

her renunciation and ideals will for ever go down in annals of Indian culture and the history of mankind.

But in every society it has been found impossible for each and every individual, may be male or female, to live up to the highest of the ideals. Mahatma Gandhi has been acclaimed a superman by the whole world. He placed before us his ideals and though being his followers we ourselves could not live upto them. Similar is the composition of the society as also of the world. If this whole world and our Indian society in particular were to maintain the high standard of ideals then, I think, this very world would become a paradise.

Whenever some high ideal is set before the people then in order to create a proper atmosphere for it a number of things have got to be done. Take the case of the Hindu marriage system for instance. At the time of marriage the priests interpret this alliance to be so indissoluble, so everlasting that it would hold good for future births and re-births also. I don't believe this. Because while on one side according to Hindu ideals we are led to believe that this marriage alliance between a Hindu male and female lasts till eternity, on the other hand in our holy scriptures it has been laid down that according to the philosophy of *Karma*, this alliance would have continued eternally even if in previous births, the husband may have been a human being or a demon or an animal, but I do not believe in such a thing. What I believe is that marriage is just a compromise for the life time. If our married couples were to hanker upon the legal possibilities regarding the dissolution of marriages then I think that our life would become quite useless. The result of such a state of affairs would be that the people will never be able to raise and maintain happy families. If such state of affairs do exist anywhere, then under such circumstances, there can neither be the evolution of our religion nor the cultural development of our country can take place. If under any circumstances the separation be deemed essential then I think the legal right must lie with the woman. Many defects have cropped up in our present day society. I think instances are not only known to me but all the gentlemen present here must be in the know of them. A husband can marry a second time even when the age of his wife may not be much. On the other hand a woman whose age may only be 16, 17 or 18 years cannot re-marry ; she has not been authorized to get her marriage dissolved. What such a state of affairs results in ? I do not want to go in details. I very humbly beg to submit only

so much that such things result in grave disasters. Legally that woman cannot re-marry. Her legal husband has no relations with her. May she lie in the abyss of the society and suffer extreme distress and tribulations, yet the society does not allow her to enter into an honourable remarriage whereby she may be able to support and sustain her children, set up a family and pass the rest of the life in comfort and ease. Under such circumstances I wish that the woman should have this right. I do not wish that this right should so commonly be used that it may create retaliation and every man or woman may begin to think that they can have separation if and when they like. As far as I think this Bill does not provide so much facilities as the people profess. The most outstanding speciality that I can see in this Bill is that in 80 per cent, of our community I have seen that a *panchayat* is called and separation is effected within a minute's time. At places and in certain communities even the *panchayat* does not assemble to give its decision. Males and females are quite free and leaving each other, they can re-marry whomsoever they like. The utmost punishment the community can impose upon them is that they are somewhat chastised or ex-communicated and after giving a community feast, they are again taken back in the folds of the community. The passing of this Bill will highly benefit those communities wherein separation and divorce are considered to be very insignificant things. This Bill will impose restrictions on them also and the greatest benefit that we would have of this Bill is that our backward communities which have no cultural background will become cultured and their moral standard will be raised. This is the most outstanding speciality that I have come across in this Bill.

The strongest opposition that is being made against this Bill is I think about the question of the property, for the reason that this Hindu Code Bill seeks to provide the daughter also a share in the father's property equal to that of the son. A number of different things are being said about this measure. Some hon. Members hold the view that by adopting such a measure the innate affection and natural love between the brother and sister will cease to exist, our heredity and our entire family system will be disrupted. I cannot understand this thing because as we see today, if a person has two or four sons then it is not at all essential that these brothers fight among themselves or kick up disputes. But at the same time we do sometimes hear of such incidents and many instances are before us that such disputes are kicked up and they become deadly enemies. So I think that if

it be taken for granted for brother and sister also, that after inheriting the property they will also kick up similar disputes then, as such disputes generally take place between brothers also so they do not matter much, Moreover at that time, do the persons who profess the culture to be in danger ever try to proclaim that this inheritance of property kicks up disputes and quarrels among the brothers so it should better go ? Are such disputes in accordance with our culture ? The glory of our religion lies in natural affection, mutual love and in being on good terms with others. This is our culture according to our religion. I see many such instances where the solitary sister has got a deep affection for her brother. Loves are of different kinds, but the love that a sister has for her brother, I think, is so unassuming innate and pure that no other kind of love can stand up to it. Such an affection she bears for her brother. Our existing law provided that the property that was owned by the mother, the *stridhana*, and the ornaments that the mother possessed were inherited by the daughter. But everywhere it has been seen that the sister has shared the ornaments with her brothers and nobody has ever seen them quarrelling over the division. If the high ideals of our women folk hold good then a sister will always be prepared to sacrifice her all for her brother. There will be very few cases where such disputes will take place. If for the time being it may be taken for granted that such state of affairs will come to pass, still then I will say that this is a grave injustice. I am able to recall the case of our big *talukadars* where the brothers live extravagantly on the property left by the father. For themselves, they spend such heavy sums on the occasion of *Tij* and other festivals as might have served the sister for a lifetime. If, however, a widowed sister happens to come and live in that very home, her place is in the kitchen and her lot is none better than that of a cook. In the home where, today brothers enjoy life on the strength of the father's property, the father's wealth, in that very home I have seen with my own eyes the sister pining for milk for her young children. She too has the desire that her children should have good things to eat and good clothes to wear and that they should receive good education in the same way as her brother's sons. But the law has sealed her mouth. She is tongue-tied and dare not give vent to her feelings. I would like, very respectfully, to ask those people, who are opposing it today, whether this is in accordance with the Hindu law and, if so, which school of our philosophy sanctions this injustice shown to woman. Hence, I think that the provision relating

to the daughter having a share in her father's property is very much in consonance with the times and compatible with our faith and culture and I hope it will be considered in a very generous spirit.

