

Dr. Ambedkar should have presented to this House such a Bill which would have concerned not the Hindu's alone, but would have been made applicable to all the citizens of this country. While admitting this country as a 'Secular State', the idea of introducing a Hindu Code Bill seems to me quite inappropriate. Then again if we now see this Bill, we shall have to admit this that it

Shri R. K. Sidhva : The Honourable Dr. Ambedkar referred to the ancient *Shastras*. You may also point out which of the *Shastras* go against the provisions of Hindu Code ?

Seth Govind Das : Now if we see this Bill, we find that it contains many such Clauses to the acceptance of which there should not be any objection. And if at all this Bill is not postponed but is passed into Law, I am sure we shall accept these Clauses without indulging into any sort of controversy. But along with this, we also feel that it contains many such Clauses the acceptance of which is susceptible of being considerably harmful. The Honourable Dr. Ambedkar has himself admitted today that many of the Clauses are of controversial nature and he has also thrown sufficient light on these controversial issues. The first controversial issue is 'marriage' and 'divorce'. If we take up the 'marriage' and 'divorce', I would be prepared to accept one thing at least that we should make some such change in our legislation which would do away with the Caste System. And if any *Brahmana* wants to marry a *Sudra* or a *Sudra* a *Brahmana*; or setting aside the case of *Brahmana* and a *Sudra*, if any Hindu wants to marry a Muslim or any Muslim a Hindu, or if the members of any community wants to have inter-communal marriages, there should not be any bar to such marriages being solemnized. This Caste System has ruined our country. It has resulted in the remification of our country and society into small parts—may even the smallest sections. All of us are very well aware of the disabilities that exist in the marginal sphere today and which are the outcome of this dismemberment. The old people also know this and even today—they look upon the solemnization of such marriages with abhorrence. They say that they have to marry their sons as well as daughters against their wishes. But I fully support such a freedom being given. I am even a supporter of 'divorce'. I would submit that notwithstanding the fact that no 'Marriage Code' has so far been invented in the world which may be regarded as the panacea for the removal of all ills, still we have got to see that if the husband and wife cannot live a harmonious life, they should be given the right of divorce. The Honourable Dr. Ambedkar

has stated that the system of divorce already prevails among 90 per cent of the people in this country. These 90 per cent. are called *Sudras*. I, on my part, do not find any difference between the *Brahmana* and *Sudra*, and feel that it would be the greatest crime to call them *Sudras* even

The Honourable Shri Jagjivan Ram (Minister of Labour): Does it not cut at the root of Hindu religion ?

Seth Govind Das : Divorce exists amongst the 90 per cent, of the *Sudras*. In this case too, it so looks to me that if we pass this legislation in utter disregard of their customs and usages, then 90 per cent, of the people

Shri Raj Bahadur (United State of Matsya): Sir, may I request the honourable member to use any Hindi equivalent for the word "*Talaq*" (divorce) ?

Seth Govind Das : I feel that the honourable member does not understand the implications of the Hindi language. All those words which have been included in Hindi belong to Hindi alone—may it be '*talaq*' or anything else. If he still wants to know the Hindi equivalent of '*talaq*', I would tell him that this can be substituted by the word "Vivah Vichhed" (विवाह-विच्छेद) (dissolution of the conjugal rights).

I was just telling you that if this legislation is passed after brushing aside the customs and usages prevalent amongst those 90 per cent. of the people, then it would mean that they would not be able to divorce in their traditional manner and they would thus be confronted with many difficulties. Therefore, it is bound to give rise to a very great difficulty inasmuch as it runs counter to the wishes expressed by the honourable Dr. Ambedkar that everybody should be given the full liberty to marry and divorce. I am in favour of such sort of liberty being completely given to all the men and women.

The Honourable Dr. Ambedkar also pointed out that 10 per cent. of the people amongst us who are called Caste Hindus Viz., *Brahmana*, *Kshatriyas*, or *Vaishyas* want to thrust some thing upon those who form the 90 per cent. It so looks to me that those of us—who are ten per cent, in number—who form the intelligentsia want to load a few things on those comprising of 90 per cent. It is not the *Brahmana*, *Kshatriyas* and *Vaishyas* who put the burden, but this is done by those people who have managed to come to this Assembly in some way or the other. I would also tell my sisters that I am not prepared to accept this view that my sister members, Shrimatis G. Durgabai and

Renuka Ray and other lady members who are sitting in this House represent the women; or those sisters who sit in the visitor's galleries represent them. I admit that those who are not present here, those who do not come in the visitor's galleries can represent this country better than those who are sitting here. We shall have to admit that the allegation which is being made today that some high-caste people want to thrust their opinion upon the low-castes is not correct. But in reality the position is that the ten per cent, educated people want to thrust their opinion upon the remaining 90 per cent. Without knowing anything as to what is the will of the people in this country, they should not thrust their opinion upon them. I do not want that any legislation should be passed in this House which is against the wishes of the people.

Shrimati Renuka Ray : Do 90 per cent, of the people know that you are drawing up a constitution ?

Seth Govind Dast : We know that the people are with us. To talk as if this is your own concern is not correct. We have come with a mandate from the people in that respect.

