

Sir, I should like to put another point of view. What is the approach that this Bill makes towards the problem? The approach is that inequality exists in the Hindu society between man and woman. I should very respectfully submit that this conception of inequality between man and woman is a biblical conception. The Hindu conception is that of *Ardhanareeswara*, that is of man and woman being equal. That is our conception, Sir, that is the basic Hindu conception. I do not say that it has been entirely translated into practice and I do not make that claim, but that is the basic conception of Hinduism. The conception is not one of inequality, but it is one of dissimilarity. If man represents strength woman represents endurance; if man represents intellect woman represents enlightenment; if man represents grammar, woman represents poetry. The great poet Kalidasa has described Parvati and Parameshwara as word and meaning and that is the basic approach. You do a basic wrong when you approach this question from the point of inequality between man and woman.

Again Sir, I should like to point out that the present atmosphere is not a free atmosphere because we have never examined our institutions as an independent nation, especially on this subject. It is not Yagnavalkya or Manu that is so much current as the British courts and we have never had an opportunity to examine our Indian institutions with a dispassionate and an unbiased open mind. Always the bias of western ideas and western notions had been there. Though our political slavery have been removed, still the spell of western civilization and ideas continues. So, it is better if some time elapses and we may be able to view and examine both the good and bad points in our institutions in an independent way, in a fresh way and that will give us an opportunity to mend this Bill and even improve.

Sir, another reason behind this Bill is a sense of injustice done by man to woman. I do not want to repeat all the things that have been said before, both in humour and seriousness, but, Sir, I can claim that there has been no injustice done to woman by man. I should like to say that it is only a mental aberration of high strung natures due to unattached circumstances which enable one to do anything except lead a normal life. That is how I would put it. In this land nothing has been done by man to wrong woman. I should like to examine some of the arguments put forward by the other side. Sir, I find a growing practice among the occupants of the Treasury Benches.

When a bill is generally debated, they say some people have opposed and others have supported and hence this Bill represents the largest common measure of agreement. That is a very easy way of disposing—and I do not think the learned Minister in charge of this Bill will do it and I have no doubt about it. It is not the largest common measure, but the least common measure, I would say.

Then, Sir, it is said that opposition to this bill is based on prejudice and sentiment and not on reason. I should like to point out that support is also based on the same blindness, on the same prejudice and on the same unreason. It is not as if support is enlightened and only opposition is ignorant.

Again, Sir, it is said in support of this measure that this is only an enabling and permissive measure. It was said in another place that the orthodox can go on in the old way without interference and the reformers also may go their own way or it permits such of those who want to take advantage of the provisions of the Bill to tread their path and leave others entirely free to pursue their own path. I think Dr. Ambedkar said it. Sir, this is like enacting a general law of licence and saying that such of those who want to take advantage of it can do so. The plea that it is only a permissive and a enabling measure, in my opinion cannot hold water. Then it is said that there has been opposition in the past to Bills of similar nature like the Sarda Act. This stands on an entirely different footing. There is difference between that Act and this Bill.

Dr. Tek Chand was saying that this Bill has been before the country for a very long time and so we need not wait any more. It is true that the Bill has been before the country for a number of years. But then the Congress was not in office and so nobody took it seriously. As soon as the Congress came into office and Dr. Ambedkar piloted this Bill as a Minister of the Congress Party, then everybody took it seriously, and they now know that it will be put into force, and that is why, I say, the people should be given an opportunity to examine this Bill. There is difference between the position that it occupied so far and the position that it occupies now.

Sir, It is also said that many women who are opposed to this Bill, do so under the influence of their men-folk. This, I think, is an unfounded charge. May I ask whether the women who support this Bill are displeased with their husbands ? Or, may I ask whether the man who supports this Bill do so under the influence of their womenfolk ? It is no use putting forth such frivolous arguments.

Shri B. Das : There is nobody here to answer these questions.

Shrimati G. Durgabai : Can you say that they are pleased with their husbands when they marry again and again ?

Shri O. V. Alagesan : I am coming to that Madam, please have a little patience.

Shrimati G. Durgabai : Please answer that question first.

Shri O. V. Alagesan : Yes, I will, in my own time and in my own way.

Pandit Govind Malaviya : May I know till what time we intend sitting ?

Some Honourable Members : Six o'clock.

Some Honourable Members : Seven o'clock.

Mr. Deputy Speaker : I am finding the House getting thinner, and thinner, and when it is quite thin I will get up.

Sjt. Rohini Kumar Chaudhari : Let us rise for tea, now Sir.

Mr. Deputy Speaker : No, the hon. Member will finish soon.

Shri O. V. Alagesan : Sir, the justification for a measure of this kind can be two-fold. There should be a conscious demand from the public for such a measure; or a few people, who have set their hearts upon a measure of reform, may think that it is good for the entire community, while the community may not be conscious of the goodness of it. Then it is the duty of those, who think that such a measure of reform is beneficial to the whole community, to go and educate the people about the soundness of their stand. I only plead that the people who bring forward this measure and who believe that this is a measure beneficial to Hindu society, that they should go and educate the people. I do not want anything more from the protagonists of this Bill.

Shrimati G. Durgabai : They have done it.

Shri O. V. Alagesan : My sister here says that they have done it already, but I should like to point out that the claim made by these reformer friends, this microscopic minority, that may speak on behalf of the majority of the Hindus, is the tallest claim ever made. They should have patience, and as I have pointed out earlier, they should educate the people about the goodness of this Bill, and not rush it through to have some satisfaction.