In opposing this provision, several people have also averred that the idea that a woman should also have a share in her father's property took birth in the minds of those persons who are imbued with a foreign culture and who have not read Indian literature. I shall not be taking much of your time and should like to tell you briefly that this sentiment finds ample expression in our folk-songs which have existed for the last hundreds of years. This sentiment did not get into our folk-songs at the time of our mothers and sisters but has been there since the times of our grand and great-grand-mothers when there was not even a trace of foreign culture anywhere and when it had not set any kind of seal on our culture. The songs that are sung at the time of marriage in our Province contain this sentiment and I think that such songs are sung at marriages in all Provinces. I do not here want to recite the actual lines of those songs but would briefly like to state that such songs are sung amongst us at the time of marriage, at any rate in our Province with which I am familiar. I have also studied the folklore of some other Provinces where too a similar line of thought exists. We find a very wholesome sentiment forming the burden of these songs. The girl gives expression to her desire to have one-half share in her father's 'dominion'. The brother offers her various kinds of temptations, saying he would give her a plate full of ornaments, that he would give her horses and elephants and also enumerates the various articles he would be giving her by way of dowry. The girl replies that if she is destined to acquire all that wealth, it could also become available to her when she goes over to the house of her father-in-law and her husband but that she would rather have her one-half share here, that she has been brought up in this home and that she would like to have a share in the orchard and the tank here. Thus there is absolutely no foundation for the allegation that this sentiment is the product of foreign literature, or foreign education, or foreign culture or that it is a creation of the minds of those persons who have received their education from foreign sources. Our ancient literature abounds in that sentiment and our folk-songs would offer various such examples as reflect that feeling.

Nature has made a boy and a girl equal in the eyes of their parents. Then why is it that a boy should have a share in his father's property

but a girl should have none ? I feel that is also a kind of injustice. This is another matter that in view of the present set-up of our society some people might, per chance, be entertaining doubts and anticipating difficulties with regard to the practical application of this Bill, because the position occupied by a “son-in-law” in our society is rather peculiar. All his life he is called *Jamai babu* or *pahuna* (the Guest) and never becomes a member of that family. I feel that if the daughter is conceded this right, the result would be that the son of another family who comes in as the son-in-law could also live as a member of the daughter's family as if he were a third son to the father who already has two, and this should encourage mutual love and affection. The argument that this would strain relations between brothers and sisters or break them for good cannot appeal to me. I do not think that if this law is passed it would mean the disintegration of all our social, cultural and religious traditions. I am unable to appreciate that argument. With these words I express the hope that those people who have passed our new Constitution, who are out to make a radical change in our social and political set-up and who have conceded in that Constitution the equal rights of the women, will reflect coolheadedly over the present position of our women. Let them hearken to the call of the times. We should concede this right straightaway, Scholars, men of letters and historians have held the view, that if a society which steps forth into the field of progress, does not promptly carry out all those changes, which are urgently called for, it is likely to be left centuries behind in that field. On the other hand, if properly appreciating the call and the needs of the times, it promptly gives effect to the urgently needed changes it marches forth to a speedy progress. I hope this Bill is going to be passed by the present Assembly because here we have present, in a preponderating strength, persons who are called the followers of Mahatma Gandhi. Mahatma Gandhi was the great man who had a sound grasp of the problems and the handicaps facing the Indian women. Along with the political, revolution he also stirred up a powerful revolution against our old social conventions and was soon able to root out and destroy them. I feel that the followers of Mahatma Gandhi will give their thorough consideration to this Bill and pass it after having considered it generously and sympathetically in the light of our faith and culture. In the end, once again, I wish to assure the hon. Minister, on behalf of the women, that all those women of this country, who have been

able to comprehend this measure, are going to welcome it heartily and that even the women of the generations to come will feel grateful to him for having got it passed.

* **Shri Kameshwar Singh of Darbhanga** (Bihar : General) : Sir, it has become very difficult for those of us who are opposed to the motion moved on behalf of Government to take part in this debate after what our Prime Minister has said in this House about the measure before us on the opening day of this session. I was not present in the House when he made the statement, but if the press report be true, he has made the passage of the Bill an issue of confidence in his Government. I am strongly opposed to the measure. (*Interruption*).

Mr. Deputy Speaker : Order, order. Nothing will go on if these interruptions are made. The interruptions will only increase the time taken by the Members.

Pandit Lakshmi Kanta Maitra : Apparently the hon. Member is making a very good speech.

Shri Kameshwar Singh of Darbhanga : But I am equally strong in my view that in the present state of our country the Government of our Prime Minister is the best Government that we can have. Howsoever imperfect it may be, a better alternative to the present Government is not available. That, I think, is the view of the most of the people who do not belong to any political party. Thus, the stand taken up by our Prime Minister assumes the shape of “Undue influence”, if not “coercion”, for men of my way of thinking. I would therefore earnestly request the Prime Minister to reconsider the matter and unload the question of confidence in his Government from the consideration of the measure.

I would like the House and Government to postpone further consideration of the bill till the wishes of the electorate are ascertained in the next general elections for reasons stated by the hon. Dr. Rajendra Prasad, in the note which he sent in the capacity of the President of the Indian National Congress to our Prime Minister last year.

Hon. Members of this House know that there is a great divergence of opinion with regard to this important measure of, if I may say so, revolutionary character. It affects the personal law of the vast multitude of people. It affects their social and economic life as well as the forms and customs that have grown with the various schools of the Hindu law during so many centuries. In the name of uniformity and codification it threatens to arbitrarily disrupt the fundamental social

*C.A. (Leg.) D., Vol. VI, Part II, 13th December 1949, pp. 541-43.

and economic structure of the Hindu community embracing all except the Muslims, Christians, Parsis and the Jews. I fully agree with the observations of you, Sir, and Sri Ram Narain Singh contained in your notes of dissent on the Report of the Select Committee on this Bill. The members of the present legislature have no mandate from the electorate even with respect to the major issues involved in the Bill. After all, the next elections are not far off and nothing will be lost if the matter is deferred till then.

