

Delhi. It is very difficult to see the face of a woman. There is always a mask. (An hon. Member : The powder) If the ancient purdah is to be removed the modern mask may also be removed because the modern mask is even more complete than the purdah. The purdah you can take off at will, but the mask can only be taken off at home and by certain chemical processes.

Lest you may misunderstand me I tell you that I am a great believer in human equality. And in humanity I also count womanity. I want that this Bill should be passed because it gives us equality with women. I think that this Bill is in the interests of our equality. I have always thought that in comparison with women we are at a very great disadvantage. First of all, nature has put us at a disadvantage, because if you think a little, you will admit that everything that a man can do a woman can also do. But there are certain things which a woman can do which men cannot do—not even in our imagination, not even in our dreams, not even in our nightmares. I cannot conceive.

Some Honourable Members : No, you cannot!

Acharya J. B. Kripalani : I was talking of conceiving in an intellectual sense. But since you have already found out my meaning I need not dilate upon it. (An hon. Member : Oh, no.) But I have often been curious and have even asked women “what is this excruciating pain and what is this superb joy that you have in conception ?” and they only smile at my ignorance and give no answer. I have again asked them what pleasure they have in nursing the baby at the breast. Then also they smile at my ignorance and give no answer. In these matters I think we are at a very great disadvantage. They are great creators. Artists create inanimate objects, women create images of God, which sometimes degenerate into images of Satan. In these things, of course, nature has put a kind of block in our way and we cannot achieve equality with women. But in many other things we can achieve equality with women.

So far as the question of women achieving equality with men is concerned, they have already achieved it in India. You know that as soon as we had Swaraj, we had a woman Governor. Two centuries of independence have passed in the United States of America, and there are fortyeight States, but I do not know if even once they have appointed a woman as Governor. Of course my knowledge of history may be old and I speak subject to correction, but I believe no woman was appointed as a federal Minister. I may also say that in a country

like England, where female education is widespread, I do not know whether up to this time there has been a woman Cabinet Minister. I am not talking of the many auxiliary Ministers that we have here too—they are also called 'Ministers'—but I am talking in terms of Cabinet Ministers. So far as I know, there has not been one in England. Then I do not know whether in England and America there have been woman diplomats—ambassadors. And yet you must remember that one of our star ambassadors is a woman.

Shri R. K. Sidhva : We are proud of our women, Sir.

Acharya J. B. Kripalani : Well, Mr. Sidhva thinks that I am not proud. I am very proud of this. But I am thinking in terms of equality, not of pride. I say, "we have granted women equality, and now shall we be given some equality with women ?" I am very much oppressed because I am after all an old man. I have learned that old age is to be respected. But when a chip of girl comes into my drawing room I have to act just like a jack-in the-box and pop up.

[At this stage Mr. Deputy Speaker (Shri M. Ananthasayanam - Ayyangar) resumed the Chair.]

I did not do that in former days. Not only that, may I tell you, Sir, that even when my wife comes in the drawing room I get up. Do you know why ? Because some boorish young man may be sitting there and he may not know the modern manners and he may not get up; just to give him an example, I rise. I want that there should be equality, because you just see, I as a male am obliged to get up when a female comes, while I know that when even our Prime Minister or the President or the Congress enters a room, I have seen young women sitting in their seats. This is a very great injustice to the mere male. My experience has been that if there is a quarrel between a man and a woman in the bazaar or in the market-place,—because I do not know about secret quarrels—or in the club, and supposing a man hit the woman, do you know what would happen ? There would be almost a riot and everybody would call the man a coward and rightly too. But supposing the man was beaten by a woman, do you know what would happen ? I think he would look very ridiculous and instead of anybody sympathising with him, he would be the object of ridicule and rightly too. Whether we beat or are beaten, both ways we are the losers. I want that this balance should be restored and there should be some equality to protect the mere man.

There is yet another thing. Not only in society are we at a disadvantage, but the law is also against us, as even our Law Minister will admit. Supposing a man runs away with a woman, the man is responsible in law. Supposing a woman runs away with a man, again the man is responsible. I have it on the highest authority, very modern authority, that it is the woman who is often the pursuer. Whether we are the aggressors or they are the aggressors, irrespective of aggression, the law comes down upon us. We are sufferers both ways. I would, therefore, request this house to bring about some equality, so that we men may be able to breathe more freely, so that if we are kicked, we may kick equally freely without ridicule, without the law coming to the help of the stronger party, namely, woman. You can now understand why I support this Bill.

Let us now go into details. There is first of all the question of property. I really do not see how, we of the Congress, who are pledged to the abolition of private property, yet think in terms of as to whom one share or the other should go. I see a curious phenomenon in this nation which I have not observed in other nations.

Shri Lakshminarayan Sahu (Orissa : General) : I want to know one thing. Is the Congress pledged to abolition of private property ?

Mr. Deputy Speaker : That is the hon. Member's opinion.

Acharya J. B. Kripalani: I think if the Resolutions of the Congress are carefully read, it will be plain that the Congress does stand for the abolition of private property, that is, accumulated private property, not private property that is in use. But as the Deputy Speaker rightly said, this a question of opinion. I find that all people here are more concerned with redistribution of existing wealth. There is no effort in this land to create new wealth. Even our Socialist friends are not thinking in terms of creating wealth, but of redistributing the very little existing wealth that we have. I am indifferent where the little bit of existing wealth goes, whether it goes to the woman or to the man provided it remains in the nation. The nation should not be the poorer for it. You will be surprised to know, but I do not mind people taking bribes even, or going in the black market. After all, wealth does not go outside India. It is somewhere with the Indian people. I only think of the morality of it which is destroying our public life and our private morals. So far as wealth is concerned, it does not matter so much. After all these bribe-takers and these black-marketers are not taking away wealth to any foreign country. If it is not my