Another important thing I wish to point out is this. If this Bill is rushed and passed into an Act, then portions of it will remain a dead letter just as the Widow Remarriage Act has remained a dead letter

though enacted a century ago. So if you do not want it to remain a dead letter, but that it should be taken advantage of by the members of the community then it is better to wait and educate the people.

Now I would like to pass on to a few of the important observations made by Dr. Ambedkar. This Bill seems to be a Law of Exceptions. Dr. Ambedkar said that the coparcenary system allows ten categories of property to remain outside the purview of the coparcenary. They form private property. So he says, because it has granted so many exceptions, let it, once and for all, go. That is one of the points that he has made. And then he says, woman has absolute right to *Stridhana* and so let it be so for all property. And also that this coparcenary system has the seeds of disruption in itself, and so let the joint family go. I would ask him ; he has just now passed the Constitution and the various provisions in the Constitution, as you know, are riddled with provisos and exceptions. For that reason, are we to make the exceptions into the main articles? When you look into the pleadings, it looks as if one has to make the exceptions into the main law.

Then again, Sir, this Bill about which my sisters are so enamoured.....

Shrimati G. Durgabai : Brothers also.

Shri O. V. Alagesan : This Bill does not in my opinion deserve it. Monogamy has been praised by one and all. It is not such a new institution. Women have been having monogamy in this land, but were there divorces provided? As soon as men are brought, within this law of monogamy there is demand for provision for divorce. As long as woman was under monogamy, there was no provision for divorce, but now they say divorce is the natural corollary of monogamy. Why are my sisters so very enthusiastic about it ? What is the meaning of it? If divorce is the natural corollary of monogamy, how is it that this natural corollary did not come into existence so far?

Mr. Deputy Speaker : How long further will the hon. Member go on?

Shri O. V. Alagesan : Only ten more minutes, but I shall try to cut short. So I say it is not a very pleasant thing to be given the right to divorce. I do not want to read out extracts, but many women have pointed out that this divorce would work greater havoc for women than for men.

Shri A. Thanu Pillai : Is the hon. Member advocating monogamy without divorce?

Shri O. V. Alagesan : I want monogamy without provision for divorce. Sir, what this bill gives with one hand it takes away by the other.

Dr. Ambedkar, in justifying the provision for divorce, has enumerated the difficulties that the women who are deserted by their husbands nowadays are made to undergo. All these difficulties the divorced women will have to undergo. The prospect for the divorced woman is as bleak as the prospect is today for the deserted woman. It is easier for the divorced man to marry again and it will not be as easy for the divorced woman.

Dr. P. Subbarayan (Madras : General): So you want a double standard.

Shri O. V. Alagesan : I want my sisters to make note of it and beware of the pit to which it leads them.

Even on other grounds I would very seriously object to the provision of divorce. What is the experience of other countries? This has been touched on by other speakers and I do not want to enlarge on it. Recently we were told that the number of divorced cases in Paris alone increased from 600 to 1200, which is only 100 per cent increase.

An Honourable Member : There is no Paris in India .

Shri O. V. Alagesan : I am glad there is no Paris in India just now but I am afraid the Bill tries to usher in Paris in India.

Shri L. Krishnaswami Bharathi : Baroda is there and Malabar is there.

Shri O. V. Alagesan : In one of the most advanced countries in the world, Soviet Russia, the family as an institution is breaking up. Soviet Russia is hard put to resuscitating the family as an institution, having allowed easy divorce. They now want to inculcate the sacredness of the family as an institution and infuse communist morality into their citizens. They are trying hard to save this institution which they have lost by lightly introducing divorce in their land. One had only to write a postcard to the Registrar saying that he is divorcing his wife and he had his divorce. I understand that they have now made their divorce laws more difficult. There is an example before us.

Shri L. Krishnaswami Bharathi : What about Malabar? Why go to Russia and Paris?

Shri O. V. Alagesan : There they have tried this method and found it dangerous. Why put ourselves in the same situation and again try to remove it ? Our Indian homes today are poor, steeped in ignorance

and ill-health, but it cannot be said that our homes are broken ones. In other countries they may be rich, healthy and very enlightened but one is sorry to note that many of the homes in other countries are broken ones and that is entirely due to the license given in their divorce provisions. That is my opinion.

Such an eminent person like Dr. Tek Chand said that the joint Hindu family should be kept and wife be made a coparcener in the family. I should like to say that the real economic independence of women would come not by giving a share to the daughter, to which I have no objection, but by giving her an equal share in the husband's property. That is how she will attain her economic independence. It is not by taking a share from the father's property. After all the daughter is a trust to be given away to the son-in-law. The father keeps the girl as a trust and it is therefore better and more proper that she is made a joint owner or equal sharer in the husband's property rather than made to claim a share in the father's property. She may claim a share in the father's property if she remains unmarried.

I do not want to dilate further but I should like to end on this note. The chief man who conceived the Code (though a gentleman found it difficult to conceive yesterday) was Mr. B. N. Rau and we may be sure that he is very anxious about this Bill. He would want to see all his proposals, though in a modified form to be put into effect as early as possible and I should like to read his opinion, which has also been the opinion of the Hindu Law Committee.....

Shrimati G. Durgabai : There was a select committee to consider those proposals; not he alone.

Shri O. V. Alagesan : The Hindu Law Committee has stated as follows :

“The aim should be as far as possible to arrive at agreed solutions and to avoid anything likely to arouse acrimonious controversy. This need not mean any real slowing down of the pace of reform, for true reform proceeds by persuasion rather than coercion.”

Sir, I have done.

The Assembly then adjourned till a Quarter to Eleven of the Clock on Thursday, the 15th December, 1949.