I am definitely of opinion that such vital changes as are proposed in the measure should not be made in this manner. If one cares to look into the views expressed before the Hindu Law Committee, he will not fail to notice that the opposition to the Bill is very strong. I belong to that class of people which considers the *Smriti* and the school of interpretation, he follows, as sacrosanct; and the class to which I belong constitutes a large proportion of the total population of the country. We consider marriage, succession and the like as a part of our religious duty and obligation. To us these are much more than mere secular or social phenomena.

It is true that the social structure has gradually changed and is changing under the stress of circumstances. But such changes have taken place by the process of evolution and not by imposition from above. Further, these changes do not generally affect the principles on which the Laws governing the various Hindu societies are based. Now, the question is whether the changes proposed in the Bill are such as have been accepted by the people in general and require just legal sanction. My answer to this is emphatic 'NO'. No doubt, the authors of *Smritis* and their interpreters made changes from time to time but they did so when they could enforce them by the popular support they had. The bulk of the people had abundant faith in their learning, in their foresight, in their purity of purpose and above all in their conduct. The authors of this proposed Twentieth Century *Smriti* have no such background. They do not have in the hearts of the people the status of those ancient *Smritikars* whose injunctions govern the lives of so many people even today. The diversity perceptible in different parts of the country goes a great way in establishing the fact that popular acceptance and not imposition from any central political authority has been the sanction behind the personal law of the Hindu. Unity in diversity is the chief characteristic of the Hindu life and religion and we should not take the seeming diversity as an evil which must be instantaneously removed.

The fundamental difference between the outlook of the ancient law givers and the present day law-givers is that, whereas the basis of the formers' consideration was purely spiritual, the basis of the latters' consideration is grossly material and to accept it, is to give a goby to our philosophy of life, to the continuity of our tradition and to the foundation of our culture. I, for one, am not prepared to do so.

Besides this, I apprehend that there will be practical difficulties in implementing the provisions of the Bill. Just imagine how long it will take Government to educate the people that they should go to law court for getting their marriages registered. Just imagine what complications and confusion will the provisions for void and voidable marriages create. Just imagine what havoc will the provision for the dissolution of marriages and divorce play in the domestic life of the people whose conception of society has so far been quite different from the one on which these provisions are based. I do not agree with the view that only hard cases will come up for remedy. My own fear is that many interested persons will come into the picture to disrupt the domestic life of their neighbour relatives etc., for their selfish ends. Similarly, the provisions regarding succession will make the management of property difficult and become a prolific source of intrigue by designing persons in the society. Lawyers and law courts may prosper but families will be broken up and domestic peace will decay.

The report of Dr. Dwarkanath Mitter, one of the members of the Hindu Law Committee, embodies the opinions of the vast bulk of Hindus. The facts on which he has based his conclusions are irrefutable. The report of the other members of the Committee is merely an attempt to explain away the irrefutable facts mentioned by Dr. Mitter in support of his contention. It appears that the Majority of the members of the Committee had already made up their minds on major issues and took no note of the public opinion expressed before them in different ways. I wonder how the Government of India of today which is so sensitive to public opinion has considered it proper to bring a measure of this kind before this House. For the sake of satisfying the sentiments of a few so-called "progressive" element in the Hindu Community, it should not have proceeded with the measure which is opposed by an overwhelmingly large number of Hindus. If those who advocate the adoption of this measure go from village to village and collect the reaction of the Hindus on the provisions of this Bill, I am sure that they will hardly find satisfactory support. At least in my Province, the public opinion is decidedly against this Bill.

***Dr. B. Pattabhi Sitaramayya** (Madras : General) : Sir, the moment I rise before you I hear certain utterances from friends. Some say "Support; others say "Oppose."

Shri B. L. Sondhi (East Punjab : General) : You will do both.

Dr. B. Pattabhi Sitaramayya : Perhaps I am doing both, because on a matter like this it is our duty not to be dogmatic. Only great men and fools are dogmatic and I disclaim being either. It is much better to string our thoughts with the thoughts of others and try to evolve a G.C.M., a thing which we learnt in our early days of arithmetic,—the greatest common measure of agreement upon such vital questions as the structure and functioning of society, which is a living organism and not a dead joint stock company with its own memoranda, and articles of association which are liable to be changed any day by paying three rupees to the Registrar. This society which we have inherited and of which we are proud to call ourselves members has been in existence for perhaps thousands of years.

Babu Ramnarayan Singh (Bihar : General): Since the creation.

Dr. B. Pattabhi Sitaramayya : Nobody knows when it started. At least I can say from the evidence that we have before us in Kautilya's *Artha Shastra* that this had attained its perfection 2300 years ago. The same problems of marriage, of crime, of punishment, of psychological complications, of political puzzles, that were treated by Kautilya in his *Artha Shastra* are before me to day without one iota of change. I would ask friends who have not read that book to read it. Read the *Sukra Nithi Sara* : read the other political works of our ancient Hindu law.

Shri L. Krishnaswami Bharathi : Kautilya's *Artha Shastra* is not unfortunately available.

Dr. B. Pattabhi Sitaramayya : It is quite available for those who have a mind to get it.

Shri L. Krishnaswami Bharathi : But I have tried my level best.