The other thing which has been mentioned here is in regard to 'Succession'. It has been stated that we are required to carry out drastic reforms in the law relating to Succession. I agree that there is a great scope of reforms being made in the Succession System. And I also admit that it would amount to the greatest possible injustice being done to the females if they are not conferred upon the right of succession and thus precluded from inheriting the property. The women should be given the right of succession. Now the question arises as to what extent should such right of succession be vested in the females. The Honourable Dr. Ambedkar has in support of this quoted from the *Smritis* of Manu and Yagnavalkya and pointed out that these *Smritis* also confer upon the females the right to inherit property to the extent of one fourth. I would like to say that in my opinion some improvement should necessarily be made in the domain of succession even if these are the views held by Manu and Yagnavalkya. There was a time when the matriarchal system existed in this country or even in the world. But in the present day society, the matriarchal system has been replaced by the partriarchal. So long as the matriarchal system existed in this country as well as in the world and the husband used to come and stay at the bride's house after marriage, it was quite appropriate that the daughter should have

a share in her father's property. But according to my viewpoint now when the patriarchal system is in vogue and the girl leaves her father's house for that of her father-in-law; it would not be proper to give her any share out of the father's property. In my opinion the daughter-in-law should be given the right to share her father-in-law's property. As soon as the marriage is consummated, the daughter-in-law should be given the share equal to that of the son. Today the son enjoys the full right, and if any woman becomes widow, she is entitled to the right of maintenance only viz., food and clothing. I am totally against it. Therefore, I would urge that the women should undoubtedly be given the right to share in the property, but that should be restricted to her father-in-law's property only and not that belonging to her father.

Shri Mohan Lal Gautam (U. P. : General): If there is no father-in-law ?

Seth Govind Das : Then in the husband's house.

Shri Mohan Lal Gautam : If there is no husband.

Seth Govind Das : Then in the son's house.

Shri Mohan Lal Gautam : And if there is no son ?

Mr. Tajamul Husain : And if she is not married then what would she do ?

Seth Govind Das : That is a separate thing. They do get from some source or the other. In the example which has been cited here that when there are twelve sons and thirteenth a daughter, and the twelve sons have got the right to distribute their father's property, then why should not the thirteenth daughter be given the same right ? I would say that all the twelve sons live in their father's house. The distribution which the twelve sons make is made at the same place.

Shri Krishna Chandra Sharma (U. P.: General): If the daughter also wants to live in the father's house ?

Seth Govind Das : Since the daughter has got to adopt another house, this cannot be made applicable in her case. Another thing that has been added in respect of succession to property is that the right of succession will not be governed in accordance with the contents of the will. In cases, where the wills are not executed, disputes will arise. Not only this, disputes will arise even otherwise. The Honourable Dr. Ambedkar who is a renowned lawyer is aware of the fact as to what percentage of the will executed hithertofore were brought up before the Courts and on how many wills were the suits instituted ?

I am afraid that as soon as the will comes in, neither the sons nor the daughters would be able to share the property under the provision of this law which seeks to confer upon them the right of succession. All that property will be grabbed by the lawyers.

Then again another thing will happen. The Honourable Dr. Ambedkar wants that the daughters should also be given the right of succession to the property. Then I would submit that in our society which is undivided at present, when the fathers execute the will, they will not bequeath anything to their daughters, but would give to the sons alone, and thus this would defeat the very object with which you want to confer the right of succession on the women. In regard to succession, I would like to say that just as Dr. Ambedkar has himself admitted, it is a very intricate subject. It so looks to us—we might or might not be Socialists or Communists—that on the one hand the industrialists have raised the voice that the industries are not being developed in this country and on the other hand the question of succession has been mooted out. Therefore, the best thing would be that you should abolish the system of private property. If after the liquidation of this private ownership, a new society is evolved—I do not say that the structure of that society should be based on the principles of Socialism and Communism—but I have since formed this opinion that a new class of society should be built after the liquidation of the individual holdings. If our capitalists see to this they will no doubt find that this wealth is no longer a source of solace to them. I belong to that very class which can be termed as capitalist. But we see who is deriving the real pleasure out of this hoarded wealth ? I have not come across any such capitalist who can fill his belly by eating and digesting 10 or 20 seers, while a poor man can be satiated by taking half a seer or three quarter of a seer. I have also not seen any such capitalist who puts on about 100, 200 or 400 yards of cloth at a time, while a poor man can cover his body with only five or six yards.

The Honourable Maulana Abdul Kalam Azad (Minister of Education): Some people do war !

Seth Govind Das : I am accustomed to live in palaces, and I would like to say that if any capitalist is made to sleep in one of the large halls of his palace, he cannot enjoy the sleep. For sleeping purpose, only one room measuring about 12 or 14 feet is required. Now-a-days wealth has become an affliction—for the wealthy too. Those

people who do not get this, they desire to acquire it and those who have got it suffer great hardships and on account of that they cannot live peacefully.

The Honourable Maulana Abdul Kalam Azad : And they do not want us to give up also !

Seth Govind Das : They do not want to give up because the man who discards that wealth is looked upon with great esteem in the society.

Shri Sita Ram S. Jajoo (Madhya Bharat) : The man who renounces this or gives it in charity is also equally respected.

Seth Govind Das : It is alleged by our Socialists and Communists that all the capitalists are robbers, dacoits and wayfarers. Some of the Socialists, Communists might differ from this. I cannot ascribe this to all of them. But many of them would renounce their Socialistic and Communistic creed if they can acquire this wealth. The hoarders of wealth are even today held in esteem by the society. We should try to overhaul the conceptions and values of the society in such a manner so that the capitalists may in reality be treated as dacoits and robbers; and then only I would say that no capitalist would like to wear this collar around his neck. Therefore, with a view to tackle this knotty problem of succession, I would urge that our Honourable Law Minister Dr. Ambedkar may bring forth such a measure which should seek to abolish the system of private ownership and thus ameliorate the condition of those people who have fallen a victim to this.

Shrimati G. Durgabai (Madras : General): Will you not oppose that?

Seth Govind Das: In my opinion these are the only two points in this Bill which are subject to good deal of controversy. I am also of the opinion that keeping in view the trend of the time and without indulging into any sort of controversy, we postpone the enactment of this Bill till the formation of the new Assembly and in the meantime invite the opinion of the people in this connection; and after ascertaining the wishes of the people, we should bring forth this measure as soon as the fresh elections are held. We should not present this measure in the form of a Hindu Code but the proper course would be to pass it in the same manner in which we have passed our constitution which provides for the rights of every citizen in the country.