brother-in-law, it is somebody else's brother-in-law. It is after all there. So I do not for a moment think in these narrow terms of where the existing wealth goes. I am thinking in terms of the nation. The whole attention in England and other free countries is directed to creating more wealth rather than dividing the already meagre wealth that exists there. Therefore, I whole heartedly support that a share in ancestral wealth be given to women. If they have their own share, they may be more careful about their money. It has been my experience that the expenditure of a woman is much more than that of a man. I have seen that when girls go to college and school, the mother is more careful about their clothes than about the boys' clothes. The young boys may toddle along to school walking all their way, but the young girls must go either in a tonga or in a bus even though the bus charges may come to Rs. 15 a month. So in clothes and in transport charges and in other things, woman's education costs more. This is when she is not married. When the women are married, you can look at their dress and at our dress. I have very often found at weddings that the boy looks like an idiot and the girl looks like a queen. I have seen it and anyone who has critically observed it will certify that it is so. On the road, I have also seen modern women and modern men going together. The modern man generally wears English dress and it is not on everybody that the English dress sits well. There are only a few exceptions. On most of us it looks very awkward. But the woman is in her native sari, full of colour, and even if she has not ornaments, she looks better and more respectably dressed than the man beside her—nowadays he walks a little behind

5 P.M. her and looks awkward. Those who are not acquainted with Indian middle class society today, or are foreigners, would think that perhaps some *chaprassi* is going behind. Therefore, I say, Sir, they have their own property, we will not be bothered by these things. They will spend it as they like and I am sure they will spend it more economically than when they have to purchase things and the bills come to us. Therefore, I am a great advocate that the women should have their property share also.

Then there is another point about which I am very particular. I am told that you cannot adopt a girl child. I happen to be in the unfortunate position that I have no children.

Shri B. L. Sondhi : What a pity !

Acharya J. B. Kripalani: It is a very great pity. I thought that as a Hindu I could adopt a child. But I have always had a preference

for a female child, I adopted a couple of girls, but they ran away with their husbands. I yet want to adopt a girl. I do not know why this provision is there that you cannot adopt a girl. The girls, so far as the father is concerned are more lovable than boys and the more saucy and impudent the girl is the more the father loves her. Therefore, I request that if there be any defect in this Bill it may be corrected and female children may also be allowed to be adopted.

About divorce, Sir, I may tell you that I am not personally concerned, because my marriage was not criminal, but civil. It is open not to me, but certainly to my wife to divorce me any time she likes, if she feels that I am not behaving properly. But I find that so far as provisions for divorce are concerned this Bill is more retrograde than old custom. As we have been told by Shri Alladi Krishnaswami Ayyar and a woman speaker, there is a simple system of divorce among the masses in the villages. There are no costly proceedings, there is no scandal, there are no newspaper articles. All this is avoided. I would suggest, Sir, that a more reasonable, more scientific and more up-to-date attitude be adopted in the matter of divorce.

Sir, I have a suggestion to make, for what it is worth, for the consideration of the Law Minister and this suggestion would not involve expenditure, litigation, scandal or newspaper articles. All the marriages should be for five years and at the expiry of five years every marriage would be renewable. The renewal can take place by some declaration before any village officer or his parallel in a town or city. You can after five years go and say that you do not want to separate and the marriage continues. This will make divorce easy, scientific, without scandals, without litigation and I tell you it will be most up-to-date. I make this suggestion for whatever it is worth and I tell you it satisfies all the requirements of the new religion of progress and advancement.

Shri L. Krishnaswami Bharathi : Sir, may I make a request to you, Sir, to allot one more day for the discussion of this Bill, in view of the fact that there are many hon. Members who wish to speak on it. The hon. the Prime Minister is here and he will be able to tell us whether Government would be prepared to allot tomorrow also for the discussion.

The Honourable Shri Jawaharlal Nehru (Prime Minister) : Sir, the House knows that nothing is more precious than every day and every hour of this House. We have a great deal of very important

business to get through during this session and there are not many days left over. Nevertheless, as I made it clear in the early stages, we want to give the fullest opportunity for this debate to be carried on and for as many members as possible to speak upon it. Naturally, this or any other debate, cannot be carried on indefinitely to the detriment of other public business. So Government have stated that they want to give as much time as possible, subject to the debate terminating and ending. I am perfectly prepared, on behalf of Government, to allot another day, that is tomorrow, subject to two provisos : one that the debate terminates tomorrow ; second that we sit on Saturday to conduct other business of the House.

Shri Mahavir Tyagi : Sir, may I suggest that it is very difficult for us to sit on Saturday. The Hon. the Prime Minister might just find time, because he has not to devote much time in the House. But we have to sit from morning till evening and in the evenings we have to attend meetings of Select Committees, besides attending to our other engagements. We have also to go through the various papers received by us, draft amendments and send them. Saturday and Sunday are the only two days when we can do that work. I would request you , Sir, not to take Saturday.

Pandit Govind Malaviya (U. P. : General) : I have to submit, Sir, that this measure is one in which the whole country seems to be more interested than it has been in any other measure. Members of this House should be allowed full opportunity of expressing themselves about it. So long as there is a single member of this House, no matter whether he is in favour of the motion or against it, who as a representative of the people, wishes to have a say on this Bill, we should allow time for it. If we cannot find time for it tomorrow, Government should give more days for the discussion of the Bill. I submit that it will not be fair to the people of this country or to the Members here, that anybody who desires to express his opinion about this measure should not be allowed to do so.

Mr. Deputy Speaker : The hon. the Prime Minister has already said that he will allot one more official day for the discussion of this Bill. There are a number of other Bills which have been referred to Select Committees and others whose Select Committee reports have been presented to the House. Having regard to the business that is yet to be done, the hon. the Prime Minister evidently thinks that not more than one day can be allowed for the Hindu Code Bill. So far as that matter is concerned, it is an official day and I am completely

in the hands of the Government. It is for the House to agree or to reject. I have nothing more to say in this matter. So far about twenty-seven Members have spoken and we have taken over seven days and nineteen plus five, twenty-four hours.