Dr. B. Pattabhi Sitaramayya : I would therefore, urge the House to look into the antecedents and the conditions of progress and conditions of evolution which have characterised the changes in what we call the "Hindu society". I do not say that we should be proud of Hindu society and Hindu culture, but after all what is called Indian culture is largely Hindu culture and what is called Indian society is largely Hindu society, and if other people have come and mixed with

*C.A. (Leg.) D., Vol. VI, Part II, 13th December 1949, pp. 543-52.

us—the Jats, the Moghuls, the Turks, the English and others—they have perhaps assimilated many of the good points in us and they have enabled us to assimilate many of their own good points, so that the confluence of these cultures over a thousand years has enriched, both in volume and in content, the stream of our own national culture. Now, we are the inheritors of this proud heritage. How shall we deal with it? Is there a philosophy behind it or is it merely a random growth?—an accretion of conditions, an amorphous composition in which parallel forces are in juxtaposition without organically combining with one another or is it a solution and an assimilation of all the various factors, with the merits dissolved and the demerits left on the surface? These are the points which we have to consider. Have we considered these points before embarking upon this mighty reform? Who has initiated this reform? When was it initiated? In whose time was it initiated? Has it been taken up after the National Government has come into being, or is it merely a legacy of the past Government which we have taken on hand through the Secretariat? What is our initiative? What is our part in dealing with it? Society, I told you, is a living organism. It has certain philosophical truths behind it. It has economic propositions before it. Take Hindu society. Have you come across any society in the world which is more socialistic, inherently and internally, than Hindu society?

I have got fifty acres of land. I have got two sons. My two sons are each heirs to only twenty-five acres. My first son has four sons. Each boy gets only six acres. Is property allowed to accumulate in our system of inheritance? Not at all. It is a socialistic structure of the supremest kind. You want to destroy this socialistic structure and then you want to substitute an individualistic civilisation where each man owns his property, where property is inherited not by birth, but by survivorship. What happens? Individualistic property comes into being. Perhaps the next step will be Dr. Ambedkar's Bill on a law of progeniture for the common man. Then you will create and maintain an aristocracy. You bring into existence a class society, not a classless society. A classless society where learning and property, learning and wealth are well balanced gives place to a society in which wealth reigns supreme. That is exactly what happens in the West. That is exactly what cannot happen in the East. Here, through a system of social organisation, we have balanced the wealth and the culture, and then having brought them into existence, we have attached greater

value to culture than to wealth. Wealth has taken a subordinate place. Now what are you going to do ? You allow a lawyer to amass ten lakhs of rupees. He is the supreme master. He has obtained all the wealth that his brothers could have given him in sending him to England and making him a Barrister-at-Law. But the gains of his learning are his own exclusive property under the law which has been brought into existence by the British—thanks to their ideals. Now, whereas the other people, the other brothers, the agriculturists as well as the traders who have gone through the same process of righteous labour, have to divide their property with the educated Barrister-at-Law, the Barrister-at-Law is exempt from sharing his properties with those two brothers. Is this justice ? It is outrageous nonsense compared to the noble standards which have been adopted in our society.

Now let us pause here for a moment and ask a question : Have you appointed a Commission to go into the social, political, economic and the moral implications of the structure and functions of this society ? Have you got a report based upon a study of the psychology that lies behind this structure which has endured the buffets of time and circumstance for a period easily and admittedly, of five thousand years and perhaps which has gone back to thirteen thousand years and may be, possibly to thirty thousand years, because there are all these three versions about the age of the Mahabharata and the Vedas, about the age of our society and ancient civilisation. How is it that you don't do that. If you want to give tariff assistance to a little quantity of iron that is being imported from Antwerp, you appoint three people drawing Rs. 3000 each, constitute them into a Tariff Board, obtain a report from them based upon the evidence that has been led by all the capitalists in the country, then you consider it in the Finance Department, you place it before the Assembly and then you grant that tariff weightage. What have you done with regard to our society ? You snap your fingers at it—this ancient society, this relic of ancient barbarism, this vestige of antiquated stuff! No; you say “let us go the whole hog”.

We have cast our universities after the style of London ; we have adopted our legal system after the style of High Courts in London and we have carved out Legislative councils and legislatures after the manner of the Parliament in the West, and now it only remains for us to copy the Western society. Western manners, Western social institutions and Western civic laws. Please do not mistake me. I have

been in sympathy with divorce for a long time. I have been thinking of divorcing my wife and I have also heard that she wants to reciprocate the honour. That is not the point. I tell you I am in sympathy with many of the items of this measure. But I want to tell you what kind of approach and attitude you are adopting towards the institutions of India after you have attained Swaraj. This summary, this absolutely impromptu method of dealing with this question does not appeal to my fancy, much less to my conviction. But I know that you will tell me : “Oh, this Bill has been hanging fire ever since the Congress left the portals of the Legislature.” Yes, it has been hanging fire ! You however, remember that in 1938 July, the Congress passed a resolution that it should walk out of the legislature because armies had been sent to Egypt and to Singapore, which were then considered the frontiers of India. So, as a protest against that act, and as a protest against the breach of the pledged word of the Government who said that they would not send any armies abroad without the specific permission of the Legislature, we walked out and ever since we never walked in until 1946. During this time, men who were not patriotically inclined, men who were the proteges of Western civilisation, men who had spent their whole time in England or abroad, were put into a Committee and they evolved this formula for us. I got in 1944 October the first report on the Hindu Law Reform Committee while we were in the Ahmadnagar Jail. Now the main inspirer and agent of this measure was Shri B. N. Rau to whom we owe all that we have achieved in the New Constitution. He is a lawyer noted for his knowledge of constitutional law, case law, codified law and customary law and one who has done yeoman service to us. He was a Judge to the Calcutta High Court in Bengal where Dayabhaga prevails. I suppose you know Mitakshara prevails in Madras and one or two other provinces while Mayukha is the Law in Bombay. This gentleman who never had any experience of Mitakshara and who was a Judge of the High Court of Calcutta and whose knowledge of law is absolutely unquestionable has initiated this. Later on the Congress Party or the popular party never had the opportunity of discussing this question in the Central Legislature. When Mr. Asoka Roy came as Law Member, he said that he would not touch this Bill even with a barge pole. (*Shri Mahavir Tyagi* : What is a barge pole). A barge pole is a pole which is used to drive a barge on the waters.

After all, this matter has come up ; and as if we have been waiting for it in eagerness and expectancy, we have taken this up without so much as mentioning a word about it in our election manifesto.

