as against the Government.

Shri Syamnandan Sahaya (Bihar): Is it open for the hon. Minister to disclose what happened there or what did not happen there?

Dr. Ambedkar: I am saying so. I remember also that in the earlier part there were many party meetings held to discuss what should be done with regard to this particular Bill. I have a very clear recollection that in most of the meetings that were held Dr. Syama Prasad Mookerjee was present and even then I do not recollect a single occasion when Dr. Syama Prasad Mookerjee—in the party which is an informal thing and where members of the Government are free to express their personal opinions, which they may not express outside on account of the joint responsibility—ever said anything against this Bill. It is, therefore, as I said, a matter of moods. (*An Hon. Member:* Conviction.) Not at all. Either a man has a conviction or he has no conviction. That is my point. (*An Hon. Member:* He has resigned from the Cabinet.) I am sorry to say that he is to my mind a very tragic case, a tragic case of a sober, good well-behaved man, who having joined the company of the drunkards rolls from side to side and has become an inebriate, himself.

An Hon. Member: A good comparison.

Dr. Ambedkar: Secondly, I have been noticing the performances of Dr. Syama Prasad Mookerjee ever since he has left the Government and has become a member of the Opposition, in fact almost a leading member of the Opposition and I have noticed

that he has developed the unfortunate mentality which sometimes Leaders of Opposition develop, namely to oppose everything that comes from Government. In view of that when a person is not prepared to discuss matters on merits but wants to oppose for the sake of opposition it is I think hardly worth one's while to waste one's time and breath in order to meet his argument. As I said, that is the reason why I do not propose to take what Dr. Syama Prasad Mookerjee has said in a very serious manner.

I, therefore, propose to deal only with the general points that have been raised by various speakers against clause 2 and generally against the Bill. The first point which perhaps is a new point is this, that there is really no necessity for the sort of Bill that we had brought forward. It is contended that the Hindu Society is a very ancient society, much more ancient than the Roman or the Greek Society and perhaps as old as the Egyptian society. It has been contended that today all that we know about the Roman society or the Greek society or the Egyptian society is their history; they no longer exist; they have disappeared. The only ancient society which has survived is the Hindu society and if the Hindu society has survived while all other ancient societies have disappeared, then its laws, its social structure, its principles must be good. Otherwise, it could not have survived.

This is not the first time that I have heard this argument. I have heard this argument a long time ago and not only heard it from men in the streets, but men who have been occupying most eminent positions such as those who are called the historians of India. This is an argument which had been presented all the time by those who believe in the sanctity of the ancient structure of this society. I must very frankly say that I too have been a student of India's history, although I cannot claim that I am as good a student as many others who adorn the chairs of history in many of our universities. I believe. I have a sufficient understanding of the Indian history and the point that I would like to raise is this. Is survival enough or whether it is necessary for us to consider whether the plane on which we survived is more important than the mere survival itself? A man who mixes with his opponent in battle vanquishes him, obtains victory on him also survives. A man who meets his opponent, runs away from him like a coward and he also survives. Is the survival of the victor of the same value, of the same character as the survival of a coward?

I think we ought to consider this question on what plane has the Hindu society survived. (*An Hon. Member: Survival of the fittest*). Yes, but on circumstances. Here my friends will forgive me saying so, when I examine the history of India, we have survived, yes, but we have survived as people who have been from time to time subjugated, vanquished and enslaved. (*An Hon. Member: Who has not been?*) Yes. My hon. friend asks me the question, "Who has not been?" There are many countries and many communities who have lost in battle, who have been enslaved but I would like to remind my hon. friend that if he studies the history of all vanquished people, he will realize that some day, at some time, the vanquished people in other parts of the world have tried to achieve their liberty. I have not seen any such thing in this country. Therefore, the argument that merely because we have survived when other countries have lost and gone into history is one which does not convince me of the goodness or the soundness of the social structure under which we have been living. It has been said that the Hindu society has been a very progressive society. It was an argument which my hon. friend, Dr. Syama Prasad Mookerjee expatiated at great length and he pointed out that so great a radical reformer like the Buddha was accepted by the Hindu society as a great figure and not only they accepted him as a great figure but they adopted and accepted some of the principles which he advocated in his life.

It is no doubt one of the great qualities of Hindu society to absorb some things from those who oppose it. But, my point is this. Has the Hindu society changed its structure as a result of the absorption of the doctrines of their opponents? Let me develop the position with regard to the Buddha. What did he preach? He preached equality. He was the greatest opponent of *chatur varna*; he was the greatest opponent of belief in the *Vedas* because he believed in reason and did not believe in the infallibility of any book. He believed in *ahimsa*, the Brahmanic society accepted some things. What did they accept? They accepted the most innocuous dogma of *ahimsa*. Nobody was prepared to accept and they did not accept—they opposed—his belief in equality. Notwithstanding the fact that it has absorbed bits and bits of something which is of an innocuous character, it did not touch the main thing on which they were all united namely to maintain *chatur*

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varna. That is the reason why notwithstanding this assimilative and adaptive quality, they have remained what they have always been. We have for long number of years waited to see whether Hindu society would, as a result of the absorption of the doctrines preached by great men who have been born in this country or great men born outside the country, change its social structure. Most of us, speaking for myself, have been completely disappointed. Whatever else Hindu society may adopt, it will never give up its social structure for the enslavement of the *sudra* and the enslavement of women. It is for this reason that law must now come to their rescue in order that society may move on.

Pandit Malaviya: Move on to what even Buddha could not do.

Dr. Ambedkar: People have been saying that Hindu society has been changing. The question that I want to ask is this. Is this change in the direction of progress or is it a change in the other direction? Any one who has studied the history of Aryan society from the very beginning to the present day will have to admit if he is a fair student of history, that whatever change has taken place, it has been a deterioration. There was, as everybody knows, no caste system among the Aryans. There may have been some kind of *varna* system; but the *varna* system never came in the way of inter-marriages. You can find any number of cases of Brahmans marrying untouchable women, *Kashatriyas* marrying *sudras* and *sudras* marrying upper class women.

Pandit Malaviya: Which were the instances?

Dr. Ambedkar: I can give many instances if you will come to my room. I have got them.

Pandit Malaviya: Why not now?

Dr. Ambedkar: But, the Aryans never had a hide-bound social system of class division that was later introduced. Nobody can deny that that has been a subsequent change.

You examine the position of Hindu women. Our hon. friend Dr. Mitra, I think, who was a member of the Rau Committee, for the purpose of a thesis for a Doctorate degree of the Calcutta University wrote a book called *The Position of Women in the Hindu Shastras*. Any one who reads this

book will find that women had an equal share in property with men. She was entitled to hold property. Even in Manu you find this statement. Today, what do we find as a result of the changes that have taken place in the Hindu society? Women are completely deprived of property. Do you call this change progress or do you call it deterioration? Therefore, it is time, I think that we consider this question in a different light. The point on which I wish to proceed is the fact that unless law makes society move, this society will not move.

Another argument which was presented to the House was this: that we have no policy; we have no principle; we have nothing on which we are proceeding; the only thing on which we are proceeding is a kind of imitation of the western nations. It is said that because the western nations have monogamy, because the western nations have divorce or because the Chirtese are trying to do something along that direction, we, in order to put ourselves in the good books of the world at large, are trying to do something along the lines which they have been doing. They have said that our ideal should be, what? Somebody said Ram; somebody said Dasaratha; somebody said Krishna; somebody said this, that and the other. I do not wish to comment upon any of the ideals which have been presented to the House, and I do not...

Shri Syamnandan Sahaya: You will be well advised not to do so.

Mr. Chairman: Order, order.

Dr. Ambedkar: My ideals are derived from the Constitution that we have laid down. The Preamble of the Constitution speaks of liberty, equality and fraternity. We are therefore bound to examine every social institution that exists in the country and see whether it satisfies the principles laid down in the Constitution. Now, so far as your sacramental marriage is concerned, forgive me, I am quite convinced in my own mind that no man who examines that institution in a fair, honest and liberal spirit can come to the conclusion that our sacramental marriage satisfies either the ideal of liberty or of equality. What is the sacramental ideal of marriage? Sacramental ideal of marriage described in as few words as possible, is polygamy for the man and perpetual slavery for the woman.

An Hon. Member: Wonderful description.

Dr. Ambedkar: That is so because under no circumstances can a woman get her liberty from her husband, however bad he may be, however undesirable a person he may be. I want to put one question to the House. Are we for slavery or are we for free labour? What are we for? Now, in all economic matters, we have all long been insisting that there must be free labour. Slavery we shall not tolerate.

An Hon. Member: Is this slavery?

Dr. Ambedkar: Now, what is the difference between slavery and free labour? I think if you examine it carefully, you will come to the conclusion that free labour means the ability and the capacity to break the contract when the necessity for breaking the contract arises.

Shri R. K. Chaudhuri (Assam): And is this a contract?

Dr. Ambedkar: Yes, I shall come to that.

Therefore, if the woman under the sacramental marriage is to get her freedom, then circumscribe as you may, the conditions for her getting her freedom, and as I said, I shall be quite prepared to consider any proposal that may be made by any Member from any side of the House to narrow down the conditions of divorce that have been prescribed in the Bill as it stands. But if you mean to give liberty—and you cannot deny that liberty in view of the fact that you have placed it in your Constitution and praised the Constitution which guarantees liberty and equality to every citizen—then you cannot allow this institution to stand as it is. That is the reason why we are proceeding with this Bill and not because we want to imitate any other people or we want to go in for our ancient ideals which are today to my judgment, most archaic and impossible for anybody to practice.

Dr. C. D. Pande (Uttar Pradesh): We are ready to support the Bill, but we do not want these invectives. How far the hon. Minister is justified in dealing with this subject and resorting to such invectives, I do not know?

An Hon. Member: Why vilify the Hindu religion?

Dr. Ambedkar: Now, I come to the specific amendments that have been tabled by various Members to clause 2.

Shri Krishnanand Rai (Uttar Pradesh): The House is for divorce and monogamy, but not for this kind of abuse.

Dr. C. D. Pande: We are for these provisions, but we do not want these abuses and invectives.

Dr. Ambedkar: If you had said that before, I would not have made this speech at all and not spent seven days over this Bill.

The Prime Minister (Shri Jawaharlal Nehru): I am rather surprised at the tender skin of some of the hon. Members. We have had to put up with a series of speeches and things have been said which have hurt us very much. If that has not been objected to, then I think it is expected that those who disagree with Dr. Ambedkar should not object now.

Pandit Maitra: We have been listening with rapt attention to Dr. Ambedkar, but what we do not want is these invectives and reflections on some of the best ideals which we cherish. The provisions can be defended without injuring the religious susceptibilities of Members.

Mr. Chairman: I do not think there is any need for excitement. As the Prime Minister has said, many hon. Members who had spoken had said so many things, and naturally when the hon. law Minister is replying, he has to make certain statements, and he deserves to be heard.

Dr. Ambedkar: Now, I come to the specific amendments that have been tabled to this clause. As you will observe (*Interruptions*).

Mr. Chairman: I do not want side-conversations to go on across the benches.

Dr. Ambedkar: There is one general amendment, that this Bill should be made optional. This amendment has taken various shapes and forms. In one shape it means that the Hindus to which this Bill is made applicable, should be allowed option either to have it applied to them or not be applied to them. Another shape in which the same amendment has come is that if any other people, such as for instance the Muslims, to whom this Bill does not apply, desire that the Bill should be applied to them, there should be provision in it to that effect. The other shape which this amendment takes is that it should be left to the States to apply or not to apply this Bill. Now, I will deal with the general

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amendment in all the three shapes in which it has been presented to us.

With regard to the first aspect of the matter, that its application even to the Hindus should be optional, last time, the Deputy-Speaker came to the rescue of many Members by pointing out that there was a precedent for a thing like this. I think hon. Members will remember that he referred to the *Shariat* Act and the Khoja Momin or Khoja Act, and therefore, he said there was no danger or anything strange in making a similar provision so far as the application of the Bill to the Hindus is concerned. Since that time, I have spent much time in examining whether the statement made by the hon. Deputy-Speaker—I am sorry he is not here—is true in fact. And I find that this has been a sort of lapse of memory on his part.

Shri Syammandan Sahaya: Are you criticising the Deputy-Speaker's ruling or are you criticising the remarks of Shri Ananthasayanam Ayyangar?

Dr. Ambedkar: I am dealing with the statement of Shri Ananthasayanam Ayyangar. I am glad the hon. Member is so technical today.

Shri Syammandan Sahaya: I am so, all the time. But the hon. Minister is taking advantage of his position as a member of the Cabinet.

Dr. Ambedkar: I find that in the course of the debate on the Bill which took place in the year 1937, my hon. friend Shri Ananthasayanam Ayyangar himself raised this question about the applicability of the Bill and I find that his speech is spread over practically to two pages here. As I said, he raised this very question whether that Bill was going to take away the option that was given to the Khojas. He put this question direct to Mr. Jinnah, because as the House will remember, the *Shariat* Bill was not a Government Bill. It was a private Member's Bill which was brought in and practically Mr. Jinnah was in charge of that Bill. And Mr. Jinnah had given an absolutely categorical answer to Shri Ananthasayanam Ayyangar that not only was that Bill compulsory, but even the option given to the Khojas would be taken away by that Bill.

Pandit Maitra: Why not inform the House of the background of that Bill also? I was there when the Bill was being discussed and I know that Mr. Jinnah wanted the Muslims not to be governed by any Hindu law at all.

Dr. Ambedkar: I can give the book, it is here, and anyone who wants to read the whole debate can do so. I cannot spend any more time on this because I have to deal with the amendments.

Shri J. R. Kapoor: That debate is of which year?

Dr. Ambedkar: 1937. The only difficulty that...

श्री भट्ट : वह शरियत बिल पास हुआ था, सलेक्ट कमेटी में गया था, या गिर गया था ?

[**Shri Bhatt:** Was that *Shariat* Bill passed, or referred to a Select Committee or dropped?]

Dr. Ambedkar: The Bill was passed and it was decided that no option was to be given.

The only difficulty that arose was that when they introduced clause 3, it was introduced in the House without the assistance of the draftsmen and what happened was that they introduced the word "Act" instead of referring to it as "clause". That defect was cured by my friend Mr. Kazmi, who brought in a Bill in 1943 and substituted the word "clause" for the word "Act". Therefore, the ground that there is a precedent, I submit, falls through.

12 Noon

Shri J. B. Kapoor: May I bring to the notice of the Law Minister that this Act of 1937, I suppose, repeals the previous Kutchi Memon Act, according to which option was given and what the Deputy-Speaker as a Member of this House brought to notice was that there was, in fact, in force for a number of years a legislation which gave option.

Dr. Ambedkar: That was before, that was taken away.

Shri J. R. Kapoor: All the same for a number of years that sort of legislation did hold good. That was the point made by him.

Dr. Ambedkar: We are discussing the question whether the 1937 Act gave an option. That is the point.

Shri J. B. Kapoor: Mr. Ayyangar's point was that the 1923 Act gave the option.

Dr. Ambedkar: I am sorry I cannot give way.

Mr. Chairman: If there is any inconsistency in the speech hon. Members may bring it up at a later stage, when there will be a good deal of opportunity.

Shri Amolakh Chand: What is the latest position now?

Dr. Ambedkar: No option.

Shri Naziruddin Ahmad: There was option for a long time.

Dr. Ambedkar: For Cutchies.

I will take the proposal to grant option. Apart from precedents what would be the consequence? Suppose we adopt this proposal of giving option. Hon. Members will remember that there are certain States like Bombay and Madras, where the legislature has enacted laws regulating marriage and divorce. In those two Acts there is no option whatsoever given. They are compulsory on every body who resides or is domiciled there. If we adopt this law, it being a central law, it will supersede the laws of the provincial legislature in so far as it is inconsistent with those laws, by reason of the fact that this is legislation in the concurrent field. The one consequence will be that whatever progress the States of Bombay and Madras have achieved in the matter of monogamy and divorce will be completely destroyed.

Shri Gautam (Uttar Pradesh): What will be the position of the Muslims in Bombay?

Dr. Ambedkar: It applies to the Hindus only. I will shortly come to the Muslims. Do not worry. I will not run away from the point. Therefore, the one consequence will be that the two States which have achieved a certain degree of social advancement will be set back.

Shri J. R. Kapoor: Keep it alive.

Dr. Ambedkar: How can you?

Shri J. R. Kapoor: By saying "Save and notwithstanding anything contained herein this Act will..."

Dr. Ambedkar: That will be fantastic legislation just to satisfy my hon. friend. So this consequence has also to be taken into consideration.

What is the position today? Certain States have laws relating to monogamy and divorce. Certain other States have no such legislation. The one thing that has to be remembered is that under our Constitution no State has got extra-territorial jurisdiction. The law applies either to the resident when he is resident there or to a person who is domiciled. If a person marries in Bombay he shall have to marry under that State's Act. If he wants to divorce his wife on grounds

which are not permitted by the Bombay law he can easily go to U.P. where no such law exists, divorce his wife and marry again, thereby altogether destroying the validity of the Bombay legislation. It is something like prohibition. An isolated State cannot have prohibition. If it is to be there it must be all through, so that no man can go to another State and break the law of the State in which he resides normally. Therefore, in this case either there should be no legislation and leave things as they are or if you want legislation it must be an all India legislation, so that no man or woman would be able to break the law.

The third difficulty is that although they have tabled amendments to the effect that option should be given, they have not indicated the nature of that option. Are women to have the right to make an option or not? If the father makes an option that this law applies to him, does his option apply to his son and progeny? If the husband makes an option under this law, will it apply to his wife by reason of the fact that she is his wife? If the husband does not apply it to himself, will the wife be free to do so?

Shri Bharati (Madras): All confusion.

Dr. Ambedkar: It would be utter confusion, if such an amendment was adopted.

Shri J. R. Kapoor: What does the proviso to clause 2 say?

Dr. Ambedkar: I am afraid I cannot add any such proviso. Our law may be deformed in some way but it should not altogether be unaesthetic: It must be good to look at.

I now come to the other aspect of the argument, namely of allowing other people to have the law apply to them. I should not have dealt with it but for the fact that Dr. Mookerjee referred to the fact that this law was not made applicable to Muslims. He charged the Government with either want of sincerity or want of courage that they can never bring such a legislation so far as the Muslim community is concerned. With regard to this matter Members have said that we are enacting a piece of legislation which is discriminatory for the simple reason that the Hindus today have the right to marry more than one woman and the Muslims have a right to marry four but that we are taking away the right of the Hindu leaving the right of the Muslim unaffected. That they say, is discriminatory. With all respect I

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would invite the attention of Members to article 25 of the Constitution, which says:

"Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practise and propagate religion."

I want to draw the attention of Members to the words "the right freely to profess and practise their religion". I am not concerned for the moment with propagation of religion.

Last time when I spoke on this Bill I made it quite clear that in our country, fortunately or unfortunately, the profession of a particular religion carries with it the personal law of the person. You cannot get away from that position. Similarly, when you say to a Muslim that under the Constitution he is free to profess and practise his religion, we are practically giving him the right to practise his personal law. In view of the fact that the Constitution allows different communities to practise their religion and incidentally also to have their personal law, there is nothing discriminatory in allowing one community to have their own law or to modify it in the way they like and to treat the law of the other community in a different way or to modify it.

Pandit Thakur Das Bhargava (Punjab): According to Hindu law a person can marry more than one wife, according to Mahomedan law also a person is entitled to have more than one wife, but there is no obligation on any Muslim to have more than one wife nor is there any obligation on any Hindu to have more than one wife. The personal religion of both is the same on this point. Similarly, it is not enjoined upon a Mussalman to practise child marriage, nor is it enjoined upon a Hindu to practise child marriage, for the *Smriti* and the *Hadis* of both say the same thing on this point. Therefore, the Child Marriage Act was applied to the Muslims also. It is not going against the Muslim law or the *Shariat* law if we make this law applicable to them today. So far as article 25 is concerned you will not be following this...

Dr. Ambedkar: I am answering the other argument that we are making a discrimination. To that I am giving the answer that the Constitution permits us to treat different communities differently and if we treat them

differently nobody can charge the Government with practising discrimination. That is the point. That being so, another thing I would like to tell the House is that article 25 is an article of great importance, for this reason. As the House will remember, all throughout the history of Europe there has been a great contest between the Church and the State. The State has said that the Church shall not interfere in religion and that the State is supreme over Church. The Church, on the other hand has said that the State is subordinate to the Church, it is only when the Church permits that the State can enact. That has been the general position. In our Constitution we adopted a middle course; the course that we adopted was this, that while we will permit people to practise and to profess their religion and, incidentally, to have their personal law because the personal law is so imbedded in their religion, yet the State has retained all along in article 25 the right to interfere in the personal law of any community in this country. There can be no argument against that. That is my point. The only question is the time, the occasion and the circumstances.

I want to assert in this House while I am here that I shall hear no argument from any community to say that this Parliament has no right to interfere in their personal law or any other laws. This Parliament is absolutely supreme and we deal with any community so far as their personal law is concerned apart from their religion. Let no community be in a state of mind that they are immune from the sovereign authority of this Parliament.

Shri A. C. Shukla: You pass a law but cannot administer it.

Dr. Ambedkar: The point really is a very narrow one and that point is this: whether right now we should make our Bill applicable to the Muslims—the Hindu Code Bill which has been professedly, deliberately, calculatedly intended to apply to what is called the Hindu community.

Shri J. R. Kapoor: Non-Hindus also.

Dr. Ambedkar: We have been, in making this kind of a legislation, observing a certain necessary procedure as a condition precedent. In all social legislation the Government usually—as a matter of convention and, if I may say so, binding convention—observes the rules of consulting the people affected before any particular piece of legislation is undertaken. Hon. Members well know that with

regard to this very Bill there was a Committee which went round from Province to Province, from State to State, took evidence from every section, every community, individuals, organised people, to find out what their opinion was. Nobody can say that so far as this particular Bill is concerned, any Committee or Government at any time consulted the Muslim community—that we are going to enact monogamy and reform the law of divorce so far as the Hindus are concerned, that these are the provisions that we propose to apply to them, what have you to say about it? No such step has ever been taken and I think it would be not only unwise but a most tyrannical piece of political action to subject the Muslim community to any such provision without their being consulted beforehand.

Pandit Maitra: Why did you not do it beforehand?