Dr. P. S. Deshmukh : How many are waiting to speak ?

Maulana Hasrat Mohani (U. P. : Muslim) : What is the guarantee that we will be able to finish the discussion even tomorrow ?

Mr. Deputy Speaker : I have about thirty-four names still who want to speak. The matter stands there and only tomorrow is allotted as an official day for the conduct of this business. It is for the House to consider it tomorrow. Now, as regards Saturday, it will be fixed as an official day because tomorrow is being taken up by this. You can arrange for the Select Committees to meet on some other day.

The House will now adjourn till 10-45 A. M. tomorrow.

The Assembly then adjourned till a Quarter to Eleven of the Clock on Wednesday, the 14th December, 1949.

* HINDU CODE—*contd.*

Mr. Deputy Speaker : I have received a letter from Mr. Kripalani that it was under a mis-understanding yesterday that he sat down. I thought that he had concluded his speech, He says that as soon as I got up, in deference to the Chair, he sat down. If that is so, I would like to give him an opportunity to continue his speech, but I would request him to conclude his speech in a very short time.

†**Acharya J. B. Kripalani** (U. P. : General) : Sir, I thank you for the opportunity that you have given me to conclude my speech. I wanted to conclude it in a more serious manner. It appears to me that as a nation we lack a little humour and cannot penetrate to the serious purpose that lies behind the humour.

My support to the Bill is wholehearted and it rests upon very sound grounds. It rests on the foundation of the character and tradition of Indian womanhood. Throughout history they have played a very distinguished part in our life and in our culture. In ancient times we have famous names who contributed to the learning of the times. Many of them were great writers, philosophers and poets. In mediaeval times when we were down and out, when wave after wave of foreign invasion came, our women confined themselves to the home with their ancient virtues undiminished. And when wounded and disappointed we went home they soothed our wounds and kept the home fires burning. They were a consolation to us. Not only that they kept our religion alive. They kept our traditions alive; they kept our culture alive. It is in Hindu homes with Hindu women that we find our culture and our religion at its best. Even today when gentlemen change their dresses, our women do not change theirs. It is this trait of Indian womanhood that was recognized by the Father of the Nation and that was so ably utilized by him.

In our struggle for independence they stood shoulder to shoulder with us. Very often I know, they had to suffer more than we had to suffer. Even when some of them did not bear lathi charges and did not go to jails, I know the privations that they had to suffer and they suffered them cheerfully. They have always helped us in every way and I suppose it ill-behoves us to think that they are thinking of themselves alone. After all the wearer knows where the shoe pinches. They know what handicaps they are suffering from. I am

*C.A. (Leg.) D., Vol. VI, Part II, 14th December 1949, pp. 560-621.

†*Ibid*, pp. 560-62.

sorry that a Member from Bengal should be very enthusiastic against this Bill not knowing the conditions of the widows in Bengal. I have seen them with my own eyes.

Shri Suresh Chandra Majumdar (West Bengal : General) : Not all Bengal Members are.

Acharya J. B. Kripalani : I was talking only of one Member who is very enthusiastic against the Bill. As I was saying the wearer knows where the shoe pinches. I have no doubt that even when women get what they want, their traditional devotion to home, to their menfolk will not diminish and I have every reason to believe this. Sir, I am associated with women who may be considered as modern and you will excuse me if I give you a peep into my home life. You know and the House knows Mrs. Kripalani, but you know only her public activity.

Sjt. Rohini Kumar Chaudhari (Assam : General) : On a point of order. Sir. Can you discuss about Mrs. Kripalani who is not present in the House ?

Acharya J. B. Kripalani : Of course, I would seriously object if the Member discussed her, but I thought I had a little right to discuss her. As I was saying, she takes her full part in public life, but as soon as she is at home she is as good a housewife as any ancient woman.

Though I do not like anybody to do physical work for me, I can tell you that when I am not looking, she does everything for me, including the brushing of my chappals and the washing of my clothes. I have also had the privilege of seeing other women who are considered modern. I am acquainted rather intimately with those Members whom you see only in the House, and I have seen them in their home surroundings with their children, with their husbands, with their brother and I have no hesitation in saying that they lack none of the virtues of the old but they have added a new virtue to enrich their life, that of public activity and public work. Sir, I come from a community in Sind where most of the women are educated and according to modern ideas they may be considered even fashionable, but when I go to their homes I have marked the pathetic way they love their husbands, their children and their brothers.

An Honourable Member : Why pathetic ?

Acharya J. B. Kripalani : I advisedly use the word because you do not know that this love of theirs is a very inconvenient thing to us menfolk, However much we may try to dominate the home and

make our will prevail, they go round us in such a manner, with such devoted service, with such faithfulness, with such steadfastness, with such patience that I have yet to see husbands in the world who are more henpecked than the Indian husbands. They always stoop to conquer. I have seen these modern ladies highly educated, as educated as ourselves, and I have found that, under their skin they are as ancient as any of their ancient sisters. I think those people who are married to old orthodox ladies and who have seen their devotion, if they were to see the devotion of the new, they will be surprised to see that there has been no change at all; and these women want that certain disabilities of theirs be taken away. It is said that, if women are given inheritance, love between brother and sister will diminish. I do not think that the love of our sisters is made of such flimsy stuff. It has centuries of tradition behind. I have seen sisters slaving away so that their brothers may be educated and find themselves on their feet. I have seen them sacrificing for the family. I come from a community where there is no joint family, where as soon as the son is married, he separates and lives alone, but I know because there is no joint family, there is greater love between the members of the family [*Hear hear*] and it was manifested recently when the Sindhis had to migrate from Sind and come to India. I have seen three or four families living together in one house. If anybody had a house outside, if anybody had settled outside Sind and he was living in India, that house was shared equally with nephews and cousins and in-laws and they bear the trouble of this terrible congestion very cheerfully. Many of them have to spend large sums of money. So this family love which has persisted for centuries is not going to end because there is a little change in the Hindu Law.