* HINDU CODE—*contd*

Mr. Speaker : The motion that the House was considering was:

“That the Bill to amend and codify certain branches of the Hindu Law, as reported by the Select Committee, be taken into consideration.”

* **The Honourable Shri Jawaharlal Nehru** (Prime Minister) : Sir I crave your leave and the indulgence of the House to make a statement in regard to the Hindu code Bill and I trust that the Statement I make will meet the approval of the House.

When at the commencement of this Session, I referred in the course of my remarks to the Hindu Code Bill, I said that Government attached a great deal of importance to this measure and they hoped that this consideration stage would be passed during this session. At the same time Government were very well aware that there was a variety of opinion on this subject and a large number of people were interested in the provisions of this Bill. And, therefore, I had suggested then that we propose to follow a course which we hoped would lead to a broadbased agreement in regard to a number of controversial clauses in the Bill. I should like now to amplify that statement and to make clear the policy of Government in regard to this matter. We have had fairly prolonged debate on this Bill, not only in this session but in previous sessions. We had set aside two days on this occasion and as the House knows, those days have been prolonged on two occasions. Government had no desire and have no desire to restrict debate on an important measure of this kind and in spite of the fact that we have been very hard pressed for time—and we have very important legislative measures awaiting disposal during this session—we extended the debate on two occasions and indeed to day was also fixed for it.

While we have no such desire to restrict this debate, naturally Government is hard put to it to find more and more time, still we are prepared to find more time because of the importance of the measure and the desire of some Members of the House. But there was another aspect to this question and that was this; that if we are going to consider this matter in a spirit of trying to find an agreement as far as possible, in regard to controversial clauses, if, as I said we are going to proceed on the lines I indicated right at the commencement, then it is desirable for us at this stage to carry on this debate and

* C.A. (Leg.) D., Vol. VII, Part II, 19th December 1949, pp. 783-85.

perhaps produce an atmosphere, or help in producing an atmosphere, which does not lead easily to that kind of settlement? That was an important consideration which Government had in mind. Right at the commencement, as I have reminded the House, we had that in view. It was no intention of the government to proceed with this merely by virtue of a majority and complete acceptance of every clause of this Bill although there might be considerable variety of opinion in regard to it. The position of Government, so far as this bill is concerned is this. We stand committed to the broad approach of the Bill as a whole. We are prepared, however to consider every clause in a spirit of accommodation. Naturally, Government have put forward this measure as it is because they believe in it. But in such matters they desire to have as large a measure of support as possible. Now there is a distinction between that and this general consideration at this stage which is going on, and which they feel has been debated quite considerably, and a large number of Members of the House have participated in this debate. They attach importance to the conclusion of that stage of the debate so that they may take up the next stage of consideration, that informal consideration, as soon as possible. Now that informal consideration cannot effectively take place in that way until this first stage is ended. Otherwise we remain in mid-air, and we cannot get on to that next stage. So our proposal now is, and I venture to place it before the House, that we conclude this debate, on this consideration motion as early as possible. I would not mind government giving more time, even at the expense of other legislative measures; but I would submit to the House that if the general proposal to have this informal discussion is agreeable to the House, then it is desirable to go to that stage and not to vitiate the atmosphere by acrimonious debate any more at this stage.

When I talk about informal consultations, I should like to make clear what I mean. I say 'informal', not that I do not consider it important, but because I wish to give a measure of flexibility to that discussion so that my hon. colleague the law Minister, who has shouldered the burden of this Bill, and who I trust will gladly accept and give effect to the proposals that I have made, so that he can consult not only the Members of the Select Committee, but other Members of this House who are interested and may even consult others outside this House. Now, that would be difficult if a certain rigid procedure was adopted, and also when you adopt a formal and rigid procedure, it becomes a little more difficult for that attitude of free and easy

discussion, and give and take which might prevail more easily if the procedure were more flexible and informal. Therefore, I make this proposal to the House and I do submit that in this matter, having considered all the discussions and debate that we have gone through, this is a reasonable proposal which should meet with the approval of all sections of the House because it is an attempt, a real attempt on the part of the Government to carry some thing through this House and through the country with the largest measure of support. That does not mean that in any matter over which we may disagree violently we give up our opinions or surrender to anyone else's judgment. No one expects any Member of this House to do that if he believes in something. But it is the essence of democratic procedure for us to debate and consider and try to convince each other and try to meet each others points, but somethings giving up sometime so as to arrive at a decision which can be enforced with the largest measure of consent that is the procedure. I would submit to the House, that we should follow in this important measure also.

I do not wish the house to think in the slightest degree that we consider that this Hindu Code Bill is not of importance, because we do attach the greatest importance to it, as I said, not because of any particular clause or anything, but because of the basic approach to this vast problem in this country which is intimately allied to other problems, economic and social. We have achieved political freedom in this country, political independence. That is a stage in the journey and there are other stages, economic, social and others, and if society is to advance, there must be this integrated advance on all fronts. One advance on one front and being kept back on other fronts means functioning imperfectly, and also means that the first advance also is in danger. Therefore, we have to consider this matter in this spirit, how we should advance on all fronts, always keeping in view, of course, that the advance is co-ordinated and meets with the approval of the great majority of the population. I say this because, after all, we function as a democratic assembly answerable to the people of India, and we must carry them with us. Keeping that in view it is not good enough for us and for this House merely to be led. We have to lead and we have to give the lead, and in giving that lead we have to carry others with us, and we propose to give the lead in this and in other matters, but always carrying others with us.

This, therefore, is the procedure that I have detailed, that is to say, that we may put an end to the present stage of consideration of this motion by adopting it, and then the House may permit Government to take those informal steps which I have indicated in regard to consultation about the various parts and clauses. That might be undertaken so that when the matter comes up again, as I hope, at the next session, it may have the support of a very great majority in this House and outside.