Dr. Ambedkar: The reason why we did not is because some communities like the Hindu community needed the reform so badly—it was a slum clearance.

Pandit Maitra: You had not the courage to do it.

Dr. Ambedkar: This is a slum clearance.

Shri Syamnandan Sahaya: Did you consult the Sikh community?

Dr. Ambedkar: Oh, yes. I am dealing with it. Do not be impatient. I have consulted them. Do not you make a mistake.

श्री भट्ट : क्या माननीय मन्त्री जी यह कह सकते हैं कि अभी भी अगर पालियामेंट चाहे तो मुसलमानों की और क्रिश्चियन्स की राय ली जा सकती है या नहीं ? इस में क्या बाधा है ?

[Shri Bhatt: Can the hon. Minister state whether or not, if Parliament so desire, the opinions of Muslims and Christians may still be ascertained? What is the obstacle to it?]

डा० अम्बेडकर : बाधा यह है कि खाना टेबिल पर आ गया है। अब खा लें। दूमरे को दावत देने में तो बकत लगेगा और हमारे पास इतना खाना है भी नहीं कि बीरों को दिया जा सके।

[Dr. Ambedkar: The obstacle is that the meal has now been served on the table. Let us take it now. It will take time in inviting others. At the same time we do not have so much food as may be offered to others.]

Mr. Chairman: I do not want hon. Members to go on interrupting throughout the length of the debate.

श्री भट्ट : यह तो मिठाई मानी जाती है जो कई दिन तक रह सकती है ।

[Shri Bhatt: These are sweets which can stay for days together.]

Dr. Ambedkar: Regarding the other part of the option, namely that it should be left to the States, in one aspect I have already dealt with it. Suppose some States enact such laws and some States do not, the chaos to which I have already referred would be there and I do not think we could allow any such option to States which would result in chaos in such fundamental matters as marriage and divorce. In this connection I should like to say this that although it is true that the Rau Committee did not visit the Part B States, still when the informal conference took place I did take care to invite certain representatives of the Part B States. One of them was the Chief Justice of Saurashtra, the Advocate-General of Mysore. I think, was there...

श्री भट्ट : सीराष्ट्र के चीफ जस्टिस (Chief Justice) पार्ट बी० स्टेट्स (Part B States) के प्रतिनिधि कैसे माने जाते हैं ? वह तो राज्य के नौकर थे ।

[Shri Bhatt: How is it that the Chief Justice of Saurashtra is taken to represent Part 'B' States? He was in the service of the State.]

Dr. Ambedkar : वह यह तो जानते हैं कि वहां की स्थिति क्या है । (He knows the conditions prevailing there.)

We have done that. Now I come to the question of the Sikhs. My friend, Syamnandan Sahaya has gone away somewhere...

Shri Syamnandan Sahaya: I am here, very much so, Dr. Ambedkar.

Dr. Ambedkar: Now I come to the question raised by my friend, Mr.

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Bhopinder Singh Man. His amendment is that this Bill should not be applied to the Sikhs. Well, I have nothing personally to say about this amendment because his amendment is not in any sense solitary as compared with the other amendments which have been tabled by our friend, Mr. Naziruddin Ahmad omitting the Buddhists, Jains, Sikhs, and so on. It is perfectly legitimate for anybody to put forth his viewpoint, but I think the hon. Member will allow me to say that the tone of his speech was to me very repugnant and I think hurt me a great deal.

Sardar B. S. Man rose—

Mr. Chairman: I do not want hon. Members to go on interrupting him.

Shri Syamnandan Sahaya: If the hon. Minister indulges in such remarks against those who oppose the Bill, we are entitled to interrupt him.

Mr. Chairman: Order, order.

Shri Syamnandan Sahaya: If he goes on like that, the situation may become worse.

Dr. Ambedkar: I am entitled to express my opinion.

Mr. Chairman: Order, order.

Shri R. K. Chaudhuri: Why don't you ask the Minister to sit down?

Mr. Chairman: What is the meaning of this? There is a regular uproar. Hon. Members must maintain order.

Shri R. K. Chaudhuri: If the hon. Minister does not sit down, does that mean order? You only want to control us; not others.

Dr. Ambedkar: My point is this (Interruptions).

Sardar B. S. Man: I take his retort in a sporting spirit. His speech is equally repugnant to us today.

Dr. Ambedkar: I am prepared to accept that.

Mr. Chairman: All that I can say is that hon. Members should have left it to the hon. Member concerned to whom the Minister's remark refers.

Dr. Ambedkar: My point is very simple. There can be no dispute that Indians as such are excluding the Muslims...

Shri Sondhi (Punjab): They are not Indians. Is that so?

Dr. Ambedkar: Let me go on in that way, because I do not find exact qualifying words. We non-Muslims, so to say, are not a very united family. I do not think it is desirable to take an unrealistic view and say that we are all one. We are not. But I do say that we ought to make an attempt to come together as far as we possibly can, and we ought not to sow the seeds of discord all the time. When anything of a unifying nature comes before the House, if somebody gets up and says, "Well, we do not belong to this group and we do not want to be governed by this law"...

Sardar Hukam Singh (Punjab): Why did you not appeal to the President when he was making a declaration as to who would be the Scheduled Castes? He has made that distinction.

Dr. Ambedkar: It may have been done because of his generous spirit, if you will remember what happened.

Now, that is what I do not like. In my judgment, we ought all of us to make a very sincere attempt to come together, at any rate. Each one of us may have our religious beliefs. One may believe in a God. One may not believe in a God and one may believe in a soul. Those are spiritual matters. But is it not desirable that notwithstanding the differences that we may have so far as our beliefs are concerned we should try to evolve one single system of law by which we may be bound in our inter-relations?

Sardar Hukam Singh: Should this not start from you?

Dr. Ambedkar: Why should you all the time keep on saying, "I am different. I am not governed by this and I am not governed by that. Therefore, do not make your law binding upon me". That is the point of my protest.

Shri A. C. Shukla: Natures differ.

Dr. Ambedkar: The gravamen of my hon. friend Sardar Man's charge was this that the Sikhs have not been consulted in this matter. My answer to his point is two-fold. If the Sikhs have not been consulted as Sikhs, my contention is that there was no necessity to consult them...

Sardar B. S. Man: Oh!

Dr. Ambedkar: Please let me continue.

...because all along the law has assumed that the Sikhs for the purposes of law are Hindus. I have examined Mulla's *Hindu Law* which is

a very handy volume and if my hon. friend were to refer to the index to that volume he will find certain Acts passed by the Legislative Assemblies of this country to amend the Hindu law. He will find any number of them. But I would like my hon. friend to point out to me whether in respect of any of those laws which have been enacted by this Parliament effecting a change in the Hindu law—and made applicable to the Sikhs—they ever consulted the Sikhs or they ever omitted the Sikhs.

Sardar Hukam Singh: Because custom prevails there.

Dr. Ambedkar: I do not find any such instance of consultation at all. Whenever a law has been passed to amend the Hindu law, it has been made applicable to all persons who have been by frequent judicial interpretation included in the term 'Hindu'.

Pandit Maitra: Then what is the necessity of putting it here?

Dr. Ambedkar: Because men like you might doubt.

Now I come to the other part and wish to prove that the charge that the Sikhs were not consulted is not founded on facts. I have taken the trouble of going through the evidence taken by the Rau Committee when it toured and went to Lahore. I find that the following persons appeared or made statements before that Committee. The first person to whom I wish to refer is Justice Teja Singh of the Lahore High Court. He, as a member of the Punjab High Court, wrote a statement for the Rau Committee. I have gone through the main part of it but I have not found any single statement by Justice Teja Singh that this law should not be applied to the Sikhs. I do not know whether my hon. friend accepts that Justice Teja Singh has some right to speak in the name of the Sikh community.

The other gentleman whose name I find from the records is Sardar Varyam Singh. He came as a representative of the Akali Darbar and no doubt he said that this Bill should not be applied to the Sikhs, because the Sikhs, he contended, were a more liberal people.

Sardar Hukam Singh: Who was this gentleman? Is there any description given about him?

Dr. Ambedkar: Secretary of the Akali Darbar—that is the description that has been given in the records.

The other person who had given evidence before the Rau Committee was Sardar Iqbal Singh. He was a lawyer and he came in his individual capacity.

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

Sardar B. S. Man: What did he say?

Dr. Ambedkar: He said nothing.

Sardar Hukam Singh: Then he can be safely quoted!

An Hon. Member: Let him read his statement.

Dr. Ambedkar: Here is the record. You can have the whole information you want. He said nothing against this Act being applied to Sikhs.

Then Sardar Harnam Singh, at present Judge of the Punjab High Court, came and gave evidence, not in his capacity as a Sikh but in his capacity as a representative of the Bar Council. There again, he raised no such question at all that it should not be applied to the Sikhs.

Sardar Hukam Singh: But what was his opinion about the Hindu Code Bill?

Dr. Ambedkar: He has not opposed it.

Now, I come to an important circumstance to which I would like to make definite reference. The House will remember that after the Bill was introduced in the House by Mr. Mandal—and it was introduced after the Rau Committee's investigation was complete—even then Government promised that they would issue an executive circular to the various provincial Governments and invite their opinion on the Bill as introduced. That circular was also sent to Punjab.

Shri Sondhi: In what year was that?

Dr. Ambedkar: 1947.

Shri Sondhi: Before the partition?

Dr. Ambedkar: No. After the partition, because the letter has been issued to the East Punjab Government. I will give the substance of the letter from the Home Secretary to the Government of East Punjab to the Secretary to the Government of India, Legislative Department, New Delhi, No. 211 dated the 3rd October 1947. In that the following statement is made:

"I am directed to forward a copy of the letter so and so from the Registrar of the High Court

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of Judicature, Lahore, reporting the views of the hon. Judges, etc. The Punjab Government also invited the views of the Commissioners and Deputy Commissioners, the High Court Bar Association, and five divisional headquarters, as well as of the nine selected non-official organisations believed to be representative of the Hindu and Sikh opinion. Only one of the latter Shri Sanathan Dharma Pradhindhi, Lahore, rep'ied."

I do not think in the face of this my hon. friend can say that no attempt was made to canvass the opinion of the Sikh community. My hon. friend also said that of the seven members consulted six opposed it. He may be knowing something more about it. I am however entitled to say that before my hon. friend made his speech, I had one or two conversations with him. He told me that he was particular about the Anand marriage, or the customary ceremony and I told him that although we were passing this Bill, we are not abrogating the Anand Marriage Act which has been passed by the Assembly in order to regularise certain ceremonies which the Sikhs perform for the solemnisation of their marriage and I thought that he was perfectly satisfied with that. But it may be that some other reason has come to the surface which has made him to give rise to these hidden feelings which otherwise might have remained locked up in his breast.

My hon. friend read out a judgment of Dr. Bakhshi Tek Chand—it is reported in 10 Lahore, Kabul Singh's case. I have examined the facts of this case and the rationale of the case. The only point of dispute was whether a marriage between a Jat Sikh and a Mazhabi woman was a legal marriage or not. It was contended on the other side that it was not a legal marriage because the Jat belonged to a superior class and the woman belonged to an inferior class and inter-caste marriages were not allowed. Mr. Justice Tek Chand held that the Jats were *sudras* and the rule that applied to *thraivaranis* did not apply to *sudras* and the untouchables are treated by *Shastras* as *sudras*. It is a marriage between *sudras*. Therefore, it is valid.

Sardar B. S. Man: There is difference between an untouchable and a *sudra*.

Dr. Ambedkar: But that is the decision of the court, my hon. friend. The courts have treated both as

sudras and you know very well there is distinction on that point.

The only point on which my hon. friend could rely was that the Sikhs are liberal and that they do not observe caste. Well, on that ground he ought to welcome this, because we are abrogating caste throughout. Therefore, it is in no sense in conflict with what is happening in the Sikh community.

Sardar Hukam Singh: Our complaint is that we are far in advance of the stage to which you say you are bringing us up. Please do not pull us down.

Dr. Ambedkar: Different people have have different notions about advancement and I have my notions about it. Advance may also mean no law— anarchy—that also may happen. I think I have dealt with all the points that have been raised by the various speakers on their amendments.

Pandit Thakur Das Bhargava: Are you not perpetuating the caste system by accepting the proposal that caste *panchayats* should decide divorce cases?

Dr. Ambedkar: Why talk about it when we have not reached it? We have not reached that. We shall see it then. For the moment I have dealt with all the points and given reasons why it is not possible to accept any of the amendments proposed by hon. Members. The only amendment that I am prepared to accept is the amendment moved by Dr. Bakhshi Tek Chand by which he proposes to substitute the word "followers" for "members".

Shri Naziruddin Ahmad: May I have your permission to correct a mistake which has crept into the debate in the speech of Dr. Ambedkar? (*Interruption*).

Mr. Deputy-Speaker: If he makes any particular mistake it is for him to correct it. The hon. Member will point it out to me. It is not necessary to speak on that. Exception of that kind can be taken to whatever he has said in his speech but it is not our business to go on correcting the speeches.

There are a number of amendments that have been tabled. Hon. Members might have forgotten what the amendments are that have been moved. I have, therefore, put these amendments into groups according to the subject matter and also according to the clauses.

The Minister of Works, Production and Supply (Shri Gadgil): There are two amendments moved to this clause by the hon. Minister himself.

Dr. Ambedkar: There are only two amendments.

Mr. Deputy-Speaker: I am referring to all the amendments. Certainly, those amendments which the hon. Minister has himself moved and the one standing in the name of Dr. Tek Chand, which the hon. Minister is willing to accept, will be borne in mind. It is my duty to place before the House what exactly the amendments are on which they are called upon to vote for or against. Instead of going into the details, and for purpose of convenience, I shall put the amendments in each group one by one. I shall take the group: "application to all Indians compulsorily", that is, not only to Hindus but Buddhists, Jains, non-Hindus, Muslims, Christians etc. who come under the operation of this Bill.

The question is:

For clause 2, substitute:

- "2. *Application of Code.*—(1) This Code applies to all Hindus.
- (2) The expression 'Hindu' in this Code shall, unless otherwise provided, mean a citizen of India.
- (3) Notwithstanding anything contained in the Special Marriage Act, 1872 (III of 1872), this Code shall apply to Hindus, as defined in that Act, and whose marriages have not been solemnized under the provisions of that Act prior to the commencement of this Code."

The motion was negated.

Mr. Deputy-Speaker: The question is:

For clause 2, substitute:

"2. This Code applies to all Indians irrespective of their religion, caste, or creed."

The motion was negated.

Mr. Deputy-Speaker: Shri Jhunjhunwala's amendment for substitution of clause 2 is barred as the House has already decided upon this.

Then, I come to the other set: that this Code should apply only to those who make a declaration, and even then, the parts that are declared should apply.

The question is:

For clause 2, substitute:

"2. *Application of Code.*—This Code or any part or parts thereof applies to all the citizens of India that is Bharat, who after attaining the age of majority, declare in writing that they shall be governed by this Code or any part or parts thereof, as the case may be, and get such declaration registered in accordance with rules prescribed for the purpose by the Central Government."

The motion was negated.

Mr. Deputy-Speaker: The next two amendments of Shri J. R. Kapoor also go with his amendment negated just now. They are also therefore deemed to be negated.

Then, the question is:

In the amendment proposed by Shri Banarsi Prasad Jhunjhunwala, in the proposed proviso to clause 2, for the words beginning with "unless such persons" to the end, substitute:

"unless such person, after attaining the age of majority, declares in writing that he or she, as the case may be, shall be governed by this Code, and gets such declaration registered in accordance with rules prescribed for the purpose by the Central Government."

The motion was negated.

Mr. Deputy-Speaker: The question is:

To clause 2, add the proviso:

"Provided however, that notwithstanding anything contained in the above clauses, this Code shall not apply to any person, unless such person got his name registered with such authority, and in such manner, as may be hereafter prescribed by Parliament, within one year after this Code comes into force, and in case of a minor within one year after such minor attains majority."

The motion was negated.

Mr. Deputy-Speaker: The question is:

To clause 2, add the proviso:

"Provided that the provisions of Parts II or/and VII relating to marriage and divorce, and succession shall not apply to any person

[Mr. Deputy-Speaker]

unless such person, after attaining the age of majority declares in writing that he or she, as the case may be, shall be governed by the said provisions, and gets such declaration registered in accordance with rules prescribed for the purpose by the Central Government.

Provided further that the provisions of Part II relating to marriage and divorce shall apply to such declarant only when both the bride and bridegroom before the marriage, or both the husband and wife after the marriage, make such a declaration."

The motion was negated.

Shri J. R. Kapoor: Sir, in view of the changed circumstances of the case, I would request leave of the House to withdraw my amendments Nos. 97 and 272. But all the same I would like to move at a later stage, an amendment, when we know how exactly this Part stands when we have gone over the whole of this chapter relating to marriage and divorce.

The amendments were, by leave, withdrawn.

Mr. Deputy-Speaker: Then there is amendment No. 336 standing in the name of Shri J. R. Kapoor. Does he want me to put it?

Shri J. R. Kapoor: Yes, Sir. And I hope the hon. Law Minister will please go over it and see what it means; otherwise there will be difficulty in enforcing what he wants to enforce.

Mr. Deputy-Speaker: Why at this stage? All persuasion has already been done.

The question is:

In the amendment proposed by the hon. Dr. B. R. Ambedkar, printed as No. 3 in the proposed amendment to clause 2, after part (1), insert:

"(1A) in sub-clause (3) for the words 'the provisions' the words 'any or more of the provisions' be substituted."

The motion was negated.

Mr. Deputy-Speaker: The question is:

In the amendment proposed by the hon. Dr. B. R. Ambedkar, printed as

No. 3, in the proposed amendment to clause 2, after part (1) insert:

"(1A) in sub-clause (3) insert at the end 'in respect of any or more of the matters dealt with herein'."

The motion was negated.

Mr. Deputy-Speaker: Now I take another topic—inclusion or exclusion of categories of people.

The question is:

In the amendment proposed by the hon. Dr. B. R. Ambedkar, printed as No. 3, in part (1) (ii) of the proposed amendment to sub-clause (1) of clause 2, after "Sikh religion" add:

"or to any other religion or faith except Muslim, Christian, Parsi or Jew religion."

The motion was negated.

Mr. Deputy-Speaker: The question is:

In part (d) of sub-clause (1) of clause 2, at the end, add:

"subject to his rights and liabilities before his conversion."

The motion was negated.

Mr. Deputy-Speaker: The question is:

After part (d) of sub-clause (1) of clause 2, add:

"(e) to a Muslim or Christian converted from Buddhism, Jainism, Sikhism or Hinduism in his life time."

The motion was negated.

Mr. Deputy-Speaker: The question is:

Omit part (b) of sub-clause (1) of clause 2.

The motion was negated.

Mr. Deputy-Speaker: Amendment No. 274, which also stands in the name of Mr. Naziruddin Ahmad is the same as the one just now negated by the House. That need not be put.

Then, the question is:

For part (b) of sub-clause (1) of clause 2, substitute:

"(b) to any person who is a Jaina by religion."

The motion was negated.

Mr. Deputy-Speaker: The question is:

In part (b) of sub-clause (1) of clause 2, for "Jaina or Sikh" substitute "or Jaina".

The motion was negated.

Mr. Deputy-Speaker: Amendments Nos. 101 and 102 are only earlier amendments which are the same as the amendments which have been just now negated by the House. I need not put them.

The question is:

In part (b) of sub-clause (1) of clause 2, omit "or Sikh".

The motion was negated.

Mr. Deputy-Speaker: The question is:

In clause 2, omit "Sikh", wherever it occurs.

The motion was negated.

Mr. Deputy-Speaker: The question is:

In part (c) (i) of sub-clause (1) after "illegitimate" insert:

"who, if he has attained the age of eighteen years, is himself a Hindu and"

The motion was negated.

Mr. Deputy-Speaker: The question is:

In part (c) (ii) of sub-clause (1) of clause 2, after "belongs or belonged" insert "and who, if he has attained the age of eighteen years, is himself a Hindu".

The motion was negated.

1 P.M.

Mr. Deputy-Speaker: Amendment No. 277 is barred by a previous amendment and therefore need not be put.

Shri J. R. Kapoor: My next amendment deserves acceptance. It is an improvement in the language.

Dr. Ambedkar: I will improve my own language.

Pandit Thakur Das Bhargava: It is only a grammatical change. Instead of the present alone it seeks to include the past also.

Mr. Deputy-Speaker: The wording in the clause relates to the present. There is a difference. It is not a formal amendment.

The question is:

In part (c) (i) of sub-clause (1) of clause 2, after "parents are" insert "or have been".

The motion was negated.

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Mr. Deputy-Speaker: Amendment No. 105 is covered by this and need not be put.

Then, the question is:

After part (c) (ii) of sub-clause (1) of clause 2, add:

"(iii) to any abandoned child brought up as a member of the community, group or family to which such parent belongs;"

The motion was negated.

Mr. Deputy-Speaker: The question is:

After part (c) (ii) of sub-clause (1) of clause 2, insert:

"(iii) to any orphan or abandoned child brought up by the State."

The motion was negated.

Mr. Deputy-Speaker: The question is:

After sub-clause (2) of clause 2 insert:

"(2A) This Code also applies to any woman professing any religion who has married a Hindu, Buddhist, Jain or Sikh."

The motion was negated.

Mr. Deputy-Speaker: The question is:

Omit sub-clause (2) of clause 2.

The motion was negated.

Mr. Deputy-Speaker: The question is:

For sub-clause (2) of clause 2, substitute:

"(2) This Code also applies to any person, irrespective of his religion, who has been governed by the Hindu Law or by any custom or usage as part of that law, in respect of any matters dealt with herein."

The motion was negated.

Mr. Deputy-Speaker: The question is:

In sub-clause (2) of clause 2, after "Parsi" insert "Sikh".

The motion was negated.

Mr. Deputy-Speaker: The question is:

Omit proviso to sub-clause (2) of clause 2.

The motion was negated.

Mr. Deputy-Speaker: The question is:

In the proviso to sub-clause (2) of clause 2, for "in respect of those matters" occurring at the end, substitute:

"In respect of matters which that person has not voluntarily chosen."

The motion was negated.

Mr. Deputy-Speaker: The question is:

After sub-clause (1) of clause 2, insert:

"(1A) This Code shall not apply to the Scheduled Castes and Scheduled Tribes."

The motion was negated.