Dr. Mono Mohan Das (West Bengal; General): On a point of order, Sir, is there no time limit for allowing this kind of discussion ?

Mr. Deputy Speaker : There is no time limit.

Seth Govind Das : With these words I would conclude, and say that I feel it absolutely necessary that reforms should be made in our social laws. I also admit this that those people who oppose this Bill in the same manner in which they behaved at the time of the enactment of laws relating to the abolition of Sati, widow-marriage and prevention of child marriages are not following the right course of action. But along with this I also admit that this Bill has not been moved at the opportune time and we should postpone its consideration at the moment. We should present it only after ascertaining the public opinion. With these words, neither I support this, nor oppose this.

* **Shrimati Sucheta Kripalani** (U. P.: General): Sir, ever since we had a sovereign legislature, no piece of legislation has given rise to greater excitement and controversy than this Hindu Code Bill. If all this controversy had been based on reason and on the merits of the changes proposed in Hindu Law it would have been to the good but much of the controversy is clouded by irrelevant issues. The argument of Religion in Danger has inspired much of the propaganda against the Code. It is urged that it will shake the foundation of the Hindu religion. Those who put forward such argument do a great injustice to their own religion.

Hindu religion is primarily concerned with the spiritual emancipation of the individual, his progress towards self-realisation. The self-fulfilment of an individual stands in need of certain moral and spiritual principles as truth, justice, non-violence, etc. These are embodied in our scriptures. These are unchangeable and fundamental. The social arrangements, institutions, conversations and customs that have evolved through the ages are not religion. The Hindu Code does not seek to disturb the Hindu religion but to amend and modify the Hindu civil law. The law has changed from time to time. It is different from religion and has never been unchangeable and static. The authors of the *Dharma Shastras* changed the law from time to time according to the consciousness of the community at the time. The right to make changes was well recognised by the *Dharma Shashtra*. The Hindu law became rigid and static only after the advent of the British.

It has been the boast of Hinduism that while the fundamentals have remained unchanged, the Hindu social institutions have changed to suit changing circumstances. Continuous adaptability has been the strength and essence of Hinduism. Unless Hindu society is to remain

*C.A. (Leg.) D., Vol. II, Part II, 24th February 1949, pp. 866-924.

static and dead the law must change to fit with the changing circumstances. We also know that the *Smrities* have not remained unchanged. The *smrities* did include other branches of law besides those of succession and marriage. These have been dealt with by the Indian legislature and some of them have been superseded. Hindu religion did not flounder. Hindu religion has survived that shock. If Hindu religion could survive the shock of these changes I am sure Hindu society and religion can survive the shock of a little more change.

We have also brought in social legislation of great importance. We have abolished the *Sati*; we have abolished child marriage : we have also abolished to a great extent untouchability. Hindu religion is a very catholic and liberal religion. So the argument of religion in danger does not behave us. Within the fold of this liberal and catholic religion people of various views, customs and manners have found shelter and lived. Today what has happened ? Why have we lost our faith in our own religion that we are raising the cry of religion in danger ? It does not mean that I want to say that all those who oppose us are orthodox and are reactionaries. I only want to point out that in forcing your point of view, you are only doing injustice to your religion when you put forward this argument.

Another argument is this that this Bill should not have been taken up for consideration now and that we have not given the country sufficient opportunity to get acquainted with the provisions of the Bill. As far as I know this Bill has been before the House and before the country for about the last ten years. Some of the measures embodied in the Bill as Succession Bill and Marriage Bill, I think, were introduced in the House in 1943. The Hindu Law Committee was appointed in 1944. Its Report was published, I think, in 1945 or 1946 and the draft Bill has been translated into thirteen Indian languages. Thousands of copies of this draft Bill have been circulated. Even after this if we do not know the provisions of the Hindu Code Bill, then, it is our fault and not the fault of the Government. Besides that the Bill won't be passed in a day here. We will take a lot of time to consider it. It will take a good deal of time when we consider it in detail. At that time we will have enough opportunity to go to the public, to acquaint them with the provisions of the Bill and also to ascertain their opinion. There is a whispering propoganda, a very strange propoganda, that this Bill should be postponed till after the next general election. Why should it be postponed ? Because this may adversely

affect our party's popularity ? Is it befitting or worthy of the Congress to put forward such arguments ? Have we ever considered our popularity before our duty ? If we think that a Bill is just, if we consider that a Bill is for the good of the people then it is our duty to go ahead with it. To shelve a Bill just in order to catch votes for the next election is not right. I think it is not even honest. For us the good of the people has always been the supreme consideration. If we don't take this point of view, if we don't keep this attitude before us, we will never be able to sponsor any radical change. Whatever be the field of our life when a radical change is sought to be made, we are bound to come against some vested interests and some established custom. There is always bound to be a cry against such changes. If we give up reform on that score then we shall never change anything.

I would like to say this. Much has been said about the volume of opinion against the Hindu Code Bill. I would like to say with all humility that there is also a very good group—an intelligent, thoughtful group—supporting the measure too. And that intelligent, thoughtful group does not consist of women alone. We have a lot of brothers with us in this measure. We have also seen in history in other countries whenever a radical change was introduced, whenever any reform was sought to be brought into being, it was a small conscious minority that forms up the cause, that educated the public, that did propioganda and after some time public opinion veered round it. So I am sure though it may be that there is a volume of opinion against the Hindu Code, if what we are trying to do is just and right, I am more than sure that public opinion will come with us. Not only will it come with us but it will bless us after a time for the good (*An Honourable Member*: “It is already with us”) measure that we have passed. They say, they have got the majority with them. So this is my answer.