***The Honourable Shri Satyanarayan Sinha** (Minister of State for Parliamentary Affairs) : Sir, I move:

“That the question be now put.”

Mr. Naziruddin Ahmad (West Bengal : Muslim): May I ask for a clarification ?

Mr. Speaker : I do not think we need take any more time now, specially in view of the very frank statement made by the hon. the Leader of the House just now. I may remind hon. Members that this stage of the motion has been debated for full nine days and to-day is the tenth day. Thirty three speakers have taken part in it and we have devoted thirty hours and twenty eight minutes. I think the time devoted is sufficient and.....

An Honourable Member : May I know.....

Mr. Speaker : I am not bound to give any reasons when I accept a closure, but I think I should also explain what I feel about it. I am convinced from the statement just now made by the hon. the Prime Minister that everybody inside the House and outside the House is going to have a full chance of having a say with respect to the various provisions of the Bill. The present stage is the stage of general consideration and we are not discussing any particular clause of any particular item. It is possible that people may differ about details and yet so far as the generality of the Bill is concerned, there might be a great measure of agreement. If we were to continue our discussion at this stage, I am afraid our discussion is bound to be very vague, general and rambling; perhaps it will consist of repetitions also. The more important stage, therefore, is the clause by clause consideration of the Bill and before that stage comes, hon. Members will have every opportunity of considering all questions and discussing them with the Government and also other people outside the House.

* C.A. (Leg.) D., Vol. VII, Part II, 19th December 1949, pp. 785-87.

Therefore, I think that proceeding with the further consideration of the Bill will mean practically a waste of time. I am therefore inclined to accept this closure and I would then call the Hon. Minister of Law to speak.

Sjt. Rohini Kumar Chaudhari (Assam : General): I would like to make a statement.

Mr. Speaker : What statement is the hon. Member going to make? If I permit the hon. Member to make a statement, everybody will feel entitled to make a statement. The hon. Member will please resume his seat.

Shri Mahavir Tyagi (U. P. : General): I want to have an interpretation from you, Sir whether, after this motion is adopted at this stage, would it mean that the House would be committed to the principles of all the clauses of the Bill?

Mr. Speaker : I will clarify the position. In fact, when the House accepted the motion for reference to Select Committee, it accepted the principle of the Bill. Now, in a Bill of this type, it is very difficult to decide what the principle is, because every clause may be made into a principle. I may make the position clear. Looking to the extent of the provisions of this Bill—its wide extent—it is clear that the only principle accepted by the House is that it is desirable to codify the Hindu Law and every provision of the Bill is open for discussion, alteration, change and all that sort of thing.

Shri Mahavir Tyagi : Then we have no objection Sir.

Sjt. Rohini Kumar Chaudhari : I want to make a suggestion to the House on this motion. Closure may be moved and accepted. I have no objection to that. I do not want any further discussion on that subject. As a matter of fact, in order to create an atmosphere of compromise, I have myself not spoken in opposition to it. What I want to suggest is that this motion may not be put to the vote now. We want to convince the opposition outside that a practical gain has been made by the announcement of the hon. the Prime Minister.

Mr. Speaker : I think that after the statement of the hon. the Leader of the House as regards the procedure and what I have said as regards what is going to be binding and what is not going to be binding, there remains no doubt as to the effect of carrying this consideration motion. In fact, it is not desirable to keep that point open so that when the consideration is again taken up, there may be further discussions and further inducements to speeches. I will therefore put the motion to the House.

Dr. P. S. Deshmukh (C. P. and Berar : General) : On a point of order, Sir. We have all heard the excellent suggestion made by the hon. the Prime Minister and there is no doubt that the House is likely to accept it. My point of order is that the question before the House is a motion for consideration. The suggestion now made really means referring the Bill back to the Select Committee.

Some Honourable Members : No, no.

Dr. P. S. Deshmukh : I put it to you, Sir, that this is circumventing the parliamentary procedure. The only procedure rightful and just, would be to commit the Bill to the Select Committee, either the same or an expanded committee. The suggestion made is against parliamentary procedure and should not be accepted. If the suggestion is acceptable to the House, I have not the slightest objection, but the regular procedure is to commit the Bill to the same Select Committee or a Select Committee, which may be enlarged.

Mr. Speaker : I see the force of the Hon. Member's objection from the procedural point of view, but what the hon. the Leader of the House has done is not to place any motion for further consideration before the House. He has merely explained his position. He has stated how the Government is going to act and how it will proceed with the consideration of the clauses of the Bill? There is no reference there for further reference to any formal Committee of this House. If such a motion were to be made, then of course I would have been glad to accept that point of order. At present there is no such motion before the House, and I think it is not against parliamentary procedure. On the contrary, even if it is a little different from the ordinary procedure, as, in my opinion democracy means a spirit of accommodation and give and take, we must evolve a new procedure. I will now put the motion to the House.

The question is

“That the question be now put.”

The motion was negatived.