Mr. Deputy-Speaker: Amendment No. 281 is barred. I now come to amendments of a formal and verbal nature. First I shall put amendment No. 3 by Dr. Ambedkar.

The question is:

In clause 2,—

(1) in sub-clause (1),—

(i) in part (a) for "Hindus, that is to say, to all persons professing the Hindu religion" substitute "persons who are Hindus by religion";

(ii) in part (d), for "Hindu religion" substitute "Hindu, Buddhist, Jaina or Sikh religion";

(2) omit sub-clause (4).

The motion was adopted.

Shri R. K. Chaudhuri: Sir, I want to oppose the next amendment of Dr. Ambedkar. I think he is making one of the most colossal mistakes of his life.

Shri J. R. Kapoor: What is the subject matter?

Mr. Deputy-Speaker: Mr. Chaudhuri is opposed because Dr. Ambedkar wants to substitute "tribe or community" for "community". Perhaps Dr. Ambedkar's fear is that "community" may not include a tribe;

therefore, he wants to make it more specific.

The question is:

In the amendment proposed by the hon. Dr. B. R. Ambedkar, printed as No. 3, after part (1) (i) insert:

"(ia) in part (c) (ii) for 'community' substitute 'tribe or community';"

The motion was adopted.

Mr. Deputy-Speaker: The question is:

In part (a) of sub-clause (1) of clause 2, for "Hindus, that is to say, all persons professing the Hindu religion" substitute "persons who are Hindus by religion".

The motion was negated.

Mr. Deputy-Speaker: The question is:

In part (a) of sub-clause (1) of clause 2, for "members" substitute "followers".

The motion was adopted.

Mr. Deputy-Speaker: The question is:

For part (b) of sub-clause (1) of clause 2, substitute:

"(b) to all persons who are Buddhists, Jains or Sikhs by religion;"

The motion was negated.

Dr. Deshmukh (Madhya Pradesh): May I point out that the hon. doctor had suggested that he wants to hold over the final passing of the clause?

Mr. Deputy-Speaker: The hon. Member was perhaps not present when I later on modified that it is only a formal change in the name—whether it should be called Hindu Code or Hindu Marriage and Divorce (Amendment) Code. That is only a formal matter.

Then, the question is:

In the amendment proposed by the hon. Dr. B. R. Ambedkar, printed as No. 3, in the proposed amendments to sub-clause (1) of clause 2, after part (1) (ii), insert:

"(iii) insert a new part (e) as follows:

'(e) to a convert to any religion or faith after the commencement of this code.'

The motion was negated.

Mr. Deputy-Speaker: What about amendment No. 91 moved by Pandit Thakur Das Bhargava?

Pandit Thakur Das Bhargava: I beg leave to withdraw it.

The amendment was, by leave, withdrawn.

Mr. Deputy-Speaker: The question is:

In the amendment proposed by the hon. Dr. B. R. Ambedkar, printed as No. 3, in the proposed amendment to clause 2, after part (1), insert:

“(1A) in the proviso to sub-clause (2), insert at the end ‘unless he has declared his consent in the manner prescribed by the Central Government in this behalf to be governed by this Code in respect of such matters also.’”

The motion was negatived.

Mr. Deputy-Speaker: Amendment No. 93 is barred as it is similar to one already negatived.

Then, the question is:

Omit sub-clause (3) of clause 2.

The motion was negatived.

Mr. Deputy-Speaker: Amendment No. 283, being the same, is barred. What about amendment No. 238 moved by Mr. Jaspat Roy Kapoor? Hon. Members must be attentive.

An Hon. Member: Your amendments are being negatived.

Shri J. R. Kapoor: I am sorry, Sir, but there is this talk going on here.

Mr. Deputy-Speaker: The hon. Member himself speaks and quarrels with other Members.

Shri J. R. Kapoor: Sir, I beg leave to withdraw it.

The amendment was, by leave, withdrawn.

Mr. Deputy-Speaker: What about amendment No. 116 moved by Shri Gokulbhai Bhatt?

श्री भट्ट : मैं अपना संशोधन वापिस लेना चाहता हूँ, इस की जरूरत नहीं है।

[**Shri Bhatt:** I beg leave to withdraw my amendment. It is not necessary.]

The amendment was, by leave, withdrawn.

Mr. Deputy-Speaker:

Then, the question is:

Omit sub-clause (4) of clause 2.

The motion was negatived.

Mr. Deputy-Speaker: Amendment No. 284, being the same, is barred. The next amendment is No. 118 of Mr. Naziruddin Ahmad that after sub-clause (4) of clause 2, a new sub-clause be added, namely: “(5) Notwithstanding anything in this section this Code shall apply only to such areas or to such persons or classes of persons in any State...etc’”. This has been held over to clause 1. Amendment Nos. 118 and 285 go together and they are held over. I would suggest to the hon. Member that if he wants to have these taken up in connection with clause 1 he may table a separate amendment.

Shri Naziruddin Ahmad: I shall table a separate amendment to suit the context of clause 1.

Mr. Deputy-Speaker: The question is:

For part (d) of sub-clause (1) of clause 2, substitute:

“(d) to a convert to the Hindu religion, subject to his rights and liabilities before his conversion.”

The motion was negatived.

Mr. Deputy-Speaker: The question is:

To clause 2, add the proviso:

“Provided however, that notwithstanding anything contained in the above clauses, this Code shall not apply to such person as will get his or her name registered with such authority and in such manner, as may be hereafter prescribed by Parliament, within five years after this Code comes into force and in case of a minor within five years after such a minor attains majority, to the effect that he or she does not want to be governed by this Code.”

The motion was negatived.

Mr. Deputy-Speaker: The question is:

To clause 2, add the proviso:

“Provided however, that notwithstanding anything contained in this section this Code shall not apply to any person unless such person got his name registered,

[Mr. Deputy-Speaker]

signifying his will to be governed by this Code, with such authority and in such manner as may be prescribed."

The motion was negatived.

Mr. Deputy-Speaker: The question is:

To clause 2, add the proviso:

"Provided further that notwithstanding anything to the contrary in this Act, no provision of this Act shall apply to any one unless a referendum thereupon has been taken in the State to which he belongs and the Legislature of the State thereafter has decided in accordance with the result of the referendum that the provisions of this Act shall apply to the residents of the State. Further, that, thereafter, it shall be open to anyone to declare that he shall not be governed by this Act and the same shall then not apply to him."

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In part (a) of sub-clause (1) of clause 2, after "including" insert "Buddhists, Jains, Sikhs".

The motion was negatived.

Pandit Malaviya: I do not press my next amendment.

Mr. Deputy-Speaker: Now, we have disposed of all the amendments. Is there any hon. Member whose amendment I have not put to the House? I take it that there is none.

The question is:

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

The motion was adopted.

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

PAPERS LAID ON THE TABLE

DELIMITATION OF PARLIAMENTARY AND ASSEMBLY CONSTITUENCIES (AMENDMENT) ORDERS, 1951.

The Minister of Law (Dr. Ambedkar): In pursuance of sub-section 3 of section 13 of the Representation of the

People Act, 1950, I lay before Parliament the following orders made by the President under section 12 of the said Act:

- (1) The Delimitation of Parliamentary and Assembly Constituencies (Assam) (Amendment) Order, 1951.
- (2) The Delimitation of Parliamentary and Assembly Constituencies (Bihar) (Amendment) Order, 1951.
- (3) The Delimitation of Parliamentary and Assembly Constituencies (Bombay) (Amendment) Order, 1951.
- (4) The Delimitation of Parliamentary and Assembly Constituencies (Madhya Pradesh) (Amendment) Order, 1951.
- (5) The Delimitation of Parliamentary and Assembly Constituencies (Madras) (Amendment) Order, 1951.
- (6) The Delimitation of Parliamentary and Assembly Constituencies (Punjab) (Amendment) Order, 1951.
- (7) The Delimitation of Parliamentary and Assembly Constituencies (Uttar Pradesh) (Amendment) Order, 1951.
- (8) The Delimitation of Parliamentary and Assembly Constituencies (West Bengal) (Amendment) Order, 1951.
- (9) The Delimitation of Parliamentary and Assembly Constituencies (Hyderabad) (Amendment) Order, 1951.

[Placed in Library. See No. P-215/51.]

Mr. Deputy-Speaker: Hon. Members will kindly pay attention to this. Regarding these Orders that have been laid, as I have already said, under sub-section 3 of section 13, within 20 days a motion has to be made or otherwise these will have been accepted. A motion has to be made with respect to these Orders within 20 days from the laying of these Orders on the Table of the House. But the last days, namely, 8th, 9th and 10th October are holidays. Therefore, there is no provision as far as I am able to see in the Limitation Act that they could be moved on the next day. The

Limitation Act applies only to suits. The 7th is a Sunday. Therefore, any motion in this regard must be made before the 6th October. Notice may be given in advance. Motions can be made either on the 5th or the 6th or earlier when time permits. Each day

two or three motions can be made. Therefore, let not hon. Members feel that they will have 20 days and then wake up.

The House then adjourned till Half Past Eight of the Clock on Friday, the 21st September, 1951.



PARLIAMENTARY DEBATES

(Part II—Proceedings other than Questions and Answers)

OFFICIAL REPORT

VOLUME XV, 1951

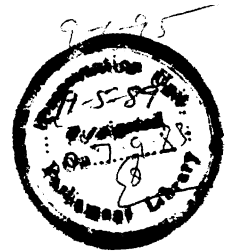
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of the

PARLIAMENT OF INDIA

1951



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THE
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2900

PARLIAMENT OF INDIA

Thursday, 20th September, 1951

The House met at Half Past Eight
of the Clock.

[MR. DEPUTY-SPEAKER in the Chair]

QUESTIONS AND ANSWERS

(See Part I)

9-30 A.M.

PAPERS LAID ON THE TABLE

**DELIMITATION OF COUNCIL CONSTITUENT-
CIES ORDERS, 1951.**

The Minister of Law (Dr. Ambedkar): I beg to lay on the Table under sub-section (3), of section 13 of the Representation of the People Act, 1950, the following Orders made by the President on the 19th September, 1951:

- (1) The Delimitation of Council Constituencies (Bihar) Order, 1951
- (2) The Delimitation of Council Constituencies (Bombay) Order, 1951.
- (3) The Delimitation of Council Constituencies (Madras) Order, 1951.
- (4) The Delimitation of Council Constituencies (Punjab) Order, 1951.
- (5) The Delimitation of Council Constituencies (Uttar Pradesh) Order, 1951.
- (6) The Delimitation of Council Constituencies (West Bengal) Orders, 1951.

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(7) The Delimitation of Council Constituencies (Mysore) Order, 1951.

[Placed in Library. See No. P-213/51.]

Shri Sidhva (Madhya Pradesh): May I know whether these Orders are laid for twenty days and whether those twenty days will be counted in the manner followed in the previous instance?

Dr. Ambedkar: Yes, that is a fact.

Shri Sidhva: What will be the last date?

Mr. Deputy-Speaker: Tenth October is the last date. The day on which the papers are laid on the Table is excluded. So, excluding the 20th September we have ten days in this month and ten days in October.

Shri Sidhva: Tenth October is a holiday. What will be the position then?

Mr. Deputy-Speaker: I am not in a position to give any particular suggestion at this stage. I can only refer to section 13, sub-section (3):

“Every Order made under section 6, section 9, section 11 or section 12 shall be laid before Parliament as soon as may be after it is made, and shall be subject to such modifications as Parliament may make on a motion made within twenty days from the date on which the Order is laid.”

Not only notice but the motion itself has to be made within twenty days. That is what the statute says. How far the intervening of particular holidays can affect this matter, I am not in a position to say now. Hon. Members will decide for themselves.

Shri Sidhva: Instead of leaving it to hon. Members I would request you to decide it.

The Minister of Education (Maulana Azad): Twenty days means twenty days, not twenty working days.

Shri Sidhva: Last time the holidays were included.

Mr. Deputy-Speaker: I have read out the statute, section 13(3) of which says it is twenty days within which the motion has to be made. No doubt the twentieth day falls on a holiday: as to what its effect is, I am not in a position to say immediately. Anyhow, hon. Members will take sufficient care to do everything before the holidays commence.

Shri Sondhi (Punjab): I would like to know from the hon. Minister if he is aware that in one constituency in Punjab the minimum number of voters is not there, and an amendment will be necessary. I would like to know if that amended Order is still to come and when it will come because another twenty days will be necessary for that.

Dr. Ambedkar: I am not aware of what my hon. friend says, but I will look into it.

HINDU CODE—contd.

Clause 2.—(Application of Code)—
concl.

Shri Amolakh Chand (Uttar Pradesh): May I draw your attention Sir, before Pandit Malaviya resumes his speech, about a cartoon which appeared in today's *Indian News Chronicle*, about which I have sent a note to you? May I know whether that will be taken up just now or on some other date?

Hon. Members: What is the subject-matter of the cartoon?

Shri Amolakh Chand: May I with the permission of the Chair just satisfy the curiosity of hon. Members about this cartoon?

Mr. Deputy-Speaker: I have received this cartoon published in the *Indian News Chronicle*. I think it shows my likeness. It is a cartoon of a clock where both the hands are being held up by some of the hon. Members who have spoken against this Bill, but underneath the very pendulum is said to be held intact, not moving forward or backward, by a representation of myself. So long as the speaker is here that is another matter. But casting aspersions on the Chair is not only unjustified and undignified but here it is also opposed to the facts. I do not know if any hon. Member will ever raise any point that whatever might be my differences I have done anything unjust in this House.

Hon. Members: No, no.

Mr. Deputy-Speaker: Therefore, I will look into this matter. It is a very serious matter—it does not matter who-soever may be in the Chair—to cast aspersions on the Chair. The moment the House feels that the person who occupies the Chair for the time being is not doing justice, it knows what to do so far as that person is concerned. But it is not for outsiders to caricature, and it is an aspersion on the whole House. I shall look into this matter leisurely and then find out what action should be taken. However, I do not want this to interrupt the progress of this Bill.

Shri T. N. Singh (Uttar Pradesh): At the same time, whatever the action about that particular cartoon be, we do feel that the Press should not come out with anything which casts aspersions on the Chair of this august House, and it should be prevented. I feel that the matter, since it has been raised, is rather important and it should not be postponed in this fashion. I would urge that once the matter has been raised, we should certainly take it up right now and the House should express its disapproval.

Mr. Deputy-Speaker: I shall take time to consider it.

Pandit Malaviya (Uttar Pradesh): When I left yesterday, you were good enough to ask me how much more time I would need. I respectfully expressed my inability to indicate any exact amount of time and requested you to let me proceed on the basis that I should try to take as little time as may be possible. You were good enough to more or less indicate a limit, that I should not take more than about 2½ hours more.....

Shri Sidhva (Madhya Pradesh): You said half an hour, Sir.

Pandit Malaviya: I have since heard.....

Mr. Deputy-Speaker: I can only make one observation. The hon. Member yesterday was encouraged to ask for five days on the suggestion humorously made by the hon. Law Minister.

The Minister of Law (Dr. Ambedkar): He wanted five days—I suggested five hours.

Mr. Deputy-Speaker: When I was asking how long the hon. Member was likely to take, the hon. Law Minister humorously said, five days. I was suggesting half an hour, the hon. Member was wanting more. Now what I propose doing is this.....

Pandit Malaviya: May I say.....

Mr. Deputy-Speaker: I will do sufficient justice to the hon. Member. Now how long, may I know, is the hon. Law Minister likely to take to reply?

Dr. Ambedkar: It is my intention to be brief, but I would like to cover some of the points raised, and I feel an hour or an hour and a quarter might be more than enough for me.

Mr. Deputy-Speaker: I propose calling the hon. Law Minister as soon as the hon. Member who is on his legs finishes. Even if he takes 2½ hours, there will be sufficient time if I call the hon. Law Minister at 12 o'clock.

Shrimati Durgabai (Madras): The hon. Member who is on his legs after having mentioned five hours or five minutes or whatever it may be, said that he would submit himself to the ruling of the Chair and you very kindly said that he should not require more than half an hour. After having once submitted to the ruling of the Chair, would the hon. Member be now permitted to retract?

Mr. Deputy-Speaker: I leave it to hon. Members themselves.

Pandit Malaviya: I said about another matter yesterday that when my sister makes the rules we will have to submit to many things from which fortunately we are free at the moment.

Shrimati Durgabai: This is already in the rules.

Pandit Malaviya: What I was intending to say was.....

Mr. Deputy-Speaker: Under the rules, so far as Finance Bills are concerned, I can set a limit. With respect to other Bills there is no provision for setting a time-limit on speeches.

Shrimati Durgabai: My point is that once the Chair has given its ruling.....

Mr. Deputy-Speaker: Not ruling.

Shrimati Durgabai: ...would the hon. Member be permitted to go against that ruling?

Mr. Deputy-Speaker: It is not to be interpreted to be a ruling. It is only a suggestion.

Incidentally, I forgot that I will have to put the amendments to the vote of the House. Therefore, if the hon. Member would restrict himself to two hours, thus making half an hour available for the Chair, I shall call upon the hon. Law Minister at 11-30

so that we may finish this clause and all the amendments on it before we rise for the day. The hon. Member may take two hours.

Pandit Malaviya: I am very grateful to you, Sir, for what you have said, but what I was going to say in the beginning was that whatever might have been the arrangement that we had more or less thought we had arrived at.....

Mr. Deputy-Speaker: He need not labour that point.

Pandit Malaviya: ...since then some esteemed friends for whose views and opinions most of us in this House have respect and regard have taken the view that Members of the House should take as little time as possible. As I came into the House just now, it was conveyed to me that I should finish within a matter of minutes. I know that according to the rules one should have the time which he wishes to have and it is very good of you to say that you will stick to that. It is also true that I feel very earnestly that in a matter of such vital importance where things which have come down from millennia are going to be demolished, minutes and hours should not be counted and if somebody has something to say on this issue which is obviously not utter nonsense and irrelevance, then the question of time should not arise, whether he takes one day or two days or twenty days. But I respect the wishes of elders and of our leader and what I wished to say to you was that even though you have been good enough according to the rules to give me the longer opportunity, I shall try to leave out almost all that I had to say and shall try to confine myself to a few minutes only. I say this with a deep sense of pain and injustice to me and to this cause, but I am a man, as I said, who believes in the Hindu methods of tolerance and even if an unreasonable thing is thrust on me...

Mr. Deputy-Speaker: The hon. Member will kindly resume his seat. I have been trying to avoid any impression being created that we are either hustling the Bill or unnecessarily dragging it on. I am bound to see to it that neither the one impression nor the other impression is created. We have spent sufficient time over this matter and just when we are concluding the debate and when, if a closure motion is moved, I am prepared to accept it because I am satisfied that there has been sufficient discussion on this matter and although individual Members might not have spoken, collectively all of them have spoken on all the points arising—just at this time, if the hon. Member feels aggrieved and then

[Mr. Deputy-Speaker]

makes a point that for want of time and on account of some kind of limitation and pressure he is not putting forth all his points, he would not be doing justice to any of the persons here. I would like to avoid an impression being created that we are hustling this measure. It may be that there may not be sufficient support for the one or the other opinion. After all, we have to go by the rule of the majority in this House and it is open to all persons to express and press their point of view, but let it not be said that we are hustling the measure. The hon. Member has taken two hours. If he wants, he may have two more hours and if for any reason he is not prepared to proceed further, he need not make a point out of it, lest it should create an impression that we are hustling through this matter, though really we have been going on leisurely with it. Therefore, that kind of impression ought not to be created. It is open to him to speak or not to speak for various other reasons, which are extraneous. I am only concerned with the procedure in this House and the right impression both in this House and outside that we are not hustling such an important matter as this nor are we unnecessarily trying to stretch the discussion by any kind of filibustering. Therefore, in between these two impressions, I am trying to carry through this Bill. The hon. Member need not refer to all those matters. It is his sweet will and pleasure to say what he wants to say or to refer to the further clauses or not to refer to any of them at all, or to make any comments for various reasons which he may consider fit and proper.

Pandit Malaviya: I entirely agree with the remarks that have fallen from your lips and I was not making a complaint. I was only mentioning the fact that for reasons other than those that you have stated I shall not allow myself to take all the time that I need and that I should have liked to take. That is all that I wished to submit. Incidentally, it will also probably enable several other Members of this House, who, I saw yesterday, were very keen to have an opportunity to say something, to have an opportunity to do so. I am not saying this by way of any complaint, but I was submitting to you as a matter of fact that I have to leave out practically all that I wished to say and must now come straight to one or two points.

I will leave the point I was making when we dispersed yesterday, regarding the scope of the Bill having been extended, so to say, overnight by the

new Constitution having included agricultural lands in the Concurrent List. I shall leave that also there.

I will only touch in passing on another very important aspect, namely, that the Bill which is before us now is so largely changed that it is almost unrecognisable compared to what it was when it was first introduced. There is a rule that Select Committees at the end of their reports should state that they have amended the Bill only in such measure as they think has not changed it materially and that the amended Bill does not need re-circulation or re-publication. That proves the principle that if a Bill is substantially changed in a Select Committee it should be republished and re-circulated. I submit that in matters of legislation we should observe the sanctity of the rules, because rules are framed in moments of calm and dispassionate consideration; not *vis-a-vis* any particular item or any particular point of view, but with regard to the basic fundamental needs of ensuring that legislation is passed only with due care, thought and circumspection. Such rules, therefore, have very great value and it must be an ill day for the growth of healthy parliamentary traditions and institutions in any country if we begin to make light of them to suit the conveniences of our opinions on particular issues and particular occasions. I, therefore, feel, now that the Bill is so entirely changed to as it is, that constitutionally there can be no justification at all for proceeding with it, or any part of it now as it stands without that procedure being brought into force. I will leave that point also there.

I will touch only upon one or two things more and will resume my seat. Several friends who are supporters of this Bill said that this Bill has been drawn up in accordance with the tenets of the *Smritis* and *Dharma Shastras*. If I had the time I would have quoted extracts from the various *Smritis* and *Dharma Shastras* to prove the hollowness of that claim. I cannot do that now. I will, therefore, come straight to the two vital principles which are involved in the measure that is to be taken up—one the question of the degree of *sapinda* prohibition and second the question as to whether among the Hindus a remarriage of any married woman can take place.