In the heat and controversy many times we forget that the Bill does not consist of merely the Succession and the Marriage provisions. We have tried to make a uniform and entire system of law. In this entire system of law or Code we have tried to put right a lot of discrepancies, inequities, and injustices. For instance this morning Dr. Ambedkar in his learned speech told us how the provisions regarding guardianship, maintenance, adoption etc. are going to be beneficial to the society. Those who are totally opposed to the Bill have been forgetting the good side of the Bill, the non-controversial side, and have concentrated all their attack on such the entire Bill.

Let us come to the question of Succession itself which is greatly opposed by large sections of the people.

Mr. Tajamul Hussain : It is opposed by vested interests only.

Shrimati Sucheta Kripalani: It is opposed by large sections. They had levelled two points—against the breakage of the joint family and the grant of absolute rights to women. I will take the second point first. We are seeking to have a society where men and women should be equal, where people of all castes will be equal. We are trying to bring about a perfect democracy of which we have dreamed all these years. We are pledged to give women equal status in society. We are pledged to do away with all sex discrimination and this pledge does not start from the time when we bring into effect the New Constitution. I would like to remind you that in the Karachi resolution these pledges are embodied. After that when we accepted office, then also we again reiterated that there shall be no discrimination on the basis of sex. If men and women are to work equally, if they are to function as equal citizens of the state, if they are to fulfil their obligations towards the state, how can we have such discriminatory rules in the matter of property rights of women ? Unless woman gets her full share of property you cannot expect her to fulfil her obligations to the state. Of course whenever we make any changes, established custom and established rules are disturbed. It causes a certain amount of dislocation and inconvenience, but we have to tolerate them and take them as inevitable. We must not try to enlarge the importance of the inconvenience that is caused to us. Dr. Ambedkar and others have told us that the *Smritis* recognize the right of property of women. What law gave us practice denied us. In practice the right was abrogated. What we are trying to do today is only this.—We are not going against the fundamentals of Hindu religion or Hindu custom or Hindu law; what was granted to us by Hindu law but which was arbitrarily denied to us, we are now trying to take back—or rather you are giving it to us, this which has been denied to us by society all these years. It is merely justice done—long deferred justice.

If you come to modern times, by the Act of 1937 you have given property right to the wife, to the daughter-in-law, to the grandson's wife and so on and so forth. The only person who is left out is the poor daughter. It is but in the fitness of things that now it should be included here. Therefore I do not see what is there to argue much about it. If we have given to other women till's right, if women can

inherit from the husband's side let her inherit from the father's side which is very natural and right.

The Honourable Shri Jagjivan Ram : They want her to develop to the other stages.

Shrimati Sucheta Kripalani : In regard to joint family there is a very great feeling about it. I do not know why there is such a feeling. Most of the people I come across are anxious to get out of the joint family. The sons do not like to stay with the father. I see most of the families distributed all over the country. So joint family is a very rapidly crumbling institution according to me. Even the legal position of the joint family is very faulty as Dr. Ambedkar has pointed out to us in the morning. Even under Mitakshara system a member of the joint family merely by expression of his will can bring about a partition.

I would therefore like to ask you where is the joint family about which you are crying so loudly ?

Much was said about the protection that is given to the unprotected women in the joint family. I know in the past in the joint family unprotected women did get protection. Even now some of them do get protection but at the same time we know hundreds of women who, failing to get any shelter in the joint family, having no economic resources of their own, are hounded to a life of degradation and shame. Many of us women, who are doing social work, come across innumerable such cases. Therefore, not only is it right, not only is it just to give woman her portion but it is absolutely essential to give her the share if you want to safeguard the Hindu society about which you speak so loudly.

The Honourable Shri Jagjivan Ram : And something more.

Shrimati Sucheta Kripalani : So much the better. Give us a little more. You have denied us in the past, make it up now.

As regards marriage, the Bill merely seeks to introduce uniformity of practice to avoid confusion and uncertainty. This may entail a little difficulty to those classes which are governed by the customary law but the proposed sacramental and civil marriages are such that it can be put into practice by the poorest and the most backward classes. So I do not think it will create any great difficulty. There is some objection to the registration of sacramental marriages. I think it is purely sentimental because registration is only permissive. If you do not want to avail of the registration you are free not to avail of it.

An Honourable Member : It is compulsory.

The Honourable Dr. B. R. Ambedkar : No compulsion.

Mr. Tajamul Hussain : No compulsion, either would do.

Shrimati Sucheta Kripalani : If I am wrong, Dr. Ambedkar will correct me. It has been put there as a safeguard; that is all.

We come to the question of inter-caste and *sagothra* marriages. I was hearing my friend who preceded me. I do not know how we can wax eloquent over the objection to *sagothra* and inter-caste marriages because I find a very large number of such marriages taking place in the society. If we did not have such marriages it was all right, but when a very large number of such marriages are taking place, either we compel them to have irregular marriage or we drive them out of the Hindu fold or we make them go somewhere or they have to go to the civil registration office and get it done. When it is there, why not accept the fact ? When it is a practice why not recognise it and give it legality ? Therefore, it is but right at this stage, when Indian society has changed so considerably to allow inter-caste and *sagothra* marriages within the Hindu fold.

About monogamy, here also I feel that the society has on the whole accepted monogamy. Polygamy is looked down upon; polygamy finds no favour in our society, though cases do occur. Again, we recognise the current practice amongst an overwhelming majority of Hindus and we legalize it. Moreover as we are trying to bring about a society where men and women are equal, we cannot afford to have a double set of morality for men and women and I should think the men should be happy to have this introduced because by the provision of monogamy we are levelling up the standard of men's morality to that of women. I should think that the men should be thankful to us.

An Honourable Member : Very thankful. We can get easy divorces and marry again.