* **The Honourable Dr. B. R. Ambedkar** (Minister of Law) : Sir, there are before the House in all three motions. Two of them are sponsored by Mr. Naziruddin Ahmad. One of them proposes a reference of the Bill to the Select Committee for further consideration. The second motion proposes that the Bill be circulated for eliciting further public opinion. In addition to them there is my motion before the House

* C.A. (Leg.) D., Vol. VII, Part II, 19th December 1949, pp. 787-92.

which proposes consideration of the report of the Select Committee. I propose to say a few words with regard to the motions moved by Mr. Naziruddin Ahmad. The one thing that I have noticed in the course of the debate which has ranged over nine days, is that it has had no support even from the opponents of the Bill. At the most, only two members out of the thirty three, who have taken part in this debate, have favoured his proposition. The rest of them have not supported him at all. Secondly it is quite clear to those who have followed his speech which was for more than six hours, that notwithstanding the fact that he was questioned from time to time while he was speaking to give us the reasons why this Bill should again be referred to the Select Committee or circulated to the public, he has in my judgment not succeeded in giving us any good ground for supporting his motions. I therefore, think that it is unnecessary for me to waste my time as well as the time of the House in dealing with his two motions.

Now Sir, I come to my own motion. As you have said, there have been altogether thirty three speakers who have taken part in this debate. I would like to give to the House some idea of the measure of support and the measure of opposition exhibited by the members of the House to this measure. Out of the thirty three members who have taken part in this debate, something like twenty three have spoken in favour. Out of these twenty three, there were only two who have said that they were prepared to give only qualified support to this Bill. Three remained neutral; three were for circulation and four for the postponement of the consideration of the Bill. It is therefore, quite clear that a very large majority of the Members of this House are in favour of the Bill—as I said, as many as twenty-three.

Sjt. Rohini Kumar Chaudhari : But does he know that thirty-four persons who wanted to oppose the Bill, whose names were given had no opportunity to speak?

The Honourable Dr. B. R. Ambedkar : I am only making an analysis of the speeches of those who have spoken. (*Interruption*).

Mr. Speaker : Order, order.

The Honourable Dr. B. R. Ambedkar : Taking the matter a little further and analysing the stand taken by those who have opposed the measure in order to see which part of the Bill has been attacked, I find that in this Bill which seeks to codify the Hindu Law relating to eight matters, there are five to which there has been no opposition whatsoever.

Sjt. Rohini Kumar Chaudhari : Because you didn't allow us to speak.

Mr. Speaker : Order, order.

The Honourable Dr. B. R. Ambedkar : I hope, Sir my friend will not interrupt.

Mr. Speaker : The Hon. Member just now promised that he would not like to spoil the atmosphere of a compromise.

Sjt. Rohini Kumar Chaudhari : He is not to speak now that was the term of the compromise.

Mr. Speaker : Order order, No running commentary now.

The Honourable Dr. B. R. Ambedkar : As I said, Sir, the Bill seeks to modify and codify the Hindu Law with regard to Marriage, Adoption, Guardianship, Joint Family Property, Women's Property, Intestate Succession, Testamentary Succession and Maintenance. So far as Adoption is concerned, I have seen no opposition to this part of the Bill, nor to the part relating to Guardianship.....

Pandit Thakur Das Bhargava (East Punjab : General): I opposed some of the provisions relating to adoption and absence of provision for appointment of heirs.

The Honourable Dr. B. R. Ambedkar : Nor to Women's Property, Testamentary Succession and Maintenance. The only parts of the Bill to which there has been some opposition are those which relate to Marriage, Joint Family Property and Intestate Succession. Even with regard to these parts of the Bill, the opposition is concentrated on one or two points.

Sjt. Rohini Kumar Chaudhari : On a point of order, Sir, You yourself ruled that all these matters can be discussed when we come to amendments.

Mr. Speaker : Will the hon. Member resume his seat ? I think Members have to be patient and must not interfere when other Members are putting forth their points of view. The hon. Minister must be allowed to go on uninterrupted, and if hon. Members have to say anything, they will have a chance later on when the bill comes in for discussion here.

Sjt. Rohini Kumar Chaudhari : But, Sir if you don't allow us.....

Mr. Speaker : I do not propose to allow any interference at all.

Sjt. Rohini Kumar Chaudhari : To explain the position . . .

Mr. Speaker : Allowing to explain the position is again to go on replying at every sentence. I do not propose to allow anything of the kind. (*Interruption*). The hon. Member will not now interfere at all so that I may not be compelled to take a very serious notice of these interruptions or points of order or suggestions. But when I put the motion.....

Shri H. V. Kamath (C. P. and Berar : General): Did you say, Sir, that the Bill would again come up for discussion?

Mr. Speaker : The clauses will come up for discussion.

Dr. B. Pattabhi Sitaramayya (Madras : General): May I respectfully make a small suggestion? This is going to be discussed or not— the question of the consideration motion being accepted. Therefore, whatever statements are made by the hon. Minister in charge of the Bill, they will go unchallenged. And so long as they go unchallenged a vote cannot be correctly obtained. The hon. Mover has been absent for a number of hours and he is not posted with information as to what has been said or what has not been said. For instance he says that on the question of 'Adoption' there was no opposition and here is a gentleman who rises and says that he did oppose those provisions. I would therefore request that the hon. Minister will not make his reply controversial.

Mr. Speaker : The point is as I have understood the hon. Minister that he is trying merely to summarise his point of view.

Dr. B. Pattabhi Sitaramayya : No.

Mr. Speaker : Order, Order. Let hon. Members not interfere. I believe he is perfectly entitled to lay before the House his point of view. It may be correct, it may not be correct. Therefore, when he is replying, his reply has to be heard for what it is worth. Hon. Members should not immediately get up and say "this statement is wrong" or "that statement is wrong" because we will then be drifting into a controversy. Let us hear him. And the best method of democracy is to be patient with the opponent.

Sjt. Rohini Kumar Chaudhari : Can we not reply to the wrong statements made?

Mr. Speaker : No reply now because the opposition will get their chance when the clause by clause reading comes in.

Sjt. Rohini Kumar Chaudhari : He will also get a chance then.