Have you ever come across a party which draws up a comprehensive election manifesto covering all questions from China to Peru and contemplating the nationalisation of the key industries, abolition of drink and zamindaries and various other things, but never saying a word about social reform which is the central factor relating to India ?

It is not merely a piece of social reform. In India society is closely mixed up and intertwined with religion. Religion is the sanction behind everything. Now I am a most irreligious man, but I have the greatest regard for the sentiments of my neighbour. Otherwise, I am an uncultured brute. If I want to practise my heresy upon the convictions of others then I am not worth the salt that I eat. Now then, not merely religion, but economic factors, social factors and other things are intertwined. The joint family system is the creation of ages. What is this joint family system ? It is an insurance trust; it is a co-operation union ; it is a labour society.

It is a labour society where all the poor brothers toil; it is a cooperative society in which all the brothers live together—each for all and all for each, and it is an insurance union in which the widow of the deceased brother is the care and charge of the surviving brothers. This is what the Mahatma said when he opposed insurance. But I know everybody is not Mahatmaji. The Joint Hindu Family is a noble combination of these three features based upon a religious background and held together by a social bond. Can you produce an equal to it by all your labours, by all your statutes and by all the Halsbury's Laws of England ? You cannot do any more than you can produce an equal to the economy of hand-
5 P.M. spinning which the Father of the Nation rediscovered. Permit me, with my usual immodesty, to say that I wrote a Book in 1938 which is called "The Hindu Home Rediscovered". As I entered life as a heretic, brought up in Christian traditions and western heresies, I began to discover in every festival, in every ceremony and in every religious observance of Hindu society there was something deeply religious, uplifting, inspiring and ennobling. When I lived with my sisters and my brothers, I rediscovered the Home and after twenty-five years I ventured to write this little book in which I have tried to idealise these things. I would not say that these ideals do exist in life, but when you judge an institution, you must judge it in its pristine purity, and not in its degenerated imitation. If you want to idealise any concept, popularise any institution and resuscitate it, then put it before the nation as it was conceived

and get the consent of the nation for it. I can assure you that wherever I go, I always state the *pros* and *cons* of every proposition on this Bill. This Bill may be good in parts as the Parson's egg and it may also be bad in parts. If you say that you must do this for women because women have come to their own, yes, do it by all means, but why be in such a huffy ? I want them to come to their own, they have come to their own, and in the next Assembly I feel sure my sisters can fill half of the seats; out of five hundred, there can be easily two hundred and fifty women if they only make up their minds.

Shri L. Krishnaswami Bharathi : Will you allow them ?

Dr. B. Pattabhai Sitaramayya : I admired Rajkumariji when she said before the Provincial Model Constitution Committee that women did not require any reservations. I thought it was rather an audacious statement for her to make and a great responsibility to shoulder but I know now that they are quite able to take care of themselves. If half a dozen lady members of this House can drag us by heels and make us take up this Bill, I wonder what our position will be when there are two hundred and fifty of them here. I am not joking. If I have a voice at all at the time of selection, I may assure you that I will do it, notwithstanding Mr. Rohini Kumar Chaudhuri.

[At this stage Mr. Deputy Speaker vacated the Chair which was then occupied by Shri S. V. Krishnamoorthy Rao (one of the Panel of Chairmen)]

In this connection, I tempted to read a little statement that I have here from *Picture Post* of March 12, 1949.

“From woman comes an incessant call for equality. What does she mean by equality? From the material point of view at least, she has the lion's share. Probably ninety per cent, of all advertisements cater solely for her. Film producers say eighty per cent, of films are made for her. Fiction publishers appear to think entirely in terms of woman. As for clothes, woman has a wide choice and range at reasonable prices, while shabby, thread-bare man can only gaze for long at a few miserable suitings in some sombre shop window and think of the fantastic prices charged. With our prophetic eye, let us gaze into the future. Woman has got more than equality and man has become a spinster's spaniel existing on woman's scraps and everything is beautifully lukewarm.”

I may assure my sisters that nothing will be lost by their exercising patience. I was the other day questioned for having appeared on an orthodox platform with a Swamiji from Benaras and when I saw

Prabhavati Raje—she was a wonderful woman worker—leading the audience completely with her like the Joan of Arc of old, I saw the danger of letting orthodoxy do this. On invitation I went there and I spoke for an hour, and I was taken to task for appearing on the opponent's platform. I said, "What is the use of speaking to those who are converted? I must convert those who are not converted." I fully believe in educating the people about this new Hindu Code Bill. You must not precipitate matters and decide this issue by force of majority. But whenever this may happen, it is our duty to educate the people. Let us produce the result by popular educational propaganda. After all you have not nationalised the key industries. Where has this item gone ? The capitalists struck and we had no money and we had to eat our words,—I believe in patience. One of these days things will be all right. We are afraid to do any nationalisation now. We are hesitating to abolish the zamindaries. We are hesitating to proceed with River Projects. We are hesitating to proceed with the development of cottage industries,—all because inflation is staring us in the face, and we cannot make all these necessary improvements. We are face to face with conflicts, contradictions all round. Life is not a smooth path like a journey on a railway. It is like a motor car journey upon bad roads in the midst of congested traffic. I ask you whether it is not the duty of the members of this august house to undertake the very useful and very fruitful task of educating their masters. What happened in the year 1878 when Robert Low said after the extension of the franchise. "Let us go and educate our masters." Our masters are outside. We are not the masters. The Ministers are not our masters. We can deal with them as we like. We may dispense with them tomorrow if we do not want them. That is our right and that is our privilege and our safety also. Therefore I say that this is a matter in which we should go slow. I am second to none with regard to my love for social reform. I was a social reformer even in the year 1898 when I was in the B. A. class, which was 51 years ago, long before half of the audience was born, and ever since I have sustained that interest. I very early came under the influence of the Brahmo social reformers and I have fully imbibed the reformist spirit from the Christian missionaries under whom I studied from my fourth form to my B. A. classes.