Shrimati Sucheta Kripalani : As for divorce, though we do not deny the sentiments of the orthodox, men and women, analysing it, we find, that divorce did exist in our ancient scriptures. The grounds of divorce that we have allowed are extremely reasonable and just. We have not allowed any divorce on frivolous grounds as it has been in some parts of the Western world. Care has also been taken to formulate such a procedure that divorce would be resorted to only under very grave circumstances. If we see the records of Baroda, Travancore, Cochin and Malabar where divorce is allowed, very few

people have availed themselves of the law. Only under exceptional circumstances it comes to help the people to get of a very difficult situation. Hindu social tradition is such that we will not on flimsy grounds rush to the court and break up a marriage. The people who fear that the grant of the right of divorce may amount to disruption of the family life of the Hindus are absolutely unjustified.

Then I take Dr. Ambedkar's argument of the morning that divorce prevails among 90 per cent. of the Hindus, so why not extend it to the other 10 per cent. It will be very right and just when we see that these 10 per cent. divorce cases are occurring. If there had been no divorce cases then I would have understood it, but we see that whenever our men and women want a divorce, they leave the Hindu fold and become Muslims or Christians and by doing so they insult those religions of which they make a mere utility. Therefore, we should recognise the existing circumstances and allow divorces.

Sir, I have nothing more to say except that I want to tell my brothers here that we women even when we pressed for our rights have never forgotten the greater good, the larger good. We have been very conservative in this matter. You know even for our political rights we have never encouraged things which we have considered wrong. Even when the British were there, we have always stood for joint electorates. Even in the new Constitution we have never pressed for separate rights for ourselves. We would have pressed for these if we did not think that they go against the benefit of the entire society. If Hindu women benefit, I am sure the Hindu society stands to benefit. This is for the larger good; that is why we are pressing this point.

Here, I would also like to say that our men on the whole been very co-operative and helpful to us. They have not stood against our progress. It may be that this is due to the benevolent influence of Mahatma Gandhi. You all know that Gandhiji was one of the greatest supporters of women's rights. The tradition that he has established has been followed by our men; because of Gandhiji's influence, because of the sympathetic attitude of our leaders, we have never had to fight for the political rights as women of other countries had to fight. Therefore, I am more than sure that now we will follow the good traditions, we will keep up the spirit of co-operation that we have had all these years and all my brother Members will support this Bill and consider this Bill not as a measure of right for the women, not as a measure of justice that you are giving to the woman, but as justice

done to the society. This is a measure by which we are trying to make Hindu society healthy and wholesome. The Hindu society is full of defects. We are now independent. If in the world we have to take our status, we have to set our house right; unless we do it we cannot take our position in society. Therefore, let us get together and remedy the defects that are in the house. I only appeal to you and I am sure we will have the support of all of you for this good measure.

The Assembly then adjourned till a Quarter to Eleven of the Clock on Friday the 25th February, 1949.

* HINDU CODE—*contd.*

Mr. Deputy Speaker : The House will now proceed with the further consideration of the following motion moved by the Honourable Dr. B. R. Ambedkar on the 31st August 1948 :

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

Pandit Thakur Das Bhargava.

Mr. Naziruddin Ahmad (West Bengal : Muslim): Sir, I have moved amendments and I think, it will be proper for me to advance arguments and for others to speak. Instead of that if I have to listen to them now and then speak, where would be the scope for them to reply ?

Mr. Deputy Speaker : I think the honourable member who has moved an amendment to the motion will be in a better position if he speaks later because as he knows he won't have an opportunity to reply.

Mr. Naziruddin Ahmad : I do not wish to reply.

Mr. Deputy Speaker : In that view it will be right that the honourable Member should hear certain speeches for and against his motion so that he may be able to reply and he may speak once for all. I have called Pandit Thakur Das Bhargava (*Interruption*). The duty of regulating the order of speakers is with the Chair. I feel it right to call upon Pandit Thakur Das Bhargava.

* **Pandit Thakur Das Bhargava** (East Punjab : General): (*English translation of the Hindi speeches*) Mr. Deputy Speaker, Sir, the Hindu Code Bill that has throughout India

*C.A. (Leg.) D., Vol. II, Part II, 25th February 1949. pp. 877-78.

*C.A. (Leg.) D., Vol. II, Part II, 25th February 1949, pp. 895-936.

Mr. Deputy Speaker: In English please.

Pandit Thakur Das Bhargava : As this matter is of vital importance so for this very reason I wish to speak in Hindi.

Dr. Mono Mohan Das (West Bengal: General) : We can understand the Hindustani spoken by the honourable the Minister of Education. It is entirely different from the Hindi or Hindustani spoken **by** Seth Govind Das or Pt. Thakur Das Bhargava. As beginners we do not know which is Hindustani.

Mr. Deputy Speaker : There is no set standard which is copied here. Whatever is spoken is Hindustani.

Pandit Thakur Das Bhargava : Before I begin my speech, (*Honourable members*): “English please”) as a number of honourable members desire that I should speak in English I have not the least hesitation in paying deference to their wishes. But all the honourable members know that it is easier to express oneself in his own mother tongue rather than in English. So, if they allow me I wish to speak in Hindi. But if they would insist on my speaking in English then I would not have the least objection in commencing my speech in English. (*Honourable members*: “Hindi, Hindi”). As I think that a majority of the honourable members do not insist upon my speaking in English so I like to speak in Hindi.

Shrimati G. Durgabai (Madras: General) : Kindly speak in simple Hindi so that we also may be able to understand.