Texts have been quoted from some of the *Smritis* on both these points. With regard to the *sapinda* question it has been argued that the *Smritis* have from time to time laid down different principles, that while one *Smriti* has said one thing another

Smriti has said another thing and an attempt has been made to draw the inference therefrom that it was a matter not of such vital importance that it could not change, but that from time to time, reflecting the opinion and the practice of the age, the different *Smritis* have laid down different texts. I was mentioning yesterday that in the matter of these *Dharma Shastras* there are rules of interpretation which have laid down cut and clear principles and methods of approach. It is laid down that the *Dharma Shashtra* can be interpreted only by the utilisation of the rules of *Mimamsa*. Fourteen sources for determining them have to be utilized. They are all mentioned and therefore if anybody wants honestly to understand these things he must go into the depth of that matter.

Almost every one of the *Smritis* and the *Dharma Shastras* have laid down that in the *sapinda* degree of prohibition we should have seven degrees on the paternal side and five degrees on the maternal side or more. Nobody has disputed that. It has been said that it is stated only in some of the *Smritis* as five and three instead of seven and five. I believe the *Paithinasi Smriti* text is relied upon for this purpose. In the belief that Members of this House wish seriously to take the matter into consideration as to whether it is laid down in the *Smriti* that it should be five and three, I shall try to clear up that point. The *Paithinasi Smriti*.....

Mr. Deputy-Speaker: I do not think the hon. Law Minister is dogmatic about this matter.

Dr. Ambedkar: When the time comes we shall consider it.

Fandit Malaviya: I am taking this only as an instance to show how the entire provisions of the Bill are based upon a complete misconception. The text in the *Paithinasi Smriti* is:

पंचमी मातुतः परिहरेत् सप्तमीं पितुतः

So far it is clear—five degrees from the mother and seven degrees from the father. So, the *Paithinasi Smriti* also says the same so far. Then, it goes on to say:

त्रीन् मातुतः पंचपितुतो वा ।

It gives another view and says three from the mother's side and five from the father's side. If I had the time I would have gone into all the other *Smritis* to disprove the statement of some friends that the *Smritis* lay down

different rules—in one case seven and five and in another case five and three and it is for us to select.

The *Mimamsa* lays down the method of interpretation of these texts. The whole basis of Hindu law rests upon the fact that the law comes from the *Shruti*. *Shrutis* are *Swatah Pramana* (स्वतः प्रमाणः) Whatever is in the *Shruti* stands proved by itself and does not need any further argument. The *Smritis* are *Paratah Pramana* परतः प्रमाणः They do not by themselves carry that authority because they are *Shruti-mula* श्रुति मूल . They belong to the class where authority is derived from *Shrutis*. Now, it is obvious then that if the same source is to be drawn upon by all the *Smritis* the obvious objection would be—and I suppose it would be a natural objection also—that if you claim that they all emanate from one and the same source, then how can there be conflicting versions in them. We can anticipate that objection.

Mimamsa goes on to say that there may be cases where in the *Shruti* itself there is a *vikalp*, that is, where the *Shruti* itself lays down two alternatives that a thing may be of one or another.

10 A.M.

There are instances of that nature in the *Shrutis* themselves!

उदिते जुहोति । अनुदिते जुहोति ।

That is from the *Smritis*. It says a certain *yajnya* may be performed before sunrise, and it also says it may be performed after sunrise. But there is no conflict, because both are mentioned in the *Shruti*. And then according to the tenets of the *Mimamsa Shashtra* other considerations come into play. Technically it is called *Atma tushti*, and according to the principle of *Atma tushti* each one has to decide—not for the pleasure of it; *Atma tushti* does not mean pleasure; it does not mean one's whim of taking one thing today and taking another thing tomorrow, taking rice today and taking *chapatti* tomorrow. But *Atma tushti* has a fundamental religious place. According to *Atma tushti* the *Dharma* has to be selected, and once it is selected it remains permanently there, for all time. But that is so only when both the things are mentioned in the *Shruti*. The *vikalp* comes only when both the things are thus mentioned in the *Shruti*. For instance you find:

अतिरात्रे षोडशिनं गृह्णाति । नातिरात्रे षोडशिनं गृह्णाति ।

[Pandit Malaviya]

(Late at night takes one of sixteen, takes not late at night.)

Two directly conflicting things in the *Shruti*. But both being there, the *vikalp* is possible. If the *Smritis* say two different things, then if we found that there is mention of the two things in the *Shrutis*, the *vikalp* would be possible, and the claim which has been made by my hon. friend the Law Minister and others that these provisions are based upon what the *Shrutis* say, would become correct. But the available *Shrutis* are silent on the point. There is no direction about the matter. The question then arises, how then do the *Smritis* contain different rules if they have derived them from the *Shruti* sources?

Mr. Deputy-Speaker: I understand the Bill to go according to the *Shrutis* if possible and without the *Smritis* if necessary. That is what, I think, the Law Minister has in view. Therefore, notwithstanding the doubt as to whether it is three and five according to strict rules of interpretation—and they have to be made consistent; I do not think he disputes the proposition that everywhere they are trying to make it consistent so as to avoid any inconsistency—he chooses the latter view. Even if it is not borne out by the strict rules of interpretation he says that it is the correct one and should be adopted, subject of course to the approval of the House. I think that is the view of the Law Minister.

Dr. Ambedkar: Yes.

Mr. Deputy-Speaker: Therefore, there is no good labouring the point as to what the interpretation is.

Pandit Malaviya: As I said, I am not doing this necessarily to go into the interpretation of this thing. I am taking this as an example to show the approach to the matter. What I wish to say is that according to the *Mimamsa Shastra* the two texts, one saying that it should be five and seven and the second saying that it may be three and five, must be reconciled and an interpretation—an infallible, unquestionable interpretation must be there. An interpretation has to be found which is unquestionable and incontrovertible. Otherwise the *Smriti* does not remain a *Smriti*. *Paithinisi* is among the *Smritis*. If we will only look for it we will find that we have in the *Smriti Sangrah*, we have in the *Nibandhakaras* a clear interpretation of this difference which lays down, and not only lays down but proves—it will take me time if I went into it, therefore I will

not—but it is proved that this provision in the *Paithinisi* is not applicable to all people, it is not applicable to the *aurasa* and the others. In their case the seven and the five apply, and this variant of five and three can only apply to *Dattaka putras* or to *Sapatni matas*. That is how the *Mimamsa Shastra* reconciles these two.

I took this instance to show that there is a clear way of interpreting the *Shastras*. If we want to go according to the *Shastras* we must go accordingly and we will find no sanction for deviating from the seven and the five degrees of *Sapinda* prohibition for marriage.

Similarly, I will take another question. A member read out with a certain amount of righteous satisfaction and vehemence that in the *Smritis* themselves we have provisions for the marriage of once-married women. The well-known *Narada Smriti* and *Parashara* text was read out by an hon. friend of mine—here he is—and he said that the *Smritis* themselves have said that a woman may be married a second time. I can see some friends feeling satisfied about it. This is a tragic matter, for this reason that the meaning of that *sloka* becomes perverted if it is interpreted to mean that it relates to a married couple. I hope Members will not think that I am talking in the air. (*An Hon. Member:* No, no). The line is very simple:

नष्टे मृते प्रव्रजिते, क्लीबे च पतिते पतौ ।

पञ्चस्वापत्सु नारीणां, पतिरन्यो विधीयते ॥

(It is allowed at disappearance, demise, reclusion, impotency and sinfulness of the husband.)

As it looks it is very simple. In the case of these and these and these 'husbands', these friends think, another husband is provided. But I wish Members of the House kindly to devote their mind to this. The simple rules of *Vyakarana* come into this question.

An hon. friend says *Vyakarna Padhao* and one may feel tempted to play the pedagogue to so distinguished a class, but I shall resist the temptation and I will only briefly explain the matter because it is a point upon which the whole edifice of the Hindu Code rests. It is that one sentence upon which everyone seems to be taking his stand. It is a very simple matter. According to the rules of grammar *Eka Vachana* in *Saptami* of *Pati* is *Patyau*. That is formed according to definite *Sutras*. I do not know if you will let me go into details to show how the words *Patyau* and *Patāu* are each formed. I am quite

sure it will be interesting, but it will take time. But every thing will become clear if we understand that.

Mr. Deputy-Speaker: What will happen to *Hari*? It is a masculine.

Pandit Malaviya: I see, Sir, you are interested and if you will permit me...

Mr. Deputy-Speaker: Then *Hari* is *Ikaranta Pullingam* and *Saptami* is *Harau* and *Pati* should be *patau*. That is my difficulty. I do not know if it is different.

Pandit Malaviya: Sir, your question is quite valid. That is it. From *Hari* it is *Harau*. So from *Pati*, it should be *Patau*. But we all know it is *Patyau*. Why? The difference is in this way. When it is *Saptami Ek Vachan Gni* comes in. Then the *Sutra Patih Samasa Eva* comes into play and the *Ghi Sangya* gets ruled out and another *Sutra aut*, comes into play and it becomes *pati* plus *au*. Then by the *Sutra Ikoyanachi* the 'i' gets transformed into *ya* and *Patyau* is formed. That is in the case of the ordinary meaning of the word *Pati*, that is, husband. The rule is quite clearly laid down *Patih Samasa Eva*. Now, Sir, the question arises why instead of *Patyau* the word *Patau* has been used. It is such an obvious thing that even a blind man can see, that there is some difference, there is some purpose. The hon. Law Minister will bear me out that the normal form (*rup*) of *Pati* in *Saptami* is *Patyau*. But in this text *Patau* is used. (*Interruption*) An hon. Member says that he is extremely doubtful. I do not claim for myself his wisdom in this. But, *Panini's Ashta Dhyayi* is there and if any hon. Member can point out anything to the contrary, I will do whatever he will say.

Shri Amolakh Chand: Will the hon. Member quote the *shloka* also?

Pandit Malaviya: I am coming to that. Therefore, the word used is different from the normal word *Patyau*. Here the word is *Patau*. Now according to the rules of Sanskrit grammar...

Mr. Deputy-Speaker: It is not necessary. The hon. Member means that it is incorrect.

Pandit Malaviya: No, no. It is not incorrect. What I was going to point out was that in this case the word *Pati* is used not in the sense of *Pati* meaning husband but according to the rules of grammar—I am not saying it on my own but according to the rules of grammar *पती* can only be used where the *Achararthe* sense comes in. Then, not being in the sense of *पति* i.e. husband, the *sutra* 'पति : सप्तमि एव' which

applies normally and results in *पत्नी* does not apply and 'Ghi' *Sangya* 'वि संज्ञा' takes place etc. and when 'Ghi' *sangya* (वि संज्ञा) comes in then the *sutra Accha Gheh* (अच्च वे : 1) applies and the word *Pati* plus 'i' becomes *Pata* plus 'Au'; and by the rule of *Vridhhi* it becomes *Patau* (पतौ). It is a recognized word in the Sanskrit Grammar of *Panini*; it is not mistake that it has been used here in that form; it is not by thoughtlessness that it has come in. But the word *Patau* (पतौ) instead of *Patyau* पत्यौ has a meaning and the meaning of that word *पतौ* is one who is going to be a *Pati* and not one who is a *Pati*. That is the meaning of that word. Let anybody challenge what I am stating. For thousands of years that grammar has been there and nobody has questioned it; the word *Patau* means not a husband but who is on the point of becoming a husband. This correct meaning of this *shloka* completely changes...

Prof. K. T. Shah (Bihar): *Anyau* comes in there.

Mr. Deputy-Speaker: *Patiranyo Vidheeyate* comes in. It must have been a husband.

Pandit Malaviya: I am coming to that. I am very glad you raised that question. In the *Prathama* there are only one set of *sutras* but in *Saptami* there are these two sets of *sutras* mentioned by me, one forming *patyau* and another forming *Patau* and secondly the difference had to be shown at the first place only, to clearly indicate that only where there had been a talk of marriage but no marriage in fact, that this question arose, while in the second place, it is a husband who is to be indicated. It is not merely a candidate for husbandship which has to be provided. Therefore, the second *Patiranyo Vidheeyate* is perfectly correct.

Mr. Deputy-Speaker: *Anyo* must mean what preceded also.

Pandit Malaviya: *Anyo* is again *Prathama*.

Mr. Deputy-Speaker: *Prathamanyah* also must be the husband.

Pandit Malaviya: If it had been both the same then in the first place it would have *Patyau*.

Mr. Deputy-Speaker: Whatever is intended by the provisions one must correspond with the other one.

Pandit Malaviya: How can it, Sir, when the very purpose is different. The beauty of Sanskrit language is that it expresses in a word what it takes a sentence to say in another language. That is the beauty of Sanskrit language. If a sentence says "If mango is not available, then guavas may be taken" we cannot say that mango and guava must be one and the same.

Mr. Deputy-Speaker: There cannot be a comparison between two absolutely uncorrelated matters. If *Anyo* is used that word or the other must relate to the same category. If in the one case it is not marriage, in the other case also it is not marriage. If it is marriage in one case, it is marriage in another case. Both of them are understood to be the marriage of the husband.

Pandit Malaviya: We cannot change the meaning of words.....

Shri B. K. P. Sinha (Bihar): On a point of order, Sir, I find that all these discussions are academic. The words *Pati* and *Patyau* are used in this *shloka* and not *Patau*.

Pandit Malaviya: That must be a wrong print. I am not saying it lightly. The original text is *Patau*. The very *chauda*.....

Mr. Deputy-Speaker: *Patithe Patyau* must be wrong because it should be *guru*. The prosody will come in the way of this *Pati* and *Patau* are different. Apparently it is wrong.

Pandit Malaviya: It is obvious that it cannot be *Patyau*. What I wished to submit was that this rock upon which that edifice stands does not exist at all and the meaning of the word used is not husband; it is not *Patyau* but it is only one who is on the point of becoming a husband, *Patau*. There is thus nothing in the *Shastras* to suggest that a married Hindu woman could marry again.

I do not want to take much time of the House. I had many things to say. But, in view of what I referred to, I do not wish to go against the wishes of those whose wishes and words are law for us. I, therefore, do not wish to take much more time, much though I would have liked to say many things. By these two examples I have tried to show how completely fallacious are the grounds on which the Hindu Code is proceeding.

I will conclude by mentioning one thing more. In Hindu society from time immemorial, laws have prevailed without the authority of the State, without the authority of the police, with-

out the authority of any legislature as such. There has been no governmental sanction behind the laws which have been in force. The laws were promulgated by men who had attained to perfection as nearly as man could, who were held in universal respect, who worked for the good of the people. And there was the sanction of what has been called in the *Shastras*, *Apoorva*, the unseen, that which will happen under certain circumstances; the thought that what one was doing today would have effect later on; that the human soul, the *jeeva* does not lead one life alone, but goes through a chain of births; that the actions of one life are inter-related to the actions and results of previous and future lives; that deeds of virtue and piety and righteousness bring a reward which is greater in reality than any reward of comfort or convenience which one may have in this life. A clear conception of the real value of things as distinguished from the ephemeral aspect, was always kept in mind and it is under the force of that sanction and that belief that the laws which were promulgated have always been followed. In the whole of this country, throughout its length and breadth, the law of the Hindus has been observed not because any one—for instance my esteemed friend Kaka Saheb Gadgil who is coming into the House and who talked on this Code not like the elderly responsible man that we know him to be, but like a gay youngster who just utters what comes at that moment in the mouth, or any one else—found them to be comfortable or otherwise, found them to be pleasant or irksome, but because both Kaka Saheb and Govind Malaviya and the other 300 millions like them have been steeped in the conviction and belief that what they are doing today will have repercussions hereafter, that what they go through now will bring its own reward. They have been all bred up to believe that it is not *Preya* alone which matters in life, but that it is the *Shreya* of things which must be assiduously inculcated. That has been the shape of things in this country and in this society. Let not the Government make a thoughtless and hasty mistake in demolishing that fabric upon which the respect for and the adherence to the law has prevailed. If one set of legislators, one set of wise men or wiseacres today legislate in one particular manner as they think fit, people will have ceased to worry about *Apoorva*. People will know that it is possible for them the next day to get a law made to suit their pleasure and their convenience. The moral fabric will disappear and man might go back to the old age where there was no method or system.

of marriages, where a state of things prevailed which probably, in decent society, would not be considered worth mentioning. That is the stake which is involved.

I should have liked to have dealt with the question of divorce; I should have liked to have dealt with the question of widow re-marriage; I should have liked to have dealt with the question of inter-caste marriage; I should have liked to have dealt with the question of monogamy. I hope I will have opportunities as these clauses come up to deal with each one of these at the appropriate time. It is not for reasons of orthodoxy alone that this question must be considered. It is from the point of view of the over all interest and well-being of society that we should tackle these problems. I said society. Society means the whole group of people, all the inhabitants taken together. It is formed of the units, of the individuals. But, the unit and the whole, even though they are inseparably interdependent, have their own separate entity also. The body is made up of all the limbs. But, the hand has its own existence by itself; the head has its own. The body as a whole cannot be by itself without the hands, feet legs and the head.

[SHRIMATI DURGABAI in the Chair]

But, the body is not merely the hand or the feet or the head. It is the sum total of the whole. When, therefore, we have to think of society, we have to think of the good and interest of society as a whole and if any thing is in the interest and well-being of all, then, whether it is pleasant or whether it is a little less pleasant for one individual here or one individual there, that must be adopted. When these topics come up, I hope I shall have opportunities to deal with them. I wished to say a great deal to bring out in clear perspective the issues involved, the fallacy or correctness of the approach made, and the conclusion to which we must irresistibly be driven. And right now, Madam, I should have had another advantage, that one esteemed Member of this House, in the very nature of things, being in the Chair, is now bound to be as fair to me as anybody else. But I said that I shall not take more time, and shall respect the wishes and the decisions of the esteemed Leader of this House. I will therefore close my speech, and close it with the earnest appeal that a matter of this seriousness, affecting the life of 300 million human beings should be considered as carefully and in as great a detail as may be humanly possible.

There is only one formal thing which I must do now and that is to move the amendments of which I had given notice three days ago. I beg to move:

(i) In part (a) of sub-clause (1) of clause 2, after "including" insert "Buddhists, Jains, Sikhs".

(ii) Omit part (b) of sub-clause (1) of clause 2.

After the first amendment, the clause will read as follows:

"to all Hindus, that is to say, to all persons professing the Hindu religion in any of its forms or developments, including Buddhists, Jains, Sikhs, Virashaivas or Lingayats and members of the Brahmo, the Prarthana etc. etc."

I have moved this amendment for a simple reason. I hope and pray that I am a devout Hindu—I do not know if I can make that claim—and.....

Dr. Ambedkar: After such a speech who else can make that claim?

Pandit Malaviya: And in the *Sankalpa* which we perform on all occasions, we say *Bauddhavatar*. If only I had the time, I would have tried to show that Buddhism, Jainism, Sikhism etc., while they have their own independent place and position, cannot, by any stretch of imagination, be treated as outside the pale of Hinduism. That does not mean that Hinduism lays any claim upon them or wishes in any way to restrict their complete independence and separate existence. It is not that. I am talking of the historical relation. They have all sprung out of it and have always formed part of it. Even in their religious books and procedure, even in their daily practices and daily life, there are any number of points of identical similarity which still persist. In this land there should be no need, therefore, to show them separately. My amendment does not make any difference in the result. The clause instead of coming as a separate clause comes within the previous one.

I have now only to make an appeal to the Members of this House to view this matter dispassionately. As I said, I do not deny that there are some people who feel that it will be good for society if such a law is enacted. My appeal to them is to proceed in the right manner about it. Sometime ago there was the Inter-caste Marriage Act which was passed, making inter-caste marriages among Arya Samajists valid. At that very time Dr. Bhagwan Dasji, that great learned scholar and devotee of Manu, brought before the then Central Assembly, a Bill for the

[Pandit Malaviya]

application of that clause to the whole body of Hindus. That Bill was not proceeded with, and after long and careful discussion it was dropped. Inter-caste marriages among Arya Samajists had gone on for some decades and they had carried on their movement for a long time and when the same had become common and the time came the measure was adopted. Let us take a leaf out of that book. If social reforms have to be made, nobody can object to them, if all those who are concerned should desire to have them. Let us, therefore, adopt that course, if for nothing else, so that what you do may not remain a mere dead letter on paper without any effect whatsoever.

It has also been pointed out that because now we are only taking up the parts of the Code relating to marriage and divorce, we should consider the feasibility of making an All-India All-Community Code towards that end. I am not one of those whose argument is that if monogamy is good and is to be enforced for the Hindus, it should necessarily apply to everybody. I do not say that at all. If monogamy is good, then I want it for the Hindus whether it is applied to anybody else or not. I do not want to argue that if the rule of monogamy is good for the Hindus it should not come to them unless it comes for everybody else. That is for the others to decide and if they do not want it, let them not have it but if it is good for the Hindus let it come to them. (An Hon. Member: Is it good?) It is good and I think it is the only good thing; but that, however, does not mean that we should become blind to the requirements of a good thing in itself or that we should not take other relevant facts and aspects into consideration. So far as the principle of monogamy goes I have no objection to it, nobody can have any objection to it, and I should be unhappy if anything except monogamy is found in practice anywhere...

گہائی جی - ایس - مسافر : جو
چیز اچھی ہے وہ سب کے لئے مانگئے
میں کیا حرج ہے -

[Giani G. S. Musafir (Punjab): There is no harm in asking for all a thing which is good in itself.]

Pandit Malaviya: I do not say that it should not apply to every body: it is for the Government and for the others to think about the others. They

have now brought forward a restricted measure dealing with only marriage and divorce and if they think that it is right to apply it to the whole country, let them do it. That is another consideration which the Government should certainly take into account.

سُنی بھٹ : لےکن کیا ہم سدسٹیگن
گورنمنٹ سے یہ کہہ سکتے ہیں کہ ہماری
راہ ہے کہ یہ سب کے لیے لاگو کیا
جائے ؟

[Shri Bhatt (Bombay): But can we Members not ask the Government that we wish it should be made applicable to all?]

Pandit Malaviya: Certainly. Many people have said it

گہائی جی - ایس - مسافر : میں
سمجھتا ہوں کہ یہ ہماری تپوتی ہے کہ
یہ مانگا جائے -

[Giani G. S. Musafir: I think it is our duty to ask for it.]

Pandit Malaviya: It is an important point which, I hope, the Government will consider.

Mr. Chairman: May I ask the hon. Member if he does not consider it desirable that we should practise it before we preach to the others and would we not then have a better or stronger case?