Therefore it is not what should be done on the subject that matters, but how we are going to do it. We have got to remember the political bearings as well. Tomorrow you are appearing before the Polls. What

a sad plight we were in yesterday ! I was not here yesterday ; otherwise I should have witnessed the scenes with my own eyes. I went to Alwar and returned only last night at eleven o'clock and the first thing that my wife told me was that there was a lathi charge and some people were dangerously wounded and so on. Naturally the news is exaggerated from lip to lip and from ear to ear. It is a most pathetic spectacle again that I witness today opposite to me. Generally I speak under an impulse or inspiration, but today I speak under an irritation of the sight of three women Police sitting opposite to me in the gallery. Has it come to this that this house cannot get on and the women that are in attendance in the gallery and below cannot be trusted except under the care of the baton of the women Police ? Are you really proud that these police women should arraign our sisters hereafter ? We have had enough of policemen. You know this is the most tragic development of this Bill. The Doctor will kindly note and if you cannot come to this house without the protection of the Police, women police for the women and men police for the men, then woe betide our progress, our legislation and our Assembly. I am really very sorry. I now leave the general observations and come to one or two salient points with which we are concerned today here and before that I shall submit a word about the progenitors of this legislation. I am very sorry that it should have fallen to Dr. Ambedkar's lot to pilot this Bill

The Honourable Dr. B. R. Ambedkar (Minister of Law) : I am not sorry at all.

Dr. B. Pattabhi Sitaramayya : I know ; otherwise you would not be sitting so proudly in your seat. The doctor knows what I said about him. I referred to the indomitable, irresistible, unconquerable spirit of Dr. Ambedkar,—for good or for evil, whatever it be. We want always to say that the spirit is there and, therefore, we admire him, but at the same time, he is out of tune with society.

Shri L. Krishnaswami Bharathi : He is perfectly in tune, absolutely in tune.

Dr. B. Pattabhi Sitaramayya : I do not call him a misanthrope, but he is not a normal anthrope, that is all I can say ; the training, the surroundings, the environment, the culture, all these put him out of tune with the spirit of the nation. He is one of our best intellects, there is no doubt about it and I wish he would have health and prosperity for a long time, but all this does not mean that we accept his point

of view with which we came into conflict even in the Constitution when we passed that steam road roller law of a common civil law. Some of us resisted, though in vain, with the best of our might and main. Now I recall to your mind something that I said in the first day when this Bill was introduced in this house. I hope many people have forgotten so that they may not blame me for repeating what I am saying. In fact, I myself have forgotten the main point, but that point was that, I take it., that social reform in this country must be effected through the intercession, through the advice and through the inspiration of a Social Council we must bring into existence. I then gave the example of the Church Council of England in which the ecclesiastical dignitaries form the main element of strength and whatever they bring in by way of changes in life or law, the House of Commons accepts without changing a comma or a full-stop and that is, as it ought to be, in regard to religious or social matters and let us adopt such a course. In Germany there used to be an Economic Council which dealt with economic matters which require expert knowledge. The *Reichstag* used to accept the recommendations of that body. Let us, therefore, go slow and deliberately so that we may know exactly where we stand.

Now I come to a few points in the Bill and I won't detain you long. The Bill contains some very good points. I like civil marriage on the top of sacramental marriage. Mere civil marriage is like executing a document in order to register a transaction between two people. It is a contract. The moment a document is written, it gives rise to strife, whether the intention is correct, whether the consideration is passed, whether it is valid in law etc. but when it is a sacramental marriage, there is no appeal against it. The old *purohit* is never called upon in life to stand up in a court of law and give evidence as to the genuineness and the *bona fides* of marriage. The marriage is there and nobody questions ; it is like the integrity of the spoken word. When the nation has preserved the integrity of its spoken word, which it has lost during the British time and under the influence of the law courts, then I say, we shall have recovered our character once again. But there are circumstances such as those under which a friend of mine suddenly discovered on the marriage platform that his daughter and his would be son-in-law were of the same *gotra*. They could not possibly give up the marriage even at least for economic reasons, let alone religious reasons. So immediately they passed through the sacrament and then went to the Registrar of marriages and registered

it. That it should be open to us to register our marriages is a great privilege and I also like that the question of the share of the property to the girls must be settled once and for all. For a long time I have felt that the daughter must be an equal inheritor of the father's property with the sons. Now I see that it is going to bring about endless complications in our social and economic structure. There is a friend of mine who has six daughters and one son and I asked the girls one after another separately and individually as to whether they would like to have a share in the property of their father. No : they said, "this will give rise to quarrels with our brother. We do not want this. We have our husband's property and that always remains with us." It is not however available to them as the *stridhana* would be available to them. *Stridhana* is a most wonderful thing, and I should like to know where in the world is there a parallel to this *stridhana* ? The *stridhana* is an institution by means of which the *stridhana* given to the girl at the time of the marriage becomes the absolute property of the girl which cannot be touched by the husband or by the father or by any human being at all. It is the reserve fund of the family which she is sure of and when her husband is very ill, she goes to the market to sell the jewels away for paying the doctor's fees and if the husband lives well and good, but if he dies, it is the last service to her Lord. Such a reserve fund is cast off and a share for the wife in the husband's property under T. V. Seshagiri Ayyar's Bill, which became law about 15 years ago, has now come to be recognized, but after the death of the husband, in equal measure with each of the sons and only as a life interest. Our law, in spite of the British people's unwillingness not to interfere with the religious institutions of this country for fear of their political stability being disturbed, has been slightly changed as has been already described by one of the earlier speakers and yet it is not sufficiently changed. The unfortunate feature is that the British people felt loathe to interfere with the social customs of this country for political reasons and therefore the law has become petrified. In every country custom goes on changing and when the King adopts a change in social customs, immediately that becomes the law and it sets the tone and the pace for all society. But unfortunately in our country for a thousand years we have not had indigenous kings and after the British came, they positively resisted all temptation to make any social changes in the social set-up. Therefore the custom has become petrified and it is that custom, that petrified custom which

we must make plastic, which we must make elastic, which we must make impressionable and therefore, mutable. Instead of doing that if we suddenly throw one stone of law against another of custom, both the stones break and that is not the way of achieving this change. Changes in this customary law must be set in motion in order to bring about social changes.