As Sir Alladi Krishnaswami Ayyar has told us, this law has always been changing. It is the pride of the Hindu religion that
 12 NOON it has adjusted itself to changing circumstances, It is true to the old, yet it takes as much of the new as it is necessary for the healthy life of the community. Times have changed. If foreign rule had not been here, our Shastras would have changed; our law would have changed. Foreign rule made these laws very rigid, and it is time that we bring in some new life and new light into them, and this Bill is trying to do that. I am sure the Bill would be put into some shape and form in Committee and that there will be no complaints. I am sure that our home life is not going to be disturbed and I am

sure the love and the loyalty of our women is not going to diminish. That their devotion to their menfolk is not going to diminish in any way, and that the future women of India will be both true to their home and to the nation. Sir, I have done.

***Shri Gokulbhai Daulatram Bhatt** (Bombay States): (*English translation of the Hindi speech*) Sir, ever since the Hindu Code Bill has been before the House, it has agitated the minds of the people in India. Dr. Sen claims that the bill has already been before us for the last fifty or sixty years. But, in the books I have gone through in this connection, nowhere, I have been able to find a reference to any earlier existence of this Code. There was however, a Hindu Law, changes wherein have, no doubt, been engaging the attention of the Hindu society from time to time.

It was only after 1939 that we have come to know of this Hindu Code Bill in its present form. There may have been some talk on the occasion. Dr. Deshmukh had brought the Marriage Bill before this very House in 1938.

Dr. P. K. Sen (Bihar : General): May I just explain ? I said that it had been before the legislative anvil for longer than 60 years, i.e. from 1856 or 1855, but that was with reference to the Marriage Law, not at all in respect to other aspects.

Shri Gokulbhai Daulatram Bhatt : I also say that only some of its aspects were before us and before the Hindu society. In fact such issues were not facing the Hindus only, the Parsis and the Muslims were similarly confronted by them. I mean only to give you some glimpses of the history of the manner in which this Hindu Code Bill has been brought before the House and the circumstances under which the Committee called the 'Rau Committee' was set up. I want also to give you an idea as to the time-limit fixed for framing the rules and regulations concerning the social structure of the Hindu society populating over 30 crores as also the methods employed for publicity and elicitation of public opinion or for ascertaining any other reaction. Whether the Hindu Code Bill should be introduced or not, the Hindu society should be integrated or not, or whether or not there should be a synthesis of the various piecemeal legislation of the Hindu Law are not the real issues. I want to draw your attention to the fact that the Rau Committee was set up on January 20, 1944; they

*C.A. (Leg.) D., Vol. VI, Part II, 14th December 1949, pp. 576-85.

undertook the work and got a Draft Bill ready. The public came to know of this Bill on August 5, 1944 when they were given two months thereafter to send in their opinions by October 5, 1944. Sir, I will like to point out also that only 1,000 copies of this Bill were printed by the Government of India for a population of 30 crores. Subsequently 3,000 more copies were printed under pressure of public demand.

Shri Mahavir Tyagi (U. P. : General): Were they printed in English or Hindi?

Shri Gokulbhai Daulatram Bhatt : All the 4,000 copies were printed in English. Thereafter Shri Rau had asked the Provincial Governments to get a translation of the Bill printed and distributed. Despite this translation, to my knowledge not more than 50 to 60 thousands of such copies were distributed in all in a population of 30 crores.

Now I would proceed to speak about the extent of publicity and circulation among people to ascertain their reaction to a Bill of this type which is of so much importance; which aims at integration of the Hindu society, which seeks to introduce a new way of life and which is considered to be a reformatory measure. A time-limit of two months was fixed for this purpose and thereafter the committee undertook a tour of the country. Their tour lasted for 38 days only. They did not visit all the cities and left out all towns and villages. Never did they care to go in the midst of people at any time during this tour nor approach any widow to enquire about the reason for her misery even though she may have continued to share property in accordance with the Dayabagh system of Bengal. They never went to Madras to know why our sisters and daughters were unhappy there in spite of the matriarchal system of sharing property. They did not find out whether widows were in distress in Bengal or Madras only or their fate was the same all over and, if so, what could be the possible reason for such distress. I can't agree to the plea that they are in a miserable state only because they possess no share in the property. This is not the case. Their miseries exist not solely because of having no property whatsoever. Formerly a hitch existed that the women widowed in a young age could not seek worldly enjoyments, there was hardly any justification in refusing an opportunity for second marriage to such widows. Ishwar Chandra Vidya Sagar and Malabari Saheb made efforts in this behalf and though I do not remember it clearly but I think it was in 1856 that a Widow Remarriage Act was

passed and is in force till-date. I would however like to know the number of people who availed its benefits or the nature of happiness and prosperity towards which this Act has contributed. I mean to submit that the mere legislation cannot bring a change in the society or nothing material can result by thrusting something down the people's throats from above. I wish to cite the Parsi Marriage and Divorce Act as an instance. The Act was first enacted in 1865 and Sir Cowasji Jehangir had placed a Bill to amend the original Act before this very House in 1936. I intend to go in history of that very amending Bill. Some friends of the Parsi society felt the necessity for amendment just as we are feeling at present. Kripalaniji is required to support the Bill so that his home may not be in danger. Likewise I have no desire to put mine in danger. Should I also support it for that matter?

Shri Krishna Chandra Sharma (U.P. : General): In this respect all aged men behave alike.