Pandit Malaviya: Madam, I do not want to be so impertinent as to argue with the Chair. I will only close now by repeating my appeal that Members of this House will rise to the requirements of the position of responsibility which they occupy and will deal with this measure with that sense of gravity which it deserves, so that the immemorial and hoary traditions and foundations of the life of the Hindu community may not be tampered with or destroyed in a lighthearted or profane manner.

Shri Jajoo (Madhya Bharat): Madam, the question be now put. (Interruptions).

Babu Ramnarayan Singh (Bihar): I want to speak, Madam.

Mr. Chairman: I am not deciding the issue myself. I will leave it to the House. May I know what time the hon. Law Minister will take for his reply?

Dr. Ambedkar: In view of the long speeches and the varied arguments advanced I would take about one and a quarter hours: possibly I might take even more, I do not know.

Mr. Chairman: If half an hour is taken for the amendments and the Law Minister is going to take one and a quarter hours for his reply we will have to conclude the debate by 11-30. Meanwhile if hon. Members are contented to confine their speeches to ten minutes, so that more hon. Members will be able to take part in the debate, I would like to conclude the debate precisely at 11-30.

Shri Naziruddin Ahmed (West Bengal): It was decided that the amendments will not be put to the House at all.

Pandit Malaviya: The Deputy-Speaker said that he would call upon the Law Minister at 11-30. But since we have the time, other Members may be given an opportunity to speak and if you do not think it necessary the rule about ten minutes may not be laid down.

Mr. Chairman: The hon. Member need not jump to any conclusion, that because a lady is in the Chair, therefore, she may not be fair to the House. I would like to respect the religious susceptibilities of the House as much as anybody else. The Deputy-Speaker has told the House that half an hour would be taken for the amendments. It is true that the hon. Minister will be called upon to reply at 11-30. There is also another traditional procedure, namely the closure motion. In view of these two facts I would like the debate to be concluded by 11-30 and not later.

Shri V. J. Gupta (Madras): What about the closure motion?

Mr. Chairman: Now that the House has agreed that the hon. Law Minister is to be called upon to reply to the debate at 11-30, there is no necessity for the motion. Agreement is always better than closure and its acceptance.

خواجه عنایت اللہ: میں نے بہت سوچنے کے بعد یہ فیصہ کیا تھا کہ اس قانون کے متعلق میں کچھ بھی نہ بولوں۔ اسی لئے میں اس فیصلے پر آج بھی قائم ہوں کہ ہندو نوڈ کو پاس ہونا چاہئے یا اس قانون کو ٹا پاس

ہونا چاہئے اس کے متعلق میں کوئی بات نہیں کہوں گا۔ یہ ایک دوسری بات ہے

ایک آنریبل ممبر: ضرور کہئے -

خواجه عنایت اللہ: مجھے کہنا چاہئے لیکن میں نہیں کہنا چاہتا ہوں۔ یہ دوسری بات ہے کہ ذاتی طور پر میں جس طرح اپنی بہنوں اور بیٹیوں کے ساتھ سلوک کرتا ہوں میں چاہتا ہوں کہ ہمارے بھائی بھی اس طرح اپنی بہنوں اور بیٹیوں کے ساتھ سلوک کریں۔ مگر چونکہ اس قانون کے ساتھ ہندو نوڈ بیل کا نام لگا دیا گیا ہے اور یہ کہا گیا ہے کہ یہ خاص ہندو مذہب کے لئے قانون بنایا جا رہا ہے۔ اس لئے میں سمجھتا ہوں کہ یہ مذہباً میرے لئے صحیح نہیں ہے کہ ایک مسلمان کی حیثیت سے ہندوئوں کے سوشل قانون میں جو تبدیلی لگا کرنا چاہتے ہیں یا کر رہے ہیں اس میں دخل اندازی کروں۔

ایک آنریبل ممبر: انسان کی حیثیت سے کرنا چاہئے۔

خواجه عنایت اللہ: انسان کی ہی حیثیت سے کہ رہا ہوں۔ مگر انسانیت کے ساتھ ساتھ میں انسان ہوتے ہوئے ہندوستانی بھی ہوں اور مسلمان بھی ہوں۔ اس لئے میں چاہتا ہوں کہ اپنے خیالات اپنے مذہب کے مطابق بیان کروں۔ جو تمام امیڈمنٹس (amendments) اس قانون میں لیں وہ لگے گئے ہیں انہوں نے مجھے

[خواجه عداہت اللہ]

مجبور کیا ہے کہ میں اپنے خیالات کا اظہار کروں۔ اس کے متعلق امینڈمنٹ ہے۔ کہ اس قانون میں مسلمانوں - عیسائیوں یا اور جن لوگوں کا انڈیمپشن (exemption) کیا گیا ہے یعنی نکالا گیا ہے ان کو بھی شامل کیا جائے۔

श्री जे० भार० कपूर : अगर वह चाहें।

خواجه عداہت اللہ : اگر وہ چاہیں

اور اس کے علاوہ بھی جو نہیں چاہتے ہیں امینڈمنٹ نمبر 9 میں کہا گیا ہے

“This Code applies to all Indians irrespective of their religion, caste, or creed.”

اس طرح 91 میں بھی ہے اور 92 اور 93 (amendments) میں ایسی ہی باتیں ہیں۔ اور اس چیز کو پیدھ کرتے ہوئے بعض لوگوں نے اور خاص کر میرے آنریبل دوست [ڈاکٹر شیم پرساد مکرچی نے سب سے پہلے یہی بات کہی] تھی کہ ہندوستان میں سیکولرزم (secularism) ایک بیماری کی طرح بڑھ رہا ہے۔ مجھے افسوس ہے کہ میرے دوست جو اتنے بڑے لائق آدمی ہیں وہ سیکولرزم کو جو بیماری نہیں بلکہ علاج ہے۔ اس علاج کو بیماری سمجھتے ہیں اور سیکولرزم کے ماتحت وہ چاہتے ہیں کہ سارے قانون ایک ہی طرح کے بنا دیئے جائیں۔ یعنی جو نئے ہمارے لئے بنیں۔ جو قانون ہندوئوں کے لئے بنیں وہی قانون مسلمانوں

کے لئے بھی بنیں۔ یہ بالکل صحیح ہے اگر وہ قانون انہیسی (economy) کا قانون ہو اگر وہ پریلیٹیکل قانون ہو۔ اگر ان قانونوں سے کسی کے کیپرکٹر (character) یا ہندوستان کی سوشل لائف (social life) میں فرق پوتا ہو تو وہ یقیناً ایک ہونا چاہئے۔ مگر سیکولرزم کے معنی یہ ہرگز نہیں کہ ایسے قانون بنائے جائیں۔ اور پرسنل (personal law) بھی ایسے بنائے جائیں جو مسلمانوں کے لئے بھی وہی اور ہندو کے لئے بھی وہی ہوں اس کے معنی تو یہ ہونے کہ مسلمانوں کو بھی وہی کہا جائے گا جو ہندوؤں کو کہا جائے گا حالانکہ پرسنل لا کے لئے یہ ضروری نہیں ہے کیونکہ ہمارے بہت سے قانون ایسے ہیں جو ہندوؤں سے تفر (differ) کرتے ہیں۔ ابھی کل میرے ایک سکھ بھائی کہہ رہے تھے کہ ہمارے قانون بھی ہندوؤں سے تفر (differ) کرتے ہیں۔ مجھے اس طرف نہیں جانا ہے۔ مگر میں صرف اس قانون کے مسلمانوں پر لاگو ہونے کے متعلق کہتا ہوں۔ ہمارے آنریبل منسٹر گنکل صاحب نے کل اپنی اسٹیج میں کہا تھا کہ وہ ہندو دھرم کے سوشل قانون کو بدلنا چاہتے ہیں۔ اور اس کو بدلنے کے لئے انہوں نے یہ ثبوت دیا۔ اور میرے خیال میں انہوں نے یہ ثبوت کامیابی کے ساتھ دیا۔ کہ چونکہ یہ قانون بدلتا آ رہا ہے اس لئے اس کو بدلنے کا ہم کو اختیار ہے۔ مگر انہوں

نے کہا تھا کہ اس طرح ہم کوشش کریں گے کہ آگے چل کر اس میں مسلمانوں کو بھی شامل کر لیں۔ میں ان سے ادب سے عرض کر دینا چاہتا ہوں کہ چونکہ انہوں نے یہ ثابت کر دیا ہے کہ ہندو قانون بدلتا آ رہا ہے اس لئے وہ اس کو بدل سکتے ہیں۔ لیکن میں انکو بتا دینا چاہتا ہوں کہ مسلمانوں کا قانون نہ تو ساڑھے تیرہ سو سال سے آج تک بدلا گیا ہے اور نہ آگے بدلا جائے گا۔ کیونکہ مسلمانوں کا یہ اعتقاد ہے کہ ہماری شادی بیاہ اور جائداد کی تقسیم کے قانون ہمارے اپنے بنائے ہوئے نہیں ہیں بلکہ خدا کے بنائے ہوئے ہیں جو کہ قرآن میں آئے ہیں۔ اور ان کو بدلنے کی دنیا میں کسی کو طاقت نہیں ہے۔

سردار پی۔ ایس۔ مان : کیا پنجاب کے مسلمان شریعت کا قانون مانتے ہیں یا رواج کا قانون مانتے ہیں جو کہ شریعت کے بالکل مختلف ہے۔
 خواجہ عذرت اللہ : اگر کوئی کہہ دے کہ پنجاب کے کچھ مسلمان شراب پیتے ہیں تو اس لئے سارے مسلمانوں کو شراب پینے کی اجازت دے دی جائے گی۔ اگر کوئی مسلمان بڑا کام کرتا ہے تو کیا سارے مسلمانوں کو برا کام کرنے کی اجازت دیدی جائے گی۔ اگر کوئی مسلمان اسلام کا قانون نہیں مانتا ہے تو میں اسکو زبردستی منوانے کے لئے تیار نہیں ہوں۔ اسکو آزادی ہے کہ وہ اپنے ضمیر کے خلاف۔ اپنے مذہب

کے خلاف اور اپنی سوسائٹی کے خلاف کام کرے۔ لیکن جب تک اس کا وہ کام سوسائٹی کو نقصان دہ نہیں ہوتا اس وقت تک نہ میں دخل دے سکتا ہوں اور نہ اور کوئی حکومت۔

سردار پی۔ ایس۔ مان : اسلامی قانون کے مطابق چور کو زندہ دنگور کیا جانا چاہئے یا اس کے ہاتھ کاٹ دیئے چاہئے۔ کیا کسی اسلامی ملک میں اس قانون کو مانا جاتا ہے؟

خواجہ عذرت اللہ : میرے دوست مان صاحب نے ایک بہت اچھا سوال پیش کیا ہے۔ اگر وہ باہر مجھ سے ملیں تو میں یہ ان کو اچھی طرح بتا سکتا ہوں۔ مگر اس وقت میں ہاؤس کا زیادہ وقت اس پر نہیں لینا چاہتا۔

اسلام میں کچھ قانونوں کے لئے اجازت ہے کہ ان کو کہاں تک ہم ملکی قانونوں کے ساتھ مطابقت دے سکتے ہیں۔ تو میں ان کو بتلا سکتا ہوں کہ اسلام نے کہاں تک اپنے قانونوں کو ملکی قانونوں کے ساتھ چلانے کی اجازت دی ہے اور کہاں پر یہ حکم دیدیا ہے کہ اس سے آگے نہ جاؤ۔ میں ان سے درخواست کروں گا کہ اگر کسی اسلامی ملک میں چور کو اسلامی قانون کے مطابق سزا نہیں دی جاتی تو اس کے لئے ہمارے پاس اجازت ہے کہ ہم اس کو بدل سکتے ہیں۔ لیکن کچھ قانون ایسے ہیں جنکو ہم نہیں بدل سکتے

[خواجه عدایت اللہ]

ہیں۔ تو میں ان دوستوں سے یہہ درخواست کروں گا۔
میرا بہت سا وقت تو میرے دوستوں کے انٹراپشنس (interruptions) میں چلا گیا۔ وہ وقت تو مجھے اور ملنا چاہیئے۔

Mr. Chairman. That will not be made good.

خواجه عدایت اللہ : تو میں یہہ عرض کر رہا تھا کہ مسلمانوں کے لئے ایک ایسا قانون بنانا جو ان کے مذہبی احکام کے کسی حد تک بھی خلاف ہو اس ہاؤس کے لئے جائز نہیں ہے۔ یہہ قانون میجارجٹی (majority) سے پاس کیا جا سکتا ہے۔ مگر میں ادب سے عرض کرنا چاہتا ہوں کہ کوئی قانون کسی کو مجبوراً نہیں ملوایا جا سکتا۔ میجارجٹی کو چاہیئے کہ وہ ہسکو مجبور نہ کرے۔ میں چاہتا ہوں کہ مسلمانوں کو اس قانون کو ماننے پر مجبور نہ کیا جائے۔ اکثریت کے جو اور دوسرے قانون ہیں ان کو ماننے سے کسی کو انکار نہیں ہے۔

میرے کچھ دوستوں نے کہا کہ جو ہندوستان میں رہتے ہیں وہ سب ہندو ہیں۔ مجھے اس کا فخر ہے کہ میں بھی اِس معلی میں کہوں کہ میں ہندو ہوں۔ میں بھی یہی کہتا ہوں کہ ہندوستان میں رہنے والے ہندو ہیں۔ میں ضرور پولیٹیکل ہندو (Political Hindu)

ہوں۔ اور یہہ آج سے نہیں بلکہ میں ہمیں پچیس برس سے کہہ رہا ہوں کہ میں پولیٹیکل ہندو ہوں۔ لیکن اسکے ساتھ ہی ساتھ میں یہہ کہنا چاہتا ہوں کہ پولیٹیکل ہندو ہوتے ہوئے بھی مذہبی طور پر مسلمان ہوں اور رہوں گا۔

ایک آنریبل ممبر : (ریشیلمی)
(racially) آپ کیا ہیں۔

خواجه عدایت اللہ : میں ہندو ہوں۔ میرے آباؤ اجداد برہمن تھے۔ پور میری رگوں میں برہمنوں کا خون ہے۔ پوتر خون جو کہ ابھی تک ملا نہیں ہے۔

تو میرے اسپیچ کا خلاصہ یہہ ہے کہ ہمارے اوپر وہ قانون نہ لادا جائے جو کہ ہمارے مذہب اور خدائی احکام کے خلاف ہے۔ اور آپ کے جو سوشل یا ٹیکنک قانون ہونگے انکو بھٹیٹ ایک ہندوستانی ہونے کے مجھے ماننے میں کوئی انکار نہیں ہے۔

(English translation of the above speech)

Khwaja Inait Ullah (Bihar): After deliberating long, I had decided not to say anything about this Bill. I stick to this very decision of not speaking on the matter even today, whether or not Hindu Code Bill be passed. Well, it is a different thing altogether...

An Hon. Member: Do speak.

Khwaja Inait Ullah: I should say, but I do not want to. It is a different thing that our brethren also should treat their sisters and daughters in the same way as I personally do. But, as the name 'Hindu Code Bill' is attached to this Bill and it is said that this legislation is being formulated particularly for those following the Hindu

religion, I feel that from the viewpoint of Religion, it is not proper for me as a Muslim to interfere in the social law of Hindus wherein they want to make, or are making changes.

An Hon. Member: It should be done as a human being.

Khwaja Inait Ullah: Yes, I am doing it as a human being, but while being a human being, I am an Indian and a Muslim also. It is, therefore, that I want to give out my impressions just in accordance with my own religion. All the amendments at hand now have compelled me to express my views. There is an amendment that all those, viz., Muslims, Christians and others, who have been exempted from the operation of this law, be also included.

Shri J. R. Kapoor (Uttar Pradesh): Only if they so desire.

Khwaja Inait Ullah: If they so desire, and also those who do not. Amendment No. 90 runs: "This Code applies to all Indians irrespective of their religion, caste, or creed." Likewise, it is also in 91, 92 and 93. Some members—my hon. friend Dr. Syama Prasad Mookerjee, especially while moving this amendment said at the very outset that "secularism" was spreading like a disease in India. I regret to say that my friend, who is so very capable, thinks secularism, which is not a disease but a cure, to be a disease and wants that all the laws under it be made uniform, i.e., the laws that are made for Hindus be also made applicable to the Muslims. This is quite correct if it (the law) is a law of economy, a political law, influencing somebody's character or the social life of India; it should then definitely be one: but secularism never means that such laws and personal laws be formulated as may be same for a Hindu and a Muslim. It means that the same will be said about Hindus as about Muslims, though it is not necessary so for a personal law as we have several laws which differ from those of Hindus. Just yesterday a Sikh colleague of mine said that their laws also differed from those of Hindus. I do not intend discussing that aspect of the matter, but I only submit about its application to Muslims.

Our hon. Minister Gadgil said in his speech yesterday that he wanted to change the social law of the Hindus, and for changing this he advanced the argument, which I think he did successfully, that since this law has been seeing changes, we are also entitled to change it. But he said furthermore that they would try in this way so that

in the days to come the Muslims may be included. To him I would like to submit humbly that they can change that law only because of the fact that the Hindu Law, as he proved, has been seeing changes. But here I want to tell him that Muslim law has neither been changed for the last 1350 years, nor shall it be changed in the days to come, since Muslims believe that their laws for marriage and division of property are not made by them but made by God and as they appear in the Holy Quran so nobody on the surface of this earth has the right to change them.

Sardar B. S. Man (Punjab): Do the Muslims of the Punjab abide by the law of *Shariat* or the law of Custom, which is entirely different from *Shariat*?

Khwaja Inait Ullah: If somebody says that the Muslims of the Punjab drink, does it mean that all Muslims will be allowed to take wine? If any Musalman does something bad, does it mean that all others will be allowed to do the same? If any Muslim does not abide by the law of Islam, I am not prepared to make him do so, forcibly. He is at liberty; he may go against his conscience, against his religion and against his society. But so long as his actions are not harmful to society, neither myself nor any Government can interfere in it.

Sardar B. S. Man: According to Islamic law a thief should be buried alive, or his hands should be cut off. Is this law observed in any Islamic country?

Khwaja Inait Ullah: My friend Mr. Man has raised a reasonable question. If he sees me outside, I shall explain to him in a convincing way. Here I do not want to take any more time of the House. In Islam there is a permission for some laws, as to what extent they can be brought in line with the laws of the country. I can say to what extent Islam has allowed its laws to be brought in line with the laws of the country, and also the limit which should not be transgressed. I would like to submit to him that, if a thief in an Islamic country is not punished according to the Islamic law, there is a permission that we can change it; but some laws are such that we cannot change. I would, therefore, like to submit to these friends...

Most of my time was taken by my friends in their interruptions. I should also get that amount of time.

Mr. Chariman: That will not be made good.

Khwaja Inait Ullah: I was submitting that it is not a right course for this House to make for Muslims as well the law which to any extent goes against their religious commandments. This Bill can be passed with majority, but I do want to submit humbly that nobody perforce can be asked to follow a certain law. Majority should not compel us. I want that Muslims should not be compelled to agree to this law. Nobody will refuse to agree to the other laws of the majority.

Some of my friends said that all those who reside in India are Hindus. I take pride in calling myself a Hindu. I, too, say that all the inhabitants of India are Hindus. I am positively a political Hindu. Not from today but for the last twenty to twenty-five years I have been calling myself a political Hindu. Here I also want to say that apart from being a Hindu politically, I am and shall continue to be a Muslim by religion.

An Hon. Member: What are you racially?

Khwaja Inait Ullah: I am a Hindu. My forefathers were Bramins and Brahmin blood is flowing in my veins—that pure blood which has not been mixed up so far.

Well, the sum and substance of my speech is that no such law as is against the Commandments of our religion and of God, be thrust on us, but as an Indian I shall have no objections to agree to any social or economic legislations.

Kumari Padmaja Naidu (Hyderabad): I welcome this opportunity of expressing my unqualified support for the Bill. I would like at the very outset to congratulate the Government on its courage in bringing forward this measure in spite of the widespread and fierce hostility towards it that has been so sedulously instigated by the forces of reaction that still, alas! today dominate certain sections of this country. The author of this Bill does not stand in need of any words of praise from me. For, with this measure, whether this House chooses to accept or reject it, Dr. Ambedkar takes his place in the long line of social legislators who throughout the ages have laboured diligently, always in the face of opposition, often in the face of persecution, to eradicate social injustice and to enhance the sum total of human happiness.

For many years men and women throughout the length and breadth of this vast country have eagerly awaited the enactment of this Bill. They have watched with increasing alarm its decline from its original forcefulness because it was considered expedient for compromise after compromise

to be made in order to win the maximum support for it. But even in its present and mutilated form this Bill is only comprehensive measure that has ever been shaped for the liberation of Hindu women from the age-old bondage of the unequal laws to which they are still subject. I do not ignore, neither do I make the mistake of overestimating, the volume of protest from the poor, deluded women whose ignorance and superstition has been exploited with subtle insidiousness by the vested interests of bigotry determined to defend their last bastions to the bitter end. What a tragic spectacle it is that we witness in India today of Hindu women allowing themselves to be hypnotised into denouncing the very measure that has been so carefully devised to secure for them the equality of laws to which they are entitled under the Constitution. But today it is neither as a woman nor as a Hindu that I plead for support to this Bill. I speak as an Indian, passionately jealous of the honour of India which is pledged not only to this measure but to every other form of social legislation necessary to redress grievous wrongs and to alleviate human suffering arising out of unjust laws. So long as any section of the people of this country continue to be debarred, on the grounds of sex or caste or creed, from the full enjoyment of equal rights, so long will our Constitution continue to be a hollow mockery. And what of the freedom for which a long and gallant fight was waged, a fight that was shared by thousands of sensitive Hindu women who, for the first time in their lives, left the precious sanctuary of their sheltering homes. They came to the battlefield and stood besides their brothers and faced jail and lathi charges and often enough, humiliation worse than death. If today those thousands of Hindu women who fought for the independence of India are to be denied their just rights, then our hard-earned freedom is no more than a handful of dust.