Mr. Speaker : If the hon. Member now interferes I am afraid I will have to take a very serious notice. There should be no interruption at all, no interference and no remarks. The hon. the Law Minister is entitled to proceed and give his own interpretation and his own reading of the facts as he thinks, are correct. We may not all agree with it (*Interruption*). Order order. No replies, no arguments now. I propose to allow no interruption. The hon. the Law Minister will go on.

The Honourable Dr. B. R. Ambedkar : Sir, as I was saying, to five parts of the Bill there is practically no opposition. With regard to the three parts relating to Marriage, Joint Family Property and Intestate Succession, so far as I have been able to follow the attitude taken by those who have opposed this measure, I find that their opposition is concentrated on certain points and not to the whole of those parts. With regard to Marriage I find the Opposition is concentrated on the subject matter of Divorce. With regard to Joint Family again, the opposition seems to be concentrated on the rule of survivorship. And with regard to Intestate Succession the opposition seems to be concentrated on the daughter's share. If I was therefore required to give a full reply to the debate and to the arguments advanced by those who have opposed the measure I would have concentrated myself upon these three matters, namely Divorce, the rule of survivorship and the daughter's share. I might say that I had thoroughly prepared myself to defend the provisions contained in these three parts of the Bill. But in view of the statement made by hon. the Prime Minister, I think it is unnecessary to enter into any controversy now. I welcome the suggestion made by hon. the Prime Minister and I undertake to give the fullest trial to the suggestion that he has made. Consequently I do not propose to give a detailed reply on these matters at this stage. As you, Sir, have suggested I too would like to reserve my reply to a later stage.

There is only one point which I think it is necessary for me to dwell upon in order that the House may realise the position in which the country finds itself. It will be noticed that the integration of India into one State and one Republic has brought within its territory a variety of Codes dealing with Hindu Law. There is the State of Baroda which has a Hindu Code which is different from the Hindu law as it is in operation in the provinces of India. That State has now become part and parcel of the Bombay Province. Similarly, Travancore and

Cochin which were outside the territorial limits and the sovereignty of India as we knew under the Government of India Act, 1935, have become part and parcel of one India. Mysore which has also a Hindu Code of its own in the matter of women's right to property, considerably different from the law prevalent in the Provinces of British India, has also become part and parcel of one India. Therefore, on the 26th of January, 1950, when the Republic will be inaugurated, we will be faced with a variety of systems of Hindu Law which we must do our best to co-ordinate. How would it be possible, for instance, for the Bombay Province to administer two systems of Hindu Law, one operative within that territory which is called Baroda and the other in the rest of the Province, when both territories have become integrated and part of one Province and one State? The same will be the case with the other territories. Supposing for instance, some of the parts of India which are under the sovereignty of the Portuguese or the French and which we hope to be able to recover under our dominion, also have different systems of Hindu Law, when they come in the same question will arise before us. What is to happen to the Law which the Hindus in Goa will be bringing with them? Are we going to allow them to retain the law which they will bring? Are we going to impose a Law which is in existence at present on them? Or are we going to evolve a system of Law which would be acceptable to both? The integration of India, therefore, has in a very pointed manner brought before us the problem of the codification and the modification of Hindu Law and what I want to suggest to the House is that this is a problem which could not be postponed nor could it be avoided if we want to bring about harmony among the variety of people who would be coming and becoming the citizens of the Indian Dominion.

Dr. B. Pattabhi Sitaramayya : Codification has been accepted.

The Honourable Dr. B. R. Ambedkar : Then, Sir, I would like to draw the attention of the House to one other point which appears to me a very important one. The House, at any rate those who indulge in opposing the Bill, seem to have completely forgotten the provisions contained in the Indian Constitution. Article 15 of the Indian Constitution which we have passed says in definite and clear terms under Fundamental Rights :

“The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.”

Any one who has studied Hindu Law carefully will have to admit that apart from the many defects which the Hindu Law has, there are principles in the Hindu Law which discriminate between the *Savarna* castes and the *Shudras*. They also discriminate between a male Hindu and a female Hindu.

Shri Mahavir Tyagi : And a Hindu and a Muslim also !

The Honourable Dr. B. R. Ambedkar : It is therefore quite clear that parts of Hindu Law will be in conflict with the provisions of the Constitution. But that is only an understatement. There is a further point to be considered; it is not that this limitation imposed by article 15 is going to apply to future laws that the Parliament or the State Legislatures may make. The Constitution has gone stage beyond and in article 13, which I should like to read to the House, it is provided that:

“All laws in force immediately before the commencement of this Constitution in the territory of India in so far as they are inconsistent with the provisions of this Part, shall to the extent of such inconsistency, be void.”

Therefore, looking at the matter as a lawyer, I have not the least doubt about it that unless Hindu Law is not only codified but also modified so as to bring it in consonance with the provisions of article 15, parts of the Hindu Law will be declared to be void by the judiciary in view of article 13. Does the House desire that the Hindu Law should be exposed to judicial scrutiny in terms of article 13 of the Constitution and to have parts of Hindu Law declared, bit by bit, as and when matters are taken before the Court, as void, or would the House like to take the matter in its own hands and reform the Hindu Law so as to make it consistent with article 15 and not to expose it to the danger of having been declared void under article 13? If the House does not wish that the Hindu Law be broken bit by bit by the judiciary but that it becomes an integrated system consistent with our Constitution, then my submission is that it will be very wrong for this House to postpone the consideration of this matter.

Sir, these, in my judgment are very important considerations, and in view of that the House could not afford to postpone or delay the consideration of this matter. I hope the House will therefore accept my motion and carry through the consideration stage of this Bill.