Now with regard to this custom for the girl's share I am quite willing that she should have a share, but I wish to make an alteration and that is that the moment she marries, she becomes a partner in the husband's property and that will not give any chance for the misbehaviour of the husband as it sometimes happens unfortunately. Then we go to the divorce question. I have spoken to many women. This morning four women came to me. They are good people, highly cultured, and there was also one among them who was introduced to me as one who had been abandoned by her husband, and they said, it is not only those who are happy that withheld their support from this measure, but also those who are unhappy, the unfortunate victims of man's fury and tyranny. That is not the point, I said to them. The point is this. Ninety per cent, of our marriages are excellent but what about the remaining ten per cent? They want relief. In India we marry and love, the English people love and marry and then give up their love, because what is called love at an impressionable age is a fanciful affair. One does not know what it is. In Hindu society there is a law or rule that in respect of marriage *Shree, Kulamu, Roopamu, Bandhu Shreni and Sampradayam*,—all such things should be considered. All these have to be considered before a marriage is settled. *Shree* means *Sampatti* or prosperity, then comes *Kulamu* or caste and position, and then *Roopamu*, that is appearance, *Sowndariya* or beauty; and then *Bandhu Shreni* or collection of relations and then there is *sampradayam* or the tradition of the family. All these five have to be carefully considered. Can a girl of eighteen—quite marriageable in age—select by judging, all these things? Can she distinguish between one and another among these things? No. The other day I asked my wife's sister's husband's sister. No, that is not a distant relationship, you know, my wife's sister's husband is my brother-in-law and his sister was married. But I learned that she had said something to her father before her marriage. I went to her husband's house, with her husband accompanying me into the inner apartments and there I said to him, “ Do you know this girl never married you ?” He was

aghast, half angry and half surprised. "What do you mean ?" he asked. I said, "I mean what I say, she never married you." "Why ?" "She has married this, electricity, this motor-car that is in this house." The story is that the girl had said to her father "I don't care to whom you marry me, provided there is electricity and motor-car in their house." The poor girl of sixteen or eighteen, how could she judge of things and conditions? She simply thinks, "I have been brought up in this house by my father, he gets twenty thousand rupees a year and there is electricity here, there is a motor-car, and a palatial house. I should like to have the same conditions there also." That is all. But the English mother always complains that her daughter does not "make good", that is the expression, "My daughter does not make good" she says. That is, "My daughter is not able to keep a bevy of young men round about her, dancing attendance on her, standing her bills at the cinemas and restaurants and so on." That is what the mother wants. Don't nod our head that way please. What I say is true.

Pandit Lakshmi Kanta Maitra : I am supporting you.

Dr. B. Pattabhi Sitaramayya : Not you, but the friend behind you.

Shri R. K. Sidhva : Are you referring to me ?

Dr. B. Pattabhi Sitaramayya : No, to your neighbour.

What happens in England ? The mother is always anxious that her daughter should be able to attract the attention of half-a-dozen suitors, and it is then for the parents to select one out of them to make an eligible choice for a son-in-law. But the mother always feels jealous of the maid-servant, because the maid-servant is able to make good, while her daughter is not able to. That is the tragedy. What does the maid-servant do ? At eight o'clock in the evening she changes her apron and gets into her clean smart gown and goes away. "Where are you going ?" "My lover is waiting outside, and I must go" "No, no, my son-in-law is coming now." "Hang yourself and your son-in-law by the nearest tree. My lover is waiting and I am going."

Shrimati Renuka Ray : You have, a very poor opinion of women, whether Indian or foreign.

Dr. B. Pattabhi Sitaramayya : But I have a very high opinion of my wife.

Now then, the mother complains that "that woman is able to make good and attract a number of men, but this daughter of mine is not

able to attract them.” And so the mother is sorry. That is the fashion. That is the custom of the country. That is the order of the day. And there is nothing wrong in it. That is the system which has come into being. Go to Malbar and see the *Marumakkattayam* system. That is an altogether different thing. For three years you may study it and still you will never understand its secret. But it is a beautiful system, and my friend Mr. Thanu Pillai was against changing it at all.

Sir, your predecessor gave my predecessor twenty minutes after the bell. But I will take only two minutes more.

Now it is not too late to mend. We have not gone too far. It is well that we have discussed this matter, and discussed it seriously, so thoroughly and so sombrely. We have given so much attention to this subject. Now what shall we do ? Shall we proceed with the measure ? I appeal to the hon. the Law Minister to withdraw it and then put it up—and a more stringent measure next time—, with due authority and sanction from the electorate. Then I say no man dares attack us. He will be summarily shot, because I will have the sanction of the country, I will have the election manifesto ; I will come armed with that power, that strength and I will have a right to do it. Now you come without authority. You simply depend upon four women police for your protection. That is a pathetic sight for one, for any progressive Congressman to witness.

Then again, there is another thing. I trust and hope that whatever may happen—and I hope that the Bill will not be proceeded with— but if it should be proceeded with, I feel that full freedom may be given to every Member of this Assembly to vote as he pleases. If that is given, half the sting is taken away. But we have already fallen into the trap of allowing this thing to go on. Now, friends, let me warn you. This will have a serious repercussion upon our coming election. After all

Shri Mahavir Tyagi : Postpone elections for another five years.