I have studied with some care the numerous speeches and statements that have been made by various hon. Members of this House, far better qualified than I can ever aspire to be to judge the technical legal implications of this Bill. I must confess that I have been a little surprised to find that with all their forensic skill and expert dialectic they have not been able to forge many weapons with which to bludgeon this Bill and none of them with sufficient validity of sanction to be lethal. We have all grown a little tired of having it proclaimed in every language, in every conceivable permutation and combination of phraseology.

of hearing it shouted day after day from the housetops and the market place and highways and by-lanes that this Bill threatens to destroy the very stuff and texture of the fabric of Hindu society. In a statement that unfortunately received nation-wide publicity in America, a very distinguished hon. Member of this House has declared that this Bill is an attack on an ancient and gentle religion that has survived for five thousand years. He announced that because now the very structure of Hindu society was threatened he intended "to fight and fight and fight against it". It passes my comprehension that anybody who is proud of calling himself a Hindu can talk or even think in such terms without realising that he is dishonouring the very religion that he claims to defend. As though any of the great religions of the world that have survived through centuries of human history could be endangered by social legislation or by any speeches or writings or other form of human endeavour. If there is any religion in the world that can be imperilled by these trivial things, then it deserves to be allowed to perish.

Speaking three days ago on the floor of this House Dr. Syama Prasad Mookerjee described in very moving terms the immemorial beauty and wisdom of the teachings of Hinduism. He spoke of its comparable flexibility—I think he used the word adaptability—that had enabled Hindu philosophy to survive through centuries of foreign invasion and alien domination resisting wave after wave of the fiercest political and religious and economic onslaught. Surely, for all time to come Dr. Mookerjee has given the final answer to the futile and foolish argument that any social legislation intended to render justice to the underprivileged can imperil an ancient religion based on the loftiest conceptions of the sanctity and indivisible unity of all life.

Another serious charge which is sought to be levelled against this Bill is that by making legal provisions for divorce it will open wide the flood gates of immorality. It has been proved conclusively by speaker after speaker that there was provision for divorce even in ancient times. We are all aware that more than 75 per cent. of the Hindus in this country have always had the benefit of an easy and simple and effective system of divorce. So this argument seems to lack any real validity and I think it has been employed merely to indulge in what is fast becoming a national pastime in this country, that of disparaging the West and western ways. May I be permitted to express my regret at the growing

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tendency in this country to make sweeping generalisations about the morals and manners of other races in other countries? This tendency is all the more deplorable because only too often hasty judgment is founded on insufficient knowledge, usually gleaned from the sensational publicity given to the doings of a handful of neurotics and decadents such as are to be found in every country of the world. Certainly, they are to be found in every big city of India. Dr. Mookerjee rightly drew our attention to a grave problem that is today troubling the psychologists of the West and that is the growing prevalence of psychoses corresponding to rise in the rate of divorce. But may I respectfully suggest to Dr. Mookerjee that if he would pause and ponder over this problem and analyse it carefully he will find that the psychoses are not the result but the root cause of much of the divorce in the West. In many western countries, particularly those that have been ravaged by the last two great World Wars, the entire equilibrium of life has been seriously disturbed. Acute economic distress, and a morbid obsession with the atom bomb and the imminence of another World War—all these cause tensions that lead to both physical and mental insecurity. These inevitably result in a certain emotional instability which must of necessity have its repercussions on family life. But the fact remains that whatever may be the abnormal conditions in some countries, whatever may be the outward variations of morals and manners in different races, fundamentally the human race is the same everywhere and even today in every country of the world the family unit continues to be the very core of human society. Normally balanced men and women value a certain grace and dignity in human relationships and they do not resort to divorce lightly. It is only when they are driven to it as the only ultimate solution of a situation that has become intolerable that they resort to divorce. And if this be true of men, it is, I think, a hundredfold more true of women. Because in this changing and unstable world, devastated by wars and revolutions and famines, where all standards of ethical values are wavering, where all national and international codes of morality are vacillating, there still remains one thing changeless and unchanging—one thing that is still today what it was at the dawn of creation and what it will be at the end of time. And that is woman's inherent consciousness of the grave responsibility that rests on her through her high destiny as the creator and guardian of the sacred flame of life. And perhaps in no other country

[Kumari Padmaja Naidu]

of the world has that consciousness flowered in such perfection of beauty as in this ancient land of ours whose annals are rich with literature and legend inspired by the high ideals of our women. So, it is a little unworthy of us that we should talk lightly and flippantly about the capacity of the Indian woman to wear her freedom with dignity. To do so is to confess to a sad lack of understanding of the very genius of our race.

Some resentment has been expressed by hon. Members who have objected to the theory that this Bill should be passed merely because the eyes of foreign countries are upon us. I am in entire agreement with them. However much we may value the goodwill of other countries we cannot and will not shape our lives and legislation to suit anybody else's standards. But there is a far more valid and urgent reason for the passing of this Bill, and that is that our national integrity, our self-respect as a people are at stake. Many of the hon. Members of this House had the high privilege of drafting the Constitution of Free India. Upon them there rests the heavy responsibility of redeeming the pledges that are embodied in it. And so the question of accepting or rejecting this Bill is the simple one of whether we affirm or deny the very fundamental principles on which our Constitution is based.

Shri Brajeshwar Prasad (Bihar): I rise to offer my unqualified support to clause 2 of the Hindu Code Bill. While doing so, I would like to point out that if this clause is passed it will mean the perpetuation of a great wrong in Hindu society—the *immoral* distinction between legitimate and illegitimate children. The clause says that it applies to any child, legitimate or illegitimate. I know that it is not possible for the State to go to the extent to which I want the Government of India to go. I want the State to abolish the distinction between legitimate and illegitimate children. The stigma of illegitimacy dwarfs the personality of the child. It is inhuman and barbarous that millions of people in this country should suffer from psychological and social handicaps throughout their lives for no fault of their own. It may be urged that the institution of marriage will be weakened if the distinction between legitimate and illegitimate children is obliterated. I submit that the Heavens will not fall if the institution of marriage is weakened in any way whatsoever.

Pandit Maitra (West Bengal): Does the hon. Member want abolition of marriage?

An Hon. Member: No, week-end marriage.

Shri Brajeshwar Prasad: The good that is done to society by marriage is great; but the harm that is done to society by illegitimacy is also very great and serious. I think that it is neither possible nor desirable for the State to strengthen the foundations of a discredited social order. I can very well conceive of a society where there is no marriage. The Platonic ideal of a community of wives and children is as valid a concept today as it was during the days of Plato. If we are sincere about our professions of secularism, if we have any faith in secularism—let us be frank with ourselves—we must try to emancipate the institutions of property and marriage from the bondage of religion. It is true that the secular ideal has not been realised in any part of the world.

It is not secularism, but Christianity that guides the institutions of marriage and property both in America and Europe. I am of opinion that the institution of marriage will not be weakened in any way if the distinction between legitimate and illegitimate children is obliterated....

Mr. Chairman: I think the hon. Member may reserve these views to the marriage Chapter.

Shri Brajeshwar Prasad: I am not expressing my views on the marriage Chapter. I am only visualising certain objections that may be raised with regard to my suggestion that the distinction between legitimate and illegitimate children should be obliterated.

Shri T. Husain (Bihar): For the sake of information, may I know if my hon. friend is against legal marriage or not?

Shri Brajeshwar Prasad: If I get an opportunity to speak on the marriage clauses, I am prepared to make the distinction clear. I do not think that the institution of marriage will be weakened if the distinction between legitimate and illegitimate children is obliterated. For, what is the basis of marriage? Why is the institution of marriage surviving? It is old age—psychological enfeeblement of the mind and heart—which is responsible for the survival of the institution of marriage. It is not for the pleasures of sex; it is not for the procreation of children that the institution of marriage exists in society. For both these objectives can be

achieved outside the bonds of matrimony. I am opposed to illegitimacy because it is an important cause of abortion, destitution, prostitution, delinquency, further illegitimacy, premature birth, still-birth, crimes, infanticide, venereal disease and cruelty to women and children.

I am not prepared to give my moral support to an article which tends to perpetuate the gravest crime that is done in our society.

Shri B. Das (Orissa): At the outset I wish to congratulate Dr. Ambedkar on behalf of myself and all those reformists who are Members of this House and reformists outside, for the bold step he has taken to codify the Hindu law. He has shown great forbearance. He has been characterised as the Manu of our age. But he has been following the precepts of Buddha and showing greater forbearance in agreeing that only the Chapters relating to marriage and divorce be taken for the time being. I support the marriage and divorce clauses of this Code.

Great speeches have been made on the floor of the House. On the side of the Bill my hon. friend Shri Gadgil made an excellent speech; so also Pandit Kunzru. On the opposite side the speeches that have to be taken notice of are the ones of Dr. Syama Prasad Mookerjee, Sardar Man and my young friend Pandit Govind Malaviya.

Dr. Mookerjee perhaps forgot the fact that the intermediate stage in the line of reformists from Buddha to Gandhiji was held by great Bengalis like Raja Ram Mohan Roy, Keshab Chander Sen and Ramakrishna Paramahansa. It is no good for the Bengali leader to cry a halt to these reforms. That is not the right way. Hinduism has been a progressive religion. The various *Smritis* and *Mimamsa*, are but a codification of Hindu law. As pointed out by my friend Shrimati Padmaja Naidu, who in her incivitable poetic way paid happy compliments to Dr. Ambedkar, our Constitution has given certain rights to women of India and Dr. Ambedkar is doing nothing more than giving effect to the intentions of the Constitution.

My hon. friend Sardar Man belongs to a great nation, the fighting nation that has saved and maintained the freedom of India. He however struck a discordant note by saying that the Sikhs are not Hindus. I had the privilege of working with many Sikh leaders. Let us, therefore, not harp on our differences on the Hindu Code Bill.

But I may say that if the Sikh opinion is sounded, now or hereafter, they would never like to remain stagnant. If and when such opinions are taken, we will find that Sikh women are for progress and advance.

As regards Pandit Govind Malaviya; I have great affection for him, because I was a lieutenant of his revered and august father, the late Pandit Madan Mohan Malaviya. My memory goes back to the thirties when we were passing the Child Marriage Restraint Act on the floor of the House. The great seer that Pandit Madan Mohan Malaviya was he saw the signs of the times and although he was sad that this House enacted the Child Marriage Restraint Act known as the Sarda Act he never opposed it in such violent language and in such words of thunder as my young friend Pandit Govind Malaviya did.

Pandit Malaviya: Because these things were not proposed then.

Shri B. Das: True. But I was only quoting my own leader and his august father that he was for advancement and progress. That is all that I wanted to submit.

Shri A. C. Shukla (Madhya Pradesh): For those who are weak. You cannot follow the highest ideal?

Shri B. Das: Those who belong to the orthodox and conservative school in India have helped us in passing the Constitution. They have helped us, though at times a little weakly, in the battle for freedom that we fought for so many years. Since 1947 we are all going forward. If "go forward" is our motto now, then nothing will stop the advancement and progress of India or any section of our community, be it Hindu, Muslim or any other. Therefore, instead of showing that strong difference with us they should settle down to the view that India must progress as a nation, and if we are the first nation in Asia and are going to be the first nation of the world, they will help us to advance and progress and not deter us in any way.

I will conclude my speech by reminding the conservative friends in this House that this advancement of the Hindu Code and marriage laws is not a new thing. We have forgotten recent reformers like Sir Hari Singh Gour or Dr. M. R. Jayakar who have made specific indents into the old traditions and customs of Hindu laws, particularly marriage laws. So it is no use our saying that Dr. Ambedkar threw a bombshell and a surprise at our conservative friends. We are progressing, and Dr. Ambedkar has done

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one thing. He has faced the whole problem and not attempted piece-meal legislation. Yet to concede to our conservative friends the House is almost agreed to pass only one part of the Hindu Code Bill.

I support the measure.

Dr. Ambedkar: I think it is an extraordinary event in the history of this Parliament and, I believe, in the history of the past Legislative Assemblies that we should have been engaged in the discussion of a single clause for not less than seven days. I do not think there is any parallel to this. But in view of the fact that many Members have raised the point that this Bill touches part of their conscience, our Prime Minister in a righteous spirit has allowed them and also the Chair the longest time that any Member might want to consume in order to express his mind on the subject. (*An Hon. Member:* Wrong). I have no complaint against that because it is much better that we should give to every individual, whether he speaks for or against, the fullest opportunity rather than create a feeling in the Members who do not see eye to eye with Government—to go home with a feeling—that they have been choked. I hope that, notwithstanding the fact that seven precious days have been spent in the discussion of this clause, when this clause is put to vote no Member will have a complaint on any such ground at all.

Babu Ramnarayan Singh: I have.

Dr. Ambedkar: The debate on this clause has as a matter of fact taken place in two parts. A part of the debate took place in the last session of Parliament, and this is a sort of a supplementary debate to the original debate. I am sorry to say that notwithstanding the fact that I have paid the closest possible attention to the speeches which have been delivered in what I call the supplementary debate it has not been possible for me to find out what new point has been raised in the course of this supplementary debate which was not raised in the original debate. The only new factor which I have discovered in the course of this supplementary debate is the speech made by my friend Dr. Syama Prasad Mookerjee and another by our friend Mr. Man. Beyond that there has been nothing more than an expansive debate on points which were probably touched upon in the original debate.

With regard to Dr. Syama Prasad Mookerjee I have a feeling that it is

not necessary to take him seriously at all. He has, it seems to me, no mind of his own.

Babu Ramnarayan Singh: Have you?

Dr. Ambedkar: I have, most certainly.

He was, as hon. Members of the House will know, a member of this Government practically for four years, during which this Bill has been placed before this House by the Government in office. I have not any recollection whatsoever, during the course of these four years when Dr. Syama Prasad Mookerjee was a member of the Government and when the Government had already sponsored this Bill and put it before the House and it was in bits being discussed by Members of the House, that there was any single occasion inside the Cabinet when Dr. Mookerjee to my knowledge expressed the slightest difference of opinion on this Bill as against the Government.

Shri Syamnandan Sahaya (Bihar): Is it open for the hon. Minister to disclose what happened there or what did not happen there?

Dr. Ambedkar: I am saying so. I remember also that in the earlier part there were many party meetings held to discuss what should be done with regard to this particular Bill. I have a very clear recollection that in most of the meetings that were held Dr. Syama Prasad Mookerjee was present and even then I do not recollect a single occasion when Dr. Syama Prasad Mookerjee—in the party which is an informal thing and where members of the Government are free to express their personal opinions, which they may not express outside on account of the joint responsibility—ever said anything against this Bill. It is, therefore, as I said, a matter of moods. (*An Hon. Member:* Conviction.) Not at all. Either a man has a conviction or he has no conviction. That is my point. (*An Hon. Member:* He has resigned from the Cabinet.) I am sorry to say that he is to my mind a very tragic case, a tragic case of a sober, good well-behaved man, who having joined the company of the drunkards rolls from side to side and has become an inebriate, himself.

An Hon. Member: A good comparison.

Dr. Ambedkar: Secondly, I have been noticing the performances of Dr. Syama Prasad Mookerjee ever since he has left the Government and has become a member of the Opposition, in fact almost a leading member of the Opposition and I have noticed

that he has developed the unfortunate mentality which sometimes Leaders of Opposition develop, namely to oppose everything that comes from Government. In view of that when a person is not prepared to discuss matters on merits but wants to oppose for the sake of opposition it is I think hardly worth one's while to waste one's time and breath in order to meet his argument. As I said, that is the reason why I do not propose to take what Dr. Syama Prasad Mookerjee has said in a very serious manner.

I, therefore, propose to deal only with the general points that have been raised by various speakers against clause 2 and generally against the Bill. The first point which perhaps is a new point is this, that there is really no necessity for the sort of Bill that we had brought forward. It is contended that the Hindu Society is a very ancient society, much more ancient than the Roman or the Greek Society and perhaps as old as the Egyptian society. It has been contended that today all that we know about the Roman society or the Greek society or the Egyptian society is their history; they no longer exist; they have disappeared. The only ancient society which has survived is the Hindu society and if the Hindu society has survived while all other ancient societies have disappeared, then its laws, its social structure, its principles must be good. Otherwise, it could not have survived.

This is not the first time that I have heard this argument. I have heard this argument a long time ago and not only heard it from men in the streets, but men who have been occupying most eminent positions such as those who are called the historians of India. This is an argument which had been presented all the time by those who believe in the sanctity of the ancient structure of this society. I must very frankly say that I too have been a student of India's history, although I cannot claim that I am as good a student as many others who adorn the chairs of history in many of our universities. I believe. I have a sufficient understanding of the Indian history and the point that I would like to raise is this. Is survival enough or whether it is necessary for us to consider whether the plane on which we survived is more important than the mere survival itself? A man who mixes with his opponent in battle vanquishes him, obtains victory on him also survives. A man who meets his opponent, runs away from him like a coward and he also survives. Is the survival of the victor of the same value, of the same character as the survival of a coward?

I think we ought to consider this question on what plane has the Hindu society survived. (*An Hon. Member*: Survival of the fittest). Yes, but on circumstances. Here my friends will forgive me saying so, when I examine the history of India, we have survived, yes, but we have survived as people who have been from time to time subjugated, vanquished and enslaved. (*An Hon. Member*: Who has not been?) Yes. My hon. friend asks me the question, "Who has not been?" There are many countries and many communities who have lost in battle, who have been enslaved but I would like to remind my hon. friend that if he studies the history of all vanquished people, he will realize that some day, at some time, the vanquished people in other parts of the world have tried to achieve their liberty. I have not seen any such thing in this country. Therefore, the argument that merely because we have survived when other countries have lost and gone into history is one which does not convince me of the goodness or the soundness of the social structure under which we have been living. It has been said that the Hindu society has been a very progressive society. It was an argument which my hon. friend, Dr. Syama Prasad Mookerjee expatiated at great length and he pointed out that so great a radical reformer like the Buddha was accepted by the Hindu society as a great figure and not only they accepted him as a great figure but they adopted and accepted some of the principles which he advocated in his life.

It is no doubt one of the great qualities of Hindu society to absorb some things from those who oppose it. But, my point is this. Has the Hindu society changed its structure as a result of the absorption of the doctrines of their opponents? Let me develop the position with regard to the Buddha. What did he preach? He preached equality. He was the greatest opponent of *chatur varna*; he was the greatest opponent of belief in the Vedas because he believed in reason and did not believe in the infallibility of any book. He believed in *ahimsa*, the Brahmanic society accepted some things. What did they accept? They accepted the most innocuous dogma of *ahimsa*. Nobody was prepared to accept and they did not accept—they opposed—his belief in equality. Notwithstanding the fact that it has absorbed bits and bits of something which is of an innocuous character, it did not touch the main thing on which they were all united namely to maintain *chatur*

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varna. That is the reason why notwithstanding this assimilative and adaptive quality, they have remained what they have always been. We have for long number of years waited to see whether Hindu society would, as a result of the absorption of the doctrines preached by great men who have been born in this country or great men born outside the country, change its social structure. Most of us, speaking for myself, have been completely disappointed. Whatever else Hindu society may adopt, it will never give up its social structure for the enslavement of the *sudra* and the enslavement of women. It is for this reason that law must now come to their rescue in order that society may move on.

Pandit Malaviya: Move on to what even Buddha could not do.

Dr. Ambedkar: People have been saying that Hindu society has been changing. The question that I want to ask is this. Is this change in the direction of progress or is it a change in the other direction? Any one who has studied the history of Aryan society from the very beginning to the present day will have to admit if he is a fair student of history, that whatever change has taken place, it has been a deterioration. There was, as everybody knows, no caste system among the Aryans. There may have been some kind of *varna* system; but the *varna* system never came in the way of inter-marriages. You can find any number of cases of Brahmins marrying untouchable women, *Kashatriyas* marrying *sudras* and *sudras* marrying upper class women.

Pandit Malaviya: Which were the instances?

Dr. Ambedkar: I can give many instances if you will come to my room. I have got them.

Pandit Malaviya: Why not now?

Dr. Ambedkar: But, the Aryans never had a hide-bound social system of class division that was later introduced. Nobody can deny that that has been a subsequent change.

You examine the position of Hindu women. Our hon. friend Dr. Mitra, I think, who was a member of the Rau Committee, for the purpose of a thesis for a Doctorate degree of the Calcutta University wrote a book called *The Position of Women in the Hindu Shastras*. Any one who reads this

book will find that women had an equal share in property with men. She was entitled to hold property. Even in Manu you find this statement. Today, what do we find as a result of the changes that have taken place in the Hindu society? Women are completely deprived of property. Do you call this change progress or do you call it deterioration? Therefore, it is time, I think that we consider this question in a different light. The point on which I wish to proceed is the fact that unless law makes society move, this society will not move.

Another argument which was presented to the House was this: that we have no policy; we have no principle; we have nothing on which we are proceeding; the only thing on which we are proceeding is a kind of imitation of the western nations. It is said that because the western nations have monogamy, because the western nations have divorce or because the Christians are trying to do something along that direction, we, in order to put ourselves in the good books of the world at large, are trying to do something along the lines which they have been doing. They have said that our ideal should be, what? Somebody said Ram; somebody said Dasaratha; somebody said Krishna; somebody said this, that and the other. I do not wish to comment upon any of the ideals which have been presented to the House, and I do not...

Shri Syamnandan Sahaya: You will be well advised not to do so.

Mr. Chairman: Order, order.

Dr. Ambedkar: My ideals are derived from the Constitution that we have laid down. The Preamble of the Constitution speaks of liberty, equality and fraternity. We are therefore bound to examine every social institution that exists in the country and see whether it satisfies the principles laid down in the Constitution. Now, so far as your sacramental marriage is concerned, forgive me, I am quite convinced in my own mind that no man who examines that institution in a fair, honest and liberal spirit can come to the conclusion that our sacramental marriage satisfies either the ideal of liberty or of equality. What is the sacramental ideal of marriage? Sacramental ideal of marriage described in as few words as possible, is polygamy for the man and perpetual slavery for the woman.

An Hon. Member: Wonderful description.

Dr. Ambedkar: That is so because under no circumstances can a woman get her liberty from her husband, however bad he may be, however undesirable a person he may be. I want to put one question to the House. Are we for slavery or are we for free labour? What are we for? Now, in all economic matters, we have all long been insisting that there must be free labour. Slavery we shall not tolerate.

An Hon. Member: Is this slavery?

Dr. Ambedkar: Now, what is the difference between slavery and free labour? I think if you examine it carefully, you will come to the conclusion that free labour means the ability and the capacity to break the contract when the necessity for breaking the contract arises.

Shri R. K. Chaudhuri (Assam): And is this a contract?