Pandit Thakur Das Bhargava : I will try to speak in simplest Hindi. Today when I have stood up to deliver a speech before the House about the Hindu Code Bill a number of conflicting thoughts are clashing with one another in my heart. At the very outset I beg to submit that I am not one of those people who declare this Hindu Code Bill to be the death knell of the Hindu culture, and Hindu Civilization. I wish that the Hindu culture, the Hindu Society and the Hindu Civilization may survive till eternity, till the end of this world. I am, in no way, an opponent to this. I am not at all afraid that this Bill or any another Bill would in the least be able to put the Hindu Culture or Civilization to harm. I wish that those evils that have crept in the Hindu Society since long, and about which Dr. Ambedkar made an appeal before the House in the concluding parts of his speech, may be eradicated; and the appeal may be considered over very thoughtfully with a cool heart. But in fact if the Hindu Society is to be preserved then there is no doubt that if

necessity would be felt for repairing the society then repairs will

12 NOON have to be done. I strongly oppose those persons who
 hold that this Bill would put the Hindu Culture to an end.

I am not prepared to acknowledge even for one moment the fact that this Assembly or the Honourable members of this house, who have the same ability as the *Smritikars* of the old, do not have the right of making any changes in our Shastras or Laws. I hold that the members of each and every community have got the fullest rights to frame laws according to the needs of the time. Today if some one makes an appeal that this being an old custom so we must act accordingly; then about such an allegation I would submit that there is not a single custom that India has not experimented with. There are certain places in India where the system of inheritance is quite different from the other parts of India. Do we not know that among the Khasi tribes and in some parts of Southern Punjab the entire institution of inheritance depends upon the fact that the entire property devolves upon the daughters instead of sons. There are certain parts in India where instead of the girl going to her father-in-law's place the husband of the girl is imported into the wife's family.. India is such a country where every type of custom and law has been in vogue. Is there any such social system that we have not tried. Only yesterday Dr. Ambedkar told that in some *Smrities* it is mentioned that daughters should be declared similar heirs along with sons. So this provision was present since long. Apart from this I do not know of any other law that can be called a new one. Divorce is customary in many places even today. On going through the old *Smrities* it is found that divorce is mentioned there also. I am not prepared to accept that we must revert to those old ideals simply because for the reason that they are mentioned in the old *Smrities*. If we think that those ideals do not suit our present day society then why should those ideals be kept up. I know that in India there was a time when even the institution of marriage itself was not in vogue in India, and the people did not know anything about marriages. In olden days the system of *Niyog* continued for a long time in India. The Hindu Law mentions 8 kinds of marriages. Some of those kinds of marriages cannot even be called marriages. Can anyone assert that those ideals should be re-introduced in the present times. I do not think there is any. So I do not want to consider the question that is before us today from this view point as to what was in vogue in the olden days, how our ancestors used

to regulate the society by framing laws of their own. The question before me is that in the present times what things we require after fully taking into consideration our needs, our legal conceptions and our necessities. This Code has created throughout the whole country a great deal of unpleasantness, restlessness and uneasiness. Some women declare that they would have rights equal to those of men. This Code favours the women. Some declare that women have no rights. Very humbly I beg to submit to this House, that till the time the Bill is under consideration here, we must never pay any attention to the various slogans or any such things like the allegations that this Bill is favourable to women or it is favourable to men. With a cool heart we must think over whether this Bill is appropriate or not. Which man can say that he has not been born of a woman, and which woman can say that she is not the daughter of a man. So in a matter like this will we not treat our sisters, our daughters, and our mothers with kindness. Do our mothers, sisters and daughters demand that they will not behave properly with their husbands, their brothers and sons. So it is not necessary to introduce any bitter controversy in this matter. I know that this is a very delicate problem. We ought to consider it in the proper manner and with a cool head.

Before I discuss this point any further, I wish to submit a few things about a question so that at least the honourable, members of this House and my honourable sisters in particular may not think that I oppose or support this Bill with some set ideas. At the very outset I wish to submit that I belong to that school of thought who believes that till the women are not given their proper rights in both the immovable and movable properties their personality will not attain full development. I very strongly oppose the economic dependence of women. I do not like that *sloka* of Sitaji wherein she has said:

मितं ददाति हि पिता मितं भ्राता मितं सुतः

अमितस्यतु दातारं भर्तारं का न पुजयेत ॥

I hold Ramayan in a very high esteem but I am not, for one moment, prepared to accept the principle that the women should always be kept dependent. I am not, for one moment, prepared to accept the verdict of a few of the *Smrities* that a woman till she is not married must remain under the control of her father, and after marriage under the control of her husband, and if she becomes a widow then under the control of her son. I oppose this verdict of the *Smrities* not for the reason that it is painful to women. I know that till the women

of India will not attain a strong personality, till the women will not improve their condition economically and till they will not have an all round development our genealogy will not, improve. Like men the women also should be given all kinds of opportunities for their development. I think that it is not at all justifiable to look at this question from a narrow angle of vision. We have to decide this question very prudently and keeping in view the welfare and advancement of our entire nation and country.

Since thousands of years we have been believing in certain prevailing customs and rites and have also been preserving them. But along with this we have also to decide our line of action as to how we should act upon the slogans that are being raised in the present day world like "women must have rights equal to men" We may not accept this principle *in toto* but we at least stand committed to afford them scope and facilities equal to men for their development. We will have to keep this principle in view. Therefore, I wish to submit without any reserve that women must get their lawful rights in the movable and immovable properties. I am strongly in support of this. I also congratulate Dr. Ambedkar for his accepting in this Bill the principle of the Abolition of Caste in marriages and adoption. I do not possess sufficient eloquence to let you know how important I consider this question to be. I look upon this question in this light that it is question of nation-building. It is a question of our life and death. This pertains to basic principles. If any thing has ruined India, marred her progress and became an instrument in creating Pakistan, it is this caste system. If there is anything that has entered our society and is eating into the vital: that has made Brahmins enemy of others, the Jats enemies of non-Jats and the Kshattriyas the enemy of all other communities, it is this caste system only. I do not know how can we refuse to follow the path of formation of a class-less society, the path pointed out to this country by Mahatma Gandhi, the Father of the Nation. The two things, that are instrumental in uniting the people of this country, are inter-dining and inter-marriages. As far as the question of inter-marriages is concerned, till this question is not resolved the problem of nation building in India cannot be solved. Therefore, as far as this question is concerned, I am strongly in its favour.