Dr. B. Pattabhi Sitaramayya : Sir, may I ask for a clarification? Dr. Ambedkar has stated that all those provisions which are inconsistent with the particular article of the Constitution which he has quoted

will become void. Is it his contention that on the 26th January when the new Constitution comes into force, and the article which he has quoted certainly come into force, on that day all this portion of the Hindu Law become void and there will be a vacuum left? Can a more unreasonable presumption be made ?

Mr. Speaker : Order, order. That is expressing hon. Member's own opinion.

The Honourable Dr. B. R. Ambedkar : Sir, I have exercised, if I may say so, a great deal of self-control with regard to my friend Dr. Pattabhi Sitaramayya. He would have heard me say, if I had said all that I wanted to say about it.

Mr. Speaker : There are two amendments to the original proposition : That the Bill to amend and codify certain branches of the Hindu Law as reported by the Select Committee, be taken into consideration. I shall first put to the House the amendments. The first amendment is by Mr. Naziruddin Ahmad asking for circulation for obtaining further opinion thereon by the end of 1949. It is too late to extend the date.

Mr. Naziruddin Ahmad : May I explain the position, Sir ?

Mr. Speaker : No. The question is:

“That the Bill be circulated for the purpose of obtaining further opinion thereon by the end of 1949.”

The motion was negatived.

Mr. Speaker : Then the next amendment. The question is :

“That the Bill be re-committed to the same Select Committee, to which it was sent, for a further report thereon with reference to the original Bill which was referred to it on the 9th April 1948.”

The motion was negatived.

Mr. Naziruddin Ahmad : I claim a division, Sir.

Mr. Speaker : Very well. I find the ‘Ayes’ are five and the rest are ‘Noes’. The motion is lost by a large majority. Now I will put the original motion.

The question is :

“That the Bill to amend and codify certain branches of the Hindu Law, as reported by the Select Committee, be taken into consideration.”

The motion was adopted.

Prof. Shibban Lal Saksena (U. P. : General): Sir, the ‘Noes’ have it.

Mr. Speaker : I find their number is only six or seven. The majority of Members are for the motion.

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* HINDU MARRIAGES VALIDITY

(AMENDMENT) BILL

(AMENDMENT OF SECTION 2)

Shri Himatsingka (West Bengal) : I beg to move for leave to introduce a Bill further to amend the Hindu Marriages Validity Act, 1949 (*amendment of section 2*).

Mr. Speaker : The question is :

“The leave be granted to introduce a Bill further to amend the Hindu Marriages Validity Act, 1949 (*Amendment of section 2*).”
The motion was adopted.

Shri Himatsingka : I introduce the Bill.

**HINDU CODE

Mr. Speaker : That brings us to the next item on the agenda, the motion of Dr. Ambedkar: Further consideration of the Bill to amend and codify certain branches of the Hindu Law, as reported by the Select Committee.

Now, with reference to this there are a number of amendments. I will just call upon Members one by one.

Shri Tyagi (Uttar Pradesh): The House has been taken quite unaware on this matter. I feel that some time should be given to the Members.

Mr. Speaker : Order, order. One at a time. Has the Hon. Law Minister anything to say ?

The Minister of Law (Dr. Ambedkar) : It might be taken.

Mr. Speaker : There was some suggestion that Members are being taken by surprise.

Dr. Ambedkar : It cannot be said because the Bill has been on the agenda for the last fortnight.

Shri J. R. Kapoor (Uttar Pradesh): But those who are most interested in taking up the Bill may have a grievance. Mrs. Renuka Ray is not here and many others who are particularly anxious to take it up.

Mr. Speaker : What I was thinking about was, whatever the fate of the various amendments or adjournment motions, the Members who have tabled them are not in their seats. I was just considering as to

*C.A. (Leg) D., Vol. VII, Part II, 12th December 1950, p. 1551.

**C.A. (Leg) D., (IV) Vol. VII, Part II, 14th December 1950, pp. 1780-93.

whether it will be proper or fair on our part just to call them out when this business is being taken up in an unexpected manner. That is the only point which really worries me. I find that Mr. Rohini Kumar Chaudhari is present. I also notice that Mr. Naziruddin Ahmad is here.

Shri R. K. Chaudhari (Assam): I would ask you to give us half an hour so that other Members may also be present.

Mr. Speaker : Let us proceed. I will call upon Mr. Naziruddin Ahmad.

Pandit Kunzru (Uttar Pradesh): May I suggest that the discussion should begin with a statement from the Hon. the Law Minister who held a conference with various interests. He has circulated a short report of the discussions that took place in the conference, but I think all sides of the House will be glad to hear a fuller account of the conference from him and the resume of the amendments that he has proposed. I think that would be a more proper course and this in a sense will give Members some time.

Dr. Ambedkar : I do not know that I have anything more to add. I took particular care to submit a statement to you with a view to its being circulated to Members at the very commencement of this session, so that Members may have a full account of what happened. I am rather sorry that we were not able to take a verbatim record of the proceedings of the Conference on account of the fact that several Members spoke in several different languages. Some spoke in Hindi, some spoke in English, some spoke in Marathi, some spoke in Gujarati and some spoke even in Sanskrit. It was quite impossible to take down a verbatim record, and I think, some also spoke in Tamil language. It was, therefore, quite impossible to have any person as a stenographer to take down the verbatim record. Otherwise, I should have been very glad to do so. Consequently, I myself, according to my memory summarised the points that were put before the Conference for discussion, the points which I found had emerged in the course of the discussion that had taken place in this House, from different stands of the House. They were placed before them and they were invited to address the Conference and I subsequently found out what was the largest measure of agreement among the speakers who took part and in accordance with that, I have suggested certain amendments to the original Bill.