Dr. Ambedkar: Yes, I shall come to that.

Therefore, if the woman under the sacramental marriage is to get her freedom, then circumscribe as you may, the conditions for her getting her freedom, and as I said, I shall be quite prepared to consider any proposal that may be made by any Member from any side of the House to narrow down the conditions of divorce that have been prescribed in the Bill as it stands. But if you mean to give liberty—and you cannot deny that liberty in view of the fact that you have placed it in your Constitution and praised the Constitution which guarantees liberty and equality to every citizen—then you cannot allow this institution to stand as it is. That is the reason why we are proceeding with this Bill and not because we want to imitate any other people or we want to go in for our ancient ideals which are today to my judgment, most archaic and impossible for anybody to practice.

Dr. C. D. Pande (Uttar Pradesh): We are ready to support the Bill, but we do not want these invectives. How far the hon. Minister is justified in dealing with this subject and resorting to such invectives, I do not know?

An Hon. Member: Why vilify the Hindu religion?

Dr. Ambedkar: Now, I come to the specific amendments that have been tabled by various Members to clause 2.

Shri Krishnanand Bai (Uttar Pradesh): The House is for divorce and monogamy, but not for this kind of abuse.

Dr. C. D. Pande: We are for these provisions, but we do not want these abuses and invectives.

Dr. Ambedkar: If you had said that before, I would not have made this speech at all and not spent seven days over this Bill.

The Prime Minister (Shri Jawaharlal Nehru): I am rather surprised at the tender skin of some of the hon. Members. We have had to put up with a series of speeches and things have been said which have hurt us very much. If that has not been objected to, then I think it is expected that those who disagree with Dr. Ambedkar should not object now.

Pandit Maitra: We have been listening with rapt attention to Dr. Ambedkar, but what we do not want is these invectives and reflections on some of the best ideals which we cherish. The provisions can be defended without injuring the religious susceptibilities of Members.

Mr. Chairman: I do not think there is any need for excitement. As the Prime Minister has said, many hon. Members who had spoken had said so many things, and naturally when the hon. law Minister is replying, he has to make certain statements, and he deserves to be heard.

Dr. Ambedkar: Now, I come to the specific amendments that have been tabled to this clause. As you will observe (*Interruptions*).

Mr. Chairman: I do not want side-conversations to go on across the benches.

Dr. Ambedkar: There is one general amendment, that this Bill should be made optional. This amendment has taken various shapes and forms. In one shape it means that the Hindus to which this Bill is made applicable, should be allowed option either to have it applied to them or not be applied to them. Another shape in which the same amendment has come is that if any other people, such as for instance the Muslims, to whom this Bill does not apply, desire that the Bill should be applied to them, there should be provision in it to that effect. The other shape which this amendment takes is that it should be left to the States to apply or not to apply this Bill. Now, I will deal with the general

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amendment in all the three shapes in which it has been presented to us.

With regard to the first aspect of the matter, that its application even to the Hindus should be optional, last time, the Deputy-Speaker came to the rescue of many Members by pointing out that there was a precedent for a thing like this. I think hon. Members will remember that he referred to the *Shariat* Act and the Khoja Momin or Khoja Act, and therefore, he said there was no danger or anything strange in making a similar provision so far as the application of the Bill to the Hindus is concerned. Since that time, I have spent much time in examining whether the statement made by the hon. Deputy-Speaker—I am sorry he is not here—is true in fact. And I find that this has been a sort of lapse of memory on his part.

Shri Syammandan Sahaya: Are you criticising the Deputy-Speaker's ruling or are you criticising the remarks of Shri Ananthasayanam Ayyangar?

Dr. Ambedkar: I am dealing with the statement of Shri Ananthasayanam Ayyangar. I am glad the hon. Member is so technical today.

Shri Syamanandan Sahaya: I am so, all the time. But the hon. Minister is taking advantage of his position as a member of the Cabinet.

Dr. Ambedkar: I find that in the course of the debate on the Bill which took place in the year 1937, my hon. friend Shri Ananthasayanam Ayyangar himself raised this question about the applicability of the Bill and I find that his speech is spread over practically two pages here. As I said, he raised this very question whether that Bill was going to take away the option that was given to the Khojas. He put this question direct to Mr. Jinnah, because as the House will remember, the *Shariat* Bill was not a Government Bill. It was a private Member's Bill which was brought in and practically Mr. Jinnah was in charge of that Bill. And Mr. Jinnah had given an absolutely categorical answer to Shri Ananthasayanam Ayyangar that not only was that Bill compulsory, but even the option given to the Khojas would be taken away by that Bill.

Pandit Maitra: Why not inform the House of the background of that Bill also? I was there when the Bill was being discussed and I know that Mr. Jinnah wanted the Muslims not to be governed by any Hindu law at all.

Dr. Ambedkar: I can give the book, it is here, and anyone who wants to read the whole debate can do so. I cannot spend any more time on this because I have to deal with the amendments.

Shri J. R. Kapoor: That debate is of which year?

Dr. Ambedkar: 1937. The only difficulty that...

श्री भट्ट : वह शरियत बिल पास हुआ था, सलेक्ट कमेटी में गया था, या गिर गया था ?

[**Shri Bhatt:** Was that *Shariat* Bill passed, or referred to a Select Committee or dropped?]

Dr. Ambedkar: The Bill was passed and it was decided that no option was to be given.

The only difficulty that arose was that when they introduced clause 3, it was introduced in the House without the assistance of the draftsmen and what happened was that they introduced the word "Act" instead of referring to it as "clause". That defect was cured by my friend Mr. Kazmi, who brought in a Bill in 1943 and substituted the word "clause" for the word "Act". Therefore, the ground that there is a precedent, I submit, falls through.

12 Noon

Shri J. B. Kapoor: May I bring to the notice of the Law Minister that this Act of 1937, I suppose, repeals the previous Kutchi Memon Act, according to which option was given and what the Deputy-Speaker as a Member of this House brought to notice was that there was, in fact, in force for a number of years a legislation which gave option.

Dr. Ambedkar: That was before, that was taken away.

Shri J. R. Kapoor: All the same for a number of years that sort of legislation did hold good. That was the point made by him.

Dr. Ambedkar: We are discussing the question whether the 1937 Act gave an option. That is the point.

Shri J. B. Kapoor: Mr. Ayyangar's point was that the 1923 Act gave the option.

Dr. Ambedkar: I am sorry I cannot give way.

Mr. Chairman: If there is any inconsistency in the speech hon. Members may bring it up at a later stage, when there will be a good deal of opportunity.

Shri Amolakh Chand: What is the latest position now?

Dr. Ambedkar: No option.

Shri Naziruddin Ahmad: There was option for a long time.

Dr. Ambedkar: For Cutchies.

I will take the proposal to grant option. Apart from precedents what would be the consequence? Suppose we adopt this proposal of giving option. Hon. Members will remember that there are certain States like Bombay and Madras, where the legislature has enacted laws regulating marriage and divorce. In those two Acts there is no option whatsoever given. They are compulsory on every body who resides or is domiciled there. If we adopt this law, it being a central law, it will supersede the laws of the provincial legislature in so far as it is inconsistent with those laws, by reason of the fact that this is legislation in the concurrent field. The one consequence will be that whatever progress the States of Bombay and Madras have achieved in the matter of monogamy and divorce will be completely destroyed.

Shri Gautam (Uttar Pradesh): What will be the position of the Muslims in Bombay?

Dr. Ambedkar: It applies to the Hindus only. I will shortly come to the Muslims. Do not worry. I will not run away from the point. Therefore, the one consequence will be that the two States which have achieved a certain degree of social advancement will be set back.

Shri J. R. Kapoor: Keep it alive.

Dr. Ambedkar: How can you?

Shri J. R. Kapoor: By saying "Save and notwithstanding anything contained herein this Act will..."

Dr. Ambedkar: That will be fantastic legislation just to satisfy my hon. friend. So this consequence has also to be taken into consideration.

What is the position today? Certain States have laws relating to monogamy and divorce. Certain other States have no such legislation. The one thing that has to be remembered is that under our Constitution no State has got extra-territorial jurisdiction. The law applies either to the resident when he is resident there or to a person who is domiciled. If a person marries in Bombay he shall have to marry under that State's Act. If he wants to divorce his wife on grounds

which are not permitted by the Bombay law he can easily go to U.P. where no such law exists, divorce his wife and marry again, thereby altogether destroying the validity of the Bombay legislation. It is something like prohibition. An isolated State cannot have prohibition. If it is to be there it must be all through, so that no man can go to another State and break the law of the State in which he resides normally. Therefore, in this case either there should be no legislation and leave things as they are or if you want legislation it must be an all India legislation, so that no man or woman would be able to break the law.

The third difficulty is that although they have tabled amendments to the effect that option should be given, they have not indicated the nature of that option. Are women to have the right to make an option or not? If the father makes an option that this law applies to him, does his option apply to his son and progeny? If the husband makes an option under this law, will it apply to his wife by reason of the fact that she is his wife? If the husband does not apply it to himself, will the wife be free to do so?

Shri Bharati (Madras): All confusion.

Dr. Ambedkar: It would be utter confusion, if such an amendment was adopted.

Shri J. R. Kapoor: What does the proviso to clause 2 say?

Dr. Ambedkar: I am afraid I cannot add any such proviso. Our law may be deformed in some way but it should not altogether be unaesthetic: It must be good to look at.

I now come to the other aspect of the argument, namely of allowing other people to have the law apply to them. I should not have dealt with it but for the fact that Dr. Mookerjee referred to the fact that this law was not made applicable to Muslims. He charged the Government with either want of sincerity or want of courage that they can never bring such a legislation so far as the Muslim community is concerned. With regard to this matter Members have said that we are enacting a piece of legislation which is discriminatory for the simple reason that the Hindus today have the right to marry more than one woman and the Muslims have a right to marry four but that we are taking away the right of the Hindu leaving the right of the Muslim unaffected. That they say, is discriminatory. With all respect I

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would invite the attention of Members to article 25 of the Constitution, which says:

"Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practise and propagate religion."

I want to draw the attention of Members to the words "the right freely to profess and practise their religion". I am not concerned for the moment with propagation of religion.

Last time when I spoke on this Bill I made it quite clear that in our country, fortunately or unfortunately, the profession of a particular religion carries with it the personal law of the person. You cannot get away from that position. Similarly, when you say to a Muslim that under the Constitution he is free to profess and practise his religion, we are practically giving him the right to practise his personal law. In view of the fact that the Constitution allows different communities to practise their religion and incidentally also to have their personal law, there is nothing discriminatory in allowing one community to have their own law or to modify it in the way they like and to treat the law of the other community in a different way or to modify it.

Pandit Thakur Das Bhargava (Punjab): According to Hindu law a person can marry more than one wife, according to Mahomedan law also a person is entitled to have more than one wife, but there is no obligation on any Muslim to have more than one wife nor is there any obligation on any Hindu to have more than one wife. The personal religion of both is the same on this point. Similarly, it is not enjoined upon a Mussalman to practise child marriage, nor is it enjoined upon a Hindu to practise child marriage, for the *Smriti* and the *Hadis* of both say the same thing on this point. Therefore, the Child Marriage Act was applied to the Muslims also. It is not going against the Muslim law or the *Shariat* law if we make this law applicable to them today. So far as article 25 is concerned you will not be following this...

Dr. Ambedkar: I am answering the other argument that we are making a discrimination. To that I am giving the answer that the Constitution permits us to treat different communities differently and if we treat them

differently nobody can charge the Government with practising discrimination. That is the point. That being so, another thing I would like to tell the House is that article 25 is an article of great importance, for this reason. As the House will remember, all throughout the history of Europe there has been a great contest between the Church and the State. The State has said that the Church shall not interfere in religion and that the State is supreme over Church. The Church, on the other hand has said that the State is subordinate to the Church, it is only when the Church permits that the State can enact. That has been the general position. In our Constitution we adopted a middle course; the course that we adopted was this, that while we will permit people to practise and to profess their religion and, incidentally, to have their personal law because the personal law is so imbedded in their religion, yet the State has retained all along in article 25 the right to interfere in the personal law of any community in this country. There can be no argument against that. That is my point. The only question is the time, the occasion and the circumstances.

I want to assert in this House while I am here that I shall hear no argument from any community to say that this Parliament has no right to interfere in their personal law or any other laws. This Parliament is absolutely supreme and we deal with any community so far as their personal law is concerned apart from their religion. Let no community be in a state of mind that they are immune from the sovereign authority of this Parliament.

Shri A. C. Shukla: You pass a law but cannot administer it.

Dr. Ambedkar: The point really is a very narrow one and that point is this: whether right now we should make our Bill applicable to the Muslims—the Hindu Code Bill which has been professedly, deliberately, calculatedly intended to apply to what is called the Hindu community.

Shri J. R. Kapoor: Non-Hindus also.

Dr. Ambedkar: We have been, in making this kind of a legislation, observing a certain necessary procedure as a condition precedent. In all social legislation the Government usually—as a matter of convention and, if I may say so, binding convention—observes the rules of consulting the people affected before any particular piece of legislation is undertaken. Hon. Members well know that with

regard to this very Bill there was a Committee which went round from Province to Province, from State to State, took evidence from every section, every community, individuals, organised people, to find out what their opinion was. Nobody can say that so far as this particular Bill is concerned, any Committee or Government at any time consulted the Muslim community—that we are going to enact monogamy and reform the law of divorce so far as the Hindus are concerned, that these are the provisions that we propose to apply to them, what have you to say about it? No such step has ever been taken and I think it would be not only unwise but a most tyrannical piece of political action to subject the Muslim community to any such provision without their being consulted beforehand.

Pandit Maitra: Why did you not do it beforehand?

Dr. Ambedkar: The reason why we did not is because some communities like the Hindu community needed the reform so badly—it was a slum clearance.

Pandit Maitra: You had not the courage to do it.

Dr. Ambedkar: This is a slum clearance.

Shri Syamnandan Sahaya: Did you consult the Sikh community?

Dr. Ambedkar: Oh, yes. I am dealing with it. Do not be impatient. I have consulted them. Do not you make a mistake.

श्री भट्ट : क्या माननीय मन्त्री जी यह कह सकते हैं कि अभी भी अगर पार्लियामेंट चाहे तो मुसलमानों की और क्रिश्चियन्स की राय ली जा सकती है या नहीं ? इस में क्या बाधा है ?

[**Shri Bhatt:** Can the hon. Minister state whether or not, if Parliament so desire, the opinions of Muslims and Christians may still be ascertained? What is the obstacle to it?]

डा० अम्बेडकर : बाधा यह है कि खाना टेबिल पर आ गया है। अब खालें। दूसरे को दावत देने में तो बकत लगेगा और हमारे पास इतना खाना है भी नहीं कि बीरों को दिया जा सके।

[**Dr. Ambedkar:** The obstacle is that the meal has now been served on the table. Let us take it now. It will take time in inviting others. At the same time we do not have so much food as may be offered to others.]

Mr. Chairman: I do not want hon. Members to go on interrupting throughout the length of the debate.

श्री भट्ट : यह तो मिठाई मानी जाती है जो कई दिन तक रह सकती है।

[**Shri Bhatt:** These are sweets which can stay for days together.]

Dr. Ambedkar: Regarding the other part of the option, namely that it should be left to the States, in one aspect I have already dealt with it. Suppose some States enact such laws and some States do not, the chaos to which I have already referred would be there and I do not think we could allow any such option to States which would result in chaos in such fundamental matters as marriage and divorce. In this connection I should like to say this that although it is true that the Rau Committee did not visit the Part B States, still when the informal conference took place I did take care to invite certain representatives of the Part B States. One of them was the Chief Justice of Saurashtra, the Advocate-General of Mysore. I think, was there...

श्री भट्ट : सौराष्ट्र के चीफ जस्टिस (Chief Justice) पार्ट बी० स्टेट्स (Part B States) के प्रतिनिधि कैसे माने जाते हैं ? वह तो राज्य के नौकर थे।

[**Shri Bhatt:** How is it that the Chief Justice of Saurashtra is taken to represent Part 'B' States? He was in the service of the State.]

Dr. Ambedkar: वह यह तो जानते हैं कि वहां की स्थिति क्या है। (He knows the conditions prevailing there.)

We have done that. Now I come to the question of the Sikhs. My friend, Syamnandan Sahaya has gone away somewhere...

Shri Syamnandan Sahaya: I am here, very much so, Dr. Ambedkar.

Dr. Ambedkar: Now I come to the question raised by my friend, Mr.

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Bhopinder Singh Man. His amendment is that this Bill should not be applied to the Sikhs. Well, I have nothing personally to say about this amendment because his amendment is not in any sense solitary as compared with the other amendments which have been tabled by our friend, Mr. Naziruddin Ahmad omitting the Buddhists, Jains, Sikhs, and so on. It is perfectly legitimate for anybody to put forth his viewpoint, but I think the hon. Member will allow me to say that the tone of his speech was to me very repugnant and I think hurt me a great deal.

Sardar B. S. Man rose—

Mr. Chairman: I do not want hon. Members to go on interrupting him.

Shri Syamnandan Sahaya: If the hon. Minister indulges in such remarks against those who oppose the Bill, we are entitled to interrupt him.

Mr. Chairman: Order, order.

Shri Syamnandan Sahaya: If he goes on like that, the situation may become worse.

Dr. Ambedkar: I am entitled to express my opinion.

Mr. Chairman: Order, order.

Shri R. K. Chaudhuri: Why don't you ask the Minister to sit down?

Mr. Chairman: What is the meaning of this? There is a regular uproar. Hon. Members must maintain order.

Shri R. K. Chaudhuri: If the hon. Minister does not sit down, does that mean order? You only want to control us; not others.

Dr. Ambedkar: My point is this (Interruptions).

Sardar B. S. Man: I take his remark in a sporting spirit. His speech is equally repugnant to us today.

Dr. Ambedkar: I am prepared to accept that.

Mr. Chairman: All that I can say is that hon. Members should have left it to the hon. Member concerned to whom the Minister's remark refers.

Dr. Ambedkar: My point is very simple. There can be no dispute that Indians as such are excluding the Muslims...

Shri Sondhi (Punjab): They are not Indians. Is that so?

Dr. Ambedkar: Let me go on in that way, because I do not find exact qualifying words. We non-Muslims, so to say, are not a very united family. I do not think it is desirable to take an unrealistic view and say that we are all one. We are not. But I do say that we ought to make an attempt to come together as far as we possibly can, and we ought not to sow the seeds of discord all the time. When anything of a unifying nature comes before the House, if somebody gets up and says, "Well, we do not belong to this group and we do not want to be governed by this law"...

Sardar Hukam Singh (Punjab): Why did you not appeal to the President when he was making a declaration as to who would be the Scheduled Castes? He has made that distinction.

Dr. Ambedkar: It may have been done because of his generous spirit, if you will remember what happened.

Now, that is what I do not like. In my judgment, we ought all of us to make a very sincere attempt to come together, at any rate. Each one of us may have our religious beliefs. One may believe in a God. One may not believe in a God and one may believe in a soul. Those are spiritual matters. But is it not desirable that notwithstanding the differences that we may have so far as our beliefs are concerned we should try to evolve one single system of law by which we may be bound in our inter-relations?

Sardar Hukam Singh: Should this not start from you?

Dr. Ambedkar: Why should you all the time keep on saying, "I am different. I am not governed by this and I am not governed by that. Therefore, do not make your law binding upon me". That is the point of my protest.

Shri A. C. Shukla: Natures differ.

Dr. Ambedkar: The gravamen of my hon. friend Sardar Man's charge was this that the Sikhs have not been consulted in this matter. My answer to his point is two-fold. If the Sikhs have not been consulted as Sikhs, my contention is that there was no necessity to consult them...

Sardar B. S. Man: Oh!

Dr. Ambedkar: Please let me continue.

...because all along the law has assumed that the Sikhs for the purposes of law are Hindus. I have examined Mulla's *Hindu Law* which is

a very handy volume and if my hon. friend were to refer to the index to that volume he will find certain Acts passed by the Legislative Assemblies of this country to amend the Hindu law. He will find any number of them. But I would like my hon. friend to point out to me whether in respect of any of those laws which have been enacted by this Parliament effecting a change in the Hindu law—and made applicable to the Sikhs—they ever consulted the Sikhs or they ever omitted the Sikhs.

Sardar Hukam Singh: Because custom prevails there.

Dr. Ambedkar: I do not find any such instance of consultation at all. Whenever a law has been passed to amend the Hindu law, it has been made applicable to all persons who have been by frequent judicial interpretation included in the term 'Hindu'.

Pandit Maitra: Then what is the necessity of putting it here?

Dr. Ambedkar: Because men like you might doubt.

Now I come to the other part and wish to prove that the charge that the Sikhs were not consulted is not founded on facts. I have taken the trouble of going through the evidence taken by the Rau Committee when it toured and went to Lahore. I find that the following persons appeared or made statements before that Committee. The first person to whom I wish to refer is Justice Teja Singh of the Lahore High Court. He, as a member of the Punjab High Court, wrote a statement for the Rau Committee. I have gone through the main part of it but I have not found any single statement by Justice Teja Singh that this law should not be applied to the Sikhs. I do not know whether my hon. friend accepts that Justice Teja Singh has some right to speak in the name of the Sikh community.

The other gentleman whose name I find from the records is Sardar Varyam Singh. He came as a representative of the Akali Darbar and no doubt he said that this Bill should not be applied to the Sikhs, because the Sikhs, he contended, were a more liberal people.

Sardar Hukam Singh: Who was this gentleman? Is there any description given about him?

Dr. Ambedkar: Secretary of the Akali Darbar—that is the description that has been given in the records.

The other person who had given evidence before the Rau Committee was Sardar Iqbal Singh. He was a lawyer and he came in his individual capacity.

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

Sardar B. S. Man: What did he say?

Dr. Ambedkar: He said nothing.

Sardar Hukam Singh: Then he can be safely quoted!

An Hon. Member: Let him read his statement.

Dr. Ambedkar: Here is the record. You can have the whole information you want. He said nothing against this Act being applied to Sikhs.

Then Sardar Harnam Singh, at present Judge of the Punjab High Court, came and gave evidence, not in his capacity as a Sikh but in his capacity as a representative of the Bar Council. There again, he raised no such question at all that it should not be applied to the Sikhs.

Sardar Hukam Singh: But what was his opinion about the Hindu Code Bill?