Shri Gokulbhai Daulatram Bhatt : Quite right. I don't wish to reply Sharmaji just now. He may continue to follow his wife everywhere carrying her coat.

Shri Krishna Chandra Sharma : But she never puts on a coat.

Shri Gokulbhai Daulatram Bhatt : My intention in this submission is to explain the course of action adopted by the Parsi friends once they had thought to reform and amend their Bill of 1865. What did they do? They set up a Law Committee from among their Panchayat. And what did this Committee do. It did no such thing as to hammer out an amending Bill, fix two months as time-limit to elicit public opinion and arrive at the decision thereafter. They had with them a questionnaire for four years which among other things wanted to know the number of Parsis who on basis of 1921 Census might be one lakh in all or at the most one and a half lakhs. The report was before them for another four years and it was only after that they had accepted the proposal. The Report was circulated in the Parsi Society again and opinions were invited on the same. These opinions did not come from Bombay. Ahmedabad or Madras people alone. Rather Parsis living in Persia and China, may be only a few of their families may have been there were consulted first on that Report and their desire ascertained. The educated persons and the lawyers always present an issue in a distorted way and people somehow accept their version

of a thing. Being gifted with a powerful faculty of argumentation, they are competent to impress other in the way of their liking. But the Report in question was circulated even among those who possessed no such faculty. Opinions were invited from groups irrespective of their being in a minority and a majority. Thus when everyone was consulted in 1936 the Bill was sent in an amended form. So the issue embodied in this Bill continued to engage their attention from 1923 to 1936 and the same was ultimately passed in an amended form.

I have much respect for Shri Rau. He has laboured very hard and has been of great help in the framing of the Constitution. But I will submit that he has mentioned this fact about consulting only a very few persons in the Report itself and thinks no harm in that. He however, did agree that the society was divided on the issue. Sister Renuka is not present here just now, but I have to say no different thing about her as well. She was speaking on the Marriage Bill in 1943-44. On that occasion she had laid a claim that if a referendum were to be held and all votes to be counted then all the young men of high spirits (Joshila jawans) will be found to have supported that Bill. She had not used the phrase 'joshila jawans'. I am merely elucidating the original phrase viz. 'the youth' used by her. I wish to submit it to my sister along with the other six or eight in this House that if they really think the Bill a very necessary one in the interests of women like our Acharya Kripalani who has come round to see in it the liberation of our women then, please, do not give it a title like the Hindu Code Bill. Name it the Post Independence Civil Rights of Hindu Women Bill or something like that. Thereafter you may proceed to give them as many rights as you please. After all we have always shown reverence and done honour to our women. Our ladies accept their husband's house as their own after marriage. Sister Sucheta has set up a house likewise. Once a woman goes to her husband's house, that house becomes her's also, she can claim her father's house as her own no more. It becomes merely her father's place from the time of her marriage. Her house is the one into which she is married. I need not go into further detail. But our sisters are wrong to think that it is a Bill of theirs only and for them only. Men have a right to it as much as the women do. I don't want to discriminate anyway between them on this score. So no man or woman should take it that the Bill concerns a particular section of the society exclusively. I shall be excused if I take rather a longer time.

So I was telling how sister Renuka had laid a claim for the support of all the enthusiastic young men in case of a referendum. In the Report submitted by Shri Rau in 1947, he said, 'Opinion is sharply divided some to the left, some to the right. Also that those in favour of the Bill were persons of brain and quality whereas the others opposing it were mere idiots, devoid of any brain, possessing no status in life and without any sense to understand the society and its complexities.' May I know who then are those who understand the society and its problems? Does Shri Rau understand it? And does the Dwarka Nath Mitter really not understand it? I have nothing to say about those people. But there is no one who could lay a claim to more work in this field than Malaviyaji, whose birth anniversary we have celebrated only yesterday and acknowledged him as an unequalled cultured man. He, though an orthodox, was always in the fore-front in the matters of reformation of the society and rights of the people. But that very venerable Malaviyaji had not thought it to be a proper way in which the Hindu Code Bill was being ushered in. We may not heed him. You all know Sir Tej Bahadur Sapru quite well. He too was second to none in wisdom or intellect. He had declared himself to be in favour of the Bill, but had agreed that it was not a suitable time to frame a Bill of this type. I go further. Sir Chiman Lall Setalwad enjoyed a status in life not less than any other man and had always taken a leading part towards reformation of the society. He never agreed to codification on principle but expressed himself in favour of giving a share to the widows and daughters without any codification. Surely it is not right to consider all persons to be wise who talk in the same vein as you do and denounced all others as mere fools who cannot share your opinions. I will request my brothers and sisters through this House and Sir, through you, not to consider the Bill in this manner. And, to my Hon. Leader, the Prime Minister, Pandit Jawahar Lal Nehru, who is not present in the House. I would like to say that I should certainly have joined with him—and I am in fact with him—in his efforts to evolve a uniform set of rules for the Hindu society and his desire to assemble the scattered provisions of Law and to form them into a system—a code—but I ask, have the public been, allowed an opportunity of expressing their views. Take the case of the small sized Parsi Community. They kept all their component parts with them, ascertained the opinion of each one of them separately and it was then only that the Bill was brought forward. Then only did they succeed for otherwise they could not have achieved

their purpose. A bill to amend the Civil Marriage Act was brought forward in 1921 with the same object as now. Why are you going to frame a Hindu code, why not frame an Indian code ? All the people live in the same country—India; they ought to have similar ways and customs. When we have decided on one common language there should also be one common code for all the people of India so that this might lead to unity and result in a united India. I want to tell you about that period. The Christians and the Muslims raised such an opposition that Dr. Gaur had to say : ‘It aroused convulsive opposition from the Mohammedan and Parsi communities throughout India. I had no other go but to drop the Bill and bring a new bill in 1923.’