As far as the question of monogamy goes there may not be a single member against it. As far as the consequences of monogamy are concerned I know that its passing would badly affect the area I come

from. Because even today, according to the circumstances, it generally happens that when some one dies-leaving his widow, the widow is re-married to the younger brother. I know that in the coming times we should not continue these out of date-customs. I think that if the defects of this out of date system would be told and explained to those people whom it will affect then they would also readily agree to renounce it.

As regards the question of monogamy and the people about whom I am talking I wish to submit that these people according to their needs and intelligence thought out and adopted this principle in that time when widow remarriage was not in vogue in India. Without any reservation, I wish to submit that as far as the questions of monogamy, abolition of caste system and giving of the fullest rights to women, are concerned I am fully in support of them.

As regards the question of divorce I know that the system of divorce exists in a major portion of India. These days to some people this system of divorce appears to be bad. In fact in a country like ours where according to our customs the women used to commit *Sati*, the opposition of the system of divorce is not a thing to be wondered at. According to our beliefs marriage constitutes an indissoluble relationship, and from this point of view the right of divorce should not be given. But I like to submit that the system of divorce has always been in our country and is still present to this day. If the people wish to walk with their eyes closed, if they do not want to see as to what is happening in the world around them., then it is upto them to do so. Dr. Ambedkar told us that this system is found in 90 per cent. of the people of this country. I beg to submit that these figures are underestimated rather than over-estimated. As regards the question of divorce and as far as it is in practice in India I am entirely in support of it, not for the reason that it is in vogue in the present day society but for the fact that it is one of our own customs. Therefore I am in favour of divorce.

The question arises that in this Hindu Code Bill, as it has emerged from the Select Committee the main defect is that it does not go far enough. In fact the customs prevalent in our country and the reforms suggested by the Select Committee fall far too short. The people in Punjab are not so backward. As regards social reforms the people of Punjab are far ahead than those of the rest of India. This Code does not go to that extent even. For them this Code is not a kind

of social reform but it draws them back instead. If this Code would be shown to any Hindu or Sikh of the rural areas of Punjab then he would say, "Oh Sir, what are you doing ? You are retrogressing us to a great extent. We are far ahead of all this. You want to take us still backward." The people of Punjab will not be benefited by this Code. The present Code has emerged from the Select Committee in such a form that the needs of the people of Punjab have lagged far behind; the needs have not only been left behind but certain things in this Bill compel us that we will have to throw this Bill out if it remained in the present form. If we want to preserve our institutions then they cannot be preserved in the present form of the Bill, and thus this Bill becomes annoying.

Shri Mohan Lal Gautam (U. P. : General): Quote any example.

Pandit Thakur Das Bhargava : I just give an example. After this introduction, with your permission Sir, I beg to submit the objections that I have to raise against this Bill and say to what extent I have to support this Bill. There are many such provisions in this Bill about which no one may have any objection. There would be a very few persons who would say that they are against all the provisions of the Bill. But Sir, if you were to go through the Bill you would find that there are notes of dissent from 11 out of the 17 members of the Select Committee, and who are they ? Shrimati Ammu Swaminadhan and Shrimati Renuka Ray are among them. Notes of dissent from both of them are there.

Shrimati Renuka Ray (West Bengal: General): These notes are not on fundamental principles.

Pandit Thakur Das Bhargava : I am coming to that. To tell the truth these 11 members who have written notes of dissent, themselves oppose this Bill as it has emerged from the Select Committee. I was submitting as to who have written notes of dissent. One of the notes of dissent is from Bakshi Tek Chand who has worked for social uplift throughout his life and is prepared to go to any extent for social reforms. When he also writes a note of dissent then it is for us to think as to where are we going ? If these notes of dissent he carefully read then it would become clear that out of 17 members at least 11 strongly oppose this Bill as it has emerged from the Select Committee. After this introduction I beg to state why I am prepared to move such motions, which are generally considered dilatory against this Bill as it has emerged from the Select Committee.

Mr. Tajamul Hussain (Bihar : Muslim): Sir, I beg to raise a point of information. The honourable member has stated that 11 out of 17 members of the Select Committee have written note of dissent. If they are opposed to this Bill, then I would like to enquire from the honourable members how this Bill came to be recommended by the Select Committee so that we may pass it.

Pandit Thakur Das Bhargava : Mr. Deputy Speaker, Sir, in my opinion this question is neither a point for information nor a point of order even. You may go through this Bill yourself Sir. Mr. Bharathi has also written a note of dissent.

Shri L. Krishnaswami Bharathi : (Madras: General): Mine is little ahead of the Bill. I want to enlarge the scope of the Bill. That is my dissenting minute.

Mr. Deputy Speaker : Should honourable members go on explaining every remark and every sentence ? It is not necessary.

Shri L. Krishnaswami Bharathi : No, Sir, I was

Mr. Deputy Speaker : The honourable member's note of dissent is in print. He will have his turn if he wants to offer any explanation. It is no good going on interrupting a speaker and other honourable members also by simultaneously standing up.

Shri L. Krishnaswami Bharathi : May I say, Sir

Mr. Deputy Speaker : I have heard the honourable member sufficiently.

Shri L. Krishnaswami Bharathi : On a point of personal explanation, Sir ?

Mr. Deputy Speaker : Order, order.

Pandit Thakur Das Bhargava : Sir, I would not give Mr. Bharathi the trouble of explaining his viewpoint before the House. I myself present his view point. The note of Mr. Bharathi is that he is no way against the fundamental principles of this Bill. He wants that as a logical consequence the women must be given the right that all these women who own limited estates, he wants that they at once be made absolute owners. I am correct, I think.

Shri L. Krishnaswami Bharathi : I am not permitted to reply.

Mr. Deputy Speaker : The honourable member Pandit Bhargava may go on.

Pandit Thakur Das Bhargava : For this very reason Sir, I was submitting that a number of members of the Select Committee have

written notes of dissent on that form of the Bill as has emerged from the Select Committee. With what intension these notes of dissent were written, I will submit later on, but I wish that I may not be interrupted in the course of my speech.