Dr. B. Pattabhi Sitaramayya : After all, remember that we are here as the representatives of the people and after all, remember that ninety per cent, of the people belong to one community, bound by one social law and one civic institution, one patriarchal system, all this is there, and people are not so intelligent as to discriminate between one thing and the other. They only feel irritated. They are already irritated by more than one circumstance. Yesterday's demonstration was not so much a protest against the Hindu Code Bill as an expression

of a certain sullenness and anger of the people with the Congress and Congress institutions. It is no use our concealing it, Wherever I go I feel I am assailed and attacked. But through my garrulity, my long-windedness, through my talkativeness I manage to get over the thing. But at the same time, I know on what delicate ground I am travelling. I speak not merely as a critic of the Government, but as a responsible member of the Congress who has given cent. per cent. support on all occasions to this Government. I say however that he is not a well-wisher who simply flatters, or conceals the truth from the Government. Perhaps you remember that last spectacle—not a scene in Hamlet—a scene in the drama of Germany where the Kaiser on the 9th November 1918 summoned all his generals and asked them to speak. Nobody would speak, they were all silent. Then he said, the Kaiser orders you to speak, and then Gen. Ludendorff spoke for when the Kaiser orders, and if he did not speak, he would shot. Just as when Queen Victoria asked Prince Albert to open the door. She said, “Dear, open the door” but the door does not open. Then she says, “The Queen of England orders you to open the door” and then the poor fellow came and opened the door. So it was with the Kaiser, and Ludendorff said, “Your Majesty, there are only twenty-four hours for you to escape across to Holland.” Then the Kaiser asked, “Why ?” “Why ? because the army would not fight”. The Kaiser said, “I will lead the army myself.” But the army would not fight and in twenty-four hours this man was transferred. When an unpleasant truth is said, please listen to it, because there is in it nothing but the best wishes for our conjoint prosperity and success. If not on principle, if not on sound morality, at least on expediency please reconsider the position and make it possible for the people to go along with you.

***Acharya J. B. Kripalani** (U. P. : General): Sir, in some quarters here is an apprehension that I may talk against the policy of the Government. Though I have spoken in this house only once, yet this apprehension exists in some quarters and I want to allay that apprehension. I stand here to support the broad principles of the Bill. I do so because I do not want this Government to resign upon a side issue, upon a social issue. I want it to resign on more substantial, political and economic issues. I would rather want it to resign, for example, as any other Government in a more democratic country would have resigned, on the issue of the sugar muddle, by which infants

*C.A. (Leg.) D., Vol. VI, Part II, 13th December 1949, pp. 552-58.

of the poor could not get sugar but tons could be had by those who were prepared to pay fancy prices. On such issues, if this Government goes, there will be no regret but I do not want it to resign upon a social side issue . . .

An Honourable Member : Sugar is not more important than this measure.

Acharya J. B. Kripalani : Yet it is not as sweet.

Even then I would not have come to support this Bill but for the pressure that I had from quarters from which I could not resist such pressure. I was told at home that I must support this Bill. I said that I was innocent of a knowledge of the Hindu law, that Hindu law ran into volumes and there were many volumes of commentary and how could I support or oppose a thing which I had not understood. Then I was quickly told “ I can make you to understand it.”

An Honourable Member : Who was your teacher ?

Acharya J. B. Kripalani : So I submitted myself to a few curtain-lectures. I was assured that my teacher had been instructed by the highest authority in this Assembly, the great Dr. Ambedkar himself. After the curtain-lectures were over I was just as wise or as foolish as I was after my teachers in school or college had instructed me. I came to the conclusion that my teachers were more foolish than myself.

When I was a professor I thought the students would pay me the same compliment. Knowing that, when I entered the class I always said “Gentlemen, your presence is assured and after I have marked the roll call you are free to go, because I know you will not give me more credit for my learning than I gave to my teachers.”

Sir, I am pledged to support the Bill and I must support it, because I know that even though my wife may be absent, when she comes back she will not only take financial but moral and intellectual accounts from me.

For me, Sir, it is not a question of religion in danger : it is a question of my home in danger. Much has been said about Hindu religion being in danger. I am afraid I cannot see the point. Hindu religion is not in danger when Hindus are thieves, rogues, fornicators, black-marketers or takers of bribes! Hindu religion is not endangered by these people but Hindu religion is endangered by people who want to reform a particular law! May be they are over-zealous but it is better to be

over-zealous in things idealistic than be corrupt in material things. It is this mentality of ours that brought about the death of the Father of the Nation. It was supposed that the murderer was a better Hindu than the person who lived according to the highest ideals preached in the Gita and in the Upanishads and whose life was lived in the light of the teachings of our scriptures. I would wish the Hindu community to divest itself of such false notions about their religion. Our religion was not made by murderers and thieves; it was made by Sadhus, Sanyasis and Mahatmas.

Yet, there is the other side of the question. A great deal of confusion has been caused, for one party says that religion is in danger and another party says that the modern religion of progress is in danger. If you do not support the Bill you are a reactionary.

I will tell you how I was converted to support the Bill. One reason I have already told you. Another reason I will give you now.

There was a woman and she whispered to another woman “Kripalani won't support the Bill : he is a reactionary.”

Shri B. L. Sondhi : Were they both members of this house ?

Acharya J. B. Kripalani : They were hon. Members, not members. She in confidence told me “I protested and I said Kripalani is progressive.” So I was put on my honour. You see what subtle kind of propaganda goes on. One woman tells something to another woman in confidence and she brings the story to me. Now how am I going to act ? I cannot consider myself reactionary and not progressive : I may be called a non-Hindu but for a modern man not to be modern is a greater stigma than to be without religion. I may not believe in God, but how can I not believe in the God of progress as is in the West ?

I will also tell you why the first woman said that I was a reactionary—it is a very interesting story—but only if you promise not to interrupt me by your laughter. I happened to be the Chairman of the Fundamental Rights Committee. In the Fundamental Rights Committee the proposition brought forward was that it should be the fundamental right of women not to be in purdah. Of course I am in favour of all women going without purdah—and what male will not. I admire those people who would not, but I am not one of those admirable people. I said that I have no objection to this clause going in the Fundamental rights, provided that all purdah disappears—the ancient purdah and the modern purdah. Take a round in the City of