And he had taken that course. The Hindu society is not treated with any regard. No consideration is shown to a community which comprises such vast numbers. No consideration is shown to the counsel of Malaviyaji, leave alone Pattabhi sahib, Sir Alladi and Lakshmi Kanta Maitra. What they say is of no importance. Let alone others, here is the case of Rajendra Babu who is known as Ajatshatru. He is a living treasure-house of wisdom and intelligence and is the ornament of this country. Who has put the ideas of Gandhiji into practice and who could explain them not only to this country but also to the rest of the world. He says, ‘This is not the opportune time’. There are many things in it which are controversial. Please sift them out and do not touch upon them. But, what to do? Our leaders say, ‘No, this has to be expedited.’ Then, let them expedite it but they should at least see to it that the views and assent of all the people are obtained. There is one advantage in particular seized by Dr. Ambedkar, I will tell you what that advantage was. When this Bill was introduced in 1948 we all sat together and decided that nobody should make a speech on it for the present. Neither Dr. Ambedkar nor anyone else said anything in particular. At that time it was thought that if the Bill was just introduced this was likely to cause satisfaction to our sisters and to others who are reformists, who want unification and codification and to those who are rational. So it was agreed to let them have that satisfaction. Taking advantage of this, however, Dr. Ambedkar thought that it had been conceded by the people generally that the Bill was all right. No sir, we did not study some of its clauses some of its provisions. But, since our leaders said, ‘Let it move forward a bit’, we said ‘Very well, take it forward. Bring it in the Bazaar’. Thus

it has come into the Bazaar, it has been paraded in procession and here we are seeing it. I should like to say that if all the debate of ours had taken place before the Bill was sent to the Select Committee, it would have done a lot of good to Dr. Ambedkar and our friends of the Select Committee. They would have come to know what shape should he given to the various things. Now, we are faced with a sort of conundrum. Our confusion lies in this that if we say that it should again be sent to the Select Committee, it is not known to what a labyrinth of rules and procedure we might be landing ourselves. If, on the other hand, we say that we should hold it up for the present there is another sword hanging over our heads. Now, what are we to do? We are in a pretty fix and it is for our leaders and Providence to take us out of it.

I was saying that we were not called for to introduce this measure at this particular juncture because we have not yet obtained the views of the Hindu society. Whatever Hindu society has been consulted belongs to the towns. And how many people were consulted ? There are 121 individuals and 102 institutions who have filed written statements or given evidence. Now, shall we say this is the opinion of the Hindu society ? In case you want to know the opinion expressed by Mr. Mitter, and that too in regard to each part separately I am prepared to speak to you about it. Opposition has been offered to it every where barring Madras. Those belonging to the Dayabhaga School opposed it in Bengal. There is opposition from the Bombay side. Because of this antagonism and other causes it has come to face opposition. If, in spite of this opposition we were to say, 'No', what the minority say is along the truth and you will have to accept it. it is rather hard. The Hindu society should be unified. This should certainly be done on the basis of a system. How can I say the women, our sisters, should be given no share? But let our sisters themselves be asked to say if, after they have received their share, they would still have any love left for their parental home. How much love would be still left? Just ask one of the reformed women of to-day where her father lives, where her brother lives. They keep to their own cottage, homestead or mansion and do not so much as greet a relative. Such are the reformed people of to-day. Hence if it comes to shares what will become of us? However what I wanted to say was that in spite of all these objections we are faced with the minority issue. Even though the view of everyone have not been obtained we are being

treated to that kind of pressure. We are urged to accept it under duress. They fail to see, however, what complications are bound to arise later on.

Hence, I want to say, kindly find out a middle course. Only a middle course would give satisfaction to us and to society and cause the unrest to subside. Just as Pataskarji observed to day we are already up against a number of difficulties. Why create another big one at this juncture? Why plant another thorny bush and thereby spoil the path rendering extra labour necessary later on for its clearance? Why should you act in that manner? Kindly attend to some other task and let this one be postponed for a year or two. I should like to suggest to my sister—veritable goddesses as they are—to those of them who have welcomed this measure that in the interests of the country, they should take upon themselves to go to our Jawaharlalji and appeal to him that this means my be held up for one or two years. This would help in many ways. But as it is, their line of thought is that if this Bill is not passed now or at any rate in 1950, it may never be passed, because those who come hereafter would not allow it to be passed. But let me tell you that even if you pass it to day you should know what is going to happen later on. Such a type of people will come in to fill these seats who will say, ‘As our very first duty let us set right this Hindu code that has been enacted’. Hence, I beg you kindly to prevent this if you can. If however, you cannot do that then, my advice is : ‘Not to the left, not to the right, come in the middle; find out the golden mean. This alone can satisfy the community.

Secondly, I wish to refer to what Dr. Ambedkar said in reply to a point of order raised by Mr. Sarwate to which, Mr. Deputy-Speaker, you also added your support, viz., that this Bill is going to be applicable to the provinces only and that if it is sought to be made applicable to the States it will be sent to them, it will be circulated, before it is decided what is to be done about it. Dr. Ambedkar made the following observation :

“When the occasion comes for the extension of the bill to the Indian states, no doubt this Legislature, when a proper motion is placed before it, or the Government of the day will take note of their wishes and intentions and the States which have come into the Indian Union will be consulted.”

If this is the position then what is passed to-day will be sent to the States after six months and by the time the states enforce it you will have gone still further ahead. The States’ people who are already somewhat backward, will be left even further behind. You should

therefore, kindly keep that point in view and see what can be done about it.