Sir, I was submitting that although this Bill does go to a certain extent and I am prepared to go even beyond that in social reforms yet still I do not find myself in a position to fully support this Bill. And this is quite natural. Even Dr. Ambedkar himself, by whose kindness the Bill has taken this form and who has delivered such a speech of which every Indian and especially every Hindu must feel proud, is not in support of all the provisions of this Bill. Therefore he told that at places the Select Committee has gone out of reason. I do not want to use harsher words. But I say that he also is against this Bill and in this way there are 12 notes in its dissent. So I was submitting that when 12 out of 17 members are against this Bill then in such a condition the House should not feel astonished if I wish to support the amendment moved by Mr. Naziruddin Ahmad. The reason is quite clear. I do not wish that any of you may misunderstand me. There are many such sections of this Bill about which I do not wish that their passing be delayed even by a minute. Had his motion been dilatory I would not have supported him. Many of my motions also were not dilatory. I know that this Bill is not going to be passed in this Assembly *i.e.* in this Session of the Assembly. A special session of the Assembly will have to be called to pass this Bill. The next session will come off after about 6 months. The objection that I am raising can very easily be decided in this period of six months. With your permission Sir, I wish to submit that I do not want that the Bill may not again be sent back to Select Committee : and for such a move my reasons are quite different. Perhaps some of the honourable members might be thinking that I wish this Bill may anyhow come to an end. I do not want to kill this Bill. I wish that this Bill be passed. I wish that all the good points of this Bill be accepted. So it is necessary to look upon this Bill with a cool heart. It is not necessary to infuse heat. Therefore, I wish that whatever I want to submit, you must hear it with a cool heart and I think that Dr. Ambedkar will not misunderstand it. I wish to submit all this very humbly and not with the spirit of antagonism. But I must have the courage to say what I want to say and I wish that others must interpret it at least fairly if not generously. I submit all this very respectfully and attach

no less importance to this. Now I wish to submit that as each and every honourable member of the house knows that new elections are to be held. All the present members have come here by indirect election. The members that are to come after us will come from direct election and adult suffrage. According to the resolution passed by us in the Constituent Assembly the elections will be held in 1950. Only then I would be prepared to call that, as you yourself Sir, had said, an absolute sovereign body. Yet still on the principle of propriety I beg to submit that instead of us deciding a matter that concerns the daily life of 30 crores of people it would be better that those people, who are to come from direct election and adult suffrage, should decide this issue. I would submit that this will be the proper course. I wish to submit on the principle of propriety. Some people feel that this Assembly can frame the constitution only. This is the same argument that was advanced yesterday that when fragmentation does not take place on dividing a property among twelve sons then there cannot be any if it is further divided so as to include a daughter as well. But I say that "one wrong cannot justify another".

Shri Mohan Lal Gautam has said that this Assembly is not also competent to frame the constitution even. I do not agree with his views but if you do agree then why are you repeating the mistake ? This is quite wrong. If you do not hold this view then it is another thing. In my opinion this constitution framing Assembly is a sovereign body. It is perfectly legal and in the same way this house is fully authorised to pass today any laws that it likes. Yet still the sense of propriety, the sense of proportion, demands of us that we must not make haste in this matter. We have been following these principles since thousands of years and therefore I wish to submit that in the next 6 months the sky will not fall down upon our heads, so that we may pass the Bill immediately with undue haste. Therefore I would very humbly submit that as you Sir, have written in your dissenting note: out of these twelve persons, the twelve signs of the Zodiac—you are one of them; and along with you Babu Ramnarayan Singh has also mentioned on page 11 :

"The members have been elected indirectly and have no mandate from the electorate. The mass of opinion and the majority is against most of the provisions of the Bill and the Bill seeks to alter the fundamental structure of the Hindu Society."

I very humbly beg to submit that justice demands that the representatives of direct election after being elected to this Assembly

should be given the opportunity of deciding this matter. Our much respected and a true leader of the country Dr. Rajendra Prasad, agreeing with this principle, had also written a letter that this Bill as a whole be presented before the coming representative Assembly.

Mr. Tajamul Husain : What it was that the Governor-General had written ?

Pandit Thakur Das Bhargava : Sir, whatever you say about the Governor-General has been mentioned here. But I very respectfully beg to submit that I highly honour and esteem the opinion of the elders. This matter today concerns me, concerns every woman who lives in any distant village. Everybody will be affected by this and so every one has got a right to express his opinion. Why I do not agree is that yesterday my honourable sister Shrimati Sucheta Kripalani had said that in this manner centuries would pass. This Bill has been on the anvil for the last ten years. It was drafted in 1941. This argument does not appeal me. May I ask how much literacy is there in this country ? May I ask how many women of this country are literate ? I wish to address my honourable sisters here, who are the members of this house and whose opinion I highly esteem; but I would say whether thousands of their sisters who live in villages and towns have the right to express their opinion in this matter. For this reason I would urge my honourable sisters here that they should have patience in this matter and exercise some restraint. If I were to submit that the opinion of those also be included, who have full right to express their opinion, then this may not be considered a crime. Very respectfully I beg to submit that the people living in towns and villages are not at all aware what the Bill is and what its provisions are. Some honourable members say "*Hear*" "*Hear*". Very respectfully I beg to submit that those people who have not studied the provisions of this Bill and a number of members of this House have not at all realized what its importance is.

Shrimati G. Durgabai : When you consider women of this country fit enough to understand the provisions of your other Bills for reform, don't you think they will be able to understand the provisions of this Bill?

Pandit Thakur Das Bhargava : I welcome this interruption, because it gives me an opportunity to explain the real point. Sir, an objection has been raised that once upon a time the Satee Bill was passed, widow marriage Bill was passed, Sharda Act was passed; and the Bill that is before the House today is also of the same category