Dr. Ambedkar: He has not opposed it.

Now, I come to an important circumstance to which I would like to make definite reference. The House will remember that after the Bill was introduced in the House by Mr. Mandal—and it was introduced after the Rau Committee's investigation was complete—even then Government promised that they would issue an executive circular to the various provincial Governments and invite their opinion on the Bill as introduced. That circular was also sent to Punjab.

Shri Sondhi: In what year was that?

Dr. Ambedkar: 1947.

Shri Sondhi: Before the partition?

Dr. Ambedkar: No. After the partition, because the letter has been issued to the East Punjab Government. I will give the substance of the letter from the Home Secretary to the Government of East Punjab to the Secretary to the Government of India, Legislative Department, New Delhi, No. 211 dated the 3rd October 1947. In that the following statement is made:

"I am directed to forward a copy of the letter so and so from the Registrar of the High Court

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of Judicature, Lahore, reporting the views of the hon. Judges, etc. The Punjab Government also invited the views of the Commissioners and Deputy Commissioners, the High Court Bar Association, and five divisional headquarters, as well as of the nine selected non-official organisations believed to be representative of the Hindu and Sikh opinion. Only one of the latter Shri Sanathan Dharma Pradhindhi, Lahore, rep'ied."

I do not think in the face of this my hon. friend can say that no attempt was made to canvass the opinion of the Sikh community. My hon. friend also said that of the seven members consulted six opposed it. He may be knowing something more about it. I am however entitled to say that before my hon. friend made his speech, I had one or two conversations with him. He told me that he was particular about the Anand marriage, or the customary ceremony and I told him that although we were passing this Bill, we are not abrogating the Anand Marriage Act which has been passed by the Assembly in order to regularise certain ceremonies which the Sikhs perform for the solemnisation of their marriage and I thought that he was perfectly satisfied with that. But it may be that some other reason has come to the surface which has made him to give rise to these hidden feelings which otherwise might have remained locked up in his breast.

My hon. friend read out a judgment of Dr. Bakhshi Tek Chand—it is reported in 10 Lahore. Kabul Singh's case. I have examined the facts of this case and the rationale of the case. The only point of dispute was whether a marriage between a *Jat* Sikh and a *Mazhabi* woman was a legal marriage or not. It was contended on the other side that it was not a legal marriage because the *Jat* belonged to a superior class and the woman belonged to an inferior class and inter-caste marriages were not allowed. Mr. Justice Tek Chand held that the *Jats* were *sudras* and the rule that applied to *thraivaranis* did not apply to *sudras* and the untouchables are treated by *Shastras* as *sudras*. It is a marriage between *sudras*. Therefore, it is valid.

Sardar B. S. Man: There is difference between an untouchable and a *sudra*.

Dr. Ambedkar: But that is the decision of the court, my hon. friend. The courts have treated both as

sudras and you know very well there is distinction on that point.

The only point on which my hon. friend could rely was that the Sikhs are liberal and that they do not observe caste. Well, on that ground he ought to welcome this, because we are abrogating caste throughout. Therefore, it is in no sense in conflict with what is happening in the Sikh community.

Sardar Hukam Singh: Our complaint is that we are far in advance of the stage to which you say you are bringing us up. Please do not pull us down.

Dr. Ambedkar: Different people have have different notions about advancement and I have my notions about it. Advance may also mean no law— anarchy—that also may happen. I think I have dealt with all the points that have been raised by the various speakers on their amendments.

Pandit Thakur Das Bhargava: Are you not perpetuating the caste system by accepting the proposal that caste *panchayats* should decide divorce cases?

Dr. Ambedkar: Why talk about it when we have not reached it? We have not reached that. We shall see it then. For the moment I have dealt with all the points and given reasons why it is not possible to accept any of the amendments proposed by hon. Members. The only amendment that I am prepared to accept is the amendment moved by Dr. Bakhshi Tek Chand by which he proposes to substitute the word "followers" for "members".

Shri Naziruddin Ahmad: May I have your permission to correct a mistake which has crept into the debate in the speech of Dr. Ambedkar? (*Interruption*).

Mr. Deputy-Speaker: If he makes any particular mistake it is for him to correct it. The hon. Member will point it out to me. It is not necessary to speak on that. Exception of that kind can be taken to whatever he has said in his speech but it is not our business to go on correcting the speeches.

There are a number of amendments that have been tabled. Hon. Members might have forgotten what the amendments are that have been moved. I have, therefore, put these amendments into groups according to the subject matter and also according to the clauses.

The Minister of Works, Production and Supply (Shri Gadgil): There are two amendments moved to this clause by the hon. Minister himself.

Dr. Ambedkar: There are only two amendments.

Mr. Deputy-Speaker: I am referring to all the amendments. Certainly, those amendments which the hon. Minister has himself moved and the one standing in the name of Dr. Tek Chand, which the hon. Minister is willing to accept, will be borne in mind. It is my duty to place before the House what exactly the amendments are on which they are called upon to vote for or against. Instead of going into the details, and for purpose of convenience, I shall put the amendments in each group one by one. I shall take the group: "application to all Indians compulsorily", that is, not only to Hindus but Buddhists, Jains, non-Hindus, Muslims, Christians etc. who come under the operation of this Bill.

The question is:

For clause 2, substitute:

- "2. *Application of Code.*—(1) This Code applies to all Hindus.
- (2) The expression 'Hindu' in this Code shall, unless otherwise provided, mean a citizen of India.
- (3) Notwithstanding anything contained in the Special Marriage Act, 1872 (III of 1872), this Code shall apply to Hindus, as defined in that Act, and whose marriages have not been solemnized under the provisions of that Act prior to the commencement of this Code."

The motion was negatived.

Mr. Deputy-Speaker: The question is:

For clause 2, substitute:

"2. This Code applies to all Indians irrespective of their religion, caste, or creed."

The motion was negatived.

Mr. Deputy-Speaker: Shri Jhunjhunwala's amendment for substitution of clause 2 is barred as the House has already decided upon this.

Then, I come to the other set: that this Code should apply only to those who make a declaration, and even then, the parts that are declared should apply.

The question is:

For clause 2, substitute:

"2. *Application of Code.*—This Code or any part or parts thereof applies to all the citizens of India that is Bharat, who after attaining the age of majority, declare in writing that they shall be governed by this Code or any part or parts thereof, as the case may be, and get such declaration registered in accordance with rules prescribed for the purpose by the Central Government."

The motion was negatived.

Mr. Deputy-Speaker: The next two amendments of Shri J. R. Kapoor also go with his amendment negatived just now. They are also therefore deemed to be negatived.

Then, the question is:

In the amendment proposed by Shri Banarsi Prasad Jhunjhunwala, in the proposed proviso to clause 2, for the words beginning with "unless such persons" to the end, substitute:

"unless such person, after attaining the age of majority, declares in writing that he or she, as the case may be, shall be governed by this Code, and gets such declaration registered in accordance with rules prescribed for the purpose by the Central Government."

The motion was negatived.

Mr. Deputy-Speaker: The question is:

To clause 2, add the proviso:

"Provided however, that notwithstanding anything contained in the above clauses, this Code shall not apply to any person, unless such person got his name registered with such authority, and in such manner, as may be hereafter prescribed by Parliament, within one year after this Code comes into force, and in case of a minor within one year after such minor attains majority."

The motion was negatived.

Mr. Deputy-Speaker: The question is:

To clause 2, add the proviso:

"Provided that the provisions of Parts II or/and VII relating to marriage and divorce, and succession shall not apply to any person

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unless such person, after attaining the age of majority declares in writing that he or she, as the case may be, shall be governed by the said provisions, and gets such declaration registered in accordance with rules prescribed for the purpose by the Central Government.

Provided further that the provisions of Part II relating to marriage and divorce shall apply to such declarant only when both the bride and bridegroom before the marriage, or both the husband and wife after the marriage, make such a declaration."

The motion was negatived.

Shri J. R. Kapoor: Sir, in view of the changed circumstances of the case, I would request leave of the House to withdraw my amendments Nos. 97 and 272. But all the same I would like to move at a later stage, an amendment, when we know how exactly this Part stands when we have gone over the whole of this chapter relating to marriage and divorce.

The amendments were, by leave, withdrawn.

Mr. Deputy-Speaker: Then there is amendment No. 336 standing in the name of Shri J. R. Kapoor. Does he want me to put it?

Shri J. R. Kapoor: Yes, Sir. And I hope the hon. Law Minister will please go over it and see what it means; otherwise there will be difficulty in enforcing what he wants to enforce.

Mr. Deputy-Speaker: Why at this stage? All persuasion has already been done.

The question is:

In the amendment proposed by the hon. Dr. B. R. Ambedkar, printed as No. 3 in the proposed amendment to clause 2, after part (1), insert:

"(1A) in sub-clause (3) for the words 'the provisions' the words 'any or more of the provisions' be substituted."

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In the amendment proposed by the hon. Dr. B. R. Ambedkar, printed as

No. 3, in the proposed amendment to clause 2, after part (1) insert:

"(1A) in sub-clause (3) insert at the end 'in respect of any or more of the matters dealt with herein'."

The motion was negatived.

Mr. Deputy-Speaker: Now I take another topic—inclusion or exclusion of categories of people.

The question is:

In the amendment proposed by the hon. Dr. B. R. Ambedkar, printed as No. 3, in part (1) (ii) of the proposed amendment to sub-clause (1) of clause 2, after "Sikh religion" add:

"or to any other religion or faith except Muslim, Christian, Parsi or Jew religion."

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In part (d) of sub-clause (1) of clause 2, at the end, add:

"subject to his rights and liabilities before his conversion."

The motion was negatived.

Mr. Deputy-Speaker: The question is:

After part (d) of sub-clause (1) of clause 2, add:

"(e) to a Muslim or Christian converted from Buddhism, Jainism, Sikhism or Hinduism in his life time."

The motion was negatived.

Mr. Deputy-Speaker: The question is:

Omit part (b) of sub-clause (1) of clause 2.

The motion was negatived.

Mr. Deputy-Speaker: Amendment No. 274, which also stands in the name of Mr. Naziruddin Ahmad is the same as the one just now negatived by the House. That need not be put.

Then, the question is:

For part (b) of sub-clause (1) of clause 2, substitute:

"(b) to any person who is a Jaina by religion."

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In part (b) of sub-clause (1) of clause 2, for "Jaina or Sikh" substitute "or Jaina".

The motion was negated.

Mr. Deputy-Speaker: Amendments Nos. 101 and 102 are only earlier amendments which are the same as the amendments which have been just now negated by the House. I need not put them.

The question is:

In part (b) of sub-clause (1) of clause 2, omit "or Sikh".

The motion was negated.

Mr. Deputy-Speaker: The question is:

In clause 2, omit "Sikh", wherever it occurs.

The motion was negated.

Mr. Deputy-Speaker: The question is:

In part (c) (i) of sub-clause (1) after "illegitimate" insert:

"who, if he has attained the age of eighteen years, is himself a Hindu and"

The motion was negated.

Mr. Deputy-Speaker: The question is:

In part (c) (ii) of sub-clause (1) of clause 2, after "belongs or belonged" insert "and who, if he has attained the age of eighteen years, is himself a Hindu".

The motion was negated.

1 P.M.

Mr. Deputy-Speaker: Amendment No. 277 is barred by a previous amendment and therefore need not be put.

Shri J. R. Kapoor: My next amendment deserves acceptance. It is an improvement in the language.

Dr. Ambedkar: I will improve my own language.

Pandit Thakur Das Bhargava: It is only a grammatical change. Instead of the present alone it seeks to include the past also.

Mr. Deputy-Speaker: The wording in the clause relates to the present. There is a difference. It is not a formal amendment.

The question is:

In part (c) (i) of sub-clause (1) of clause 2, after "parents are" insert "or have been".

The motion was negated.

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Mr. Deputy-Speaker: Amendment No. 105 is covered by this and need not be put.

Then, the question is:

After part (c) (ii) of sub-clause (1) of clause 2, add:

"(iii) to any abandoned child brought up as a member of the community, group or family to which such parent belongs;"

The motion was negated.

Mr. Deputy-Speaker: The question is:

After part (c) (ii) of sub-clause (1) of clause 2, insert:

"(iii) to any orphan or abandoned child brought up by the State."

The motion was negated.

Mr. Deputy-Speaker: The question is:

After sub-clause (2) of clause 2 insert:

"(2A) This Code also applies to any woman professing any religion who has married a Hindu, Buddhist, Jain or Sikh."

The motion was negated.

Mr. Deputy-Speaker: The question is:

Omit sub-clause (2) of clause 2.

The motion was negated.

Mr. Deputy-Speaker: The question is:

For sub-clause (2) of clause 2, substitute:

"(2) This Code also applies to any person, irrespective of his religion, who has been governed by the Hindu Law or by any custom or usage as part of that law, in respect of any matters dealt with herein."

The motion was negated.

Mr. Deputy-Speaker: The question is:

In sub-clause (2) of clause 2, after "Parsi" insert "Sikh".

The motion was negated.

Mr. Deputy-Speaker: The question is:

Omit proviso to sub-clause (2) of clause 2.

The motion was negated.

Mr. Deputy-Speaker: The question is:

In the proviso to sub-clause (2) of clause 2, for "in respect of those matters" occurring at the end, substitute:

"In respect of matters which that person has not voluntarily chosen."

The motion was negated.

Mr. Deputy-Speaker: The question is:

After sub-clause (1) of clause 2, insert:

"(1A) This Code shall not apply to the Scheduled Castes and Scheduled Tribes."

The motion was negated.

Mr. Deputy-Speaker: Amendment No. 281 is barred. I now come to amendments of a formal and verbal nature. First I shall put amendment No. 3 by Dr. Ambedkar.

The question is:

In clause 2,—

(1) in sub-clause (1),—

(i) in part (a) for "Hindus, that is to say, to all persons professing the Hindu religion" substitute "persons who are Hindus by religion";

(ii) in part (d), for "Hindu religion" substitute "Hindu, Buddhist, Jaina or Sikh religion";

(2) omit sub-clause (4).

The motion was adopted.

Shri R. K. Chaudhuri: Sir, I want to oppose the next amendment of Dr. Ambedkar. I think he is making one of the most colossal mistakes of his life.

Shri J. R. Kapoor: What is the subject matter?

Mr. Deputy-Speaker: Mr. Chaudhuri is opposed because Dr. Ambedkar wants to substitute "tribe or community" for "community". Perhaps Dr. Ambedkar's fear is that "community" may not include a tribe;

therefore, he wants to make it more specific.

The question is:

In the amendment proposed by the hon. Dr. B. R. Ambedkar, printed as No. 3, after part (1) (i) insert:

"(ia) in part (c) (ii) for 'community' substitute 'tribe or community';"

The motion was adopted.

Mr. Deputy-Speaker: The question is:

In part (a) of sub-clause (1) of clause 2, for "Hindus, that is to say, all persons professing the Hindu religion" substitute "persons who are Hindus by religion".

The motion was negated.

Mr. Deputy-Speaker: The question is:

In part (a) of sub-clause (1) of clause 2, for "members" substitute "followers".

The motion was adopted.

Mr. Deputy-Speaker: The question is:

For part (b) of sub-clause (1) of clause 2, substitute:

"(b) to all persons who are Buddhists, Jains or Sikhs by religion;"

The motion was negated.

Dr. Deshmukh (Madhya Pradesh): May I point out that the hon. doctor had suggested that he wants to hold over the final passing of the clause?

Mr. Deputy-Speaker: The hon. Member was perhaps not present when I later on modified that it is only a formal change in the name—whether it should be called Hindu Code or Hindu Marriage and Divorce (Amendment) Code. That is only a formal matter.

Then, the question is:

In the amendment proposed by the hon. Dr. B. R. Ambedkar, printed as No. 3, in the proposed amendments to sub-clause (1) of clause 2, after part (1) (ii), insert:

"(iii) insert a new part (e) as follows:

'(e) to a convert to any religion or faith after the commencement of this code.'

The motion was negated.

Mr. Deputy-Speaker: What about amendment No. 91 moved by Pandit Thakur Das Bhargava?

Pandit Thakur Das Bhargava: I beg leave to withdraw it.

The amendment was, by leave, withdrawn.

Mr. Deputy-Speaker: The question is:

In the amendment proposed by the hon. Dr. B. R. Ambedkar, printed as No. 3, in the proposed amendment to clause 2, after part (1), insert:

"(1A) in the proviso to sub-clause (2), insert at the end 'unless he has declared his consent in the manner prescribed by the Central Government in this behalf to be governed by this Code in respect of such matters also.'"

The motion was negatived.

Mr. Deputy-Speaker: Amendment No. 98 is barred as it is similar to one already negatived.

Then, the question is:

Omit sub-clause (3) of clause 2.

The motion was negatived.

Mr. Deputy-Speaker: Amendment No. 283, being the same, is barred. What about amendment No. 238 moved by Mr. Jaspat Roy Kapoor? Hon. Members must be attentive.

An Hon. Member: Your amendments are being negatived.

Shri J. R. Kapoor: I am sorry, Sir, but there is this talk going on here.

Mr. Deputy-Speaker: The hon. Member himself speaks and quarrels with other Members.

Shri J. R. Kapoor: Sir, I beg leave to withdraw it.

The amendment was, by leave, withdrawn.

Mr. Deputy-Speaker: What about amendment No. 116 moved by Shri Gokulbhai Bhatt?

श्री भट्ट : मैं अपना संशोधन वापिस लेना चाहता हूँ, इस की जरूरत नहीं है।

[**Shri Bhatt:** I beg leave to withdraw my amendment. It is not necessary.]

The amendment was, by leave, withdrawn.

Mr. Deputy-Speaker:

Then, the question is:

Omit sub-clause (4) of clause 2.

The motion was negatived.

Mr. Deputy-Speaker: Amendment No. 284, being the same, is barred. The next amendment is No. 118 of Mr. Naziruddin Ahmad that after sub-clause (4) of clause 2, a new sub-clause be added, namely: "(5) Notwithstanding anything in this section this Code shall apply only to such areas or to such persons or classes of persons in any State...etc". This has been held over to clause 1. Amendment Nos. 118 and 285 go together and they are held over. I would suggest to the hon. Member that if he wants to have these taken up in connection with clause 1 he may table a separate amendment.

Shri Naziruddin Ahmad: I shall table a separate amendment to suit the context of clause 1.

Mr. Deputy-Speaker: The question is:

For part (d) of sub-clause (1) of clause 2, substitute:

"(d) to a convert to the Hindu religion, subject to his rights and liabilities before his conversion."

The motion was negatived.

Mr. Deputy-Speaker: The question is:

To clause 2, add the proviso:

"Provided however, that notwithstanding anything contained in the above clauses, this Code shall not apply to such person as will get his or her name registered with such authority and in such manner, as may be hereafter prescribed by Parliament, within five years after this Code comes into force and in case of a minor within five years after such a minor attains majority, to the effect that he or she does not want to be governed by this Code."

The motion was negatived.

Mr. Deputy-Speaker: The question is:

To clause 2, add the proviso:

"Provided however, that notwithstanding anything contained in this section this Code shall not apply to any person unless such person got his name registered,

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signifying his will to be governed by this Code, with such authority and in such manner as may be prescribed."

The motion was negatived.

Mr. Deputy-Speaker: The question is:

To clause 2, add the proviso:

"Provided further that notwithstanding anything to the contrary in this Act, no provision of this Act shall apply to any one unless a referendum thereupon has been taken in the State to which he belongs and the Legislature of the State thereafter has decided in accordance with the result of the referendum that the provisions of this Act shall apply to the residents of the State. Further, that, thereafter, it shall be open to anyone to declare that he shall not be governed by this Act and the same shall then not apply to him."

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In part (a) of sub-clause (1) of clause 2, after "including" insert "Buddhists, Jains, Sikhs".

The motion was negatived.

Pandit Malaviya: I do not press my next amendment.

Mr. Deputy-Speaker: Now, we have disposed of all the amendments. Is there any hon. Member whose amendment I have not put to the House? I take it that there is none.

The question is:

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

The motion was adopted.

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

PAPERS LAID ON THE TABLE

DELIMITATION OF PARLIAMENTARY AND ASSEMBLY CONSTITUENCIES (AMENDMENT) ORDERS, 1951.

The Minister of Law (Dr. Ambedkar): In pursuance of sub-section 3 of section 13 of the Representation of the

People Act, 1950, I lay before Parliament the following orders made by the President under section 12 of the said Act:

- (1) The Delimitation of Parliamentary and Assembly Constituencies (Assam) (Amendment) Order, 1951.
- (2) The Delimitation of Parliamentary and Assembly Constituencies (Bihar) (Amendment) Order, 1951.
- (3) The Delimitation of Parliamentary and Assembly Constituencies (Bombay) (Amendment) Order, 1951.
- (4) The Delimitation of Parliamentary and Assembly Constituencies (Madhya Pradesh) (Amendment) Order, 1951.
- (5) The Delimitation of Parliamentary and Assembly Constituencies (Madras) (Amendment) Order, 1951.
- (6) The Delimitation of Parliamentary and Assembly Constituencies (Punjab) (Amendment) Order, 1951.
- (7) The Delimitation of Parliamentary and Assembly Constituencies (Uttar Pradesh) (Amendment) Order, 1951.
- (8) The Delimitation of Parliamentary and Assembly Constituencies (West Bengal) (Amendment) Order, 1951.
- (9) The Delimitation of Parliamentary and Assembly Constituencies (Hyderabad) (Amendment) Order, 1951.

[Placed in Library. See No. P-215/51.]

Mr. Deputy-Speaker: Hon. Members will kindly pay attention to this. Regarding these Orders that have been laid, as I have already said, under sub-section 3 of section 13, within 20 days a motion has to be made or otherwise these will have been accepted. A motion has to be made with respect to these Orders within 20 days from the laying of these Orders on the Table of the House. But the last days, namely, 8th, 9th and 10th October are holidays. Therefore, there is no provision as far as I am able to see in the Limitation Act that they could be moved on the next day. The

Limitation Act applies only to suits. The 7th is a Sunday. Therefore, any motion in this regard must be made before the 6th October. Notice may be given in advance. Motions can be made either on the 5th or the 6th or earlier when time permits. Each day

two or three motions can be made. Therefore, let not hon. Members feel that they will have 20 days and then wake up.

The House then adjourned till Half Past Eight of the Clock on Friday, the 21st September, 1951.