I may be permitted to say that the mode of obtaining public opinion was not perfect. I have already said that. It took us two and a half to three years to frame our Constitution and even though we have proceeded with the utmost caution, there are so many people who say it is no good. We consulted the Provincial Governments, supplied them copies of the Draft constitution and it was discussed there in their legislative assemblies and cabinets before they sent us their views. As you know, the Rau Committee never sent their draft report to any provincial Government. This is how it has come up. Hence, I wish to point out that the opinion was not taken fully and properly. The basis of your claim is also not sound. I am in no doubt on that score. Renuka Bahan remarked, ' Half of the country will be with it, but the report of the Rau Committee says Says.' ' The society is very much divided.' In view of this whom should I rely upon? Should I rely upon those who gave their report in 1947 after investigation or upon Renuka Bahan's statement of 1944?

Mr. Deputy Speaker : Several other Members have yet to speak. Kindly conclude it.

Shri Gokulbhai Daulatram Bhatt : I shall be closing in five or seven minutes. I should say a few things more if you permit.

Mr. Deputy Speaker : Just as you please. You have taken thirty minutes already.

Shri Gokulbhai Daulatram Bhatt : I shall speak just a little more and then close very soon. I must say that it is the Hindu Community alone which would quietly take whatever blows you might give it. Look at the Muslim community. Did anyone have the courage to draw up a code for them? Why not unite the *Shia* and *Sunni* schools of thought? Could you just dare meddle with the law of the Christians ? Or could you dare tackle the Parsis? This poor community alone must stand every thing. Is it because you think it is dead? Dr. Ambedkar say he belongs to the *Shudra* caste. I hold him very high. Someone gives him the title of Muni (saint), another raises him to the rank of Rishi (sage) whereas he himself says he is a Shudra. Then let him be Vishwamitra. Whatever you are, but, of course, you are a wise man. Why nurse that inferiority complex? He says, '*Smritis*' continued to be prepared. The Brahmans went on writing. What else had they to do after all? What is the work being done by your department?

That was exactly what the writers of *Smritis* did. It was a department which amended laws and rules from time to time. Just as you prepare and put up amendments to laws they did likewise. I however do not wish to go into this question, Nor do I wish to go into other extraneous matters. Our sisters say this thing has come to be included in the fundamental right and that those who are opposing it have not been able to comprehend the fundamental rights. "You do not understand the fundamental rights," they say. Does it form the fundamental right or even state law? Does the Hindu Code constitute State law or is it personal and private law? If you were to bring forward a bill in regard to an Indian Code, I could say with authority nobody would oppose it, but to-day you are out to frame a Hindu Code and to make a change in the Hindu Law. But personal law is not State law and therefore it does not apply. Gaur had remarked, ' it will only be *Avtar* who might come someday and bring forth this Code.' Shri Gaur is perhaps sitting in Nagpur now and he must have been gratified to learn that the *Avtar* has manifested himself at last and that the Hindu Code Bill has arrived.

Shri Mahavir Tyagi : Disgraced persons.

Shri Gokulbhai Daulatram Bhatt : Saying a few words more I wish to conclude my speech in a short time. It is said that brothers and sisters should be equally treated. Shri Kripalani has left, why would he hear what the others say? So I wish to say why this double right should be given to the sisters. She will take her *stridhana* from her father's place, will take all the dowry given to her by her father, will take her personal share and apart from this all her share in the husband's property is still there. Then how the sisters have become so selfish? The women are themselves prosperity incarnate, why do they want more of this wordly wealth? Shrimati Kamala Chaudhuri has given out that without doubt wealth and prosperity will automatically flow back to the wealthy and prosperous. Women are themselves wealth and prosperity incarnate, why do they want to add to their prosperity ? With the slight illusion and fascination they still possess they have been able to capture and subdue the whole world, if the illusion and fascination would increase then nobody can foretell what would not come to happen. If the wealth (*maya*) will undoubtedly flow back to the wealthy then subsist Nature and Nature only in this world and exclude Man therefrom. If by this exclusion of Man the *maya* is able to subsist, then do accordingly.

Our friends from Travancore and Cochin are far advanced but they should also keep in mind that a solitary swallow will not make summer. They should make the villagers also pace with them and if they also are to be taken along then kindly give this Bill more publicity and explain it to them the various implications and then the purpose will surely be achieved. There is not the least doubt about this fact. At places it is being said that by passing this Bill a reversed state of affairs is being created, and to some extent this allegation is right also. Let the water trickle down its natural course and if by spurning the minority view point here you would reverse the state of affairs then today you may be able to do so; but in future a time will come when such drastic changes would be made therein that would stun you speechless. The inevitable must come to pass. I do not like to go in details.

I wish to say one thing more that our *Smritikar* (law giver) *Yagnyavalkya* has gone a step ahead of *Manusmriti*. Even I do not want to enter into the controversy as to which of the *Manus* has been the author of this *Manusmriti* because there have been a number of *Manus*. But Shri Vigyaneshwar, the famous annotator of Yagyavalkya *Smriti*, who has written the *Mitakshara* annotation and the annotators who have written *Dayabhag* and *Mayukh* annotations have propounded different and distinct opinions. I do not want to quote all the illustrations. But they have laid down that if a woman be not given her *stridhan* then she also should get a share in the property equal to that of the son. This has expressly been mentioned. I wish to say with all the emphasis at my command that in our *Smritis* a mention is made of *stridhan*. The people of England have not yet codified their law. I wish to inform you that according to the English Book of Prayers the prohibited degrees of relationship for marriage were determined in 1565 A. D. The same continued to be in force till 1915 A. D. and in 1915 A. D. only one alteration was made in the prohibited degrees of relationship viz., till now a marriage could not be consummated with the wife's sister. So I wish to say that we have stepped far ahead as compared to this. There they took so many years to change one degree of prohibited relationship but here according to the Civil Marriage Act the people have been permitted to enter into matrimonial alliance with the second cousins also. Those who like many take recourse of Civil Marriage, but why you want to impose the same restriction on all others. The Civil marriage Act provides for marriages

with second cousins. Those who wish to adopt the system may follow it. While framing this Bill we should keep in mind the Principle of Eugenics also. It is wrong to consider that our *Smritikars* (annotators) have mentioned nothing at random. Our *Smritikars* were past-masters of the Science of Eugenics. They were not common people. They were highly learned and well informed persons. Whatever doctrines they laid down were perfect in all respects and were propounded after mature consideration. Their decrees were so perfect that it was not at all deemed essential to effect any changes in them say after 6, 8, 10 or 12 months. Our *Smritikars* were very wise and intelligent. Deep meditation of hundreds of years is essential to suggest any changes in what they have written. Undoubtedly you may make suitable amendments there in, because from time to time suitable amendments have been made in these *Smrities*. But we must consider this fully well whether by introducing these changes the society will be benefitted or put to loss.