You will also recall, Sir that in order to help the House. I have prepared two different texts of the Hindu Code, one in a serial order

giving the original section and also the new amendments that I propose to incorporate, so that they may have a complete view. I have also prepared a second text book, so to say, which contains the original text of the Select Committee's sections on the right-hand side and the new Code with the amendments on the left-hand side, so that whenever any amendment is moved not only the members will be able to find how the old clause reads but what the new clause also says. I think, I have done my level best to help the House to a proper understanding of the provisions of the Hindu Code as modified by the results of the informal committee. If any Hon. Member has any question to ask, I shall certainly be very glad to add or supplement whatever information I have given in that statement.

Shri Jnani Ram (Bihar): The Hon. Law Minister has stated that this Bill will be discussed for a day or two and that it will be postponed.

Mr. Speaker : We are not concerned with what happened at the party meeting.

Shri R. K. Chaudhari : The Hon. Minister may be pleased to make a statement in connection with what was stated in the party meeting itself.

Mr. Speaker : Order, order. The Party proceedings are not open here.

Shri Sivan Pillay (Travancore-Cochin): May I know if the clause by clause discussion is to take place now and that the general discussion on the principles of the Bill over?

Mr. Speaker : The Hon. Member has perhaps lost sight of the progress of the Bill. The consideration motion was adopted and now what remains to be done is to take the Bill clause by clause. I would put clause 2 to the House, but before that, there are certain amendments or certain motions urging the adjournment of the debate. These being adjournment motions must have precedence and, therefore, I am calling upon Mr. Naziruddin Ahmad, if he wishes, of course, to move his motion.

The Prime Minister and Minister of External Affairs (Shri Jawaharlal Nehru) : One of the hon. Members put a certain question to me and I think it is fair to the house that I shall answer it, although you, Sir, were good enough to consider it as being not necessary. This Bill is obviously one which will normally take a long time of this House, if we go through it clause by clause. It is a contentious matter in which opinions differ. Nevertheless Government attach great importance to it and we do wish it to be taken up now, but we realize

that it is in the nature of things, not possible to go through it during this session even if we take it from day to day. Therefore, Government propose, subject to your approval, Sir, that we might deal with the initial stage there are certain objections and if all those objections can be disposed of this way or that—so that the way may be clear and not otherwise take up the time of the House during the session.

Mr. Speaker : Do I understand the position correctly that the amendments or motions by way of postponement should be disposed of first and that clause by clause consideration may be taken up later ?

The Minister of State for Parliamentary Affairs (Shri Satya Narayan Sinha) : Yes. That is so.

Mr. Speaker : In light of this, is it necessary to move any adjournment ?

Shri Naziruddin Ahmad (West Bengal): No.

Mr. Speaker : He may formally move without any speech, so that we may proceed with the other business.

Shri Naziruddin Ahmad : I beg to move:

“That the debate on the Hindu Code Bill be adjourned to a special session of Parliament to be called for the purpose to enable Members to fully consider the Bill and the numerous Government amendments to the same.”

I do not wish to move the other alternatives.

Mr. Speaker : Is he particular for a special session ?

Shri Naziruddin Ahmad : I want to place certain views and leave the matter entirely to Government. It is not by way of opposition or obstruction.

Mr. Speaker : The point is what should be the form of the motion. He wants postponement to the next session. That is the long and short of it.

Shri Naziruddin Ahmad : In that case, I shall, with your permission, move the alternatives also. I beg to move :

“That the debate on the Hindu Code Bill be adjourned till a date during the next Budget session.”

and

“That the debate on the Hindu Code Bill be adjourned to a date after the Budget session is over.”

I am entirely in the hands of Government as to what form the motion should take. The Hon. Prime Minister has clarified the situation that

we consider certain objections and later on at a suitable time we take up the clause by clause consideration. That entirely satisfies my point of view. It would be for the Government to consider and fix a suitable date or time.

We no doubt technically accepted the principles of the Bill, but subject to a certain understanding. Though not incorporated in the proceedings, the Hon. Law Minister gave an undertaking that he will seek representative public opinion conversant with the Hindu Law, and suggest amendments to the Bill. As I have already submitted, though the first reading was passed, it was substantially subject to Government being able to find suitable amending formulae to be placed before the House, and which would be acceptable to both sides. I find, however, that a large number of amendments of a very important character have been tabled by the Hon. the Law Minister. I also find that a very large number of amendments have been tabled by the members. There are 17 lists already before us and from the newspaper reports, I find that Government have decided to hold another final session for clause by clause consideration. There is every reason to suppose that if it were not so, many more amendments would have come and that is a matter for serious consideration.

My point is this. These are very important matters. In clause by clause consideration, we must not lose sight of the fact that the House is very seriously divided in matters of detail. In these circumstances, it would be better, I submit, for Government to give the House sufficient time to consider, the amendments, and find out the points of agreement. The Hon. Law Minister said that he consulted a number of people ; but he did not, so far as I am aware, consult the different sections of the House which were opposed to the principles of the Bill. A number of Members opposed the first Reading who have not been consulted.

Shri Tyagi : All of them were not Hindus.

Shri Naziruddin Ahmad : At least there was one who was not a Hindu, that is myself. The point is this. All these matters could not properly be discussed and decided upon on the floor of the House. They go to the fundamentals of the Bill. Each clause is practically a new and important subject. Each clause calls for a detailed consideration. Therefore, my submission is that the Government should give us time and should be willing to sit at a Round Table Conference to straighten out all these differences so that a Bill more acceptable