Shri H. V. Kamath (C. P. and Berar : General): Are the Hon. Members of this House not intelligent?

Mr. Deputy Speaker : Please go on.

Shri Gokulbhai Daulatram Bhatt : I am not so intelligent and learned as Shri Kamath is. I do not allege that the Hon. Members here do not possess intelligence. Everybody has got his own intelligence. Everybody can think. But I say that I will not accept lying down all that Dr. Ambedkar says in a manner that great men have great views. Similarly if any Pandit (scholar) were to come and say that whatever has been done for the untouchables is not at all justified, then also I will not take his word for granted because I do not believe in the maxim that great men have great views. But I was submitting that whatever our *Smritikars* have done, have done after fully taking into consideration the future of the society. It is quite true that these *Smrities* were codified according to the then needs of the society. Today our society consists of numerous castes and sub-castes, the people belong to different sects, they believe in various doctrines, there are Sikhs, Jains, Buddhists and followers of other schools of thought and so on. They are divided up into numerous religious sects. It is not an easy task to inter-blend them in a single system.

Sir, I will now take only a little more time. I had just stated that the honourable Dr. Ambedkar said, "Custom will eat into the code

and therefore custom should not prevail” On the other hand he says that the law governing the succession rights of Rulers and jagirdars, which should not be there, should continue; and when there is a question of usages and customary rights, he says that this should not be there.

There is the point of succession. Another point is that of adoption where he says that customs and usages should not be allowed to continue. Both these things are untenable. You had better put an end to it, make it uniform or abolish it outright. Sir, I would again bring it to your notice that petty conferences are being held at other places on account of which I am feeling some difficulty in speaking.

An Honourable Member : He is repeating the same arguments.

The Honourable Dr. B. R. Ambedkar (Minister of Law): It is now one hour since the gentleman has been speaking.

Mr. Deputy Speaker : Order, order. The best way of asking him not to speak longer is not to make noise but to leave him alone so that I may ask him to complete his speech early. The Hon. Member knows that many other Members are anxious to speak. He has already taken more than 45 minutes.

Shri Gokulbhai Daulatram Bhatt : Shri I am indebted to you. So I was telling you that on the one hand you say that the custom is no problem, these customs and usages should continue; on the other, if this is acted upon it would tantamount to kill the Hindu Code. I do not want both these things. You ask as to grow more food. If we have to grow foodgrains in all the land in our possession, be it a garden or beautiful lawns, we must cultivate all these lands. On the one land; you want that your lawns should also remain intact, and on the other, you desire that more foodgrains should be grown. Such a course does not appeal to me.

You know what is custom ? We should understand family customs, village customs and national customs—‘*Shastrad ruri balysi*’ (Custom overrides the sacred laws). What is the meaning of *Shastral*? By referring to shastras again and again you people would be thinking that I am raving like a maniac. The *Shashtra* is a science, a treatise and a law. That is a Smriti. After this you will not like to appreciate any such thing. So he will not like to involve himself in any such controversy which the divorce problem has created. A man and a woman sit in a *Panchayat* and say that they want to get rid of one another. They say that they have enjoyed the pleasures of the world and want to go to some other place. They will not involve themselves

in such a botheration of having a recourse to the District Court or High Court for this purpose. If they behave in such a manner the reverse will be the case.

When I go to the village, I will tell the people that the Hindu Code Bill has been framed in such a manner and it contains a provision of such like matters. Those people will then say that they do not want this in such a form. The existing village Panchayats are quite good and these should be allowed to carry on as they are doing at present and they do not want to involve themselves in such complications of law which will enable the lawyers to thrive and the poor to become poorer. With your blessings, all these things abundantly exist in the Hindu law.

Sir I was just saying what is likely to be the net result of all such things. I cannot touch here every aspect because I have not got sufficient time at my disposal that I should refer to all such things, as many of my brethren are desirous of speaking on it.

So Sir, I was just going to say that this is a question of vital importance. I would advise my honourable friends sitting here who have expressed their opinion in favour of its being passed to consider it once again more carefully. This is not the time for hasty action. You are liable to be called to account by the people for your doing of it. With all due respects, I would also like to request our esteemed leader the honourable Pandit Jawaharlal Nehru that this question which has been brought up before us is so vital and of such a fundamental importance that we should necessarily consider over it most carefully. All the more necessary that the public opinion should be elicited in this matter. My honourable sister Shrimati Renuka Ray had referred to a referendum. In this connection I would like to say that as the elections are likely to be held in the near future, you can at that time elicit the opinion of the masses whether or not they want the Hindu Code. You can place it before the public that we are framing a Hindu Code Bill of this nature and whether or not they like it. If you are able to enlist the opinion of the people on this issue, then you are at full liberty to pass it in this House. This should be agreed upon as the basis of referendum. I am not a man to be swayed over by the newspaper reports. The newspapers are given to the publication of exaggerated versions of such matters simply to promote their circulation. I have got no personal grudge against the newspaper men. I cherish solicitude for them and have every sympathy with them. But so far as the question of holding a referendum is concerned,